



The Great Grid Upgrade

Sea Link

Sea Link

Volume 4: Compulsory Acquisition Information

Document 4.2: Statement of Reasons

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Executive Summary

Ex1.1 Introduction

- Ex1.1.1 This document outlines the rationale for the compulsory acquisition of land and/or rights in land for the proposed project. This document is part of a suite of documents accompanying the application submitted in accordance with section 55 of the Planning Act 2008 and Regulation 5 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.
- Ex1.1.2 The document summarises the need for the proposed project, which is driven by the significant changes in the electricity industry in Great Britain.
- Ex1.1.3 Paragraphs 31 and 32 of the Guidance acknowledge that the APFP Regulations requires a statement of reasons and Paragraph 32 advises that: 'The statement of reasons should seek to justify the compulsory acquisition sought and explain in particular why in the applicant's opinion there is a compelling case in the public interest for it. This includes reasons for the creation of new rights'.
- Ex1.1.4 This Statement sets out the reasons for seeking powers for the compulsory acquisition of land and/or rights in the land. It also explains the extent of and reasons for the temporary use of land. These powers are being sought to ensure that National Grid has the requisite powers to construct, operate and maintain the project. References in this Statement to "Compulsory Acquisition" include both permanent land acquisition, and the acquisition of rights in land.
- Ex1.1.5 This Statement will show that there is a compelling case in the public interest for the relevant land to be subject to powers of compulsory acquisition.
- Ex1.1.6 It explains why the use of powers of compulsory acquisition in these circumstances is legitimate and proportionate, and why any interference with the human rights of those with interests in the land proposed to be acquired is justified.
- Ex1.1.7 It goes on to explain how special circumstances and protected interests are to be dealt with and that National Grid is seeking to acquire all of the necessary interest by voluntary agreement but in order to ensure the scheme can be delivered supports those negotiations with a concurrent application for compulsory powers.

Ex1.2 Conclusion

- Ex1.2.1 In conclusion, the Statement of Reasons forms a critical part of the application documents, providing a clear and compelling justification for the compulsory acquisition powers sought by National Grid to support the proposed project.

1. Introduction

1.1 Introduction

- 1.1.1 The Sea Link Project (hereafter referred to as the ‘Proposed Project’) is a proposal by National Grid Electricity Transmission plc (hereafter referred to as National Grid) to reinforce the transmission network in the Southeast and East Anglia. The Proposed Project is required to accommodate additional power flows generated from renewable and low carbon generation, as well as accommodating additional new interconnection with mainland Europe.
- 1.1.2 National Grid owns, builds and maintains the electricity transmission network in England and Wales. Under the Electricity Act 1989, National Grid holds a transmission licence under which it is required to develop and maintain an efficient, coordinated, and economic electricity transmission system.
- 1.1.3 This would be achieved by reinforcing the network with a High Voltage Direct Current (HVDC) Link between the proposed Friston substation in the Sizewell area of Suffolk and the existing Richborough to Canterbury 400kV overhead line close to Richborough in Kent.
- 1.1.4 National Grid is also required, under Section 38 of the Electricity Act 1989, to comply with the provisions of Schedule 9 of the Act. Schedule 9 requires licence holders, in the formulation of proposals to transmit electricity, to:
- 1.1.5 Schedule 9(1)(a) ‘...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
- 1.1.6 Schedule 9(1)(b) ‘...do what [it] 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’.
- 1.1.7 The purpose of this document is to Explain why the powers of compulsory acquisition and other statutory powers sought in **Application Document 3.1 The draft Development Consent Order** are necessary to enable the Proposed Project to proceed and why there is a compelling case in the public interest for those powers to be granted.

1.2 The Proposed Project

- 1.2.1 The Proposed Project would comprise the following elements:

The Suffolk Onshore Scheme

- A connection from the existing transmission network via Friston Substation, including the substation itself. Friston Substation already has development consent as part of other third-party projects. If Friston Substation has already been constructed under another consent, only a connection into the substation would be constructed as part of the Proposed Project.

- A high voltage alternating current (HVAC) underground cable of approximately 1.9 km in length between the proposed Friston Substation and a proposed converter station (below).
- A 2 GW high voltage direct current (HVDC) converter station (including permanent access from the B1121 and a new bridge over the River Fromus) up to 26 m high plus external equipment (such as lightning protection, safety rails for maintenance works, ventilation equipment, aerials, similar small scale operational plant, or other roof treatment) near Saxmundham.
- A HVDC underground cable connection of approximately 10 km in length between the proposed converter station near Saxmundham, and a transition joint bay (TJB) approximately 900 m inshore from a landfall point (below) where the cable transitions from onshore to offshore technology.
- A landfall on the Suffolk coast (between Aldeburgh and Thorpeness).

The Offshore Scheme:

- Approximately 122 km of subsea HVDC cable, running between the Suffolk landfall location (between Aldeburgh and Thorpeness), and the Kent landfall location at Pegwell Bay.

The Kent Onshore Scheme:

- A landfall point on the Kent coast at Pegwell Bay.
- A TJB approximately 800 m inshore to transition from offshore HVDC cable to onshore HVDC cable, before continuing underground for approximately 1.7 km to a new converter station (below).
- A 2 GW HVDC converter station (including a new permanent access off the A256), up to 28 m high plus external equipment such as lightning protection, safety rails for maintenance works, ventilation equipment, aerials, and similar small scale operational plant near Minster. A new substation would be located immediately adjacent.
- Removal of approximately 2.2 km of existing HVAC overhead line, and installation of two sections of new HVAC overhead line, together totalling approximately 3.5 km, each connecting from the substation near Minster and the existing Richborough to Canterbury overhead line.

1.2.2 The Proposed Project also includes modifications to sections of existing overhead lines in Suffolk (only if Friston Substation is not built pursuant to another consent) and Kent, diversions of third-party assets, and land drainage from the construction and operational footprint. It also includes opportunities for environmental mitigation and compensation. The construction phase will involve various temporary construction activities including overhead line diversions, use of temporary towers or masts, working areas for construction equipment and machinery, site offices, parking spaces, storage, accesses, bellmouths, and haul roads, as well as watercourse crossings and the diversion of public rights of way (PROWs) and other ancillary operations.

1.3 Compulsory Acquisition

- 1.3.1 In its application for the Proposed Project, National Grid seeks powers of compulsory acquisition and temporary possession in respect of certain land interests. A detailed description of the extent and nature of the powers sought is set in Chapter 4 of this Statement.

1.4 Land Interests

- 1.4.1 The land which would be affected by the Proposed Project is located between Saxmundham and Aldeburgh and between Minster and Pegwell Bay in the counties of Suffolk and Kent respectively spanning mostly agricultural land.
- 1.4.2 The extent of the land interests affected by the compulsory acquisition and temporary possession powers sought by the National Grid is described in Chapter 4 of this Statement. The land comprises a mixture of uses, being mainly agricultural land, a Christmas tree plantation, three golf courses and marsh land. It includes land designated as Special Protection Area (SPA), National Landscapes (NL) and Site of Special Scientific Interest (SSSI).
- 1.4.3 The Order Limits of the draft DCO as shown on the **Application Document 2.3 Land Plans** establishes the extent of the land affected by the proposed project. The Limits of Deviation (LoD) represents the maximum locational flexibility for permanent infrastructure such as the underground cables and overhead line re-routing. This allows for adjustment to the final positioning of the proposed project features to avoid localised constraints or unknown or unforeseeable issues that may arise. The LoD provides flexibility for construction purposes only and does not determine the permanent land take or rights to be acquired.
- 1.4.4 Further details are shown on the **Application Document 2.5 Works Plans** and **Application Document 2.14 General Arrangement Plans**.
- 1.4.5 National Grid has carried out diligent inquiry to identify all persons with an interest in the land and persons with a potential claim for compensation as a result of the Proposed Project. These persons have been consulted pursuant to section 42 of the Planning Act 2008. National Grid will continue its diligent inquiry updating and notify any known changes in persons with an interest in land who are required to be consulted in respect of the Proposed Project.
- 1.4.6 National Grid is not seeking to compulsorily acquire the full extent of the land that falls within the order limits. National Grid is seeking temporary powers (which can be used to carry out construction) over an area greater than that proposed for permanent acquisition or acquisition of rights, which is identified through the Class of Rights shown on the **Application Document 2.3 Land Plans**. Once the proposed project is constructed, in respect of the overhead line and underground cable sections of the proposed project, National Grid would only require permanent rights to operate, access and maintain the development over a corridor within the LoD. If National Grid has been unable to secure the permanent land or rights acquisition required via a voluntary agreement, it would rely on exercising powers of compulsory acquisition to secure such land or rights on a permanent basis.
- 1.4.7 It is also necessary to seek to secure temporary possession of some land for the purposes of the construction and maintenance of the proposed project as well as to

extinguish in a limited way some rights which are incompatible or rendered incapable of use by the proposed project.

- 1.4.8 National Grid issued template Heads of Terms to landowners and their appointed agents in January 2025 which are subject to ongoing discussion. National Grid will continue to demonstrate an ongoing commitment to acquire all interests in the land through private land agreements.
- 1.4.9 Tripartite agreements have been offered where there is an occupier, with security of tenure and exclusive possession, in addition to the landowner.
- 1.4.10 National Grid will need to rely on compulsory acquisition for any unregistered parcels of land where an owner cannot be traced.

1.5 The Case for Compulsory Acquisition

- 1.5.1 It is necessary to seek powers of compulsory acquisition in the **Application Document 3.1 draft Development Consent Order** in the event that ongoing negotiations to acquire land are not successful or do not conclude in a timely manner and to ensure that any rights which reside in un-registered plots are able to be acquired. National Grid is satisfied that all of the land interests and rights identified for compulsory acquisition are required to enable the proposed project to proceed.
- 1.5.2 This Statement sets out the reasons for seeking powers for the compulsory acquisition of land and/or rights in the land. These powers are being sought to ensure that National Grid has the requisite powers to construct, operate and maintain the proposed project. It also explains the extent of and reasons for the temporary use of land.
- 1.5.3 National Grid is satisfied that the powers of compulsory acquisition and temporary possession sought in the dDCO are necessary, proportionate and justified. National Grid is further satisfied that the powers sought are in accordance with all relevant statutory and policy guidance.
- 1.5.4 National Grid considers that there is a compelling case in the public interest for the compulsory acquisition and temporary possession powers sought as set out in Chapter 6 of this Statement.

1.6 Human Rights and Equalities

- 1.6.1 This Statement explains why the use of powers of compulsory acquisition in these circumstances is legitimate and proportionate, and why any interference with the human rights of those with interests in the land proposed to be acquired is justified.
- 1.6.2 Chapter 8 of this Statement sets out how National Grid has met its duties under the Equalities Act 2010.
- 1.6.3 In preparing the DCO, National Grid has had regard to the European Convention on Human Rights ("the Convention") and the Human Rights Act 1998. Chapter 8 of this Statement considers how the Proposed Project complies with the Convention and with this legislation, notwithstanding any infringement of the private rights of those whose interests in the land may be affected by the exercise of powers of compulsory acquisition in connection with the Proposed Project.

