



# The Planning Inspectorate Yr Arolygiaeth Gynllunio

**The Planning Act 2008**

**North London Reinforcement Project**

**Examining Authority's Report of Findings and Conclusions**

**and**

**Recommendation to the  
Secretary of State for Energy & Climate Change**

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**Rynd Smith** LLB MA MRTPI FRSA

**Examining Authority**

**Examining Authority's findings and conclusions and  
recommendation in respect of an application by National Grid  
Electricity Transmission plc for an Order Granting Development  
Consent for the North London Reinforcement Project**

**Date: 23 January 2014**

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## **File Ref EN020009**

The Development Consent Order (DCO) application, dated 30 August 2012, was made under section 37 of the Planning Act 2008 (PA2008) and was received by the Planning Inspectorate on 30 August 2012.

The applicant was National Grid Electricity Transmission plc (the applicant). The application was accepted for examination on 27 September 2012. The examination of the application began on 24 April 2013 and was completed on 23 October 2013.

The proposed development comprises the upgrading of one of two existing 275kV transmission lines (known as the ZBC alignment) running from Waltham Cross substation in the north via Brimsdown substation to Tottenham substation in the south for approximately 14km, generally along the alignment of the River Lee. The upgrading would enable it to run at the higher voltage of 400 kV. The proposed development includes replacing the existing 275kV conductors with new 400kV conductors to be run in the large part on existing pylons, together with extensions and works to substations and pylons (including repairs to pylons, two replacement pylons and one new pylon at Waltham Cross substation) to support the voltage upgrade.

Applications for certificates under section 127 of PA2008 were made in respect of the acquisition of land or rights over land from statutory undertakers. The Planning Inspectorate received these on 17 May 2013. They were examined concurrently with and in parallel to the DCO examination and these s127 examinations were completed on 24 October 2013.

### **Summary of Recommendation**

In respect of the DCO application:

The Examining Authority recommends the Secretary of State for Energy & Climate Change **grants consent and makes the DCO subject to minor modifications**, in the form appended to this report.

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**ERRATA SHEET – North London Reinforcement Project – Ref.  
EN020009**

**Examining authority's Report of Findings and Conclusions and  
Recommendation to the Secretary of State for the Department of  
Energy and Climate Change, dated 23 January 2014**

**Corrections agreed by the Examining Authority prior to a decision  
being made**

<b>Page No.</b>	<b>Paragraph</b>	<b>Error</b>	<b>Correction</b>
5	1.15	Typographical error	Replace the reference to "paragraph 1.7 to 1.11 above", with "paragraphs 1.8 to 1.14 above".
9	1.38	Typographical error	Replace "interested parties" with "interested parties and invited persons".
10	1.45	Typographical error	At the start of the footnote to this paragraph, replace "3 3" with "3 4".
29	3.20	Typographical error	Remove "(Update...)" from the end of footnote <sup>14</sup> .
35	4.4	Typographical error	Close square brackets "]" after "[PD19-22".
40	4.27	Typographical error	Insert "could" between "upgrade" and "have".
50	4.71	Typographical error	Replace "designate" with "designated" before "NPS for Waste Water".
59	4.113	Typographical error	Delete "an" at the start of bullet point 1.
65	4.142	Typographical error	In the final line, replace "no" with "not".
69	4.164	Typographical error	Insert ";" at the end of bullet point 1.
72	4.181	Typographical error	In the final sentence, replace "the other back" with "the other bank".
73	4.183	Typographical error	In the final sentence, replace "Chapter 7 below" with "Chapter 6 below".

Page No.	Paragraph	Error	Correction
85	4.238	Typographical error	Replace the reference to "paragraph 4.214 above" with "paragraph 4.236 above".
92	4.274	Typographical error	In the final sentence, replace "electro-magnet" with "electro-magnetic".
92	4.275	Typographical error	In the first sentence, insert "not" before "raised".
93	4.281	Typographical error	In the first sentence, replace " <b>Error! Reference source not found.</b> " with "2.17".
96	4.304	Typographical error	In the second sentence, replace "whether and whether" with "whether and how".
<p>The following error 'missing content' has been inserted into the report at Appendix D for ease of reference.</p>			
From 149	Appendix D	Missing content	At the end of Appendix D, insert a table of "Section 127 Examination Documents".

## **1 INTRODUCTION**

- 1.1 This document is the Examining Authority's report to the Secretary of State for Energy and Climate Change (the Secretary of State), following an examination of the application for a Development Consent Order (DCO) for the North London Reinforcement Project (the application) by National Grid Electricity Transmission plc (the applicant). It sets out the Examining Authority's findings and conclusions and his recommendation to the Secretary of State.

### **APPOINTMENT**

- 1.2 On 21 November 2012, Rynd Smith was appointed under sections 61 and 78 PA2008 [PD10], under delegation from the Secretary of State as a single person Examining Authority, to examine the application.

### **THE APPLICATION**

- 1.3 The proposed development for which development consent is required under section 31 PA 2008 is as follows [APP1 – 37]:
- Uprating approximately 14km of an existing transmission alignment (the ZBC alignment) from Waltham Cross substation to Tottenham substation, from the existing 275,000 to 400,000 volts (from 275 to 400kV), together with associated development, in summary:
  - An extension to and minor route re-alignments at Waltham Cross substation to incorporate new 400 kV gas insulated switchgear (GIS).
  - New transformers and new sealing end compounds at Brimsdown substation.
  - A 400kV 'bypass' to Tottenham substation, connecting the application proposal to the existing VC alignment to the south, which is the subject of a separate uprating proposal and will operate at 400 kV in due course.

It is a nationally significant infrastructure project (NSIP) as defined by sections 14 and 16<sup>1</sup> of PA2008.

- 1.4 It should be noted that whilst the application proposal relates to the ZBC alignment, there is also a second 275kV transmission line, the ZBD alignment, which runs parallel to it between Waltham Cross and Tottenham. There are no proposals affecting the ZBD alignment in the application.

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<sup>1</sup> In its current form, s16 PA2008 does not apply to the replacement of an existing line by a line with a greater nominal voltage but on the same alignment. However, transitional provisions apply that retain this project within the scope of the section prior to that amendment. Further, as amended, s16(3A) makes clear that a power line is not exempt if it passes within a European site or an SSSI, a condition which does apply to the application proposal.

- 1.5 The application was submitted on 30 August 2012. It was accepted for examination on 27 September 2012.
- 1.6 The applicant advertised the accepted application and fourteen relevant representations were received [REP14 – 27]. To the extent that they remained un-withdrawn, the Examining Authority has given due consideration to the issues raised by these throughout the examination.
- 1.7 The application was for Environmental Impact Assessment (EIA) development as defined by the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009. It was accompanied by an environmental statement (ES). I consider that the ES met the definition provided in Regulation 2(1) of these regulations. Minor additional clarifications of the ES were provided in describing minor changes to the application (see para 1.13 below) and in response to questions from the Examining Authority throughout the examination. In reaching the recommendation in this report, I have considered the environmental information as defined in Regulation 2(1), including information in the ES and all other information on the environmental effects of the proposed development submitted during the examination, in accordance with Regulation 3(2).

#### **ACCEPTANCE NOTIFICATION ERRORS**

- 1.8 It should be noted that whilst the applicant certified that notice of the acceptance of the application had been provided in accordance with section 56 of PA2008 [PD9], a statutory consultee and the applicant both contacted the Planning Inspectorate shortly after the issue of my initial Rule 6 letter [PD 10 – 12], suggesting that notice had not been provided as required in law. Rigorous inquiries were then made of the applicant by the Planning Inspectorate on behalf of the Examining Authority. These disclosed that persons entitled to receive notice had not done so in all relevant cases.
- 1.9 Following consideration of an audit of the applicant's notification procedures, I decided to delay the Preliminary Meeting for the examination and to broaden the classes of persons receiving my revised notice of the meeting, to ensure that all relevant persons were in receipt of notice of the application<sup>2</sup>.
- 1.10 In taking this step, I indicated willingness to consider what amounted to representations from persons who should have had the right to make a relevant representation [PD14 – 18], but were

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<sup>2</sup> This process included decisions to delay the Preliminary Meeting [PD13], originally scheduled to occur on 15 January 2013 [PD10 – 12] and then to re-schedule it for 24 April 2013 [PD19 – 22], to provide a time period in which persons who should have been notified of the acceptance of the application directly by the applicant but had not been, could consider it and make a statement of representation if they so wished. The time period allowed for this was equal to the time period provided by the applicant in its notice under s56 PA2008 for the making of a relevant representation.

unable to do so because they had not received notice of the acceptance of the application from the applicant at the proper time. In order to distinguish them from relevant representations, such representations are referred to in the remainder of this report as 'statements of representation'.

- 1.11 The applicant did not object to the approaches set out in paragraphs 1.8 and 1.9 above. This procedure appeared on balance to provide a proportionate and efficient response to the applicant's notification errors, taking into account their relatively minor nature and the absence of any evidence to suggest that the errors were intentional.
- 1.12 In the event, two statements of representations were made [REP28 – 29] by persons who had not received proper notice from the applicant pursuant to s56 PA2008. I exercised discretion to accept these, considered them as though they were equivalent to relevant representations and involved their makers fully in the examination. In the remainder of this report, persons who made statements of representation and who were then involved in the examination are referred to as 'invited persons'.
- 1.13 I included the applicant's notification errors and my procedural actions in response to them as an agenda item at the Preliminary Meeting. No additional considerations were raised or actions were proposed in addition or alternative to the approach that I had taken to manage this issue.
- 1.14 It follows that I am satisfied that no person has been subject to procedural unfairness or has lost their opportunity to become involved in the examination as a consequence of the applicant's notification errors or mistaken certification under s56 PA2008. This is because I put in place appropriate procedures during the pre-examination period to manage the possible consequences of these errors.

### **THE PRELIMINARY MEETING**

- 1.15 Taking account of the matters recorded in paragraph 1.7 to 1.11 above, the Preliminary Meeting was held at the Boxholders' North Lounge, Tottenham Hotspur Football Club, Bill Nicholson Way, 748 High Road, Tottenham, London N17 0AP (White Hart Lane) on 24 April 2013 [PD19 – 22]. The applicant and all other Interested Parties, Statutory Parties and invited persons were able to make representations about how the application should be examined [PD24]. Participants are recorded in Appendix B.
- 1.16 Procedural decisions (a Rule 8 Letter) and a timetable for the examination were issued on 30 April 2013 [PD25], making provision for the examination process.

## **THE EXAMINATION PROCESS**

- 1.17 The examination process began following closure of the Preliminary Meeting [PD 25]. A record of examination procedures is included at Appendix A.
- 1.18 The examination consisted primarily of a consideration of relevant representations, statements of representation made by persons who had lost the right to make relevant representations further to a notification error by the applicant, written representations and local impact reports submitted to the Examining Authority. I issued written questions and received answers to these. I also required the preparation of statements of common ground and considered these.
- 1.19 In addition to these written procedures, I held compulsory acquisition and issue-specific hearings and carried out site inspections. I considered the applicant's minor amendments to the submitted application. I issued and sought comments on a revised draft DCO and on a Report on the Implications for European Sites (RIES).
- 1.20 Some further explanation of these written and oral procedures is provided below.
- 1.21 The examination process concluded on 23 October 2013 [PD 43].

## **MINOR CHANGES TO THE APPLICATION**

- 1.22 On 22 May 2013, the applicant wrote to me seeking minor changes to the application and some of its accompanying plans [REP 34 – 38], in summary:
- Reducing the extent of built development proposed at Waltham Cross Substation and moving minor built structures away from the compound perimeter and closer to its core.
  - Raising the level of a cable bridge and revising the proposed arrangement of transformers at Brimsdown Substation, enabling the deletion of a firewall proposed in the original application, but necessitating additional switchgear to be installed in an enlargement to a new sealing end compound adjacent to pylon ZBC19.
  - Revising the design of curves in the proposed underground cable bypass route at Tottenham Substation to ensure that the plans reflect cable curve radii that can be constructed.
- 1.23 These proposed changes were sought in order to respond to technical design consideration and to address concerns raised by certain interested parties.
- 1.24 I considered these proposed changes and wrote to the applicant, interested parties and invited persons on 30 May 2013 [PD27] indicating my intention to accept them for examination purposes

and highlighting existing examination timetable deadlines by which representations and comments on representations could be made in respect of these by interested parties and invited persons.

- 1.25 Subsequent minor amendments to the application included:
- A revised access and rights of way plan at Waltham Cross to address requests that public access to the Bittern Information Point should be retained throughout works [REP124]; and
  - Pursuant to my questions, minor revisions to the Book of Reference and Land Plans to ensure that the applicant's latest knowledge was incorporated before the closure of the examination. [REPs141 and 142].

My acceptance of these changes was expressed as subject to the Secretary of State's decision on the application. They are all considered in detail in Chapter 4 Part H below.

### **WRITTEN REPRESENTATIONS**

- 1.26 A full opportunity was provided for the applicant, interested parties and invited persons to make written representations, drawing my attention to the issues that they considered arose from the application proposal.
- Initial written representations were required to be submitted on 23 May 2013, together with comments on preceding relevant representations and statements of representation.
  - Comments on initial written representations were sought by 20 June 2013.
  - Responses to comments were sought by 3 July 2013, in time for the commencement of oral hearings.
- 1.27 I have considered all important and relevant matters arising from written representations.

### **WRITTEN QUESTIONS**

- 1.28 I issued written questions and received and considered representations made in response to them as follows:
- Round 1: issued on 30 April 2013 as Annex D to the Rule 8 Letter [PD25], with responses to be received on 23 May 2013 and comments on responses to be received by 20 June 2013;
  - Round 2: issued further to a timetable amendment on 9 September 2013 [PD40], with responses to be received on 27 September 2013 and comments on responses to be received by 14 October 2013; and
  - Round 3: issued further to a timetable amendment on 18 October 2013 [PD42], with responses to be received on 21 October 2013.

- 1.29 I have considered all important and relevant matters arising from my written questions and the answers provided to them.

### **STATEMENTS OF COMMON GROUND**

- 1.30 I requested the preparation of an extensive range of statements of common ground in the Rule 8 Letter [PD25] by a deadline of 23 May 2013. The purpose of these was to ensure that negotiations between the applicant, interested parties and invited persons were pursued and to ensure that the hearing process was confined to matters where agreement could not be achieved or I needed to subject submissions or evidence to oral test.

- 1.31 Twelve statements of common ground were received [REP 70 – REP 82] between the applicant and:

- Thames Water Utilities Ltd.;
- Essex County Council;
- The Environment Agency;
- The Canals and Rivers Trust;
- Natural England;
- BPA (Integrated Pipeline Solutions);
- Lee Valley Regional Park Authority;
- The Mayor of London / Greater London Authority;
- Epping Forest District Council;
- English Heritage (originally received unsigned prior to the deadline and then submitted late on 6 June 2013);
- Enfield Council (submitted late on 17 June 2013); and
- The Highways Agency (submitted late on 1 July 2013).

- 1.32 I have considered all important and relevant matters arising from statements of common ground received, including those received after its deadline, on the basis of their substantial value in refining the subject matters for examination and narrowing the matters in contention. I would like to extend my thanks to the applicant and to the other parties to these statements for their evident hard work and commitment to clarifying the matters that I needed to examine to the best of their ability. These statements formed part of an on-going process of dialogue between the applicant and interested parties which also enabled a significant number of matters to be agreed during the examination process.

### **LOCAL IMPACT REPORTS**

- 1.33 I requested the preparation of Local Impact Reports (LIRs) in the Rule 8 Letter [PD25] by a deadline of 23 May 2013. Three such reports were received as follows, from:

- Epping Forest District Council [REP 67];
- the London Borough of Enfield (referred to below by its preferred title of Enfield Council) [REP 68]; and
- The Greater London Authority [REP 69].

1.34 The LIRs have been fully considered.

### **HEARINGS**

1.35 Hearings were held at the Boxholders' North Lounge, Tottenham Hotspur Football Club, Bill Nicholson Way, 748 High Road, Tottenham, London N17 0AP (White Hart Lane) as follows [PD 34, PD 35]:

- A compulsory acquisition hearing was held on Monday 8 July 2013;
- An issue-specific hearing on programme and construction phase impacts was held on Tuesday 9 July 2013;
- An issue-specific hearing on the draft development consent order (DCO) was held on Wednesday 10 July 2013.

Participants in all hearings are recorded in Appendix B.

1.36 The main business of the compulsory acquisition hearing was to enable me to consider the proposed acquisition under the tests set out in PA 2008 s122 and to hear the applicant and the Lee Valley Regional Park Authority (pursuant to its request to be heard under PA 2008 s 92(3)). No other bodies requested to be heard.

1.37 The main business of the issue-specific hearing on programme and construction phase impacts was to consider the effect of the application proposal construction programme on the use of the Lee Valley Regional Park, on its major facilities and its events programme.

1.38 The issue-specific hearing on the development consent order enabled interested parties to be heard on the draft order. The hearing reviewed the entire draft order.

1.39 An open floor hearing was offered to interested parties and invited persons, but on the basis that no interested parties requested to be heard at such a hearing under PA 2008 s 93(2) it did not proceed.

### **SITE INSPECTIONS**

1.40 Amongst matters discussed at the Preliminary Meeting were the arrangements for site inspections. An opportunity was provided in the timetable for accompanied site inspections to be requested. However, on the basis that I had set out proposals for a full programme of unaccompanied site inspections that addressed the issues raised by relevant parties, no such requests were made.

1.41 Unaccompanied site inspections were carried out:

- on 5 and 6 June 2013 [PD28 - 31], which included inspections on foot and by bicycle of the entire DCO area, the existing ZBC and ZBD alignments, substations at Waltham

- Cross, Brimsdown and Tottenham, the River Lee, the Lee Navigation, a wide range of rights of way within the Lee Valley Regional Park including National Cycle Route 1; and
- on 18 June 2013 [PD32 - 33], which included inspections by car and on foot of locations outside the DCO area, but within its viewshed, relevant to an understanding of the landscape and visual impact of the application proposal, of its setting within Green Belt and agricultural land to the north and east of Waltham Cross and from other key viewpoints in North London.

My notes of these inspections are published on the national infrastructure pages of the Planning Portal website.

### **ENGAGEMENT ON THE DRAFT DCO**

- 1.42 I provided a DCO issue specific hearing (see paragraphs 1.35 and 1.38 above) at which the applicant submitted a preferred draft DCO [HR 28], including changes to address issues that had arisen in the examination and through the statement of common ground to that point. I accepted their preferred draft DCO as a basis from which to conduct the hearing and orally examined the DCO including their proposed changes. There were no objections to this approach.
- 1.43 Following the hearing, on 9 August 2013, I issued an Examining Authority's draft DCO [PD 39], in which I suggested changes to address matters that had arisen during and after the hearing. Responses were sought by 3 September 2013 and all those received have been considered.

### **REPORT ON IMPLICATIONS FOR EUROPEAN SITES (RIES)**

- 1.44 With support from the Environmental Services Team of the Planning Inspectorate and to inform the Habitats Regulations Assessment (HRA) process, I prepared a report summarising what appeared to be the main implications of the application proposal for European Protected Sites. Known as the Report on Implications for European Sites (RIES) [PD 38], this document was issued on 9 August 2013. Comments on the RIES were sought by 3 September 2013 and all those received have been considered.

### **SECTION 127 EXAMINATION**

- 1.45 Section 127 of PA 2008 (as applicable to this examination<sup>3</sup>) provides a safeguard in respect of the compulsory acquisition of land or rights over land acquired by a statutory undertaker for the purposes of its undertaking, in circumstances where a

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<sup>3</sup> The application of PA 2008 s127 has been amended: see SI 2013/1124. Transitional provisions apply to this application as it was submitted before 25 June 2013 and the procedure described here reflects these.

representation has been made about an application for an order granting development consent before the completion of the examination of the application, and the representation has not been withdrawn. In such circumstances and for applications for DCOs made before 25 June 2013<sup>4</sup>, a DCO may only be granted where the relevant Secretary of State issues a certificate to the effect that:

- (in relation to land), the land can be purchased and not replaced without serious detriment to the carrying out of the undertaking, or if purchased it can be replaced, again without serious detriment to the carrying out of the undertaking; and/or
- (in relation to rights), the nature and situation of the land are such that the right can be purchased without serious detriment to the carrying on of the undertaking, or any detriment to the carrying on of the undertaking in consequence of the acquisition of the right can be made good by the undertakers by the use of other land belonging to or available for acquisition by them.

1.46 The applicant in this case was seeking to include provision in the DCO for the compulsory acquisition of land and rights over land:

- plots of land (Ref 303-310, 314-315, 318-3122, 324 on the land plans [APP 7, 8 & 9]) held by Transport for London (a statutory undertaker), as set out in Table 1 of National Grid's s127 application to the relevant Secretary of State<sup>5</sup> [SEC 5]; and
- a plot of land (Ref 388 on the land plans [APP 7, 8 & 9]) held by Lee Valley Regional Park Authority but subject to rights in favour of the Environment Agency and Thames Water (both statutory undertakers), as set out in Table 1 of National Grid's s127 application to the relevant Secretary of State as well as a number of plots listed in Table 2 subject to permanent acquisition of rights that affect the entitlements of the Environment Agency and Thames Water [SEC 4].

1.47 At relevant time periods within the DCO examination, representations from these undertakers remained un-withdrawn.

1.48 On that basis, the applicant applied for certificates under s127 PA 2008 to the Secretary of State for Transport (in respect of Transport for London) [SEC5] and the Secretary of State for Environment, Food & Rural Affairs (in respect of Environment Agency and Thames Water) [SEC4]. Both certificate applications were made on 17 May 2013. In the remainder of this report, I

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<sup>5</sup> Some of these plots are also subject to Thames Water's entitlement to enjoy easements or private rights. However, as these do not relate to its capacity as a statutory undertaker they were not relevant for PA 2008 s127 purposes.

refer to the three statutory undertakers who were subject to certificate applications as the 's127 undertakers'.

- 1.49 On 21 June 2013, I was appointed under delegations from the Secretaries of State as an examiner for both certificate applications [SEC1 – 2]. A certificate examination was held concurrently with the remaining DCO examination, commencing on 28 June 2013 [SEC11 – 13].
- 1.50 On the basis that the matters raised by the certificate applications were well known to the s127 undertakers, an expedited examination was proposed, by way of written representations [SEC11 – 13, Annex B]. An opportunity was provided for the s127 undertakers to seek procedural directions and/or to request to be heard orally. However, neither option was taken up and the oral proceedings were cancelled.
- 1.51 On 4 July 2013, the applicant [SEC14] and the s127 undertakers concerned with the certificate applications [SEC15, 16 and 17] made written submissions to me. As a consequence of these submissions, I was satisfied that the representations of Thames Water [SEC16] necessitating a certificate application to the Secretary of State for Environment, Food & Rural Affairs had been withdrawn, and it appeared that the applicant [SEC14] also intended to withdraw their certificate application in response.
- 1.52 However, at this juncture, it was not clear that:
- representations from Transport for London [SEC15] necessitating a certificate application to the Secretary of State for Transport had been fully withdrawn; and
  - representations from the Environment Agency [SEC17] necessitating a certificate application to the Secretary of State for Environment, Food & Rural Affairs had been withdrawn<sup>6</sup>.
- 1.53 Concerns arose about the clarity of intention to withdraw in both cases, because these s127 undertakers had made extensive relevant and written representations. It was important to be clear which representations related to their land, rights and functions as statutory undertakers, and which related to their other functions. On that basis, I issued written questions of clarification to these s127 undertakers on 5 July 2013 and 29 July 2013 [SEC24 – 25].
- 1.54 On 31 July 2013, solicitors for Transport for London wrote [SEC27] to confirm the complete withdrawal of their relevant representation [REP22] and the qualification of their later written representations [REP 42 – 44], making clear that any content of

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<sup>6</sup> The procedural position emerging from these representations is most clearly summarised in the examiner's procedural letters to the applicant and interested parties sent on 5 July 2013 [SEC18 – 21], to the Environment Agency and Transport for London sent on 29 July 2013 [SEC24-25] and to the Environment Agency sent on 29 August 2013 [SEC28].

relevance to s127 PA2008 was withdrawn. From this date, I was satisfied of the intention of this s127 undertaker to withdraw all material relevant to s127 PA2008.

- 1.55 A reply from the Environment Agency on 5 August 2013 [SEC26] was not judged to provide sufficient clarity on this point, due to the Environment Agency combining issues emerging from its roles as statutory undertaker (with s127 PA2008 relevance) and as a statutory consultee and environmental adviser to Government (in principle not relevant to s127 PA2008) within integrated submissions. Whilst it was entirely legitimate for the Environment Agency to leave statutory consultee and environmental advisory representations with no statutory undertaker relevance before the DCO Examining Authority, its letter of 5 August 2013 did not clearly distinguish between these roles or state with precision which components of its submissions were withdrawn.
- 1.56 I sent a further written question to the Environment Agency on 29 August 2013 [SEC28]. This elicited a response from the Environment Agency of 6 September 2013 [SEC29], placing beyond reasonable doubt the intention of the Environment Agency to withdraw all representations with relevance to its role as a statutory undertaker and hence with any possible bearing on the certificate application under s127 PA2008. This position was acknowledged in the examiner's correspondence of 10 September 2013 [SEC30].
- 1.57 On that basis, I concluded that there were no remaining representations with a relevance or bearing on s127 PA2008. On 24 October 2013, I wrote to the applicant and the s127 PA2008 interested parties [SEC31 – 34], setting out my view that:

*"I have received answers to my written questions from the relevant statutory undertakers, making clear that all remaining representations with a bearing on s127 have now been withdrawn..."*

On that basis I decided to close the s127 PA2008 certificates examination.

- 1.58 The applicant did not object to that course of action. However, neither did the applicant write to the relevant Secretaries of State to withdraw the certificate applications. It follows that this report also contains my consideration of and recommendation on these applications.

## **SECTIONS 131 & 132**

- 1.59 Sections 131 and 132 of PA 2008 provide safeguards in respect of the compulsory acquisition of any land, or compulsory acquisition of rights over any land, forming part of a common, open space or fuel or field garden allotment. Whilst the DCO before me raised

these issues, they fell within the purview of the Secretary of State for Communities and Local Government.

- 1.60 At the time of the DCO examination, examinations relevant to certificate applications under ss131 and 132 PA2008 were not matters that were delegated to me. An officer reporting to that Secretary of State was appointed by him to conduct a separate examination process, but this was not complete by the time the DCO examination was closed. The outcome of that process has not been considered by me in my roles as DCO Examining Authority or s127 PA2008 examiner and does not form part of this report.

### **OTHER CONSENTS**

- 1.61 I have sought advice from the applicant about the existence of any other consents or consent processes that may need to be taken into account by the Secretary of State in considering this report [PD 40: matter C-1]. On 27 September 2013, the applicant responded to me [REP 140] confirming that the only other consents that it was currently pursuing were the s127 PA 2008 process reported on here and the sections 131 & 132 PA 2008 process referred to in paragraph 1.56 above.
- 1.62 This is not to say that there are no other consents required. However, despite my written request that it should do so, the applicant did not disclose these to me. It explained its approach by making clear that it sought the primary consent required through this process. Dependent upon the outcome, it would then review the secondary consents required, progress these with the relevant bodies and formally agree them - if the DCO is granted [REP 140: question C-1.1].
- 1.63 Whilst I was able to request the applicant to provide information on other consents, I have no particular sanction if this information is not supplied. I note the applicant's approach. I do not consider that any matters requiring additional consents arise from the examination that I have conducted that give rise to reasons why this DCO should not be granted of which I am aware. It follows that a recommendation to refuse consent in this case would not be a proportionate or reasonable response to this circumstance. However, I also note that because the applicant has not provided me with a full disclosure of other consents, that the consistency of such matters as may emerge from any such consents with this DCO must be managed at its risk.

### **TRANSBOUNDARY EFFECTS**

- 1.64 A screening of the application proposal for transboundary effects on other European Economic Area (EEA) states was undertaken under Regulation 24 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended) (the EIA

Regulations) on 13 October 2013. It was undertaken on the basis of the current information available at that time, close to the end of the examination.

- 1.65 The Secretary of State took the view that the proposed development is not likely to have a significant effect on the environment in another EEA State and hence no steps were taken to notify such states of the application. In reaching this view the Secretary of State applied the precautionary approach derived from the decision in the Waddenzee Case (No C 127/02/2004)<sup>7</sup>.
- 1.66 I consider that no additional matters arose during the final days of the examination that could affect the outcome of this screening process.

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<sup>7</sup> As explained in the Planning Inspectorate's Advice Note 12: Transboundary Impacts.

## **2 THE APPLICATION AND ITS SETTING**

- 2.1 This chapter of the report summarises the application proposal and describes its setting, building on the summary description in paragraphs 1.3 to 1.6 above.
- 2.2 The application and its context are well described in the application form [APP 2], plans [APP 7 – 15] and in the Environment Statement [APP32 – 36]. The description of the application provided there, together with the description of minor changes to it (see paragraph 2.17 below) were not a matter of dispute in the examination. An overview of the location, extent and environs of the alignment are shown in the Environmental Statement Non-technical Summary Volume 1 [APP 32] in Figure 1.1.

### **THE APPLICATION**

- 2.3 The application relates to the upgrading of one of two existing 275kV overhead transmission lines between Waltham Cross substation (in Epping Forest District in the County of Essex in the north) and Tottenham substation (in the London Borough of Haringey, Greater London in the south), a distance of some 14km. It passes via the existing Brimsdown substation (in the London Borough of Enfield, Greater London).
- 2.4 The line proposed to be upgraded is known as the ZBC line. (The parallel line proposed to be retained without upgrading is known as the ZBD line.)
- 2.5 The proposed development for which development consent is required under section 31 PA 2008 [APP1 – 37] is the upgrading of approximately 14km of an existing transmission alignment (the ZBC alignment) from Waltham Cross substation to Tottenham substation, from 275 to 400kV. This upgrading seeks to achieve the primary objective of the application proposal which is to reinforce the transmission system connection into central London.
- 2.6 The upgrading is proposed to occur in two separate summer campaigns. In the first campaign, circuits on one side of the ZBC line would be removed and replaced with higher capacity conductors. In the second campaign, the circuits on the other side of the line would be changed. The rationale for this approach is as follows:
- to confine the outages associated with the works to limited and scheduled periods of forecast lower-than-peak demand when the line can be part decommissioned without harming central London's electricity supply; and
  - to contain the works to periods when wintering birds will not be disturbed.

- 2.7 The following paragraphs set out in greater detail the works that are proposed to occur both on the alignment as a whole and at specific locations along it, as described in the application version of the DCO [APP 16] and explanatory memorandum [APP 17]. Proposals for compulsory acquisition relating to the proposed works are also identified in summary terms, again as described in the application version of the DCO at Schedule 1 [APP 16] the explanatory memorandum [APP 17], and the Book of Reference, funding statement and statement of reasons [APPS 18 – 20].

### **On-alignment Works**

- 2.8 The main works proposed to the alignment relate to the replacement of the existing 275kV conductors with ones of an equivalent diameter that will operate at 400kV, with associated works to pylons.

#### **Works to the conductors**

- The compulsory acquisition of access rights for construction and maintenance.
- The establishment of winching locations to draw conductor cables.
- Removal of the existing 275kV conductors; and
- their replacement with 400kV conductors of a similar diameter to the removed conductors.

#### **Works to the pylons**

- Other than as set out below, the retention and re-use of the existing pylons.
- Minor engineering repairs and structural reinforcement to the existing pylons are proposed as required (to which the compulsory acquisition of access rights also relates).

- 2.9 Compulsory acquisition powers are sought by the applicant to acquire the additional land necessary for substation works and to enable access to land for conductor winching and pylon repairs, in circumstances where negotiated acquisition or access cannot be obtained.

- 2.10 A range of temporary closures to and diversions to rights of way (including towpaths, footpaths, bridleways and cycle-ways including National Cycle Route 1) are proposed to enable the proposed works to conductors and pylons. Temporary work access arrangements and lay-down areas are also proposed.

### **Waltham Cross Substation**

- 2.11 To enable the ZBC line to run at 400kV, new 400kV gas insulated switchgear (GIS) is required to be installed at Waltham Cross Substation, receiving power from the existing 4ZM line to the north. This substation will continue to supply the parallel ZBD line that will continue to run at 275kV. It will also need to supply the

part of the ZBC line that is updated in the second campaign of works. This necessitates in sequence:

- The construction of the new 400kV GIS in a new extension to the north of the existing substation compound, retaining the existing 275kV switchgear. This enables these works to be constructed offline and commissioned into the system once other works are completed. It enables the existing substation to continue as fully operational until the switchover is performed. However, the extension site is on largely wooded land in Green Belt.
- The passage of the new 400kV conductors south to the ZBC alignment, crossing the existing substation compound on a minor cable re-alignment requiring the relocation of two pylons and one new pylon.
- The decommissioning of redundant existing 275kV switchgear serving only the ZBC line, after the completion of these works.
- The siting and extent of new GIS switchgear and associated development in the Green Belt at Waltham Cross became an examination issue, in respect of which minor changes were proposed by the applicant (see from paragraph 2.17 below), to reduce the scale and visual impact of built structures.

2.12 In summary, the proposals that enable the work programme at Waltham Cross are:

- To compulsorily acquire additional land to the north of the existing substation.
- To provide a new 400kV GIS substation within an extended compound on the acquired land, replacing part of the existing 275kV substation.
- To modify and marginally re-align the connection between the existing 4ZM line from the north and the new GIS.
- To remove existing pylon 4ZM1.
- To construct replacement pylon 4ZM1R.
- Relocating conductors from between 4ZM2 and 4ZM1 to run between 4ZM2 and 4ZM1R.
- To modify and marginally extend and re-align the connection between the ZBC line and the new GIS.
- Constructing a new pylon ZBC1A immediately to the south of the new GIS, carrying the alignment over the existing 275kV compound.
- Removing existing pylon ZBC1.
- Constructing replacement pylon ZBC1B.
- Relocating conductors from between ZBC2 and ZBC1 to run between ZBC2 and ZBC1B and then onwards to new pylon ZBC1A.

## **Brimsgdown Substation**

2.13 New supergrid transformers and new sealing end compounds are proposed at Brimsgdown substation, connecting the ZBC line to that facility. The sealing end compounds are proposed to be constructed in a new location, adjacent to pylon ZBC19, requiring some additional land-take. Cables would then pass underground and via a new cable bridge to the existing substation compound. A permanent footpath diversion is proposed to enable construction of the new sealing end compounds. The programme of works at Brimsgdown can be summarised as follows.

- As with Waltham Cross Substation, the original proposal was that the new transformers would be located offline and then commissioned into the system, meaning that the new transformers would have to be located close to the southern boundary of a highly constrained site.
- This would have required a high firewall to be constructed, safeguarding members of the public on an adjacent right of way from the effects of a transformer fire.
- The landscape and visual effects of this feature became a concern in the examination and minor changes (see from paragraph 2.17 below and Chapter 4 Part E) were proposed to enable its removal from the design.
- The constrained nature of the substation compound suggested the removal of some low fire-hazard switchgear to one of the new sealing end compounds adjacent to pylon ZBC19, increasing the size of that compound. This change remained at issue throughout the examination and is examined in detail in Chapter 4 Part E below.
- The design of the proposed cable bridge at Brimsgdown also became an issue in respect of flooding and river clearance. Minor changes (see from paragraph 2.17 below) were proposed to increase the river clearance of this structure.

2.14 In summary, the proposals that enable the work programme at Brimsgdown are:

- To acquire additional land adjacent to pylon ZBC19.
- To decommission the existing sealing end compounds and connections from the substation to pylon ZBC20.
- To install two new supergrid transformers with connections to two new sealing end compounds adjacent to pylon ZBC19 with a river bridge and underground connections to the substation compound.

## **Tottenham Substation**

2.15 A 400kV underground cable 'bypass' is proposed for Tottenham substation, connecting the application proposal to the existing VC alignment to the south.

- Minor technical changes to the alignment of this bypass have also been proposed (see from paragraph 2.17 below).

2.16 In summary, the proposals that enable the work programme at Tottenham are:

- To maintain the existing 275kV operation of the substation.
- To 'bypass' the substation compound with a new 400kV underground link, connecting the ZBC line to the VC line between pylons ZBC43 and VC1.
- To modify and marginally re-align the connection between the existing VC line from the south and the new 400kV underground link.
- To remove existing pylon VC1.
- To construct replacement pylon VC1R.
- To relocate conductors from between VC2 and VC1 to run between VC2 and VC1R.

### **MINOR CHANGES TO THE APPLICATION**

2.17 As outlined in Chapter 1, the applicant sought minor changes to the application as submitted to address concerns raised by certain interested parties and summarised in paragraphs from 2.11 above.

2.18 The applicant set these changes out formally in a letter of 22 May 2013 with accompanying plans [REP 34 – 38].

2.19 The changes in summary are as follows.

#### **At Waltham Cross Substation**

- Minor reductions to the area and volume of new structures in the proposed substation compound extension and removal or relocation of some structures from positions close to the northern perimeter, to positions less close to the perimeter.

#### **At Brimsdown Substation**

- At Brimsdown substation, removal of a proposed 9m high firewall and changes to transformer equipment and a cable bridge, to set these further back from an existing public right of way and provide greater vertical and horizontal clearance to a water course than initially proposed. However, some equipment is proposed to be relocated to an enlarged southern compound adjacent to pylon ZBC19 on land already owned by the applicant.
- The proposed new supergrid transformers would be located broadly on the footprint of the existing transformers, increasing their separation distance to land in the public domain.
- As a consequence, the proposed firewall on the southern boundary of the site would no longer be required and is proposed to be removed.

- However, to facilitate these changes by making additional space available within the substation compound, disconnectors are proposed to be moved from inside the substation compound to an enlarged south-eastern sealing end compound adjacent to pylon ZBC19.
- The water clearance of the proposed cable bridge has been increased by 60cm.

#### **At Tottenham Substation**

- Minor changes to the layout of equipment and to the alignment of underground cables are proposed.
- The south cable end compound at pylon ZBC 43 is proposed to move westwards by approximately 6m.
- The radius of the curved element of the proposed underground cable alignment is proposed to be amended to ensure that it reflects an alignment that is technically capable of construction.

### **THE APPLICATION SETTING**

- 2.20 Unlike its wider environs, which are largely urbanised, the application alignment and its close setting broadly runs from north to south, following the course of the River Lee (sometimes also referred to as the River Lea, but I adopt the spelling outside these parentheses for the sake of consistency) and the parallel Lee Navigation canal, across lakes and through wetlands formed of historic river channels, water meadows, marshes and reclaimed former mineral extraction sites, along the sides of large, raised and embanked reservoirs (the King George and William Girling Reservoirs) supplying water to London and through recreational open space contained within the low-lying Lee Valley.
- 2.21 Running from north to south, the Lee valley provides an extensive green corridor of undeveloped land, passing from the metropolitan Green Belt, far into to inner east London and the London 2012 Olympic site. It is crossed by only a relatively small number of east-west road links, although the two primary crossings within the application alignment area are major: the M25 motorway and the A406 North Circular Road. Other than these and a few additional road crossing points, the valley forms a significant geographical divide limiting the opportunities for lateral movement between north and east London and between Hertfordshire and Essex.
- 2.22 However, the valley has over many years functioned and is now well-established as a north-south infrastructure corridor, providing drinking water abstraction, water storage, canal and rail transport routes and electricity transmission alignments for and into London from the north.
- 2.23 Specific reference is made below to:

- other transmission alignments related to the application proposal;
- other major projects and proposals within the setting of the application;
- the statutorily designated Lee Valley Regional Park through which the application alignment largely is proposed to run;
- natural environment values, with specific reference to European Protected Sites; and to
- other important sites and features within the application setting.

### **Related Transmission Alignments**

- 2.24 To the north of Waltham Cross substation, the ZBC line is proposed to connect to the 4ZM line, which is part of a strategic transmission girdle around the Greater London area.
- 2.25 The ZBC line runs parallel to a second transmission line connecting the same points on the same alignment. This is known as the ZBD line. The application does not propose any works to the ZBD line. It should be noted that the existing pylons on the ZBC and the ZBD alignments are of similar height and design and located together, largely in orderly pairs. There is a significant degree to which infrastructure comprising both alignments are viewed together from a wide range of viewpoints.
- 2.26 Beyond its southernmost extent at Tottenham substation, the current ZBC line connects to a further transmission line, continuing southwards along the Lee Valley. Known as the VC line, this connects Tottenham substation (in the north) with Hackney substation (in the London Borough of Hackney, Greater London in the south). As paragraph 2.15 makes clear, the application proposal is proposed to connect to an upgraded VC line in due course. This addressed further from paragraph 2.27 below.

### **Other Major Projects and Proposals**

- 2.27 The VC line is also proposed to be upgraded from its current 275kV to run at 400kV. However, this upgrade does not require development consent, as the existing consent for the VC line already permits its operation at 400kV.
- 2.28 The following major projects are or may consist of elements located on or within the setting of the application alignment:
- the Transport for London (TfL) / Cross London Rail Links Ltd. (CLRL) Crossrail 2 project;
  - the Thames Water Deephams Sewage Works project;
  - the Enfield Council Meridian Water development proposal; and
  - district heating proposals facilitated by the Greater London Authority in association with the local borough councils.

- 2.29 Careful regard has been had to the effects of the alignment proposal on the projects identified above and of these projects on the alignment proposal, together with the possibility of in-combination and cumulative effects, throughout the examination process.

### **The Lee Valley Regional Park**

- 2.30 The immediate landscape setting of much of the alignment is formed by land in the statutorily designated Lee Valley Regional Park, the great majority of which is open space. Much of this open space is informal in nature, consisting of the river, canal, water bodies, woodlands and meadows, crossed by a large number of footpaths, cycle and bridleways and providing large areas of open access land.
- 2.31 The regional park is established under its own legislation<sup>8</sup> [REP 47] and has a management body, the Lee Valley Regional Park Authority (LVRPA). Its statutory duty is to '*develop, improve, preserve and manage [...] the park as a place for the occupation of leisure, recreation, sport, games or amusements or any similar activity, for the provision of nature reserves and for the provision and enjoyment of entertainments of any kind*'<sup>9</sup>. This duty is supported by wide-ranging powers (including powers to acquire land) and a duty to prepare a park plan, given further statutory effect through a requirement that the development plans in force within the park area shall from time to time include policies and proposals derived from the park plan.
- 2.32 The practical effect of the park legislation and the plan is principally to manage land within the park to provide opportunities for a wide range of recreational activities available to the residents of north and east London, Essex and Hertfordshire. Examples including walking, cycling and riding, bird watching, recreational angling, boating, picnicking and camping, all of which take place close to the application alignment.
- 2.33 More formal and developed recreational, educational and sporting opportunities within the park area and close to the application alignment include athletics and white water facilities, environmental education, specialised disabled angling and a visitor farm: the Lee Valley White Water Centre at Waltham Cross, the Lee Valley Athletics Centre at Edmonton and Lee Valley Park Farms at Stubbins Hall Lane, Waltham Abbey are examples of these. Major public events facilitated by the LVRPA occur on open land such as the 'showground' site, also near Waltham Cross.
- 2.34 The Lee Valley Regional Park area contains and provides the setting for the proposed substation alterations at Waltham Cross,

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<sup>8</sup> REP47: The Lee Valley Regional Park Act 1966 (as amended)

<sup>9</sup> REP47: Section 12

Brimmsdown and Tottenham. It contains and provides local and extensive views to the existing ZBC and ZBD lines and hence to the application alignment.

- 2.35 Careful regard has been had throughout the examination to the effect of the application alignment on the Lee Valley Regional Park and on the achievement of its duties, purposes, policies and proposals.

### **The Natural Environment and European Sites**

- 2.36 The application proposal directly affects the Lee Valley Special Protection Area (Lee Valley SPA) and Lee Valley Ramsar Site, designated European Sites<sup>10</sup> protecting birds and a complex of wetlands, lakes, reservoirs and waterways and their associated habitats and species.
- 2.37 The application alignment runs within approximately 1km of the designated Epping Forest Special Area of Conservation (Epping Forest SAC) and within approximately 5km of the designated Wormley – Hoddesdonpark Woods Special Area of Conservation (Wormley – Hoddesdonpark Woods SAC). Both of these contain ancient semi-natural woodlands of considerable extent.
- 2.38 The application proposal affects a mosaic of nationally designated Sites of Special Scientific Interest (SSSI) and regionally and locally designated sites of metropolitan and borough interest for nature conservation (SMINC/SBINC) sites (within Greater London) and local wildlife sites (LoWS) (within the county of Essex).
- 2.39 Careful regard has been had throughout the examination to the effect of the application alignment on these designated sites and upon natural environment values.

### **Other Important Sites and Features**

- 2.40 The Lee Valley includes two recreational north-south links of regional and national relevance which intersect with the application alignment at multiple locations.
- 2.41 The Lee Navigation is in active use as a canal. Whilst water traffic is largely recreational, the canal connects Bishops Stortford and Hertford to the national waterways network at Stratford (Regent's Canal), to London's docklands and the River Thames.
- 2.42 River and canal-side paths (tow paths) also provide part of the alignment for the Sustrans developed National Cycle Route 1 (NCR1), connecting Dover to the Shetlands via London, running largely along the east coast. This also forms part of the North Sea Cycle Route, in which NCR1 connects with international cycle

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<sup>10</sup> Natura 2000 sites.

routes encircling the North Sea coast from Norway to the Shetlands.

- 2.43 To the south east of Waltham Cross substation and north of Waltham Abbey town centre, and then to the south of Waltham Abbey town centre to Enfield Lock and Enfield Island, the alignment passes by extensive former Royal Ordnance Factory sites (scheduled ancient monuments).
- 2.44 Waltham Abbey town centre in turn contains a conservation area and the listed former abbey buildings.
- 2.45 In the environs of Enfield Lock and Enfield Island Village north of Brimsdown, the Lee valley and the application alignment pass through a developed urban area part of which is designated as the Enfield Lock Conservation Area. The application alignment at this point is within a dedicated green corridor through relatively recently developed housing, purpose-designed to host the existing ZBC and ZBD lines.

#### **The Broader Setting of the Application**

- 2.46 Beyond the Lee Valley, the broader setting of the application alignment is largely urban land in industrial and residential uses, although there are some agricultural and horticultural uses within the setting of the northernmost components of the alignment.
- 2.47 There are extensive views to the existing ZBC and ZBD lines and hence to the application alignment from Green Belt countryside in the Hertfordshire and Essex countryside in the north and from elevated and open areas largely to the west of the alignment further south, such as Alexandra Park and Palace in the London Borough of Haringey. However, the existing transmission lines form an established part of the urban scene.

### **3 LEGAL & POLICY CONTEXT**

3.1 This chapter of the report considers whether the application is for a nationally significant infrastructure project (NSIP) and summarises the legislative and policy context applicable to the application proposal.

#### **AN APPLICATION FOR A NSIP**

3.2 In order for the application proposal to be capable of consideration by the Secretary of State, it must be a NSIP of a type defined in PA 2008 and subject to relevant thresholds describing its scale and characteristics.

3.3 I agree that the proposal falls within the terms of PA 2008 s14(1) b, as it is for the *'installation of an electric line above ground'*.

3.4 I also agree that the proposal meets the conditions set out in PA 2008 s16, which determine whether a particular electric line above ground is a NSIP for the purposes of s14(1) b. The application proposal is wholly in England. It is proposed to have a nominal voltage greater than 132kV. It is not proposed to be constructed within premises in the occupation or control of the person responsible for its installation. In principle, the application is for a NSIP and an application for development consent must be considered by the Secretary of State and granted before the development can proceed.

#### **Definition Changes & Transitional Provisions**

3.5 It should be noted that since the submission of the application, PA 2008 s16 has been amended<sup>11</sup> by insert s16 (3) (aa) and (ab). This amendment reduces the number of smaller electric line applications and particularly alignment upgrades capable of being considered as an NSIP, particularly where the proposal:

- is for a line under 2km in length (PA 2008 s16 (3) (aa)) – a condition which does not apply to the application proposal as it is some 14km in length;
- is for an uprating or reinforcement of an existing line that meets the tests set out in PA 2008 s16 (3) (ab) as follows –

“(i) the line will replace an existing line,

“(ii) the nominal voltage of the line is expected to be greater than the nominal voltage of the existing line (but see subsection (3A)),

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<sup>11</sup> Added by Planning Act 2008 (Nationally Significant Infrastructure Projects) (Electric Lines) Order 2013/1479 art.2(a) (coming into force on 18 June 2013). The amendment is subject to transitional provisions specified in SI 2013/1479 art.3.

“(iii) the height above the surface of the ground of any support for the line will not exceed the height of the highest existing support or support which is being replaced by more than 10 per cent, and

“(iv) where the line is to be installed in a different position from the existing line, the distance between any new support and the existing line will not exceed 60 metres and the existing line will be removed within twelve months from the date on which the installation of the line which replaces it is complete...”

- 3.6 The application proposal is in principle capable of meeting these conditions and hence of not being a NSIP. However, these conditions are qualified in two important respects:
- Article 3 of the Planning Act 2008 (Nationally Significant Infrastructure Projects) (Electric Lines) Order 2013/1479 provides that the new conditions in PA 2008 s16 (3) (aa) and (ab) does not apply to any application received by the Secretary of State before the amending provisions came into force on 18 June 2013 (the transitional provisions). (The application proposal is subject to these.)
  - However, PA 2008 s16 (3A) provides that the exemptions in PA 2008 s 16 (3) (ab) do not apply if “*any part of the line (when installed) will be within a European site or an SSSI*”. Part of the application is subject to this qualification because it will be within the Lee Valley SPA and Ramsar Site which are European Sites (and indeed SSSIs) for the purposes of the legislation.
- 3.7 It is important to observe that the conditions in PA 2008 s16 (3) (aa) and (ab) are not dis-applied solely by way of the transitional provisions. If that had been the case, had it been submitted on a later date, would not have been for a NSIP at all. However, because of the qualification in PA 2008 s16 (3A), even with the new exemptions in place, the application would still be for a NSIP. It would still need to be assessed by an examination and a development consent decision by the Secretary of State would still need to be made under PA 2008.
- 3.8 In this respect, even though the application proposal is for the replacement of an existing electric line for which there will be no material change to the height above the surface of the ground of any support for the line when compared to the existing ZBC line, matters relating particularly to the passage of the line through a European site or an SSSI require to be examined in accordance with PA2008.

## SOURCES OF LAW AND POLICY

- 3.9 It is important to note that for a linear development project connecting Essex with Greater London and running through or adjacent to the territories of a number of local authorities and the Lee Valley Regional Park, a very wide range of policies are prospectively relevant to the application proposal, particularly at the London, county, borough and district levels. It in the interests of ensuring succinctness and brevity in this report, not all prospectively relevant sources are cited here.
- 3.10 References to the application and ES documentation, to the answers provided to my written questions on policy matters, to written representations and to LIRs provide access to detail in respect of the sources to which I have been referred. All policies referred to me have been considered during the preparation of this report.

### **The Planning Act 2008 (as amended)**

- 3.11 PA 2008 s104(2) sets out the matters to which the Secretary of State must have regard in deciding an application submitted in accordance with PA 2008:
- “(a) any national policy statement which has effect in relation to development of the description to which the application relates (a relevant national policy statement”),*
- (aa) the appropriate marine policy documents (if any), determined in accordance with section 59 of the Marine and Coastal Access Act 2009,*
- (b) any local impact report (within the meaning given by section 60(3) ) submitted to the Secretary of State before the deadline specified in a notice under section 60(2),*
- (c) any matters prescribed in relation to development of the description to which the application relate, and*
- (d) any other matters which the Secretary of State thinks are both important and relevant to the Secretary of State’s decision.”*
- 3.12 This report sets out my findings and conclusions taking these considerations fully into account.
- 3.13 The following application documents describe the legislative and policy framework that the applicant considers relevant to the proposal:
- Environmental Statement (ES) – Non Technical Summary (Volume 1) [APP 32]
  - ES (Volume 2) chapter 5 Policy and Authorisations Overview, and the technical chapter numbers 6 - 13 [APP 33]

- Planning Statement [APP 27]
- 3.14 Useful summaries of the applicable law and policy are also contained in LIRs from Epping Forest District Council [REP 67], Enfield Council [REP 68] and the Greater London Authority [REP 69]. I am grateful for these summaries of policy and have taken the law and policy sources that they identify into account.
- 3.15 I also asked a number of detailed questions about the application of policies (in my round 1 written questions [PD25: Appendix D] at sections 17 (National Policy Statements), 18 (the National Planning Policy Framework), 19 (the London Plan and development plans within relevant local planning authority areas) and 20 (the Lee Valley Regional Park Development Framework and the Lee Valley Regional Park Plan). These questions were asked of the applicant and of the relevant authorities responsible for the plans and policies that they related to. I have taken the representations that I received in response to these questions fully into account.
- 3.16 The application was examined in light of the law and policy identified in these documents, together with any other law and policy identified during the examination process, through oral and written questions. All important and relevant law and policy has been considered.
- 3.17 The main operating law and policy is identified in the following sections.

### **International & European Legal Requirements**

- 3.18 The principal sources of law referred to during the examination and which I have taken into account as relevant are those dealing with habitats and wild birds and relating to the processes of environmental impact assessment.
- 3.19 The Habitats Directive<sup>12</sup> (together with the Birds Directive<sup>13</sup>) forms the cornerstone of Europe's nature conservation policy. It is built around two pillars: the Natura 2000 network of protected sites and the strict system of species protection. The UK's international obligations in respect of wetlands (the Ramsar Convention) is also of strong relevance to this application.
- 3.20 The EIA Directive<sup>14</sup> sets out the framework for the examination of the potential environmental impacts of qualifying development applications. It requires that the competent authority adopt the necessary regulatory scheme and establish mechanisms to preserve existing habitats and ecosystems. The principal function of the Directive is to establish the requirement for developers to

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<sup>12</sup> Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora

<sup>13</sup> Directive 79/409/EEC on the conservation of wild birds

<sup>14</sup> Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (Update...)

compile and submit an environmental statement in support of any qualifying development application, presenting their assessment of the likely significant environmental impacts.