1.7 Special Category Land

- 1.7.1 In Chapter 7 of this Statement, and Appendix C, National Grid have addressed the Special Category Land which is affected by the compulsory acquisition powers sought in the draft DCO. The Special Category Land identified is National Trust (inalienable land) and Open Space which is shown on the **Application Document 2.4 Special Category and Crown Land Plans**.
- 1.7.2 Section 130 of the Planning Act 2008 relates to the compulsory acquisition of land held inalienably by the National Trust. Section 130 is triggered if the National Trust object to the acquisition of land during the course of the examination and maintains that objection. If the objection is maintained Special Parliamentary Procedure (SPP) will apply.
- 1.7.3 Sections 131 and 132 of the Planning Act 2008 relate to the compulsory acquisition of land or rights over “any land forming part of a common, open space, or fuel or field garden”.
- 1.7.4 Sections 131 and 132 make provision for SPP to apply where a DCO authorises the compulsory acquisition of land which is categorised as any land forming part of a common, open space, or fuel or field garden.
- 1.7.5 The **Application Document 3.1 draft Development Consent Order** contains provisions seeking power for the compulsory acquisition of rights in the National Trust land and over the open space. National Grid is not expecting a formal objection from National Trust and is of the view that the rights sought are such that the open space land would be no less advantageous because of the proposed project, hence an exemption to SPP applies and confirmation to that effect is sought from the Secretary of State.
- 1.7.6 National Grid has engaged with the relevant persons responsible for the special category land and will continue to do so with a view to avoiding the need for special parliamentary procedure in accordance with the relevant sections of the Act (Sections 130 to 132).

1.8 Crown Land

- 1.8.1 National Grid has also given consideration to the application of the relevant provisions of the Act in relation to Crown land (Section 135).
- 1.8.2 The southern section of the river Stour in Kent is Crown land. A claim for ownership was admitted in 1964 to Marquis Conygham for the northern section of the river, that claim however was never followed up, so we have included the land as Crown. Heads of term for an easment will be sought from Crown.
- 1.8.3 There is also some land identified as Crown in Pegwell Bay, Crown have however said they are not the owner of the foreshore in Pegwell Bay, Kent. A claim for ownership was admitted in 1964 to Marquis Conygham, that claim however was never followed up, so we have included the land as Crown, to be included in the offshore agreement for lease but also in the Compulsory Acquisition to provide for any additional interests.

1.9 Statutory Undertakers & Utilities

- 1.9.1 National Grid is engaging with Statutory Undertakers in respect of any land or rights owned by Statutory Undertakers (with reference to Sections 127 and 138 of the Planning Act 2008). Further details of such interests can be found in the **Application Document 4.3 Book of Reference**. The identities of the statutory undertakers are contained within Chapter 7.
- 1.9.2 The draft DCO contains two parts of standard Protective Provisions, in favour of electricity, gas, water and sewerage undertakers, and telecommunications operators. In addition, and where appropriate bespoke Protective Provisions are being progressed with Cadent Gas, Network Rail, Anglian Water and Essex & Suffolk Water, with a view to reaching agreed protections for each alongside any necessary separate mechanisms for their protection, such as Asset Protection Agreements.

1.10 Compliance with Statutory Requirements and policy guidance

- 1.10.1 This document has been prepared in accordance with the requirements of Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended) (the APFP Regulations), and the 'Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land' (Department for Communities and Local Government, 2013) (the CA Guidance).
- 1.10.2 This Statement is required because the **Application Document 3.1 draft Development Consent Order** includes powers for the compulsory acquisition of land and/or rights in land as described in Chapter 4 within this document.
- 1.10.3 Paragraphs 31 and 32 of the guidance acknowledge that the APFP Regulations requires a statement of reasons and Paragraph 32 advises that: *'The statement of reasons should seek to justify the compulsory acquisition sought and explain in particular why in the applicant's opinion there is a compelling case in the public interest for it. This includes reasons for the creation of new rights'*.
- 1.10.4 This Statement sets out the reasons for seeking powers for the compulsory acquisition of land and/or rights in the land. It also explains the extent of and reasons for the temporary use of land. These powers are being sought to ensure that National Grid has the requisite powers to construct, operate and maintain the proposed project. References in this Statement to "Compulsory Acquisition" include both permanent land acquisition, and the acquisition of rights in land.
- 1.10.5 This Statement will show that there is a compelling case in the public interest for the relevant land to be subject to powers of compulsory acquisition.
- 1.10.6 It explains why the use of powers of compulsory acquisition in these circumstances is legitimate and proportionate, and why any interference with the human rights of those with interests in the land proposed to be acquired is justified.
- 1.10.7 This Statement forms part of a suite of documents accompanying the application submitted in accordance with Section 55 of the PA 2008 and Regulation 5 of the APFP Regulations 2009 and should be read alongside the other DCO application documents that relate to the compulsory acquisition powers sought by National Grid and the need for the proposed project, including:

- Application Document **1.3 Navigation Document**

- Application Document **2.3 Land Plans**
- Application Document **2.5 Works Plans**
- Application Document **2.4 Special Category Land Plans**
- Application Document **3.1 Draft Development Consent Order**
- Application Document **3.2 Explanatory Memorandum**
- Application Document **4.1 Funding Statement**
- Application Document **4.3 Book of Reference**
- Application Document **7.1 Planning Statement**
- Application Document **6 Environmental Statement**

2. The Proposed Project

2.1 The Legislative and National Policy Framework for the Proposed Project

- 2.1.1 For this proposed project, there are three relevant National Policy Statements.
- Overarching National Policy Statement for Energy EN-1 (NPS EN-1) (2024) (DESNZ, 2023).
 - National Policy Statement for Renewable Energy Infrastructure EN-3 (NPS EN-3) (2024) (DESNZ, 2023); and
 - National Policy Statement for Electricity Networks Infrastructure EN-5 (NPS EN-5) (2024) (DESNZ, 2023).
- 2.1.2 The three NPS's referred to above came into force on 17 January 2024 and provide the primary basis for decisions taken by the Secretary of State on applications received for electricity network infrastructure, and in turn, the Proposed Project.
- 2.1.3 Section 104(2) of the PA 2008 requires the Secretary of State to decide applications for Development Consent in accordance with any relevant NPS's unless the exceptions at Section 104(4) to (8) apply.
- 2.1.4 More details on the legislative and policy framework for the proposed project can be found in the **Application Document 7.1 Planning Statement**.

2.2 Need for the Proposed Project

- 2.2.1 The electricity industry in Great Britain is undergoing unprecedented change. Closure of fossil fuel burning generation and end of life nuclear power stations means significant additional investment in new generating and interconnection capacity will be needed to ensure existing minimum standards of security and supply are maintained.
- 2.2.2 Growth in offshore wind generation and interconnectors to Europe has seen a significant number of connections planned in Scotland, England and significantly in areas of the East Coast of England, including in East Anglia and the Southeast.
- 2.2.3 The Climate Change Act 2008 (as amended) now commits the UK Government by law to reducing greenhouse gas emissions by at least 100% from the 1990 baseline by 2050, strengthening the likelihood of most of these connections progressing to delivery. This 2050 target is commonly known as 'Net Zero'. To achieve Net Zero, there will need to be a substantial shift away from the use of fossil fuel burning generation. This has led to investment in offshore wind generation, which will increase further in the future.
- 2.2.4 The substantial increase in generator-driven power flows out of East Anglia including the Sizewell Generation Group and the requirement for generation export from Kent under high import conditions requires management with a single solution, allowing power flows to move in either direction to resolve and support 2000MW of shortfall in each area.

- 2.2.5 During high generation outputs from the Sizewell Generation Group, during a fault 2000MW can be transported to Kent preventing overloads in East Anglia. Vice versa, during high interconnector import to Kent, during a fault 2000MW can be transported to the Sizewell Generation area managing overloads in Kent prior to 2035. Therefore, a single solution with full power flow control uniquely satisfies both the need in Sizewell Generation Group and Kent SC2 boundary from 2030.
- 2.2.6 In summary, this analysis shows that without reinforcement, the capacity of the existing network in East Anglia and the Southeast is insufficient to accommodate the connection of proposed new power sources connecting in the area.
- 2.2.7 The need for the Scheme has been established in the **Application Document 7.2 Strategic Options Back-check Report**.

2.3 Project Development Process

- 2.3.1 The development of the design and routing of the proposed project has followed National Grid guidance available at the time of each stage, the most recent update of which guidance is 'Our Approach to Consenting' National Grid, April 2022.
- 2.3.2 The approach to the design and routing of new electricity transmission lines including the consideration of alternative technology and route options has followed National Grid guidance available at the time of each stage. Steps 1 to 3 below have been completed and steps 4 and 5 are to follow (this Statement forming part of the application stage).



Plate 2.1 Project Development Process

Step 1: Options Identification and Selection

Identify and appraise project options, engage stakeholders and seek consultees feedback to help shape development of the project. The purpose of Options identification and selection is to select, using consultation feedback, a preferred corridor (or site) with a preliminary route swathe which can be developed during the next project phase.

Step 2: Defined Proposal and Statutory Consultation

Develop project design in response to feedback, prepare preliminary environmental information, undertake statutory public consultation on the proposal. At the defined proposal and statutory consultation phase the feedback received so far will be used to develop the proposal. Preliminary environmental information will be prepared to support the public consultation.

Step 3: Assessment and Land Rights

Refine project design in response to feedback, assess project impacts and seek lands rights. Prepare application documents. During assessment and land rights consultation, feedback is used to inform detailed proposals upon which we undertake environmental assessment and seek land rights.

Step 4: Application, Examination and Decision

Submit and publicise the accepted application, respond to examination questions and support examination hearings. This phase includes the application submission, examination and decision.

Step 5: Construction

Discharge DCO requirements, start construction, implement mitigation, reinstatement and post-construction monitoring. After consent has been granted, the necessary DCO requirements would be discharged and construction commenced.

2.4 Alternatives considered

- 2.4.1 The process set out in above has been followed by National Grid in developing this proposed project. Step 1 considered the four Strategic Options available.
- 2.4.2 For each of the strategic options, we considered the technology options available for transmission system reinforcement, environmental and socio-economic constraints, lifetime costs of each technology option, as well as initial capital cost.
- 2.4.3 All options taken forward for appraisal are evaluated in respect of environmental constraints, socio-economic effects, technology alternatives, capital and lifetime costs. Undertaking this appraisal ensures stakeholders can see how we have made our judgments and balanced the relevant factors in accordance with our legal duties.
- 2.4.4 Taking the above considerations into account, we propose to take forward an HVDC connection between Sizewell Area and Richborough Area. This is the joint lowest cost overall solution, offering environmental and socio-economic benefits over the other options and the estimated costs of this option against the alternatives are similar or lower.
- 2.4.5 **Application Document 7.2 Strategic Options Back-check Report** addresses the strategic options considered and Environmental Statement Chapter 3 'Main Alternatives' provides further details as to the main alternatives considered.

2.5 National Grid and the Proposed Project

- 2.5.1 National Grid holds the Transmission Licence for England and Wales and is the only company licensed to transmit electricity in England and Wales. It is thus obligated to develop and maintain an efficient, coordinated and economical system of electricity transmission and to facilitate competition in the generation and supply of electricity, as set out in the Electricity Act 1989. National Grid is regulated by Ofgem, which sets price controls and monitors how the company develops and operates the network on behalf of consumers.

- 2.5.2 National Grid owns and manages the national high-voltage electricity transmission system throughout England and Wales. National Grid owns, builds and maintains the infrastructure; overhead lines, buried cables and substations as a few examples, to allow power to move around the country. The key role of this transmission system is to connect the electricity generators' power stations with regional Distribution Network Operators (DNOs) who then supply businesses and homes. In return for the connection, users of the transmission network pay a tariff to National Grid. This revenue is then used to maintain, improve and invest in the transmission network.
- 2.5.3 As a licence holder National Grid have specific duties to uphold in relation to the desirability of preserving amenity of certain aspects of the environment and to mitigate the effects of its activities on the environment under Section 38 and Schedule 9 of the Electricity Act 1989.

2.6 Description of the Proposed Project

- 2.6.1 The **Application Document 2.14 General Arrangement Plans** show the Proposed Project (which is subject to limits of deviation, as shown on the **Application Document 2.5 Works Plans**) and features as detailed in the **Application Document 2.1 Guide of the Plans**.
- 2.6.2 The Proposed Project is to construct and operate a 400kV network reinforcement of the transmission network between East Anglia and Kent, predominantly an HVDC offshore cable connection with a converter station and connection to the existing networks at either end.
- 2.6.3 The works are defined in detail by Work Number in Schedule 1 of the **Application Document 3.1 Draft Development Consent Order** and described in the **Application Document 6.2.1.14 Description of the Proposed Project**.
- 2.6.4 Other ancillary works would be required to facilitate construction and operation of the project, including (but not limited to):
- Modifications to, and realignment of sections of the existing 400kV overhead lines.
 - Temporary land to facilitate construction activities including temporary amendments to the public highway, working areas for construction equipment and machinery, site offices, welfare, storage and access.
 - Temporary infrastructure to facilitate construction activities such as amendments to the highway including bellmouths for site access, pylons and overhead line diversions, scaffolding to safeguard existing crossings, watercourse crossings and diversions of Public Rights of Way (PRoW).
 - Diversion of third-party assets and land drainage from the construction and operational footprint.
 - Works to install or alter the course of, or otherwise adapt or divert watercourses, drainage works, attenuations ponds and culverts.
 - Land required for mitigation, compensation and enhancement of the environment as a result of the environmental assessment process.
- 2.6.5 The **Application Document 3.1 draft Development Consent Order** would grant consent for the construction, operation and maintenance of the 'Authorised Project' as

listed in Schedule 1, within those Limits of Deviation and other parameters as described in Article 5 of the **Application Document 3.1 draft Development Consent Order**.

- 2.6.6 Schedule 1 sets out the 'authorised development' by way of Work Numbers detailing the nature of each element of the Proposed Project. We set out information below in respect of particular works, where there are aspects pertaining to the powers of compulsory acquisition being sought, which require further explanation. Hence not all works are addressed below as not all have features requiring this additional explanation.

Work No.1A & 1B - Suffolk Substation & Overhead Line Works

- 2.6.7 The Proposed project includes the works to construct Friston substation, albeit National Grid anticipates that the substation will be constructed pursuant to the existing DCOs granted to Scottish Power Renewables (SPR), hence National Grid would only need to build a connection to the Friston Substation (Work No. 2). Both scenarios have been provided for in the event that SPR have not developed the substation by the time it is required by the proposed project.

Work No.2 - Connection of the Suffolk Substation and the Suffolk Converter Station

- 2.6.8 National Grid has sought to include sufficient flexibility cognisant of the interface with SPR's DCO works and landscaping, as well as being cognisant of coordination with another proposed project(s) by National Grid Ventures as set out in the **Application Document 7.10 Coordination Document**. Whilst the substation is already consented by virtue of the SPR DCOs, at the time of this report the construction has not yet commenced, and the detailed landscaping has not yet been agreed. Therefore, flexibility has been allowed for. This flexibility ensures the necessary landscaping can be delivered and the mitigation be sited such that we can avoid placing any mitigation planting over those areas.

Work No.3B - Suffolk Converter Station and associated equipment.

- 2.6.9 The **Application Document 7.10 Coordination Document** addresses the approach to co-ordination with NGV in respect of its proposals. Given that work, National Grid is seeking rights over an area which is greater than required for the Proposed Project alone, on the basis that National Grid did not and does not yet know where the proposed NGV converter station(s) will be sited, or where the construction compound(s) for NGV will be required. As indicated on the **Application Document 2.1.4 Suffolk General Arrangement Plan** 1 of 6, there are 3 options for the Sea Link Suffolk converter compound location. The multiple areas included allow for the flexibility to work with NGV and ensure both companies' schemes can proceed. National Grid therefore expects to exercise the temporary and permanent land rights only in respect of one compound area at any given point in time, with the optionality to allow for NGV co-location. Temporary use and permanent rights may be over differing areas so as not to impede NGV.
- 2.6.10 Liaison with the landowner and their agent is ongoing to ensure that the land rights required are suitable for the project, but also recognising the benefit to the landowners of certainty to allow them to continue farming the land and plan for future business opportunities.

Work No.3A - access road to Suffolk converter station.

- 2.6.11 A permanent access road to the Suffolk Converter Station is proposed to lead from the B1121 road, over a new bridge crossing the River Fromus to the converter station location. This access road will cross agricultural land which forms part of the environmental mitigation land. Ancillary to the access road will be a compound at the River Fromus crossing. This compound can be reinstated back to agricultural land, but the permanent right will allow the location to be used as a base for maintenance works during the operational life of the project and throughout the decommissioning period.
- 2.6.12 Areas around the access road to the Suffolk converter station will contain mitigation planting and screening, the detail of which is explained in **Application Document 7.5.7.1 Outline Landscape and Ecological Mitigation Plan – Suffolk**. In summary, the project will deliver enhancement along the riparian corridor along the River Fromus. There will be reprofiling of selected areas of the banks of the River Fromus at specific locations to create a berm just above the typical summer water level. This berm will be planted with riparian vegetation. The replanting will be focused around the new bridge. Additionally, new woodland will be planted around the Saxmundham Converter Station and the River Fromus, primarily as mitigation to help screen sensitive receptors and soften views, but also to provide increased structure, ecological connectivity, and interest within the landscape. Species will be appropriate to the particular requirements of the geographical area but also take account of climate change and potential pest and pathogen threats.

Work No.4 – Suffolk Temporary Work Compounds

- 2.6.13 Three temporary works compounds are identified within the DCO in Suffolk as Class 8 rights, Temporary Use for Construction, Mitigation, Maintenance, Dismantling of Redundant Infrastructure. These are located at Plots 3/26, 4/11 and within plot 5/22 at the Transition Joint Bay (TJB) location.
- 2.6.14 These compounds are required during the construction period of the project for use as works compounds. These compounds will be removed at the end of construction and the land reinstated and returned to the landowners.

Work No.5 – An underground Electric Cable in Suffolk

- 2.6.15 The cabling methodology is described in **Application Document 6.2.1.4 Description of the Proposed Project section 4.6.209 - 4.6.349**. In summary, the Alternating Current (AC) cabling is proposed to be a trenched methodology from the converter station at Saxmundham to the substation to be located in Friston. The substation will be connected to the existing 400kV overhead line. The Direct Current (DC) cabling is proposed to be a trenched methodology from the converter station at Saxmundham to the TJB based near to the town of Aldeburgh. The cable from the TJB to the marine section is proposed to be a trenchless technology.
- 2.6.16 There is one section of the DC cabling where the use of the land poses a “pinch point” in the cabling construction. This lies in plot numbers 5/1, 5/3 and 5/5. In order to facilitate the construction of the cabling in this location the construction corridor is narrower, to mitigate the impact on the neighbouring land owned by Aldeburgh Golf Club. In order to facilitate this narrowing, the soil arisings will be bunded in line with the **Application Document 7.5.10 Outline Soil Management Plan** on plot number 5/1. The land in plots 5/1, 5/3 and 5/5 will be reinstated with the soil originally removed for the installation of the cable.

- 2.6.17 There is a similar pinch point for the AC cabling where it runs through a Christmas Tree plantation in plot 1/49. In order to facilitate the construction of the cabling in this location the construction corridor is narrower, to mitigate the impact on the neighbouring land. In order to facilitate this narrowing, the soil arisings will be bundled in line with the **Application Document 7.5.10 Outline Soil Management Plan** within the same plot in a wider section of construction working width. The land in plots 1/49 will be reinstated with the soil originally removed for the installation of the cable.

Work No. 6 – Marine electric line works

- 2.6.18 The area of the Marine cable is shown on Sheet 6 of the Works Plans – Suffolk, Sheets 1, 2 and 3 of the Works Plans – Offshore and Sheets 3, 4 and 5 of the Works Plans – Kent. These areas comprise the laying of a marine electric cable. For both the Crown Estate and The National Trust, these plots cannot be acquired by use of compulsory powers. National Grid is working with the Crown Estate for the marine section and with the three other parties in Kent who have ownerships and interests in the Pegwell Bay area. Heads of Terms were issued to these parties and negotiations for the voluntary agreements are progressing.

Work No.8 – Kent Temporary Works Compound

- 2.6.19 A temporary works compound is identified within the HVDC cabling section in Kent as Class 8 rights, Temporary Use for Construction, Mitigation, Maintenance, Dismantling of Redundant Infrastructure. This is located at Plot 3/94 and is designed to support the marine cabling. It will act as a base location for the marine works at the Kent TJB. This compound will be removed at the end of construction and the land reinstated and returned to the landowners.
- 2.6.20 Plots 2/121 and 2/134 are shown as Class 4, Compulsory Acquisition of Rights-Construction Compounds. The rights sought here are rights in perpetuity. One of these compounds is for the construction of the converter station itself and the other for the construction of the Overhead Pylons. The land acquisition right allows for a compound to be reinstated here in the future for works associated with the authorised development, maintenance throughout its operational life and during the decommissioning period, but in the intervening periods the land will be returned to its agricultural use and occupied by the landowner.

Work No.12 – Removal of the existing overhead line and installation of new overhead line.

- 2.6.21 National Grid has reviewed its land rights to understand the rights which the existing infrastructure (being the Richborough to Canterbury line, which was consented by DCO) benefits from. That overhead line has been constructed and has been in operation for some years.
- 2.6.22 In respect of the overhead line (including towers) which is to be removed, only temporary use powers are sought, albeit due to the hierarchy of rights they may show as a higher class. In respect of the permanent new lines and towers, which will connect the existing overhead line to the substation, permanent rights are sought.
- 2.6.23 Turning to the voluntary acquisition position, where the existing overhead line benefits from existing negotiated land rights, a Heads of Terms for a variation to such agreements has been provided to the grantors in question. Where there are no

documented negotiated land rights, or the original line was secured through exercise of CPO powers, a new voluntary agreement has been provided to the landowner to regularise the land rights position.

2.7 Other Works

Public Rights of Way Diversions

- 2.7.1 Permanent land rights are sought where a Public Right of Way (PRoW) diversion is permanent (where that diverted route is not in respect of pre-existing PRoW) in order for it to be 'dedicated'. Once the dedication has taken place the land can be transferred back to the original landowner.

Statutory Undertaker & Utilities diversions

- 2.7.2 There would be a need to divert or modify existing third-party services to allow safe construction and operation of the proposed project. This may include undergrounding of low voltage power lines (on timber poles) and other local service crossings, such as existing cables in roads. These works may be undertaken by the relevant service provider as part of their permitted powers.
- 2.7.3 The design of the diversions reflects the position as at DCO submission, albeit National Grid will continue to engage in respect of these with the relevant third parties. Hence the design in the DCO enables, in respect of diversions, a solution which therefore ensures that a connection is possible.