### **Other UK Legislation**

- 3.21 In addition to the PA 2008, reference has been made to the relevant provisions of other legislation, including but not limited to:
- The Town & Country Planning Act 1990 (as amended);
  - The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended);
  - The Natural Environment and Rural Communities (NERC) Act 2006 (and particular the biodiversity duty under s40 of that Act); and
  - The Lee Valley Regional Park Act 1966 (providing for the statutory designation of the Lee Valley regional Park, the establishment, duties and powers of its authority and the making of park plans).

### **National Policy Statements (NPS)**

- 3.22 PA 2008 s5 enables the Secretary of State to designate NPSs. As this is a project for electricity networks infrastructure, there are two relevant NPSs that require to be considered by the Secretary of State under PA 2008 s104(2) (a):
- NPS EN-1: Overarching National Policy Statement for Energy; and
  - NPS EN-5: Electricity Networks Infrastructure.
- 3.23 Both were designated for the purposes of PA 2008 s5 on 19 July 2011.
- 3.24 The ES [APPs 32 – 36] and Planning Statement [APP 37] submitted with the application make reference to these NPSs, as do responses by the applicant and others to my round 1 written questions upon them [PD25: Appendix D] at section 17.
- 3.25 Key policies to which the applicant had regard and which I have also considered include:
- NPS EN-1, which at paragraph 1.7.2 recognises that the new electricity generating infrastructure needed to move to a low carbon economy while maintaining security of supply will be heavily dependent on the availability of a fit for purpose and robust electricity network.
  - At section 4.8 it requires climate change effects to be taken into account.
  - At section 4.5 it provides criteria for the Planning Inspectorate to judge “good design” when considering applications for infrastructure.

- At section 5.2 it provides policy on air quality and emissions.
  - At section 5.3 it provides policy on biodiversity and geological conservation. Policy is also provided by NPS EN-5 at paragraph 2.7
  - At section 5.8 it provides policy on the historic environment.
  - At section 5.9 it provides policy on landscape and visual impacts. Policy is also provided by NPS EN-5 at paragraph 2.8.
  - At section 5.11 it provides policy on noise and vibration. Policy is also provided by NPS EN-5 at paragraph 2.9.
  - At section 5.13 it provides policy on traffic and transport.
- 3.26 These were subject to test in my round 1 written questions about specific NPS policies [PD25: Appendix D] at section 17. They underpin the findings and conclusions in the remainder of this report. Detailed references to these policies are cited in individual sections of the report as required.
- 3.27 My findings on the need for and sustainability of the project and the appropriateness of its location are strongly conditioned by the provision of the policy statements on need, siting and design.

### **Other Relevant UK Policy**

- 3.28 Whilst the NPSs provide the primary framework for deciding this application, I have considered other relevant UK Government policy documents.
- 3.29 The application proposal does not include or affect any tidal waters. It follows that there are no relevant statutory marine policy documents prepared under the Marine and Coastal Access Act 2009 requiring to be considered by the Secretary of State under PA 2008 s104(2) (aa).
- 3.30 Regard has however been had to the following relevant policy sources that are not NPSs:
- Energy White Paper: Meeting the Challenge (May 2007);
  - UK Low Carbon Transition Plan, National Strategy for Climate and Energy (July 2009);
  - UK Renewable Energy Strategy (July 2009);
  - Planning our electric future: a White Paper for secure, affordable and low carbon electricity (July 2011);
  - National Infrastructure Plan 2011 plus updates;
  - The Holford Rules (as referenced in EN-5); and
  - Ofgem's RIIO<sup>15</sup>-T1 transmission networks pricing model (2013-2021).

### **General Planning Context – The National Planning Policy Framework (NPPF)**

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<sup>15</sup> RIIO: Revenue = Incentives+ Innovation + Outputs.

- 3.31 The application is for a development wholly in England. The UK Government's overarching planning policy for England is now set out in the NPPF as published in March 2012, which I have referred to in the examination. Circular 11/95 entitled 'Use of Conditions in Planning Permission' (DCLG, 1995) remains relevant to the framing of any requirements set for NSIPs and I have also had regard to it as required.
- 3.32 The NPPF refers to but does not contain specific policies on NSIPs, which (it acknowledges) are primarily subject to the policy in NPSs. Nevertheless, the NPPF provides the context in which policies from the London Plan and development plans must be interpreted.
- 3.33 I have considered whether there is any particular policy derived from the NPPF which may be important and relevant to this case. I refer here to NPPF policies for '*[a]chieving sustainable development*' (NPPF, page 2), and '*healthy communities*' (NPPF, pages 7, 9, 17 and 69) and the statement that: '*[t]he purpose of planning is to contribute to the achievement of sustainable development*' (NPPF, para 6).
- 3.34 The ES [APPs 32 – 36] and Planning Statement [APP 37] submitted with the application make reference to the NPPF, as do responses by the applicant and others to my round 1 written questions about specific NPPF policies [PD25: Appendix D] at section 18.
- 3.35 There are no instances in which relevant policy directions from the NPPF have been cited by any interested party as giving rise to a conflict with relevant policy directions from the NPSs.

**Local Planning Context -  
The London Plan, Development and Park Plans**

- 3.36 Policies from the following plans are relevant to consideration of the application to the extent that they address important and relevant matters:
- The London Plan
  - Development Plans and Supplementary Planning Documents prepared by local planning authorities in the London area hosting the proposed development, including those prepared by Enfield Council (the London Borough of Enfield), the London Borough of Haringey and (to a limited extent) the London Borough of Waltham Forest.
  - Development Plans and Supplementary Planning Documents prepared by authorities in Essex hosting the proposed development, including those prepared by Epping Forest District Council (the local planning authority) and policies prepared by Essex County Council (the upper tier authority but not a planning authority).

- Regard has also been had to policies of the nearby but off-alignment Broxbourne Borough Council in Hertfordshire (a local planning authority) and of Hertfordshire County Council (an upper tier authority but not a planning authority).
- The Lee Valley Regional Park Plan prepared by the Lee Valley Regional Park Authority, which is in the process of replacement by the Lee Valley Regional Park Development Framework (the 'park plans'). These are statutory plans under the Park legislation.

3.37 The ES [APPs 32 – 36] and Planning Statement [APP 37] submitted with the application make reference to these plans to which I have had regard. However, there were issues raised in respect of the relationship between the NPPF and elements of the local policy context by my round 1 written questions [PD25: Appendix D] at section 19 which required the applicant to submit small volumes of additional policy analysis. I have considered this, together with responses to questions by the applicant and others about the local policies in force and their status in relation to the NPPF. I have also considered written representations and comments from local planning authorities [REP 62] (London Borough of Haringey) and statements of common ground [REP 82] (Enfield Council) [REP 79] (Epping Forest District Council) [REP 71] and (Essex County Council) raising policy issues.

3.38 The ES [APPs 32 – 36] and Planning Statement [APP 37] also refer to the park plans, as do answers to my round 1 written questions about the park plans [PD25: Appendix D] at section 20, which I have also considered.

3.39 The Planning Statement submitted with the application [APP 27] addresses the East of England Plan (at section 6.2). On 11 December 2012 the Secretary of State for Communities and Local Government laid an Order in Parliament revoking this plan. No representations were received relying on the plan and nor did the applicant suggest that the plan continued to provide any policy basis for the application. I have not had regard to this plan.

### **Local Impact Reports (LIRs)**

3.40 Three LIRs were submitted during the examination and before the relevant deadline (23 May 2013). I have considered these and require to be considered by the Secretary of State under PA 2008 s104(2) (b). They are as follows:

- Epping Forest District Council LIR [REP 67]
- Enfield Council LIR [REP 68]
- Greater London Authority LIR [REP 69]

3.41 Policy matters arising from these LIRs relate to the London Plan across Greater London and to Local Plans and Supplementary Planning Documents in force and under development within the

London Borough of Enfield (the Enfield Council area) and Epping Forest District. Useful summaries of operating policy were provided in these documents and have been fully considered. Important and relevant issues arising from these LIRs have been fully considered in Chapter 4 of this report below.

## **4 EXAMINATION ISSUES, FINDINGS AND CONCLUSIONS**

4.1 This chapter of the report identifies the key issues arising from the application and the action taken during the examination to address these.

### **INITIAL ASSESSMENT OF PRINCIPAL ISSUES**

4.2 At the outset of the examination process, I made an initial assessment of the principal issues arising from my consideration of the application documents and relevant representations. These issues are recorded below in summary form and in the (alphabetic) order in which they were included in correspondence with the applicant, interested parties and invited persons.

- Biodiversity, ecology and natural environment
- Compulsory acquisition
- Construction
- Draft development consent order (DCO)
- Debris and waste
- Electric and magnetic fields (EMFs)
- Historic environment
- Lee river and navigation
- Lee Valley Regional Park (LVRP)
- Noise
- Option development
- Other strategic projects and proposals
- Socio-economic effects
- Statutory undertakers
- Townscape, landscape and visual; and
- Transportation and traffic.

4.3 Consequent on notice and certification errors made by the applicant and recorded in Chapter 1 of this report, my original Rule 6 letter was cancelled and new notification arrangements were made. Having ensured that these were carried out, I reviewed my initial assessment to ensure that any new issues identified by persons who had not been afforded an opportunity to make relevant representations at the normal time, but had made a statement of representation, were also taken into account.

4.4 My re-issued Rule 6 letter of 27 March 2013 [PD19-22 was also sent to those persons identified in my review as not having been afforded an opportunity to make relevant representations at the normal time. Some changes of detail emerged in relation to the following issues:

- Biodiversity, ecology and natural environment; and
- Historic environment.

However, no new issues of principle emerged that had not already been identified in the high-level issues framework set out above.

- 4.5 Not all of these issues remained of equal relevance and importance as the examination progressed. Some developed a high level of significance and are therefore addressed in detail in this report. Evidence from the applicant, the withdrawal of some representations and agreements between the applicant and other interested parties and invited persons also led to issues that had appeared prospectively relevant and important at the outset of the examination ceasing to be so. The issues as re-evaluated then formed the framework for my written questions and my investigation of issues in hearings.

### **THE ISSUES FRAMEWORK IN THIS REPORT**

- 4.6 Of the issues described in paragraph 4.2 – 4.5 above, matters relating to the draft DCO are addressed separately in Chapter 6 below and matters relating to compulsory acquisition and the interests of statutory undertakers are addressed separately in Chapter 7.
- 4.7 All other important and relevant issues that emerged during the examination are analysed within this issues framework and are addressed in this chapter. However, I have changed the order in which I address them from the alphabetic order above, to an order more closely related to factors including their timing in the project delivery process and their significance to the decision as a whole. This chapter addresses these groups of issues in the following order:
- (a) the need case for the development and the adequacy of option development to meet the identified need whilst minimising adverse effects;
  - (b) effects on and effects of other strategic projects and proposals, including in-combination and cumulative effects;
  - (c) effects on biodiversity, ecology and natural environment including HRA-relevant effects on European Sites;
  - (d) effects on the aquatic environment, largely relating to the Lee river, navigation and wetlands including flooding and water quality issues;
  - (e) townscape, landscape, visual and historic environment effects;
  - (f) construction effects, including those on the Lee Valley Regional Park (LVRP) and in respect of transportation, traffic and rights of way; and
  - (g) other matters.
- 4.8 It will be noted that this framework does not encompass decommissioning effects, although it is normal to do so in EIA and with respect to projects of this nature and scale. That is because the applicant makes clear throughout the application and ES documentation and in response to questions that it has no particular decommissioning intentions or proposals in mind. It envisages that the ZBC alignment will remain as part of the

transmission network. Should further proposals be made in respect of it in due course, these will be considered in future processes where the alteration or decommissioning of the existing alignment together with arrangements for its replacement (should that be proposed) will be considered at the same time.

- 4.9 In this case, the part decommissioning of the existing ZBC alignment is being considered at the same time as its replacement.

**PART A**  
**THE NEED CASE AND OPTION DEVELOPMENT TO MEET NEED**

- 4.10 The application proposal is a project to reinforce an existing transmission alignment, in the large part re-using the current pylons of the existing ZBC line. That the application proposal should take this form and be in this location was not an inevitability. The applicant undertook a detailed appraisal of the options by which it could achieve its overarching objective: to augment the electricity supply to central London, meeting forecast need and avoiding unacceptable network performance [APP33 at section 2.2]. Hence at the early stages of the project it was possible that other options, with other effects, could have been chosen by the applicant.
- 4.11 It must be made clear from the outset that I did not receive in principle objections from any interested party disputing the high level need case for the application proposal. Nor did I receive any submissions that the option development process for the application proposal was flawed in any significant way or that a different alignment option could or should have been selected by the applicant.
- 4.12 Paragraph 4.1.2 of NPS EN-1 sets out a presumption in favour of development for nationally significant energy infrastructures. This presumption applies “unless any more specific and relevant policies set out in the relevant NPSs clearly indicate that consent should be refused”. On that basis, it was important to ensure that the policy basis for the application proposal is thoroughly reviewed, commencing with its primary elements: the establishment of the need case and the development of options to meet need.
- 4.13 Section 2.8 of NPS EN-5 sets out the detailed approach that needs to be taken to landscape issues when developing a transmission alignment. I was conscious that the application proposal entailed a substantial development and would prolong the use of a highly visible transmission alignment and hence must be subject to the policy there, although recognising that much of it is directed towards the development of new alignments as opposed to the uprating of existing alignments such as in this application.

- 4.14 I was also conscious that the application proposal was largely contained within the landscape and affecting the facilities, functions and user experience of the statutorily designated Lee Valley Regional Park. As a statutory regional entity, this park and its legislation are unique in England. Possibly as a consequence of this uniqueness, the park is not clearly addressed in the NPSs relevant to the application proposal. Unlike other nationally designated landscapes such as National Parks, the Broads or Areas of Outstanding Natural Beauty, there is no clear national policy response to its status.
- 4.15 London Plan, development plans and Lee Valley Regional Park plans policies seek to protect the park from development that will harm the achievement of its statutory purposes.
- 4.16 The LIR from the Greater London Authority [REP69: para 24] expresses regret that the application proposal does not entail the replacement of the pylons with *"more aesthetically pleasing and innovative pylons"*, whilst accepting that *"the cost constraints of the project did not allow for this"*.
- 4.17 The application proposal will also prolong the use of a transmission alignment passing through important natural environment assets, including European Sites. NPS EN-1 at section 4.4 refers to the consideration of alternatives in such circumstances and hence a review of the applicant's option appraisal process is necessary.
- 4.18 NPS-EN 5 at paragraph 2.2.6 explains that:
- "As well as having duties under section 9 of the Electricity Act 1989, (in relation to developing and maintaining an economical and efficient network), developers will be influenced by Schedule 9 to the Electricity Act 1989, which places a duty on all transmission and distribution licence holders, in formulating proposals for new electricity networks infrastructure, to 'have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and ... do what [they] reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects."*
- 4.19 Paragraph 2.8.3 of NPS-EN5 also makes clear that *"[s]ometimes positive landscape and visual benefits can arise through the reconfiguration or rationalisation of existing electricity network infrastructure."* It is therefore important to consider whether the option and alignment selection process in this case has accomplished any such reasonably achievable benefits.
- 4.20 For these reasons, I considered that it was appropriate for me to examine the option development work that had been undertaken

by the applicant, to satisfy myself that the application proposal represents an appropriate response to need, whilst acknowledging and limiting its effects on the park and on natural environment assets in the Lee Valley to the fullest extent that can reasonably be achieved in line with policy. I needed to satisfy myself whether the alignment selection process has been robust and whether the chosen alignment option is justified in policy and impact terms.

4.21 It was for this reason that I also asked the applicant whether there had been any prospect of delivering the project differently [PD25: Annex D question 17.3], enabling me to consider whether a different mode of delivery might have been available that offered a better response to the status and function of both the park and natural environment assets in the Lee Valley.

4.22 Section 2.1 of Volume 2 of the ES [APP33] summarises the needs case for the application proposal. The case is based on work reported in "North London Reinforcement Project: Need Case for the North London Region"<sup>16</sup> (a document referred to in a footnote to the ES reference above) and has been framed within the policy context set in NPS EN-1 and EN-5. At paragraph 2.1.7, the ES sets out the following evidence of need:

*"The transmission system in the wider London area feeds into the Greater London transmission ring, which is a 400/275kV ring of transmission circuits that run around and feed into the capital. The circuits around London facilitate power transfer in and out of the region from generation located in the Midlands, East Anglia, along the Thames Estuary and in Kent. National Grid forecasts that the existing transmission system will not be adequate for power flows through North London by 2015/16."*

4.23 The application proposal forms a feeder into central London from the Greater London transmission ring.

4.24 The ES suggests that the need for transmission system reinforcement in North London by 2016 [APP33 at paragraph 2.1.10] is triggered by:

- *"changes to existing and future generation levels in Greater London and along the Thames Estuary, and the expectation that the newer plants will operate more frequently;*
- *"increasing levels of demand in the Greater London region as forecasted by DNOs [Distribution Network Operators];*
- *"increasing power transfer between England and Europe by existing and future expected interconnectors, the effect of which is to increase the levels of power flow on the Greater London transmission system; and*

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<sup>16</sup>This documents was not submitted with the application, but was hyperlinked from the submitted ES. It is available from the applicant's North London Reinforcement Project Archive at <http://www.northlondonreinforcement.com/library.aspx>

- *“changes to the existing transmission system network infrastructure with unreliable ageing cable circuits being decommissioned.”*

4.25 The application proposal does not rely upon a specific individual or even any group of current or proposed generation assets to justify its development. Unlike other transmission alignments which are proposed in order to connect a particular new generation facility or to reinforce the transmission network to support a number of new generation facilities, this application proposal is a transmission network upgrade, justified to ensure the adequate future function of the transmission network serving electricity consumers in London. In that regard however, its need is particularly urgent, as analysis undertaken for the ES suggests that if no reinforcement is delivered to address the portfolio of transmission system reinforcement triggers summarised in paragraph 4.24 above, the following adverse impacts would emerge:

- The transmission system of which the current ZBC line forms part becomes noncompliant with thermal and voltage limits.
- Thermal overloads are caused on the circuits comprised within the current ZBC line.
- Widespread voltage reductions in central London are also caused [APP33 at paragraph 2.1.13]

If unmanaged, the applicant predicts that these effects would lead to an increase in the unreliability of electricity supply in central London and to increased customer interruptions.

4.26 Unchallenged as this position is by any other evidence placed before the examination, there is a strong need case in support of transmission reinforcement into central London. However, whilst that case justifies the project requirement, it does not in and of itself justify the chosen alignment without examination (see paragraph 4.1.2 of NPS EN-1).

4.27 Faced with the issues raised by a proposal that would have the effect of prolonging the adverse impacts of a transmission alignment in the regional park and affecting significant natural environment assets, my first round of written questions [PD25: Annex D question 17.2], sought to test the extent to which good design in respect of the function of the proposed alignment upgrade have been provided or better provided by any of the following approaches:

#### **Siting design**

- the development of a wholly new alignment; and
- the reinforcement of a different existing alignment elsewhere in London but to serve the same need; and

#### **Major component design**

- the replacement of existing pylons with pylons of a different design (including the newly developed Bystrup 'T', New Town Studio 'Totem' or Ritchie 'Silhouette'); and/or
- the placing of more or all of the existing alignment underground?

4.28 The applicant was specifically directed to take NPS EN-1 paragraph 3.7.10, NPS EN-5 Part 2 and paragraph 2.8.8 and the 'Holford Rules', into account in their response.

### **Siting design**

4.29 The applicant's response [REP91: answer to question 17.2] in terms of siting design and the development of a wholly new alignment was as follows:

*"National Grid's stakeholder, community and amenity policy sets out how the company will meet the duty to the environment placed upon it under schedule 9 to the Electricity Act 1989. These commitments include only seeking to build new lines and substations where the existing transmission infrastructure cannot be technically or economically upgraded to meet transmission security standards. Therefore, as the option of enhancing existing infrastructure is both technically feasible and economic, in line with overarching National Policy Statement NPS EN-1 paragraph 3.7.10, National Grid does not consider that options requiring wholly new transmission infrastructure should be progressed when options of enhancing existing transmission infrastructure are available. This position is considered to be consistent with more sustainable development and also wider environmental objectives to conserve natural resources where possible.*

*"When appraising alternative options in the Strategic Optioneering Report for the North London Project, National Grid considered the construction of wholly new alignments and determined that maximising the capability of the existing alignment is good design practice and in line with the definitions of the national grid stakeholder, community and amenity policy and national policy statement outlined above.*

*"As detailed in section 1 of the Strategic Optioneering Report (Appendix E) for the North London Reinforcement Project, the decision was made not to pursue alternative options that would require the construction of wholly new transmission system infrastructure in North London as these options would:*

- *"not deliver additional benefits in comparison to either of the upgrade options that were identified;*
- *"be more disruptive to the community and environment during construction and possibly thereafter;*
- *"result in additional land sterilisation in the London area;*

- *“not make best use of existing transmission infrastructure to conserve natural resources and thereby result in the least sustainable option; and*
- *“would most likely result in increased cost to National Grid and therefore to domestic & business electricity consumers.”*

4.30 It follows that I am satisfied that wholly new alignment options have been considered but have been rejected as less optimal than the current alignment as a consequence of the factors identified in paragraph 4.28 above. The applicant’s stakeholder, community and amenity policy referred to in that paragraph frames the method whereby this has been achieved. It is the applicant’s statement, required to be published in response to Schedule 9 to the Electricity Act 1989 (and highlighted in NPS-EN5 paragraph 2.2.7) which sets out how it proposes to respond to the requirements of that legislation. In the absence of any of the conditions arising from PA 2008 s104 (4) to (8), indicating against the application of the approach set out in National Grid’s stakeholder, community and amenity policy and supported by NPS EN-5, the Secretary of State is entitled to conclude that the process is compliant with policy generally and has been robust.

4.31 Responding on the question as to whether another alignment into central London could have been reinforced instead, the applicant made clear:

*“National Grid identified two options of enhancing the existing infrastructure that met the national grid transmission licence requirement to satisfy the design criteria of the NETS SQSS and in line with overarching National Policy Statement NPS EN-1 paragraph 3.7.10.*

- *“Option 1 – Uprating of an existing 275kV OHL circuit between Waltham Cross and Hackney substations at 400kV*
- *“Option 2 – New 400kV cable circuit installed in the existing tunnel between Elstree and St Johns Wood 400kV substations”*

4.32 Option 1 is the project which became the application proposal. At 23 km in extent (including the proposed VC upgrade between Tottenham and Hackney as well as the 14 km of works subject to this application) it was assigned a lifetime cost for study purposes of £142.2 million [AP33 at paragraph 2.2.12].

4.33 Option 2 is a project to reinforce a different existing transmission alignment from Sundon in Bedfordshire, via Elstree to St John’s Wood, the latter portion in an existing underground alignment. The study suggested that this alignment required substantially larger works in terms of both the extent of new and upgraded cable (54km) and substation land-take, and would be delivered at a comparable lifetime cost of £255.5 million, a significantly larger sum [AP33 at paragraph 2.2.12].

- 4.34 It is important then to note that even if the Option 2 upgrade were to have been pursued, this would still have required the current parallel ZBC and ZBD alignments in the Lee Valley to be retained and operated at 275kV in order to maintain adequate electricity supplies to central London. It follows that the development of Option 2 could not eliminate the harm occasioned by the current Lee Valley transmission alignments and there would be no benefit to the Lee Valley landscapes or natural environment assets as a consequence of the selection of Option 2.
- 4.35 In the absence of any of the conditions arising from PA 2008 s104 (4) to (8), indicating against the application of the approach set out in the ES, I **recommend** the Secretary of State to conclude that, in the absence of benefit to the Lee Valley from Option 2 and placing significant weight on its substantially greater cost than the application proposal Option 1, the option selection process has been robust and its outcome is appropriate in strategic terms.

### **Major component design**

- 4.36 Turning to the consideration of major component design on the existing ZBC alignment to mitigate the impacts of the proposed reinforcement, and particularly to the potential use of an alternative pylon design, the applicant made the following submission:

*“Replacement of the existing alignment with an alternative pylon, for example the ‘T’ Pylon, would involve either building additional infrastructure offline on a different alignment or; if on the same alignment, significant temporary line diversions<sup>17</sup>. An alternative alignment is not, however, feasible due a lack of land availability and the highly constrained environment which includes existing development, infrastructure and rivers.*

*“The existing pylon infrastructure has a remaining asset life of at least 30 years based on the designed life of 80 Years, which is likely to be extendable. The proposed voltage uprating and reconductoring works can be delivered at a much lower cost than the replacement or construction of a new overhead line with an alternative pylon system. Making maximum use of the remaining asset life and any extension [sic]. It presents little or no change to the visual impact of the existing overhead line infrastructure and therefore represents the most efficient, economic & coordinated option. This meets National Grid’s transmission licence duty to be economic & coordinated and is in line with overarching National Policy Statement NPS EN-1 paragraph 3.7.10.”*

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<sup>17</sup> The application proposal entails switching off and replacing the circuits on one side of the ZBC alignment in the first year of delivery, leaving the circuits on the opposite side to operate until their replacement in the second year of delivery. This strategy relies on the retention of the existing pylons. Installing a new pylon design would require the complete decommissioning of the ZBC alignment for the duration of the entire construction campaign.

- 4.37 A further key consideration emerges here too. The proposal is to reinforce the ZBC alignment, whilst leaving its 'twin' within the Lee Valley landscape and natural environment, the parallel ZBD alignment, unchanged.
- 4.38 The two alignments are currently of broadly equivalent appearance in terms of their height, the paired siting and the similar design type of pylons used. As such, they read as an orderly and harmonious pair within the affected host landscape. If one alignment were to be replaced with a different pylon design in the absence of a commitment also to replicate the same design on the parallel alignment, the effect could be to introduce a new absence of order and a disharmony, likely to exacerbate rather than mitigate landscape and visual impacts. Natural environment assets in the Lee Valley would be disturbed to a substantially greater degree by a wholesale replacement of pylons than by the re-conductoring of the current ZBC alignment.
- 4.39 Again, I am satisfied that the decision not to employ a new pylon design for the reinforced alignment represents the most appropriate policy response in this particular case and, importantly, maximises the opportunity to limit adverse landscape and natural environment impacts to the greatest feasible extent.
- 4.40 Turning finally to the reconsideration of major component design on the existing ZBC alignment to mitigate the impacts of the proposed reinforcement, and particularly to the potential use of additional undergrounding on the alignment, the applicant made the following submission:

*“National Grid determines whether additional undergrounding of circuits is appropriate through the appraisal, consultation, and planning processes. These processes are in line with the following National Policy Statements:*

- *NPS EN-1 paragraph 3.7.10*
- *NPS EN-5 paragraphs 2.8.8*
- *NPS EN-5 paragraphs 2.8.9 (containing factors pertinent to the consideration of the benefits of underground lines)*

*“The North London Reinforcement Project has undergone the appraisal and consultation processes. The planning process will assess the justification National Grid has provided in the Strategic Optioneering Report for the enhancement of the existing overhead line alignment being the most appropriate option in this case.*

*“Placing more or all of the existing alignment underground would require the construction of a suitable cable tunnel, cable sealing end compounds and head houses, along with any required alterations to the existing overhead line infrastructure alignment, all of which are more likely to result in environmentally adverse impacts.*

*“Under RIIO –T1 allowances, £500m is available to underground existing overhead lines in nationally designated landscapes e.g. National Parks and Areas of Outstanding Natural Beauty (AONB). The overhead line between Waltham Cross and Hackney substations is not in such a nationally designated area and therefore would not be funded under RIIO –T1 allowances.”*

- 4.41 The main argument made by the applicant here is that the Lee Valley Regional Park is not a National Park or Area of Outstanding Natural Beauty. The application has stated that it does not benefit from the legislative and policy protections accorded to those assets. Additional undergrounding cannot be justified in the applicant's view.
- 4.42 I note the absence of provision for the Lee Valley Regional Park in NPS EN-1 or NPS EN-5. Indeed, there is no place in policy where the Lee Valley Regional Park is accorded the same standing as the designated areas I consider in paragraph 4.41 above. It follows that the applicant's response to current policy about undergrounding is a reasonable one.
- 4.43 It is also relevant to question the possible benefits of any undergrounding in this case. Just as the continued presence of the 'twin' parallel ZBD alignment provides a strong rationale against the replacement of the ZBC alignment with a different design of pylon, so the continued presence of the ZBD alignment would significantly reduce the benefits to be obtained from any undergrounding – unless it were to be undergrounded too. However, that would be a very different and significantly more expensive project than the one applied for.
- 4.44 Site inspections of the complex mosaic of waterways, wetlands, marshes and woods that make up much of the Lee Valley also suggest that undergrounding of one or both alignments would be considerably more complex and costly than in a greenfield location, and could cause significant harm to natural environment values during construction that the application proposal will avoid.
- 4.45 In that respect, regard must be had to NPS-EN5 paragraph 2.8.9 which indicates that the decision maker should *“only refuse consent for overhead line proposals in favour of an underground [...] line if it is satisfied that the benefits from the non-overhead line alternative will clearly outweigh any extra economic, social and environmental impacts and the technical difficulties are surmountable.”* That is clearly not the case with reference to possible undergrounding on the application alignment.

### **Conclusions**

- 4.46 The application proposal meets NPS EN-5 section 2.8 policy in relation to landscape considerations. Much attention has been paid by the applicant to the selection of the alignment and the

consideration of alternative options. The fact that the alignment is being delivered as a reinforcement to the existing ZBC line is in itself a positive response to paragraphs 2.8.3 and 2.8.10, which encourage rationalisation of and upgrading of existing alignments. In this case, it has been possible to avoid the need for an additional transmission alignment through London.

- 4.47 I do not consider the Holford Rules (NPS EN-5 paragraph 2.8.6) to be directly applicable to this application as they set out siting and design considerations for new alignments. The great majority of the works in this application relate to an alignment that is already constructed.
- 4.48 For reasons identified in paragraphs 4.40 to 4.45 above, I do not consider that undergrounding represents a necessary or appropriate response to the particular circumstances of this application, as it would not significantly reduce landscape harm, and would exacerbate harm to the natural environment. Paragraphs 2.8.8 to 2.8.9 of NPS EN-5 have been met by the application proposal.
- 4.49 A range of mitigation measures have been proposed to respond to the requirements of NPS EN-5 paragraph 2.8.11. These are considered in more detail below. However, I find that the policy requirements of the NPS have been met.
- 4.50 The NPPF at paragraph 109 establishes a policy of “protecting and enhancing valued landscapes”. The application proposal will protect the landscapes of London and – by doing no more material harm than the current transmission alignment and maintaining visual coordination with its neighbouring ZBD alignment – protect the landscapes of the Lee Valley too.
- 4.51 The London Plan, development plans and park policies make clear the desirability of avoiding adverse impacts on the landscapes and natural environment assets of the Lee Valley, or reducing rather than prolonging such impacts.
- 4.52 I find that nothing emerges from NPPF, The London Plan, development plans and park policies that would entitle me to find against the policy direction set in the relevant NPSs.
- 4.53 Robust and NPS policy compliant option development work undertaken by the applicant has indicated that the development of a completely new transmission alignment into central London would lead to widespread adverse impacts and costs and should not be preferred over the retention and upgrading of an alignment where a range of adverse impacts and costs are already absorbed [APP 33 at Section 2.2].
- 4.54 This in turn led to a decision by the applicant that detailed option appraisal should only examine the upgrading of existing alignments, a decision which I find it is reasonable for the

Secretary of State to support in the particular circumstances of this application.

- 4.55 Only an option that led to the elimination of harm to the Lee Valley and park landscapes would offer superior performance to the application proposal in terms of park and plan policies. I am satisfied that such an option would be likely to entail costs at a level that would make its delivery infeasible whilst also exposing significant areas of North London to the disruption associated with the development of a new alignment.
- 4.56 It is both important and relevant that the applicant should upgrade the transmission system, but should also do so in an economically prudent and efficient manner, enabling it to control transmission costs. The application proposal achieves this objective.
- 4.57 The examination has not heard evidence to the extent that the significant additional expenditure necessary to cease to harm the landscapes of the Lee Valley, the regional park and its natural environment assets by removing the current transmission alignments and replacing them elsewhere would be in any way justified.
- 4.58 Having reached this position, I am satisfied that, for the large part, the application proposal is acceptably sited and designed. It follows that the bulk of planning considerations in the remaining sections of this report will address matters of impact mitigation and design detail (to the extent that this is important and relevant), rather than the principle of development.

## **PART B THE RELATIONSHIP WITH OTHER MAJOR PROJECTS AND PROPOSALS**

- 4.59 At the outset of the examination, relevant representations raised the potential for the application proposal to affect other strategic projects and proposals or to be affected by them, raising issues both in relation to these individually and in terms of in-combination and cumulative assessment.
- 4.60 Projects raised for consideration included:
- the Transport for London (TfL) / Cross London Rail Links Ltd. (CLRL) Crossrail 2 project;
  - the Thames Water Deephams Sewage Works project;
  - the London Borough of Enfield (Enfield Council) Meridian Water development proposal;
  - upgrading the VC transmission line from Tottenham to Hackney substation to operate at 400kv; and
  - potential district heating proposals facilitated by the Greater London Authority.

4.61 I used written questions to test the degree to which significant effects of the application proposal on these projects or of these projects on the application were likely to arise and followed these up with oral questions in hearings. Statements of common ground were sought in relation to the projects raised. The cumulative impacts identified in the ES were also reviewed.

## **Crossrail 2**

- 4.62 Transport for London (TfL) / Cross London Rail Links Ltd. have a longstanding and safeguarded proposal to develop a second Crossrail transport link in London. A Chelsea to Hackney rail alignment has been safeguarded since 1991. The Secretary of State for Transport issued the most recent safeguarding direction for the Chelsea-Hackney line which came into force on 30 June 2008.
- 4.63 The applicant's starting position, set out most clearly in its response to the Examining Authority's round 1 written questions [REP91: answer to question 12.2] was that the safeguarded Crossrail 2 alignment was approximately 5.5km distance from the ZBC alignment and hence the application proposal was not in principle likely to give rise to any impacts on Crossrail2.
- 4.64 Relevant representations from the Greater London Authority [REP 20] and Transport for London [REP22] raised concerns about the potential effects of the application proposal on Crossrail 2. Transport for London were particularly concerned to highlight a revised route option by tunnel from central London to a potential portal location in the vicinity of Copper Mill Junction, prior to continuing onto Network Rail's West Anglia main line. This could entail a future change from the currently safeguarded Crossrail 2 alignment.
- 4.65 No statement of common ground was concluded between Transport for London and the applicant. The statement of common ground between the Greater London Authority and the applicant [REP78] deferred to Transport for London's position on matters relating to Crossrail 2. Transport for London's written representation and responses to my round 1 written questions [REP42 – 44] highlighted the possibility that changes to the alignment of Crossrail 2 were under consideration. Whilst these would require an amended safeguarding direction in due course, there was potential for the Copper Mill Junction portal proposal to affect and be affected by the application proposal. An agreement to on-going liaison with the applicant was sought.
- 4.66 In response to the my round 1 written questions [PD25: Annex D section 12] the applicant [REP91: answer to question 12.2] set out its shared understanding with Transport for London [REP42: answer to question 12.3] that to the extent that construction is programmed, a Crossrail 2 application was likely to be submitted

in 2019 and subject to the outcome of this process, construction might start in 2023. This places the anticipated planning and construction period for Crossrail 2 into a time in which the construction of the application proposal would already have been completed. Whilst there is scope for an agreement to liaise in general terms, it appears clear that the application proposal will become a part of the built context that must be taken into account in any new revisions to the Crossrail 2 project.

- 4.67 It should also be noted, that with the relatively minor exceptions of substation extension works at Waltham Cross and Brimsdown and the proposed underground 'bypass' at Tottenham, none of which appear to have any currently foreseeable effect on Copper Mill Junction or Network Rail's West Anglia main line, the application proposal will be constructed using the existing ZBC alignment and pylon infrastructure. To this extent, its status for the purposes of Crossrail 2 planning or delivery will not have changed from its existing status. I therefore take the view that it should be considered as an existing constraint for Crossrail 2 purposes, because it does not have the effect of a new project.
- 4.68 Whilst a changed location and a new safeguarding direction have the potential to lead to (an as yet unclear) increased interaction between the Crossrail 2 project and the application proposal than the applicant had at first anticipated, because of the timing for the anticipated delivery programme for Crossrail 2, I do not consider that there is any likelihood of in-combination or cumulative construction or operational effects that require to be taken into account for project design purposes. Nor is any immediate change to the DCO required. Until a new safeguarding direction emerges, the applicant is entitled to proceed on the basis that the application proposal may proceed and will not affect Crossrail 2. The Crossrail 2 planning process should proceed on the basis that it must accommodate or make provision to alter the ZBC alignment as required, just as it would have done had the application proposal not proceeded.
- 4.69 It should be noted that whilst this correspondence was expressed as being for the purposes of PA 2008 s127, on 4 July 2013, Transport for London wrote to confirm that discussions between it and the applicant had reached agreement and the concerns expressed in its written and relevant representations had been addressed and wholly withdrawn [SEC15]. Because their objection to the application was withdrawn the main concerns relating to Crossrail 2 can be regarded as settled for the time being, most properly to be managed in a future development consent process for Crossrail 2 itself. Remaining references to Crossrail 2 by the Greater London Authority are however addressed above.

### **Deephams Sewage Treatment Works**

- 4.70 Thames Water proposes to upgrade Deephams Sewage Treatment Works situated immediately to the west of the ZBC line in Edmonton (at Pickett's Lock Lane, Enfield). As designed, the application proposal does not directly affect the existing Deephams Sewage Treatment Works site or operations.
- 4.71 The Thames Water relevant representation [REP19] identified that the need to upgrade Deephams Sewage Treatment Works is set out in the designate NPS for Waste Water and hence that the project was initially identified as a potential NSIP. A key consideration would then be the possible need for additional land beyond the Deephams site for NSIP development which may interact with land or access required for the application proposal.
- 4.72 However, even at that stage, Thames Water took the view that their preferred delivery option was likely to involve an on-site re-development of Deephams, in preference to additional land-take, their relevant representation making clear that:

*"[w]e have recently completed our Phase 1 pre application public consultation on the Deephams Sewage Works Upgrade project which closed on 24th October 2012 [...]. The consultation sets out our preferred option of building the upgrade on the existing Deephams Sewage Works site (rather than a replacement site). If this on site option is confirmed, it is unlikely the project will constitute a NSIP under the Planning Act 2008 and hence a planning application will be submitted to the London Borough of Enfield."*

This issue was explored in my round 1 written questions [PD25: Annex D section 12] and provision was also made in my Rule 8 Letter [PD25] for a statement of common ground to be prepared between the applicant and Thames Water.

- 4.73 The statement of common ground was submitted on 23 May 2013 [REP70]. Together with responses to Examining Authority questions from the applicant [REP91] and Thames Water [REP97] the statement of common ground clarified that it was no longer intended that this project would be an NSIP, that there would be no additional land-take and that the planning process<sup>18</sup> was unlikely to commence before 2014 at the earliest. It follows from this position that neither the applicant nor Thames Water consider there is likely to be a direct effect of either project upon the other during their construction periods.
- 4.74 Once constructed, the application proposal would have no more effect on the Deephams proposal than does the current ZBC transmission line.

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<sup>18</sup> At this stage considered likely to take place under the Town and Country Planning Act 1990 (as amended)

- 4.75 In terms of indirect effects, the application proposal does include a need for temporary construction access to the ZBC alignment to be gained via the 'Lower Hall Site' at the south of William Girling Reservoir. This land is owned by Thames Water. Part is currently leased to Camden Plant, which uses it to store large stockpiles of building materials prior to or post recycling. The National Grid application Land Plans (sheets 7 and 8) [APP7] show proposed temporary construction access routes crossing this site. The materials stockpiles together with Thames Water's original intention to use part of this site as a temporary construction compound for the Deephams upgrade appeared to be a potential constraint to the access routes proposed on the works plans.
- 4.76 However, the statement of common ground [REP70] stated that a deed of easement agreement had been concluded between the applicant and Thames Water, agreeing that there are a flexible range of possible access routes that the applicant could use on the 'Lower Hall Site', without unduly constraining other current or potential uses of the site. This was tested in oral examination, where the applicant explained its ability to move vehicles and equipment across the site without having to undertake significant preparatory works. My unaccompanied site inspection viewing this site from its perimeter at various locations verified that the ground conditions (which already accommodate the heavy equipment used by Camden Plant's materials recycling business) were likely to provide this flexibility and that little damage could be foreseen as being caused by the applicant's access during construction.
- 4.77 It was also agreed in the statement of common ground that Thames Water was reviewing its need to use the site as a temporary construction compound for the Deephams upgrade in any case.
- 4.78 On this basis, all outstanding access and land use conflict related concerns between the applicant and Thames Water were settled before the end of the examination. No changes to the land or works plans or to the DCO are required.
- 4.79 In terms of cumulative effects, with only preliminary data about the detail and delivery of the Deephams project available to the applicant [see REP91: answer to question 12.4], I am satisfied that the applicant has assessed this to the extent reasonably achievable at the time and that no special provision is required in the DCO. To this extent, it will fall to the Deephams project to adapt to the more fully documented effects of the application proposal in due course, should additional in-combination or cumulative effects be predicted at a later stage in its planning process.

### **Meridian Water**

- 4.80 The Greater London Authority has prepared the draft Upper Lee Valley Opportunity Area Planning Framework which proposes a number of growth areas along the length of the Lee Valley. Meridian Water is one of these, which is also an Enfield Council development plan proposal, described in the following terms in their relevant representation [REP26]:

*"Meridian Water is one of the Council's key regeneration and investment schemes at the heart of its growth agenda, and will provide around 5,000 new homes and at least 3,000 new jobs along with supporting infrastructure. Flood storage is required to facilitate the development proposed at Meridian Water and the Council is concerned that the NLRP proposals in this area may prejudice its potential implementation. The Council therefore seek minor amendments to the application to rationalise the routing of access roads in this location, and welcome any opportunity to discuss alternative proposals with National Grid or the Inspector on this issue."*

- 4.81 The core of Enfield Council's concern relates to the proposal to use the 'Lower Hall Site' at the south of William Girling Reservoir currently owned by Thames Water to provide flood storage anticipated as being necessary for the implementation of the wider Meridian Waters scheme.

- 4.82 In its response [REP91] to the Examining Authority's questions [PD25: Annex D section 12], the applicant provided the observation that:

*"The construction access routes running to the south of William Girling Reservoir will be temporary. The access routes are unlikely to require any physical construction as we expect the ground conditions will be appropriate for our needs. Should it be necessary, stone chippings or temporary trackway panels will be utilised and will be removed on completion of the works and land will be reinstated if required. Both of these temporary methods would result in a minimum impact on the flood storage capacity."*

- 4.83 A statement of common ground between the applicant and Thames Water [REP70] sets out Thames Water's position that an end use of that 'Lower Hall Site' to provide flood storage for the Meridian Water proposal is not finally agreed and is in any case subject to Thames Water's consideration of its operational requirements, including during the construction of the Deephams project examined above.

- 4.84 A statement of common ground between the applicant and Enfield Council [REP82] acknowledges the temporary and flexible nature of the applicant's access requirement on the 'Lower Hall Site' and that this will not impact on the flood storage function of the land in due course.

- 4.85 It must be observed that the restoration of the land following the applicant's access to it remained un-agreed with Enfield Council [REP82: para 4.7]. However, as is described in reference to the same land as part of the Deephams project above, this was tested orally in the examination hearings. An unaccompanied site inspection was also made to view the site from various locations on its perimeter. The answers provided to my oral questions by the applicant were to the extent that very little if any remediation would be required following their access. From my own observations adjacent to the site I am clear that the applicant's intended works to facilitate access across this site will be minor when compared with the nature of the processes already undertaken on the site.
- 4.86 The limited nature of the applicant's proposed works is in contrast to the substantial moving and mounding of recycled building materials on the site by its current part tenant Camden Plant. Whilst no activity was observed during my site inspection, it is reasonable to infer that very large vehicles and other specialised equipment must be used on the Camden Plant tenancy. At least part of the site appears to operate as a concrete milling plant and there are mounds of stored materials many metres high, which appear to be moved as required for the recycling process or for use. The main remediation challenge prior to any utilisation of this site for flood storage would appear likely to relate to the cessation or alteration of the Camden Plant activity (should this occur), not to the applicant's very limited temporary access proposals.
- 4.87 It follows that the applicant's proposals are considered most unlikely to present any on-going constraint to Enfield Council's intentions for this land, or to require any particular remediation. Enfield Council's intentions cannot in any case be viewed as finalised, pending the resolution of Thames Water's operational requirements. No design accommodation or DCO change appears necessary to deal with this issue.
- 4.88 Remark must also be made about the primary Meridian Water proposal site which lies to the south of the A406 North Circular Road and West of Banbury Reservoir. The existing ZBC and ZBD lines pass directly along the boundary of the site. However, it is clear that, post construction, the application proposal will have no greater effect on the Meridian Water proposal site than does the existing ZBC line. In short, it can be accommodated as a pre-existing constraint.
- 4.89 In terms of in-combination and cumulative effects, I am satisfied that ES Appendix 4B [APP36] has adequately identified and assessed the cumulative effects of the application proposal with the Meridian Water proposal. The application proposal does not unduly affect the potential to use the 'Lower Hall Site' for flood

retention, should that prove feasible. Nor is any remediation by the applicant to prepare it for this use warranted.

- 4.90 Whilst it is clear that the ZBC alignment will affect the primary Meridian Water site directly, it is not a point of dispute that by the time construction commences on the site, the alignment will be an existing constraint which has to be accommodated by the development process. I consider that no particular design accommodation or amendment to the DCO is necessary to manage the interaction between the two projects.

### **District Heating**

- 4.91 The relevant representation of the Greater London Authority [REP 20] identified that the Mayor's decentralised energy team is facilitating the development of large scale district energy projects within the broad environs of the application proposal.

*"We are assisting the London Boroughs of Enfield, Haringey and Waltham Forest in the development of an area-wide district heating network (the Lea Valley Heat Network) supplied from various heat sources including the nearby Edmonton energy from waste plant. One of the proposed district heating networks (buried insulated steel pipework) may run close to the Tottenham By-pass project."*

On this basis, the potential for interaction between the application proposal and this project was pursued via written examination questions [PD25: Annex D: section 12] and through a statement of common ground between the applicant and the Greater London Authority [REP78].

- 4.92 These processes confirmed the Greater London Authority's agreement with the applicant that the two projects do not interact and that no design accommodation or DCO change was now sought.
- 4.93 In terms of in-combination and cumulative effects, with only preliminary data about the detail and delivery of the Lea Valley Heat Network project available [REP91: Response to ExA's First Written Questions, question 12.8], I am satisfied that the applicant has assessed this to the extent reasonably achievable at the time and that no special provision is required in the DCO. To this extent, it will fall to the Lea Valley Heat Network project to adapt to the more fully documented effects of the application proposal in due course, should additional effects be predicted at a later stage in its planning process.

### **The VC Upgrade**

- 4.94 The applicant itself proposes to achieve its wider objective of reinforcing the transmission system connections into inner London by upgrading the existing VC transmission alignment running from

the southern end of the application proposal at Tottenham substation southwards to a terminal substation in Hackney. Whilst the current VC line operates at 275kV, its extant development approval enables it to be operated at 400kV without any further consent. It follows that development consent is not sought for this part of the project.

- 4.95 Having considered the submitted application including the ES [APP 1 – 36], I am satisfied that there are no significant unforeseen interactions or adverse impacts arising between the VC upgrade and the application proposal. I am satisfied that the ES has taken account of the effects of the VC upgrade where it is necessary for it to do so. I am also satisfied that cumulative effects have been identified and taken into account and no additional design accommodation or DCO change is required as the cumulative environmental impacts are assessed as low [APP 33: at para 4.6.5].

### Conclusions

- 4.96 The policy approach to cumulative assessment provided in NPS EN-1 at paragraphs 4.2.5 to 4.2.9 has been met. At paragraph 2.8.2, NPS EN-5 refers briefly to the cumulative assessment of transmission development. It notes that “[c]umulative landscape and visual impacts can arise where new overhead lines are required along with other related developments such as substations, wind farms and/or other new sources of power generation”. In such circumstances, the submitted cumulative impact assessment data represents an appropriate response to policy.
- 4.97 Drawing issues arising from the information available about other strategic projects and proposals together, it can be concluded that:
- the application proposal will not have a significant effect on any of the strategic projects reviewed;
  - nor will any of the strategic projects reviewed have a significant effect on the application proposal;
  - the cumulative assessments contained in the ES [APP33, APP36] for Deephams and Meridian Water are appropriate;
  - a cumulative assessment in respect of Crossrail 2 was not included in the ES, but information submitted in response to my questions does not suggest that such an assessment should have been undertaken, as there are no likely significant effects which require to be managed during the construction period of the application proposal;
  - once the application proposal is operational, for the purposes of likely effects on Crossrail 2, it does not appear to be materially different from the existing ZBC line and hence should make no material difference to the planning assumptions used for Crossrail 2.

- a cumulative assessment of the Greater London Authority district heating proposals was not included in the ES, but responses to questions and the statement of common ground process identify no significant issues arising from them.
- VC line upgrade impacts have been adequately taken into account in the ES process; and
- the likelihood of cumulative environmental impacts of the VC line upgrade with the application proposal is assessed as low and this conclusion appears to be appropriate.

4.98 It follows that I find that there are no significant issues arising from strategic projects or proposals or from cumulative effects that indicate against approval, that require particular design consideration or are not appropriately provided for in the DCO.

### **PART C BIODIVERSITY, ECOLOGY AND NATURAL ENVIRONMENT**

4.99 This section of the report sets out my consideration of issues related to environmentally significant and protected habitats and species. It includes:

- a review of the effects of the proposal on European Sites<sup>19</sup> and their features;
- consideration of the effects of the proposal on other protected sites and species, and
- consideration of issues relating to the mitigation of impacts.

4.100 As identified in Chapter 2 at paragraphs from 3.5 above, the effect of the application proposal on environmentally significant and protected habitats and species is of relevance and importance in this examination, as the application proposal directly crosses European Sites and SSSIs supporting significant habitats and species. However, as has already been set out from paragraph 4.10 above, there has also been a robust consideration of alternative sites and delivery options from which it should be observed as follows:

- The balance of social, economic and environmental effects arising from a new alignment are of a more adverse nature than the effects of upgrading an existing alignment.
- The application proposal is for the upgrade of the existing ZBC alignment.
- The natural environment along the route is already conditioned by the existence of this and the parallel ZBD alignment.

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<sup>19</sup> The 2010 Habitats Regulations (as amended) – Reg 8 – A European Site includes any classified SPA (Birds Directive 2009/147/EC – formally 79/409/EEC) and any SAC (Habitats Directive 92/43/ EEC) (also known as Natura 2000 sites). As a matter of policy listed Ramsar Sites are accorded the same standing (see NPS EN-1 at paragraph 5.3.9.)

- The operation of these two existing alignments gives rise to environmental effects, but it is generally agreed that these have been absorbed into the environmental baseline for the current proposal.
- It is also generally agreed that the application proposal will have only the most limited of additional effects on the natural environment, when compared with this baseline.

4.101 A key benefit of the application proposal is that a minimum disturbance approach has been taken to both design and works. Recalling that (with few exceptions) the siting and design of pylons will not change and that existing pylons will be re-used, disturbance of the natural environment is limited to:

- the making of temporary access and laydown areas;
- winching to remove existing conductors;
- repairs to pylons;
- winching to replace conductors; and
- clearing sites for extensions and amendments to substation configurations, but these represent a minor fraction of the proposed DCO area overall.

4.102 The proposed re-conductoring will not materially change the obstacles or risks that are faced by wildlife – particularly by birds.

4.103 It follows that the main natural environment effects of the project relate to the construction period. There are only negligible additional effects beyond baseline during the operating phase of the project.

#### **EUROPEAN SITES**

4.104 Under Regulation 61(1) of the Conservation of Habitats and Species Regulations 2010 (the ‘Habitats Regulations’), any project that is likely to have a significant effect on a European Site, either alone or in combination with other plans or projects, where that project is not directly connected with or necessary to the management of that site, must be the subject of an Appropriate Assessment carried out by the relevant competent authority, in this case, the Secretary of State. All processes undertaken in response to these regulations are referred to below as ‘HRA’ processes.

4.105 The application proposal is identified as prospectively affecting the following European Sites:

- Lee Valley Special Protection Area (Lee Valley SPA);
- Lee Valley Ramsar Site;
- Epping Forest Special Area of Conservation (Epping Forest SAC); and
- Wormley – Hoddesdonpark Woods Special Area of Conservation (Wormley – Hoddesdonpark Woods SAC).

The locations of each of these sites relative to the application proposal can best be appreciated with reference to the Habitat Regulations Assessment report [APP25] submitted with the application, at Figure 4.1: European Sites.

- 4.106 Further to NPS EN-1 section 4.2 and NPS EN-5 section 2.7, it is a key function of this report to advise whether the application proposal is likely to have a significant effect on a European Site or require Appropriate Assessment. This is accomplished through a review of the prospectively affected sites alongside the analysis of them set out in the application and representations.

#### ***Lee Valley SPA and Lee Valley Ramsar Site***

- 4.107 This pair of designations applies to the same land in the Lee Valley, largely river, water bodies and wetlands supporting diverse bird and wetland vegetation communities. The designated areas are traversed by the application proposal, although all elements requiring additional permanent land-take are located outside the designated areas.

- 4.108 They have been screened for direct, indirect and in-combination effects. The following effects have been subject to detailed analysis:

- aural and visual disturbance of wintering waterbirds; and
- degradation of water quality through the release of chemical pollutants and/or dust;
- affecting wintering bird populations Bittern, Gadwall and Shoveler (for both the SPA and Ramsar site); and
- degradation of water quality through the release of chemical pollutants and/or dust only;
- affecting Whorled water milfoil and or Water boatman.