3. Environmental Mitigation Measures

3.1 Introduction

- 3.1.1 Land and rights are required to undertake planting proposals or other environmental measures on the proposed project. These measures are not defined by specific numbered works but are instead incorporated into the associated development. Further details on the planting proposals can be found in the **Application Document 7.5.7.1 Landscape and Ecological Management Plan (LEMP) and Application Document 7.1 the Planning Statement**.
- 3.1.2 The Outline Landscape and Ecological Management Plans (LEMPs) provide a framework for delivering the landscape and ecological mitigation strategy and the successful establishment and future management of proposed landscape and ecology works associated with the Suffolk and Kent Onshore Schemes.
- 3.1.3 The overall objective of the landscape design is to integrate the Suffolk and Kent Onshore Schemes into their landscape settings and to avoid or minimise adverse landscape and visual effects as far as practicable. Key objectives of the landscape design include:
- 3.1.4 To replace habitat loss as a result of construction and enhance habitats through the creation of woodland, hedgerow, grassland and riparian habitats.
- 3.1.5 To extend and enhance the woodland planting along the western and southern boundaries with native woodland planting to provide structural screening to the Saxmundham Converter Station.
- 3.1.6 To introduce native hedgerow and tree planting along sections of the B1119 to create vegetative layers within the landscape and partially screen views of the Saxmundham Converter Station, whilst maintaining some views of the planted edge of Saxmundham.
- 3.1.7 To strengthen areas of existing planting to provide greater biodiversity and screening function around the River Fromus bridge.
- 3.1.8 To use native woodland planting to provide structural screening to the Minster Converter Station and Substation in views from the north and northwest whilst providing containment to the site so that it appears visually connected to the Richborough Energy Park rather than the wider marsh landscape.
- 3.1.9 To reinforce the pattern of drainage ditches with appropriate marginal planting and establish a sensitive interface between the Minster Converter Station and Substation site and the wider marsh landscape.
- 3.1.10 There are two types of environmental mitigation being sought under this DCO, one is a temporary mitigation during construction only and other is a permanent mitigation for land taken in perpetuity due to the scheme. Where National Grid is seeking to change a current farming practice to mitigate effects, it has applied for the freehold acquisition of that land as it is deemed undeliverable to require a landowner to change a farming practice in perpetuity by use of rights alone. If National Grid owns the land, it is in a position to lease back on terms that ensure that change in farming practice is governed and maintained.

- 3.1.11 All land identified for mitigation is contained within the Order Limits and therefore National Grid is seeking powers including rights and land acquisition in order to deliver this mitigation under the DCO. Whilst such mitigation is included within the Order Limits, agreements will be sought with landowners on a voluntary basis, with the fallback of compulsory acquisition, if voluntary arrangements are not obtained.

3.2 Permanent Embedded Measures

- 3.2.1 Land and Rights would need to be acquired to carry out the embedded measures set out in **Application Document 6.2.2.1 Part 2 Suffolk Onshore Scheme Chapter 1 Landscape and Visual** and **Application Document 6.2.3.1 Part 3 Kent Onshore Scheme Chapter 1 Landscape and Visual** as well as **Application Document 7.5.7.1 outline Landscape and Environmental Mitigation Planting** and **Application Document 6 Environmental Statement**.
- 3.2.2 Embedded measures for which land powers are required include the landscaping around the converter stations and substations in both Suffolk and Kent. This includes areas for the creation of woodland, hedgerow, grassland and riparian planting, the strengthening of existing landscape frameworks by extending and enhancing the existing woodland, and the introduction of planting which is integrated with the drainage and ecological strategies across the project.
- 3.2.3 There are areas of embedded mitigation, for example areas of planting around the converter station and substation sites, where powers of temporary possession will first be needed to deliver construction-phase works including construction compounds. Permanent rights will also be needed in these areas to deliver the longer-term measures.
- 3.2.4 All land identified for embedded measures is contained within the Order Limits and therefore National Grid is seeking the acquisition of land and rights for these measures pursuant to the draft DCO.

3.3 Suffolk

Habitat enhancement (riparian)

- 3.3.1 Planting along the banks of the River Fromus, within plot 1/11, is being undertaken largely as an embedded landscape mitigation measure. However, it also serves an added ecological benefit, insofar as the inclusion of riparian planting offsets the impacts of the bridge crossing.

Habitat enhancement (ground nesting birds)

- 3.3.2 Plot 1/11 includes an element of long-term environmental mitigation land. This has been identified as an area required to mitigate the land lost for the permanent access road and converter station. The works here are set out in **Application Document 7.5.7.1 Landscape and Environmental Mitigation Plan** but can be broadly summarised as a change in farming practice to enhance the farmed environment. The change in the farming practice will be delivered by the landowner.
- 3.3.3 Delivery of 12ha of arable enhancement for birds, targeted to nesting farmland birds. This is needed in order to offset the loss of the arable fields at the converter station site and at Friston Substation, which provide habitat for wintering birds and particularly

some ground nesting farmland birds (notably red list skylark). The mitigation will be delivered through the management of farming practices on the site at plot 1/11 to provide skylark nesting plots at a rate of at least 4 plots per hectare. This will effectively offset the loss of foraging habitat elsewhere.

Kent

Habitat enhancement (ground nesting birds)

- 3.3.4 Delivery of off-site arable enhancement for birds (golden plover and breeding skylark), within plot 6/1. This land is needed in order to offset the loss of field at the converter station and substation site in Kent which are foraging habitats for birds and therefore ‘functionally linked’ to the Thanet Coast & Sandwich Bay Special Protection Area (SPA). The mitigation will be delivered through the management of farming practices on the site at plot 6/1 to ensure that an appropriate amount of time is available between autumn harvest and resowing, while taking measures to encourage soil invertebrates. This will effectively offset the loss of foraging habitat elsewhere.

Habitat enhancement (riparian)

- 3.3.5 The creation of shallow scrapes along the banks of the River Stour, within plots 2/10, 2/9, to offset the temporary and permanent loss of parts of the Ash Levels and South Richborough Pasture local wildlife site (temporary during construction, with some permanent loss comprising the footings of the proposed overhead line towers).

3.4 Temporary Embedded Measures

- 3.4.1 Appropriate land powers are also required in order to carry out the temporary environmental mitigation identified in **Application Document 6.2.3.2 Part 3 Kent Onshore Scheme Chapter 2 Ecology and Biodiversity** and **Application Document 6.2.2.2 Part 2 Suffolk Onshore Scheme Chapter 2 Ecology and Biodiversity**.
- 3.4.2 Additional mitigation comprises any additional project-specific measures needed to avoid, reduce or offset potential impacts that could otherwise result in negative effects considered significant in the context of the Environmental Impact Assessment (EIA) Regulation 2017, and in some areas include planting to replace vegetation lost or to filter a view.
- 3.4.3 Temporary mitigation has been identified by environmental topic specialists, taking into account the embedded design measures. The list of all mitigation measures can be found in **Application Document 7.5.3.2 CEMP Appendix B Register of Environmental Actions and Commitments**.
- 3.4.4 Temporary mitigation measures for which land powers are required comprise the following:

Suffolk

Habitat enhancement (acid grassland)

- 3.4.5 The temporary mitigation is on plot 4/7 where the project requires 6 Ha of acid grassland to be improved. Plot 4/7 extends to an area of some 26 Ha, to enable flexibility as to where this 6 Ha will be provided. Similar to the flexibility enabled by

Limits of Deviation, National Grid will look to provide the permanent mitigation within this area, in liaison with both the landowner and the environmental team. To this end the whole plot has been included as Class 7. Acid grassland improvements are only required for a 10-year period.

- 3.4.6 Enhancement of 6 ha of acid grassland to be managed in an enhanced manner for 10 years, within plot 4/7. This is to offset the temporary loss of acid grassland habitat during the construction of the transition joint bays, and associated recovery period, primarily adjacent to Leiston-Aldeburgh SSSI and Aldeburgh golf course.
- 3.4.7 This will enhance the grassland and also render it more suitable for reptiles (such as by removing dense bracken and invasive species, and by providing a more varied vegetation structure). This management would be maintained as such for 10 years following introduction to offset the lag time in restoration of the existing acid grassland that can be expected once the transition joint bays compound and cable trench works are complete.

Kent

Habitat enhancement (riparian)

- 3.4.8 The creation of shallow scrapes along the banks of the River Stour, within plots 2/10, 2/9, to offset the temporary and permanent loss of parts of the Ash Levels and South Richborough Pasture local wildlife site (temporary during construction, with some permanent loss comprising the footings of the proposed overhead line towers).

4. Compulsory Acquisition

4.1 Scope of Compulsory Acquisition and Temporary Possession Powers Sought

- 4.1.1 The scope of the compulsory acquisition powers sought by National Grid is set out in full in **Application Document 3.1 draft Development Consent Order, Part 5**.
- 4.1.2 Appendix A of this document includes details of the purpose for which compulsory acquisition and temporary possession powers are sought and a description of the use intended for the plot.
- 4.1.3 The Compulsory Acquisition of land and rights in land is necessary to deliver this project. The rationale for the extent of the required land and rights is described below (Chapter 6) within the extent of the land and rights to be acquired, as per the **Application Document 2.3 Land Plans**.
- 4.1.4 National Grid seeks to acquire only such land and rights which are necessary to ensure securing the long-term placement of electricity transmission apparatus and required maintenance access. Where it is necessary to use and occupy land only during the construction and commissioning of the proposed Project, then the powers sought are limited to temporary use only.
- 4.1.5 It is in the public interest to obtain the appropriate security for the electricity supply network through the grant of permanent land rights and not temporary land rights. For major infrastructure projects undertaken by National Grid, longevity and security of rights is essential in the context of National Grid's ability to create new and upgrade existing infrastructure networks and to support major power generation infrastructure projects. Therefore, National Grid considers it essential to secure the grant of permanent easements rather than wayleaves whether by negotiation or through powers of compulsion. The compulsory acquisition of land and rights in land is necessary to deliver the proposed development. The rationale for the extent of the required land and rights is described below (Chapter 2) with the extent of the land and rights to be acquired drawn with regard to avoiding any unnecessary interference with third-party land. National Grid has therefore taken a proportionate approach to the proposed acquisition, mindful of the impact on affected landowners.
- 4.1.6 National Grid seeks to acquire only such land and rights which are necessary to ensure securing the long-term placement of electricity transmission apparatus and required maintenance access. Where it is necessary to use and occupy land only during the construction and commissioning of the proposed Project, then the powers sought are limited to temporary use only.
- 4.1.7 The **Application Document 2.3 Land Plans** show the Order land and the numbered plots within the Order limits that are listed in the sections of the Book of Reference. Each plot is coloured. The colouring serves to differentiate the type of rights or powers sought for each given plot within the Order limits which corresponds to the respective interest, right or power to be acquired or used. There are instances where a plot may have more than one type of interest, right or powers sought. Where two types of interest, rights or powers are sought over a given plot (such as temporary use during construction, as well as permanent rights to operate and maintain the works), the plot is

coloured according to the more extensive power required. There are also white plots where the requirement had dropped away immediately before submission and no land rights are sought.

4.1.8 below sets out the powers related to land acquisition and use being sought by the proposed Project.

Table 4.1 Land Acquisition Powers

Colour on Land Plans	Land use Power	Relevant dDCO Article
Brown	Class 1 – Compulsory Acquisition of Land	Article 24
Green	Class 2 – Compulsory Acquisition of Rights Overhead Line	Article 25
Orange	Class 3 – Compulsory Acquisition or Rights Underground Cable System	Article 25
Grey	Class 4 – Compulsory Acquisition of Rights Construction Compound	Article 25
Dark Blue	Class 5 – Compulsory Acquisition of Rights Access	Article 25
Purple	Class 6 – Compulsory Acquisition of Rights Drainage	Article 25
Light Blue	Class 7 – Compulsory Acquisition of Rights Mitigation	Article 25
Pink	Class 8 – Temporary Use for Construction, Mitigation, and Dismantling of redundant Infrastructure	Article 27
Yellow	Class 9 – Temporary Use for Access	Article 27
White	Class 10 - Land that is not subject to powers of acquisition nor temporary use	N/A

4.1.9 Appendix A provides further detail on the plots affected, the class of right being sought and a description of the use intended for the plot.