#### ***Epping Forest SAC***

- 4.109 This designated ancient woodland site is not directly affected by the application proposal as it lies some 1km distant from it at its closest point.

- 4.110 It has been screened for indirect and in-combination effects. The following effects have been subject to detailed analysis:

- degradation of nutrient-sensitive habitats through eutrophication due to deposition of emissions from motorised vehicles and equipment;
- affecting Atlantic acidophilus beech forest and Stag beetle

#### ***Wormley – Hoddesdonpark Woods SAC***

- 4.111 This designated ancient woodland site is not directly affected by the application proposal and lies some 5km distant from it.

- 4.112 It has been screened for indirect and in-combination effects. The following effects have been subject to detailed analysis:
- degradation of nutrient-sensitive habitats through eutrophication due to deposition of emissions from motorised vehicles and equipment;
  - affecting sub-Atlantic and medio-European oak or oak-hornbeam forests.

#### ***Application documentation and assessment***

- 4.113 As is established practice for NSIP proposals prospectively affecting European Sites and subject to the Habitats Regulations, the application included:
- an Environmental Features Plans [APP14];
  - a Habitat Regulations Assessment report [APP25]; and
  - assessments of the key natural environment features and effects upon them in the ES [APP33 – 36].
- 4.114 The key conclusion drawn by the applicant at paragraphs 6.1.1 – 2 of the Habitat Regulations Assessment report [APP25] was as follows:

*“There are not likely to be any significant effects on the Lee Valley SPA/Ramsar site, Epping Forest SAC or Wormley - Hoddesdonpark Woods SAC due to the NLRP either alone or in-combination with other plans or projects.*

*As no likely significant effects are predicted, it is concluded that there is no requirement for the competent authority to undertake an Appropriate Assessment under Regulation 61(1) of the Conservation of Species & Habitats Regulations 2010.”*

#### ***HRA Relevant Issues***

- 4.115 Issues arising from relevant representations, statements of representation and written representations with a bearing on European Sites and HRA have been collated. In summary, these are drawn from the applicant’s written submission [REP33, REP34 – 38] and responses to questions [REP 91 – 96] together with:
- the Environment Agency written representations [REP41] and response to my round 1 questions [REP85];
  - Greater London Authority LIR [REP69];
  - Lee Valley Regional Park Authority written representations [REP45 – 61]; and
  - Natural England combined written representations and response to my round 1 questions [REP63].
- 4.116 The HRA relevant issues that arose were as follows:

- Rivers should be added to the Environmental Measures document as a specific receptor, to ensure that they benefit directly from water quality construction management measures [REPs 41 and 85].
  - Bird collision impacts should be assessed [REP69].
  - It will be important to ensure that, although works are scheduled to avoid winter periods for network operational reasons, winter disturbance of birds is avoided [REP63].
- 4.117 In respect of the minor changes to the application [REPs 35 - 38], all submissions in response to these [REPs 109 – 112] have been reviewed and none raise additional HRA-relevant considerations.
- 4.118 It follows that no overarching objections to the principle of the proposed development on HRA relevant grounds were raised during the examination. The issues summarised above are capable of being resolved through the DCO and the Environmental Measures document. They are taken up as required in Chapter 6 of this report below. However, they do require some additional analysis here.
- 4.119 A description of the Environmental Measures document is required before embarking on this task, because this is the first place in this report at which it has become necessary to refer to it. It will assume considerable importance as the report progresses. The Environmental Measures document [REPs 119 -120] was submitted by the applicant on 26 July 2013. It responded to concerns by interested parties and invited persons that, whilst the ES [APP33 – 36] had identified a range of valuable and supported proposals to mitigate the effects of the application proposal, and the draft DCO had proposed requirements relating to landscaping (5 and 6), ecological management (12) and construction environmental management (15), there was no clear mechanism to ensure that the mitigation approaches identified in the ES would be implemented when requirements were discharged.
- 4.120 The applicant responded by preparing a document which extracted relevant ES mitigation proposals, expressing these in the form of commitments, tabulated to requirements under which these should be delivered. It also proposed changes to the drafting of the DCO (see Chapter 6 below) under which the relevant authority discharging requirements would test the discharge proposals, to ensure that these reflected the relevant measures in the Environmental Measures document. In this way, the applicant considered that it could be bound to deliver its mitigation commitments and it could be held to account by the authorities responsible for the discharge of requirements.
- 4.121 There were no objections to the principle of using this document in the manner proposed by the applicant. Having reviewed it, I am satisfied that it identifies appropriate measures and ensures that these must be taken into account by the applicant when preparing

a scheme to discharge a relevant requirement, and by the authority determining the discharge application, where it has the effect of a brief or a decision guideline, assisting their judgement as to whether the applicant has provided the necessary mitigation. I consider the content of the document in more detail below and recommend minor changes to it. Chapter 6 below considers its status alongside other submitted documentation and how the Secretary of State might give effect to it.

- 4.122 The Environment Agency [REPs 41 and 85] expressed concerns that rivers and water bodies required to be protected as a specific environmental receptor. This is because water quality requires to be protected for its own sake, because water from the Lee Valley is abstracted and becomes part of London's water supply and also, of more relevance here, because the environmental values of the Lee Valley SPA and the Lee Valley Ramsar Site rely on the maintenance of water quality. These designations have been assessed as vulnerable to the degradation of water quality through the release of chemical pollutants and/or dust, potentially affecting wintering water birds wintering bird populations Bittern, Gadwall and Shoveler (for both the SPA and Ramsar site), Whorled water milfoil and or Water boatman (for the Ramsar site alone).
- 4.123 These potential effects are relevant and require to be controlled to ensure that the application proposal does not adversely affect the designated European Sites. The means to achieve this control is through the DCO and through the Environmental Measures document [REPs119 – 120].
- 4.124 Requirement 10 of the Recommended Draft DCO requires the submission of written details of the surface and foul water drainage system (including means of pollution control). Requirement 12 requires the submission of a written ecological management strategy for each development stage, prepared after consultation with the Environment Agency, Natural England and Lee Valley Regional Park Authority (in relation to land in the park). The strategy must reflect the ecological measures in the Environmental Measures document [REPs119 – 120]. Requirement 15 similarly requires submission of a construction environmental management plan (CEMP) which relevantly addresses dust emissions and wheel cleansing, two potential sources of water quality concern.
- 4.125 Submissions under these requirements will enable the water quality issue identified above to be managed. However, there is one change that is necessary to be made to the submitted documents to place this matter beyond doubt. On page 4 of the Environmental Management document [REP119], beneath the provision requiring "*[f]urther targeted surveys will be completed prior to the works for bats, badger, otter and water vole, together with surveys of birds breeding on pylons*", a new natural environment provision should be added:

*A water pollution risk-management system will be developed and deployed prior to the works to identify and control water pollution risks and maintain the quality of rivers, streams and waterbodies in the Lee catchment.*

This provision will need to refer to requirements 10, 12 and 15. I **recommend** accordingly.

4.126 The Greater London Authority [REP69] expressed concern that bird collision impact has not been assessed. In response to my questions on this point in oral examination, the applicant provided the view that because the application proposal does not differ in any material respect relevant to bird collision from the already operational ZBC line that it will replace, its performance in bird collision terms could be expected to be no different than that of the current ZBC line. Natural England has not objected to this approach.

4.127 It follows that I do not consider that bird collision impact assessment is warranted in this very particular case. However, it should be noted that this is a position that I have only been prepared to accept on the basis that the physical siting and design of the new alignment and particularly the configuration of its new conductors is almost identical to that of the current ZBC line. It follows that the ES does not identify any additional harm to birds arising from the operational line once uprating works are complete. No interested party or invited person disagreed with this conclusion.

4.128 Natural England [REP63] are concerned to ensure that the timing of works avoids periods when over-wintering or nesting birds in the European Sites could be disturbed. A number of DCO controls achieve this objective. The Environmental Measures document [REPs119 – 120] includes:

*"Birds within the SPA [...] the reconductoring works to pylons ZBC 2 to ZBC 7 have been programmed to avoid the main over-wintering bird season."*

This is to be implemented pursuant to Recommended Draft DCO requirement 12 requiring an ecological management strategy submission reflecting the Environmental Measures document. However, there is also an additional safeguard, as requirement 3 includes a generic requirement for the authorisation of a written scheme setting out all the stages of works by the relevant local planning authority, prior to commencement.

4.129 The Lee Valley Regional Park Authority [REP 45 – 61] requested and provision has been made for a significant programme of natural environment enhancements, through both the Environmental Measures document [REP119] and the purported planning obligation [REP133]. It is important to note that the

justifications for those in the purported planning obligation [REP133] did not relate to the particular mitigation of any adverse effect on a European Site or a feature of such a site, without which the development should not proceed. In short, it is my judgement that whilst the measures in the Environmental Measures document [REP119] are necessary, the requested natural environment enhancement measures in the purported planning obligation [REP133] are not HRA relevant and are not necessary.

### ***The Draft RIES and Responses***

- 4.130 Information from all of these sources identified above has been drawn together in a draft Report on the Implications for European Sites (RIES) [PD38], which I prepared with the assistance of Planning Inspectorate Environmental Service Team staff.
- 4.131 As a key input into this process, the applicant submitted a matrix analysis [REP98] of the effects of the application proposal on European Sites on 23 May 2013. A full opportunity was provided for interested parties and invited persons to comment on this matrix. Following the receipt of all such representations and oral examination, and taking all relevant submissions from both sources into account, my draft RIES [PD38] was issued on 9 August 2013. In summary, the RIES set out draft findings of no likely significant effect on any European Site or feature, provided project scheduling to ensure the avoidance of disturbance to wintering birds and environmental management measures to control dust and spills to the aquatic environment were included in the DCO.
- 4.132 A period until 3 September 2013 was then provided for the applicant, interested parties and invited persons to comment on the draft RIES. Responses to the RIES were received from:
- the Lee Valley Regional Park Authority [REP129]
  - the Environment Agency [REP127], and
  - the applicant [REP131]
- each of which agreed the RIES' conclusions without further substantive comment.
- 4.133 Natural England [REP134] agreed the general conclusion of no likely significant effect. It did however suggest that the RIES should also have presented a summary of the potential for effects on the following additional features of the Epping Forest SAC:
- Northern Atlantic wet heaths with *Erica tetralix*; and
  - European dry heaths.
- 4.134 However, it then concluded that, even if these features had been included within the RIES, no difference to its overarching findings would have been warranted, stating that:

*“the apparent omission of these two features does not in any way affect the validity of the conclusion that there is no credible mechanism for impacts on the SAC.” [REP 134: para 2.1.1]*

- 4.135 Natural England also raised a point about the RIES matrices for Lee Valley SPA and Lee Valley Ramsar site, suggesting that under ‘Aural and visual disturbance’, the footnote dealing with the operational phase should arguably be lettered as (b) in order to separate it from the preceding paragraph (a) on the construction phase; with subsequent paragraphs being re-lettered accordingly. This point is noted but it does not materially change the information in the RIES, nor did Natural England’s response suggest that this affected their view of the RIES content.
- 4.136 Importantly, Natural England commended the rigour of the ES process and confirmed their agreement with the conclusions set out in the draft RIES in all other respects.

### **HRA Conclusions**

- 4.137 For the purposes of NPS EN-1 sections 4.3 and 5.3, I am satisfied that I have sufficient information as I reasonably require in order to consider whether an Appropriate Assessment is required. The ES has identified alternatives (see Part A of this chapter above) and has reasonably concluded that this application is the option which generates the least adverse impacts.
- 4.138 Section 2.7 of NPS EN-5 identifies bird electrocution of large and perching birds as the key risk posed by transmission alignments. Further to NPS EN-5 at paragraph 2.7.2 and to NPS EN-1 at section 4.2, the applicant has undertaken an assessment of this risk and concluded that the application proposal will not change the risk to birds caused by the existing transmission alignment. I am satisfied that this assessment is correct and that no mitigation is required as there is no additional risk to birds.
- 4.139 The findings emerging from this examination are consistent with the HRA report conclusion that the application proposal does not give rise to any relevant likely significant effects [APP25]. Subject to the management of seasonal effects on wintering birds and water quality through appropriate DCO provisions, I am satisfied with and support that conclusion. The application proposal may proceed without an Appropriate Assessment.

### **OTHER PROTECTED SITES AND SPECIES**

- 4.140 Turning to other sites and species beyond the confines of the HRA relevant sites and features, attention has been drawn to the following national sites (including Sites of Special Scientific Interest, ‘SSSIs’) and local sites (including Local Wildlife Site, ‘LoWS’ (in the county of Essex), Sites of Metropolitan Interest for Nature Conservation, ‘SMINCs’ and Sites of Borough Interest for Nature Conservation, ‘SBINCs’ (in Greater London)). These sites

are recorded in Natural England's written representation [REP63] unless otherwise indicated.

### **SSSIs and Species**

- Turnford and Cheshunt Pits SSSI in respect of wintering Gadwall, Shoveler and Bittern together with an assemblage of odonata<sup>20</sup>.
- Chingford Reservoirs SSSI in respect of wintering Shoveler and Great crested grebe and a wider assemblage of moulting water birds in late summer.

### **Local Sites**

- Lee Valley South Local Wildlife Site (LoWS) (Essex)
- Lee Valley Site of Metropolitan Importance for Nature Conservation (SMINC) (London)
- Tottenham Marshes Site of Borough Importance for Nature Conservation (SBINC) (London)
- Banbury Reservoir Site of Borough Importance for Nature Conservation (SBINC)(London)

- 4.141 The issues raised by the nationally protected SSSIs in large part relate to construction and to the timing of works campaigns. Just as it is important to avoid the disturbance of wintering birds in order to respond to European Sites, the same is true in respect of the bird species present in SSSIs. Mitigation is largely delivered by the same means as it is for European Sites impacts.
- 4.142 Late summer moulting water birds at Chingford Reservoirs SSSI will experience some unavoidable disturbance, on the basis that this is preferable to spring disturbance (relevant to breeding) or autumn or winter disturbance (relevant to wintering). The works that will affect this site (pylon repairs and re-conductoring) will create limited noise and disturbance at the edge of the site only and on that basis, Natural England have no objected to them.
- 4.143 In terms of local site impacts, the issues (raised by Enfield Council [REP68]) relate large to vegetation clearance for access and construction and to vegetation clearance near an operational transmission alignment in Lee Valley SMINC. This is a matter addressed in the Recommended Draft DCO (through the submission of schemes and details pursuant to requirements 5, 6 and 12) and through the proposed Environmental Measures document [REP119] setting out the matters that require to be delivered through any submitted scheme.
- 4.144 On balance, I am satisfied that there is no harm to the natural environment preventing the application proposal proceeding

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<sup>20</sup> Dragonflies and damselflies

emerging from the effects of the application proposal on these sites, which cannot be satisfactorily managed through the DCO.

- 4.145 Attention has also been drawn to the following species recorded in Natural England's written representation [REP63] unless otherwise indicated.

#### **European Protected Species<sup>21</sup>**

- Common pipistrelle (*Pipistrellus pipistrellus*);
- Soprano pipistrelle (*P. pygmaeus*);
- Nathusius's pipistrelle (*P. nathusii*);
- Noctule (*Nyctalus noctula*); and
- Daubenton's bat (*Myotis daubentonii*).

#### **Nationally Protected Species**

- Grass snake (*Natrix natrix*)<sup>22</sup>;
- Badger (*Meles meles*)<sup>23</sup>;
- Any breeding bird (as listed in paragraph 9.4.14 of the Environmental Statement)<sup>24</sup>; and
- Water vole (*Arvicola amphibius*)<sup>25</sup>.

- 4.146 Again, significant impacts to these largely relate to construction. In relation to European Protected Species and nationally protected species, it is important to recall that these are largely mobile species, which may or may not be present in particular locations and are likely to be found in relatively small numbers. The applicant has agreed to undertake additional mobile species surveys before works commence as a means of seeking to avoid harm to these species, an approach which I agree is appropriate.

- 4.147 In relation to breeding birds, the key will be to limit works, particularly works involving the clearance of vegetation in the breeding season. The Environment Measures document [REP119] provides as follows:

*"Removal of vegetation from working areas to be undertaken outside of the bird breeding season (mid-March to end-July). Where this is not possible, vegetation clearance will be undertaken under the supervision of a suitably qualified ecologist. If any active nests are found within the vegetation to be cleared, clearance works will be delayed until the young have fledged."*

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<sup>21</sup> All species of bats are protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 (making them European Protected Species).

<sup>22</sup> Protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended).

<sup>23</sup> Protected under the Protection of Badgers Act 1992.

<sup>24</sup> Protected under Section 1 and or Schedule 1 of the Wildlife and Countryside Act 1981 (as amended).

<sup>25</sup> Protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended).

This will be implemented through the discharge of requirement 12 in the Recommended Draft DCO.

- 4.148 In relation to the vole, the key issue will be the robust implementation of surface water drainage details under requirement 10 and the construction environmental management plan under requirement 15, controlling risks to water quality and avoiding unnecessary work on water margins close to pylons ZBC4 and 5 where this species has been observed. The Environmental Measures document [REP119] provides for additional vole surveys to target this work.
- 4.149 Again, I am satisfied that these matters can all be managed through the provisions of the Recommended Draft DCO (requirement 12) and the Environmental Measures document [REP119].
- 4.150 Other natural environment-relevant submissions included the following:
- Invasive plant species management measures should extend to any non-native invasive plant species encountered during works. They should not be limited to four named plant species [REP85].
  - Additional local ecological mitigation measures relating to the management of felled timber, boundary planting and seed mixes should be employed and a wide range of enhancement measures provided [REP45].
- 4.151 It should be noted that the applicant has also included these within the Environmental Measures document [REPs119 – 120]. To that extent they must be considered by the applicant and the relevant local planning authority through the requirement discharge process.
- 4.152 Combined habitat and landscape issues emerge from the applicant's proposals to fell trees and clear land for works and to maintain the safety of the operational alignment after construction. Again, the Environmental Measures document [REPs119 – 120] has identified these issues, to be resolved through submissions and discharges under Recommended Draft DCO requirements 5, 6 and 12. Whilst these give rise to some natural environment concerns, I have also considered them in Part E below, as a landscape consideration.

### **Conclusions**

- 4.153 NPS EN-1 section 4.2 policy in respect of environmental impact assessment, and section 5.3 policy in respect of natural environment conservation matters has been met. Appropriate mitigation is proposed to be provided to meet NPS EN-1 paragraph 5.3.18. Some enduring habitat enhancement is also proposed, but having regard to the transitional nature of the application effects

(essentially limited to the construction phase), these proposals are quite reasonably limited in scope. NPS EN-5 does not provide policy direction in relation to natural environment matters other than birds.

- 4.154 The application proposal will affect nationally and locally protected wildlife sites and European and nationally protected species, mainly during the construction period. However, through appropriate pre-works surveys and timing of works provided for in the DCO, adverse effects can be appropriately mitigated.

#### **PART D THE AQUATIC AND LAND ENVIRONMENT**

- 4.155 The main impacts of the application proposal in terms of the Lee river and navigation and its associated network of channels, wetlands and lakes are as follows:
- the effects of flooding on the application proposal and particularly on the substation sites and their environs, including the level of proposed cable bridges over tributaries;
  - measures to maintain water quality and environmental capacity;
  - the use of the navigation for construction purposes; and
  - measures to maintain safe navigation.

#### **FLOODING**

- 4.156 The Lee is a heavily controlled and abstracted waterway. Much of the natural floodplain of the Lee has been subject to human intervention. Some, (such as former gravel workings) provide flood storage or at least do not prevent the movement of floodwaters in the valley. Others (such as reservoirs) constrict the floodplain whilst providing flood storage. A network of flood channels and defences ensure that high flows are diverted to appropriate locations and important assets are safeguarded. It is important to ensure that the operation of the flood plain and these systems is maintained.
- 4.157 Environment Agency concerns in relation to flooding were threefold, in summary.
- The effects of flooding on the Brimsdown Substation proposals require to be properly assessed, taking account of works outside the substation compound, adjacent to pylon ZBC19.
  - The location of structures close to and with low clearance to the water surface.
  - The maintenance of access to and along waterways for flood management purposes.
- 4.158 Relevant to the resolution of these concerns are:

- A proposal by the Environment Agency [HR31], broadly accepted by the applicant for a new requirement providing for a compensatory flood storage scheme to be devised by the applicant to address the effects of works adjacent to pylon ZBC19 at Brimsdown.
- The proposed changes to the application submitted on 23 May 2013 [REPs 35 - 38] which include the proposal to raise the cable bridge at Brimsdown by 60cm to provide a water clearance of 4.3m.

4.159 There was some debate as to whether a compensatory flood storage scheme pursuant to the proposed new requirement should be approved by Enfield Council as local planning authority or by the Environment Agency as the relevant expert body requesting it. The Environment Agency commenced with the view that it should approve the scheme. The applicant took the view that approval by the relevant local planning authority with consultation of the agency would be a normal approach. However, on balance here, given the particular interest and expertise of the Environment Agency, an approach where it approves the details of the scheme following consultation with Enfield Council appears justified.

### **Conclusion**

- 4.160 Section 4.8 of EN-1 advises that the resilience of the project to climate change including flooding should be assessed in the Environmental Statement (ES). This work has been undertaken for the project as a whole in the Flood Risk Assessment [APP23] submitted with the application. Only limited concerns have then arisen related to minor changes to the application.
- 4.161 Amendments to the design of the application proposal raise the cable bridge at Brimsdown 60cm higher above the water surface than originally proposed. This satisfies the Environment Agency.
- 4.162 I am satisfied that the proposed compensatory flood storage requirement 17 in the Recommended Draft DCO will address the remainder of these concerns.

### **WATER QUALITY**

- 4.163 Environment Agency and Natural England have in principle concerns in relation to water quality, largely during the construction period.
- 4.164 They seek the identification and control of avoidable spill, discharge and dust risks to the aquatic environment:
- maintaining river water quality for its own sake and to ensure compliance with the Water Framework Directive
  - ensuring that water quality does not fall in areas relevant to reservoir up-takes; and

- maintaining water quality to support aquatic features of European Sites (protected water-birds, Whorled water milfoil and or Water boatman) and other protected species (Water vole)

4.165 The applicant highlighted that these were matters which could be addressed through requirements with appropriate revisions<sup>26</sup>.

- Requirement 10 requires the approval of details of surface water and foul drainage, including means of pollution control.
- Requirement 12 requires the preparation of an ecological management strategy which, amongst other matters can deal with the management of water quality during works.
- Requirement 15 requires the preparation of a construction environmental management plan which, amongst other matters can deal with the management of emission to water through processes such as vehicle wash-down, dust control

4.166 The combination of these measures will be sufficient to ensure that the environmental quality of the River Lee and its beneficial use is protected. However, I agree with the Environment Agency that waters of the River Lee should be identified as a specific environmental receptor in the Environmental Measures document [REP119] to ensure that all relevant plans and schemes submitted or agreements reached pursuant to the discharge of requirements 10, 12 and 15 as shown in the Recommended Draft DCO will appropriately protect water quality.

### **Conclusion**

4.167 Section 5.15 of NPS EN-1 addresses water quality considerations. I consider that its requirements have been met in large part.

4.168 The surface and foul water drainage plan, ecological management strategy and the construction environmental management plan proposed to be prepared pursuant to requirements 10, 12 and 15 of the DCO provides adequately for the management of these issues, subject to a minor change to the Environmental Measures document that I return to in Chapter 6 below.

### **USE OF THE NAVIGATION FOR CONSTRUCTION**

4.169 The Canal and River Trust owns and manages the Lee Navigation and its associated tow-path, locks, weirs, and some limited additional adjacent land and buildings. The navigation is proposed to provide a means for the applicant to access significant elements of the proposed works area between Brimsdown Substation and the A406 North Circular Road, the Picketts Lock section of the canal.

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<sup>26</sup> References here using their numbering in the Recommended Draft DCO.

4.170 Here, the existing ZBC and ZBD lines and hence the works area are largely located on a slender strip of land between the navigation and the western embankments of King George and then William Girling Reservoirs. Land-based access to the work site in this area is constrained. The works will interfere with a significant length of tow-path. There are also relatively small sections where the navigation itself is over-sailed by conductors on the ZBC line.

4.171 The applicant proposes to:

- temporarily close a section of the tow-path in this area;
- replacing it for land-based users with a water-taxi service;
- use the water transport on the navigation to provide some access to the work site; and
- temporarily restrict access to some sections of the waterway to provide for safe working, whilst enabling navigation to continue.

4.172 One issue which became apparent from my site inspections was the degree to which the tow-path appears to be in use for some north-south cycle commuting. A water-taxi service could disrupt some time-sensitive journeys. A water-taxi will however provide an acceptable and enjoyable means of maintaining the tow-path route for leisure walkers, cyclists and anglers. For cycle commuters, there is a feasible alternative to waiting for the water-taxi, by using the less pleasant but functional and safe cycle route beside the A1055 Meridian Way.

4.173 This section of the tow-path will be lost to anglers during works, but there will be plenty of riverside and canal-side angling locations that remain accessible.

4.174 The Canal and River Trust written representation and response to questions [REP39] and their statement of common ground with the applicant [REP73] make clear that they agree to use of the navigation by the applicant for watercraft associated with their works.

### **Conclusion**

4.175 Canals are open spaces for the purposes of NPS EN-1<sup>27</sup>. The application proposal effectively minimises harm on the canal waterway as an open space by ensuring that the waterway remains navigable throughout the construction period. Its adverse effects on the wider canal environment are mitigated by limiting temporary tow-path closure as far as it is possible to do so.

4.176 The use of the navigation for work craft is supported as providing the best means of access to parts of the work site with poor land

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<sup>27</sup> Page 99 at footnote 129.

access. It assists in limiting the adverse compulsory acquisition, landscape and natural environment impacts that a greater level of land-based access would require.

- 4.177 The temporary limitation of access to the tow-path during construction in the Picket's Lock section is necessary to provide a safe working environment. The effect on anglers is acceptable. Whilst the proposed water-taxi might not always provide a convenient solution for cycle commuters, the availability of a parallel north south cycle route close-by will enable time critical journeys to be maintained. The water-taxi service is likely to be enjoyed by leisure users of the tow-path.

### **SAFE NAVIGATION**

- 4.178 The Canal and River Trust written representation and response to questions [REP39] raised no objections of principle relating to safe navigation, having confined their concerns to land based activities (cycling and angling).
- 4.179 Their statement of common ground with the applicant [REP73] agrees to use of the navigation by the applicant for watercraft associated with their works. It agrees to a proposed tow-path closure and to the proposed provision of a water-taxi for tow-path users.
- 4.180 During my site inspections of the navigation, I observed its use by watercraft, typically recreational boats such as canal barges and houseboats. On an inland navigation in an urban area, tow-paths are typically well used for land-based recreational pursuits such as walking and cycling. However, their use to provide access to boats, particularly in an emergency situation such as where a boat has an engine failure or takes on water is still important.
- 4.181 It follows that where a tow-path is temporarily closed for works, but the navigation remains open for watercraft (as is proposed in this case), there is a section of the waterway which is still navigable but lacks the normal access to emergency support and escape available from the tow-path. In a worst case scenario, a watercraft experiencing difficulty would have no choice but to set people ashore either within the closed section of the tow-path (a significant source of hazard due to the proposed works) or on private land on the other bank which lacks public access and is also in a range of uses, some of which may present a hazard too.

### **Conclusion**

- 4.182 I have considered relevant NPS EN-1 policy in paragraph 4.175 above.
- 4.183 Whilst land-based tow-path users' needs are proposed to be met in the closed section by the provision of a water-taxi, there is no specific provision required to be provided to assist water craft in

emergency situations. The DCO as submitted with the application does not address this point, which suggests a need for direct provision by the Recommended Draft DCO. This is taken up further in Chapter 7 below.

## **LAND QUALITY AND CONTAMINATION**

- 4.184 In response to my written questions [PD25: Annex D] at section 5, the Environment Agency [REP85] retained concerns in relation to land quality, relating to construction on formerly filled ground at Tottenham Marshes which has the potential to be contaminated. It was not satisfied that the applicant had carried out sufficient preliminary assessments of land quality or proposed appropriate further expert investigations or monitoring.

### **Conclusion**

- 4.185 I have considered relevant NPS EN-1 policy in paragraph 5.14.
- 4.186 An approach to managing potential land contamination was suggested to me by the Environment Agency. It has been included in my Recommended Draft DCO at requirement 11.

## **PART E TOWNSCAPE, LANDSCAPE, VISUAL AND HISTORIC ENVIRONMENT AND GREEN BELT CONSIDERATIONS**

- 4.187 This part of the report captures and responds to a wide range of matters relevant to the visual and cultural effects of the application proposal. Typically, proposals for transmission alignments give rise to significant issues in relation to these matters. However, as has been set out in Part A of this chapter above, the application proposal has been subject to a rigorous analysis of delivery options, which have demonstrated at the strategic level, that the visual and cultural effects of an upgrade to the existing ZBC alignment are of a lesser order than those likely to be experienced due to a new alignment and can be managed with reasonable facility.
- 4.188 No in-principle objection to the application proposal has been made in relation to its visual effects. It should be recalled that, once constructed, the effects of the alignment will be little different from those of the existing ZBC line, already in place.
- 4.189 Remaining concerns have been expressed in respect of the locations where the greatest enduring change is to occur.
- Landscape, visual and Green Belt impact at Waltham Cross.
  - Townscape and conservation area impact at Brimsdown.
  - In relation to tree and vegetation clearance and planting.

## LANDSCAPE, VISUAL AND GREEN BELT IMPACT AT WALTHAM CROSS

- 4.190 The northward extension of the Waltham Cross substation affects land in the Green Belt and is acknowledged to give rise to landscape and visual effects. The applicant views these as mitigable.
- 4.191 At the outset of the examination, Epping Forest District Council was concerned to test whether the land take for this facility had been minimised. Noting the applicant's strong argument that it needed to develop the new 400kV GIS offline, in order to keep the existing 275kV switchgear operational, before it could be bypassed and decommissioned, Epping Forest District Council did accept that the northern extension was necessary. It did ask whether some land within the existing substation compound could then be returned to a more natural form and released, on the final removal of redundant 275kV facilities following the upgrade.
- 4.192 The applicant made clear that whilst some 275kV switchgear would be removed, it would not be able to release or re-vegetate land from the current substation site as this would continue to contain services and facilities that would need to be used after the upgrade was concluded. The applicant's proposed minor changes [REP34 – 38] did offer small but significant Green Belt, visual and landscape impact improvements by reducing the scale of buildings, and relocating them away from the perimeter of the northern compound extension towards the centre of the site.
- 4.193 Epping Forest District Council came to agree that the Green Belt harm is justified in the public interest and having regard to NPS policy [REPs 67 and 86] represented very special circumstances to justify what was in their view inappropriate development. Its analysis presented in answer to my question 18.3 was as follows:

*"The very special circumstances that outweigh the harm [to the Green Belt] is that there is a predicted increase demand in the Greater London region, which must be provided for and therefore there is a need to provide for increased power flow into London. To facilitate this increased flow of power it is necessary to uprate the existing overhead lines from Waltham Abbey through North London to carry an increased voltage and to upgrade the existing substations. ... Land take at Waltham Cross is significant and is an issue, but there are a number of mitigation and enhancement measures that can be taken, largely already-agreed but others yet to be agreed (re: specific enhancement projects and additional perimeter screening). We raise no objection to the significant additional land take at Waltham Cross, subject to appropriate mitigation and enhancement."*

## Conclusions

- 4.194 NPS EN-1 at paragraph 5.10.17 requires consideration of whether the proposal is inappropriate development in the Green Belt. As this proposal includes elements of additional permanent land-take for built development at Waltham Cross, it is inappropriate development. Consideration must be given to whether very special circumstances exist to justify it. The local planning authority for the Waltham Cross Substation site at which the largest land-take will occur is satisfied that very special circumstances are present and I concur with their judgement.
- 4.195 The need case for the proposal justifies the land take in the Green Belt. The chosen extension site enables views to the cleared land to be controlled by retained existing vegetation. Landscaping proposals will mitigate the remaining harm. The extent of the land required has been reduced to the minimum necessary, having regard to the need to keep the substation operational during the works period, necessitating some offline construction. The minor changes to the scale and siting of new buildings at Waltham Cross reduces adverse impacts and is welcome.

#### **TOWNSCAPE AND CONSERVATION AREA IMPACT AT BRIMSDOWN**

- 4.196 Enfield Council's concerns related to the effects of the application proposal, both as submitted and then following minor changes, on the character and appearance of Enfield Lock Conservation Area and on the Prince of Wales Field public open space. English Heritage also had concerns about the effects of the project in this location.
- 4.197 The applicant's proposed minor changes, including the deletion of the proposed firewall on the southern boundary of the Brimsdown Substation site will eliminate a substantial and intrusive harm, to which Enfield Council had objected. However, in order to achieve this change, the revision to the extent and content of the new southern sealing end compound adjacent to pylon ZBC19 was required. This would be an additional intrusion into the public open space and vegetation would be lost, opening up new views.
- 4.198 Further to requests from English Heritage for better analysis of the effects of the Brimsdown proposals on the conservation area, I asked the applicant to prepare a sequence of photomontages of the effects of the original and changed proposals [HR29]. Viewing these montages suggests that whilst the effects of the proposed works in this location will be significant at first, once vegetation has regrown (ten years after the works), landscaping will have reinstated the current character and appearance of this area. Appropriate wording in the DCO can ensure that in discharging landscaping details in this location, Enfield Council are entitled to have regard to the desirability of preserving the character and appearance of the conservation area. English Heritage supported this approach.

## Conclusions

- 4.199 Section 5.8 of NPS EN-1 sets out the information requirement to assess effects on heritage assets. Pursuant to English Heritage advice and representations from Enfield Council, I sought photomontage visualisations of the effects on the conservation area at Brimsdown.
- 4.200 On balance, whilst there will be short term harm to the character and appearance of the conservation area, in the medium term this harm can be satisfactorily overcome through the proposed mitigation and the DCO provides for this to be assured in requirements 5 and 6.

## TREE AND VEGETATION CLEARANCE AND PLANTING

- 4.201 Lee Valley Regional Park Authority, Enfield and Haringey Councils also expressed general concerns about the extent of tree clearing permitted by the DCO and the Trees to be Removed Plans [APP13]. It would be important to ensure that the minimum vegetation removal occurred.
- 4.202 Countering this were the applicant's needs for a safe working environment and for a transmission line that was not encroached by vegetation.
- 4.203 The applicant was content to prepare landscape submissions for approval under the DCO that would address requests of individual authorities, including for specific species mixes in replacement ground cover and particular approaches to boundary replanting.

## Conclusions

- 4.204 These are matters that fall to be managed within the framework provided by the DCO and are dealt with in that chapter. The Environmental Measures document [REP119] contains a range of measures to address the concerns of interested parties.

## OTHER ISSUES

- 4.205 I have given careful consideration as to whether there are any other important and relevant landscape, visual, townscape and / or historic environment issues that require consideration.
- My site inspections visited scheduled ancient monuments, listed building and conservation area sites close to the application proposal at the former Royal Ordnance Factory sites and the Abbey precinct in Waltham Abbey town centre<sup>28</sup>. The existing ZBC line has only the most limited if

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<sup>28</sup> Infrastructure Planning (Decisions) Regulations 2010, Reg 3

any effect on these assets. I have considered the effects of the application proposal. It will not materially differ from the ZBC line in visual terms. It follows that its effects on these assets will not be materially different from the current effects of the ZBC line and hence will be acceptable. No provision is required in the DCO to address these assets.

- Archaeological interest was not widely raised in the examination. Nevertheless I note and am satisfied by the proposed archaeological requirement 16 (as shown in the Recommended Draft DCO). The normal method of preparing a written scheme of investigation to identify a need for field work and or watching briefs is being pursued and will be signed off by the local planning authority after consultation with English Heritage.

### **Conclusions**

- 4.206 No other landscape, visual, townscape or historic environment issues remain un-addressed.

### **PART F CONSTRUCTION EFFECTS**

- 4.207 The application project is one that, by its very nature, gives rise to significant effects due to its construction. Once constructed, its effects become minor and largely equivalent to the effects in operation of the existing ZBC line, which is already in situ.

- 4.208 This part of the report responds to these construction effects, commencing with the effects of the application on the Lee Valley Regional Park and its user groups, as the park contains the great majority of the proposed works. It then proceeds to consider:

- effects on rights of way (which are in large part also effects on the park and park users); and
- a range of other largely travel, transport and highways related effects.

- 4.209 It also addresses a proposal for an enhancement fund and legal agreements, proposed by Lee Valley Regional Park Authority to provide:

- For the enhancement of the natural environment values of the park; and
- For the enhancement of other visitor facilities in the park;

both argued to be necessary in order to offset the effect on the park visitor experience due to its hosting of the application proposal and works to implement it.

## LEE VALLEY REGIONAL PARK (LVRP)

- 4.210 Part A of this chapter of this report has already considered broad questions about the appropriateness of locating the application proposal within the Lee Valley Regional Park as an upgrade to the existing ZBC alignment. This part of the report considers the remaining issues emerging from the relationship between the Park, its authority and the application proposal.
- 4.211 The adopted Vision is for the Park (in the Park Development Framework) [REPs 46-61] is to be a "*world class leisure destination*". The adopted strategic aims are as follows:
- Visitors: A Park that is a high quality and regionally unique visitor destination.
  - Sport and Recreation: A Park that delivers a range of high quality opportunities for sport and recreation.
  - Biodiversity: A Park that delivers a high quality biodiversity resource for the region.
  - Community: A Park that helps people improve their wellbeing.
  - Landscape and Heritage: A Park landscape that embraces the physical, cultural and social heritage of the area.
  - Environment: A Park that contributes to the environmental sustainability of the region.
- 4.212 Matters relating to biodiversity, landscape, heritage and environment have been addressed above, but the remaining issues are the effect of the application proposal on:
- access to facilities and sites used for major events; and
  - use of the park for sport and recreation and by its community.

### Use and Enjoyment of the Park

- 4.213 Effects on walking and cycling are of such a substantial nature that they are addressed in their own individual section below, in tandem with rights of way issues, the effects of which do not relate exclusively to the park.
- 4.214 The sections of the park affected by the application proposal are not widely used for formal sporting events (although analysis of the major events programme set out below addresses the significant events that do occur). More important is the maintenance of use and enjoyment of the park by those who, as well as walking and cycling, undertake activities such as canoeing, boating and angling.
- 4.215 Water users will be less adversely affected by the application proposals than other users in they have a reasonable choice of routes and at no point does the applicant propose the wholesale closure of the main waterways to water traffic. Anglers experience

significant adverse impact, in that footpaths at Waltham Cross, Fishers Green and Hooks Marsh, offering fishing spots, will be temporarily closed during works. Disabled anglers will similarly be unable to access specially adapted angling spots adjacent to Beaulieu Drive, Waltham Abbey.

- 4.216 Visitor monitoring evidence submitted by the Lee Valley Regional Park Authority [REP59] suggest that the park area as a whole receives in the region of 4.7 million visitors annually. This visitorship is spread over the 26 mile long 10,000 acre extent of the park as a whole. However, individual sites and routes impacted by the proposal experience significant annual visitations in their own right. Examples include Walton's Walk, with over 100,00 visitors per annum, or Waltham Town Lock with over 70,000. Even apparently tranquil and out-of-the-way spots such as the Bittern Observation Point at Waltham Cross received nearly 27,000 visitors in 2011/12.
- 4.217 A particularly valuable focus provided by the park, given the densely populated nature of the urban regions to its south, east and west, is the ability of users to enjoy the rivers, lakes, wetlands, woods and countryside that are found within it. Activities such as bird watching and school nature studies currently take place with ease and excellent access. My site inspections found the park to be tranquil and to afford opportunities for quiet enjoyment of nature, despite the busy capital city nearby. The application proposal will temporarily disrupt some of these opportunities.
- 4.218 Mention must be made of locations such as the Bittern Information Point at Waltham Cross, a well-developed hide from which users can view the wetland bird activity on the lake to the south. The applicant had initially sought to close access to this facility, but by the commencement of hearings had identified that there would be means of ensuring that it remained open to the public. Before the end of the examination, a substituted access and rights of way plan sheet 1[REP124] had confirmed that this closure would not need to proceed. The wild and quiet environment of Tottenham Marshes would experience the effects of cable trenching. These are but two of the many areas and facilities that will experience access restrictions and experience changes during the works.
- 4.219 Evidence submitted by the Lee Valley Regional Park Authority sought the applicant's contribution to an enhancement fund, which in their view should provide for *"enhancement as well as mitigation works are required, so as to offset the negative impact caused"* by the application proposal. This fund would contain £85,000 and be administered by a steering group to represent the applicant, the park authority and other stakeholders. Its purpose would largely be to deliver a range of natural environment enhancements, the effect of which would be to improve the natural environment in the park area and its enjoyment by park

user communities. The argument put to me by the park authority was that this would offset the effect of the application proposal, which would limit access to enjoyable natural environments.

- 4.220 The enhancement fund enjoyed the in-principle support of the applicant, which had been prepared to submit a purported planning obligation under s106 TCPA 1990 (as amended) by way of a unilateral undertaken binding land in the London Borough of Enfield (and hence submitted to Enfield as local planning authority) [REP133]. It proposes the establishment of a 'steering group' to determine what is to be done and a 'responsible organisation' to manage the fund.
- 4.221 This purported obligation in my mind gives rise to a number of concerns, put to me by Enfield Council [REP136] as the planning authority called upon the administer and (if necessary) enforce the agreement. Enfield Council objected to this (which it refers to in the quotation from its written representation below as the unilateral undertaking or 'UU') for the following reasons of principle:

*"The UU purports to bind a small parcel of land in National Grid's ownership in respect of other land (enhancement land). Following the decision in PNH (Properties) Ltd v Secretary of State [2012] EWHC 1998, section 106 obligations must bind the land that is the subject of those obligations, which is not the case here, as NG does not own the `other' (ie enhancement) land. This means that there is no guarantee that the enhancement projects will be delivered and implemented because only NG's land is bound by the obligations in the UU. Although the Council could in principle enforce the obligations in the UU in practice, it has no control over any of the matters stated therein and therefore unable to monitor them. Furthermore, some of the `obligations' are merely statements (eg in relation to the operations of the SG) and are unenforceable in any event, especially that Steering Group is not a party to the UU.*

*"The Council is to be paid £2000 to monitor the obligations under the UU, but it is not clear how the Council could monitor the obligations in practice and therefore it is not enforceable. Notwithstanding this point, the amount calculated is incorrect, the monitoring fee is 5% of the contribution amount, and the contribution should be index linked.*

*"Other local authorities, on whose land enhancement projects may take place, may not agree to this arrangement. There is no mechanism in the draft for agreeing how the money would be spent, except for the provision that such projects will be agreed by the Steering Group - if there is a disagreement, it would be impossible to mediate, because, firstly, there is no consensus between all local authorities, and secondly, it is envisaged that the Steering Group will be made up of organisations which have no*

*local connection, and therefore, potentially there may be a conflict between the Steering Group and local authorities on whose land such projects may be carried out.*

*"The list or type of enhancement projects should be attached to the document at least in outline.*

*"The role of the "Responsible Organisation" is unclear - is it a different body from any member of the Steering Group? What is its purpose? It is stated that the Responsible Organisation will 'maintain' the projects in the long term, but it is not clear how can this be enforced. National Grid retains control of the fund throughout; furthermore, the period of five years seems very short for the type of projects which the fund is to support and given the wide area they are meant to cover – such projects may require further consents of the authorities on whose land they may take place and it may not be possible to spend the fund in such short period of time. The money should be spent fully and there should be a longer time, eg 20 years (rather than the proposed 5) for returning the balance of the fund if it remains unspent."*

- 4.222 Having also considered responses by Lee Valley Regional Park Authority and the applicant, I still consider that these are powerful objections. They suggest that the local planning authority charged with its monitoring and enforcement will be unable to do so, beyond the limited applicant land holding in Enfield to which it applies. It could therefore be ineffective across the large areas of the park from Waltham Cross to Tottenham to which it is proposed to refer.
- 4.223 I also consider that this agreement is not necessary. Nor do I recommend that it is something to which the Secretary of State should have regard in considering this application. My reasoning is that the intent of the obligation is clearly to deliver enhancement. Further, the enhancement sought is largely of an enduring nature, whereas the effects to be mitigated relate to a time limited period during which construction works will occur. It follows that the agreement is not necessary to manage and mitigate the effects of the works: this management and mitigation is provided for under the DCO.
- 4.224 In this respect, it must be remarked that the Environmental Measures document [REP119] submitted by the applicant includes commitments to a broad range of natural environment works in the Lee Valley Regional Park considered necessary as mitigation. Examples drawn from page 3 of that document are summarised below:

Environmental Measure	Requirements
Planting of approximately 0.5ha of scrub habitat close to Waltham Cross substation consisting of willow, hawthorn and bramble.	5, 6 and 12

North of Waltham Cross substation, the scrub habitats are maturing and becoming dense. In order to maintain and enhance this habitat type and encourage a diversity of flora and fauna, areas of scrub will be cleared on a rotational basis over the course of the construction period in order to create a number of open areas.	12
Islands within Seventy Acres Lake supporting pylons ZBC 2 and 3 have become dominated by trees. This change in habitat type has reduced the value of the islands for breeding and wintering water birds. Trees will be felled and the timber will be used to create an otter holt. In addition, some of the peripheral trees will be felled into the lake to create fish refuges and some brash to piled up as habitat piles, the rest removed. Some low scrub will be retained.	12
Management of semi-improved grassland through scrub control - within Brimsdown substation.	12
Restoration of semi-improved grassland within Tottenham Marshes by seeding of the disturbed soil with a pollen and nectar rich seed mix.	12
Provision of bat house close to Waltham Cross substation.	12
Provision of 40 bat boxes within the Lee Valley Country Park.	12

Whilst the applicant is clear that projects of the nature of those shown in the table and set out in the Environmental measures document [REP119] are necessary to mitigate the effects of the application proposal, it should be noted that most will also have an enduring effect and will also enhance the natural environment of the park as a consequence after the construction phase has ended.

- 4.225 Lee Valley Regional Park Authority may well have a need for additional enhancement funds. The applicant may wish to contribute to enhancement works in recognition of the imposition that its project will make on the park and its communities of users. This sort of proposal is of the nature of a 'community benefit fund' of the type sometimes proposed to ensure wider community support for major projects. However, once this construction has ceased, the application proposal will have only the most limited of enduring effects, having regard to the existing presence of the ZBC and ZBD transmission lines. The local community here do not face years of additional noise, damage to habitats or adverse landscape impacts. Enhancements enduring for many years are being sought to offset specific and temporary harm occasioned during the construction programme alone.
- 4.226 It must be noted that a unilateral undertaking has been entered into and that if the applicant and its named beneficiary parties did put it into effect, its intentions may well be delivered. However, noting the geographical extent of the benefitting area and the

strong concerns of the local planning authority appointed as its guardian, I agree with Enfield Council that this unilateral undertaking is unenforceable and hence this desire of both the applicant and the Lee Valley Regional Park Authority could better have been addressed by another form of agreement entirely, not a planning obligation under TCPA 1990 s106.

- 4.227 I also take the view that, enforceable or not, no planning obligation is necessary to make the proposed development acceptable in planning terms. I **do not recommend** the Secretary of State to take account of it.
- 4.228 In addition to the purported planning obligation by way of unilateral undertaking, Lee Valley Regional Park Authority also asked for consideration of another proposed planning obligation [REP45 at paragraph 4.2.10-11]. This would extend beyond natural environment enhancement to enhance the visitor experience of the park. The justification for this proposal was that the applicant's works programme would disrupt the visitor experience offered by the park and hence a substantial contribution to attracting visitors to continue to use the park was justified.
- 4.229 I do not agree. The park has offers high quality landscapes and facilities, easily accessible to a large urban population. I do not accept that the temporary disruption of some of these by works is likely to 'put off' visitors to the extent that new permanent visitor enhancement measures are necessary. The applicant did not offer to enter into any agreement to deliver these enhancements. The Secretary of State can consider the application without any such agreement or obligation being entered into, again, because its effects are adequately managed by the draft DCO and the Environmental Measures document [REP119].

#### **Effect on the Park Major Events Programme**

- 4.230 The effects of the construction period on planned major events in the park were a potentially significant issue at the beginning of the examination period. They formed the focus of an issue-specific hearing into the proposed construction programme and its effect on major events.
- 4.231 The park is host to significant events, most notably the International Canoe Federation World Canoe Slalom Championships 2015, utilising the 2012 Olympic legacy Lee Valley White Water Centre at Waltham Cross, between 15 and 20 September 2015. The White Water Centre is a global quality facility, purpose constructed to pump water providing artificial rapids at graded levels of difficulty, controllable to meet the needs of a wide range of events and user groups. The World Canoe Slalom Championships are a major post-Olympic sporting event, where London and Lee Valley's world-class white water sporting

facilities and event organisation will be on show. The reputations of the park, of London and the UK will hang on the successful delivery of this event and on the provision of a good sporting and visitor experience.

- 4.232 Major events are also traditionally hosted at the 'showground' site between Waltham Abbey and Waltham Cross, a large and attractive area of open meadowlands between the River Lee and the Lee navigation, traditionally used for large events. The significance of the showground site is that it is easily accessible by road for car based event visitors. It also has access via a footbridge to the White Water Centre and hence can be used to augment the facilities on that site when a major event is in progress, providing a range of services from overspill parking to tented areas for exhibitions and fringe events. Such combined use is planned for the World Canoe Slalom Championships.
- 4.233 The showground site is crossed by both the ZBC and ZBD alignments. Lee Valley Regional Park Authority's main concern is the potential for the applicant to be on site during a major event and effectively cut the 'showground' site in two, severing its vehicular access from the pedestrian access to the White Water Centre. Alternatively, even if the applicant is not on site, Lee Valley Regional Park Authority is concerned that the applicant could (in circumstances such as a prolonged period of summer rain), leave the 'showground' site in an unfit condition for use for a major visitor attracting event.
- 4.234 As a major international competition, bid for before the application proposal had emerged in any detail, it is little more conceivable that the World Canoe Slalom Championships could be cancelled due to the effects of the application proposal than that the London 2012 Olympics could have been cancelled due to another development proposal. The applicant's initial view that the event would of necessity have to accommodate to enable its proposed works was not a wholly tenable view. It became strongly apparent at the hearing that the applicant would have to take serious steps on its side to accommodate the event.
- 4.235 The applicant's initial position was that its summer 2015 works campaign would be complete by the time of the World Canoe Slalom Championships and no special response by them would be warranted. However, this was an approach which appeared not to have taken account of the risk of relatively minor over-runs due to events out of their control but nevertheless foreseeable, such as heavy rainfall and poor ground conditions. Such events could leave the applicant and the World Canoe Slalom Championships having to share the 'showground' site, or could leave the site in a poor condition, unfit for use in association with such an event.
- 4.236 Discussions between the applicant and the Lee Valley Regional Park Authority in parallel with the hearing process were

encouraged, seeking means by which the applicant could make clear commitments to:

- avoid active works during the World Championships;
- leave the 'showground' site in the tidiest condition feasibly achievable in time for the Championships to commence;
- assist the Lee Valley Regional Park Authority in 'dressing' the site for this major event in the shortest time possible;
- assist the Lee Valley Regional Park Authority in works to open up access to additional meadowland adjacent to the 'showground' should parts of the 'showground' still unavoidably be occupied by alignment upgrade-related equipment when the World Championships commence.

4.237 Similar considerations were raised in respect of the Waterways World Outdoor Leisure Show to be held on the 'showground' site between 29 to 31 August 2015, although this event did not have the global reach or reputational impact of the World Canoe Slalom Championships. Evidence submitted to the examination by Lee Valley Regional Park Authority also suggested that the prospects of this event being held were not quite as certain as the prospects of the World Canoe Slalom Championships.

4.238 Written responses [REP 144, REP 145] confirmed that a commercial agreement had been concluded between the applicant and the Lee Valley Regional Park Authority to address the outcomes summarised in paragraph 4.214 above. In this respect, what had seemed to give rise to a significant challenge to the timing of the works associated with the application proposal now has been managed to the best ability of the applicant and the Lee Valley Regional Park Authority working in productive partnership.

### **Conclusions**

4.239 In policy terms, the effects of construction on the Lee Valley Regional Park are matters that I consider to be relevant and important. They are not specifically addressed in NPS EN-1 or NPS EN-5. It is relevant and important to secure the delivery of the statutory purpose of the park set out in its legislation (the Lee Valley Regional Park Act 1966) and to meet relevant park plan and development framework objectives.

4.240 The applicant and the Lee Valley Regional Park Authority have negotiated productively within the framework of the examination process to ensure that important events in the park are managed to enable their delivery, on time and to meet appropriate standards, with the active cooperation and support of the applicant, should they still be on site.

4.241 Other activities in the park will be affected by the works. It is important to observe that the need case for the application proposal establishes a strong policy justification for that

interference. However, as the applicant acknowledged in hearings, more can be done to ensure that impacts are limited. Relevant steps do not require amendment to the DCO but rather they rely on effective working between the applicant, the Lee Valley Regional Park Authority and user groups during the works.

4.242 The keys to successful mitigation will be:

- Good public information: saying clearly on the web and on leaflets which facilities are closed, why they are closed and for how long.
- Good promotional information: saying what the alternatives are and pointing users in the direction of sites that they may not have used before.

4.243 It is important to observe that the exercise of powers to close rights of way provided for in the DCO can be pragmatically refined at the margins. Whilst the access and right of way plans might suggest the closure of a whole path, if access to an important or much loved facility such as the Bittern Observation Point at Waltham Cross can be retained and the operational safety requirements of a major construction site can also be met, then the locked gate can be placed a few metres further up the track. A revised plan [REP124] has placed this beyond doubt for the Bittern Information Point, but good on-going liaison between the applicant and the Lee Valley Regional Park Authority will provide the best means of addressing this point in any other locations going forward. Discussion about such issues can take place pursuant to the submission of details under requirement 3 (calling for stages plans).