4.2 Compulsory Acquisition and Temporary Use Power

- 4.2.1 The main powers authorising the compulsory acquisition of land, or interests in, or new rights over land, are contained in Article 24 (compulsory acquisition of land) and Article 25 (compulsory acquisition of rights) of the draft DCO.
- 4.2.2 Other compulsory acquisition powers are sought in the draft DCO, and these similarly relate to land and will, or may, interfere with property, rights, and interests.
- 4.2.3 In addition, powers are sought in the draft DCO to enable the temporary possession and use of land to carry out and maintain the Proposed Project.
- 4.2.4 Compulsory Acquisition powers are also sought to ensure any unregistered plots with an unknown interest can be acquired.
- 4.2.5 In each case, the owner of the land, or the interest or right in the land, may be entitled to compensation.

4.3 Powers of Compulsory Acquisition

- 4.3.1 The compulsory acquisition powers sought by National Grid in the draft DCO include the power to acquire existing private rights over land and extinguish existing private rights within land and are defined within the following draft DCO articles:
- 4.3.2 Article 24 (Compulsory acquisition of land): This article would allow National Grid to acquire compulsorily as much of the Order land described in the Book of Reference as is required for the construction, operation and maintenance and decommissioning of the authorised project.
- 4.3.3 Article 25 (Compulsory acquisition of rights): This article would allow National Grid to compulsorily acquire rights and impose restrictions over the Order land by creating them as well as by acquiring existing rights and the benefits of restrictions for the purposes of authorised project.
- 4.3.4 Article 26 (Acquisition of subsoil or airspace only): This article would allow the acquisition of subsoil or airspace only. National Grid may compulsorily acquire so much of, or such rights in, the subsoil of, or the airspace of, the land referred to in article 24 and 25 as is required instead of acquiring the whole of the land.
- 4.3.5 Article 30 (Disregard of certain interests and improvements): This article states that in assessing compensation payable to any person on the acquisition from that person of any land or right over any land under this Order, the Tribunal must not take into account any interest in land, or any enhancement of the value of any interest in land as a result of any building erected, works executed or improvement or alteration made on relevant land if the Tribunal is satisfied that the creation of the interest, erection of the building, execution of the works or the making of the improvement or alteration as part of the authorised project was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.
- 4.3.6 Article 31 (Set-off for enhancement in value of retained land): This article states that in assessing compensation payable to any person on the acquisition from that person of any land (including any subsoil), the Tribunal must set off against the value of the acquired land any increase in value of any contiguous or adjacent land belonging to that person which will accrue to that person as a result of construction of the authorised project. In addition, in assessing compensation payable to any person on the

acquisition from that person of any new rights over land (including subsoil, the Tribunal must set off against the value of the rights, any increase in the value of the land over which the new rights are required, and any increase in value of any contiguous or adjacent land belonging to that person, which will accrue to that person as a result of the construction of the authorised project.

- 4.3.7 Article 32 (Compulsory acquisition of land – incorporating the mineral code): This article incorporates both Parts 2 and 3 of Schedule 2 of the Acquisition of Land Act 1981 (with modifications) rather than just Part 2. Part 3 provides the procedure for the owner wishing to work the mines or minerals. By incorporating the two parts of the named Schedule, this article exempts existing rights in minerals from the scope of compulsory acquisition and deals with the situation where the owner of mines or minerals wishes to work them.
- 4.3.8 Article 33 (Time limit for exercise of authority to acquire land compulsorily): The time period stated is after the end of the period of seven years beginning with the day on which the Order comes into force.
- 4.3.9 Article 34 (Acquisition of part of certain properties): This article pertains to the Notice to Treat (NTT) provision under the Land Compensation Act 1965. This article applies where a NTT is served 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 article contains a procedure enabling the relevant owner in certain circumstances to require the whole of the land to be acquired, with disputes being determined by the Tribunal.
- 4.3.10 Article 35 (Application of the Compulsory Purchase (Vesting Declarations) Act 1981): This allows the undertaker to use the 1981 Act (which is subject to modifications under this article) to acquire land or rights by way of a General Vesting Declaration (GVD).
- 4.3.11 Article 36 (Application of Part 1 of the 1965 Act). This article provides for the application, with modifications, of Part 1 of the Compulsory Purchase Act 1965. The modifications are necessary to ensure that there is clarity, given the provisions of the draft DCO.
- 4.3.12 Article 37 (Extinguishment and suspension of private rights): This article provides for the extinguishment or suspension of all private rights and restrictive covenants over land subject to compulsory acquisition from the earlier of the date of the acquisition of the land by National Grid (whether by private agreement or compulsorily), or on the date of entry by National Grid. It also for the extinguishment or suspension of all private rights and restrictive covenants over land owned by National Grid within the Order Limits from the commencement of any authorised activity by the Order which interferes with or breaches such rights or restrictive covenants.
- 4.3.13 Article 38 (Power to override easements and other rights): This article provides that any authorised activity within the Order limits is authorised if it is in accordance with the Order, notwithstanding that it involves an interference with a relevant interest or right, or a breach of a restriction.

4.4 Temporary Possession Powers

- 4.4.1 National Grid is seeking temporary powers over an area greater than that proposed for permanent acquisition or acquisition of rights, which is identified through the Class of Rights shown on the **Application Document 2.3 Land Plans**.

- 4.4.2 National Grid seeks, in the **Application Document 3.1 draft Development Consent Order**, powers to take temporary possession of land to carry out the proposed project, as follows:
- 4.4.3 Article 27 (Temporary use of land for carrying out of the authorised project): National Grid may in connection with carrying out of the authorised project, enter on and take temporary possession of land designated for temporary land take within the Book of Reference column (l) of schedule 11 or other Order Land where no notice of entry has been served and no declaration has been made. It allows National Grid to remove any electric line, electrical plant, buildings, structures, pylons, apparatus, equipment, vegetation or any other thing from that land, construct temporary works (including the provision of means of access, security fencing, storage areas structures and buildings on that land); and construct any works specified in relation to that land in column (2) of Schedule 11 or any other mitigation works.
- 4.4.4 Article 28 (Temporary use of land for maintaining authorised project): This article allows the entry on and the taking of temporary possession of land within the Order Limits (except for houses, gardens and any other building for the time being occupied) at any time during the maintenance period, which is reasonably required for the purpose of maintaining by the authorised project. The article also provides for the construction of such temporary works (including access) and buildings on the land as may be reasonably necessary, and for entrance onto the land for the purpose of gaining access for maintenance of the authorised project.
- 4.4.5 Article 29 (Use of subsoil under or airspace over streets): This article states that the undertaker may enter on and use so much of the subsoil of, or airspace over, any street within the Order Limits as may be required for the purposes of the authorised project.
- 4.4.6 Article 40 (Extinguishment of private rights and restrictive covenants relating to apparatus belonging to National Grid removed from land subject to temporary possession): This article extinguishes the private rights and restrictive covenants relating to apparatus belonging to National Grid removed from land subject to temporary possession, as listed in schedule 12.

4.5 Other Powers of Note

- 4.5.1 Additional powers which the draft DCO would confer on National Grid are:
- 4.5.2 Article 11 (Street works). The undertaker may, for the purposes of the authorised project, or for purposes ancillary to it, enter upon so much of any of the streets specified in column (2) of Schedule 5 (streets subject to street works) in order to carry out works in that street.
- 4.5.3 Article 14 (Power to alter, layout etc. of streets): The undertaker may, for the purposes of carrying out the authorised project, permanently or temporarily alter the layout of, or carry out any works in, a street specified in column (1) of Part 1 or 2 of Schedule 6 (streets subject to alteration of layout) in the manner specified in relation to that street in column (2).
- 4.5.4 Article 15 (Temporary closure of streets and public rights of way): This article allows temporary closure of streets and public rights of way, including those listed in Schedule 8. During and for the purposes of carrying out the authorised project, the undertaker may temporarily close, alter or divert any street or public right of way shown on the Access and Rights of Way Plans or within the Order Limits and may for any reasonable time divert the traffic from the street or public right of way and, subject to providing

reasonable access for pedestrians going to or from premises abutting a street or public right of way if there would otherwise be no reasonable access, prevent all persons from passing along the street or public right of way.

- 4.5.5 Article 16 (Permanent closure of streets and public rights of way): The undertaker may, subject to the provisions of the article, in connection with the carrying out of the authorised project, stop up each of the streets and public rights of way specified and described in Schedule 7 to the extent specified in column 3 of that Schedule.
- 4.5.6 Article 17 (Access to works): The undertaker may for the purposes of the authorised project form and lay out means of access or improve the existing means of access, in location specified in the draft DCO, namely column (2) of Schedule 8 (Access to works), with the consent of the relevant planning authority.
- 4.5.7 Article 18 (Construction, alternation and maintenance of streets): Any street (other than any private streets) to be constructed under the Order must be completed to the reasonable satisfaction of the street authority and must, unless otherwise agreed with the street authority, be maintained (including any culverts or other structures laid under that part of the highway) 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 street authority.
- 4.5.8 Article 20 (Discharge of water): 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 or decommissioning of the authorised project, 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.
- 4.5.9 Article 21 (Protective works): At the undertaker's own expense, and subject to the provisions of the article, it may carry out such protective works to any land, buildings, structure, apparatus or equipment, lying within the Order Limits or which may be affected by the authorised project as the undertaker considers necessary or expedient.
- 4.5.10 Article 22 (Authority to survey and investigate the land). The undertaker may for the purposes of the Order enter onto the land within the Order Limits or land which may be affected by the authorised project to survey, monitor or investigate land. The undertaker may place, leave on and remove from the land apparatus in connection with surveys, monitoring and investigation.
- 4.5.11 Article 41 (Crown rights): Nothing in the Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular, nothing in the Order authorises the undertaker or any licensee to take, use, enter on or in any manner interfere with any land or rights of any description (including any part of the shore or bed of the sea or any river, channel, creek, bay or estuary) belonging to the Crown and forming part of the Crown Estate without the written consent of the Crown Estate Commissioners, belonging to the Crown but not forming part of the Crown Estate without the written consent of the government department that manages that land, or belonging to a government department or held in trust for the Crown for the purposes of a government department without the written consent of that government department.
- 4.5.12 Article 42 (Saving provisions for Trinity House): Nothing in the Order prejudices or derogates from any of the rights, duties or privileges of Trinity House.
- 4.5.13 Article 43 (Special category land): This article provides that the special category land required for the proposed Project will be discharged from all rights, trusts and incidents so far as their continuance would be inconsistent with the exercise of the Order rights.

- 4.5.14 Article 44: Statutory undertakers. Subject to protective provisions, the undertaker may acquire compulsorily the Order Land belonging to statutory undertakers, extinguish or suspend the rights of, remove or reposition apparatus belonging to a statutory undertaker, acquire existing rights, create and acquire new rights and impose restrictive covenants over statutory undertakers' land, construct the authorised project in such a way as to cross underneath or over apparatus belonging to a statutory undertaker, and construct over existing apparatus belonging to the statutory undertakers any track or roadway (whether temporary or permanent), with the right to maintain or remove the same, and install service media under or over existing apparatus.
- 4.5.15 Article 50 (Traffic regulation): This allows National Grid to regulate traffic on specified roads in accordance with the details set out in the Order or on other roads with the consent of the traffic authority, for the construction of the authorised project.
- 4.5.16 Article 51 (Felling or lopping): This allows any tree, shrub, shrubbery, hedgerow or important hedgerow that is near the authorised development to be felled, lopped, pruned, cut, trimmed, coppiced, pollarded, reduced in height or width, or have its roots cut back, if it is considered necessary to prevent it from obstructing or interfering with the construction, operation or maintenance of the proposed project or from constituting a danger to anyone constructing, operating, maintaining or decommissioning it.
- 4.5.17 Article 52 (Trees subject to tree preservation order): This allows National Grid to fell, lop, prune, cut, trim, coppice, pollard or reduce in height or width, or cut back the roots of trees which are subject to a TPO.
- 4.5.18 Article 53 (Temporary closure of, and works in, the River Stour or River Fromus): This allows National Grid to temporarily close the relevant part of either river (shown yellow on the Access, Rights of Way and Navigation Plans) during construction of the authorised project. It is necessary so works adjacent to, above and beneath can be completed safely.