4.244 Finally, turning to the question of enhancement, the purported unilateral obligation for natural environment enhancement and the suggestion that another might be required to enhance visitor facilities, the applicant may wish to offer funding and the Lee Valley Regional Park Authority may enter into a partnership to deliver tangible environmental and community benefits sponsored by the applicant. However, I do not consider that it is necessary for the Secretary of State to have regard to the purported obligation or to give it weight in determining the application. Nor is it necessary for any further agreement or obligation to be sought. I **recommend** accordingly.

### **RIGHTS OF WAY, WALKING AND CYCLING**

4.245 A major issue arising from the application proposal, given its location relative to the Lee Valley Regional Park relates to its effects on public rights of way including on footpaths and cycleways, including National Cycle Route 1, which runs on a north south alignment through the Park. This matter is closely related to the other issues of impact on Lee Valley Regional Park facilities

and on informal recreation opportunities in the park, reported on above.

- 4.246 As much of the existing ZBC alignment is located in the Lee Valley Regional Park, close to and crossing waterways and open space, there is a wide range of footpath and cycleway closures provided for in the Recommended Draft DCO.
- Schedule 5 lists a limited set of permanent closures to accommodate the new compound proposals adjacent to pylon ZBC19 at Brimsdown substation.
  - Schedule 6 sets out a large number of routes to be temporarily stopped up. These represent one of the principle impacts of the construction works for users of the Lee Valley Regional Park and its environs.
  - The Access and Rights of Way Plans [APP 11] as amended by a revised plan 1 at Waltham Cross to provide access to the Bittern Information Point [REP124] show all of the routes proposed to be subject to permanent closure or temporary diversion.
- 4.247 Enfield Council objects to the permanent closures and replacements at Brimsdown, on the basis that it does not consider that the function of its existing heritage trail at that site is sufficiently provided for via the proposed replacement routes. It also has concerns about the visual effect of the proposed sealing end compounds on the routes.
- 4.248 On my site inspection, whilst I was able to walk the existing paths to be closed and diverted, access was difficult in a number of places due to heavy undergrowth. Further, when compared with the significant extent of some of the (albeit temporary) diversions in other parts of the application site, the diversions proposed at Brimsdown are minor.
- 4.249 The Brimsdown diversions offer (in the context of the agreement of details provided for in the landscaping requirements 5 and 6 as shown in the Recommended Draft DCO between the applicant and Enfield Council), an opportunity to provide routes that are at least as good as the existing routes. This matter does not provide a basis on which the application proposal should not proceed.
- 4.250 Lee Valley Regional Park Authority did not object to the principle of temporary path closures, but do seek some assistance from the applicant to ensure that park useage can be maintained during the periods of disruption, when users' normal paths are not available.
- 4.251 Again, in my site inspections I have walked and/or cycled as appropriate each of the routes proposed to be temporarily stopped up. I have also experienced the great majority of the proposed alternative routes.

- 4.252 It is clear that many routes in the park landscape can be replaced often with a number of alternatives. Where one is temporarily closed for works, another serving the same destinations will typically remain available, albeit a few hundred metres away from the closed routes. Closures and diversions will be frustrating for local people who use the park right of way network to walk or cycle to work. However, for the leisure user, the proposed diversions are likely to open up different experiences of their local landscape that in most cases offer at least the same amenity, if perhaps they are not quite as direct as the route that they temporarily replace in all cases.
- 4.253 The applicant has proposed a number of formal diversionary routes (see Recommended Draft DCO schedule 6 part 1). Most of these are perfectly acceptable routes. They connect the same places as the routes to be temporarily closed. They provide a similar experience of the landscape and natural environment as the routes to be temporarily closed. A few are perhaps a little longer or more convoluted than some types of users might wish. However, in nearly all cases, there will be further alternatives that are not formally identified but yet are just as good.
- 4.254 Whilst I do not see this as a matter that requires to be formally controlled by an article or requirement in the DCO, the Lee Valley Regional Park Authority requested and the applicant agreed that it would provide practical assistance to enable park users to understand the nature of the route diversions in place and the available alternatives, during the works period. Useful assistance would include the signing and leafleting of temporarily closed routes and diversions.
- 4.255 A separate issue remains that was raised by both the Environment Agency and the Lee Valley Regional Park Authorities. Due to the nature of the park area, rights of way can provide the only means for staff to access work locations or equipment relevant to functions such as flood management. Some of these rights of way will be affected by temporary closures. The applicant highlighted that this was an issue that could in part be dealt with through the submission of access details under requirement 7 in the DCO prior to the commencement of works. Pragmatically, it would also be necessary and appropriate for liaison to be established between site works managers and relevant Environment Agency and park staff.
- 4.256 Whilst undertaker consent would be required to use a closed right of way during the construction period (in the interests of safety) the applicant made clear that it would not be withheld unreasonably.

## **Conclusions**

- 4.257 The permanent rights of way changes appear to be minor and to be proposed in a manner that is proportionate to the need for the application proposal.
- 4.258 The temporary diversions will be substantial and will significantly affect the user experience of the Lee Valley and its environs for some classes of user. Similarly, they will affect Environment Agency and park staff, and there will be circumstances in which the applicant will need to facilitate access by these entities to key locations, with consent to ensure worker safety. However, all of these diversions appear to be necessary.
- 4.259 I am of the opinion that the implementation of diversions as shown on the Access and Rights of Way Plans [APP 11] as amended by the substituted plan 1 at Waltham Cross [REP124] are fully justified. I **recommend** accordingly.
- 4.260 Whilst no particular provision in the DCO appears necessary, the applicant is reminded of its productive suggestions during the oral examination and urged to ensure that it collaborates with the Lee Valley Regional Park Authority to ensure that alternative routes and diversions are as well publicised as possible, providing effective signage, leaflets and web coverage. Practical discussions during the construction period between site construction management for the applicant and relevant Environment Agency and park staff will ensure that important work sites in the park remain accessible.

#### **OTHER TRANSPORT AND HIGHWAYS ISSUES**

- 4.261 Other transport and highways issues arose to a limited extent and have been examined and reported on briefly as follows:
- aviation safety;
  - effects on bus servicing and related employment;
  - other public transport effects; and
  - highways and traffic effects.
- 4.262 NATs En Route Ltd. (the body responsible for UK air traffic control) has considered both the application and the minor amendment to it. It has confirmed that it has no concerns from an aviation safeguarding perspective [REP104].
- 4.263 At the outset of the examination, what appeared to be substantial concerns were raised in respect of the relocation of the Arriva North London Ltd. Bus Depot at Leaside Road, Tottenham to facilitate the construction of the 400kV underground 'bypass' connecting the ZBC line to the VC line south of Tottenham Substation within the depot site. The concerns were raised by the bus operator itself [REP23], by Transport for London [REP22], the Greater London Authority [REP20] and Haringey Council [REP25]. The concerns divided into two components.

- Operational concerns in respect of the effect of the relocation of Arriva North London Ltd. and its public transport services.
  - Wider economic and social concerns expressed by public authorities, relating to the dislocation of the bus depot workforce and effects on communities.
- 4.264 During the examination period, the applicant confirmed that they had resolved these matters outside the framework provided by PA 2008, by voluntarily acquiring an interest in the bus depot site and then managing its relationship with Arriva North London Ltd. using the general principles of landlord and tenant law.
- 4.265 The effect of this approach has been to resolve all direct contention about the acquisition of land at the bus depot. Arriva North London Ltd. concluded an agreement with the applicant and withdrew their representations [AS3] as a consequence. Representations from Transport for London in relation to the effect of the project on the bus depot were withdrawn [SEC15]. The London Borough of Haringey confirmed withdrawal of its representations, in large part in response to this issue [RE62].
- 4.266 Whilst related representations from the Greater London Authority have not been withdrawn, the applicant has submitted to me that it has the legal authority and agreement to relocate Arriva North London Ltd. from its depot to carry out the Tottenham 'bypass' works, if it needs to do so, further to the outcome of the Secretary of State's decision in this application. There is nothing further that I can recommend or that the Secretary of State can decide that would affect the applicant's ability to take such steps. If they were to be taken, their consequences in this respect become the consequences of actions governed by private law. It follows that I no longer view this issue as being important or relevant to the decision.
- 4.267 Representations from Transport for London in relation to highways and public transport in Greater London more broadly were withdrawn, pursuant to dialogue with the applicant leading to the settlement of their position in respect of PA 2008 s127 and their role as a statutory undertaker [SEC15]. Reference should be made to Part 2 of Schedule 13 to the Recommended Draft DCO which contains protective provisions for Transport for London, negotiated to that body's satisfaction during the examination.
- 4.268 A statement of common ground between the applicant and Essex County Council (the strategic transportation authority) confirms the absence of any highway or public transport concerns in the county of Essex [REP71]. No additional studies were sought by the County Council, which also agreed that such minor works to the highway network as were required (such as revised crossovers) could be the subject of application under Recommended Draft DCO requirement 7.

- 4.269 No relevant representation was received from Hertfordshire County Council (the strategic transportation authority) relating to highway or public transport effects in the county of Hertfordshire.

### **Conclusions**

- 4.270 There are no other transportation or highway matters which indicate against the application proposal. All relevant NPS policy has been complied with. Relevant impact mitigation has been provided for in the Recommended Draft DCO, which provides for the approval of highway accesses (requirement 7) and construction traffic management plans (requirement 9) by relevant authorities. These processes will enable the satisfactory mitigation of remaining adverse effects. Schedule 13 sets out adequate protective provisions for Transport for London.

### **PART G OTHER MATTERS**

- 4.271 Remarks must be made on the following particular matters that do not easily fit into the issues framework used above.
- Other economic effects (warehouse operation);
  - Recreational angling;
  - Electro-magnetic field (EMF) effects;
  - Noise;
  - Debris and waste; and
  - Land subject to certificate processes under PA2008 ss131 and 132.
- 4.272 TJX Europe / TK Maxx had submitted a representation raising concerns about the effects of the works on their local warehouse operation, but further to negotiation and an agreement with the applicant, this has been withdrawn [AS1].
- 4.273 Recreational angling groups (the Kings Arms and Cheshunt Angling Society, the Fishers Green Consortium and the Lee Anglers' Consortium) had expressed concerns about the effect of the proposed works on their access to fishing locations on the River Lee, the Lee Navigation and associated channels and water bodies. One had also raised possible concerns in relation to the uprated voltage of the proposal in terms of electro-magnetic field impacts of the proposal on recreational users of the Lee Valley. However, discussions between these groups and the applicant led to agreements and the withdrawal of the representations [AS7]. The Lee Anglers' Consortium no longer exists, having been wound up between the making of its relevant representation and the start of the examination [AS2].
- 4.274 In relation to electro-magnetic field impacts, the applicant advised that the application proposal will be delivered and operated in accordance with normal procedures for a 400kV transmission alignment and that exposures will be managed in the normal

manner. It is relevant to note that the Health and Safety Executive wrote to me on 23 May 2013 confirming that it did not propose to make any representations or to participate in the examination as an interested party [AS8]. In the only section of the alignment that passes close to residential land uses (at Enfield Island Village) the application proposal will pass through a purpose designed and extensive green corridor which has already been provided to set the existing ZBC and ZBD alignments back from dwellings. On this basis, I am satisfied that it is not necessary for electro-magnet field impacts to be considered further in this examination.

- 4.275 In relation to noise, the applicant was clear that the operational effects of the application proposal had been mitigated to the extent feasible and significant concerns were raised about operational noise. Construction noise would be managed through Recommended Draft DCO requirement 15.
- 4.276 In relation to debris and waste not related to the water environment or land contamination, recommended Draft DCO requirement 15 would also ensure acceptable performance.
- 4.277 I have considered the principle of development as proposed on land subject to certificate processes under PA2008 ss131 and 132. Without prejudice to the outcome of a separate examination, I do not consider that there are any reasons why that land should not be developed in the manner provided for in the application proposal.
- 4.278 I have considered these additional issues in the light of NPS and other relevant policies, whilst also taking account of the significant areas of agreement that now exist between the applicant and interested parties and invited persons, leading to the withdrawal of some representations. I have concluded that, given the established need case for the application proposal (see part A of this chapter above) and its generally good adaptation to the social, economic and environmental conditions found on its alignment, none of the remaining issues summarised above require to be addressed further in this report, in terms of reasoning that could affect either the recommended outcome or the recommended terms of approval in the DCO.
- 4.279 In respect of all other matters raised with me by interested parties and invited persons, I have confined my reporting to those matters appearing to be relevant and important to the Secretary of State's decision. I have however given careful consideration to all other matters raised in relevant representations and statements of representation throughout the examination in the same way. I reach the conclusion that no remaining matter is of sufficient weight to offset the proven need for the application proposal, to suggest a change to its design, delivery or operation and hence to require any change to the DCO.

## Conclusions

- 4.280 No other relevant or important matters have emerged which bear on the planning merits of the application or require to be addressed in the DCO.

## PART H MINOR CHANGES TO THE APPLICATION

- 4.281 Finally, regard must be had to the minor changes to the application recorded from paragraph **Error! Reference source not found.** above, in the light of issues identified and discussed in the preceding chapters and parts of this report and issues raised in representations that were specifically requested in response to them.
- 4.282 In respect of the changes generally, Natural England [REP108] was satisfied that none would affect the basis of any of its advice or change the conclusions relevant to HRA or the natural environment more generally.

### Changes at Waltham Cross Substation

- 4.283 No new issues or concerns were raised with respect to the changes proposed at Waltham Cross.
- 4.284 It follows that I take the view that the changes made to reduce the extent of built development and to relocate structures from the perimeter of the substation compound closer to its centre will mitigate the effects of this element of the proposal on the landscape and the Green Belt.
- 4.285 I have incorporated references to the relevant substituted plans into the draft DCO and **recommend** that Secretary of State should determine the application on that basis.

### Changes at Brimsdown Substation

- 4.286 Enfield Council [REP105] supported the principle of the removal of the proposed fire wall at Brimsdown. This was a feature that it had originally objected to.
- 4.287 I observe that the removal of the fire wall provides a tangible benefit in terms of reducing the impact of the application proposal on the setting of the Enfield Lock Conservation Area and on the Prince of Wales Field public open space. Because of the design changes the wall is no longer required as a safety feature to protect walkers on the public right of way adjacent to the southern boundary of the site.
- 4.288 However, Enfield Council remained concerned about the precise detail of implementation of the revised proposed footpath diversion, landscape and tree works, particularly in relation to the

proposed enlargement to the southern sealing end compound adjacent to pylon ZBC19. It requested amendments to the DCO and an agreement under TCPA 1990 s106 to address its outstanding concerns (a further planning obligation).

- 4.289 Having considered these concerns (which were taken up in my hearing and consultation on the DCO to the extent that appeared necessary), I take the view that provisions within the Recommended Draft DCO address them satisfactorily. The applicant has not offered to enter into a planning obligation in relation to these matters and in the context of the submission of landscape plans under requirements 5 and 6 as I proposed to recommend them, I do not consider that there is any need for a planning obligation on this point.
- 4.290 English Heritage [REP106] expressed concern that the details submitted with the change proposals provided an insufficiently clear explanation of their effect on the conservation area or justification to enable conclusions to be clearly drawn. However, this concern was removed by English Heritage [REP126] on the basis that my revised draft DCO [PD39] contained requirement for the submission of a landscaping scheme that includes measures to preserve the character and appearance of the Enfield Lock Conservation Area.

*"In order to deliver positive changes as a result of the development, we would suggest that the landscaping scheme should seek to preserve and enhance the character and appearance of the conservation area. This approach would reflect the Planning (Listed and Conservation Areas) Act 1990 (s71 and s72), the overarching National policy Statement for Energy (EN1) (paragraph 5.8.13) and the NPPF (paragraphs 131 and 137)" [REP 126].*

- 4.291 The Environment Agency [REP107] was satisfied by the proposal to increase the clearance of the proposed cable bridge at Brimsdown. It maintained concern that the flood risk assessment for Brimsdown must be updated to take full account of the compounds proposed adjacent to pylon ZBC19. However, these concerns were removed [REP127], on the basis that my Recommended Draft DCO contained flood provisions (requirement 17) to address these concerns.
- 4.292 On the basis of these agency comments, I consider these remaining issues are capable of being addressed by the DCO as I have indicated above. I have incorporated references to the relevant substituted plans into the Recommended Draft DCO and **recommend** that Secretary of State should determine the application on that basis.

### **Changes at Tottenham Substation**

- 4.293 No new issues or concerns were raised with respect to the changes proposed at Tottenham Substation.
- 4.294 These changes are technical in nature and I do not consider that they materially affect the application. I have incorporated references to the relevant substituted plans into the recommended Draft DCO and **recommend** that Secretary of State should determine the application on that basis.

#### **Other minor changes**

- 4.295 The applicant has submitted a revised access and rights of way plans sheet 1 to clarify that access to the Bittern Information Point at Waltham Cross can be retained throughout works [REP124].
- 4.296 The applicant has also made minor revisions to the Book of Reference [REP141] and to the land plans [REP142] to reflect its most up to date state of knowledge, close to the closure of the examination. None of these changes prospectively harm any persons' interests.
- 4.297 I have incorporated references to the relevant substituted plans into the Recommended Draft DCO and **recommend** that Secretary of State should determine the application on that basis.

#### **Conclusions**

- 4.298 In the main part, the minor changes to the application serve to mitigate the effects of the application proposal or have no effect upon it. To the degree to which elements of these changes remain in contention, the outstanding issues are best resolved through the Recommended Draft DCO and the discharge of requirements imposed by it.
- 4.299 I **recommend** that the application should be considered by Secretary of State inclusive of these changes. However, I have set them out in Chapter 6 and provided detailed recommendations there in respect of each change.

#### **PART I EQUALITIES AND HUMAN RIGHTS**

- 4.300 In reaching these conclusions and recommendations, I have considered relevant equalities and human rights provisions and conclude on their application as follows.

#### **Human rights**

- 4.301 The applicant consulted widely on their proposals during the pre-application stage. Errors were made by the applicant at the point of acceptance, by failing to notify relevant persons of the acceptance of the application, which had the effect of preventing some from exercising their right to make a relevant

representation. By delaying my preliminary meeting and providing wider than normal notice of it, I have ensured that no-one who should have been notified of the acceptance of the application has lost their right to participate fully in the examination.

- 4.302 I have not come across any other matters to suggest that the application, the examination process or my conclusions have disregarded anyone's human rights. In respect of all application and examination documents, including the minor changes made to the application during the examination period, interested parties, invited persons and the public were able to access that material on the national infrastructure pages of the Planning Portal website and at local deposit points in North and East London. All the materials submitted and considered by me were published. All the hearings were held in public. Everyone who requested to be heard was accorded a hearing.

### **Equalities**

- 4.303 The 'protected characteristics' under the equalities legislation are age, disability, sex, gender reassignment, race, religion or belief (including lack of belief), pregnancy and maternity and sexual orientation. No representations were made explicitly by or on behalf of any group of people sharing a protected characteristic in relation to this proposed development.
- 4.304 I have considered the equalities issues and complied with my duty under the Equalities Act 2012. In doing so, I have considered whether and whether the proposals would adversely impact or discriminate against any group of people who share a protected characteristic. I conclude that there is no evidence of any lack of respect for equalities, or disregard to equality issues.

## **5 THE CASE FOR & AGAINST DEVELOPMENT**

- 5.1 This chapter of the report summarises the case for and against development.
- 5.2 Chapter 3 of this report above has set out the relevant legal and policy context applicable to the application, arising from PA 2008 and from a wide range of other sources, including the London Plan and the Development Plan as in force in the various different local planning authority areas traversed by the proposed route.
- 5.3 All relevant law and policy has been taken into account within the issues framework set out in Chapter 4.

### **THE CASE FOR THE DEVELOPMENT - BENEFITS**

- 5.4 The key benefit flowing from the application proposal is that it enables an increase to the electricity transmission capacity serving London. The need for it is driven by the combination of anticipated increases in electricity demand within London, combined with London's current and projected requirement to meet that need through transmission links to generation assets outside the London area.
- 5.5 Existing transmission network infrastructure cannot meet this need in the short to medium term. A failure to undertake reinforcement would result in serious network failures (breaching thermal standards and causing lower than acceptable voltages) leading to customer service interruptions
- 5.6 Given the concentration of electricity demand in London, this amounts to an additional compelling need case, augmenting that set out more generically in the NPSs, where the benefit of the application proposal is the urgent need to avoid these substantially detrimental impacts on the electricity supply for London.
- 5.7 No significant case or evidence was put to me during the examination that offset the weighty nature of this key benefit. Interested and invited parties supported the principle of the proposed development.
- 5.8 The alignment proposed to be upgraded runs parallel with another existing transmission alignment (the ZBD alignment) that is not proposed to be upgraded. This forms a strong component of its impact context, particularly in visual, landscape and historic and natural environment terms. Whilst the ZBD alignment remains in situ, there are strong arguments for the retention of the proposed upgraded ZBC alignment in a form that closely matches its near neighbour. In this context, the decision to retain and reuse most of the existing pylons in the ZBC alignment as opposed to replacing them with different pylons is the decision which most clearly moderates and controls visual, landscape, historic environment and natural environment impacts.

## **THE CASE AGAINST THE DEVELOPMENT - DISBENEFITS**

- 5.9 As is made clear above, it was not put to me that the proposed development was unnecessary or was unacceptable in principle. The case against the development is therefore limited to an assessment of the degree to which impacts have been adequately identified, assessed and mitigated.
- 5.10 The main element of this case amounts to the observation that a decision to permit the upgrading of the existing ZBC alignment would have the effect of extending the duration of existing adverse visual, landscape and historic and natural environment effects on the statutorily designated Lee Valley Regional Park.
- 5.11 For reasons set out in Chapter 4 Part A of this report, I accept that the applicant has carried out a robust option appraisal both in terms of developing on other alignments and in terms of delivering development on this alignment through different means, including by undergrounding or changing the design of the overhead line. The applicant has made a persuasive case that all other options than the application proposal would generate more substantial social, economic and environmental costs than the application proposal. This in turn suggests that the application proposal is both well sited and well designed, taking all relevant factors into account.
- 5.12 The existing ZBC alignment traverses key natural environment sites, particularly the Lee Valley SPA and Ramsar site and SSSIs. The decision to upgrade the existing alignment rather than to replace it wholesale together with controls over construction timing to limit disturbance to wintering birds acceptably mitigate the harms that flow from this location in a way that other in-situ development proposals could not. The proposed development approach and the assessment of impacts set out in the ES are supported by Natural England.
- 5.13 Minor changes to the application have been proposed to address flood impacts by raising the level of proposed cable bridges over water-courses. The aquatic and land environment can be safeguarded through requirements in the Recommended Draft DCO.
- 5.14 It is important to retain the ability of Lee Valley Regional Park land to meet its statutory purposes, providing a wide range of formal and informal recreational opportunities including a major events programme, particularly during the project construction period. Much progress has been made and an agreement signed to ensure good cooperation between the applicant and the Park authority minimises the effect of the application proposal on high profile events with the potential to affect the Park's or even the UK's reputation.

- 5.15 Footpaths, cycleways and angling areas in the Park will experience temporary closures and disruption during construction campaigns and this is unavoidable. Relevant Recommended Draft DCO requirements and negotiated agreements ensure that disruption will be controlled to acceptable levels.
- 5.16 In terms of other impacts:
- The proposal will result in land-take in the Green Belt, but relevant local planning authorities have accepted that this land-take is justified. Minor changes to the application at Waltham Cross substation mitigate these to the extent feasible by reducing the extent of building required and setting it back from the compound perimeter. Appropriate landscaping will manage the residual effects.
  - The proposal will affect the Enfield Lock Conservation Area. There will be some additional harm to the Prince of Wales Field public open space due to footpath diversion and an extended southern sealing end compound at pylon ZBC19 (a minor change), but this can be managed through appropriate landscaping. The harm there enables the removal from the proposal of a substantial fire wall on the southern boundary of Brimsdown Substation, which if retained would have had significantly adverse local effects. It is therefore on balance, justified.
  - Impacts due to the underground cable 'bypass' at Tottenham Marsh are temporary and / or can be adequately managed by landscaping.

## **CONCLUSIONS**

- 5.17 Based on the analysis set out above and taking all relevant policy into account:
- There is an urgent national need to provide additional transmission capacity to move electricity into London, meeting anticipated increased demand.
  - The selection of an existing transmission alignment as the means of meeting this need and the decision in the main to utilise existing pylons with considerable unexpired life to carry the upgraded conductors have reduced additional impacts over those emerging from the existing alignment to a very low level of significance.
  - Whilst there is an argument that the impacts of a complete alignment replacement when compared with those of the existing alignment to be upgraded could possibly have been revised to lead to a net reduction (or enhancement), the justification for such an approach is not present on the basis that it would require significant additional financial investment (cost) for only very limited additional benefit. Additional decommissioning works to the existing alignment and construction works for its replacement would be required

for such an approach, significantly increasing its non-operational effects over those of the chosen approach. Further, a significant component of any additional benefit (which would largely relate to visual impact in the Lee Valley Regional Park landscape) would be largely offset by the ongoing presence of the adjacent transmission alignment, an upgrade to which is not part of the current proposal.

- 5.18 Clearly, there are some local adverse impacts and these have been discussed in Chapter 4. However:
- none are sufficient to outweigh the benefits of the application proposal; and
  - mitigation to the extent that is justified has been proposed and/or is provided for in the Recommended Draft DCO or agreements that have been reached between the applicant and interested parties.
- 5.19 Although of substantial length and traversing landscapes and townscapes of considerable complexity in the UK's capital city, the application proposal is in large part an upgrade to an existing transmission alignment, close to the boundary at which development consent would be required. The applicant has put substantial effort into managing and mitigating its effects. What could have been a difficult project has been well-managed in siting and design terms to enable its delivery with the minimum realistically achievable adverse effects.

## 6 THE DEVELOPMENT CONSENT ORDER & REQUIREMENTS

6.1 This chapter of the report addresses the Development Consent Order.

6.2 It contains two main parts:

- **Part A: From the Application to the Applicant's Preferred Revised Draft** summarises changes proposed during the early part of the examination, up to and including the DCO issue-specific hearing.
- **Part B: Towards the Recommended Draft DCO** addresses a second stage, in which I sought written representations from the applicant and interested parties a revised draft DCO that I issued, taking all matters raised up to that point into account. It forms the basis of my Recommended Draft DCO, which is included as Appendix F to this report.

### **PART A: FROM THE APPLICATION TO THE APPLICANT'S PREFERRED REVISED DRAFT**

6.3 The applicant submitted a draft DCO [APP 16] and explanatory memorandum [APP 17] with the application.

6.4 Before the issue-specific hearing on the DCO, written representations, responses to my written questions and the extensive statement of common ground process had led the applicant to propose a range of amendments to this version of the DCO to address issues that had been raised. A document referred to as DCO1 [HR 28] setting out the applicant's proposed revisions was tabled at the DCO issue-specific hearing.

6.5 Significant inputs were made in oral submissions at the DCO issue-specific hearing, in relation to issues raised by the Environment Agency, English Heritage, Enfield Council, The London Borough of Haringey and the Lee Valley Regional Park Authority. Relevant documents submitted by these bodies at the hearing include document HR 31 provided by the Environment Agency, outlining its proposed draft requirement approach to managing flood storage.

6.6 Following the DCO issue-specific hearing, the applicant issued a further consolidated draft DCO [REP 115], taking all of the issues raised at the hearing into account. It provided reasoned responses to them, setting out the degree to which they supported particular requested changes or not [REP 116]. This approach was supported by tracked changes documents recording the positions of other interested parties which had entered into discussions with the applicant in respect of issues raised during their contributions at the DCO issue-specific hearing:

- Lee Valley Regional Park Authority [REP 117]; and

- Enfield Council [REP 118].
- 6.7 All submissions at this stage took full account of the changes to the application proposed in the applicant's minor changes to the application [REP 35 to 38].
- 6.8 A full audit trail of the development of the DCO up to this point and reasoning on it can be found in the documents referenced from paragraph 6.3 to 6.7 above. The applicant's reasoned responses to DCO change proposals submitted after the DCO issue specific hearing [REP116] is a useful document which provides a detailed record of the various changes proposed and the applicant's response to them.
- 6.9 The key matters relating to my Recommended Draft DCO emerging from these documents and from the DCO issue-specific hearing which I consider to be important and relevant are as follows.

#### **In relation to articles and schedules**

- Definitions: and particularly the need to define and engage relevant processes in the DCO with the Lee Valley Regional Park Authority and to refer to English Heritage using its official title as the Historic Buildings and Monuments Commission for England.
- The need for precision around the definition of 'maintain' and the activities comprised within it, with the potential for too broad a definition to authorise works not proposed in the application or assessed in the ES.
- The time period in which an application for consent or approval made to an authority under the DCO should be determined.
- The related question of whether there would ever be any circumstances in which an authority to whom an application for consent or approval could be made under the DCO would be entitled to extend the time period for determination.
- Whether any application should ever be made directly to the Lee Valley Regional Park Authority, or whether it should be defined as a consultee in respect of applications made to local planning authorities.
- Similar questions arose in respect of the role of the Environment Agency, Natural England and highway authorities.
- The need for, the best process to provide for and the timescale for appeals, should a relevant authority's decision not be made within the relevant time period provided in the DCO, where there was a refusal or where the applicant considered that an information request by an authority was unreasonable.
- The related question of to whom disputes should be referred, provisions relating to arbitration and the appropriateness of

using a person appointed by the president of a chartered institution as an arbitrator and, if so, what institution was best placed to appoint an arbitrator.

- Whether the definition of highways, streets and rights of way and the means of framing the powers relating to these were sufficiently certain and precise.
- Given that most affected streets are rights of way of the nature of footpaths, cycle ways and bridleways it was important to be sure that provisions applying to streets would equally apply to rights of way.
- There was debate as to whether emergency vehicle access provision needed to be made for streets (particularly where these were public rights of way)
- Assurances were sought that works including repairs to be carried out to streets by the applicant under the DCO would be of an appropriate standard and would not give rise to a later cost burden on local authorities;
- Greater notice of proposed street works was sought, together with their adherence to particular local authority specifications;
- Specific fee provisions were requested, under which a local authority's work to assess or agree street works could be charged to the applicant.
- The appropriate breadth of powers in relation to the acquisition of rights and imposition of covenants.
- The appropriateness of compensation provisions where land containing a building was subject to temporary possession and the building was lost or damaged. Should there be financial compensation in lieu of repair or replacement, or should a building have to be physically replaced.
- Whether 14 days was sufficient notice of the intention to take possession of land, or whether 28 days would be a more appropriate period.
- Whether the submitted Trees to be Removed Plans [APP 13] setting out the basis for tree and vegetation works applied to too much land and vegetation and were too generic in effect and should be replaced by a more detailed vegetation removal plan.

### **In relation to requirements (Schedule 2)**

- Definitions and provision for the best means of ensuring that mitigation measures proposed in the ES ('Environmental Measures') were implemented, without having to include all relevant volumes of the ES with the approved plans, by reference to an 'Environmental Measures' document. This document was submitted by the applicant [REP 119 – 120].
- The definition of 'commence', ensuring that works of demolition, site clearance and de-vegetation could not proceed before the approval of relevant plans.
- The preparation and approval by local planning authorities of a plan showing the stages of authorised development, in

consultation with the Lee Valley Regional Park Authority and the relevant highway authority.

- Provision for carrying out works in accordance or general accordance with approved details.
- Provision of landscaping schemes for each stage of works to be submitted to and approved by the relevant local planning authority, with the Lee Valley Regional Park Authority as a consultee for all proposals in its area, to show amongst other things, retained landscape features, the dimensions and materials for any new sections of pedestrian or cycle paths and the colour of any permanent security fencing around infrastructure.
- A requirement that all landscaping works must reflect the 'Environmental Measures' document.
- English Heritage and Enfield Council remained concerned that the proposed works including the minor application changes at Brimsdown Substation and pylon ZBC19 did not include a sufficiently clear response to the character and appearance of Enfield Lock Conservation Area. Specific provision that landscaping works at Brimsdown responded to the character and appearance of the Enfield Lock Conservation Area to the satisfaction of the local planning authority addressed this point.
- Provision for the submission of highway access plans and the approval of details under them by the relevant highway authority.
- Specific provisions for a detailed specification for an alternative right of way for footpath V at Angel Road.
- Provision for construction traffic management plans and the approval of details under them by the relevant highway authority.
- Provision for written details of surface and foul water drainage systems (including means of pollution control) in consultation with the relevant sewerage and drainage authority and the approval of details under them by the relevant local planning authority. This provision was key to the resolution of concerns raised by Natural England and the Environment Agency in respect of the possible effects of the project on water quality and the environmental carrying capacity of waters in the Lee Valley SPA and Lee Valley Ramsar Site.
- Provision for written details of a scheme for managing contaminated land and groundwater, in consultation with the Environment Agency and the approval of details under them by the relevant local planning authority. The Environment Agency remained concerned that relevant preliminary investigations of land and groundwater contamination had not been completed by the applicant and requested investigation and assessment plans and reports prepared by a specialist consultant in consultation with the Environment Agency to resolve any outstanding contamination issues.

- Provision for a written Ecological Management Strategy, in consultation with the Environment Agency, Natural England and (where it relates to land in the park area) the Lee Valley Regional Park Authority and the approval of details under them by the relevant local planning authority. This sought to address outstanding concerns from Natural England and the Lee Valley Regional Park Authority about the effect of the project on environmental values, on protected sites and species. The applicant sought to tie this to the Environmental Measures document [REP119].
- Provision was included in the DCO enabling approvals or agreements in writing by the relevant local planning authority. There was discussion about whether the scope of this approval could extend to matters that were minor changes to the application, or whether they should be confined to being in general accordance only.
- Amendment to approved details in writing by relevant local planning authorities was suggested as needing to entail consultation of relevant third parties, as provided for by the specific article or requirement in the DCO.
- The application DCO included a requirement providing for a Construction Environmental Management Plan to be approved by the relevant local planning authority, which again was key to the avoidance of impacts on key environmental assets such as European Sites and protected species. Examination highlighted the need for this to refer to the proposed Environmental Measures document [REP119] and to be subject to consultation with the Lee Valley Regional Park Authority where it refers to any land in the park area.
- In respect of archaeology, provision for a written scheme of investigation of areas of archaeological interest, in consultation with English Heritage and the approval of details under them by the relevant local planning authority. This would identify the need for and target field work and watching briefs and set protocols for professional standards and measures for the recording, protection or preservation of any artefacts.
- The Environment Agency remained concerned that flood storage provision at Brimsdown had not sufficiently addressed the effects of the works shown in the minor changes to the application (Work no. 7A – change to the cable bridge and 7B – the installation of new sealing end compounds at pylon ZBC19). A written scheme for compensatory flood storage was requested by the Environment Agency, to be approved by it in consultation with Enfield Council.
- Provision that where there are any applications to relevant local planning, highway or street authorities for approvals relating to land in the Lee Valley Regional Park area, the applicant should provide the Lee Valley Regional Park Authority with written notice of the application.

## **In relation to legal agreements**

- A legal agreement was sought in response to issues raised by Lee Valley Regional Park Authority, providing for natural environment enhancement measures funded by the applicant. The applicant made a purported planning obligation by way of a unilateral undertaking to address this request. I consider that such an obligation is not necessary (see Chapter 4 Part F of this report above).
- A second legal agreement was sought by Lee Valley Regional Park Authority [REPs 45 – 61] relating to specific physical enhancement works that were not related to the natural environment but were rather oriented towards improving the park visitor experience. The applicant did not offer to enter into such an agreement. I again consider that such an agreement is not necessary (see Chapter 4 Part F of this report above).
- A third legal agreement was sought by Enfield Council [REP105] to provide for landscaping in the environs of Brimsdown Substation, to manage effects on the character and appearance of Enfield Lock Conservation Area. The applicant did not offer to enter into such an agreement. I again consider that such an agreement is not necessary (see Chapter 4 Part H of this report above).

6.10 Individual changes proposed to the DCO before the conclusion of the DCO issue-specific hearing are not reported in detail on the basis that:

- many interventions related to the development of agreed positions in respect of detailed points; and
- many of the points raised individually at this stage were then consolidated within documents submitted by the applicant and interested parties submitted after the DCO issue-specific hearing which are identified in Part B below.

## **PART B: TOWARDS THE RECOMMENDED DRAFT**

6.11 This part sets out my detailed reasoning on all changes proposed, in response to issues which arose in written submissions and at the DCO issue-specific hearing, once these had been further considered by the applicant in its consolidated draft DCO [REP 115]. It addresses the changes that I included in my version of the DCO [PD 39], which sought to draw submissions together and seek views on the form of DCO that I might recommend.

6.12 It also takes account of representations made by the applicant [REPs131 – 133 and 139 - 142], the Lee Valley Regional Park Authority [REPs129 – 130 and 138], English Heritage [REP126],

the Environment Agency [REPs127 and 137], the Highways Agency [REP128 and 135<sup>29</sup>], Natural England [REPs134 and 143] and Enfield Council [REPs125 and 136] , in response to my revised draft DCO. .

- 6.13 I firstly address general matters relating to interpretation, consultation of bodies pursuant to articles and requirements, applications pursuant to articles and requirements, appeals in respect of any application processes and mediation where there is disagreement.
- 6.14 I then consider individual changes of substantive content proposed to articles, requirements and the paragraphs within schedules. Most of the changes that I recommend are minor. However, in recommending them, I am satisfied that they do not change the application proposal's compliance with relevant policy, and they give effect to positions agreed between the applicant, interested parties and invited persons or add further clarity and precision to the drafting of the DCO. Finally, I draw out the matters that I consider to be important and relevant, arising from Chapter 4 of this report above and set out how my Recommended Draft DCO has addressed them.

#### **DCO ARTICLES: GENERAL MATTERS**

- 6.15 All of the issues set out in this part of the report are identified in the documents referred to in paragraphs 6.11 and 6.12 above, unless a specific additional document is cited.

#### **Article 2: Interpretation**

- 6.16 My consideration of this article raised the following issues.
- 6.17 In article 2(1), the applicant had sought to **qualify all definitions by adding the term '*unless the context requires otherwise.*'** I considered that the addition of this term reduced the certainty of definitions in the DCO and proposed that it should not be added to the DCO. The **applicant agreed to my proposed change** and my recommended DCO does not include this change.
- 6.18 I proposed that **where the article defines 'the access / rights of way plans', 'the design drawings and sections', 'the environmental features locations plans', 'the heritage plans', 'the land plans' 'the sections', 'the special category land/replacement land plans' and 'the works plans', it should also refer to the numbers of the submitted plans as certified by the Secretary of State.**

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<sup>29</sup> REPs 128 and 135: the document library records two representations from the Highways Agency. Both contain the same information.

- 6.19 The applicant was concerned that plan numbers should not be included in this article, as to do so could lead to confusion if plans were amended. Also, having regard to the linear nature of the application proposal, the inclusion of plan numbers in definitions was viewed by them as setting an unwelcome precedent for other and potentially longer and more complex linear proposals.
- 6.20 I take the view that there should be certainty about which submitted plans constitute the definitive plans and the insertion of the numbers of the plans that are certified by the Secretary of State provides for this. I note that the applicant has requested the substitution of some plans (see chapter 4 part H above and paragraph 6.24 below) and if this is to be provided for then their listing is necessary to add to certainty.
- 6.21 I note that there are a number of other ways that such certainty could be achieved, including making reference from definitions in article 2 to a new schedule listing the plans. Such approaches could address the applicant's concerns about unwelcome precedents in terms of the need to list a lot of plans in the interpretation article for DCOs applying to larger linear schemes, but do not appear to be justified in this relatively short scheme. They also appear to be undesirable, as they would require substantial structural changes to be made to the DCO late in the examination process.
- 6.22 Turning to the question of amended plans, given that this DCO adopts a Rochdale envelope approach, defines reasonably wide limits of deviation and defines suites of details that are subject to later approval pursuant to individual articles and requirements, it does not appear to be likely or appropriate that there will need to be revisions to the plans certified by the Secretary of State.
- 6.23 On balance, I **recommend** that where the order defines a particular set of plans it should also refer to the numbers of the submitted plans.
- 6.24 In making the change set out in paragraph 6.23 above, I also note that the applicant has submitted revised plans to support minor changes to the application [REP36]<sup>30</sup>, to provide for the retention of access to the Bittern Information Point at Waltham Cross [REP124]<sup>31</sup> and to clarify minor lot changes in the Book of Reference [REP 142]<sup>32</sup>. I am satisfied that none of the changes are material. I have therefore substituted the revised plans under these references for the plans originally submitted with the application and **recommend** accordingly.

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<sup>30</sup> Chapter 1 paragraph 1.22 et seq. and Chapter 4 Part H

<sup>31</sup> See 2 above.

<sup>32</sup> See 2 above.

- 6.25 In **defining 'authorised development'** the applicant sought to include 'or any part' of such development as authorised. Interested parties raised general concerns about the need for precision in the DCO, in terms of what was authorised. On that basis, I considered the removal of this addition.
- 6.26 The applicant objected to its removal, on the basis that for a long linear project, flexible implementation may be necessary in part. I have considered the balance of possible harm to the interests of interested parties due to the inclusion of this provision as against possible harm to the delivery of the project, should an issue emerge that frustrates its complete delivery but where an operational uprating can still be carried out.
- 6.27 An example might relate to a delay in the delivery of flood compensation works at Brimsdown. In such circumstances, it would still be possible to re-conductor the ZBC line and connect Waltham Cross to Tottenham at 400kV. In the absence of sealing end compounds adjacent to pylon ZBC19, an off-take at Brimsdown could not be constructed. In these circumstances, a construction of 'any part' of the works would have enabled the primary connection to central London to have been made and the objective of the reinforcement to be met. It appears on balance prudent to enable this flexibility.
- 6.28 For these reasons, I **agree to the applicant's proposed change** and do not seek to sustain my deletion.
- 6.29 I consider that it would benefit the certainty of the order by **defining 'electric line'** as having the meaning given by section 64(1) of the Electricity Act 1989. The applicant agrees with this proposed change, which I **recommend**.
- 6.30 The order as applied for did not **define the Lee Valley Regional Park Authority**, despite containing provisions empowering delivery that would significantly affect that authority and its land. The park authority requested that it should be defined and the applicant agreed to do so. Definition assists the drafting of later provisions that address the park authority's concerns and I **recommend** this change.
- 6.31 The order as applied for also made extensive references to the capacity and functions of **highway authorities, local authorities and street authorities**, without defining them. I considered that they should be defined in article 2(1). The applicant agreed with my proposal and I **recommend** the relevant changes.
- 6.32 Interested parties made submissions on the **definition of 'maintain'** in article 2(1), calling for it to be clarified that maintenance should not provide for works that were not within the Rochdale envelope, not having been assessed in the ES. Similarly,

it was requested that maintenance should not be drafted to include operations of a new nature or character, not described or shown in the application documents or plans. They were concerned to avoid additional and un-assessed landscape, visual, townscape, heritage or natural environment impacts or to exacerbate the adverse effects of the alignment on the Lee Valley Regional Park.

- 6.33 In my revised draft DCO, I proposed to reframe the definition of 'maintain', which previously read as follows:

*"maintain" includes to inspect, repair, adjust, alter, enlarge, remove, reconstruct and replace, relay, or extend'*

by deleting the terms 'alter', 'enlarge', 'relay' and 'extend'. These appeared to be terms most able to be interpreted in ways that might extend maintenance beyond its normal meaning, leading to disputes about the authorisation of new works and breaches to the Rochdale envelope.

- 6.34 The applicant responded to interested party concerns by volunteering to remove the terms 'enlarge' and 'extend' from the definition of maintenance. I **recommend** that the terms 'enlarge' and 'extend' should be deleted accordingly.

- 6.35 However, the applicant remained concerned that it would need to do works within the operational life of the application proposal that are normally part of the maintenance of a transmission line, which could not be carried out if the terms 'alter' or 'relay' were deleted. 'Alter' was submitted to be part of a normal suite of terms used to define maintenance in Transport and Works Act Order definitions. Hence, its meaning was well understood and it would not have the effect that had given rise to interested party concerns about uncertainty. 'Relay', whilst not a standard term in Transport and Works Act Order definitions of maintenance was submitted to be the appropriate term for the maintenance of cables and wires and is also seen as a vital term. The applicant anticipates that works within the meanings of alter and relay will be vital during the operational life of the application proposal. For these reasons, I **agree to the retention** of these terms.

- 6.36 However, I consider that it is important to acknowledge that interested parties had valid concerns about the possibility that works falling within the definition of maintenance that might vary the description of the authorised development. It is important to ensure that works are not constructed in ways that lead to additional and un-assessed landscape, visual, townscape, heritage or natural environment impacts or exacerbate the adverse effects of the alignment on the Lee Valley Regional Park. I consider that this can be addressed by adding the following formulation to clarify the definition:

*“maintain” includes to inspect, repair, adjust, alter, remove, reconstruct and replace or relay, but not so as to vary from the description of the authorised development in Schedule 1 and any derivative of “maintain” shall be construed accordingly.’*

- 6.37 I **recommend** this change accordingly.
- 6.38 I proposed a minor revision to clarify that **‘the Order limits’** are the *‘limits shown on the works plans as the limits within which the authorised development may be carried out’*. The applicant does not object and I **recommend** accordingly.
- 6.39 I proposed a minor revision to clarify that references to a **‘relevant planning authority’** are to the *local* planning authority. The applicant does not object and I **recommend** accordingly.
- 6.40 **Articles 2(2), (3) and (4)** all gave rise to interested party concerns because, as set out in the draft DCO submitted with the application, they appeared to import approximations or reduce the certainty or precision with which land, distances and dimensions subject to or provided in the order were defined. Enfield Council and the Lee Valley Regional Park Authority were concerned that the limits of deviation provided for in article 6 were extensive enough and should be interpreted precisely, to ensure that the order was not argued to justify effects on any land, persons or environmental assets that had not been identified or assessed in the application documents. Again, the need to ensure that the works remained within the Rochdale envelope was raised.
- 6.41 As a means of addressing these concerns, I proposed to make these articles subject to article 6 (the limits of deviation), ensuring that these limits (as defined) became the absolute outermost limits for the effects of works.
- 6.42 Countering this position, the applicant submitted that articles 2(2), (3) and (4) as originally drafted adopted standard approaches to drafting, preceded in previous orders. The flexibility inherent in the original drafting was necessary to provide for possible minor deviations that may occur. In relation to article 2(3), the applicant submitted that making this subject to article 6 would mean that even a 1cm exceedence of the limits of deviation would be a failure to comply with the DCO, leading to a criminal offence. They did not intend such an exceedence but it was not impossible that it might occur and such an outcome was not appropriate. In relation to articles 2(2) and 2(4), the applicant made clear its view that provisions in relation to rights and to land areas in the Book of Reference could not usefully be tied to the limits of deviation in article 6.
- 6.43 I accept the applicant’s reasoning. The changes proposed to articles 2(2) and 2(4) would not achieve the certainty sought by

interested parties as those provisions do not relate directly to concerns about undue flexibility in the location of works that the interested parties had expressed. The change proposed to article 2(3) would lead to greater certainty, but also to a level of rigidity that would, having regard to the nature of the application proposal, be unreasonable. I **agree to the retention** of the original drafting of these sub-articles.

### **Application of Schedule 3: Applications made under requirements**

- 6.44 The applicant proposed to add Schedule 3 to the DCO at the DCO issue-specific hearing. This schedule provides a process for the discharge of all requirements where the approval of a relevant authority is required, set out at paragraphs 1 and 2 of the schedule.
- 6.45 On the basis that these are planning, highway and street approval applications made to local planning, highway and street authorities, one possible approach could have been to incorporate approval processes under the relevant Town and Country Planning, Highway and Street legislation, which was essentially the approach preferred in principle by Enfield Council.
- 6.46 The applicant sought to define a special process because it was concerned that existing statutory processes would not reflect the priority that should be accorded to a nationally significant infrastructure project, would take too long and could threaten the achievement of works within the planned and scheduled windows for network outages, posing raised risks of poor network conditions and unplanned service loss to customers. Delivery of works during the summer months when energy demand was forecast to be low was important to maintain supply to electricity users in London as a whole. Adherence to a summer schedule was also important to prevent disturbance to wintering birds in European Sites.
- 6.47 For these reasons, the applicant considered it was necessary to limit the application process to a period of 28 days, to place a 'reasonableness' requirement on any requests for further information and to require these to be issued within 7 business days (or be deemed to have sufficient information, in the absence of the undertaker agreeing to supply more). The undertaker in turn would be bound to respond to information requests within 7 business days either supplying the information or indicating why a request is considered to be unreasonable.
- 6.48 The approach sought by the applicant is similar to that included in the approved Hinkley Point C (Nuclear Generating Station) Order 2013.

- 6.49 I sought to test the reasonableness of these special provisions and the proposed timescales, on the basis that it might be argued that the application proposal did not benefit from quite the same special justification as the Hinkley proposal. The local planning authorities expressed concerns about their timescales and the cost of meeting their timescales.
- 6.50 The applicant highlighted drafting in the provisions of Schedule 3 which ensured that timescales related only to business days and that fees were payable for work done, tied to the fees payable for the discharge of conditions attached to planning permissions granted pursuant to the Town and Country Planning Act 1990 (as amended).
- 6.51 Having considered the concerns raised, I am satisfied that if such applications are not made and determined expeditiously, delivery of the application proposal within the scheduled outage windows could be harmed. Bearing in mind that delivery timescales have been carefully calculated to mitigate harm to European Sites and species and to ensure that works are carried out at times when forecast network demand can accommodate the necessary outages, small delays could have the effect of setting delivery back by an entire year. Major works carried out in the winter would not be within the Rochdale envelope for this project as their effects on the European Sites and species have not been assessed in the ES. Setting the project back by a year is undesirable too, as this would be a year in which electricity demand in central London is forecast to grow, hence further constraining the delivery of the project in successive years.
- 6.52 I find that there is a strong need for the timely delivery of the project and the expeditious delivery of the application proposal on programme. This justifies the inclusion of strictly time-scaled procedures for the discharge of requirements.
- 6.53 Fees payable at the same rate as for the discharge of planning conditions on balance appear to be reasonable. They are independently set, certain and subject to an independent process for upward revision.
- 6.54 For these reasons, I **recommend** that the Secretary of State should include Schedule 3, paragraphs 1 and 2, as proposed by the applicant.

### **Articles 11, 14, 15, 17 and 45 with Schedule 3: Appeals**

- 6.55 At the DCO hearing, the applicant proposed to include an appeals process to manage circumstances where an approval is required under an article or a requirement in the DCO. The proposed process is set out at paragraphs 3 and 4 of Schedule 3.
- 6.56 The process proposed by the applicant was that the Secretary of State would appoint a person to determine any appeal. This

provision was acceptable to the interested parties and invited persons and, having regard to the issues raised in respect of arbitration below (paragraph 6.76 et seq), where interested parties objected to the appointment of an arbitrator by a person other than the Secretary of State, there are good reasons why the Secretary of State should appoint a person in this way.

- 6.57 Authorities subject to this procedure were concerned about the bespoke nature of the approach chosen. I put it to the applicant that it could have incorporated an appeal process by reference to section 78 of the Town and Country Planning Act 1990, as amended. Authorities were also concerned about the short timescales proposed for written representations under this procedure (initially seven working days).
- 6.58 The applicant made clear that Town and Country Planning Act (1990) appeals procedure was open to the same objection that applied to un-expedited procedures for the discharge of requirements. Prescribed appeal timescales under that legislation were likely to mean that relevant appeals could not be determined within a time period sufficient to retain the work programme on track. This could cause the same network, customer and natural environment risks identified in paragraph 6.46 above.
- 6.59 The appeal procedure as submitted at the DCO issue-specific hearing contained particularly tightly defined timescales, requiring written representations to be made and responded to in seven business days. Authorities prospectively subject to this provision were concerned that this was an unreasonably short time in which to prepare their statements for what might be a particularly important appeal.
- 6.60 I put it to the applicant that a period of two working weeks (10 business days) should be allowed for the making of written representations. The applicant agreed.
- 6.61 I **recommend** that paragraph 3, sub paragraph 2 (d) and (e) should be amended to revise the written representations timescales to ten business days.
- 6.62 Articles 11, 14, 15 and 17 each provide for a consent by a person or authority before certain things may be done, as summarised in the table below:

Article	Approval required
Article 11	Consent of the relevant street authority for works in and alteration to the layout of streets
Article 14	Consent of the relevant street authority for temporary stopping up of streets (other than as provided for in Schedule 6)

Article 15	Consent of the relevant planning authority for forming and laying out means of access (other than as provided for in Schedule 7)
Article 17	Owner's consent for discharge into any watercourse, public sewer or drain

- 6.63 On the basis that it was the applicant's intent that all consent processes arising under articles and requirements should be subject to a clear and expedited appeal process, I suggested that these articles should be subject to the appeal process provided in Schedule 3.
- 6.64 The applicant agreed.
- 6.65 I **recommend** that Schedule 3, paragraph 3, sub paragraph 1 (a) of the DCO should be amended to include consents under these articles within the proposed appeal mechanism.
- 6.66 I **recommend** that each of these articles should be amended to apply the appeal process in Schedule 3 to them. In making this recommendation, I note that where these articles contain a deemed consent in circumstances where a decision is not made within a fixed timescale, there will be no need to include an appeal against non-determination. Relevant provisions have been removed in my recommended DCO.
- 6.67 The applicant has amended the DCO to include Article 45 which provides for all consents, agreements or approvals granted under the requirements in Schedule 2 to be subject to the appeal procedure in Schedule 3.
- 6.68 I proposed that Schedule 3 paragraph 4(2) should provide that a person appointed by the Secretary of State to conduct an appeal should be entitled to disregard late representations. The applicant did not object. Having considered the wording that I proposed, I consider that better drafting would be that the appointed person 'may disregard' such representations, which preserves their discretion to consider them, if it is in the public interest or necessary to respond to the rules of natural justice to do so.
- 6.69 The specified and expedited nature of this appeals procedure and its application to decision-making in the discharge of requirements are justified, for the reasons I set out above.
- 6.70 I **recommend** that the appeal process in Schedule 3 should be applied to decision-making in the discharge of requirements, with the changes I set out above.

### **Consultation of statutory bodies pursuant to articles and requirements**

- 6.71 The applicant explained its position that where a consent, agreement or approval is required under the DCO, this should normally be made by the relevant local planning authority or the relevant highway or street authority (in whose area the relevant works would occur). This general principle is sound.
- 6.72 However, the nature of the approvals provided for in requirements meant that matters were being decided that could relate to and affect the functions of the Lee Valley Regional Park Authority, the Environment Agency, English Heritage and Transport for London.
- 6.73 As applied for, the DCO did not provide for the Lee Valley Regional Park Authority or English Heritage to be consultees, or for the Environment Agency to be involved as fully as it had requested. The applicant proposed a number of revisions, to address concerns, clarifying that these bodies would be consulted on appropriate applications for consent. The Lee Valley Regional Park Authority would be consulted where a relevant consent relates to land within its boundary. Having regard to the tightly prescribed timescales for determinations, it also requested and the applicant agreed to provide for it to be notified when applications relating to it are submitted to other authorities. English Heritage noted the proposed changes and requested to be referred to using its formal title as the Historic Buildings and Monuments Commission for England. Transport for London [REPs42 – 44] was concerned, particularly in relation to consultation of it as a highway authority and for the inclusion of appropriate protective provisions relating to it.
- 6.74 Subject to the consideration of individual provisions below, I am satisfied that the proposed changes do provide for consultation of and engagement of these bodies in appropriate circumstances.
- 6.75 I **recommend** that these bodies should have formal standing as consultees for applications as set out in my Recommended Draft DCO.

#### **Article 46: Arbitration**

- 6.76 Article 46 provides for arbitration on any difference under any provision of the DCO, unless otherwise provided for or agreed between the parties. This provision is important for any matter of dispute that is not subject to the appeal process in Schedule 3.
- 6.77 The draft DCO as applied for and the applicant's preferred draft DCO proposed agreement of an arbitrator between parties or, in the absence of agreement, arbitration by a person appointed by the President of the Institution of Civil Engineers (ICE). Representations by interested parties suggested that this provision did not enjoy widespread agreement or support. Other possible bodies and institutions were suggested as appropriate to appoint

an arbitrator, but there was no general agreement. The applicant sought to sustain the President of the ICE.

6.78 On this basis, I proposed that in the absence of agreement on an arbitrator, arbitration should be by a person appointed by the Secretary of State. The Secretary of State is my preferred appointer because of his responsibility for the DCO and established standing in public and administrative law. The applicant did not oppose this suggestion.

6.79 I **recommend** that the DCO should be amended to provide that the Secretary of State is the default appointer of an arbitrator where the parties cannot agree on an appointment.

### **DCO ARTICLES: SPECIFIC MATTERS**

6.80 All of the issues set out in this part of the report are identified in the documents referred to in paragraphs 6.11 and 6.12 above, unless a specific additional document is cited.

#### **Article 3: Application and modification of legislative provisions**

6.81 In response to changes in the structure of the DCO, the applicant seeks to tie this article to what is now Schedule 10. I proposed to clarify that it relates to 'compensation *for* the compulsory purchase of land...' not to 'compensation *on* the compulsory purchase of land...'

6.82 There were no objections to these changes, which I **recommend** accordingly.

#### **Article 4: Development consent etc. granted by the Order**

6.83 Two issues arose in relation to this article. It was necessary to test the drafting of the article and particularly whether the words used in both sub article (2) and (3) were both required.

6.84 I took the view that the drafting in **sub article (2)** did not necessarily require the words 'may install', although I note that the applicant's submission that it is necessary to confirm that it has the power to install the line under PA 2008 s16. I **agree to the retention** of the original drafting of this sub-article.

6.85 I took the view that **sub article (3)** as drafted in the draft DCO as applied for was reiterative of sub article (2) and unnecessary. I proposed its deletion and the applicant did not disagree. I **recommend** accordingly.

6.86 Article 4(4) of the draft DCO as applied for will become article 4(3) further to the change in paragraph 6.85 above. Interested party concerns to increase certainty around the limits of deviation led to discussion at the issue-specific hearing about how this should be

achieved. I initially proposed referencing the works plans in this sub article, but on investigation I am content that a reference to the sections (as defined in article 2(1)) is sufficient. The applicant sought *general* accordance with the levels shown on the sections for equivalent reasons to those set out above in respect of operational flexibility.

- 6.87 I agree the applicant's amendment and otherwise accept and **recommend** article 4(3) as now numbered without further change.

#### **Article 6: Limits of Deviation**

- 6.88 For reasons set out above, concerns by interested parties to increase certainty around the limits of deviation led to discussion at the issue-specific hearing about how this should be achieved. I indicated that I would give consideration to the provision in this article, to consider whether any greater precision could be provided in particular respect of vertical deviation.

- 6.89 Concerns were raised about the lack of a defined downwards limit of deviation and about the possible filling or excavation of land. I proposed revisions to address these.

- 6.90 The applicant raised concerns in response that the absence of a downwards limit of deviation related to the new pylons proposed in the application, where, depending on ground conditions, up to 30m of piling could prove to be required. It was not appropriate to further limit deviation as the authorised development (as provided for in article 4 and Schedule 1) contained sufficient constraint.

- 6.91 I agree the applicant's reasoning and accept and **recommend** this sub article without further change.

#### **Article 7: Benefit of Order**

- 6.92 I raised the applicant's proposal to provide for the transfer of the benefit of the Order to its successors in title in article 7. The applicant was concerned to ensure that should National Grid Energy Transmission plc (National Grid) rename itself, be taken over or demerge, such a provision would transfer the benefit of the order without any special action being required.

- 6.93 I consider that the only provision for any person other than National Grid to enjoy the benefit of the order should be that appearing in article 8 (requiring the consent of the Secretary of State). No harm is done by this change as, in relation to a regulated entity such as the applicant, there is not likely to be any renaming, take over or demerger without regulatory consent being required in any case. I therefore **recommend** that references to successors in title should be deleted. For certainty, I also

**recommend** that the applicant's company number should be included in this article.

- 6.94 I have considered the appropriateness of the remainder of this article and am content to **recommend** it as drafted in the application DCO.

### **Article 8: Consent to transfer benefit of Order**

- 6.95 In the explanatory memorandum, the applicant made clear that it sought to exclude the operation of PA 2008 section 156(1), under which the benefit of the Order would run (in the normal manner) with the land to which it relates. I considered it was necessary to test the basis for a departure from this normal provision and proposed a form of words that would reapply this section.
- 6.96 The applicant responded, requesting that section 156(1) should remain over-ridden as the benefit of the order should not go with the land, but should only go with National Grid or another relevant transmission undertaker.
- 6.97 I accept this reasoning and **recommend** that this article should not be amended to apply the benefit of the Order to the land and hence no consequential re-numbering is required.
- 6.98 The applicant proposed to amend what is now article 8(2) in my Recommended Draft DCO to refer to a transfer or grant, conforming the wording with powers to transfer under what is now article 8(1) (a) and grant under article 8(1) (b), again in my Recommended Draft DCO. I **recommend** this technical amendment.

### **Part 3: Streets generally**

- 6.99 Interested parties, particularly Transport for London [REPs42 - 44], Lee Valley Regional Park Authority and Enfield Council had been concerned to ensure that works including repairs to be carried out to streets by the applicant under the DCO would be of an appropriate standard and would not give rise to a later cost burden on local or highway authorities. Greater notice of proposed street works was sought by Enfield Council, together with their adherence to particular local authority specifications. Specific fee provisions were requested by Enfield Council, under which a local authority's work to assess or agree street works could be charged to the applicant. Emergency vehicle access to closed streets was raised as a concern by Enfield Council. However, the applicant responded making clear that the streets of concern were public footpaths and that no vehicular access provision was necessary.
- 6.100 By the time of the DCO issue-specific hearing, concerns raised by Transport for London had largely been resolved by agreement and that body did not participate in the hearing.

- 6.101 I wished to be sure that the Order did not confuse powers relating to highways, streets and rights of way. This was important, given the large number and diversity of such routes affected by the Order. The applicant responded by deleting application DCO article 9 relating to public rights of way and consolidating all provisions within the articles and schedules relating to streets.
- 6.102 The definition of 'street' in article 2(1) is tied to section 48 of the New Roads and Street Works Act 1991, which includes any highway. Whilst highways are not statutorily defined, in common law they include public rights of way. On this basis, I am satisfied that making reference only to streets in this part and its related schedules is sufficient to ensure that its provisions apply to public rights of way. I **recommend** no change to its title or to the use of the term street in the DCO. I also **recommend** the deletion of article of the DCO as applied for and the renumbering of successive articles accordingly. Paragraphs 6.103 to 6.145 below refer to the articles as so renumbered.

#### **Article 9: Street works**

- 6.103 The applicant sought to amend this article to clarify that street works are 'for the purposes of *constructing and maintaining* the authorised development'. I wished to ensure the works would take place as shown on the works plan. The applicant did not object to this amendment. No interested party raised any concerns and I **recommend** these changes accordingly.

#### **Article 11: Power to alter layout. etc., of streets**

- 6.104 The applicant sought to amend this article to clarify that street works are 'for the purposes of *constructing and maintaining* the authorised development' and that, where the consent of the street authority is required, it 'should not be unreasonably withheld *and may be granted subject to reasonable conditions*'. No interested party raised any concerns and I **recommend** these changes accordingly.
- 6.105 I proposed and **recommend** the application of an appeal process to this article, as described in paragraphs 6.55 – 6.75 above.
- 6.106 Enfield Council expressed concerns about being properly advised of the location and specification of works that might be carried out under this power. They requested that 'as constructed' plans of any works be lodged with the street authority. The applicant did not object to the provision and I **recommend** its inclusion.

#### **Articles 12 and 13:**

- 6.107 The applicant sought to amend references in these articles to reflect changes to the structure of the DCO and to titles of schedules. There were no objections and I **recommend** inclusion of the changes.

#### **Article 14: Temporary stopping up of streets**

- 6.108 The applicant sought to amend references in this article to reflect changes to the structure of the DCO and to titles of schedules. There were no objections and I **recommend** inclusion of the changes.
- 6.109 As drafted, the draft DCO as applied for provided that 'the undertaker may use any street where the use has been temporarily stopped up, altered or diverted under the powers conferred by this article and within the Order limits as a temporary working site'. To address concerns about the certainty and relevance of DCO powers, I proposed to add the following qualification: 'for the purposes of carrying out the authorised development'. The applicant does not object and I **recommend** this change.
- 6.110 I proposed and **recommend** the application of an appeal process to this article, as described in paragraphs 6.55 – 6.75 above.

#### **Article 15: Access to works**

- 6.111 The applicant sought to amend references in this article to reflect changes to the structure of the DCO and to Schedules. There were no objections and I **recommend** inclusion of the changes.
- 6.112 I proposed and recommend the application of an appeal process to this article, as described in paragraphs 6.55 – 6.75.

#### **Article 16: Agreements with street authorities**

- 6.113 The applicant sought to amend a reference in this article to reflect change to the structure of the DCO. There were no objections and I **recommend** inclusion of the change.
- 6.114 Enfield Council sought the addition of a provision for reasonable costs to be paid to an authority entering into an agreement. The applicant submitted that, of their nature, agreements enable the parties to agree terms which can include costs, and this was envisaged under the existing drafting of article 16(2) (c). I agree and hence I **do not recommend any further change** to this article.

#### **Article 17: Discharge of water**

- 6.115 The Environment Agency had expressed concerns about discharges to groundwaters. I propose to add the term 'groundwaters' to this article in order to ensure that discharges to and possible pollution of groundwaters are adequately controlled. The applicant did not object and I **recommend** accordingly.

- 6.116 I propose to delete the term 'coastal waters' from this article as the works cannot result in a discharge to coastal waters. The applicant did not object and I **recommend** accordingly.
- 6.117 I proposed and recommend the application of an appeal process to this article, as described in paragraphs 6.55 – 6.75 above.

#### **Article 18: Protective work to buildings**

- 6.118 I proposed an amendment to the term 'first becomes operational' to ensure that there is certainty about the date from which this provision applies. The existing ZBC line is already operational and, due to the phasing of works, may not be completely decommissioned, so the concept of first becoming operational does not necessarily assist. Through the exchange of documents with the applicant, the term 'first used for the transmission of electricity at 400kV' emerged as relevant to the particular circumstances of a line upgrade. This appears to establish a certain date for the purposes of this article. I **recommend** the use of these words.
- 6.119 The applicant sought to amend a reference in this article to reflect change to the structure of the DCO. There were no objections and I **recommend** inclusion of the change.

#### **Article 19: Authority to survey and investigate the land**

- 6.120 I proposed the replacement of the term 'scope' in sub articles (1) (b) and (c) with 'generality' as better drafting. The applicant did not object and I **recommend** accordingly.
- 6.121 In sub article (3) (a), I expressed concern that a person entering land on behalf of the undertaker should normally produce evidence of their authority to do so before they enter on the land, not delay its production until after they have entered. However, the applicant noted that as article 19(2) requires 14 days' notice to be served before any entry onto land, an owner or occupier of land could have no reasonable doubt about the purpose of entry. I accept and **recommend** this sub article to remain unchanged.
- 6.122 At the start of sub article (4) (a) I proposed commencement of the sentence with 'in' instead of 'on'. The applicant did not object and I **recommend** accordingly.

#### **Article 20: Temporary closure of, and works in, the canal**

- 6.123 Issues discussed at the DCO issue-specific hearing related to the degree to which the article adequately provided for the intended closure of the towpath. I was concerned that there should be a clear power for such a closure. I was concerned that, as the towpath provides emergency access to and egress from boats, the applicant should ensure that persons in control of boats are made aware where there is a waterway open for navigation but without

a towpath. I was also concerned that the applicant should ensure that persons needing to leave a boat that is in distress in a section of the canal where the towpath is closed, are able to do so, for both the safety of persons and vessels.

- 6.124 The applicant considered that my proposal to require emergency assistance to vessels would place an open-ended and heavy duty on the undertaker. It had indicated willingness in practice to offer assistance but did not wish to be bound to do so. I have considered this position with care and take the view that if the applicant seeks the power to close a towpath beside a canal but the canal remains open to navigation, the applicant must accept the obligation to provide assistance to vessels that would otherwise make emergency use of the towpath. Failure to do so could lead to hazard in the canal and danger to persons. Further, the duty need not be onerous. It can be discharged by (for example) signage providing an emergency telephone number. If contact is made on such a number, it would be for the relevant first responder to seek information and decide in the circumstances whether or not action was warranted, what that action might be and when it might take place.
- 6.125 It follows that I **recommend** amendments to this article to provide a power for towpath closure and requiring the provision of emergency assistance to boats where the towpath has been closed.
- 6.126 I was also concerned that it remained unclear whether there were private rights to use the towpath to be closed. If so, compensation as provided under this article for the loss of private rights of navigation should also be payable. I **recommend** accordingly.

### **Article 21: Moorings**

- 6.127 The applicant sought to amend a reference in this article to reflect change to the structure of the DCO. There were no objections and I **recommend** inclusion of the change.

### **Part 5: Powers of acquisition generally**

- 6.128 I considered the applicant's need for powers to impose restrictive covenants (article 25), to ensure that the exercise of such powers were necessary. The applicant clarified that its purpose in imposing restrictive covenants would be to ensure that nothing is built or brought onto land within the Order limits that could cause a safety hazard in relation to an overhead line or could cover an underground cable. Without such powers, the applicant would need to acquire a larger number of lots to ensure the safe operation and maintenance of the transmission line.
- 6.129 I **accept this rationale** for the imposition of restrictive covenants.

## **Article 22 and 24**

- 6.130 The applicant sought to amend references in these articles to reflect changes to the structure of the DCO and to Schedules. There were no objections and I **recommend** inclusion of the changes.

## **Article 25: Compulsory acquisition of rights**

- 6.131 The applicant sought to amend references in this article to reflect changes to the structure of the DCO and to Schedules. There were no objections and I **recommend** inclusion of the changes.
- 6.132 I questioned the applicant about the strict need to include articles 25(4) and (5) on the basis that the same outcome can be achieved under article 8 above. The applicant agreed that the purpose of these sub articles is adequately covered by article 8 and that they could be deleted. There were no other objections and I **recommend** accordingly.

## **Article 26: Private rights**

- 6.133 The applicant sought to amend a reference in this article to reflect change to the structure of the DCO. There were no objections and I **recommend** inclusion of the change.
- 6.134 I proposed to clarify that references to a person in or to whom the right or restrictive covenant is vested or belongs should also refer to the 'benefit' of a restrictive covenant. The applicant did not object and I **recommend** accordingly.

## **Article 28: Acquisition of subsoil or airspace only**

- 6.135 The applicant sought to amend references in this article to reflect changes to the structure of the DCO and to Schedules. There were no objections and I **recommend** inclusion of the changes.

## **Article 31: Temporary use of land for carrying out the authorised development**

- 6.136 The applicant sought to amend references in this article to reflect changes to the structure of the DCO and to Schedules. There were no objections and I **recommend** inclusion of the changes.
- 6.137 I expressed concern about article 31(2) setting a notice period of 14 days for entering on and taking temporary possession of land. It appeared to me that such a period was so short as to be unreasonable. The applicant justified it on the basis that 14 days is provided for in the equivalent model provisions. I have had regard to this argument but still consider, on balance, a 14 day notice period to be unreasonably short. I therefore **recommend** its amendment to 28 days.

6.138 In sub article (7) I questioned whether the drafting should refer to section 10(2) of the Compulsory Purchase Act 1965, on the basis that this is provided in the model provisions. The applicant submitted that there was no need to do so as the existing reference to PA 2008 s 152 was adequate and preferred. On consideration, I agree and **recommend** this sub article as originally drafted.

**Article 32: Temporary use of land for maintaining the authorised development**

6.139 The applicant proposed to insert 'the' between the words 'maintaining' and 'authorised' in the title to this article. I **recommend** this change.

6.140 I considered the same issue as I identified in respect of article 31 in paragraph 6.137 above and reached the same conclusion.

**Article 33: Special category land**

6.141 I proposed to amend article 33(1) to delete an unnecessary reference to the 'relevant' Secretary of State and to provide that a scheme for the provision of replacement land as open space has been implemented to 'the Secretary of State's satisfaction.' The applicant did not object and I **recommend** this change.

6.142 The applicant sought a minor change to the special category/ replacement land 'plans' (plural) to tie in with the article2(1) definition of this term. There were no objections and I **recommend** this change.

**Articles 34 – 36 and 41 - 43**

6.143 The applicant sought to amend references in the following articles to reflect changes to the structure of the DCO and to Schedules.

- Article 34: Statutory undertakers;
- Article 35: Apparatus and rights of statutory undertakers in stopped-up streets;
- Article 36: Recovery of costs of new connections;
- Article 41: Traffic regulation;
- Article 42: Protection of Interests; and
- Article 43: Certification of plans etc.

6.144 There were no objections and I **recommend** inclusion of the changes.

**Article 45: Requirements, Appeals etc**

6.145 The applicant proposes this new article to provide for Schedule 3 on the discharge of requirements and appeals. I **recommend** inclusion of the new article.

## SCHEDULE 2: DCO REQUIREMENTS

- 6.146 All of the issues set out in this part of the report are identified in the documents referred to in paragraphs 6.11 – 6.12 above, unless a specific additional document is cited.

### Requirement 1: Interpretation

- 6.147 The applicant proposed minor amendments to the definitions of 'approved details' and 'commence'. In terms of the 'approved details' change, no concerns were raised and I **recommend** it accordingly.
- 6.148 In terms of commencement of development, the applicant considered that 'commence' means the carrying out of a material operation, as defined in PA 2008 s 155. Enfield Council however sought further amendments to provide that demolition, site clearance and de-vegetation should not be excluded from the definition of commencement. Having regard to the purposes of requirements 5 (landscaping), 7 (highway accesses), 9 (construction traffic management plan), 10 (surface water drainage), 11 (contaminated land and groundwater), 12 (ecological management strategy), 15 (construction environmental management plan), 16 (archaeology) and 17 (flood storage), all of which require the submission of a written plan or details before commencement of specified development, it is important that works of demolition, site clearance and de-vegetation do not take place prior to the submission of plans and details to relevant authorities or persons for approval. Such works in themselves appear to me to include the carrying out of a material operation and could potentially frustrate the purpose for which plans and details are proposed to be submitted under these requirements if they took place before such plans and details had been approved.
- 6.149 For example, demolition could be a source of construction traffic that requires to be considered in the discharge of requirements 7 (highway access) and 9 (construction traffic management plan). It could be a source of dust or surface water discharge that require to be considered in the discharge of requirements 10 (surface water drainage), 11 (contaminated land and groundwater) and 15 (construction environmental management plan). Site clearance could affect discharge of the same requirements and additionally requirement 16 (archaeology) if groundworks were to be carried out.
- 6.150 Equivalently, de-vegetation prior to commencement could affect the discharge of requirements 5 (landscaping) and 12 (ecological management strategy).
- 6.151 The exclusion of these terms from the definition of 'commence' would harm the intent of a broad range of requirements under which plans are to be submitted to the satisfaction of relevant

authorities as a discipline to ensure that (for example) the mitigation measures provided for in the Environmental Measures document [REP119] are delivered. On balance, little harm is done to the application proposal by the undertaker refraining from demolition, site clearance and de-vegetation until relevant plans have been prepared and requirements discharged. I **recommend** the removal of these words as exclusions from the definition of 'commence'.

- 6.152 The applicant proposed an amendment to define the 'Environmental Measures document' [REP119] as the means by which necessary mitigation identified in the ES and to resolve concerns expressed by interested parties would be implemented. Whilst Enfield Council does not support all of the proposed content of the document, I do not consider that any of their concerns warrant changes to be made to it. I **recommend** these changes.

#### **Requirement 2: The Limits**

- 6.153 I proposed the substitution of the word 'commenced' for the word 'begun'. I **recommend** these changes.

#### **Requirement 3: Stages of authorised development**

- 6.154 The applicant proposes that highway authorities [REPs42 – 44] and the Lee Valley Regional Park Authority will be consultees on the preparation of a written stages scheme, which addresses their concerns. I **recommend** these changes.

#### **Requirement 4: In accordance with approved details**

- 6.155 The applicant proposes the insertion of 'general' to qualify 'accordance'. I **recommend** this change.

#### **Requirement 5: Landscaping**

- 6.156 The applicant's response to concerns about the effects of landscape measures, particularly in relation to the Lee Valley Regional Park and on land adjacent to the Brimsdown Substation has been to require the preparation of a written landscaping scheme for each stage of the proposed development to be prepared. Changes to the draft DCO as applied for require these schemes to be the subject of consultation with the Lee Valley Regional Park Authority where they refer to any land in the park. The schemes are required to reflect the environmental measures set out in 'Environmental Measures document' [REP119]. I **recommend** these changes.
- 6.157 Enfield Council requested means of addressing the impact of landscaping measures on the Enfield Lock Conservation Area and I have proposed the inclusion of new requirement 5(3) to ensure that a landscape scheme in this location shall include measures that preserve the character or appearance of the conservation

area to the satisfaction of the local planning authority. This measure enjoys the support of that authority. English Heritage was strongly of the view that such a requirement should be included.

- 6.158 The applicant considered that such a provision is not necessary, on the basis that the 'Environmental Measures document' [REP119] includes mitigation that would provide for a proportion of larger planting stock at Brimsdown and this would resolve Enfield Council's concerns. However, given English Heritage's earlier concerns that the effects of the application proposal on the conservation area had not been fully mitigated, the provision as set out in my revised draft DCO provides a means of responding to that concern through the submission of a specifically designed scheme.
- 6.159 I **recommend** the retention requirement 5(3) as set out in my revised draft DCO.
- 6.160 The applicant proposed changes to this requirement to ensure that a submitted landscape scheme must include details of retained landscape features, the dimensions and materials for new sections of pedestrian or cycle paths where applicable and the colour of permanent security fencing around infrastructure. These changes respond to concerns raised by Lee Valley Regional Park Authority and Enfield Council, ensuring that the effects of the application proposal on existing landscape features, landscape character and the Enfield Lock Conservation Area can be properly managed. I **recommend** these changes.

#### **Requirement 6: Implementation and maintenance of landscaping**

- 6.161 The applicant sought minor changes to provide that landscaping work should be carried out in general accordance with the landscaping scheme. I have proposed to tie the requirement to replace any tree or shrub that within five years after planting is removed, dies or becomes seriously damaged or diseased to trees or shrubs planted as part of a landscaping scheme approved under requirement 5. I **recommend** these changes.

#### **Requirement 7: Highway accesses**

- 6.162 The applicant proposed amendments to this requirement to ensure that highway accesses must be constructed in accordance with approved details and a written access management scheme for the use and maintenance of them is approved by the relevant highway authority. These address concerns raised in part by Transport for London. I **recommend** them accordingly.
- 6.163 Lee Valley Regional Park Authority requested the specific addition of an approval process for operational access. I am not convinced that this is an appropriate requirement to deal with such a

provision (as some operational access would need to be via public rights of way). I also take the view that this is a matter best addressed through pragmatic dialogue between the park authority, highway authority and the applicant, triggered by relevant notification of the park authority under requirement 18.

#### **Requirement 8: Public rights of way**

- 6.164 The temporary closure of footpath V at Angel Road without replacement would leave a section of the North Circular Road at a key crossing point without a side footway. The applicant proposed particular provisions to ensure that an implementation plan for an alternative right of way has been submitted to and approved by the relevant highway authority. I **recommend** this change.

#### **Requirement 9: Construction traffic management plan**

- 6.165 The applicant proposed amendments to provide for a requirement for a construction management traffic plan, addressing requests made in representations from Transport for London [REPs42 – 44]. It addresses Transport for London's concerns. I **recommend** it without further changes.

#### **Requirement 10: Surface water drainage**

- 6.166 The applicant proposed minor amendments to this requirement to require the construction of drainage measures in general accordance with the approved details. I **recommend** it as proposed to be changed.

#### **Requirement 11: Contaminated land and groundwater**

- 6.167 The Environment Agency expressed concerns about the incomplete nature of preliminary works to investigate potentially contaminated land, particularly at Tottenham Marshes, where part of the application site is a former land-fill. It proposed a draft requirement to ensure that before the commencement of the authorised development a written scheme to manage land or groundwater pollution and related risks should be prepared. It specifically requested such a plan should include an investigation and assessment and relevant reports prepared by a specialist consultant and that it should set out remedial works proposals and a monitoring plan.
- 6.168 The applicant took the view that such investigation should only take place where necessary. However, it was the Environment Agency's submission that it was necessary, due to the lack of relevant data and reports in the application documents. Any such reports would be conditioned by the nature of investigations. Mitigation and monitoring measures would not be proposed unless they were necessary.

- 6.169 I consider that, in circumstances where the applicant has not been able to fully satisfy the Environment Agency that land contamination issues have been fully identified, the Environment Agency's proposed requirement should be included in the draft DCO. I have made this change and **recommend** it.

### **Requirement 12: Ecological Management Strategy**

- 6.170 The applicant has proposed changes to this requirement to refer the strategy to the environmental measures included in the 'Environmental Measures document' [REP119] and to address concerns expressed by the Environment Agency, Natural England and the Lee Valley Regional Park Authority (when it relates to land in the park) by requiring consultation with those bodies before the submission and approval of an ecological management strategy for any stage of the works. I **recommend** this change.

### **Requirement 13: Approvals given**

- 6.171 The applicant seeks to define that approvals under any requirement can provide for minor or immaterial changes to the application details. Such an approach is not necessary or appropriate. Minor but material changes could affect the impacts of the application proposal in a manner that moves beyond what has been assessed in the ES. It could then by definition move outside the Rochdale envelope for the application proposal. A change that operates within the Rochdale envelope will be an immaterial change. Changes to the application proposal that are not immaterial would appear to require a change to the application itself. For this reason, I **recommend** the continued deletion of the word 'minor'.

### **Requirement 14: Amendments to approved details**

- 6.172 The applicant has proposed changes to this requirement providing for amendments to approved details, to ensure that amendment processes engage highway as well as planning authorities and that where the original details were required to be the subject of consultation with a third party, the undertaker shall undertake that consultation prior to submitting an amendment application. These changes are un-contentious and I **recommend** them.

### **Requirement 15: Construction environmental management plan**

- 6.173 The applicant has proposed changes to this requirement to ensure that any plan reflects the measures included in the 'Environmental Measures document' [REP119] and is subject to consultation with the Lee Valley Regional Park Authority where it refers to land within the park. These changes address concerns raised by the park authority. I **recommend** them.

### **Requirement 16: Archaeology**

- 6.174 The applicant has proposed minor amendments to tie a written scheme of investigation to the areas of archaeological interest identified in the 'Environmental Measures document' [REP119] and to require consultation with English Heritage before approval. This addresses English Heritage's concerns. I **recommend** the changes.

#### **Requirement 17: Flood storage**

- 6.175 Concerns raised by the Environment Agency in respect of the lack of compensatory flood storage to address works at Brimsdown Substation and particularly Work Nos. 7A (the cable bridge) and 7B (new sealing end compounds adjacent to pylon ZBC19) are addressed by a requirement for the preparation of a written scheme for compensatory flood storage and provision that works shall not commence until it has been approved by the Environment Agency in consultation with Enfield Council. The applicant proposed the changes to address flood storage and the Environment Agency is broadly satisfied by them. I proposed that the discharge should be by the Environment Agency, as the Environment Agency had requested that power in their submission [HR31]. Enfield Council would prefer to discharge the requirement themselves. However, on the basis that the requirement was requested by and relies on the expertise of the Environment Agency, I propose to sustain my drafting. I **recommend** all of these changes accordingly.

#### **Requirement 18: Works within the Lee Valley Regional Park**

- 6.176 The applicant proposed to amend the DCO to include this requirement ensuring that the Lee Valley Regional Park Authority is notified when an application relating to land within the park boundary is made. This change reasonably addresses many of the concerns raised by the park authority and I **recommend** it accordingly.

#### **REMAINING SCHEDULES**

- 6.177 All of the issues set out in this part of the report are identified in the documents referred to in paragraphs 6.11 – 6.12 above, unless a specific additional document is cited.

#### **Schedule 1: Authorised Development**

- 6.178 The applicant proposed changes to the description of Work No. 4 at Waltham Cross to provide for a welfare block (in line with amended plans reducing the built volume in the compound). This addresses Epping Forest District Council's [REPs67, 79 and 86] concerns about Green Belt impact. No objections were made about this change which I **recommend**.
- 6.179 The applicant proposed changes to the description of Work No. 6 at Brimsdown to delete reference to construction of a fire wall 56m

long and 9m high. This responds to concerns raised by Enfield Council and English Heritage. Both bodies expressed support for this change which I **recommend**.

- 6.180 I proposed to change the description of Work No. 10 (d) to reflect the proposal to place the cables underground., I have added the term 'predominantly' to reflect the fact that this alignment will include cable bridges and **recommend** accordingly.

### **Schedule 3: Discharge of Requirements**

- 6.181 The applicant proposed to insert a new Schedule 3 providing a procedure for the discharge of requirements and an appeals process relating to decision making under defined articles and requirements. The principle of this change and responses to it are set out in paragraphs from 6.44 above.

### **Schedules 4 -12**

- 6.182 The applicant proposed the sequential re-numbering of these schedules, but, with the exception of matters addressed below, no detailed submissions were made about their content by interested parties and no changes to their content are proposed. Where this is the case I **recommend** no changes to them other than re-numbering.
- 6.183 Schedule 6: Streets to be Temporarily Stopped Up largely relates to public footpaths. I considered whether on that basis it should be retitled to make clear its bearing on rights of way, but for reasons set out in paragraphs 6.101 to 6.102 above, I am content that the title of this schedule does not need to be amended. I **recommend** accordingly.
- 6.184 In Schedule 10: Modification of Compensation and Compulsory Purchase Enactments for Creation of New Rights, I proposed a change to insert the word 'from' after 'land is acquired or taken' in paragraph 2 (2) (a).
- 6.185 I proposed changes to insert references to restrictive covenants into paragraph 3 (1) (b), paragraph 5 (with respect to section 8 (1) of the Compulsory Purchase Act 1965) and paragraph 9, in each case to clarify its application to the imposition and enforcement of restrictive covenants.
- 6.186 The applicant did not object to these changes and there were no other objections and I **recommend** accordingly.

### **Schedule 13: Protective Provisions**

- 6.187 The applicant proposes the sequential re-numbering of this schedule.

- 6.188 The application DCO did not contain the detail of any protective provisions.
- 6.189 The applicant's preferred draft DCO discussed at the DCO issue-specific hearing included protective provisions for telecommunications code operators. No representations were made in respect of these provisions and I **recommend** them accordingly.
- 6.190 The applicant's preferred draft DCO discussed at the DCO issue-specific hearing also included protective provisions for Transport for London. Transport for London did not participate in the issue-specific hearing on the basis of its satisfaction that its interests were appropriately protected by these provisions. I **recommend** the protective provisions accordingly.
- 6.191 Having regard to the paragraph numbering of Schedule 13 as submitted in the applicant's preferred draft DCO, there were some anomalies. The first paragraph in Part 1 was paragraph 10. Part 2 commenced with paragraph 1. I have proposed the renumbering of all paragraphs in this Schedule in sequence, starting with paragraph 1 at the beginning of Part 1. I **recommend** accordingly.

#### **THE ENVIRONMENTAL MEASURES DOCUMENT**

- 6.192 Key to the achievement of necessary mitigation of the effects of the application proposal is the proposed Environmental Measures document [REPs119 – 120]. This document was submitted by the applicant. It extracts all environmental measures identified in the ES as necessary in mitigation. It is proposed to be a reference document for the DCO and relevant requirements that require the approval of plans to the satisfaction of an authority are expressed as being subject to it. An authority discharging a relevant requirement would have regard to the document to determine the broad scope of performance expected by the applicant and to assess whether a submitted proposal or scheme is adequate.
- 6.193 In drafting the document, the applicant sought to address individual concerns raised by interested parties and invited persons, and to give effect to undertakings that it made during the examination about their delivery of the project and of mitigation proposals. They provided a tracked version [REP120], where blue highlights indicate the measures that have been included in the document in addition to measures proposed in the ES, specifically to address issues raised in representations.
- 6.194 The submitted document [REP119] provides a clear and useful expression of the intended measures. For it to have the effect sought by the applicant, it needs to be submitted to the Secretary of State alongside the application documents and plans and

considered, approved and endorsed and certified in the same manner. I **recommend** accordingly.

## **POLICY AND IMPORTANT AND RELEVANT MATTERS**

- 6.195 Having considered the draft DCO in its entirety, I **recommend** that the Secretary of State should grant it in the form attached in Appendix F of this report.
- 6.196 In doing so, I have taken account of the following policy considerations in respect of matters that I also consider to be important and relevant.
- The DCO must provide for the relevant mitigation of impacts in respect of European sites, protected species and the natural environment (NPS EN-1 section 5.3, NPS EN-5 section 2.7). Relevant sites are protected, harm has been identified and sufficient mitigation has been provided in the Recommended Draft DCO through requirements 5, 6, 10, 12 and 15, with reference also to the Environmental Measures document [REP119].
  - This must include (amongst other things) the avoidance of contamination or pollution to waterways and groundwater, in order to safeguard water quality, to protect water supplies for London (NPS EN-1 section 5.15,) and to safeguard the environmental conditions of European sites (the Lee Valley SPA and the Lee Valley Ramsar site), SSSIs, local wildlife sites and the habitats of protected species (NPS EN-1 section 5.3, NPS EN-5 section 2.7). Again, the Recommended Draft DCO makes appropriate provision through requirement 10 and 12, with reference also to the Environmental Measures document.
  - The DCO must ensure that appropriate investigations are carried out in respect of potential contaminated land or water and, should this be found, relevant mitigating actions and monitoring should occur (NPS EN-1 section 5.6 and section 5.14). The Recommended Draft DCO does so through requirement 11.
  - The DCO must ensure that flood risk at Brimsdown Substation is managed through a compensatory flood storage scheme. As the Environment Agency has concerns about the proposal on flood risk grounds, the DCO must take all reasonable steps to satisfy the Environment Agency's concerns (NPS EN-1 paragraph 5.7.8). The Recommended Draft DCO does so through requirement 17.
  - The DCO must prevent avoidable harm to the Enfield Lock Conservation Area (NPS EN-1 section 5.8) and must mitigate the impacts of such harm on the conservation area through the preparation of a landscape scheme. An appropriate landscape scheme approved by the local planning authority will ensure preservation of the character and appearance of

the conservation area. The Recommended Draft DCO achieved this through requirements 5 and 6.

- The DCO must provide for the relevant mitigation of harm to the landscape due to the authorised works (NPS EN-1 section 5.9, NPS EN-5 paragraph 2.8.10 and 11). I am satisfied that an appropriate landscape scheme to the satisfaction of the local planning authority will ensure preservation of the character and appearance of the conservation area.
- Harm to the Green Belt is managed (NPS EN-1 section 5.10). Design mitigation has been included. Submitted landscape schemes will ensure that it is sufficiently mitigated.

6.197 Whilst NPS EN-1 and NPS EN-5 do not contain policy relevant to the effect of nationally significant infrastructure projects on international sporting facilities or events, I consider that it is both important and relevant that the implementation of the application proposal should not prejudice or unduly harm competition or the visitor experience at the World Canoe Slalom Championships proposed to be held at the Lee Valley Regional Park Authority's Lee Valley White Water Centre at Waltham Cross. I have not recommended changes to the DCO to provide for this as a commercial agreement between the applicant and the Lee Valley Regional Park Authority has done so [REP144, REP145].

6.198 A purported planning obligation by way of a unilateral undertaking was lodged with Enfield Council and tendered by the applicant to provide for enduring natural environment enhancement measures in the Lee Valley Regional Park [REP133]. Whilst the proposed measures will be beneficial to the park, they are not necessary to mitigate the effects of the application proposal, which in large part are confined to the effects of construction and so are temporary in nature. The natural environment effects of the application proposal in the park will be satisfactorily mitigated through the preparation of plans pursuant to requirement 5, 10, 12, 15 and 18 and through the approvers of plans making appropriate reference to the Environmental Measures document [REP119].

6.199 I do not consider the unilateral undertaking to be either relevant or important to the decision of the Secretary of State and I do not recommend that it should be taken into account. Nor do I consider that the proposed enhancement measures are ones that require to be provided for by some other means in the DCO. I do not recommend any changes to it to include them.

6.200 Similarly, the Lee Valley Regional Park Authority requested another planning obligation should be entered into to provide enduring enhancements to visitor facilities in the park area, to offset the effects on the visitor experience that it considered would be caused by the application proposal. The applicant did not consider such an obligation was necessary. On the basis that the main effects of the application proposal are caused by temporary construction works, again I agree and can see no basis for

requiring the applicant to provide enduring enhancements to park visitor facilities, either by way of a planning obligation or under the DCO. In addition to requirements delivering natural environment mitigation, requirements 7, 8 and 9 ensure that the experience of visitors accessing the park and using rights of way within it will be appropriately managed.

6.201 Finally, I note that Enfield Council requested a planning obligation to assist in the management of mitigation measures to be applied in the environs of Brimsdown Substation, dealing with effects on the Enfield Lock Conservation Area and public open space. I consider that the recommended Environmental Measures document [REP119] and the Recommended Draft DCO requirements 4, 5 and 6 address this concern and there is no need for such a planning obligation.

### **CONCLUSIONS ON THIS SECTION**

6.202 In summary:

- The original Draft DCO submitted with this NSIP application has been substantially modified and improved during the course of the examination.
- The applicant's current preferred draft DCO addresses many of the issues and concerns raised by interested parties and by me during the examination. This process has been taken forward again by my revised draft DCO and the comments upon it [REP 114 – 124], which have enabled the changes to be further refined in the light of the latest position between the applicant and individual interested parties.
- I have taken full account of responses to all versions of the draft DCO and used them to form the basis of my Recommended Draft DCO in Appendix F to this report.
- I do not recommend the Secretary of State to have regard to a submitted purported planning obligation by way of unilateral undertaking under s106 of the Town and Country Planning Act 1990 as amended providing for natural environment enhancement measures as I do not consider it to be necessary.
- I do not recommend that a planning obligation be entered into providing for enduring enhancements to visitor facilities in the Lee Valley Regional Park as, again, I do not consider such an agreement to be necessary.
- Nor do I recommend a planning obligation relating to Enfield Lock Conservation Area and the environs of Brimsdown substation.
- I **recommend** that the proposed Environmental Measures document [REP119] should be referred to in the DCO.
- I recommend that the Secretary of State should grant the DCO in the form attached as Appendix F to this report.

## **7 COMPULSORY ACQUISITION**

7.1 This chapter of the report relates to compulsory acquisition powers sought by the application and to provisions proposed to be included in the DCO.

7.2 It must be made clear that, by the closure of the examination, there were no outstanding objections to any of the proposed powers of compulsory acquisition in the DCO or in respect of any of the land identified in the Book of Reference. This chapter serves as a record of the investigations that I undertook during the examination, to satisfy myself that this was genuinely the case.

7.3 The following relevant representations raised matters potentially bearing on compulsory acquisition. Their status by the end of the examination is recorded.

- TJX Europe [REP14] – withdrawn;
- Environment Agency [REP17] – qualified to withdraw land and rights-relevant parts pursuant to the PA2008 s127 examination (see below);
- Cable and Wireless UK [REP18] – withdrawn;
- Thames Water Utilities [REP 19] – withdrawn pursuant to the PA2008 s127 examination (see below);
- Transport for London [REP22] – withdrawn pursuant to the PA2008 s127 examination (see below);
- Arriva North London Ltd. [REP23] – withdrawn;
- London Borough of Haringey [REP25] – withdrawn; and
- Lee Valley Regional Park Authority [REP27] – qualified to withdraw land and rights-relevant parts.

7.4 Lee Valley Regional Park Authority was the only interested party to request to be heard at the compulsory acquisition hearing. However, at the hearing it was able to confirm that it had no remaining concerns.

7.5 It should be noted that representations from Enfield Council suggested that it may have compulsory acquisition related concerns. It initially indicated to the Planning Inspectorate that it might request to be heard at the compulsory acquisition hearing. However, further to negotiations between it and the applicant, it informed Planning Inspectorate that it did not wish to be heard.

### **THE POWERS SOUGHT**

7.6 The draft DCO seeks to include compulsory acquisition powers in relation to land and to rights over land.

7.7 The compulsory acquisition of land is sought to enable the applicant to extend the operational area of substations and install new higher voltage equipment necessary to support the voltage upgrade sought.

- 7.8 The rights over land sought to be acquired are of both a permanent and temporary nature, for the purposes of installing minor alignment changes and new pylons, repairing existing pylons, removing existing conductors, installing higher voltage conductors and their maintenance thereafter. Powers to impose restrictive covenants are also sought. The powers are sought to protect the works, and to ensure access can be obtained for construction, operation and maintenance. They would enable work to proceed on a variety of matters such as setting up winching areas, creating construction compounds, laydown areas and temporary access tracks, carrying out environmental and ecological measures, tree felling and landscaping.
- 7.9 The applicant was clear throughout the examination process that these powers were sought as reserve powers only. It sought to achieve agreement with land-owners and the beneficiaries of rights in or over land to the maximum extent achievable. However, the nationally significant nature of the infrastructure made it inconceivable in the applicant's view that, subject to a decision being taken to proceed with the works, any part of the alignment could then be prevented from being upgraded, due to stalled negotiations between the applicant and any land-owners or rights beneficiaries.

#### **THE BOOK OF REFERENCE**

- 7.10 The applicant submitted and I have considered a Book of Reference [APP 20] together with Land Plans [APP 7], Plans Showing Special Category Land [APP 8] and Extinguishing Rights Plans [APP 9].
- 7.11 Two issues arose from the Book of Reference that require consideration.
- In carrying out its notifications of the acceptance of the application further to PA 2008 s56(2), it was not clear that the applicant had duly notified all persons listed in relevant parts of the Book of Reference and hence that all such persons had had an opportunity to make a relevant representation if they so wished [see Chapter 1 at paragraphs 1.8 – 1.14]. I wrote to all such persons and provided them with an opportunity to make a statement of representation to me if they so wished, before the commencement of the examination. No such requests were received from any person raising a concern about land or rights over land and hence it is safe to conclude that no person has lost the opportunity to participate in this examination as a consequence of this error.



- 7.19 I am satisfied that the proposed compulsory acquisition does not affect any Crown land.

### **LOCAL AUTHORITIES**

- 7.20 Whilst there are plots owned by or subject to rights in favour of local authorities, none of these authorities has objected to their acquisition.

### **THE LEE VALLEY REGIONAL PARK AUTHORITY**

- 7.21 There are plots owned by or subject to rights in favour of the Lee Valley Regional Park Authority. This is a special purpose body established by statute (The Lee Valley Regional Park Act 1966).
- 7.22 Whilst in many ways the Lee Valley Regional Park Authority is analogous to a local authority in its operation, it is not specifically recognised as such under the PA 2008.
- 7.23 The Lee Valley Regional Park Authority was the only interested party to request to be heard at the compulsory acquisition hearing. By the time that hearing was held, all substantive matters of disagreement between it and the applicant on compulsory acquisition matters had been resolved [HR19] and most importantly, it had no concerns about the replacement land that it was to receive. The hearing was retained as a means to examine the progress of compulsory acquisition-related agreements between the applicant and the Lee Valley Regional Park Authority.
- 7.24 The Lee Valley Regional Park Authority also has some characteristics which appear similar to those of a statutory undertaker. For this reason, I asked the authority whether it considered itself to be a statutory undertaker for the purposes of the PA 2008. It responded that it did not.
- 7.25 By the closure of the examination, agreement in principle had been reached between the applicant and the Lee Valley Regional Park Authority about all relevant land and rights over land.

### **TESTS FOR COMPULSORY ACQUISITION**

- 7.26 Section 122 of the PA 2008 precludes the inclusion of compulsory powers in DCOs unless:
- the land or rights to be sought are required, and they must be no more than is reasonably required for the development, or to facilitate it, or to be given in exchange; and
  - there is a compelling case in the public interest for the land to be acquired compulsorily.
- 7.27 The existence of a case for acquisition in the public interest must be balanced carefully against the loss of private rights. Private

rights must not be expropriated unless the tests set out in Section 122 PA 2008 are met. The basis for a compelling case in the public interest is derived from the public benefit associated with a proposal arising from the need for and benefit of the proposed development.

7.28 The relevant general considerations are that:

- all reasonable alternatives to compulsory acquisition must have been explored;
- a clear use for the land or rights sought must have been identified by the applicant;
- funds for the development must be demonstrated to be available; and
- the Examining Authority and the Secretary of State must be satisfied that the purpose(s) stated for the proposed acquisition are legitimate, and sufficiently justify the interference with the human rights of those affected.

I am satisfied that the applicant's case has met these tests.

7.29 In reaching this satisfaction, I have fully considered the applicant's Statement of Reasons [APP 18]. I have probed the application during oral examination to assure myself that it was reasonable to retain compulsory acquisition powers in circumstances where it had been able to achieve access over or entry to land by agreement. The applicant responded that the need for and urgency of the application proposal was recognised in the NPSs and should remain a paramount consideration. Whilst it may consider that it holds an agreement to access or enter land, should that agreement not be formed or turn out to fail, compulsory acquisition powers provide an essential fall-back position.

7.30 The applicant was keen to emphasise that the outages necessary to support delivery of the application proposal needed to be scheduled many months in advance to ensure that their adverse effect on network performance was limited. In the London context, a last minute failure to obtain access to or entry onto land under a voluntary agreement could frustrate the delivery of the entire project for many further months or years, with consequential adverse effects on the security of London's electricity supply.

7.31 It is in this context that I am satisfied that compulsory acquisition powers remain justified, even where apparently adequate agreements have been concluded between the applicant and affected parties.

## **STATUTORY UNDERTAKERS AND THE PA2008 S127 PROCESS**

- 7.32 Some of the plots affected are owned by or subject to rights in favour of statutory undertakers. The applicant in this case was seeking to include provision in the DCO for the compulsory acquisition of land and rights over land in respect of:
- plots of land (Ref 303-310, 314-315, 318-3122, 324 on the land plans [APP 7, 8 & 9]) held by Transport for London (a statutory undertaker); and
  - a plot of land (Ref 388 on the land plans [APP 7, 8 & 9]) held by Lee Valley Regional Park Authority but subject to rights in favour of Thames Water and the Environment Agency (both statutory undertakers).
- 7.33 At relevant time periods within the DCO examination, representations from these undertakers remained un-withdrawn.
- 7.34 The introduction to this report at paragraphs 1.44 to 1.57 sets out the nature of the s127 PA2008 certificate application process, records the appointment of the examiner and the procedure adopted for the examination.
- 7.35 In summary terms:
- An application for a certificate was made to the Secretary of State for Transport in respect of the applicant's proposal to acquire the land and rights of Transport for London recorded above.
  - An application for a certificate was made to the Secretary of State for Environment, Food and Rural Affairs in respect of the applicant's proposal to acquire land held by Lee Valley Regional Park Authority but subject to rights in favour of the Environment Agency and Thames Water as recorded above.
- 7.36 Whilst opportunities to be heard orally were provided to the applicant and the statutory undertakers, they were not taken up. The examination used written questions to determine the degree to which any matters remained at issue between the applicant and the individual statutory undertakers. As a consequence of this written process (which is recorded more fully in the introduction to this report at paragraphs 1.44 – 1.57), before the closure of the s127 PA2008 examination I was satisfied that all representations from these undertakers relating to land or rights relevant to their roles as statutory undertakers had been withdrawn. However, the applicant did not withdraw the certificate applications to the Secretaries of State.
- 7.37 Having regard to the provisions of s127 PA2008 and to the fact that all representations from Transport for London, Thames Water and the Environment Agency were withdrawn before the closure of the s127 PA2008 examination, I observe that there are now no

matters that require decision by the Secretary of State for Transport or by the Secretary of State for Environment, Food and Rural Affairs pursuant to s127 PA2008.

- 7.38 In making this finding, I note that the applicant's certificate applications are still extant. On the basis however that the representations which gave rise to the s127 PA2008 certificate applications have been withdrawn, s127 PA 2008 is no longer invoked and hence no certificates require to be given by the Secretaries of State.
- 7.39 In reaching this conclusion, I have noted that bodies that are statutory undertakers can have other functions. This is particularly relevant to the circumstances of the Environment Agency, which combines the functions of a statutory undertaker with regulatory and advisory functions that are distinct from those of a statutory undertaker. Where such a body makes representations applying to more than one of its roles, it appears sufficient to end s127 PA2008 proceedings for it to clarify that it is withdrawing those aspects of its representations that relate to its statutory undertaker function. It does not have to withdraw representations that relate to its other roles as long as they have no bearing on its statutory undertaker functions. It follows that even though there are elements of the Environment Agency representations that remain un-withdrawn, I consider that the question of whether the Environment Agency has withdrawn its representations to which s127 PA 2008 applies is beyond doubt: the relevant parts of the submissions were withdrawn.
- 7.40 In reaching this conclusion, I have noted that the maker of a representation does not necessarily need to be a statutory undertaker in order to invoke s127 PA 2008. It is sufficient that a representation relates to the land or interests of a statutory undertaker and as a result of it the Secretary of State is satisfied of the matters set out in PA2008 s127(1)(c). However, I have had careful regard to all representations and documentation submitted during the course of the DCO and s127 PA 2008 examinations that could be said to include representations relating to the land or interests of statutory undertakers.
- 7.41 I made a particular point during the DCO examination to clarify orally that Lee Valley Regional Park Authority does not consider itself to be a statutory undertaker. It sought advice and confirmed orally that it does not.
- 7.42 It follows that there are now no s127 PA2008 matters arising from any un-withdrawn representations.

### **S127 Recommendation**

- 7.43 In respect of the s127 PA2008 applications I **recommend** as follows:

The Examining Authority recommends the Secretary of State for Transport to note that as all representations relevant to the application relating to the interests of Transport for London have been withdrawn, there is now no basis or requirement for that certificate to be either sought or granted.

The Examining Authority recommends the Secretary of State for Environment, Food & Rural Affairs to note that as all representations relevant to the applications relating to the interests of Thames Water and the Environment Agency have been withdrawn, there is now no basis or requirement for those certificates to be either sought or granted.

## FUNDING

- 7.44 The application was accompanied by a Funding Statement [APP 19]. In summary that statement sets out that National Grid Electricity Transmission plc is regulated in the conduct of transmission network services by Ofgem. The application proposal (and funding for it) will be delivered within the context of the Ofgem RIIO<sup>34</sup>-T1 process. National Grid Electricity Transmission plc is responsible for the management of transmission assets throughout England and Wales, and for capital investment in a significant number of new-build and reinforcement projects under the Ofgem RIIO-T1 process. There is no reasonable prospect of there not being sufficient funds to meet obligations to affected persons in respect of the compulsory acquisition powers in the DCO.
- 7.45 In my first round of written question [PD 25: question 2.11], I sought a clear undertaking from the applicant to that effect, which was provided in the form of a letter from the UK Finance Director for National Grid Electricity Transmission plc on 24 July 2013 [REP 122]. This places beyond doubt that the application proposal is RIIO funded and that there is no need for the applicant to seek any additional funds to deliver the North London Reinforcement Project or to meet its compulsory acquisition obligations.
- 7.46 In accepting these submissions from the applicant, it should be noted that I am clear that the financial standing of applicants seeking compulsory acquisition powers is likely to vary significantly from case to case. The level of assurance necessary to be provided by applicants is also likely to vary, depending on their financial standing and on other matters, including the regulatory environment in which they operate. In this case, the Examining Authority was clear that as the applicant is National Grid Electricity Transmission plc, it is a body of excellent financial

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<sup>34</sup> RIIO: Revenue = Incentives + Innovation + Outputs

standing, operating in a regulatory environment that lends surety to its financial standing, particularly to this project.