5. The Order Land and Persons with an Interest in Land

5.1 The Extent of the Land Subject to Compulsory Acquisition Powers

- 5.1.1 The full extent of the land subject to powers of compulsory acquisition and required for National Grid to construct and maintain the Proposed Project is shown on **Application Document 2.3 Land Plans** and the **Application Document 2.5 Works Plans**. The proposed project is further described in the **Application Document 6.2.1.4 Environmental Statement Part 1 Introduction Chapter 4 Description of the Proposed Project. Application Document 4.3 The Book of Reference** contains plot numbers, title descriptions and proposed land take areas in square meters. Reviewed together, these documents provide a holistic view of the land required for the proposed project.
- 5.1.2 The compulsory acquisition of land and rights in land is necessary to deliver the proposed development. The rationale for the extent of the required land and rights is described below with the extent of the land and rights to be acquired drawn with regard to avoiding any unnecessary interference with third-party land. National Grid has therefore taken a proportionate approach to the proposed acquisition, mindful of the impact on affected landowners.
- 5.1.3 Voluntary rights in land for the underground cables and overhead lines including pylons will be sought by way of an easement under the terms of a Deed of Grant.
- 5.1.4 In the event that voluntary agreements are not reached, the DCO would grant Compulsory Acquisition powers which can then be exercised to ensure delivery of the scheme. The draft DCO also contains powers that would enable the use of land temporarily, to enable construction of the project. National Grid would not seek to acquire or use any land that is not necessary for either the construction, maintenance or operation of the project. The Order Limits include Limits of Deviation (LoD), which represent the maximum locational flexibility for permanent infrastructure, such as the overhead line, pylons and underground cables. This allows for adjustment to the final positioning of proposed project features to avoid localised constraints or unknown or unforeseeable issues that may arise. The LoD are shown on the **Application Document 2.5 Works Plans** and the **Application Document 2.14 General Arrangement Plans**. National Grid will only acquire land or rights permanently, based on the end position of the permanent infrastructure. The LoD provides the flexibility for construction purposes only and does not determine the permanent land take or rights to be acquired.
- 5.1.5 National Grid would first use temporary possession powers to construct the proposed project. Once each stage is complete and if the proposed project has been unable to secure the permanent land or rights acquisition required via a voluntary agreement, it would rely on exercising powers of compulsory acquisition to secure such land or rights on a permanent basis. This approach offers a proportionate approach to the land powers sought.

Location

- 5.1.6 An overview of the location can be found in the **Application Document 6.2.1.4 Environmental Statement Part 1 Introduction Chapter 4 Description of the Proposed Project**. The proposed project is situated in Suffolk and Kent and is connected offshore via a subsea cable. In Suffolk it lies directly to the east of Saxmundham and travels southeast, past Friston, where it connects into the Friston Substation and the existing 400 KV 4ZW line towards Aldeburgh where it progresses offshore. In Kent it makes landfall in Pegwell Bay, north of Ebbsfleet and southwest of the town of Ramsgate and travels west toward Minster and then south to meet the existing 400 KV PC - Richborough to Canterbury Overhead Line.
- 5.1.7 It falls within the host authority boundaries of East Suffolk Council, Suffolk County Council, Thanet District Council, Dover District Council and Kent County Council.
- 5.1.8 The relevant designations and features are described in detail in the **Application Document 7.1 Planning Statement**.

Existing Land Use

- 5.1.9 The existing land uses for each section of the proposed Project, as detailed above, are described below.

Suffolk

- 5.1.10 The landscape includes parts of the low-lying and gently undulating coastline comprising marshland and heathland, within the Suffolk Coast and Heaths NL. Further inland, medium to large-scale agricultural fields dominate across relatively higher, undulating land. The landscape within the study area is settled, with a variety of towns, including Leiston and Aldeburgh, smaller villages, including Friston and Knodishall, small clusters of dwellings and scattered properties.
- 5.1.11 The land use within the eastern and southern parts of the study area is largely associated with ecological conservation and comprises large areas of fenland and marshland alongside the coastline and River Alde. The land use within the remainder of the study area is predominantly agricultural and in particular arable crops.
- 5.1.12 The vegetation within the eastern part of the study area typically comprises heathland and scrubland, with large areas of mature woodland vegetation. The vegetation within the southern part of the study area largely consists of low-level scrub associated with the floodplain of the River Alde.

Kent

- 5.1.13 The landscape includes low-lying landform within the Ash Levels and Minster Marshes in the southern and central part. This landscape comprises a series of drainage ditches separating small to medium sized field enclosures, within the former Wantsum Channel. The landscape rises towards the settlement of Minster, comprising some comparatively larger scale field enclosures. The landscape also includes the low-lying coastal areas extending around Pegwell Bay which are characterised by larger intertidal areas of marsh and mudflat along the coastline.
- 5.1.14 The land use within the study area is largely associated with agriculture, with predominantly pastoral fields particularly adjacent to the various drainage ditches which

dissect the lower lying marsh and around the watercourses including the River Stour. There are larger arable fields in the surrounding landscape. Orchards are present across the southwestern part of the study area in the higher areas of the Ash Levels. Other land uses include the Richborough Energy Park in the western part of the study area, a golf course, country park and various solar farms.

- 5.1.15 The vegetation within the Ash Levels and Minster Marshes in the southern and central part of the study area comprises hedgerows and mature individual and linear tree blocks. Within the northern part of the study area, the landscape includes smaller blocks of woodland such as Minster Woods, along with hedgerow planting. The coastal landscape is comparatively more wooded and treed than the remainder of the study area, notably around Richborough Energy Park.

Identifying Persons with an Interest in the Land

- 5.1.16 In preparing the DCO application, National Grid has carried out diligent inquiry through the land referencing process in order to identify all persons who fall within the categories set out in sections 44 and 57 of the Act. Such persons are listed in the **Application Document 4.3 Book of Reference** and have been consulted about the DCO application in accordance with section 42 of the Act as described in the **Application Document 5.1 Consultation Report**.
- 5.1.17 The categories of persons identified, and the methods used to identify the persons with an interest in the land are described in the **Application Document 5.1 Consultation Report Land Referencing Methodology (Appendix J)** and summarised below. Land referencing has been undertaken throughout the pre-application period to ensure that any changes in ownership or new interests have been identified, consulted and are subject to engagement. Any changes in ownership that may occur will be identified and the Book of Reference will be updated accordingly.
- 5.1.18 National Grid is satisfied that all of the land interests identified for compulsory acquisition are required to enable the proposed project to proceed.

Category 1 and 2 Persons

- 5.1.19 Category 1 comprises owners, lessees, tenants (whatever the tenancy period) and occupiers of the land.
- 5.1.20 Category 2 comprises persons who have an interest in the land or have the power to sell and convey, or to release, the land.

Category 3 Persons

- 5.1.21 Category 3, as prescribed by sections 44 and 57 of the Act, comprises persons who National Grid thinks would or might be entitled to make a "relevant claim" for compensation, if the order sought by the application were to be made and fully implemented. A "relevant claim" is defined in the Act as meaning a claim under section 10 of the Compulsory Purchase Act 1965, under Part 1 of the Land Compensation Act 1973 or under section 152(3) of the Act.

5.2 Land Referencing and Considered Interests Identification

- 5.2.1 Identification of Category 1, 2 and 3 interests has been undertaken during the initial stages of the proposed Project, and throughout the pre-application process and the preparation of the DCO application.
- 5.2.2 Interests were identified through a land referencing methodology incorporating publicly available desktop sources (including Land Registry updates, checks of Companies House, checks of local authority information and other online data) and contact with land interests. This included correspondence using Land Interest Questionnaires to request information on land holdings and other legal interests in land, followed up with further inquiries and site visits. Where land was unregistered or interests were unknown, further investigations were done on site and notices placed on the land requesting information.
- 5.2.3 In order to identify potential Category 3 persons who may have a claim pursuant to section 10 of the Compulsory Purchase Act 1965 or section 152(3) the Planning Act 2008, an initial 150 m buffer was applied to the proposed land requirements to ensure adjacent landowners, frontage interests and potential relevant claims under section 10 of the Compulsory Purchase Act 1965 and section 152(3) of the Act were included.
- 5.2.4 Potential claims under Part 1 of the Land Compensation Act 1973 were also identified using the outcomes of environmental assessment to identify those properties that may have a claim as a result of physical factors which are noise, vibration, smell, fumes, smoke, artificial lighting and discharge or solid or liquid substances on the land. This is set out within the **Application Document 6.2.2 Environmental Statement (Suffolk) Chapters 8 and 9 and Application Document 6.2.3 Environmental Statement (Kent) Chapters 8 and 9**
- 5.2.5 **Application Document 5.1 Consultation Report, Appendix J** sets out in greater detail the land referencing methodology including Special Category Land.

5.3 Negotiations to Acquire by Agreement

- 5.3.1 National Grid has a publicly available document called the Guidance on Land Rights for New Electricity Transmission Assets which sets out the acquisition strategy for new assets, including underground cables and Overhead Lines as well as survey payments.
- 5.3.2 National Grid's preference is always to secure land rights on a voluntary basis. National Grid's strategy is to engage with interested parties as early as possible, to explain the requirements of the project and the rights sought; seek understanding of the landowner's particular concerns; and provide sufficient opportunity for questions and feedback, before making fair offers for the land/rights required.
- 5.3.3 To help facilitate this strategy, National Grid's land rights strategy, developed in 2010, provides a consistent methodology for acquiring rights for infrastructure projects, both for DCOs as well as Town & Country Planning Act/CPO schemes. The strategy is used for all such projects and is under continuous review to ensure that it is still fit for purpose, treats people fairly, and meets the expectations of third-party landowners and occupiers. This process of review, and where appropriate with adaptation, has been adopted on Sea Link.
- 5.3.4 The strategy has comprised of the following elements;

- 5.3.5 Non-Contact Land Referencing to identify and consult with interested parties who may be affected by a project. This is done using public sources of information such as HM Land Registry information.
- 5.3.6 Contact Land Referencing via Land Interest Questionnaires and Landowner Questionnaires being sent to the identified parties to confirm the information for the book of reference.
- 5.3.7 Access is requested to identified landowners (and where appropriate, occupiers), for non-intrusive and intrusive surveys. These surveys are designed to inform the project design. Where this access is not able to be agreed voluntarily National Grid follows a process to work towards service of notice, which involves letters being sent in two-week intervals, ideally over 6 weeks (however there may be circumstances this time period is shortened to 3 weeks) following engagement with the landowner and their agent to try and settle any questions they may have with the surveys, notice is served.
- 5.3.8 Following confirmation of the project route alignment, negotiations with the landowners and their agents begin and National Grid works towards negotiating and completing the legal agreements required to regularise the construction and use of the cables. This takes the form of Heads of Terms negotiations for an Option, which in the case of linear assets such as cables calls for a Deed of Easement post construction.
- 5.3.9 Within the Heads of Terms, offers were submitted to each landowner, including incentives linked to the early acceptance of offers. National Grid's approach has been to seek options over land to enable the construction of the scheme.
- 5.3.10 Where land is subject to an occupier with security of tenure and exclusive possession, tripartite agreements have been offered.
- 5.3.11 In respect of the land over which freehold acquisition is required, Heads of Terms for an Option to acquire that land will continue to be progressed with each landowner.
- 5.3.12 In respect of the land over which rights are required, Heads of Terms are issued to landowners for an Option enabling National Grid to enter land for the construction and installation of the cable and associated infrastructure, and post installation, to enter into a Deed of Easement.
- 5.3.13 The Option is proposed to be a 7-year period and the total offer from National Grid (which includes a market value consideration payment) included an incentive payment, payable on completion of the Option.
- 5.3.14 The basis for the payment offered in terms of consideration for the option and easement is 80% of the agreed agricultural land value (which is calculated on a per acre basis). This is National Grid's valuation for the acquisition of rights over the land subject to the Order and this is an industry standard valuation for the acquisition of such rights; and an additional incentive (being 20% of the agreed easement value) would be payable if the Heads of Terms and Option for easement are agreed within a set timeframe.
- 5.3.15 The incentive is an additional payment to encourage the party to enter into an agreement with NG in a timely manner to enable delivery of the Proposed Project within the program and in line with the need case for the Proposed Project.
- 5.3.16 The payments will be made on the following basis:
- 25% of the agreed value payable on exchange of the option agreement, plus all the incentive payment (if applicable)

- 50% of the agreed value payable on service of the construction notice, the point at which entry is taken to commence construction of the Proposed Project.
- a 25% balancing payment of an agreed value on completion of the Deed of Grant.