- 7.47 It turn, I **recommend** that the Secretary of State should accept the funding statement together with the letter from the applicant's UK Finance Director of 24 July 2013 [REP 122] as providing sufficient surety in this case, without a need for additional mechanisms such as bonds, specific deposits of funds or formal undertakings.

#### **OTHER MATTERS RELATING TO COMPULSORY ACQUISITION AND PA 2008 S127**

- 7.48 Before concluding in respect of compulsory acquisition, brief mention must be made of correspondence from:
- the Health & Safety Executive on 23 May 2013 [AS8]; and
  - Energetics Networked Energy on 21 October 2013, shortly before the closure of the examination [AS11].
- 7.49 The Health and Safety Executive was clear that its correspondence was not a representation and that it was not requesting to become an interested party in the examination. I have referred to the correspondence above in support of my consideration of electro-magnetic fields. Additionally to that matter however, the correspondence did draw attention to the proximity of the application site to two major hazard installations and its crossing of two major accident hazard pipelines. The applicant appears to be aware of these installations and pipelines and there are no objections from their operators.
- 7.50 The Energetics Networked Energy correspondence was a 'standard form letter' from the safeguarding department of a body which is related to a recognised statutory undertaker. It drew attention to the existence of that body's network assets in two locations but it did not appear to be a representation with any relevance to compulsory acquisition or s127 PSA2008, rather seeking to alert the applicant to the existence of assets for future reference.
- 7.51 One site referred to was clearly in North London, close to but unaffected by the application proposal. The other related to a site for which an adequate address was not provided. However, having undertaken map searches, I am satisfied that the second site is located north of Ely in Cambridgeshire, beyond the reasonable sphere of influence of the application proposal. I have concluded that it was drawn to my attention in error.
- 7.52 Having considered this correspondence, I am satisfied that it has no bearing on compulsory acquisition or PA 2008 s127 matters.

## **CONCLUSIONS ON COMPULSORY ACQUISITION**

- 7.53 Having considered the application and the information presented during the examination process, including the representations, written and oral questions and answers, I am satisfied that:
- the proposed development is for a legitimate public purpose;
  - no more land is to be subject to compulsory purchase than is necessary;
  - the refinements to the Book of Reference and associated plans have remained within the scope of the application and the ES as submitted; and
  - the necessary funding is in place for the development and in order to cover the costs of the compulsory acquisitions proposed.
- 7.54 The powers sought are both necessary and proportionate.

## **8 OVERALL CONCLUSION AND RECOMMENDATION**

- 8.1 In this chapter of the report, I set out my overall conclusion in relation to all of the evidence submitted during the examination phase.
- 8.2 In examining this application, I pursued the principal issues that I identified at the commencement of the examination, to the extent that they remained relevant and important. I considered all other matters raised by the interested parties or arising through the examination that I considered to be relevant and important.
- 8.3 The principle of the North London Reinforcement Project is strongly supported by relevant policies in national policy statements NPS EN-1 and NPS EN-5, both in terms of the need for it and its means of delivery.
- 8.4 The generic need and urgency for this type of infrastructure is regarded as already demonstrated by the Government. NPS EN-1 directs that substantial weight must be given to the contribution such a project might make towards satisfying that need (at paragraph 3.1.1). It will help to maintain an appropriate security of electricity supply for the capital city within the nation, bearing in mind also that *'energy underpins almost every aspect of our way of life'* (NPS EN-1, at paragraph 3.2.1).
- 8.5 Added to this need and urgency, the applicant has demonstrated the importance of maintaining the electricity supply to London, to meet anticipated demand. London's needs are particular, in that more electricity is consumed within it than is generated, requiring high capacity transmission connections to regions where the generation assets that meet its needs are located. It is an area of concentrated population and economic activity, where electricity demand is rising, as the application documentation and examination have demonstrated.
- 8.6 The application proposal is broadly consistent with NPPF, London and local planning policies. I have not found any respect in which important and relevant issues have emerged from other policy that indicate against NPS policy.
- 8.7 Three Local Impact Reports were supportive of the principle of the proposal as a whole and recognised the weighty and compelling benefit of its purpose: to ensure adequate electricity supplies within the Greater London area, as electricity demand rises in the capital city. They also listed concerns and matters where examination in detail was sought with a view to improved mitigation of its impacts.
- 8.8 The concerns from the Local Impact Reports and from representations have been considered carefully during the examination, and in this report. They have been responded to, to the extent that it appears important and relevant to do so. A

substantial level of agreement has been achieved between the applicant, interested parties and invited persons and this is to be welcomed.

- 8.9 Revisions were made to the draft DCO as part of this process, acknowledging the substance of concerns raised, as well as addressing a considerable number of drafting points and other matters arising. These revisions are set out in my Recommended Draft DCO in Appendix F to this report.
- 8.10 Having considered all the above, the Secretary of State for Energy and Climate Change, for the reasons set out above in my findings and conclusions, is **recommended to grant consent** for this NSIP proposal, **subject to modifications being made** to the applicant's Preferred Draft DCO. Those recommended modifications are set out in Section 6 and have been incorporated into my Recommended Draft DCO in Appendix F.

## **APPENDICIES**

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## APPENDIX A – THE EXAMINATION

The table below lists the main events occurring during the Examination and the main procedural decisions taken by the Examining Authority.

Item	Matters	Deadlines
1	<b>Preliminary Meeting</b>	<b>Wednesday 24 April 2013</b>
2	Issue by ExA of: <ul style="list-style-type: none"> <li>• <b>Examination timetable</b>; and</li> <li>• <b>Written questions.</b></li> </ul>	<b>Tuesday 30 April 2013</b>
3	<b>DEADLINE I</b> Deadline for receipt of: <ul style="list-style-type: none"> <li>• Nominations of locations to be inspected during site inspections and the features to be observed there, with reasons for each nomination;</li> <li>• For locations not accessible from the public realm - nominations for an accompanied site visit (ASV nominations);</li> <li>• For ASV nominations, contact details of the person from whom the ExA should seek permission to enter the land.</li> </ul>	<b>Thursday 16 May 2013</b>
4	<b>DEADLINE II</b> Deadline for receipt of: <ul style="list-style-type: none"> <li>• Comments on relevant representations (RRs) and Statements of Representations (SoRs);</li> <li>• Summaries of all RRs exceeding 1500 words;</li> <li>• Written representations (WRs) by all interested parties;</li> <li>• Summaries of all WRs exceeding 1500 words;</li> <li>• Local Impact Report (LIR) from any relevant local authorities;</li> <li>• Statements of Common Ground requested by ExA (see Annex C);</li> <li>• Responses to ExA's written questions (see Annex D); and</li> <li>• Applicant's draft matrices summarising effects on European sites.</li> </ul>	<b>Thursday 23 May 2013</b>

Item	Matters	Deadlines
5	<p><b>DEADLINE III</b> Deadline for receipt of:</p> <ul style="list-style-type: none"> <li>• Notice of wish to be heard at an Open-floor Hearing;</li> <li>• Notice of wish to be heard at a Compulsory Acquisition Hearing (affected persons only);</li> <li>• Notice of wish to be heard at Issue-Specific Hearings; and</li> <li>• Comments on ASV nominations.</li> </ul>	<p><b>Friday 31 May 2013</b></p>
6	<p><b>DEADLINE IV</b> Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Responses to comments on RRs and SoRs;</li> <li>• Comments on WRs (including comments on the applicant's proposed changes, in accordance with a letter from the ExA dated 30 May 2013);</li> <li>• Comments on LIRs;</li> <li>• Comments on responses to ExA's written questions; and</li> <li>• Comments on Applicant's draft matrices summarising effects on European sites.</li> </ul>	<p><b>Thursday 20 June 2013</b></p>
7	<p>Reserved for possible <b>Accompanied Site Visits</b> (ASVs).</p> <ul style="list-style-type: none"> <li>• If ASV nominations are received and acceded to by the ExA, arrangements will be made to carry out ASVs on these dates.</li> <li>• Attendance at ASVs is limited to: <ul style="list-style-type: none"> <li>○ representatives of the applicant;</li> <li>○ representatives of the Lee Valley Regional Park Authority; and</li> <li>○ representatives of the owner, occupier or operator of the site together with such persons as may be necessary to assure the health and safety of those visiting any operational land.</li> </ul> </li> <li>• If no ASV nominations are received the ExA may cancel the ASV programme through a notice placed on the National Infrastructure Planning Portal.</li> </ul> <p>As matters proceeded, no ASV nominations</p>	<p><b>Tuesday 25 – Thursday 27 June 2013</b></p>

Item	Matters	Deadlines
	<p>were made and the ExA decided to conduct unaccompanied site inspections. Therefore, the reserved dates for the possible ASVs were not required.</p>	
<p><b>8</b></p>	<p><b>DEADLINE V</b></p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Responses to comments on WRS;</li> <li>• Responses to comments on LIRs;</li> <li>• Responses to comments on answers to ExA's written questions; and</li> <li>• Responses to comments on draft matrices summarising effects on European sites.</li> </ul>	<p><b>Wednesday 3 July 2013</b></p>
<p><b>9</b></p>	<p>Reserved for possible <b>Open-Floor Hearings:</b></p> <ul style="list-style-type: none"> <li>• If no requests to be heard are received by Deadline III the ExA may cancel this hearing through a notice placed on the National Infrastructure Planning Portal.</li> </ul> <p>As matters proceeded, no interested party or invited person requested to be heard at an open-floor hearing. Therefore the reserved date and time for a possible open-floor hearing was not required</p>	<p><b>Monday 8 July 2013</b> from 13-00</p>
<p><b>10</b></p>	<p>Reserved for possible <b>Compulsory Acquisition Hearings:</b></p> <ul style="list-style-type: none"> <li>• If no requests to be heard are received by Deadline III the ExA may cancel this hearing through a notice placed on the National Infrastructure Planning Portal.</li> </ul> <p>This hearing proceeded.</p>	<p><b>Monday 8 July 2013</b> from 15-30</p>
<p><b>11</b></p>	<p>Reserved for <b>Issue-Specific Hearings:</b></p> <ul style="list-style-type: none"> <li>• The impact of the application proposals and work programme on the Lee Valley Regional Park, the public and sporting events programme in the park and on the 'showground' site; and</li> <li>• The draft Development Consent Order.</li> </ul> <p>These hearings proceeded.</p>	<p><b>Tuesday 9 July – Thursday 11 July 2013</b></p>

Item	Matters	Deadlines
12	<p>Reserved for possible hearings or public local inquiries under parallel processes pursuant to ss127, 131 and/or 132 of the Planning Act 2008 if required (presided over by a relevant appointed person):</p> <ul style="list-style-type: none"> <li>• At the commencement of the examination, it was not clear whether these processes would be required. Provision was made for them on a precautionary basis.</li> <li>• As matters proceeded, the ExA was also appointed as an examiner for certificate applications under s127 of the Planning Act 2008. A hearing was offered to persons affected by those certificate applications but none requested to be heard and so the hearing was cancelled.</li> <li>• The ExA was not appointed to examine any applications under ss 131 and/or 132 of the Planning Act 2008.</li> </ul>	Friday 12 July 2013
13	<p><b>DEADLINE VI</b> Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Written summaries of submissions and evidence provided during hearings;</li> <li>• Responses to questions on notice raised by the ExA during hearings;</li> <li>• Any additional evidence requested by the ExA during hearings; and</li> <li>• Applicant's revised draft DCO (taking account of issues raised in hearings and WRs into account).</li> </ul> <p>To ensure the provision of due process and fairness to all participants in the examination, the ExA advised that he would not consider submissions by the applicant or other parties requesting new changes to the draft Development Consent Order or examination documents after the expiry of this deadline, other than as specifically provided for in the remainder of the timetable or in questions from the ExA.</p>	Friday 26 July 2013
14	<p>Issue by ExA of:</p> <ul style="list-style-type: none"> <li>• <b>A Report on the Implications for European Sites (RIES)</b> taking issues raised and comments into account; and</li> </ul>	Friday 9 August 2013

<b>Item</b>	<b>Matters</b>	<b>Deadlines</b>
	<ul style="list-style-type: none"> <li>• <b>Revised draft DCO</b> taking issues raised and comments into account.</li> </ul>	
<b>15</b>	<p><b>DEADLINE VII</b> Deadline for receipt of:</p> <ul style="list-style-type: none"> <li>• Comments on ExA's RIES; and</li> <li>• Comments on ExA's revised draft DCO.</li> </ul>	<b>Tuesday 3 September 2013</b>
<b>16</b>	Issue by the ExA of questions seeking further information and written comments.	<b>9 September 2013</b>
<b>17</b>	<p><b>DEADLINE VIII</b> Responses to the ExA's questions seeking further information and written comments.</p>	<b>27 September 2013</b>
<b>18</b>	<p><b>DEADLINE IX</b> Comments on responses to the ExA's questions seeking further information and written comments.</p>	<b>14 October 2013</b>
<b>19</b>	Issue by the ExA of a question to the applicant seeking further information and written comments on the Book of Reference.	<b>18 October 2013</b>
<b>20</b>	<p><b>DEADLINE X</b> Response to the ExA's question to the applicant seeking further information and written comments on the Book of Reference.</p>	<b>21 October 2013</b>
<b>21</b>	<b>Close of examination</b>	<b>23 October 2013</b>

## APPENDIX B – LIST OF PARTICIPANTS AT THE PRELIMINARY MEETING AND SPEAKERS AT HEARINGS

### PRELIMINARY MEETING, 24 APRIL 2013

Tottenham Hotspur Football Club, Bill Nicholson Way, 748 High Road, Tottenham, London N17 0AP

#### List of participants

Person	Role / Representing
Stephen Wilkinson	Lee Valley Regional Park Authority
Andrew Wright	Lee Valley Regional Park Authority
Steve Jaggard	Enfield Council
Lauren Laviniere	Enfield Council
Graham Saunders	English Heritage
Rachel Keen	Environment Agency
Caroline Sabberton	Environment Agency
Gordon Wyatt	Natural England
David Wilson	Savills Consultants for Thames Water
Akshat Vipin	Adams Hendry Consulting Ltd for Thames Water
Juliet Clark	Eversheds Solicitors for Transport for London
Gareth Fairweather	Transport for London
Claire McLean	Canal and River Trust
Emma Williamson	Greater London Authority
Nick Brown	Bircham Dyson Bell Solicitors for National Grid Electricity Transmission plc.
Lauren Spencer	Bircham Dyson Bell Solicitors for National Grid Electricity Transmission plc.
Abbas Raza	Local Dialogue Consultants for National Grid Electricity Transmission plc.
Mark Brown	Local Dialogue Consultants for National Grid Electricity Transmission plc.
Will Bridges	National Grid Electricity Transmission plc.
Brian Smethurst	National Grid Electricity Transmission plc.

<b>Person</b>	<b>Role / Representing</b>
Ken Guest	National Grid Electricity Transmission plc.
Nicola Catt	National Grid Electricity Transmission plc.
Anna Eastgate	National Grid Electricity Transmission plc.
Sean Stokoe	National Grid Electricity Transmission plc.
Catherine McCloskey	National Grid Electricity Transmission plc.

**COMPULSORY ACQUISITION HEARING, MONDAY 8 JULY 2013**

Tottenham Hotspur Football Club, Bill Nicholson Way, 748 High Road, Tottenham, London N17 0AP

**List of speakers**

<b>Person</b>	<b>Role / Representing</b>
Michael Humphries QC	Counsel instructed by Bircham Dyson Bell for National Grid Electricity Transmission plc.
Amanda Pritchard	National Grid Electricity Transmission plc.
Will Bridges	National Grid Electricity Transmission plc.
Neil Carter	National Grid Electricity Transmission plc.
Andrew Wright	Planning Officer Lee Valley Regional Park Authority
Nick Powell	Property Surveyor Lee Valley Regional Park Authority

**ISSUE-SPECIFIC HEARING ON  
PROGRAMME AND CONSTRUCTION PHASE IMPACTS, TUESDAY 9  
JULY 2013**

Tottenham Hotspur Football Club, Bill Nicholson Way, 748 High Road, Tottenham, London N17 0AP

**List of speakers**

<b>Person</b>	<b>Role / Representing</b>
Michael Humphries QC	Counsel instructed by Bircham Dyson Bell for National Grid Electricity Transmission plc.
Will Bridges	National Grid Electricity Transmission plc.
Peter Bullen	National Grid Electricity Transmission plc.

<b>Person</b>	<b>Role / Representing</b>
Karen Wilson	National Grid Electricity Transmission plc.
Andrew Wright	Planning Officer Lee Valley Regional Park Authority
Stephen Wilkinson	Head of Planning Lee Valley Regional Park Authority

**ISSUE-SPECIFIC HEARING ON**  
**THE DRAFT DEVELOPMENT CONSENT ORDER, WEDNESDAY 10 JULY**  
**2013** Tottenham Hotspur Football Club, Bill Nicholson Way, 748 High  
Road, Tottenham, London N17 0AP

**List of speakers**

<b>Person</b>	<b>Role / Representing</b>
Michael Humphries QC	Counsel instructed by Bircham Dyson Bell for National Grid Electricity Transmission plc.
Will Bridges	National Grid Electricity Transmission plc.
Andrew Wright	Planning Officer Lee Valley Regional Park Authority
Stephen Wilkinson	Head of Planning Lee Valley Regional Park Authority
Robert Singleton	Planning Officer Enfield Council
Lauren Laviniere	Planning Policy Officer Enfield Council
Emma Williamson	Head of Development Management Haringey Council
Rachel Keen	Major Projects Officer Environment Agency
Caroline Sabberton	Major Projects Officer Environment Agency

## APPENDIX C – ABBREVIATIONS

DCO	Development Consent Order
ExA	Examining Authority
EIA Regulations	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended)
EIA	Environmental Impact Assessment
ES	Environmental Statement
GIS	Gas Insulated Switchgear
HRA	Habitats Regulation Assessment
Km	Kilometre/s
kV	Kilovolts
LIR	Local Impact Report
LoWS	Local Wildlife Site (in the county of Essex)
LVRPA	Lee Valley Regional Park Authority
NPPF	National Planning Policy Framework
PA 2008	Planning Act 2008 (as amended)
RIES Sites	Report on the Implications for European
SAC	Special Area of Conservation
SBINC	Site of Borough Interest for Nature Conservation (in Greater London)
SMINC	Site of Metropolitan Interest for Nature Conservation (in Greater London)
SoS	Secretary of State for Energy and Climate Change
SPA	Special Protection Area
SSSI	Site of Special Scientific Interest
The park authority	Lee Valley Regional Park Authority

## APPENDIX D - EXAMINATION DOCUMENTS

### CONTENTS

The documents are grouped together by document type, and then grouped by the submission deadlines where relevant.

Each document has been given an identification number (ie APP1), and all documents are available to view on the Planning Inspectorate's National Infrastructure Planning website at the North London Reinforcement Project page:

<http://infrastructure.planningportal.gov.uk/projects/london/north-london-electricity-line-reinforcement/>

### INDEX

**APP Application Documents** – documents submitted by the applicant under s37 of the Planning Act 2008.

**PD Project Documents** - documents relating to the project excluding the application documents. Includes the procedural decisions made by the Examining Authority.

**REP Representations and Submissions** – representations and submissions submitted to the Planning Inspectorate in accordance with the procedural deadlines specified in the examination timetable issued in the Rule 8 letter at the start of the examination.

**AS Additional Submissions** - submissions received by the Planning Inspectorate between the acceptance of the application and the start of the examination but which were not able to be treated as relevant representations. Also, additional evidence or documents received during the examination outside the deadlines specified in the examination timetable issued in the Rule 8 letter at the start of the examination.

**HR Hearings** – hearing agendas; correspondence relating to attendance; summary of case made; audio recordings of the Preliminary Meeting and Hearing sessions.

**SEC Section 127** – documents and submissions received by the Planning Inspectorate relating to the examination of the Section 127 applications, including the procedural decisions made by the appointed examiner.

DOC REF	TITLE	DATE
<b>APPLICATION DOCUMENTS</b>		
	<b><i>Application Form</i></b>	<b><i>Submitted 30 August 2012</i></b>
APP1	<u>1.1 Covering Letter</u>	
APP2	<u>1.2 Application Form</u>	
APP3	<u>1.3. Electronic Application Index</u>	
APP4	<u>1.4 Schedule of Documents and Plans</u>	
AAP5	<u>1.5 Newspaper Notices</u>	
APP6	<u>1.6 Red Line Boundary Shape Files (Electronic Copy only).zip</u>	
	<b><i>Plans</i></b>	<b><i>Submitted 30 August 2012</i></b>
APP7	<u>2.1 Land Plans (including Land Affected Plans)</u>	
APP8	<u>2.2 Plans showing Special Category Land</u>	
APP9	<u>2.3 Extinguishing Rights Plans</u>	
APP10	<u>2.4 Works Plans</u>	
APP11	<u>2.5 Access and Rights of Way Plans</u>	
APP12	<u>2.6 Design Drawings and Sections</u>	
APP13	<u>2.7 Trees to be Removed Plans</u>	
APP14	<u>2.8 Environmental Features Plans</u>	
APP15	<u>2.9 Heritage Designation Plans</u>	
	<b><i>Draft Development Consent Order</i></b>	<b><i>Submitted 30 August 2012</i></b>
APP16	<u>3.1 Draft Development Consent Order</u>	
APP17	<u>3.2 Draft Explanatory Memorandum</u>	
	<b><i>Compulsory Acquisition Information</i></b>	<b><i>Submitted 30 August 2012</i></b>
APP18	<u>4.1 Statement of Reasons</u>	
APP19	<u>4.2 Funding Statement</u>	
APP20	<u>4.3 Book of Reference (Parts 1 to 5)</u>	
	<b><i>Reports</i></b>	<b><i>Submitted 30 August 2012</i></b>
APP21	<u>5.1 Consultation Report</u>	

DOC REF	TITLE	DATE
APP22	<u>5.2 Consultation Report Appendices</u>	
APP23	<u>5.3 Flood Risk Assessment</u>	
APP24	<u>5.4 Statement of Statutory Nuisance</u>	
APP25	<u>5.5 Habitat Regulations Assessment</u>	
APP26	<u>5.6 Details of Consents and Licences</u>	
APP27	<u>7.1 Planning Statement</u>	
APP28	<u>7.2 Transport Statement Part 1 - Introduction</u>	
APP29	<u>7.3 Transport Statements Part 2 - Overhead Line and Cable Works</u>	
APP30	<u>7.4 Transport Statements Part 3 - Waltham Cross Substation</u>	
APP31	<u>7.5 Transport Statements Part 4 - Brimsdown Substation</u>	
	<b><i>Environmental Statement</i></b>	<b><i>Submitted 30 August 2012</i></b>
APP32	<u>6.1 Non Technical Summary Volume 1</u>	
APP33	<u>6.2 Environmental Statement Volume 2</u>	
APP34	<u>6.3 Environmental Statement Technical Figures Volume 3a</u>	
APP35	<u>6.3 Environmental Statement Technical Figures Volume 3b</u>	
APP36	<u>6.4 Environmental Statement Technical Appendices Volume 4</u>	
APP37	<u>6.5 Scoping Opinion</u>	
<b>PROJECT DOCUMENTS</b>		
	<b><i>EIA Scoping</i></b>	
PD1	<u>Applicant Scoping Report</u>	23 Aug 2011
PD2	<u>North London Scoping Opinion</u>	30 Sep 2011
PD3	<u>Late responses</u>	
	<b><i>Acceptance of Application</i></b>	
PD4	<u>Acceptance Decision Letter</u>	27 Sep 2012
PD5	<u>Section 55 checklist</u>	27 Sep 2012
	<b><i>Pre - Examination</i></b>	
PD6	<u>North London Reinforcement Project Meeting Note</u>	25 Jun 2011
PD7	<u>Pre-application Site Visit note June 2011</u>	27 Jun 2011
PD8	<u>Update Meeting Note September 2011</u>	5 Sep 2011

DOC REF	TITLE	DATE
PD9	<u>Certificates of Compliance with s56 and s59 of the Planning Act 2008 and Reg 13 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009</u>	13 Nov 2012
	<b><i>Procedural Decisions and other correspondence</i></b>	
PD10	<u>Rule 6 letter inc Rule 4 notice Final (4)</u>	14 Dec 2012
PD11	<u>Rule 6 letter inc Rule 4 notice to 'Other Persons'</u>	14 Dec 2012
PD12	<u>Rule 6 letter inc Rule 4 notice to Natural England</u>	14 Dec 2012
PD13	<u>Postponement of Preliminary Meeting</u>	4 Jan 2013
PD14	<u>The Examining Authority's letter to Natural England</u>	24 Jan 2013
PD15	<u>Examining authority's letter to the Greater London Authority (GLA)</u>	24 Jan 2013
PD16	<u>Examining authority's letter to the Environment Agency</u>	24 Jan 2013
PD17	<u>Opportunity to Submit a Statement of Representation</u>	24 Jan 2013
PD18	<u>Action taken by the Examining authority</u>	28 Jan 2013
PD19	<u>Reissued Rule 6 Letter including Rule 4 Notice to Natural England</u>	27 Mar 2013
PD20	<u>Reissued Rule 6 Letter including Rule 4 Notice to Other Persons</u>	27 Mar 2013
PD21	<u>Reissued Rule 6 Letter including Rule 4 Notice</u>	27 Mar 2013
PD22	<u>Reissued Rule 6 Letter including Rule 4 Notice to English Heritage</u>	27 Mar 2013
PD23	<u>Letter to Mr Brian Smethhurst (National Grid)</u>	23 Apr 2013
PD24	<u>Preliminary Meeting Note</u>	24 Apr 2013
	<b><i>Examination</i></b>	
PD25	<u>Rule 8 Letter</u>	30 Apr 2013
PD26	<u>Examining authority Letter to National Grid regarding application changes</u>	30 May 2013
PD27	<u>Letter regarding the Applicant's changes to the application</u>	30 May 2013
PD28	<u>USV Note 1_RS_V0-1</u>	11 Jun 2013
PD29	<u>Unaccompanied site visit photographs Day 1 (5 June 2013)</u>	11 Jun 2013
PD30	<u>Unaccompanied Site Visits Annex 2 Maps</u>	11 Jun 2013
PD31	<u>Unaccompanied site visit photographs Day 2 (6 June 2013)</u>	11 Jun 2013
PD32	<u>Unaccompanied Site Visit Note 2</u>	18 Jun 2013
PD33	<u>Unaccompanied Site Visit 2 Annex 2 Maps</u>	18 Jun 2013
PD34	<u>Examining authority's Rule 13 Letter (notification of the dates, times and places of hearings)</u>	11 Jun 2013
PD35	<u>Examining Authority Letter for Hearing Agendas</u>	28 Jun 2013
PD36	<u>Response to Lee Valley Regional Park Authority</u>	2 Aug 2013
PD37	<u>Examining authority issue of RIES and revised draft DCO for comment</u>	9 Aug 2013

DOC REF	TITLE	DATE
PD38	<u>Examining authority's Report on the Implications for European Sites (RIES)</u>	9 Aug 2013
PD39	<u>Examining authority's revised draft Development Consent Order (DCO)</u>	9 Aug 2013
PD40	<u>Timetable variation and request for further information and written comments</u>	9 Sep 2013
PD41	<u>North London transboundary screening</u>	13 Oct 2013
PD42	<u>Further timetable variation and request for further information and written comments from the applicant</u>	18 Oct 2013
PD43	<u>Notification of Completion of ExA Examination</u>	24 Oct 2013
<b>REPRESENTATIONS</b>		
	<b><i>Adequacy of Consultation Responses</i></b>	
REP1	<u>s55(4)(b)Harlow Council</u>	
REP2	<u>s55(4)(b)Hertsmere Borough Council</u>	
REP3	<u>s55(4)(b)Environment and Regeneration, Waltham Forest Council</u>	
REP4	<u>s55(4)(b)East Hertfordshire District Council</u>	
REP5	<u>s55(4)(b)-Epping Forest District Council</u>	
REP6	<u>s55(4)(b)Essex County Council</u>	
REP7	<u>s55(4)(b)Islington Planning Service</u>	
REP8	<u>s55(4)(b)Cambridge County Council</u>	
REP9	<u>s55(4)(b)Head of Planning &amp; Transport, Southend-on-Sea B C</u>	
REP10	<u>s55(4)(b)Chelmsford Council</u>	
REP11	<u>s55(4)(b)London Borough of Haringey</u>	
REP12	<u>s55(4)(b)Enfield Council</u>	
REP13	<u>s55(4)(b)Broxbourne Council</u>	
	<b><i>Relevant Representations</i></b>	
REP14	<u>TJX Europe Limited (WITHDRAWN REP)</u>	
REP15	<u>Fishers Green Consortium (WITHDRAWN REP) 29/4/2013</u>	
REP16	<u>Kings Arms &amp; Cheshunt Angling Society (WITHDRAWN REP) 29/4/2013</u>	
REP17	<u>Environment Agency</u>	
REP18	<u>Cable &amp; Wireless UK (WITHDRAWN REPRESENTATION)</u>	
REP19	<u>Thames Water Utilities Ltd</u>	
REP20	<u>Great London Authority (GLA)</u>	
REP21	<u>United Utilities PLC</u>	
REP22	<u>Juliet Clark</u>	
REP23	<u>Paul Manning</u>	
REP24	<u>Epping Forest District Council</u>	

DOC REF	TITLE	DATE
REP25	<u>London Borough of Haringey</u>	
REP26	<u>Enfield Council</u>	
REP27	<u>Lee Valley Regional Park Authority</u>	
	<b>Statements of Representations</b>	
REP28	<u>English Heritage - Statement of Representation</u>	5 Mar 2013
REP29	<u>Statement of Representation (Natural England) (4)</u>	1 Mar 2013
<b>EXAMINATION</b>		
<b>DEADLINE I</b>		<b>Thursday 16 May 2013</b>
	<b><i>Nominations of locations to be inspected during site inspections and the features to be observed there, with reasons for each nomination; for locations not accessible from the public realm - nominations for an accompanied site visit (ASV nominations)</i></b>	
REP30	<u>Enfield Council</u>	16 May 2013
REP31	<u>Lee Valley Regional Park Authority</u>	16 May 2013
REP32	<u>National Grid</u>	16 May 2013
<b>DEADLINE II</b>		<b>Thursday 23 May 2013</b>
	<b><i>Comments on Relevant Representations and Statements of Representations</i></b>	
REP33	<u>National Grid (the applicant)</u>	23 May 2013
	<b><i>Written Representations</i></b>	
REP34	<u>National Grid (the applicant)</u>	23 May 2013
REP35	<u>Bircham Dyson Bell (on behalf of the applicant National Grid)</u> 1 of 4	23 May 2013
REP36	<u>Bircham Dyson Bell (on behalf of the applicant National Grid)</u> 2 of 4	23 May 2013
REP37	<u>Bircham Dyson Bell (on behalf of the applicant National Grid)</u> 3 of 4	23 May 2013
REP38	<u>Bircham Dyson Bell (on behalf of the applicant National Grid)</u> 4 of 4	23 May 2013

DOC REF	TITLE	DATE
REP39	<u>Canal &amp; River Trust's Response to the Examining Authority's 1st Questions</u>	22 May 2013
REP40	<u>English Heratige</u>	22 May 2013
REP41	<u>Environment Agency</u>	23 May 2013
REP42	<u>Eversheds LLP on behalf of Transport for London</u>	23 May 2013
REP43	<u>Eversheds LLP on behalf of Transport for London</u>	23 May 2013
REP44	<u>Eversheds LLP on behalf of Transport for London2-6</u>	23 May 2013
REP45	<u>Lee Valley Regional Park Authority with appendix</u>	23 May 2013
REP46	<u>Lee Valley Regional Park Authority's Written Representations Appendix 1a, received after the deadline of 23rd May 2013</u>	24 May 2013
REP47	<u>Lee Valley Regional Park Authority's Written Representations Appendix 2a, received after the deadline of 23rd May 2013</u>	24 May 2013
REP48	<u>Lee Valley Regional Park Authority's Written Representations Appendix 2b, received after the deadline of 23rd May 2013</u>	24 May 2013
REP49	<u>Lee Valley Regional Park Authority's Written Representations Appendix 2c, received after the deadline of 23rd May 2013</u>	24 May 2013
REP50	<u>Lee Valley Regional Park Authority's Written Representations Appendix 2d, received after the deadline of 23rd May 2013</u>	24 May 2013
REP51	<u>Lee Valley Regional Park Authority's Written Representations Appendix 2e, received after the deadline of 23rd May 2013</u>	24 May 2013
REP52	<u>Lee Valley Regional Park Authority's Written Representations Appendix 2f, received after the deadline of 23rd May 2013</u>	24 May 2013
REP53	<u>Lee Valley Regional Park Authority's Written Representations Appendix 3a, received after the deadline of 23rd May 2013</u>	24 May 2013
REP54	<u>Lee Valley Regional Park Authority's Written Representations Appendix 4.1a, received after the deadline of 23rd May 2013</u>	24 May 2013
REP55	<u>Lee Valley Regional Park Authority's Written Representations Appendix 4.1b, received after the deadline of 23rd May 2013</u>	24 May 2013
REP56	<u>Lee Valley Regional Park Authority's Written Representations Appendix 4.1c, received after the deadline of 23rd May 2013</u>	24 May 2013
REP57	<u>Lee Valley Regional Park Authority's Written Representations Appendix 4.1d, received after the deadline of 23rd May 2013</u>	24 May 2013
REP58	<u>Lee Valley Regional Park Authority's Written Representations Appendix 4.2a, received after the deadline of 23rd May 2013</u>	24 May 2013
REP59	<u>Lee Valley Regional Park Authority's Written Representations Appendix 4.2b, received after the deadline of 23rd May 2013</u>	24 May 2013
REP60	<u>Lee Valley Regional Park Authority's Written Representations Appendix 4.4a, received after the deadline of 23rd May 2013</u>	24 May 2013
REP61	<u>Lee Valley Regional Park Authority's Written Representations Appendix 5, received after the deadline of 23rd May 2013</u>	24 May 2013
REP62	<u>London Borough of Haringey</u>	17 May 2013
REP63	<u>Natural England</u>	21 May 2013
REP64	<u>Natural England Executive summary</u>	21 May 2013
REP65	<u>Vodafone Limited</u>	9 May 2013
REP66	<u>Lee Valley Regional Park Authority</u>	4 July 2013

DOC REF	TITLE	DATE
	<b><i>Local Impact Reports</i></b>	
REP67	<u>Epping Forest District Council</u>	23 May 2013
REP68	<u>Enfield Council</u>	23 May 2013
REP69	<u>Greater London Authority</u>	22 May 2013
	<b><i>Statements of Common Ground</i></b>	
REP70	<u>National Grid's (the applicant) Statement of Common Ground with Thames Water Utilities Limited</u>	23 May 2013
REP71	<u>National Grid's (the applicant) Statement of Common Ground with Essex County Council</u>	23 May 2013
REP72	<u>National Grid's (the applicant) Statement of Common Ground with the Environment Agency</u>	23 May 2013
REP73	<u>National Grid's (the applicant) Statement of Common Ground with Canals and Rivers Trust</u>	23 May 2013
REP74	<u>National Grid's (the applicant) Statement of Common Ground with Natural England</u>	23 May 2013
REP75	<u>National Grid's (the applicant) Statement of Common Ground with English Heritage (unsigned copy)</u>	23 May 2013
REP76	<u>National Grid's (the applicant) Statement of Common Ground with BPA</u>	23 May 2013
REP77	<u>National Grid's (the applicant) Statement of Common Ground with the Lee Valley Regional Park Authority</u>	23 May 2013
REP78	<u>National Grid's (the applicant) Statement of Common Ground with the Greater London Authority</u>	23 May 2013
REP79	<u>National Grid's (the applicant) Statement of Common Ground with Epping Forest District Council</u>	23 May 2013
REP80	<u>National Grid's (the applicant) Statement of Common Ground with English Heritage submitted after the deadline of 23rd May 2013 (2)</u>	6 Jun 2013
REP81	<u>National Grid's (the applicant) Statement of Common Ground with the Highways Agency</u>	1 Jul 2013
REP82	<u>National Grid's (the applicant) Statement of Common Ground with Enfield Council</u>	17 Jun 2013
	<b><i>Responses to the Examining Authority's Written Questions</i></b>	
REP83	<u>Enfield Council's Response to the Examining Authority's First Questions with appendix</u>	23 May 2013
REP84	<u>English Heritage's Response to the Examining Authority's 1st Questions</u>	22 May 2013
REP85	<u>Environment Agency's Response to the Examining Authority's 1st Questions</u>	23 May 2013

DOC REF	TITLE	DATE
REP86	<u>Epping Forest District Council's Response to the Examining Authority's First Questions</u>	23 May 2013
REP87	<u>Essex County Council Response to the Examining Authority's 1st questions</u>	22 May 2013
REP88	<u>Greater London Authority's Response to the Examining Authority's First Questions</u>	23 May 2013
REP89	<u>Lee Valley Regional Park Authority's Responses to Examining Authority's First Questions</u>	23 May 2013
REP90	<u>London Borough of Haringey's Response to the Examining Authority's 1st Questions</u>	23 May 2013
REP91	<u>National Grid's (the applicant) response to the Examining authority's written questions</u>	23 May 2013
REP92	<u>Appendix A of National Grid's (the applicant) response to the Examining authority's written questions (Part 1 of 4)</u>	23 May 2013
REP93	<u>Appendix A of National Grid's (the applicant) response to the Examining authority's written questions (Part 2 of 4)</u>	23 May 2013
REP94	<u>Appendix A of National Grid's (the applicant) response to the Examining authority's written questions (Part 3 of 4)</u>	23 May 2013
REP95	<u>Appendix A of National Grid's (the applicant) response to the Examining authority's written questions (Part 4 of 4)</u>	23 May 2013
REP96	<u>Appendices B to E of National Grid's (the applicant) response to the Examining authority's written questions</u>	23 May 2013
REP97	<u>Thames Water's Response to the Examining Authority's 1st Questions</u>	23 May 2013
	<b><i>Applicant's draft matrices summarising effects on European sites</i></b>	
REP98	<u>National Grid (the applicant) Habitats Regulations Matrices to inform the Report on the Implications for European Sites</u>	23 May 2013
<b>DEADLINE III</b>		<b>Friday 31 May 2013</b>
	<b><i>Notice of a wish to be heard at Examination Hearings and Comments on ASV nominations</i></b>	
REP99	<i>This reference has not been allocated.</i>  <i>For notifications of a wish to attend and be heard at examination hearings, please see the 'Hearings' section of this Document List.</i>	
<b>DEADLINE IV</b>		<b>Thursday 20 June 2013</b>

DOC REF	TITLE	DATE
	<b><i>Responses to Comments on Relevant Representations and Statements of Representations; Comments on Written Representations; Comments on Local Impact Reports; Comments on Responses to ExA's written Questions, and; Comments on the Applicant's draft matrices summarising effects on European sites</i></b>	
REP100	<u>Lee Valley Regional Park Authority</u>	20 Jun 2013
REP101	<u>National Grid (the applicant)</u>	19 Jun 2013
REP102	<u>National Grid (the applicant) 2</u>	19 Jun 2013
REP103	<u>National Grid (the applicant) 3</u>	19 Jun 2013
REP104	<u>NATS Safeguarding</u>	20 Jun 2013
	<b><i>Supplemental Examination Deadline: Comments on the proposed changes by National Grid to the application</i></b>	
REP105	<u>Enfield Council</u>	20 Jun 2013
REP106	<u>English Heritage</u>	20 Jun 2013
REP107	<u>Environment Agency</u>	14 Jun 2013
REP108	<u>Natural England</u>	30 May 2013
<b>DEADLINE V</b>		<b>Wednesday 3 July 2013</b>
	<b><i>Responses to Comments on: Written Representations; Local Impact Reports; answers to the Examining Authority's First Written Questions; and the draft matrices summarising effects on European sites</i></b>	
REP109	<u>Enfield Council 2</u>	3 Jul 2013
REP110	<u>Lee Valley Regional Park Authority 2</u>	3 Jul 2013
REP111	<u>National Grid (the applicant) 4</u>	1 Jul 2013
REP112	<u>National Grid (the applicant) 5</u>	1 Jul 2013
<b>DEADLINE VI</b>		<b>Friday 26 July 2013</b>
	<b><i>Written summaries of submissions and evidence provided during hearings; Responses to questions on notice raised by the ExA during hearings; Any additional evidence requested by the ExA during hearings</i></b>	

DOC REF	TITLE	DATE
REP113	<i>This reference has not been allocated.</i>  <i>For documents relating to examination hearings, please see the 'Hearings' section of this Document List.</i>	
	<b><i>Applicant's revised draft DCO (taking account of issues raised in hearings and WRs into account)</i></b>	
REP114	<u>National Grid Cover letter for documents submitted for the deadline of 26 July 2013</u>	26 Jul 2013
REP115	<u>National Grid DCO as submitted for the deadline of 26 July 2013</u>	26 Jul 2013
REP116	<u>National Grid DCO commentary submitted for the deadline of 26 July 2013</u>	26 Jul 2013
REP117	<u>National Grid Draft DCO LVRPA Tracked Changes submitted for the deadline of 26 July 2013</u>	26 Jul 2013
REP118	<u>National Grid Enfield draft DCO submitted for the deadline of 26 July 2013</u>	26 Jul 2013
REP119	<u>National Grid Environmental Measures for the DCO submitted for the deadline of 26 July 2013</u>	26 Jul 2013
REP120	<u>National Grid Environmental Measures for the DCO with shading submitted for the deadline of 26 July 2013</u>	26 Jul 2013
REP121	<u>National Grid Explanatory Memorandum submitted for the deadline of 26 July 2013</u>	26 Jul 2013
REP122	<u>National Grid Finance letter submitted for the deadline of 26 July 2013</u>	26 Jul 2013
REP123	<u>National Grid Outages submitted for the deadline of 26 July 2013</u>	26 Jul 2013
REP124	<u>National Grid Access rights of way plan sheet 1 of 10 (replacement) submitted for the deadline of 26 July 2013</u>	26 Jul 2013
<b>DEADLINE VII</b>		<b>Tuesday 3 September 2013</b>
	<b><i>Comments on Examining Authority's RIES and revised draft Development Consent Order</i></b>	
REP125	<u>Enfield Council's comments on ExA's revised draft DCO</u>	3 Sep 2013
REP126	<u>English Heritage comments on ExA's revised draft DCO</u>	27 Aug 2013
REP127	<u>Environment Agency comments on ExA's revised draft DCO and RIES</u>	30 Aug 2013
REP128	<u>Highways Agency comments on the ExA's revised draft DCO</u>	30 Aug 2013
REP129	<u>LVRPA comments on ExA's revised draft DCO and RIES</u>	3 Sep 2013
REP130	<u>LVRPA amendments to ExA's revised draft DCO</u>	3 Sep 2013

DOC REF	TITLE	DATE
REP131	<a href="#">National Grid's cover letter regarding comments on ExA's revised draft DCO and REIS</a>	3 Sep 2013
REP132	<a href="#">National Grid's comments on ExA's revised draft DCO</a>	3 Sep 2013
REP133	<a href="#">National Grid and Enfield Council Deed of Unilateral Undertaking dated 2 Sept 2013</a>	3 Sep 2013
REP134	<a href="#">Natural England comments on ExA's revised draft DCO and RIES</a>	15 Aug 2013
REP135	<a href="#">Highways Agency comments on the ExA's revised draft DCO</a>	30 Aug 2013
<b>DEADLINE VIII (revised timetable deadline)</b>		<b>Friday 27 September 2013</b>
	<i>Responses to the ExA's questions seeking further information and written comments.</i>	
REP136	<a href="#">130927_EN020009_Enfield Council's response to the ExA's questions seeking further information and written comments.pdf</a>	27 Sep 2013
REP137	<a href="#">130927_EN020009_Environment Agency's response to the ExA's questions seeking further information and written comments.pdf</a>	27 Sep 2013
REP138	<a href="#">Lee Valley Regional Park Authority response to the ExA's questions seeking further information and written comments</a>	27 Sep 2013
REP139	<a href="#">130927_EN020009_National Grid's (the applicant) cover letter regarding the ExA's questions seeking further information and written comments (submission 1 of 4).pdf</a>	27 Sep 2013
REP140	<a href="#">130927_EN020009_National Grid's (the applicant) response to the ExA's questions seeking further information and written comments (submission 2 of 4).pdf</a>	27 Sep 2013
REP141	<a href="#">130927_EN020009_National Grid's (the applicant) Schedule of variation to the Book of Reference Part 1 &amp; 3 in response to the ExA's questions seeking further information and written comments (submission 3 of 4).pdf</a>	27 Sep 2013
REP142	<a href="#">130927_EN020009_National Grid's (the applicant) Updated Land Plans Sheets 2, 5 &amp; 8 in response to the ExA's questions seeking further information and written comments (submission 4 of 4).pdf</a>	27 Sep 2013
REP143	<a href="#">130925_EN020009_Natural England's response to the ExA's questions seeking further information and written comments.pdf</a>	25 Sep 2013
<b>DEADLINE IX (revised timetable deadline)</b>		<b>Monday 14 October 2013</b>

DOC REF	TITLE	DATE
	<i>Comments on responses to the ExA's questions seeking further information and written comments.</i>	
REP144	<u>Lee Valley Regional Park Authority</u>	14 Oct 2013
REP145	<u>National Grid</u>	14 Oct 2013
<b>DEADLINE X (revised timetable deadline)</b>		<b>Monday 21 October 2013</b>
	<i>Response to the ExA's question to the applicant seeking further information and written comments on the Book of Reference.</i>	
REP146	<u>National Grid</u>	21 Oct 2013
<b>ADDITIONAL SUBMISSIONS</b>		
<i>Additional evidence or documents received outside the deadlines specified in the Rule 8 examination timetable</i>		
	<i>Submissions received before the commencement of the Examination on 28 April 2013</i>	
AS1	<u>TJX Europe and TK Maxx withdrawal of relevant representation</u>	16 Jan 2013
AS2	<u>Lee Anglers' Consortium dissolved</u>	2 Apr 2013
AS3	<u>Arriva North London Limited withdrawal of relevant representation</u>	10 Apr 2013
AS4	<u>National Grid items on which to speak at Preliminary Meeting</u>	15 Apr 2013
AS5	<u>Lee Valley Regional Park Authority items on which to speak at Preliminary Meeting</u>	16 Apr 2013
AS6	<u>Eversheds for Transport for London items on which to speak at Preliminary Meeting</u>	18 Apr 2013
	<i>Submissions received after the commencement of the Examination on 28 April 2013</i>	
AS7	<u>Kings Arms and Cheshunt Angling Society and Fishers Green Consortium withdrawal of relevant representations</u>	30 Apr 2013
AS8	<u>Correspondence from the Health and Safety Executive Dated 23 May 2013</u>	23 May 2013

DOC REF	TITLE	DATE
AS9	<u>Submissions outside of Deadline for Lee Valley Regional Park Authority accepted by the Examining Authority</u>	26 Jun 2013
AS10	<u>Lee Valley Regional Park Authority- Submission of 16 October 2013 received outside of the deadline and accepted by the Examining Authority</u>	16 Oct 2013
AS11	<u>Energetics Networked Energy</u>	21 Oct 2013
<b>HEARINGS</b>		
	<b><i>Audio Recordings</i></b>	
HR1	<u>Audio recording of the Preliminary Meeting on 24 April 2013</u>	24 Apr 2013
HR2	<u>Compulsory Acquisition Hearing</u>	8 Jul 2013
HR3	<u>Issue Specific Hearing on Programme and Construction Phase Impacts Part 1.mp3</u>	9 Jul 2013
HR4	<u>Issue Specific Hearing on Programme and Construction Phase Impacts Part 2.mp3</u>	9 Jul 2013
HR5	<u>Issue Specific Hearing on Programme and Construction Phase Impacts Part 3.mp3</u>	9 Jul 2013
HR6	<u>Issue Specific Hearing on the draft Development Consent Order Part 1.mp3</u>	10 Jul 2013
HR7	<u>Issue Specific Hearing on the draft Development Consent Order Part 2.mp3</u>	10 Jul 2013
HR8	<u>Issue Specific Hearing on the draft Development Consent Order Part 3.mp3</u>	10 Jul 2013
HR9	<u>Issue Specific Hearing on the draft Development Consent Order Part 4.mp3</u>	10 Jul 2013
	<b><i>Documents displayed/submitted to the ExA during hearings</i></b>	
HR10	<u>Lee Valley Regional Park Authority's notice of their wish to attend and be heard at hearings submitted for the deadline of 31 May 2013</u>	31 May 2013
HR11	<u>Enfield Council's notice of their wish to attend and be heard at hearings, submitted for the deadline of 31 May 2013</u>	3 Jun 2013
HR12	<u>The Applicant's Notice of Compulsory Acquisition Hearing (8 July 2013) and Issue Specific Hearings (9 and 10 July 2013)</u>	
HR13	<u>Environment Agency's request to attend and be heard at the Issue Specific hearing on the draft Development Consent Order, received on 14 June 2013</u>	14 Jun 2013
HR14	<u>Request from Haringey Council to attend the Issue Specific Hearing on the Draft Development Consent Order received on the 1 July 2013</u>	1 Jul 2013
HR15	<u>Response on behalf of the Examining authority to the request by Haringey Council regarding the DCO hearing</u>	1 Jul 2013

DOC REF	TITLE	DATE
HR16	<u>Documents Received at Hearings for the North London Reinforcement Project</u>	
HR17	<u>Enfield Council</u>	26 Jul 2013
HR18	<u>Environment Agency</u>	26 Jul 2013
HR19	<u>Lee Valley Regional Park Authority</u>	26 Jul 2013
HR20	<u>National Grid's CA1 Supplementary Information, Progress with Voluntary Property Agreements (July 2013)</u>	12 Jul 2013
HR21	<u>National Grid's CA2 Supplementary Information, Plans to Illustrate Progress with Voluntary Property Agreements (July 2013)</u>	12 Jul 2013
HR22	<u>National Grid's CA3 Witness, Ms Amanda Pritchard BSc (Hons), MRICS of National Grid, Summary of Background and Experience</u>	12 Jul 2013
HR23	<u>National Grid's DP1 Environmental Statement Figure 3.8 Illustrative Construction Programme North London Reinforcement Project (Updated July 2013)</u>	12 Jul 2013
HR24	<u>National Grid's (the applicant) DP2 Witness Mr Peter Bullen, MIET of National Grid Summary of Background and Experience</u>	12 Jul 2013
HR25	<u>National Grid's DP3 Witness Ms Karen Wilson, BSC (Hons) Dip (Acoustics &amp; Noise Control) of Amex Environment &amp; Infrastructure Ltd. Summary of Background and Experience</u>	12 Jul 2013
HR26	<u>National Grid's DP4 Car Park Mapping Showground, River Lee Country Park</u>	12 Jul 2013
HR27	<u>National Grid's DP5 Witness Mr Will Bridges, BA (hons) MTCP of National Grid, Summary of Background and Experience</u>	12 Jul 2013
HR28	<u>National Grid's DCO1 Draft Development Consent Order as applied for, with tracked changes to reflect the outcome of discussions between the applicant and interested parties prior to hearings in July 2013</u>	8 Jul 2013
HR29	<u>National Grid's DCO2 Supplementary Information Photomontages (July 2013) (environs of Brimsdown Substation)</u>	12 Jul 2013
HR30	<u>Lee Valley Regional Park Authority DCO3 Notes for the Planning Inspectorate (in answer to Inspector's questions raised to the Lee Valley Regional Park Authority at the Compulsory Acquisition Hearing held on 8 July 2013)</u>	9 Jul 2013
HR31	<u>Environment Agency DCO4 Environment Agency proposed requirement to be included in the DCO for discussion at the DCO Issue Specific hearingx</u>	12 Jul 2013

DOC REF	TITLE	DATE
<b>SECTION 127 DOCUMENTS</b>		
SEC1	<u>North London (Electricity Line) Reinforcement appointment letter</u>	21 Jun 2013
SEC2	<u>North London (Electricity Line) Reinforcement appointment letter 2</u>	21 Jun 2013
SEC3	<u>Cover letter for National Grid applications under s127,131,132</u>	21 May 2013
SEC4	<u>National Grid Section 127 Application with supporting documents to DEFRA</u>	17 May 2013
SEC5	<u>National Grid Section 127 application with supporting documents to the Department for Transport</u>	17 May 2013
SEC6	<u>National Grid Section 127 Appendix A Statement of Reasons</u>	17 May 2013
SEC7	<u>National Grid Section 127 Appendix B Draft DCO</u>	17 May 2013
SEC8	<u>National Grid Section 127 Appendix C Land Plans</u>	17 May 2013
SEC9	<u>National Grid Section 127 Appendix D Book of Reference</u>	17 May 2013
SEC10	<u>Delegation letter from DEFRA</u>	6 Jun 2013
SEC11	<u>Section 127 letter to Thames Water Utilities Ltd</u>	28 Jun 2013
SEC12	<u>Section 127 letter to Environment Agency</u>	28 Jun 2013
SEC13	<u>Section 127 letter to Transport for London</u>	28 Jun 2013
SEC14	<u>National Grid (the applicant)</u>	4 Jul 2013
SEC15	<u>Eversheds LLP on behalf of Transport for London</u>	4 Jul 2013
SEC16	<u>Savills on behalf of Thames Water</u>	4 Jul 2013
SEC17	<u>Environment Agency</u>	4 Jul 2013
SEC18	<u>Section 127 Procedural Letter to the applicant National Grid</u>	5 Jul 2013
SEC19	<u>Section 127 Procedural Letter to Thames Water</u>	5 Jul 2013
SEC20	<u>Section 127 Procedural Letter to the Environment Agency</u>	5 Jul 2013
SEC21	<u>Section 127 Procedural Letter to Transport for London</u>	5 Jul 2013
SEC22	<u>National Grid and the Environment Agency</u>	12 Jul 2013
SEC23	<u>Environment Agency</u>	15 Jul 2013
SEC24	<u>Section 127 Letter to Transport for London</u>	29 Jul 2013
SEC25	<u>Section 127 Letter to the Environment Agency</u>	29 Jul 2013
SEC26	<u>Environment Agency - Written submission for the deadline of 5 August 2013</u>	5 Aug 2013
SEC27	<u>Eversheds LLP on behalf of Transport for London - Written submission for the deadline of 5 August 2013</u>	31 Jul 2013
SEC28	<u>Section 127 Letter to the Environment Agency</u>	29 Aug 2013
SEC29	<u>Environment Agency written submission for the deadline of 6 September 2013</u>	6 Sep 2013
SEC30	<u>Section 127 letter to the Environment Agency</u>	10 Sep 2013
SEC31	<u>Section 127 Letter closing the examination Environment Agency</u>	24 Oct 2013

<b>DOC REF</b>	<b>TITLE</b>	<b>DATE</b>
SEC32	<u>Section 127 Letter closing the examination National Grid</u>	24 Oct 2013
SEC33	<u>Section 127 Letter closing the examination Thames Water</u>	24 Oct 2013
SEC34	<u>Section 127 Letter closing the examination Transport for London</u>	24 Oct 2013

## **APPENDIX E – REPORT ON THE IMPLICATIONS FOR EUROPEAN SITES (RIES)**

The RIES is published on the North London Reinforcement Project page of the national infrastructure section of the planning portal and can be accessed via this link:

<http://infrastructure.independent.gov.uk/document/1945596>

## APPENDIX F – RECOMMENDED DRAFT DCO

201[ ] No. [ ]

**INFRASTRUCTURE PLANNING**

**The National Grid (North London Reinforcement Project)  
Development Consent Order 201[ ]**

*Made* - - - - [ ]

*Coming into force* - - [ ]

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An application has been made to the Secretary of State in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009(a) for an Order under sections 114, 115 and 120 of the Planning Act 2008(b) (“the 2008 Act”);

The application was examined by a single appointed person appointed by the Secretary of State pursuant to Chapter 3 of Part 6 of the 2008 Act, and the examination was carried out in accordance with Chapter 4 of Part 6 of the 2008 Act, and the Infrastructure Planning (Examination Procedure) Rules 2010(c);

The single appointed person, having considered the application with the documents that accompanied the application, and the representations made and not withdrawn, has, in accordance with section 83(1) of the 2008 Act, made a report and recommendation to the Secretary of State;

The Secretary of State, having considered the report and recommendation of the single appointed person, and decided the application, has determined to make an Order giving effect to the proposals comprised in the application with modifications which in the opinion of the Secretary of State do not make any substantial change to the proposals;

The Secretary of State, in exercise of the powers conferred by sections 114, 115 and 120 of the 2008 Act, makes the following Order:

## PART 1

### PRELIMINARY

#### **Citation and Commencement**

1. This Order may be cited as the National Grid (North London Reinforcement Project) Development Consent Order 201[ ] and shall come into force on [ ] 201[ ].

#### **Interpretation**

2.—(1) In this Order —

“the 1961 Act” means the Land Compensation Act 1961(d);

“the 1965 Act” means the Compulsory Purchase Act 1965(e);

“the 1980 Act” means the Highways Act 1980(a);

- 
- (a) S.I. 2009/2264, amended by S.I. 2010/439, 602, 2012/635, 1659, 2654, 2732, 2013/522, 755.
- (b) 2008 c. 29. The relevant provisions of the Planning Act 2008 are amended by Chapter 6 of Part 6 of, and Schedule 13 to, the Localism Act 2011 (c. 20), and by sections 22-27 of the Growth and Infrastructure Act 2013 (c. 27).
- (c) S.I. 2010/103, amended by S.I. 2012/635.
- (d) 1961 c. 33. Section 2(2) was amended by section 193 of, and paragraph 5 of Schedule 33 to, the Local Government, Planning and Land Act 1980 (c. 65).. There are other amendments to the 1961 Act which are not relevant to this Order.
- (e) 1965 c. 56. Section 3 was amended by section 70 of, and paragraph 3 of Schedule 15 to, the Planning and Compulsory Purchase Act 1991 (c. 34). Section 4 was amended by section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71). Section 5 was amended by sections 67 and 80 of, and Part 2 of Schedule 18 to, the Planning and Compensation Act 1991 (c. 34). Section 11(1) and sections 3, 31 and 32 were amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67) and by section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). Section 12 was amended by section 56(2) of, and Part 1 to Schedule 9 to, the Courts Act 1971 (c. 23). Section 13 was amended by section 139 of the Tribunals, Courts and Enforcement Act 2007 (c. 15). Section 20 was amended by section 70 of, and paragraph 14 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). Sections 9, 25 and 29 were amended by the Statute Law (Repeals) Act 1973 (c. 39). Section 31 was also amended by section 70 of, and paragraph 19 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34) and by section 14 of, and paragraph 12(2) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). There are other amendments to the 1965 Act which are not relevant to this Order.

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981**(b)**;

“the 1990 Act” means the Town and Country Planning Act 1990**(c)**;

“the 1991 Act” means the New Roads and Street Works Act 1991**(d)**;

“the 2008 Act” means the Planning Act 2008**(e)**;

“the access / rights of way plans” means the plans submitted with the application (A1/PTD/6283/027 (rev D), A1/PTD/6283/93 (rev E), A1/PTD/6283/94 (rev D), A1/PTD/6283/95 (rev D), A1/PTD/6283/96 (rev D), A1/PTD/6283/97 (rev D), A1/PTD/6283/98 (rev D), A1/PTD/6283/99 (rev D), A1/PTD/6283/100 (rev D), A1/PTD/6283/101 (rev D) and A1/PTD/6283/102 (rev D) ) and certified as the access/rights of way plans by the Secretary of State for the purposes of this Order”;

“authorised development” means the development and associated development described in Schedule 1 (authorised development) or any part of them and any other development authorised by this Order or part thereof, which is development within the meaning of section 32 of the 2008 Act;

“the book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

“building” includes any structure or erection or any part of a building, structure or erection;

“canal” means the River Lee Navigation;

“carriageway” has the same meaning as in the 1980 Act;

“compulsory acquisition notice” means a notice served in accordance with section 134 of the 2008 Act;

“the design drawings and sections” means the drawings and sections submitted with the application (WALX4-00-N0-032 (rev C), WALX4-00-N0-033 (rev A), WALX4-00-N0-34 (rev B), WALX4-00-N0-35 (rev B), WALX4-00-N0-36 (rev B), BRIM4-00-N0-001 (rev A), BRIM4-00-N0-002 (rev C), BRIM4-00-N0-003 (rev B), PN/CSED/8106 (issue N), PN/CSED/8106 (issue M), BRIM4-00-N0-004 (rev C), PN/CSED/8107 (issue M), PN/CSED/8107 (issue H), PN/CSED/8111 (issue H) and PN/CSED/8172 (issue G)) and certified as the design drawings and sections by the Secretary of State for the purposes of this Order;

- 
- (a) 1980 c. 66. Section 1(1) was amended by section 21(2) of the New Roads and Street Works Act 1991 (c. 22); sections 1(2), (3) and (4) were amended by section 8 of, and paragraph (1) of Schedule 4 to, the Local Government Act 1985 (c. 51); section 1(2A) was inserted, and section 1(3) was amended by, section 259 (1), (2) and (3) of the Greater London Authority Act 1999 (c. 29); sections 1(3A) and 1(5) were inserted by section 22(1) of, and paragraph 1 of Schedule 7 to the Local Government (Wales) Act 1994 (c. 19). Section 36(2) was amended by section 4(1) of, and paragraphs 47 (a) and (b) of Schedule 2 to, the Housing (Consequential Provisions) Act 1985 (c. 71), by S.I. 2006/1177, by section 4 of and paragraph 45(3) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11), by section 64(1) (2) and (3) of the Transport and Works Act 1992 (c. 42) and by section 57 of, and paragraph 5 of Part 1 of Schedule 6 to, the Countryside and Rights of Way Act 2000 (c. 37); section 36(3A) was inserted by section 64(4) of the Transport and Works Act 1992 and was amended by S.I. 2006/1177; section 36(6) was amended by section 8 of, and paragraph 7 of Schedule 4 to, the Local Government Act 1985 (c. 51); and section 36(7) was inserted by section 22(1) of, and paragraph 4 of Schedule 7 to, the Local Government (Wales) Act 1994 (c. 19). Section 329 was amended by section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c. 29) and by section 190(3) of, and Part 1 of Schedule 27 to, the Water Act 1989 (c. 15). There are other amendments to the 1980 Act which are not relevant to this Order.
- (b) 1981 c. 66. Sections 2(3), 6(2) and 11(6) were amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11). Section 15 was amended by sections 56 and 321(1) of, and Schedules 8 and 16 to, the Housing and Regeneration Act 2008 (c. 17). Paragraph 1 of Schedule 2 was amended by section 76 of, and Part 2 of Schedule 9 to, the Housing Act 1988 (c. 50); section 161(4) of, and Schedule 19 to, the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28); and sections 56 and 321(1) of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 3 of Schedule 2 was amended by section 76 of, and Schedule 9 to, the Housing Act 1988 and section 56 of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 2 of Schedule 3 was repealed by section 277 of, and Schedule 9 to, the Inheritance Tax Act 1984 (c. 51). There are amendments to the 1981 Act which are not relevant to this Order.
- (c) 1990 c. 8. Section 206(1) was amended by section 192(8) of, and paragraphs 7 and 11 of Schedule 8 to, the Planning Act 2008 (c. 29) (date in force to be appointed see section 241(3), (4)(a), (c) of the 2008 Act). There are other amendments to the 1990 Act which are not relevant to this Order.
- (d) 1991 c. 22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c. 26). Sections 79(4), 80(4), and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
- (e) 2008 c. 29.

“electric line” has the meaning given by section 64(1) of the Electricity Act 1989

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

“the environmental features locations plans” means the plans submitted with the application (28253-R269b (rev B), 28253-R270b (rev B), 28253-R271b (rev B), 28253-R272b (rev B), 28253-R273b (rev B), 28253-R274b (rev B), 28253-R275b (rev B), 28253-R276b (rev B), 28253-R277b (rev B), 28253-R280b (rev B), 28253-R281b (rev B) and 28253-R282b (rev B) ) and certified as the environmental features locations plans by the Secretary of State for the purposes of this Order

“the heritage plans” means the plans submitted with the application (28253-R283b (rev B), 28253-R284b (rev B), 28253-R285b (rev B), 28253-R286b (rev B), 28253-R287b (rev B), 28253-R288b (rev B), 28253-R289b (rev B), 28253-R290b (rev B) and 28253-R291b (rev B) ) and certified as the heritage plans by the Secretary of State for the purposes of this Order;

“highway” and “highway authority” have the same meaning as in the 1980 Act;

“the land plans” means the plans submitted with the application (A1/PTD/6283/020 (rev D), A1/PTD/6283/12 (rev D), A1/PTD/6283/13 (rev E), A1/PTD/6283/14 (rev D), A1/PTD/6283/15 (rev D), A1/PTD/6283/16 (rev E), A1/PTD/6283/17 (rev D), A1/PTD/6283/18 (rev D), A1/PTD/6283/19 (rev E), A1/PTD/6283/22 (rev D), A1/PTD/6283/23 (rev D), A1/PTD/6283/136 (rev D), A1/PTD/6283/103 (rev D), A1/PTD/6283/104 (rev D), A1/PTD/6283/105 (rev D), A1/PTD/6283/106 (rev D), A1/PTD/6283/107 (rev D), A1/PTD/6283/108 (rev D), A1/PTD/6283/109 (rev D), A1/PTD/6283/110 (rev D), A1/PTD/6283/111 (rev D) and A1/PTD/6283/112 (rev D)) and certified as the land plans by the Secretary of State for the purposes of this Order;

“Lee Valley Regional Park and “Lee Valley Regional Park Authority” have the same meaning as defined in the Lee Valley Regional Park Act 1966;

“limits of deviation” means the limits of deviation referred to in article 6 (limits of deviation);

“maintain” includes to inspect, repair, adjust, alter, remove, reconstruct and replace or relay, but not so as to vary from the description of the authorised development in Schedule 1 and any derivative of “maintain” shall be construed accordingly;

“Order land” means the land shown on the land plans which is within the Order limits and described in the book of reference;

“the Order limits” means the limits shown on the works plans as the limits within which the authorised development may be carried out;

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(a);

“relevant highway authority” means the highway authority for the area in which the land to which the provisions of this Order apply is situated;

“relevant local authority” means the local authority for the area in which the land to which the provisions of this Order apply is situated;

“relevant planning authority” means the local planning authority for the area in which the land to which the provisions of this Order apply is situated;

“relevant street authority” means the street authority for the area in which the land to which the provisions of this Order apply is situated;

“the sections” means the sections shown in the design drawings and sections;

“the special category land/replacement land plans” means the plans submitted with the application (A1/PTD/6283/137 (rev D), A1/PTD/6283/123 (rev D), A1/PTD/6283/124 (rev

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(a) 1981 c. 67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). There are other amendments to the 1981 Act which are not relevant to this Order.

D), A1/PTD/6283/125 (rev D), A1/PTD/6283/126 (rev D), A1/PTD/6283/127 (rev D), A1/PTD/6283/128 (rev D), A1/PTD/6283/129 (rev D), A1/PTD/6283/130 (rev D), A1/PTD/6283/131 (rev D) and A1/PTD/6283/132 (rev D)) and certified as the special category land/replacement land plans by the Secretary of State for the purposes of this Order;

“statutory undertaker” means any person falling within section 127(8), 128(5) or 129(2) of the 2008 Act;

“street” means a street within the meaning of section 48 of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“traffic” has the same meaning as in section 239(1) of the 1980 Act;

“the tribunal” means the Lands Chamber of the Upper Tribunal;

“undertaker” means the person who has the benefit of this Order in accordance with article 7 (benefit of Order);

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“the works plans” means the plans submitted with the application (A1/PTD/6283/021 (rev D), A1/PTD/6283/83 (rev D), A1/PTD/6283/84 (rev D), A1/PTD/6283/85 (rev D), A1/PTD/6283/86 (rev D), A1/PTD/6283/87 (rev D), A1/PTD/6283/88 (rev D), A1/PTD/6283/89 (rev D), A1/PTD/6283/90 (rev D), A1/PTD/6283/91 (rev D) and A1/PTD/6283/92 (rev D)) and certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the air-space above its surface and references in this Order to the imposition of restrictive covenants are references to restrictions over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order.

(3) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development shall be taken to be measured along that work.

(4) All areas described in square metres in the Book of Reference are approximate.

(5) References in this Order to points identified by letters, or numbers, shall be construed as references to points so lettered or numbered on the access/rights of way plans.

(6) References in this Order to numbered works are references to the works as numbered in Schedule 1 (authorised development).

### **Application and modification of legislative provisions**

**3.**—(1) Subject to the modifications set out in Schedule 10 the enactments for the time being in force with respect to compensation for compulsory purchase of land shall apply in the case of the compulsory acquisition under this Order of a right by the creation of a new right as they apply with respect to compensation for the compulsory purchase of land and interests in land.

## **PART 2**

### **PRINCIPAL POWERS**

#### **Development consent etc. granted by the Order**

**4.**—(1) Subject to the provisions of this Order and to the requirements in Schedule 2 (requirements) attached to this Order the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

(2) The undertaker may install, and keep installed above ground the electric lines included in the authorised development.

(3) Subject to article 6 (limits of deviation) the authorised development shall be constructed and installed in the lines and situations shown on the works plans and in general accordance with the levels shown on the sections.

### **Maintenance of authorised development**

5. The undertaker may at any time maintain the authorised development, except to the extent that this Order or an agreement made under this Order provides otherwise.

### **Limits of Deviation**

6. In carrying out the authorised development the undertaker may—

- (a) deviate laterally from the lines or situations of the authorised development shown on the works plan to the extent of the Order limits; and
- (b) deviate vertically from the levels of the authorised development shown on the sections—
  - (i) to any extent not exceeding 3 metres upwards; or
  - (ii) to any extent downwards as may be found to be necessary or convenient.

### **Benefit of Order**

7.—(1) Subject to article 8 (consent to transfer benefit of Order), the provisions of this Order shall have effect solely for the benefit of National Grid Electricity Transmission plc (company number 2366977).

(2) Paragraph (1) is subject to paragraph (5) of article 25 (compulsory acquisition of rights) of this Order.

(3) Paragraph (1) does not apply to the benefit of the consent granted by this Order for works for the express benefit of owners and occupiers of land, statutory undertakers and other persons affected by the authorised development.

### **Consent to transfer benefit of Order**

8.—(1) The undertaker may, with the consent of the Secretary of State —

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; or
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where a transfer or grant has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (3), shall include references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) shall be subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

## PART 3 STREETS

### Street works

**9.**—(1) The undertaker may, for the purposes of constructing and maintaining the authorised development, enter upon any street subject to works shown on the works plans and may—

- (a) break up or open the street, or any sewer, drain or tunnel within or under it;
- (b) tunnel or bore under the street;
- (c) remove or use all earth and materials in or under the street;
- (d) place and keep apparatus in the street;
- (e) maintain apparatus in the street or change its position; and
- (f) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b), (c), (d) and (e).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) The powers conferred in paragraphs (1) and (2) are without prejudice to the powers of the undertaker under the Electricity Act 1989(a).

(4) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

### Construction and maintenance of new or altered streets

**10.**—(1) Any street to be constructed under this Order shall be completed to the reasonable satisfaction of the relevant authority and, unless otherwise agreed with the relevant authority, shall be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the relevant authority.

(2) Where a street is altered or diverted under this Order, the altered or diverted part of the street shall, when completed to the reasonable satisfaction of the relevant street authority, unless otherwise agreed with the relevant street authority, be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the relevant street authority.

(3) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it shall be a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(4) For the purposes of a defence under paragraph (3), the court shall in particular have regard to the following matters—

- (a) the character of the street and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to traffic; and

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(a) 1989 c. 29.

- (e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that the undertaker had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the undertaker had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

(5) Nothing in this article shall—

- (a) prejudice the operation of section 87 of the 1991 Act (prospectively maintainable highways); and the undertaker shall not by reason of any duty under that article to maintain a street be taken to be a street authority in relation to that street for the purposes of Part 3 of that Act; or
- (b) have effect in relation to the street works with regard to which the provisions of Part 3 of the 1991 Act apply.

(6) In this article—

- (a) “relevant authority” means the relevant highway authority for all streets except footpaths where it will be the relevant local authority or street manager; and
- (b) “street manager” has the same meaning as in the 1991 Act.

### **Power to alter layout, etc., of streets**

**11.**—(1) The undertaker may for the purposes of constructing and maintaining authorised development permanently or temporarily alter the layout of or carry out any works in the street specified in column (1) of Part 1 or 2 of Schedule 4 (streets subject to alteration of layout) in the manner specified in relation to that street in column (2).

(2) Without prejudice to the specific powers conferred by paragraph (1), but subject to paragraph (3), the undertaker may, for the purposes of constructing and maintaining the authorised development, permanently or temporarily alter the layout of any street within the Order limits and the layout of any street having a junction with such a street; and, without limiting the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of any such kerb, footpath, footway, cycle track or verge;
- (c) reduce the width of the carriageway of the street;
- (d) make and maintain crossovers and passing places; and
- (e) carry out works for the provision or alteration of parking places, loading bays and cycle tracks.

(3) Before reinstating any street which has been temporarily altered under this article, the undertaker shall restore the street to the reasonable satisfaction of the street authority.

(4) The powers conferred by paragraph (2) shall not be exercised without the consent of the street authority; but such consent shall not be unreasonably withheld and may be granted subject to reasonable conditions.

(5) If a street authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it shall be deemed to have granted consent.

(6) The procedure set out in paragraphs 3, 4 and 5 of Schedule 3 has effect in relation to any consent required under this article where such consent is granted subject to conditions to which the undertaker objects, or is refused.

(7) Within a period of three months beginning with the date of the completion of any works carried out pursuant to this article, the undertaker must provide plans of the works as constructed to the street authority.

### **Permanent stopping up of streets**

**12.**—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development, stop up each of the streets specified in columns (1) and (2) of Schedule 5 (streets to be permanently stopped up) to the extent specified and described in column (3) of that Schedule and may provide the streets to be substituted as specified in column (4) of Part 1 of that Schedule.

(2) No street specified in columns (1) and (2) of Schedule 5 shall be wholly or partly stopped up under this article unless—

- (a) the new street to be constructed and substituted for it, which is specified in column (4) of that Part of that Schedule, has been constructed and completed to the reasonable satisfaction of the street authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the street to be stopped up is first provided and subsequently maintained by the undertaker, to the reasonable satisfaction of the street authority, between the commencement and termination points for the stopping up of the street until the completion and opening of the new street in accordance with sub-paragraph (a).

(3) Where a street has been stopped up under this article—

- (a) all rights of way over or along the street so stopped up shall be extinguished; and
- (b) the undertaker may appropriate and use for the purposes of the authorised development so much of the site of the street as is bounded on both sides by land owned by the undertaker.

(4) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) This article is subject to article 35 (apparatus and rights of statutory undertakers in stopped up streets).

### **Application of the 1991 Act**

**13.**—(1) Works carried out under this Order in relation to a highway which consists of or includes a carriageway shall be treated for the purposes of Part 3 of the 1991 Act (street works in England and Wales) as major highway works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) of that Act (which defines what highway authority works are major highway works); or
- (b) they are works which, had they been executed by the relevant highway authority, might have been carried out in exercise of the powers conferred by section 64 of the 1980 Act (dual carriageways and roundabouts).

(2) The provisions of the 1991 Act mentioned in paragraph (3) (which, together with other provisions of that Act, apply in relation to the carrying out of street works) and any regulations made, or code of practice issued or approved, under those provisions shall apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 14 (temporary stopping up of streets) and the carrying out of street works under article 9 (street works) whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(3) The provisions of the 1991 Act referred to in paragraph (2) are—  
section 54 (advance notice of certain works), subject to paragraph (4);  
section 55 (notice of starting date of works), subject to paragraph (4);

section 57 (notice of emergency works);  
section 59 (general duty of street authority to co-ordinate works);  
section 60 (general duty of undertakers to co-operate);  
section 68 (facilities to be afforded to street authority);  
section 69 (works likely to affect other apparatus in the street);  
section 76 (liability for cost of temporary traffic regulation);  
section 77 (liability for cost of use of alternative route); and

all such other provisions as apply for the purposes of the provisions mentioned above.

(4) Sections 54 and 55 of the 1991 Act as applied by paragraph (3) shall have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

### **Temporary stopping up of streets**

**14.**—(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily stop up, alter or divert the use of any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without prejudice to the scope of paragraph (1), the undertaker may use any street where the use has been temporarily stopped up, altered or diverted under the powers conferred by this article and within the Order limits as a temporary working site for the purposes of carrying out the authorised development.

(3) The undertaker shall provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.

(4) Without prejudice to the generality of paragraph (1), the undertaker may temporarily stop up, alter or divert the use of the streets specified in columns (1) and (2) of Parts 1 and 2 of Schedule 6 (streets to be temporarily stopped up) to the extent specified in column (3) of that Schedule and may provide the temporary diversion to be substituted as specified in column (4) of Part 1 of that Schedule.

(5) The undertaker shall not temporarily stop up, alter or divert the use of—

- (a) any street specified as mentioned in paragraph (4) without first consulting the street authority; and
- (b) any other street without the consent of the street authority which may attach reasonable conditions to any consent, but such consent not to be unreasonably withheld.

(6) Any person who suffers loss by the suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(7) If a street authority which receives an application for consent under paragraph (5)(b) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it shall be deemed to have granted consent.

(8) The procedure set out in paragraphs 3, 4 and 5 of Schedule 3 has effect in relation to any consent required under this article where such consent is granted subject to conditions to which the undertaker objects, or is refused.

### **Access to works**

**15.**—(1) The undertaker may, for the purposes of the authorised development—

- (a) form and lay out means of access, or improve existing means of access, as specified in columns (1) and (2) of Schedule 7 (access to works); and
- (b) with the consent of the relevant planning authority after consultation with the relevant highway authority, form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

(2) If a relevant planning authority which receives an application for consent under paragraph (1)(b) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it shall be deemed to have granted consent.

(3) The procedure set out in paragraphs 3, 4 and 5 of Schedule 3 has effect in relation to any consent required under this article where such consent is granted subject to conditions to which the undertaker objects, or is refused.

### **Agreements with street authorities**

**16.**—(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) the construction of any new street including any structure carrying the street over or under an electric line authorised by this Order;
- (b) the maintenance of the structure of any bridge or tunnel carrying a street over or under an electric line authorised by this Order;
- (c) the strengthening, improvement, repair or reconstruction of any street authorised by this Order;
- (d) any stopping up, alteration or diversion of a street authorised by this Order; or
- (e) the carrying out in the street of any of the works referred to in article 9 (street works)

(2) Such an agreement may, without prejudice to the generality of paragraph (1)—

- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
- (b) include an agreement between the undertaker and the street authority specifying a reasonable time for the completion of the works; and
- (c) contain such terms as to payment and otherwise as the parties consider appropriate.

## **PART 4**

### **SUPPLEMENTAL POWERS**

#### **Discharge of water**

**17.**—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker pursuant to paragraph (1) shall be determined as if it were a dispute under section 106 of the Water Industry Act 1991<sup>(a)</sup> (right to communicate with public sewers).

(3) The undertaker shall not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject

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<sup>(a)</sup> 1991 c. 56. Section 106 was amended by the Water Act 2003 (c. 37), sections 36(2) and 99 subject to the transitional provisions contained in article 6 of, and Schedule 3 to, S.I. 2004/641. There are other amendments to section 106 which are not relevant to this Order.

to such terms and conditions as that person may reasonably impose, but shall not be unreasonably withheld.

- (4) The undertaker shall not make any opening into any public sewer or drain except—
- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval shall not be unreasonably withheld; and
  - (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker shall not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(6) The undertaker shall take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) This article does not authorise the entry into groundwaters or inland freshwaters of any matter whose entry or discharge into those waters is prohibited by regulation 12 of the Environmental Permitting (England and Wales) Regulations 2010.

(8) If a person who receives an application for consent under paragraph (3) or approval under paragraph (4)(a) fails to notify the undertaker of a decision within 28 days of receiving an application that person shall be deemed to have granted consent or given approval, as the case may be.

(9) The procedure set out in paragraphs 3, 4 and 5 of Schedule 3 has effect in relation to any consent required under this article where such consent is granted subject to conditions to which the undertaker objects, or is refused.

(10) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to the Homes and Communities Agency, the Environment Agency, a harbour authority within the meaning of section 57 of the Harbours Act 1964(a), an internal drainage board, a joint planning board, a local authority, a National Park Authority, a sewerage undertaker or an urban development corporation;
- (b) “main river” has the same meaning as in the Water Resources Act 1991(b); and
- (c) other expressions, excluding watercourse, used both in this article and in the Environmental Permitting (England and Wales) Regulations 2010(c) have the same meaning as in those regulations.

### **Protective work to buildings**

**18.**—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building lying within the Order limits as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or
- (b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development is first used for the transmission of electricity at 400kV.

(3) For the purpose of determining how the functions under this article are to be exercised the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage.

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(a) 1964 c. 40. Paragraph 9B was inserted into Schedule 2 by the Transport and Works Act 1992 (c. 42), section 63(1) and Schedule 3, paragraph 9(1) and (2).

(b) 1991 c. 57.

(c) S.I. 2010/675.

(4) For the purpose of carrying out protective works under this article to a building the undertaker may (subject to paragraphs (5) and (6))—

- (a) enter the building and any land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building;
- (b) a right under paragraph (3) to enter a building and land within its curtilage;
- (c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a right under paragraph (4)(b) to enter land,

the undertaker shall, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), specify the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 46 (arbitration)

(7) The undertaker shall compensate the owners and occupiers of any building or land in relation to which rights under this article have been exercised for any loss or damage arising to them by reason of the exercise of those rights.

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised development carried out in the vicinity of the building is first used for the transmission of electricity at 400kV it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised development.

the undertaker shall compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Nothing in this article shall relieve the undertaker from any liability to pay compensation under section 10(2) of the 1965 Act (compensation for injurious affection).

(10) Any compensation payable under paragraph (7) or (8) shall be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(11) In this article “protective works” in relation to a building means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the carrying out, maintenance or use of the authorised development; and
- (b) any works the purpose of which is to remedy any damage which has been caused to the building by the carrying out, maintenance or use of the authorised development.

#### **Authority to survey and investigate the land**

**19.—**(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

- (a) survey or investigate the land;
- (b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit on the land to investigate the nature of the surface layer and subsoil and remove soil samples;

- (c) without prejudice to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1), unless at least 14 days' notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the undertaker—

- (a) shall, if so required, before or after entering the land, produce written evidence of their authority to do so; and
- (b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes shall be made under this article—

- (a) in land located within the highway boundary without the consent of the relevant highway authority; or
- (b) in a private street without the consent of the street authority,

but such consent shall not be unreasonably withheld.

(5) The undertaker shall compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(6) If either a highway authority or street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—

- (a) under paragraph (4) (a) in the case of a highway authority; or
- (b) under paragraph (4)(b) in the case of a street authority,

that authority shall be deemed to have granted consent.

### **Temporary closure of, and works in, the canal**

**20.**—(1) The undertaker may, in connection with the construction of the authorised works temporarily interfere with each part of the canal specified in columns (1) and (2) of Schedule 8 (temporary closure of, and works in, the canal) to the extent specified in column (3), and may also temporarily close and divert the towpath adjacent to that part of that canal temporarily interfered with.

(2) Without prejudice to the specific powers conferred by paragraph (1) but subject to paragraphs (3), (4) and (5) the undertaker may, in connection with the construction of the authorised works—

- (a) temporarily interfere with the relevant part of the canal by constructing or maintaining caissons, cofferdams or other temporary works at any point within that part of the canal as the undertaker considers necessary or expedient;
- (b) temporarily moor or anchor barges or other vessels or craft in the relevant part of the canal and may load or unload into and from such barges, other vessels or craft equipment, machinery, soil and any other materials in connection with the construction of the authorised works;
- (c) on grounds of health and safety only, temporarily close to navigation the relevant part of the canal; and
- (d) temporarily remove the water from the relevant part of the canal that is so interfered with or closed.

(3) During the period of any closure referred to in paragraph (1)(c), all rights of navigation and other rights relating to, and any obligations of the Canal and River Trust to manage the relevant

part of the canal so closed shall be suspended and unenforceable against the Canal and River Trust.

- (4) The power conferred by paragraph (1) shall be exercised in such a way which secures—
- (a) that no more of the relevant part of the canal is closed to navigation at any time than is necessary in the circumstances; and
  - (b) that, if complete closure to navigation of the relevant part of the canal becomes necessary, all reasonable steps are taken to secure that the period of closure is kept to a minimum and that the minimum obstruction, delay or interference is caused to vessels or craft which may be using or intending to use the part so closed.
- (5) In exercising the powers conferred by paragraph (1) in relation to the relevant part of the canal the undertaker shall—
- (a) take such reasonable steps as are necessary to ensure that the functioning of any intake or discharge along the canal is unaffected; and
  - (b) keep any interference with water levels or flow to the minimum reasonably necessary to construct the authorised works.
- (6) In exercising the powers conferred by paragraph (1) in relation to the relevant part of the canal towpath the undertaker shall—
- (a) take such reasonable steps as are necessary to ensure that persons in control of barges or other vessels or craft in the canal are made aware of any temporary closure and diversion of the towpath; and
  - (b) provide such emergency assistance as may reasonably be requested by persons in control of barges or other vessels or craft in the canal following an accident or mechanical failure, for the safety of persons on board and/or the recovery of the barge, vessel or craft to a location where it can safely be moored adjacent to and accessed from the towpath.
- (7) Any person who suffers loss or damage as a result of—
- (a) the suspension of any private right of navigation or the suspension of any private right to use the towpath under this article; or
  - (b) any effect of the exercise of the powers conferred by paragraph (1) on the functioning of any intake or discharge along the canal,
  - (c) shall be entitled to be paid compensation for such loss and damage by the undertaker, to be determined, in case of dispute, under Part 1 of the 1961 Act.

## **Moorings**

**21.**—(1) Without prejudice to the other powers conferred by this Order or otherwise available to it, and subject to paragraph (2), the undertaker may, along the canal area for the purposes of or in connection with the construction, operation or maintenance of the authorised works and notwithstanding any interference this may have with any public or private rights, temporarily suspend any right to moor in such manner and to such extent as may appear to the undertaker to be necessary or convenient.

(2) Subject to any closure of the canal required under article 20 (temporary closure of, and works in, the canal) the undertaker shall permit vessels to moor temporarily along the canal area for such periods and in such locations as may appear to the undertaker to be reasonably necessary to permit the use of the lock.

- (3) In this article—
- (a) “canal area” means so much of the eastern bank of the canal between MR1 and MR2 as shown on sheets 7 and 8 of the Access/Rights of Way Plans; and
  - (b) “lock” means the lock known as Pickett’s Lock used for the raising and lowering of boats between stretches of the canal.

## PART 5

### POWERS OF ACQUISITION

#### **Compulsory acquisition of land**

**22.**—(1) The undertaker may acquire compulsorily so much of the Order land specified in columns (1) and (2) of Schedule 9 (land to be acquired compulsorily) as is required for the construction, operation and maintenance of the authorised development or is incidental to the authorised development or necessary to facilitate it or is required as replacement land [

(2) This article is subject to paragraph (2) of article 25 (compulsory acquisition of rights) and article 31 (temporary use of land for carrying out the authorised development).

#### **Compulsory acquisition of land – incorporation of the mineral code**

**23.** Parts 2 and 3 of Schedule 2 to the Acquisition of Land Act 1981(a) (minerals) are incorporated into this Order subject to the modifications that—

- (a) paragraph 8(3) is not incorporated; and
- (b) for “the acquiring authority” substitute “the undertaker”.

#### **Time limit for exercise of authority to acquire land compulsorily**

**24.**—(1) After the end of the period of 5 years beginning on the day on which the Order is made—

- (a) no notice to treat shall be served under Part 1 of the 1965 Act; and
- (b) no declaration shall be executed under section 4 of the 1981 Act as applied by article 28 (application of the Compulsory Purchase (Vesting Declarations) Act 1981)(b).

(2) The authority conferred by article 31 (temporary use of land for carrying out the authorised development) shall cease at the end of the period referred to in paragraph (1), save that nothing in this paragraph shall prevent the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

#### **Compulsory acquisition of rights**

**25.**—(1) The undertaker may acquire compulsorily such rights over the Order land, or impose restrictive covenants affecting the Order land, as may be required for the construction, operation and maintenance of the authorised development or is incidental to the authorised development or necessary to facilitate it by creating them as well as by acquiring rights and the benefit of restrictive covenants already in existence.

(2) Subject to section 8 of the 1965 Act as substituted by paragraph 5 of Schedule 10 (modification of compensation and compulsory purchase enactments for creation of new rights) where the undertaker acquires a right over land or the benefit of a restrictive covenant under paragraph (1) the undertaker shall not be required to acquire a greater interest in that land.

(3) Schedule 10 shall have effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

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(a) 1981 c. 67. Sub-paragraph (5) of paragraph 1 of Part 1 of Schedule 2 was amended by section 67 of, and paragraph 27(3) of Schedule 9 to, the Coal Industry Act 1994 (c. 21) and paragraph 8 of Part 3 of Schedule was amended by section 46 of the Criminal Justice Act 1982 (c. 48). There are other amendments to the 1981 Act which are not relevant to this Order.

(b) 1981 c. 66. Sections 2 and 116 were amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11). There are other amendments to the 1981 Act which are not relevant to this Order.

## Private rights

26.—(1) Subject to the provisions of this article, all private rights and restrictive covenants over land subject to compulsory acquisition under this Order shall be extinguished—

- (a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act (power of entry),

whichever is the earliest.

(2) Subject to the provisions of this article, all private rights and restrictive covenants over Order land owned by the undertaker shall be extinguished on the commencement of any activity authorised by this Order which interferes with or breaches such rights or such restrictive covenants.

(3) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under the Order shall be extinguished in so far as their continuance would be inconsistent with the exercise of the right acquired or the burden of the restrictive covenant imposed—

- (a) as from the date of the acquisition of the right or the benefit of the restrictive covenant by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act in pursuance of the right,

whichever is the earliest.

(4) Subject to the provisions of this article, all private rights or restrictive covenants over land of which the undertaker takes temporary possession under this Order shall be suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

(5) Any person who suffers loss by the extinguishment or suspension of any private right or restrictive covenant under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) This article does not apply in relation to any right to which section 138 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 34 (statutory undertakers) applies.

(7) Paragraphs (1) to (3) shall have effect subject to—

- (a) any notice given by the undertaker before—
  - (i) the completion of the acquisition of the land or the acquisition of rights or the imposition of restrictive covenants over or affecting the land;
  - (ii) the undertaker's appropriation of it;
  - (iii) the undertaker's entry onto it; or
  - (iv) the undertaker's taking temporary possession of it,that any or all of those paragraphs shall not apply to any right specified in the notice; and
- (b) any agreement made, in so far as it relates to the authorised development, at any time between the undertaker and the person in or to whom the right or the benefit of the restrictive covenant in question is vested, belongs or benefits.

(8) If any such agreement as is referred to in paragraph (7)(b)—

- (a) is made with a person in or to whom the right or the benefit of the restrictive covenant is vested or belongs; and
- (b) is expressed to have effect also for the benefit of those deriving title from or under that person,

it shall be effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(9) Reference in this article to private rights over land includes any trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.

### **Application of the Compulsory Purchase (Vesting Declarations) Act 1981**

**27.**—(1) The 1981 Act shall apply as if this Order were a compulsory purchase order.

(2) The 1981 Act, as so applied, shall have effect with the following modifications.

(3) In section 3 (preliminary notices) for subsection (1) there shall be substituted—

“(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order the acquiring authority shall include the particulars specified in subsection (3) in a notice which is—

- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and
- (b) published in a local newspaper circulating in the area in which the land is situated.”.

(a) In that section, in subsection (2), for “(1)(b)” there shall be substituted “(1)” and after “given” there shall be inserted “and published”.

(b) In that section, for subsections (5) and (6) there shall be substituted—

“(5) For the purposes of this section, a person has a relevant interest in land if—

- (a) that person is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion; or
- (b) that person holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.

(4) In section 5 (earliest date for execution of declaration)—

(a) in subsection (1), after “publication” there shall be inserted “in a local newspaper circulating in the area in which the land is situated”; and

(b) subsection (2) shall be omitted.

(5) In section 7 (constructive notice to treat), in subsection (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” shall be omitted.

(6) References to the 1965 Act in the 1981 Act shall be construed as references to the 1965 Act as applied by section 125 of the 2008 Act to the compulsory acquisition of land under this Order.

### **Acquisition of subsoil or airspace only**

**28.**—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of, or the airspace over, the land referred to in article 22 (compulsory acquisition of land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of or the airspace over land under paragraph (1), the undertaker shall not be required to acquire an interest in any other part of the land.

(3) Paragraph (2) shall not prevent article 29 (acquisition of part of certain properties) from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

### **Acquisition of part of certain properties**

**29.**—(1) This article shall apply instead of section 8(1) of the 1965 Act (other provisions as divided land) (as applied by section 125 of the 2008 Act) where—

- (a) a notice to treat is served on a person (“the owner”) under the 1965 Act (as so applied) in respect of land forming only part of a house, building or manufactory or of land consisting of a house with a park or garden (“the land subject to the notice to treat”); and
- (b) a copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on the undertaker a counter-notice objecting to the sale of the land subject to the notice to treat and stating that the owner is willing and able to sell the whole (“the land subject to the counter-notice”).

(3) If no such counter-notice is served within that period, the owner shall be required to sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question whether the owner shall be required to sell only the land subject to the notice to treat shall, unless the undertaker agrees to take the land subject to the counter-notice, be referred to the tribunal.

(5) If on such a reference the tribunal determine that the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the owner shall be required to sell the land subject to the notice to treat.

(6) If on such a reference the tribunal determine that only part of the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the notice to treat shall be deemed to be a notice to treat for that part.

(7) If on such a reference the tribunal determine that—

- (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but
- (b) the material detriment is confined to a part of the land subject to the counter-notice,

the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the undertaker is authorised to acquire compulsorily under this Order.

(8) If the undertaker agrees to take the land subject to the counter-notice, or if the tribunal determine that—

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and
- (b) the material detriment is not confined to a part of the land subject to the counter-notice,

the notice to treat shall be deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the undertaker is authorised to acquire compulsorily under this Order.

(9) Where by reason of a determination by the tribunal under this article a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and, in that event, shall pay the owner compensation for any

loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.

(10) Where the owner is required under this article to sell only part of a house, building or manufactory or of land consisting of a house with a park or garden, the undertaker shall pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.

### **Rights under or over streets**

**30.**—(1) The undertaker may enter on and appropriate so much of the subsoil of, or air-space over, any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or air-space for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) shall not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Compensation shall not be payable under paragraph (4) to any person who is an undertaker to whom section 85 of the 1991 Act (sharing cost of necessary measures) applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

### **Temporary use of land for carrying out the authorised development**

**31.**—(1) The undertaker may, in connection with the carrying out of the authorised development—

- (a) enter on and take temporary possession of —
  - (i) the land specified in columns (1) and (2) of Schedule 11 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised development specified in column (4) of that Schedule; and
  - (ii) any of the Order land in respect of which no notice of entry has been served under section 11 of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 of the 1981 Act;
- (b) remove any buildings and vegetation from that land;
- (c) construct temporary works (including the provision of means of access) and buildings on that land; and
- (d) construct any works specified in relation to that land in column (3) of Schedule 11, or any other mitigation works.

(2) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker shall serve notice of the intended entry on the owners and occupiers of the land.

(3) The undertaker may not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (4) of Schedule 11, or
- (b) in the case of any land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker shall not be required to replace a building removed under this article;

(5) The undertaker shall pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, shall be determined under Part 1 of the 1961 Act.

(7) Nothing in this article shall affect any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(8) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker shall not be precluded from—

- (a) acquiring new rights or imposing restrictive covenants over any part of that land under article 25 (compulsory acquisition of rights); or
- (b) acquiring any part of the subsoil or of airspace over (or rights in the subsoil or of airspace over) that land under article 28 (acquisition of subsoil or airspace only).

(9) Where the undertaker takes possession of land under this article, the undertaker shall not be required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) shall apply to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

### **Temporary use of land for maintaining the authorised development**

**32.**—(1) Subject to paragraph (2) the undertaker may—

- (a) enter upon and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised development; and
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) shall not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering upon and taking temporary possession of land under this article the undertaker shall serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker shall pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, shall be determined under Part 1 of the 1961 Act.

(8) Nothing in this article shall affect any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the maintenance of the authorised development, other than loss or damage for which compensation is payable under paragraph (6). (see Art 31)

(9) Where the undertaker takes possession of land under this article, the undertaker shall not be required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act (refusal to give possession to the acquiring authority) shall apply to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

### **Special category land**

**33.**—(1) The special category land shall not vest in the undertaker until the undertaker has acquired the replacement land and the Secretary of State has certified that a scheme for the provision of the replacement land as open space has been implemented to the Secretary of State's satisfaction.

(2) On the requirements of paragraph (1) being satisfied, the replacement land shall vest in the Lee Valley Regional Park Authority subject to the same rights, trusts and incidents as attached to the special category land; and the special category land shall be discharged from all rights, trusts and incidents to which it was previously subject.

(3) In this article—

“the special category land” means the land identified as forming part of a common, open space, or fuel or field allotment in the book of reference and on the plan entitled “special category land/replacement land plans, which may be acquired compulsorily under this Order and for which replacement land is to be provided; and

“the replacement land” means the land identified as replacement land in the book of reference and on “the special category land/replacement land plans”.

### **Statutory undertakers**

**34.** Subject to the provisions of Schedule 13 (Protective Provisions), the undertaker may—

- (a) acquire compulsorily the land belonging to statutory undertakers shown on the land plans within the limits of the land to be acquired and described in the book of reference;
- (b) extinguish the rights of, remove or reposition the apparatus belonging to statutory undertakers over or within the Order land; and
- (c) acquire compulsorily the new rights or impose restrictive covenants over land belonging to statutory undertakers shown on the land plans and described in the book of reference.

### **Apparatus and rights of statutory undertakers in stopped-up streets**

**35.**—(1) Where a street is stopped up under article 12 (permanent stopping up of streets) any statutory utility whose apparatus is under, in, on, along or across the street shall have the same powers and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

(2) Where a street is stopped up under article 12 any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by the undertaker shall—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the utility may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as described in sub-paragraph (a).

(3) Subject to the following provisions of this article, the undertaker shall pay to any statutory utility an amount equal to the cost reasonably incurred by the utility in or in connection with—

- (a) the execution of the relocation works required in consequence of the stopping up of the street; and
- (b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

(4) If in the course of the execution of relocation works under paragraph (2)—

- (a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which, apart from this paragraph, would be payable to the statutory utility by virtue of paragraph (3) shall be reduced by the amount of that excess.

(5) For the purposes of paragraph (4)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; 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 shall be treated as if it also had been agreed or had been so determined.

(6) An amount which, apart from this paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4)) shall, 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 any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(7) Paragraphs (3) to (6) shall not apply where the authorised development constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 of the 1991 Act, but instead—

- (a) the allowable costs of the relocation works shall be determined in accordance with section 85 of that Act (sharing of cost of necessary measures) and any regulations for the time being having effect under that section; and
- (b) the allowable costs shall be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.

(8) In this article—

“apparatus” has the same meaning as in Part 3 of the 1991 Act;

“relocation works” means work executed, or apparatus provided, under paragraph (2); and

“statutory utility” means a statutory undertaker for the purposes of the 1980 Act or a public communications provider as defined in section 151(1) of the Communications Act 2003<sup>(a)</sup>.

### **Recovery of costs of new connections**

**36.**—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 34 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus shall be entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) shall not apply in the case of the removal of a public sewer but where such a sewer is removed under article 34 any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

shall be entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article shall not have effect in relation to apparatus to which article 35 (apparatus and rights of statutory undertakers in stopped-up streets) or Part 3 of the 1991 Act applies.

(4) In this paragraph—

“public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003; and

“public utility undertaker” has the same meaning as in the 1980 Act.

## **PART 6 OPERATIONS**

### **Felling or lopping of trees**

**37.**—(1) The undertaker may fell or lop any tree or shrub near any part of the authorised development, within or encroaching upon the Order limits or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker shall do no unnecessary damage to any tree or shrub and shall pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person’s entitlement to compensation under paragraph (2), or as to the amount of compensation, shall be determined under Part 1 of the 1961 Act.

(4) Development consent granted by this Order shall be treated as planning permission pursuant to Part III of the 1990 Act for the purposes of Regulation 14 of the Town and Country Planning (Tree Preservation) Regulations 2012.

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(a) 2003 c. 21. There are amendments to this Act which are not relevant to this Order.

**PART 7**  
**MISCELLANEOUS AND GENERAL**

**Application of landlord and tenant law**

**38.**—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it,

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants shall prejudice the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law shall apply in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

**Operational land for purposes of the 1990 Act**

**39.** Development consent granted by this Order shall be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).

**Defence to proceedings in respect of statutory nuisance**

**40.**—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(a) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order shall be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
  - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) or 65 (noise exceeding registered level), of the Control of Pollution Act 1974(b); or
  - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or

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(a) 1990 c. 43. There are amendments to this Act which are not relevant to this Order.

(b) 1974 c. 40. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990, c. 25. There are other amendments to the 1974 Act which are not relevant to this Order.

- (b) the defendant shows that the nuisance—
  - (i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised development and that the nuisance is attributable to the use of the authorised development which is being used in accordance with any scheme of monitoring and attenuation of noise agreed with the relevant local authority; or
  - (ii) is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), shall not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

### **Traffic regulation**

**41.**—(1) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which consent shall not be unreasonably withheld, the undertaker may, at any time for the purposes of the construction of the authorised development prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles in the manner specified in Schedule 12 (traffic regulation) on those roads specified in column (1) and along the lengths and between the points specified, or to the extent otherwise described in column (2) of that Schedule.

(2) Without limiting the scope of the specific powers conferred by paragraph (1) but subject to the provisions of this article and the consent of the traffic authority in whose area the road concerned is situated, which consent shall not be unreasonably withheld, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with construction of the authorised development, at any time prior to the opening of the authorised development for use—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;
- (b) permit, prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) make provision as to the direction or priority of vehicular traffic on any road; and
- (e) permit or prohibit vehicular access to any road,

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(3) The undertaker shall not exercise the powers of paragraphs (1) and (2) unless it has—

- (a) given not less than 4 weeks' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) advertised its intention in such manner as the traffic authority may specify in writing within 7 days of its receipt of notice of the undertaker's intention in the case of sub-paragraph (a).

(4) Any prohibition, restriction or other provision made by the undertaker under paragraph (1) or (2) shall—

- (a) have effect as if duly made by, as the case may be—
  - (i) the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act; or
  - (ii) the local authority in whose area the road is situated as an order under section 32 of the 1984 Act,

and the instrument by which it is effected may specify savings and exemptions (in addition to those mentioned in Schedule 12 (traffic regulation) to which the prohibition, restriction or other provision is subject; and

- (b) be deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004<sup>(a)</sup> (road traffic contraventions subject to civil enforcement).

(5) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraph (2) at any time prior to the opening of the authorised development for use.

(6) Before complying with the provisions of paragraph (3) the undertaker shall consult the chief officer of police and the traffic authority in whose area the road is situated.

(7) Expressions used in this article and in the 1984 Act shall have the same meaning in this article as in that Act.

(8) If the traffic authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (1) the traffic authority shall be deemed to have granted consent.

### **Protection of Interests**

42. Schedule 13 (Protective Provisions) to the Order has effect.

### **Certification of plans etc**

43.—(1) The undertaker shall, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the book of reference;
- (b) the land plans;
- (c) the works plans;
- (d) the access/rights of way plans;
- (e) the special category land/replacement land plans;
- (f) the heritage plans;
- (g) the environmental features locations plans;
- (h) the design drawings and sections; and
- (i) any other plans or documents referred to in this Order,

for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

### **Service of notices**

44.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the written consent of the recipient and subject to paragraphs (6) to (8) by electronic transmission.

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(a) 2004 c. 18.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978(a) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement shall be taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender shall provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person shall give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation shall be final and shall take effect on a date specified by the person in the notice but that date shall not be less than 7 days after the date on which the notice is given.

(9) This article shall not be taken to exclude the employment of any method of service not expressly provided for by it.

(10) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

### **Requirements, Appeals etc**

**45.—**(1) Schedule 3 has effect in relation to all consents, agreements or approvals granted, refused or withheld in relation to the requirements set out in Schedule 2.

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(a) 1978 c. 30.

**Arbitration**

46. Except where otherwise expressly provided for in this Order and unless otherwise agreed between the parties, any difference under any provision of this Order shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

Signed by authority of the Secretary of State for Energy and Climate Change

Date

*Name*  
Designation  
Department

# SCHEDULES

## SCHEDULE 1

Article 2 and 4

### AUTHORISED DEVELOPMENT

**In Epping Forest District Council, London Borough of Enfield, London Borough of Waltham Forest and London Borough of Haringey**

#### **UPRATING OF ZBC OVERHEAD ELECTRIC LINE**

**Work No. 1** — Uprating of the existing ZBC overhead electric line between pylon ZBC2 and pylon ZBC43 from 275 kilovolts (kV) to 400kV including:

- (a) uprating the existing phase conductors, insulators and fittings;
- (b) steel work replacement; and
- (c) replacing existing earthwire.

#### **In Epping Forest District Council**

#### **WALTHAM CROSS SUBSTATION**

**Work No. 2A** — Construction and installation of a new transmission pylon 4ZM1R, installation of new phase conductors, insulators, fittings and an earthwire conductor from pylon 4ZM1R to pylon 4ZM2, and installation of new connections from pylon 4ZM1R into the new Gas Insulated Switchgear Substation at Waltham Cross.

**Work No. 2B** — Removal of existing transmission pylon 4ZM1, the phase and earthwire conductors between pylon 4ZM1 and pylon 4ZM2 and the connections between pylon 4ZM1 and the existing Waltham Cross substation.

**Work No. 3A** — Construction and installation of two new transmission pylons ZBC1A and ZBC1B, installation of new phase conductors, insulators, fittings and an earthwire from pylon ZBC2 to pylon ZBC1B and pylon ZBC1A, and installation of new connections from pylon ZBC1A into the new gas insulated switchgear substation at Waltham Cross.

**Work No. 3B** — Removal of existing transmission pylon ZBC1, the phase and earthwire conductors between pylon ZBC1 and pylon ZBC2, and the connections from pylon ZBC1 to Waltham Cross substation.

**Work No. 4** — Construction of a new gas insulated switchgear substation at Waltham Cross including the following works—

- (a) construction of a gas insulated switchgear building comprising the following—
  - (i) a steel and fibre board clad building;
  - (ii) up to ten bays of gas insulated switchgear;
  - (iii) low voltage mechanical and electrical equipment;
  - (iv) electrical control panels; and
  - (v) gas insulated bus bar tubes to transfer electricity; and
- (b) construction of up to nine ancillary plant modules;
- (c) construction of gas insulated bus bar tubes;
- (d) construction of a welfare block for operations welfare and installation of a new foul cess pit to facilitate the new welfare block;

- (e) construction of an equipment garage;
- (f) construction of up to four landing gantries to a maximum height of 15m for terminal overhead electric line connections into the substation;
- (g) installation of electrical air insulated switchgear between termination points of substation building and overhead electric line connections to landing gantries;
- (h) installation of troughing and below ground services;
- (i) installation of lamp posts for street lighting and other site furniture;
- (j) part demolition of the existing 275kV substation associated with the 275kV circuits being uprated and removal of two decommissioned cable sealing end compounds;
- (k) dismantling and removal of two existing 275–400kV transformers;
- (l) disconnection of two 400–275kV transformers and relocation of the transformers to an on-site storage location;
- (m) construction of perimeter and internal fencing, signage, secured entrance, CCTV poles, gates, barriers and bollards; and
- (n) construction of a permanent access road up to 4m wide connecting the existing substation to the new gas insulated switchgear building.