- 5.3.17 Alongside the Heads of Terms, National Grid issues its Construction best practice for underground cable installation (NG's Best Practice Guide).
- 5.3.18 National Grid has appointed a land agency firm to assist with engagement with landowners and the issue and negotiation of the Heads of Terms. The day-to-day negotiations have been carried out by offering meetings with landowners/ agents to discuss the Heads of Terms in further detail. Correspondence has been back and forth between National Grid and 3rd party landowners/ agents on specific individual issues. Where landowner engagement has not progressed, National Grid has made periodic efforts to engage and offer support to try and progress negotiations by private treaty, as evidenced in Appendix B of this document.
- 5.3.19 National Grid will continue to seek to voluntarily acquire rights over plots where there are known landowners and will continue to seek to agree Heads of Terms with those landowners that are yet to agree Heads of Terms. National Grid will do this in parallel with the promotion of the Order, as the Order is its last resort to ensure that it has acquired all the rights that it requires to deliver the Proposed Project in accordance with the project programme.
- 5.3.20 Once Heads of Terms are agreed with an individual landowner an Option agreement is issued so that landowner's solicitor is able to secure the agreement in a legally binding document. The Option agreements reflect the Heads of Terms agreed with any given landowner.

5.4 Utilities

- 5.4.1 National Grid is negotiating and will continue to negotiate with all identified utility providers. This Statement provides more information on the compulsory acquisition of land and rights required from various statutory undertakers at Chapter 8. The latest status of negotiations with statutory undertakers is contained within National Grid's Protective Provisions and Commercial Side Agreements Tracking List.
- 5.4.2 Appendix B of this Statement outlines the ongoing negotiations to date for all voluntary agreements sought for the proposed project.

5.5 Highways subsoil Interests

- 5.5.1 Where the Land Plans include land within the lateral extent of the public highway (ie highway subsoil which is not within the designation as highway) and there is an adjoining owner, then these subsoil rights will be included in the voluntary agreement sought from the adjoining landowner, in so far as they are able to grant. Where the owner of highway subsoil is unknown and National Grid is unable to seek voluntary agreements, it will therefore need to rely on the compulsory land powers in respect of subsoil not subject to the designation as highway.
- 5.5.2 Where the Land Plans include surface rights to undertake works within the highway, National Grid does not need subsoil rights and hence does not propose to seek a voluntary agreement with the owners of the highways subsoil.

6. Justification for Powers of Compulsory Acquisition

6.1 Sections 120 and 122 of the Planning Act 2008

- 6.1.1 Section 120 of the Act prescribes those matters which may be provided for in a DCO. Sections 120(3) and 120(4) go on to provide that an Order may make provision relating to, or to matters ancillary to, the development for which consent is granted. The matters in respect of which provision may be made include (but are not expressly limited to) the matters listed in Schedule 5 to the Act, for example:
- the acquisition of land, compulsorily or by agreement.
 - the creation, suspension or extinguishment of, or interference with, interests in or rights over land, compulsorily or by agreement; and
 - the payment of compensation.
- 6.1.2 Section 122 of the Act provides that an Order granting development consent may include provisions authorising compulsory acquisition of land, only if the decision maker is satisfied that two conditions are met.
- 6.1.3 The first condition (section 122(2)) requires that one of three criteria are met, as follows:
- the land is required for the development to which the development consent relates; or
 - the land is required to facilitate or is incidental to that development; or
 - the land is replacement land to be given in exchange for land which is open space or common land.
- 6.1.4 The second condition (section 122(3)) is that there is a compelling case in the public interest for the inclusion of powers of compulsory acquisition in the Order.
- 6.1.5 Paragraph 7 of the Guidance expands on section 122 of the Act and makes it clear that applicants must be prepared to justify their proposals for compulsory acquisition to the satisfaction of the Secretary of State.
- 6.1.6 Paragraphs 8 to 19 of the Guidance provide a number of general considerations that applicants should demonstrate to the satisfaction of the decision maker:
- All reasonable alternatives to compulsory acquisition (including modifications to the Scheme) have been explored (paragraph 8).
 - The proposed interference with rights is for a legitimate purpose, necessary and proportionate (paragraph 8).
 - How the land is intended to be used and that there is no doubt as to the particular purposes for which any land is to be compulsorily acquired (paragraph 9).
 - There is a reasonable prospect of the requisite funds becoming available (paragraph 9).

- There is justification for interfering with the human rights of those with an interest in the land affected (paragraph 10).
- There is a compelling case for the compulsory acquisition (paragraph 12).
- The public benefit will outweigh the private loss and (paragraph 13).
- Any risks or impediment to the scheme have been properly managed (paragraph 19).

6.1.7 In respect of paragraph 9, funding is likely to be available to complete the proposed project as explained in **Application Document 4.1 Funding Statement**. In addition, Chapter 7 of this Statement sets out that the need for other consents from bodies to allow certain elements of the development to proceed - but this does not therefore present any obstacle to the implementation of the proposed project. Further reference should be made to **Application Document 3.5 Consents and Agreements Position Statement** which addresses Other Consents. There are therefore no known impediments to the delivery of the proposed project.

6.1.8 The following paragraphs explain how the pre-conditions to the grant of powers of compulsory acquisition are met in this case.

6.2 Test Under Section 122(2)

6.2.1 Condition 1: *“The land and rights in the land are required for the development to which the consent relates, or, the land is required to facilitate or is incidental to that development.”*

6.2.2 Chapter 2 of this Statement describes the national need for the provision of new energy infrastructure.

6.2.3 Chapter 2 of this Statement sets out the works comprised in the proposed project and which the powers of compulsory acquisition are required.

6.2.4 Chapter 4 of this Statement sets out the powers of compulsory acquisition being sought.

6.2.5 **Application Document 4.3 The Book of Reference** sets out the classes of rights sought in respect of each plot. **Application Document 2.3 Land Plans** and **Application Document 2.5 Works Plans** show the land that falls within the Order Limits and the works proposed on such land. The Land Plans and Book of Reference together detail the land, and the rights required as well as the extent of the land and rights in land that would be affected.

6.2.6 National Grid require acquisition of land (Class 1) for the Substations and Converter Station sites as National Grid require exclusive possession of this area to build, operate and maintain the electricity supply which feeds into the overhead line and underground cables, which cannot be done by rights alone.

6.2.7 National Grid is also seeking rights for overhead line, underground cable, access and mitigation works which (save to the degree explained in Chapter 2 of this Statement) are set out in Classes 2, 3, 5 and 7 respectively. In each case the acquisition of rights is necessary to deliver the proposed project and are proportionate to the degree of interference with any private rights.

6.2.8 With regard to the condition set out in section 122(2), Chapter 2 of this Statement describes the land required for the development of the Scheme. Chapter 4 of this document further explains why the land and rights in land are required.

6.3 Test Under Section 122(3)

- 6.3.1 Condition 2: “*There is a compelling case in the public interest for compulsory acquisition.*”
- 6.3.2 With regard to the condition set out in section 122(3), Chapter 2 of this Statement and the **Application Document 7.2 Strategic Options Back Check Report** and **Application Document 7.1 Planning Statement** explain how there is a national need for the provision of new energy infrastructure. The proposed project provides critical transmission capacity necessary for safe and secure connections. The requirement for compulsory acquisition powers will ensure timely acquisition of the necessary land and rights needed to construct and maintain the proposed project.
- 6.3.3 Chapter 2 within this Statement also describes the multistage process that National Grid has followed in developing the proposed project, which is required to transmit electricity to businesses and homes. This involved an iterative process involving appropriate environmental appraisal, consultation, consideration of alternatives and engineering design which has resulted in a project which balances the relevant matters including National Grid’s duties and government guidance.
- 6.3.4 The compulsory acquisition powers would ensure timely acquisition of the necessary land and rights needed to construct and maintain the proposed project. Without such powers, the delivery of the proposed project cannot be guaranteed, and there is a risk that the national need will not be met.
- 6.3.5 The land and rights sought are therefore necessary to facilitate the proposed project. National Grid has sought to ensure that a proportionate approach has been taken in identifying the permanent acquisition powers and temporary use powers required to achieve its delivery.
- 6.3.6 There is therefore a very clear need for the proposed project to be granted development consent and associated compelling case in the public interest for compulsory acquisition powers.

6.4 Alternatives to Compulsory Acquisition

- 6.4.1 The need for the proposed Project is established in the **Application Document 7.2 Strategic Options Back Check Report** and the various purposes for which the interests in the land are required are set out in this Statement and in the **Application Document 7.1 Planning Statement**, which further explains how the evolution of the proposed Project has followed an iterative design process.
- 6.4.2 The development of the design and routing of the proposed project has followed National Grid guidance available at the time of each stage. The alternatives in terms of the route and construction were considered throughout that process, including in response to feedback received during the consultation. The proposed Project has been the subject of a back check and review, to ensure that it remains the preferred design option. **Application Document 6.2.1.3 Environmental Statement Chapter 3: Main Alternatives Considered** provides further details on the alternatives considered throughout the proposed project development process.
- 6.4.3 **Application Document 4.3 The Book of Reference** and the **Application Document 2.3 Land Plans** show the land and rights in land that are required and for what purpose. In each case the rights sought are necessary to deliver the proposed project and are proportionate to the degree of interference with the interests and rights of landowners.