**Work No. 5** — Establishment of a material holding facility and laydown area with construction related buildings and welfare facilities off Stubbins Hall Lane.

### **In the London Borough of Enfield**

#### **BRIMSDOWN SUBSTATION**

**Work No. 6** — Works to extend the existing 275–132kV substation at Brimsdown to facilitate the uprating of the 275–400kV overhead electric line including the following—

- (a) earthworks including site levelling, trenches, below ground services and drainage system;
- (b) construction of two 400–132kV transformer bays including foundations;
- (c) installation of air insulated switchgear to facilitate termination of overhead electric line into substation;
- (d) installation of a new diesel generator and concrete foundation as a backup low voltage electricity supply to the substation;
- (e) demolition of two existing 275–132kV transformers, foundations and ancillary equipment; and
- (f) diversion of existing 132kV cable to facilitate new works.

**Work No. 7A** — Construction of a new bridge over the Small River Lee (Turkey Brook) to accommodate a new access and cable route from the existing Brimsdown substation to the new cable sealing end compounds at pylon ZBC19.

**Work No. 7B** — Installation of two new cable sealing end compounds at pylon ZBC19, installation of up to six 400kV cables underground from the new compounds to Brimsdown substation over the new bridge constructed as part of Work No. 7A, establishment of laydown area, remodelling of bund and removal of two cable sealing end compounds at pylon ZBC20 and removal of cables between pylon ZBC20 and Brimsdown substation.

**Work No. 7C** — Remodelling existing bund and works to temporarily divert footpath.

**Work No. 7D** — Creation of new permanent footpath linking footpath at dismantled railway to Footpath No.103.

**Work No. 7E** — Creation of new permanent diversion to Footpath No. 103.

#### **LEE PARK WAY**

**Work No. 8** — Establishment of a material holding facility and laydown area with construction related buildings and welfare facilities in the car park off Lee Park Way.

### **In the London Borough of Haringey**

#### **TOTTENHAM SUBSTATION**

**Work No. 9** — Modifications to existing protection and control equipment to facilitate the bypass of Tottenham substation by the newly uprated 400kV overhead electricity line.

**Work No. 10** — Works to facilitate bypassing of Tottenham substation including the following works:

- (a) removal of existing phase and earthwire conductors from pylon ZBC43 to existing anchor blocks;
- (b) installation of new phase and earthwire conductors to gantries within new northern cable sealing end compound and removal of existing cables connecting ZBC43 to Tottenham substation;
- (c) installation of new cable sealing end compounds at pylons ZBC43 and VC1R;
- (d) the installation of up to twelve 400kV cables predominantly underground from the northern cable sealing end compound at pylon ZBC43 to the southern cable sealing end compound at pylon VC1R; and
- (e) installation of two cable bridges across Pymmes Brook.

**Work No. 11** — Installation of a new transmission pylon VC1R, new phase and earthwire conductors, insulators and fittings between VC1R and VC2 and new connections from pylon VC1R to the gantries in the new southern cable sealing end compound.

**Work No. 12** — Removal of existing transmission pylon VC1 and phase and earthwire conductors between pylon VC1 and pylon VC2 and removal of connections from between pylon VC1 and the existing Tottenham substation.

**Work No. 13** — Establishment of material holding facility and laydown area with construction related buildings and welfare facilities, and

in connection with such works further associated development within the Order limits consisting of—

- (a) ramps, means of access, footpaths, bridleways, trackways and pontoons;
- (b) embankment, viaducts, aprons, abutments, shafts, foundations, retaining walls, drainage, wing walls, fencing and culverts;
- (c) works to alter the position of apparatus, including mains, sewers, drains and cables;
- (d) works to alter the course of, or otherwise interfere with a watercourse;
- (e) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;
- (f) works for the benefit or protection of land affected by the authorised development;
- (g) works required for the strengthening, improvement, maintenance, or reconstruction of any streets;
- (h) works to alter or remove road furniture;
- (i) site preparation works, site clearance (including fencing, vegetation removal, demolition of existing structures and the creation of alternative footpaths); earthworks (including soil stripping and storage, site levelling);
- (j) establishment of site construction compounds, temporary vehicle parking, construction fencing, perimeter enclosure, security fencing, construction related buildings, welfare facilities, construction lighting and haulage roads;
- (k) installation of wires, cables, ducts, pipes and conductors; and

- (1) such other works, including working sites storage areas, and works of demolition, as may be necessary or expedient for the purposes of or in connection with the construction of the authorised development.

## SCHEDULE 2 REQUIREMENTS

Article 2 and 45

### *Interpretation*

**1.** In this Schedule—

“approved details” means the design drawings and sections certified under article 43 by the Secretary of State for the purposes of this Order;

“stage” means a defined section or part of the authorised development, the extent of which is shown in a scheme submitted to and approved by the relevant planning authority pursuant to requirement 3;

“commence” means the carrying out a material operation, as defined in section 155 of the 2008 Act (when development begins), comprised in or carried out for the purposes of the authorised development, or any part of the authorised development and does not include any remediation, environmental (including archaeological) investigation, site or soil survey, erection of contractors’ work compound, erection of site office, erection of fencing to site boundaries or marking out of site boundaries and any derivative of “commence” shall be construed accordingly;

“Environmental Measures document” means the document containing the environmental measures agreed for the purposes of the Order, reflecting the measures set out in environmental statement and measures agreed with third parties certified under article 43 by the Secretary of State for the purposes of this Order; and

“environmental statement” means the environmental statement certified as the environmental statement by the Secretary of State for the purposes of this Order and submitted with the application.

### *The Limits*

**2.** The authorised development must be commenced within 5 years of the date of this Order.

### *Stages of authorised development*

**3.** No authorised development shall commence until a written scheme setting out all the stages of the authorised development has, after consultation with the relevant highway authority and Lee Valley Regional Park Authority, been submitted to and approved by the relevant planning authority.

### *In accordance with approved details*

**4.** The authorised development shall be carried out in general accordance with the approved details unless otherwise agreed by the relevant planning authority.

### *Landscaping*

**5.—(1)** No stage of the authorised development shall commence until a written landscaping scheme for that stage has, after consultation with the Lee Valley Regional Park Authority where it refers to any land within the boundary of the Lee Valley Regional Park, been submitted to and approved by the relevant planning authority.

(2) The landscaping scheme submitted under requirement 5(1) shall reflect the environmental measures set out in the Environmental Measures document.

(3) Where submitted for land in the designated Enfield Lock Conservation Area, the landscaping scheme submitted under requirement 5(1) shall include measures that preserve the character and

appearance of the Enfield Lock Conservation Area, to the satisfaction of the relevant planning authority.

- (4) The landscaping scheme submitted under requirement 5(1) shall include details of—
- (a) Retained landscape features;
  - (b) location, number, species, size and planting density of any proposed planting;
  - (c) cultivation, importing of materials and other operations to ensure plant establishment;
  - (d) implementation timetables for all landscaping;
  - (e) temporary fencing that complies with current best practice to protect trees and hedgerows adjacent to the works;
  - (f) the dimensions and materials for new sections of pedestrian or cycle paths where applicable; and
  - (g) the colour of permanent security fencing around infrastructure.

#### *Implementation and maintenance of landscaping*

6.—(1) All landscaping work shall be carried out in general accordance with the scheme and the implementation timetable approved under requirement 5.

(2) Any tree or shrub planted as part of a landscaping scheme approved under requirement 5 that, within a period of five years after planting, is removed, dies or becomes in the opinion of the relevant planning authority seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless otherwise approved by the relevant planning authority.

#### *Highway accesses*

7.—(1) No stage of the authorised development shall commence until for that stage written details of the siting, design and layout of any new permanent or temporary means of access to a highway to be used by vehicular traffic, or any alteration to an existing means of access to a highway used by vehicular traffic, has, after consultation with the relevant highway authority, been submitted to and approved by the relevant planning authority.

(2) The highway accesses must be constructed in accordance with the approved details unless otherwise agreed with the relevant planning authority.

(3) No stage of the authorised development shall be begun until for that stage, a written access management scheme for the arrangements for the use and maintenance of highway accesses during construction of that stage has been submitted to and approved by the relevant highway authority .

(4) The access management scheme must be carried out in accordance with the approved details unless otherwise agreed with the relevant highway authority.

#### *Public rights of way*

8.—(1) No authorised development that would affect footpath V at Angel Road North Circular Road, London N18 3SB shall commence until a written implementation plan and specification for the making up of an alternative right of way has been submitted to and approved by the relevant highway authority .

(2) The alternative footpath between FP74 and FP76 via FP 75 as shown on Sheet 8 of the access/rights of way plans shall be implemented in accordance with the approved plan and specification unless otherwise agreed with the relevant highway authority.

### *Construction traffic management plan*

**9.**—(1) No stage of the authorised development shall commence until a construction traffic management plan has been submitted to and approved by the relevant highway authority. The construction traffic management plan shall include—

- (a) construction vehicle routing plans;
- (b) site access plans;
- (c) means of managing shared use routes, including pedestrian and cycling safety measures where applicable;
- (d) proposals for the scheduling and timing of movements of delivery vehicles;
- (e) proposals for assessing the existing condition of affected highways;
- (f) proposals for the making good of any incidental damage to highways by construction traffic associated with the authorised development including street furniture, structures, drainage features, highway verge and carriageway surfaces;
- (g) construction laydown area details affecting highways;

(2) The construction traffic management plan shall be implemented as approved unless otherwise agreed with the relevant highway authority.

### *Surface water drainage*

**10.**—(1) No stage of the authorised development shall commence until for that stage, written details of the surface and foul water drainage system (including means of pollution control) have, after consultation with the sewerage and drainage authority, been submitted to and approved by the relevant planning authority.

(2) The surface and foul water drainage system must be constructed in general accordance with the details approved in accordance with requirement 10(1) unless otherwise agreed with the relevant planning authority.

### *Contaminated land and groundwater*

**11.**—(1) No stage of the authorised development shall commence until a written scheme applicable to that stage, to deal with the contamination of any land, including groundwater, within the Order limits which is likely to cause significant harm to persons or pollution of controlled waters or the environment has, after consultation with the Environment Agency, been submitted to and approved by the relevant planning authority.

(2) The scheme submitted under requirement 11(1) shall include an investigation and assessment plan and relevant reports, prepared by a specialist consultant approved by the relevant planning authority in consultation with the Environment Agency, to identify the extent of any contamination and the remedial measures to be taken to render the land fit for its intended purpose, together with a management plan which sets out immediate and long-term remedial measures with respect to any contaminants found to be remaining on the site. The plan shall include a scheme of post-remedial monitoring, as necessary to demonstrate that the remediation works have been carried out appropriately and site remediation criteria have been met.

(3) Remedial measures must be carried out in general accordance with the scheme approved in accordance with requirement 11(1) unless otherwise agreed with the relevant planning authority. Where provided for in the scheme, post-remedial monitoring must be carried out to demonstrate that the remediation works have been carried out appropriately and the site remediation criteria have been met.

### *Ecological Management Strategy*

**12.**—(1) No stage of the authorised development shall commence until a written ecological management strategy applicable to stage, reflecting the ecological measures included in the Environmental Measures document, has after consultation with the Environment Agency, Natural England and, where it refers to any land within the boundary of the Lee Valley Regional Park, Lee

Valley Regional Park Authority been submitted to and approved by the relevant planning authority.

(2) The ecological management strategy prepared in accordance with requirement 12(1) shall include an implementation timetable and must be carried out as approved unless otherwise agreed with the relevant planning authority.

#### *Approvals given*

**13.—**(1) Any approval or agreement which is given by the relevant planning authority or relevant highway authority under these requirements must be given in writing.

(2) Where the words "unless otherwise approved by the relevant planning authority" or "unless otherwise agreed with the relevant planning authority" or "unless otherwise agreed with the relevant highway authority" are used in these requirements such approval or agreement may only be given in relation to immaterial changes where it has been demonstrated to the satisfaction of the relevant planning authority or relevant highway authority that the subject matter of the approval or agreement sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

#### *Amendments to approved details*

**14.—**(1) With respect to any requirement which requires the authorised development to be carried out in accordance with the details approved by the relevant planning authority or relevant highway authority, the approved details shall be taken to include any amendments that may subsequently be approved in writing by the relevant planning authority or relevant highway authority.

(2) Where any amendments are proposed to approved details in relation to any requirement in this Schedule and that requirement requires prior consultation with a third party the undertaker shall consult with that third party prior to submitting an application to amend the approved details.

(3) Where amendments are proposed to approved details in relation to any requirement in this Schedule they must be submitted in writing to the relevant planning authority.

#### *Construction environmental management plan*

**15.—**(1) No stage of the authorised development shall commence until a construction environmental management plan for that stage specifying measures to be used to minimise the impacts of construction works, such as means of minimising pollution from dust, noise, vibration and lighting, wheel cleansing facilities, routes for construction traffic and working hours and reflecting the measures included in the Environmental Measures document has, after consultation with the Lee Valley Regional Park Authority where it refers to any land within the boundary of the Lee Valley Regional Park, been approved by the relevant planning authority.

(2) All construction works shall be undertaken in accordance with the construction environmental management plan prepared in accordance with requirement 15(1), unless otherwise agreed by the relevant planning authority.

#### *Archaeology*

**16.—**(1) No stage of the authorised development shall commence until for that stage, a written scheme for the investigation of areas of archaeological interest (as identified in the Environmental Measures document) has, after consultation with the Historic Buildings and Monuments Commission for England, been approved by the relevant planning authority.

(2) The scheme submitted under requirement 16(1) shall identify areas where one or more of—

- (a) field work; and
- (b) a watching brief

are required, and the measures to be taken to protect, record or preserve any significant archaeological remains that may be found.

(3) Any archaeological works or watching brief carried out under the scheme submitted under requirement 16(1) must be by a suitably qualified person or body.

(4) Any archaeological works or watching brief must be carried out in general accordance with the scheme approved under requirement 16(1) unless otherwise agreed with the relevant planning authority.

#### *Flood Storage*

**17.**—(1) Work No. 7A and 7B shall not commence until a written scheme for compensatory flood storage has been submitted to and has, after consultation with the London Borough of Enfield Council, been approved by the Environment Agency.

(2) The compensatory flood storage shall be constructed in accordance with the approved scheme.

(3) The written scheme of flood compensation shall include:

- (a) A schedule of staging and timing relating to the construction of Work No. 7A, 7B and the compensatory flood storage.
- (b) Flood storage up to and including the modelled 1 to 100 chance in any year including a 20% allowance for climate change flood level.
- (c) No increase in flood risk off site.

#### *Works within the Lee Valley Regional Park*

**18.** Where an application for consent or agreement is required under articles 12, 15 or 16 and the application relates to land within the boundary of the Lee Valley Regional Park, the undertaker must give written notice to the Lee Valley Regional Park Authority that an application has been submitted.

## SCHEDULE 3

Article 45

### DISCHARGE OF REQUIREMENTS

#### Applications made under requirements

1.—(1) Where an application has been made to a relevant authority for any consent, agreement or approval required by a requirement included in Schedule 2 to this Order, the relevant authority must give notice to the undertaker of its decision on the application within a period of 28 days beginning with:

- (a) the first business day immediately following that on which the application is received by the relevant authority; or
- (b) such longer period as may be agreed by the undertaker and the relevant authority.

(2) Where an application has been made under sub-paragraph 1 the relevant authority may request such reasonable further information from the undertaker as it considers is necessary to enable it to consider the application.

(3) If the relevant authority considers further information is necessary the relevant authority must, within 7 business days of receipt of the application, notify the undertaker in writing specifying the further information required.

(4) If notification is given under sub-paragraph (3) the undertaker must, within 7 business days of receipt of the notification either:

- (a) supply the further information requested, or
- (b) provide an explanation as to why such a request for further information is unreasonable or can not be provided.

(5) If the relevant authority does not give the notification mentioned in sub-paragraph (3) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

#### Fees

2.—(1) Where an application is made to a relevant planning authority for any consent, agreement or approval in respect of one or more requirements included in Schedule 2 to this Order, a fee of £97 or such other fee as may be prescribed (under sections 303 and 333(2A) of the Town and Country Planning Act 1990 for the discharge of conditions attached to a planning permission) shall be paid to the relevant planning authority.

(2) Any fee paid under this Schedule must be refunded to the undertaker within 28 days of—

- (a) the application being rejected as invalidly made; or
- (b) the relevant planning authority failing to determine the application within 28 days from the date on which it is received,

unless within that period the undertaker agrees in writing that the fee may be retained by the relevant planning authority and credited in respect of a future application.

#### Appeals

3.—(1) The undertaker may appeal if:

- (a) the relevant authority refuses an application for any consent, agreement or approval required by articles 11, 14, 15 or 17 of this Order or required by a requirement included in Schedule 2 to this Order or grants it subject to conditions; or
- (b) the relevant authority does not give notice of its decision to the undertaker within the time period specified in paragraph 1;

- (c) having received a request for further information under paragraph 1(3) the undertaker considers that either the whole or part of the specified information requested by the relevant authority is not necessary for consideration of the application; or
- (d) having received any further information requested, the relevant authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.

(2) The procedure for appeals is as follows—

- (a) the undertaker must submit to the Secretary of State a copy of the application submitted to the relevant authority and any supporting documents which the undertaker may wish to provide (“the appeal documents”);
- (b) the undertaker must on the same day provide copies of the appeal documents to the relevant authority and the requirement consultee (if applicable);
- (c) as soon as is practicable after receiving the appeals documents the Secretary of State (or persons appointed by the Secretary of State for this purpose) must appoint a person to determine the appeal (“the appointed person”) and must forthwith notify the appeal parties of the identity of the appointed person and the address to which all correspondence for the appointed person should be sent;
- (d) the relevant authority and the requirement consultee (if applicable) may submit any written representations in respect of the appeal to the appointed person within a period of 10 business days beginning with the first day immediately following the date on which the appeal parties are notified of the appointment of the appointed person and must ensure that copies of their written representations are sent to the undertaker on the day on which they are submitted to the appointed person;
- (e) the appeal parties may make any counter-submissions to the appointed person within a period of 10 business days beginning with the first day immediately following the date of receipt by them of written representations pursuant to sub-paragraph (2)(d) above; and
- (f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.

(3) If the appointed person considers that further information is necessary to enable them to consider the appeal the appointed person must as soon as practicable notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information must be submitted.

(4) Any further information required pursuant to sub-paragraph (3) must be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person. Any written representations concerning matters contained in the further information may be submitted to the appointed person within a period of 10 business days beginning with the first day immediately following that date and any person submitting any such written representation must ensure that a copy of it is sent to all other appeal parties on the day on which it is submitted to the appointed person.

### **Outcome of appeals**

4.—(1) On an appeal under paragraph 3, the appointed person may:

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the relevant authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to the appointed person in the first instance.

(2) The appointed person when deciding an appeal may disregard such written representations as have been sent after the deadline prescribed or set by the appointed person under this paragraph.

(3) The appointed person may proceed to a decision even though no written representations have been made within those time limits if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(4) The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review within 6 weeks of the date of the decision.

(5) Any consent, agreement or approval referred to in paragraph 1(1) given by the appointed person pursuant to this Schedule is deemed to be an approval for the purpose of this Order as if it had been given by the relevant authority

(6) Except where a direction is given pursuant to sub-paragraph (7) requiring the costs of the appointed person to be paid by the relevant authority, the reasonable costs of the appointed person must be met by the undertaker.

(7) On application by the relevant authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is made, the appointed person must have regard to such guidance (if any) as issued by the Secretary of State as guidance to decision-makers on applications for costs in appeals made under the Town & Country Planning Act 1990 (as amended).

### **Interpretation of Schedule 3**

#### **5. In this Schedule—**

“the appeal parties” means the relevant authority, requirement consultee and the undertaker;

a “relevant authority” means the relevant planning authority, relevant highway authority, relevant street authority, Environment Agency or relevant owner of a watercourse, sewer or drain as may be appropriate to the consent or approval sought;

“business day” means a day which is not a Saturday or a Sunday, Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday in England and Wales; and

“requirement consultee” means any body named in a requirement included in Schedule 2 to this Order or required by articles 11, 14, 15 or 17 of this Order which is the subject of an appeal as a body to be consulted in discharging that requirement.

SCHEDULE 4

Article 11

STREETS SUBJECT TO ALTERATION OF LAYOUT

PART 1

STREETS SUBJECT TO PERMANENT ALTERATION OF LAYOUT

<i>(1)</i> <i>Street subject to alteration of layout</i>	<i>(2)</i> <i>Description of alteration</i>
<p><b>Epping Forest District Council</b></p> <p>Beaulieu Drive</p>	<p>At AC16 (shown on Sheet 2 of the Access/Rights of Way Plans) the creation of a bellmouth access to the pylon with sufficient size to accommodate a rigid HGV. Comprising an alteration of the level of the kerb line and verge on the westward side approximately 60 metres from the junction with Highbridge Street and Meridian Way.</p>
<p><b>London Borough of Enfield</b></p> <p>A1055 Mollison Avenue</p> <p>A406 Angel Road Exit Slip/Advent Way</p>	<p>Between AC32 and AC33 (shown on Sheet 5 of the Access/Rights of Way Plans) the replacement of the existing dropped kerb with a new bellmouth access to the Prince of Wales playing field with sufficient size to accommodate a rigid HGV. Comprising the realignment of the existing kerb line and reduction of the pedestrian footway and the installation of a new road surface between the road and gated access to the Prince of Wales playing field approximately 515 metres south of the Smeaton Road/A1055 Mollison Avenue/Ordnance Road signal controlled crossroads.</p> <p>Between AC51 and AC52 (shown on Sheet 8 of the Access/Rights of Way Plans) the creation of a new drop kerb to allow access to the pylon with sufficient size to accommodate a rigid HGV. Comprising an alteration of the level of the kerb line and pedestrian footway approximately 50 metres before the Cooks ferry roundabout.</p>

## PART 2

### STREETS SUBJECT TO TEMPORARY ALTERATION OF LAYOUT

<i>(1)</i> <i>Street subject to alteration of layout</i>	<i>(2)</i> <i>Description of alteration</i>
<b>London Borough of Haringey</b>  A1055 Watermead Way	Between AC71 and AC72 (shown on Sheet 10 of the Access/Rights of Way Plans) the realignment of the kerb line and part of the pedestrian footway to create a wider access to accommodate a rigid HGV. Comprising the realignment of the existing kerb line and reduction of the pedestrian footway and the installation of a new road surface between the road and access track at the junction of Marigold Way and Watermead Way into Tottenham Marshes.



SCHEDULE 6

Article 14

STREETS TO BE TEMPORARILY STOPPED UP

PART 1

STREETS TO BE TEMPORARILY STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> Area	<i>(2)</i> Street to be temporarily stopped up	<i>(3)</i> Extent of stopping up	<i>(4)</i> Temporary diversion
Epping Forest District Council	<p>Footpath A east and south of Waltham Cross substation in Lee Valley Regional Park, between the Fisherman’s car park and the bridge over the River Lee</p> <p>Footpath B south of Waltham Cross substation along the banks of the River Lee within the Lee Valley Regional Park</p>	<p>From FP1 to FP2 as shown on Sheet 1 of the Access/Rights of Way Plan</p> <p>From FP3 to FP4 as shown on Sheet 1 the Access/Rights of Way Plan</p>	<p>A footpath from FP1 to FP2 via FP3, FP6 and FP5 shown on Sheet 1 of the Access/Rights of Way Plans</p> <p>A footpath between FP3 and FP4 via FP6 and FP5 shown on Sheet 1 of the Access/Rights of Way Plans</p>
Epping Forest District Council and Broxbourne Borough Council	Footpath C in Lee Valley Regional Park, alongside Horsemill Stream, known as Walton’s Walk, National Cycle Route 1 and the Lee Valley Pathway part of which is Footpath No.16	From FP7 as shown on Sheet 1 to FP26 as shown on Sheet 2 of the Access/Rights of Way Plans	A footpath between FP5 and FP21 via FP6, FP10, FP11, FP12, FP13, FP18, FP19 and FP20 shown on Sheets 1 and 2 of the Access/Rights of Way Plans
London Borough of Enfield	<p>Footpath M across Open Space at Enfield Island to Fogerty Close</p> <p>Footpath N from Fogerty Close to Manton Road</p>	<p>From FP29 to FP30 shown on Sheet 5 of the Access/Rights of Way Plans</p> <p>From FP30 to FP32 shown on Sheet 5 of the Access/Rights of Way Plans</p>	<p>A footpath between FP29 and FP30 via FP31 and FP33 shown on Sheet 5 of the Access/Rights of Way Plans</p> <p>A footpath between FP30 and FP32 via FP33 shown on Sheet 5 of the Access/Rights of Way Plans</p>

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be temporarily stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>Temporary diversion</i>
	Footpath P across Open Space at Enfield Island from Manton Road to McClintock Place	From FP34 to FP35 shown on Sheet 5 of the Access/Rights of Way Plans	A footpath between FP34 and FP35 via FP36 shown on Sheet 5 of the Access/Rights of Way Plans
	Footpath Q across Open Space at Enfield Island to Haldane Close	From FP38 to FP39 shown on Sheet 5 of the Access/Rights of Way Plans	A footpath between FP38 and FP39 via FP37 and FP36 shown on Sheet 5 of the Access/Rights of Way Plans
	Part of Footpath T on the dismantled railway at Brimsdown	From FP49 to FP50 shown on Sheet 5 of the Access/Rights of Way Plans	A footpath between FP49 and FP53 shown on Sheet 5 of the Access/Rights of Way Plans
	Section of Footpath No. 103 at Brimsdown between Small River Lee and Brancroft Way	From FP44 to FP45 shown on Sheet 5 of the Access/Rights of Way Plans	A footpath between FP44, FP57, FP58, FP59 and FP47 shown on Sheet 5 of the Access/Rights of Way Plans
	Section of Footpath No. 103 at Brimsdown between Small River Lee and Brancroft Way	From FP46 to FP47 shown on Sheet 5 of the Access/Rights of Way Plans	A footpath between FP44, FP57, FP58, FP59 and FP47 shown on Sheet 5 of the Access/Rights of Way Plans
	Section of Footpath No. 109 known as part of the Lee Valley Walk, Lee Valley Pathway and National Cycle Route 1	From FP60 to FP61 shown on Sheet 5 of the Access/Rights of Way Plans	A pontoon walkway for pedestrians and dismounted cyclists between FP60 and FP61 via FP62 shown on Sheet 5 of the Access/Rights of Way Plans
	Part of Ostell Crescent between Numbers 1 and 17 (uneven numbers only)	Between points TS1 and TS2 shown on Sheet 5 of the Access/Rights of Way Plans	From TS1 to TS2 via TS3
	Section of Footpath No. 109 known as part of the Lee Valley Walk, Lee Valley Pathway and National	From FP63 to FP64 shown on Sheet 7 of the Access/Rights of Way Plans	A water taxi between FP65 and FP66 shown on Sheet 7 of the Access/Rights of Way Plans

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be temporarily stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>Temporary diversion</i>
	<p>Cycle Route 1</p> <p>Section of Footpath No. 109 known as part of the Lee Valley Walk, Lee Valley Pathway and National Cycle Route 1</p>	<p>From FP64 shown on Sheet 7 to FP67 shown on Sheet 8 of the Access/Rights of Way Plans</p>	<p>A footpath between FP64 and FP67 via FP68 and FP69 shown on Sheets 7 and 8 of the Access/Rights of Way Plans</p>
<p>London Borough of Enfield and London Borough of Waltham Forest</p>	<p>Section of Footpath No. 274</p>	<p>From FP70 to FP71 shown on Sheet 8 of the Access/Rights of Way Plans</p>	<p>To travel northwards, a footpath between FP71, FP72, FP73, FP69, FP68 and FP64 shown on Sheets 8 and 7 of the Access/Rights of Way Plans and to travel southwards a footpath between FP71, FP72, FP73, FP69 and FP67 shown on Sheet 8 of the Access/Rights of Way Plans</p>
<p>London Borough of Enfield</p>	<p>Footpath V at Angel Road</p>	<p>From FP74 to FP77 shown on Sheet 8 of the Access/Rights of Way Plans</p>	<p>A footpath between FP74 and FP76 via FP75 shown on Sheet 8 of the Access/Rights of Way Plans</p>
<p>London Borough of Haringey</p>	<p>Footpath X known as part of the Lee Valley Walk, Lee Valley Pathway and National Cycle Route 1</p> <p>Footpath Y on the west of Watermead Way</p> <p>Footpath Z on the Tottenham Marshes</p>	<p>From FP80 to FP81 shown on Sheet 10 of the Access/Rights of Way Plans</p> <p>From FP86 to FP87 shown on Sheet 10 of the Access/Rights of Way Plans</p> <p>From FP90 to FP91 shown on Sheet 10 of the Access/Rights of Way Plans</p>	<p>A footpath between FP80 and FP81 via FP82, FP83, FP93, FP84 and FP85 shown on Sheet 10 of the Access/ Rights of Way Plans</p> <p>A footpath between FP86 and FP87 via FP88 and FP89 shown on Sheet 10 of the Access/Rights of Way Plans</p> <p>A footpath between FP92 and FP94 via FP83 and FP93 shown on Sheet 10 of the Access/Rights of Way Plans</p>

## PART 2

### STREETS TO BE TEMPORARILY STOPPED UP FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> Area	<i>(2)</i> Street to be temporarily stopped up	<i>(3)</i> Extent of stopping up
Epping Forest District Council	Footpath D in the Lee Valley Regional Park known as Powdermill Cut	From FP9 to FP10 shown on Sheet 2 of the Access/Rights of Way Plans
	Footpath E in the Lee Valley Regional Park known as Powdermill Cut	From FP8 to FP11 shown on Sheet 2 of the Access/Rights of Way Plans
	Footpath F in the Lee Valley Regional Park off the footpath known as Walton's Walk	From FP15 to FP17 shown on Sheet 2 of the Access/Rights of Way Plans
	Footpath G in the Lee Valley Regional Park off the footpath known as Walton's Walk	From FP16 to FP13 shown on Sheet 2 of the Access/Rights of Way Plans
	Footpath H in the Lee Valley Regional Park between Hall Marsh and Waltham Marsh	From FP14 to FP18 shown on Sheet 2 of the Access/Rights of Way Plans
	Footpath J in the Lee Valley Regional Park off the footpath known as Walton's Walk to Waltham Marsh	From FP22 to FP23 shown on Sheet 2 of the Access/Rights of Way Plans
	Footpath K within the Highbridge Street Anglers with Disabilities Site	From FP24 to FP25 shown on Sheet 2 of the Access/Rights of Way Plans
London Borough of Enfield	Footpath L across Open Space at Enfield Island	From FP27 to FP28 shown on Sheet 4 of the Access/Rights of Way Plans
	Footpath R across Open Space at Enfield Island	From FP40 to FP41 shown on Sheet 5 of the Access/Rights of Way Plans
	Footpath S across Open Space at Enfield Island	From FP42 to FP43 shown on Sheet 5 of the Access/Rights of Way Plans
	Part of Footpath T on the dismantled railway at Brimsdown	From FP51 to FP52 shown on Sheet 5 of the Access/Rights of Way Plans

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be temporarily stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
London Borough of Waltham Forest	Footpath W between Harbet Road and ending prior to, but not connecting to, the A406 Angel Road (North Circular)	From FP78 to FP79 shown on Sheet 9 of the Access/Rights of Way Plans

## SCHEDULE 7

Article 15

### ACCESS TO WORKS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Subject to works</i>
Epping Forest District Council	<p>Improved access route from Holyfield Road beginning at AC1 and continuing to AC2, AC3 and AC4 shown on Sheet 1 of the Access/Rights of Way Plans</p> <p>Improved access route between AC5 and AC6 shown on Sheet 1 of the Access/Rights of Way Plans</p> <p>Improved access route between AC7 and AC8 on Sheet 1 of the Access/Rights of Way Plans</p> <p>Improved access between AC9 shown on Sheet 1 and AC17 shown on Sheet 2 of the Access/Rights of Way Plans</p> <p>Improved access between AC17A and AC17B shown on Sheet 2 of the Access/Rights of Way Plans</p> <p>Improved access at AC10 shown on Sheet 2 of the Access/Rights of Way Plans</p> <p>Improved access at AC11 shown on Sheet 2 of the Access/Rights of Way Plans</p> <p>Improved access route between AC12 and AC13 shown on Sheet 2 of the Access/Rights of Way Plans</p> <p>Improved access route between AC14 and AC15 shown on Sheet 2 of the Access/Rights of Way Plans</p> <p>Improved access and bellmouth off Beaulieu Drive at AC16 on Sheet 2 of the Access/Rights of Way Plans</p> <p>Improved access and roadway from Highbridge Street at AC18 shown on Sheet 2 to AC19 shown on Sheet 3 of the Access/Rights of Way Plans</p> <p>Improved access between AC19A shown on Sheet 3 to AC19B shown on Sheet 4 of the Access/Rights of Way Plans</p> <p>Improved access between AC19C and AC19D shown on Sheet 4 of the Access/Rights of Way Plans</p> <p>Improved access off Meridian Way at AC20 shown on Sheet 3 of the Access/Rights of Way Plans</p>
	Improved access off Meridian Way at AC21 shown on Sheet 3

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Subject to works</i>
	of the Access/Rights of Way Plans
London Borough of Enfield	<p>Improved access route between AC22 and AC23 shown on Sheet 4 of the Access/Rights of Way Plans</p> <p>Improved access off George Lovell Drive between AC24 and AC25 shown on Sheet 4 of the Access/Rights of Way Plans</p> <p>Improved access off Fisher Close at AC26 to AC27 shown on Sheet 5 of the Access/Rights of Way Plans</p> <p>Improved access off Ostell Crescent at AC28 shown on Sheet 5 of the Access/Rights of Way Plans</p> <p>Improved access off Ostell Crescent at AC29 shown on Sheet 5 of the Access/Rights of Way Plans</p> <p>Access off Swan and Pike Road at AC30 shown on Sheet 5 of the Access/Rights of Way Plans</p> <p>Access between AC30A and AC30B shown on Sheet 5 of the Access/Rights of Way Plans</p> <p>Improved access between AC30C and AC30D shown on Sheet 6 of the Access/Rights of Way Plans</p> <p>Improved access between AC30E and AC31 shown on Sheet 6 of the Access/Rights of Way Plans</p> <p>Improved access and bellmouth off Mollison Avenue between AC32 and AC33 shown on Sheet 5 of the Access/Rights of Way Plans</p> <p>Access off Mollison Avenue at AC34 shown on Sheet 5 of the Access/Rights of Way Plans</p> <p>Access off Mollison Avenue at AC35 shown on Sheet 5 of the Access/Rights of Way Plans</p> <p>Improved access off Brancroft Way between AC36 and AC37 shown on Sheet 5 of the Access/Rights of Way Plans</p> <p>Improved access between AC38 and AC39 shown on Sheet 5 of the Access/Rights of Way Plans</p> <p>Improved access between AC40 and AC41 shown on Sheet 6 of the Access/Rights of Way Plans</p> <p>Improved access off Wharf Road at AC42 shown on Sheet 6 of the Access/Rights of Way Plans</p>
	Improved access off Pickett's Lock Lane between AC43 and

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Subject to works</i>
	<p>AC44 shown on Sheet 7 of the Access/Rights of Way Plans</p> <p>Access points from Waterway for construction traffic at AC100, AC101, AC102, AC103, AC104, AC105 and AC106 shown on Sheet 7 and at AC107 shown on Sheet 8 of the Access/Rights of Way Plans</p> <p>Improved access off Lee Park Way at AC45 shown on Sheet 8 of the Access/Rights of Way Plans</p> <p>Improved access off Lower Hall Lane between AC46 and AC47 shown on Sheet 8 of the Access/Rights of Way Plans</p> <p>Improved access off Lower Hall Lane between AC46 and AC48 via AC49 shown on Sheet 8 of the Access/Rights of Way Plans</p> <p>Improved access off Lower Hall Lane between AC46 and AC50 via AC49 shown on Sheet 8 of the Access/Rights of Way Plans</p> <p>Improved access including a new drop kerb off Angel Road between AC51 and AC52 shown on Sheet 8 of the Access/Rights of Way Plans</p> <p>Improved access northwards off Harbet Road between AC53 and AC54 shown on Sheet 8 of the Access/Rights of Way Plans</p>
London Borough of Waltham Forest	<p>Improved access northwards off Harbet Road between AC55 and AC58 via AC56 shown on Sheet 9 of the Access/Rights of Way Plans</p> <p>Improved access northwards off Harbet Road between AC55 and AC57 via AC56 shown on Sheet 9 of the Access/Rights of Way Plans</p> <p>Improved access southwards off Harbet Road between AC59 and AC60 shown on Sheet 9 of the Access/Rights of Way Plans</p> <p>Improved access between AC61 and AC62 shown on Sheet 9 of the Access/Rights of Way Plans</p> <p>Segregation of pedestrians from traffic along access at Banbury Road between AC63 and AC64 shown on Sheet 9 of the Access/Rights of Way Plans</p> <p>Improved access between AC65 and AC66 shown on Sheet 9 of the Access/Rights of Way Plans</p>
London Borough of Haringey	Access at AC67 shown on Sheet 10 of the Access/Rights of Way Plans
	Improved access between AC68 and AC69 shown on Sheet 10 of the Access/Rights of Way Plans

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Subject to works</i>
	<p>Access off Watermead Way at AC70 shown on Sheet 10 of the Access/Rights of Way Plans</p> <p>Improved access and bellmouth with segregation of pedestrians from traffic off Watermead Way between AC71 and AC72 shown on Sheet 10 of the Access/Rights of Way Plans</p> <p>Improved access from Watermead Way at AC73 shown on Sheet 10 of the Access/Rights of Way Plans</p>

## SCHEDULE 8

Article 20

### TEMPORARY CLOSURE OF, AND WORKS IN, THE CANAL

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Land to be temporarily stopped up</i>	<i>(3)</i> <i>Extent of temporary stopping up</i>
London Borough of Enfield	Restriction of width of River Lee Navigation	A canal lane closure between CC1 and CC2 shown on Sheet 5 of the Access/Rights of Way Plans
	Restriction of width of River Lee Navigation	A canal lane closure between CC3 and CC4 shown on Sheet 7 of the Access/Rights of Way Plans
	Part of River Lee Navigation south of Pickett's Lock (waiting area for the lock)	A canal lane closure between CC5 and CC6 shown on Sheet 7 of the Access/Rights of Way Plans

SCHEDULE 9

Article 22

LAND TO BE ACQUIRED COMPULSORILY

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on land plans</i>
Epping Forest District Council	10
London Borough of Enfield	186
	188
	189
	190
	191
	191A
	206
London Borough of Haringey	378
	379
	380
	381
	384
	388

## MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

### *Compensation enactments*

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land shall apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without prejudice to the generality of paragraph 1, the Land Compensation Act 1973(a) shall have effect subject to the modifications set out in sub-paragraphs (2) and (3).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 4—

- (a) for the words “land is acquired or taken from” there shall be substituted the words “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for the words “acquired or taken from him” there shall be substituted the words “over which the right is exercisable or the restrictive covenant enforceable”.

(3) In section 58(1) (determination of material detriment where part of house etc. proposed for compulsory acquisition), as it applies to determinations under section 8 of the 1965 Act as substituted by paragraph 5—

- (a) for the word “part” in paragraphs (a) and (b) there shall be substituted the words “a right over or restrictive covenant affecting land consisting”;
- (b) for the word “severance” there shall be substituted the words “right or restrictive covenant over or affecting the whole of the house, building or manufactory or of the house and the park or garden”;
- (c) for the words “part proposed” there shall be substituted the words “right or restrictive covenant proposed”; and
- (d) for the words “part is” there shall be substituted the words “right or restrictive covenant is”.

### *Application of the 1965 Act*

3.—(1) The 1965 Act shall have effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right, or to the imposition under this Order of a restrictive covenant, as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired; or
- (b) the land over which the right is or is to be exercisable or the restrictive covenant is or is to be enforceable.

(2) Without prejudice to the generality of sub-paragraph (1), Part 1 of the 1965 Act shall apply in relation to the compulsory acquisition under this Order of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

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(a) 1973 c. 26.

4. For section 7 of the 1965 Act (measure of compensation) there shall be substituted the following section—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

5. For section 8 of the 1965 Act (provisions as to divided land) there shall be substituted the following section—

“8.—(1) Where in consequence of the service on a person under section 5 of this Act of a notice to treat in respect of a right over, or a restrictive covenant affecting land consisting of a house, building or manufactory or of a park or garden belonging to a house (“the relevant land”)—

- (a) a question of disputed compensation in respect of the purchase of the right or the imposition of the restrictive covenant would apart from this section fall to be determined by the Upper Tribunal (“the tribunal”); and
- (b) before the tribunal has determined that question the tribunal is satisfied that the person has an interest in the whole of the relevant land and is able and willing to sell that land and—
  - (i) where that land consists of a house, building or manufactory, that the right cannot be purchased or the restrictive covenant imposed without material detriment to that land; or
  - (ii) where that land consists of such a park or garden, that the right cannot be purchased or the restrictive covenant imposed without seriously affecting the amenity or convenience of the house to which that land belongs,

the National Grid (North London Reinforcement Project) Development Consent Order 201[ ](a) (“the Order”) shall, in relation to that person, cease to authorise the purchase of the right or the imposition of the covenant and be deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice shall be deemed to have been served in respect of that interest on such date as the tribunal directs.

(2) Any question as to the extent of the land in which the Order is deemed to authorise the purchase of an interest by virtue of subsection (1) of this section shall be determined by the tribunal.

(3) Where in consequence of a determination of the tribunal that it is satisfied as mentioned in subsection (1) of this section the Order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of 6 weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.”.

6. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and

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(a) S.I. 201[ ]/[ ]

(d) paragraphs 2(3) and 7(2) of Schedule 4 (common land), shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

7. Section 11 of the 1965 Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) of the 1965 Act shall be modified correspondingly.

8. Section 20 of the 1965 Act (protection for interests of tenants at will, etc.) shall apply with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

9. Section 22 of the 1965 Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired or to enforce the restrictive covenant imposed, subject to compliance with that section as respects compensation.

SCHEDULE 11

Article 31

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> Area	<i>(2)</i> Plot number of land shown on land plan	<i>(3)</i> Purpose for which temporary possession may be taken	<i>(4)</i> Relevant part of the authorised development
Epping Forest District Council	14	Access to work area	Work No. 4
	15	Construction of authorised development	Work No. 4
	22 & 24	Access to work area	Work No. 5
	23	Construction of authorised development	Work No.5
	75	Temporary footpath	Work No. 1
London Borough of Enfield	207	Construction of authorised development	Work No. 7B
	209, 210 & 211	Access to work area	Work No. 7B
	220	Access to work area	Work No. 6 & Work No. 7B
	208	Temporary footpath	Work No. 7C
	235	Temporary footpath	Work No.1
London Borough of Haringey	378	Construction of authorised development	Work No. 10
	391	Construction of authorised development	Work No.13

SCHEDULE 12

Article 41

TRAFFIC REGULATION

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Lane to be temporarily stopped up</i>	<i>(3)</i> <i>Extent of temporary stopping up</i>
Epping Forest District Council	<p>Meridian Way</p> <p>Westbound M25</p> <p>Meridian Way</p>	<p>A single lane closure between TL1 and TL2 shown on Sheet 3 of the Access/Rights of Way Plans</p> <p>A closure of the hard shoulder and part of the inside lane between TL3 and TL4 shown on Sheet 3 of the Access/Rights of Way Plans</p> <p>A single lane closure between TL5 and TL6 shown on Sheet 3 of the Access/Rights of Way Plans</p>
London Borough of Enfield	Advent Way to the Cooks Ferry roundabout	A single lane closure between TL7 and TL8 shown on Sheet 8 of the Access/Rights of Way Plans
London Borough of Haringey	Watermead Way	A single lane closure between TL9 and TL10 shown on Sheet 10 of the Access/Rights of Way Plans

## PROTECTIVE PROVISIONS

## PART 1

FOR THE PROTECTION OF OPERATORS OF ELECTRONIC  
COMMUNICATIONS CODE NETWORKS

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

2. In this Part of this Schedule—

“the 2003 Act” means the Communications Act 2003;

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system are to be construed in accordance with paragraph 1(3A) of that code;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act;

“electronic communications code network” means—

(a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and

(b) an electronic communications network which the Secretary of State is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 or paragraph 17 of Schedule 18 of the 2003 Act; and

“operator” means the operator of an electronic communications code network.

3. The exercise of the powers of article 34 (statutory undertakers) are subject to paragraph 23 of Schedule 2 to the Telecommunications Act 1984.

4.—(1) Subject to sub-paragraphs 4(2) and 4(3), if as the result of the authorised development or their construction, or of any subsidence resulting from any of those works any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works, or other property of an operator) the undertaker must bear and pay the cost reasonably and properly incurred by the operator in making good such damage.

(2) Nothing in sub-paragraph 4(1) shall impose any liability on the undertaker with respect to any damage to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) Any difference arising between the undertaker and the operator under this Part of this Schedule is to be referred to and settled by arbitration under article 46 (arbitration).

5. This Part of this Schedule shall not apply to—

(a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 of the 1991 Act; or

- (b) any damage caused by electro-magnetic interference arising from the construction or use of the authorised development.

6. Nothing in this Part of this Schedule shall affect the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

## PART 2

### PROTECTION FOR HIGHWAYS AND TRAFFIC

7.—(1) The provisions of this Part of this Schedule shall have effect unless otherwise agreed in writing between the undertaker and TfL.

(2) In this Part of this Schedule—

“highway” means any highway of which TfL is the highway authority;

“plans” includes sections, designs, drawings, specifications, soil reports, staging proposals, programmes, calculations, methods of construction, risk assessments and details of the extent, timing and duration of any proposed occupation of any highway and “approved plans” means plans approved or deemed to be approved or settled by arbitration in accordance with the provisions of this Part of this Schedule;

“property of TfL” means any apparatus or street furniture of TfL affixed to or placed under any highway; and

“TfL” means Transport for London.

(3) Wherever in this Part of this Schedule provision is made with respect to the approval or consent of TfL, that approval or consent shall be in writing and subject to such reasonable terms and conditions as TfL may require, but shall not be unreasonably withheld.

(4) In exercising the powers conferred by this Order in relation to any highway the undertaker shall have regard to the potential disruption of traffic which may be caused and shall seek to minimise such disruption so far as is reasonably practicable.

(5) The undertaker shall not, without the consent of TfL, construct any part of the works authorised by this Order under and within 50 metres of the surface of any highway which comprises a carriageway except in accordance with plans submitted to, and approved by, TfL; and if within 28 days after such plans have been submitted TfL has not approved or disapproved them, it shall be deemed to have approved the plans as submitted.

(6) In the construction of any part of the said works under a highway no part of it shall, except with the consent of TfL, be so constructed as to interfere with the provision of proper means of drainage of the surface of the highway or be nearer than two metres to the surface of the highway.

(7) The undertaker shall not under the powers conferred by or under this Order without the consent of TfL, acquire or enter upon, take or use whether temporarily or permanently or acquire any new rights over any part of any highway, including subsoil beneath the surface of any highway.

8.—(1) The provisions of this paragraph have effect in relation to, and to the construction of, any new bridge, or any extension or alteration of an existing bridge, carrying any part of the works authorised by this Order over a highway or carrying a highway over any part of those works; and any such new bridge, or (as the case may be) any bridge so extended or altered, is in this paragraph referred to as “the bridge”.

(2) Before commencing the construction of, or the carrying out of any work in connection with, the bridge which involves interference with a highway, the undertaker shall submit to TfL for its approval plans, drawings and particulars (in this paragraph referred to as “plans”) relating thereto, and the bridge shall not be constructed and the works shall not be carried out except in accordance with the plans submitted to, and approved by, TfL.

(3) If within 28 days after the plans have been submitted TfL has not approved or disapproved them, it shall be deemed to have approved the plans as submitted.

**9.** The undertaker shall secure that so much of the works authorised by this Order as is constructed under any highway shall be so designed, constructed and maintained as to carry the appropriate loading recommended for highway bridges by the Secretary of State at the time of construction of the works, and the undertaker shall indemnify TfL against, and make good to TfL, the expenses which TfL may reasonably incur in the maintenance or repair of any highway, or any tunnels, sewers, drains or apparatus therein, by reason of non-compliance with the provisions of this paragraph.

**10.** Any officer of TfL duly appointed for the purpose may at all reasonable times, on giving to the undertaker such notice as may in the circumstances be reasonable, enter upon and inspect any part of the works authorised by this Order which—

(a) Is in, over or under any highway, or

(b) which may affect any highway or any property of TfL,

during the carrying out of the work, and the undertaker shall give to such officer all reasonable facilities for such inspection and, if he shall be of the opinion that the construction of the work is attended with danger to any highway or to any property of TfL on or under any highway, the undertaker shall adopt such measures and precautions as may be reasonably practicable for the purpose of preventing any damage or injury to the highway.

**11.—(1)** The undertaker shall not alter, disturb or in any way interfere with any property of TfL on or under any highway, or the access thereto, without the consent of TfL, and any alteration, diversion, replacement or reconstruction of any such property which may be necessary shall be made by TfL or the undertaker as TfL thinks fit, and the expense reasonably incurred by TfL in so doing shall be repaid to TfL by the undertaker.

(2) If within 28 days after a request for consent has been submitted TfL has not given or refused such consent, it shall be deemed to have consented to the request as submitted.

**12.** The undertaker shall not remove any soil or material from any highway except so much as must be excavated in the carrying out of the works authorised by this Order.

**13.—(1)** If TfL, after giving to the undertaker not less than 28 days' notice (or, in case of emergency, such notice as is reasonably practicable) of its intention to do so, incurs any additional expense in the signposting of traffic diversions, in the diversion of footpaths, in the taking of other measures in relation thereto, or in the repair of any highway by reason of the diversion thereto of traffic from a road of a higher standard, in consequence of the construction of the works authorised by this Order, the undertaker shall repay to TfL the amount of any such expense reasonably so incurred.

(2) An amount which apart from this sub-paragraph would be payable to TfL by virtue of this paragraph in respect of the repair of any highway shall, if the highway fell or would have fallen due for repair as part of the maintenance programme of TfL at any time within ten years of the repair being carried out by the undertaker, so as to confer on TfL financial benefit (whether by securing the completion of overdue maintenance work for which TfL is liable or by deferment of the time for such work in the ordinary course), be reduced by the amount which represents that benefit.

**14.—(1)** The undertaker shall not, except with the consent of TfL, deposit any soil or materials, or stand any plant, on or over any highway so as to obstruct or render less safe the use of the highway by any person, or, except with the like consent, deposit any soil or materials on any highway outside a hoarding, but if within 28 days after request for it any such consent is neither given nor refused it shall be deemed to have been given.

(2) The expense reasonably incurred by TfL in removing any soil or materials deposited on any highway in contravention of this paragraph shall be repaid to TfL by the undertaker.

**15.** The undertaker shall not, except with the consent of TfL, erect or retain on or over a highway to which the public continues to have access any scaffolding or other structure which obstructs the highway.

**16.** The undertaker shall, if reasonably so required by TfL, provide and maintain to the reasonable satisfaction of TfL, during such time as the undertaker may occupy any part of a highway for the purpose of the construction of any part of the works authorised by this Order, temporary bridges and temporary ramps for vehicular or pedestrian traffic over any part of the works or in such other position as may be necessary to prevent undue interference with the flow of traffic in the highway.

**17.—(1)** Where any part of any highway has been broken up or disturbed by the undertaker and not permanently stopped up or diverted, the undertaker shall make good the subsoil, foundations and surface of that part of the highway to the reasonable satisfaction of TfL, and shall maintain the same to the reasonable satisfaction of TfL for such time as may reasonably be required for the permanent reinstatement of the highway.

(2) The reinstatement of that part of the highway shall be carried out by the undertaker to the reasonable satisfaction of TfL in accordance with such requirements as to specification of material and standards of workmanship as may be prescribed for equivalent reinstatement work by regulations made under section 71 of the New Roads and Street Works Act 1991 (c. 22).

**18.** If any damage to any highway or any property of TfL on or under any highway is caused by, or results from, the construction of any work authorised by this Order or any order or omission of the undertaker, its contractors, agents or employees whilst engaged upon such work, the undertaker may, in the case of damage to a highway, make good such damage to the reasonable satisfaction of TfL and, where the undertaker does not make good, or in the case of damage to property of TfL, the undertaker shall make compensation to TfL.

**19.** The fact that any act or thing may have been done in accordance with plans approved by TfL shall not (if it was not attributable to the act, neglect or default of TfL or of any person in its employ or its contractors or agents) exonerate the undertaker from any liability, or affect any claim for damages, under this Part or otherwise.

**20.** Any difference arising between the undertaker and TfL under this Part of this Schedule (other than in difference as to the meaning or construction of this Part of this Schedule) shall be resolved by arbitration under article 46 above.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order authorises National Grid Electricity Transmission plc to uprate the overhead electricity line running from Waltham Cross substation to Tottenham substation from 275 kilovolts to 400 kilovolts including works to Waltham Cross substation, Brimsdown substation and Tottenham substation, and to carry out all associated works.

The Order would permit the undertaker to acquire compulsorily or by agreement, land and rights in land and to use land temporarily for this purpose.

The Order also makes provision in connection with the maintenance of the overhead electric line.

A copy of the plans and book of reference referred to in this Order and certified in accordance with article 44 of this Order may be inspected free of charge during working hours at the offices of National Grid Electricity Transmission PLC, 1-3 Strand, London WC2N 5EH.

**201[ ] No. [ ]**

**INFRASTRUCTURE PLANNING**

The National Grid (North London Reinforcement Project)  
Development Consent Order 201[ ]