- 6.4.4 National Grid would continue to seek all rights it needs by voluntary agreement, subject to the draft DCO being made. National Grid has undergone extensive consultation with all persons with an interest in the relevant land in order to try to avoid the need for compulsory acquisition.
- 6.4.5 This approach to making the application for the draft DCO in parallel to conducting negotiations to acquire rights in land by agreement wherever practicable, is in accordance with paragraph 25 of the Guidance. Paragraph 25 of the Guidance confirms that for long, linear schemes, such as the proposed project *“it may not always be practicable to acquire by agreement each plot of land. Where this is the case it is reasonable to include provision authorising compulsory acquisition covering all the land required at the outset”*.
- 6.4.6 Notwithstanding completing voluntary agreements, National Grid would still seek powers to compulsorily acquire land and rights through the draft DCO as compulsory acquisition powers would enable National Grid to deliver its statutory and contractual duties without potential delay, if for any reason the voluntary acquisition of land and rights is ultimately unsuccessful.
- 6.4.7 Consultations have been conducted with both the public and those affected persons with an interest in land and further detail is provided in the **Application Document 5.1 Consultation Report**.
- 6.4.8 There has been an ongoing engagement directly with all known affected landowners, interests and occupiers since the launch of the Proposed Project. All have had opportunities to feedback on the routing and siting of the Proposed Project as it affects them, in order to try and minimise the land required. Engagement and negotiations have been ongoing throughout the consultation and design process to try to avoid the need for compulsory acquisition with routing and design to minimise the impact and number of landowners affected. The design of the freehold locations and underground cable, where possible, has been designed to mitigate the impact on the landowners and other persons with an interest in land, through placing near boundaries and reducing land take around the design.
- 6.4.9 The limits of deviation for the Proposed Project have been developed to allow for sufficient movement of the cable swathe and other aspects of the Proposed Project to clear any obstacle. The rationale for the limits of deviation is set out in the **Application Document 3.2 Explanatory Memorandum**.
- 6.4.10 As stated above, it is the preference of National Grid that all land and rights can be acquired through negotiation and agreement. Compulsory acquisition powers will only be exercised where it appears that negotiations are unlikely to be completed or to be completed in time.
- 6.4.11 It is in the public interest to obtain the appropriate security for the electricity supply network through the grant of permanent land rights and not temporary land rights. For major infrastructure projects undertaken by National Grid, longevity and security of rights is essential in the context of National Grid’s ability to create new and upgrade existing infrastructure networks and to support major power generation infrastructure projects. Therefore, National Grid considers it essential to secure the grant of permanent easements rather than wayleaves whether by negotiation or through powers of compulsion.
- 6.4.12 Without the powers of acquisition being compulsory, there is a risk that the urgent national need for the project could not be met because the land and rights required in the Order land may not be assembled.

- 6.4.13 As summarised in paragraph 2 above, the development of the design and routing of the proposed project has followed National Grid guidance available at the time of each stage. The alternatives in terms of the route and construction were considered throughout that process, including in response to feedback received during the consultation. The Proposed Project has been the subject of a back check and review, to ensure that it remains the preferred design option.
- 6.4.14 **Application Document 6.2.1.3 Environmental Statement Chapter 3: Main Alternatives Considered** provides further details on the alternatives considered throughout the Proposed Project development process.

6.5 The Proposed Interest in the Land is Legitimate, Necessary, and Proportionate

- 6.5.1 The need for the Proposed Project is established in the **Application Document 7.2 Strategic Options Back Check Report** and the various purposes for which the interests in the land are required are set out in this Statement and in the **Application Document 7.1 Planning Statement**, which (alongside the Design Development Report) further explains how the evolution of the Proposed Project has followed an iterative design process.
- 6.5.2 The compulsory acquisition of land and rights in land is necessary to deliver this connection.
- 6.5.3 In order to construct, operate and maintain the proposed project, land and rights in the ownership of parties other than National Grid would need to be acquired. Any practicable alternative location for the proposed project would similarly require the acquisition and/or use of third-party land. This means that acquisition and/or use of third-party land cannot be avoided. **Application Document 4.3 The Book of Reference** and the **Application Document 2.3 Land Plans** show the land and rights in land that are required and for what purpose. In each case the rights sought are necessary to deliver the proposed project and are proportionate to the degree of interference with the interests and rights of landowners.
- 6.5.4 National Grid have also sought powers of temporary possession, where appropriate, rather than compulsory acquisition of land or rights, as the temporary possession of land is more proportionate where the permanent acquisition of land or rights is not required.
- 6.5.5 Steps have been taken to ensure that the land and interests acquired are proportionate, including the following:
- 6.5.6 National Grid assessed alternative options to deliver the necessary connection with more limited land take, but the acquisition of third-party interests cannot be avoided to deliver the project.
- 6.5.7 The Order Limits are drawn tightly to avoid any unnecessary interference with or extinguishments of third-party rights but have regard to the need for flexibility to ensure project deliverability.
- 6.5.8 Where appropriate, National Grid have sought to take powers to temporarily use land, rather than permanent acquisition of land or rights.
- 6.5.9 Wherever possible, National Grid is seeking rights in land rather than outright acquisition.

- 6.5.10 Compensation is payable for the compulsory acquisition of land or rights. Compensation is also payable for loss or damage caused by the exercise of any power of temporary use of land. Any dispute in respect of the compensation payable is to be determined by the Lands Chamber of the Upper Tribunal.

6.6 Funding for Compensation

- 6.6.1 The Guidance indicates that an applicant “should be able to demonstrate that adequate funding is likely to be available to enable the compulsory acquisition” within the relevant period. **Application Document 4.1 The Funding Statement** sets out how the proposed project and the acquisition of land and rights over land necessary to build the proposed project would be funded. It demonstrates that there is a reasonable prospect of the requisite funds being available to fund all aspects of the proposed project.

7. Special Considerations

7.1 Crown Land

- 7.1.1 Section 135 of the Act provides that a DCO may authorise, with the consent of the appropriate Crown Authority, the compulsory acquisition of an interest held in Crown land which, for the time being, is held otherwise than by or on behalf of the Crown.
- 7.1.2 National Grid has made provision in the DCO for the acquisition of those land interests which are not held by the Crown, but which exist in Crown land and are comprised in plots as shown in **Part 4 of the Application Document 4.3 Book of Reference** and the **Application Document 2.4 Special Category and Crown Land Plans**. The consent of the Crown is required to authorise the compulsory acquisition of these land interests.
- 7.1.3 When undertaking diligent inquiry TCE confirmed it was not the owner of the northern half of the River Stour in Kent or the land on the foreshore (shown in Green on the SCL plans). The information provided by TCE was that a claim for ownership was admitted in 1964 to Marquis Conygham. The land in the foreshore will be included in the offshore seabed lease on a precautionary basis.
- 7.1.4 National Grid has entered into discussions with The Crown Estate (TCE) with regard to the voluntary agreements for the construction and operation of the scheme. Previously TCE and their agents have been engaged with survey access in TCE property. Discussions are taking place on the required Heads of Terms which, due to the nature of TCE, need to be raised by The Crown Estate and issued to National Grid. These ongoing discussions with TCE also include the s135 consent. TCE have confirmed there are no lessees on TCE land which are required to be accommodated.

7.2 Special Category Land

- 7.2.1 This section addresses the issue of Special Category Land (SCL) in respect of the Scheme. SCL is afforded special protection by the legislation.
- 7.2.2 The **Application Document 2.4 Special Category and Crown Land Plans** show all the plots we have identified and subject to the application for compulsory acquisition. There are additional plots not shown on the plans which are temporary only and therefore fall outside the protection of sections 131 and 132. Appendix C to this statement deals only with those plots protected by Sections 130-132.
- 7.2.3 SCL is defined in Regulation 2 of the APFP Regulations as “*land identified as forming part of a common, open space, National Trust land or fuel or field garden allotment*”. The definition goes on to indicate that special category land is shown on the plans which accompany the application for development consent. See **Application Document 2.4 Special Category Land and Crown Plans**.
- 7.2.4 Section 130 of the Planning Act 2008 makes provision for Special Parliamentary Procedure (SPP) to apply where a DCO authorises the compulsory acquisition of land held inalienably by the National Trust. SPP will apply if the National Trust makes a formal objection to the compulsory acquisition of that land and the objection is not withdrawn.

- 7.2.5 Land held inalienably in relation to the National Trust means that the land is inalienable under section 21 of the National Trust Act 1907.
- 7.2.6 National Grid has confirmed through the land reference process and undertaking due diligence that the National Trust Land at plots 5/2, 5/1, 5/4, 5/9, 3/73, 3/72, 5/3 is held inalienably and therefore subject to Section 130.
- Feedback from National Trust at consultation confirmed that they do not object to the scheme in principle but require further discussion on the likely potential impact to and around their land interests in Pegwell Bay including the location of works, detailed activities and the construction methodology. They also note National Grid's preference to enter into voluntary negotiations and will assist in this matter on receipt of the assurances sought. Discussions are on-going with National Grid and their tenants Kent Wildlife Trust in relation to agreement to acquire the necessary interests by agreement.
- 7.2.7 Sections 131 and 132 of the PA 2008 make provision for SPP to apply where a development consent order authorises the compulsory acquisition of land, or rights over land forming part of a common, open space or fuel field garden allotments.
- 7.2.8 SPP requires that powers of compulsory acquisition relating to the special category land, be subject to further scrutiny by Parliament, before the development consent order covering the compulsory acquisition can come into effect. A DCO is exempt from SPP where the Secretary of State is satisfied that one of the exceptions apply.
- 7.2.9 The delivery of the proposed project requires the seeking of rights over Special Category Land, more specifically classed as Open Space, which is shown on the **Application Document 2.4 Special Category and Crown Land Plans. Application Document 4.3. The Book of Reference** also specifies the plots identified as Open Space, which are further detailed in the table below and in the Special Category Land Report in Appendix C.
- 7.2.10 Due to the nature of the rights sought over it, the Open Space would be no less advantageous to the users as a result as set out in Special Category Land report in Appendix C to this Statement. In the circumstances, National Grid is seeking a Certificate from the Secretary of State confirming that SPP will not apply. For the avoidance of doubt, in the case of this draft DCO application, no replacement land has been or would be given as no Open Space is being permanently acquired.

Table 7.1 Special Category Land

Land Plan Sheet Plot No	Works in Summary	CA Classes Sought
National Trust		
Kent 3/72, 5/2, 5/3	Compulsory Acquisition or Rights Underground Cable System	Class 3

Land Plan Sheet Plot No	Works in Summary	CA Classes Sought
Open Space		
Suffolk (Aldeburgh Beach) 6/3, 6/7	Compulsory Acquisition or Rights Underground Cable System	Class 3
Suffolk (Aldeburgh Beach) 6/5, 6/6	Compulsory Acquisition of Rights Access	Class 5
Kent (Pegwell Bay) 3/68, 3/69, 3/70, 3/71, 3/72, 3/73, 5/2, 5/7	Compulsory Acquisition or Rights Underground Cable System	Class 3
Kent (River Stour) 2/57, 2/58, 2/105, 2/106	Compulsory Acquisition of Rights Overhead Line	Class 2
Kent (Hoverport) 3/90, 5/5, 5/24	Compulsory Acquisition of Rights Access	Class 5

7.3 Statutory Undertakers' Land

- 7.3.1 The DCO, if made, would authorise the compulsory acquisition of rights in land owned by statutory undertakers as described in the **Application Document 4.3 Book of Reference** and the **Application Document 2.3 Land Plans** and listed in the Table below.

Table 7.2 Plots Owned by Statutory Undertakers where the project is seeking rights (Kent)

Plots owned (Category 1 Persons as referenced in section 6.5. of this Statement) by Statutory Undertakers over which compulsory acquisition of land and rights are required Book of Reference Part 1	Plot No.	Owned by Statutory Undertaker
2/110, 2/114, 2/115, 2/116, 2/188, 3/86		Network Rail Infrastructure Ltd
4/19		Southern Water Services Limited

Table 7.3 Plots where the project requires rights where Statutory Undertakers have an interest in land.

Plots where the project requires rights	Statutory Undertaker
Kent: 2/56, 2/65, 2/66, 2/67, 2/69, 2/70, 2/71, 2/72, 2/73, 2/74, 2/75, 2/76, 2/78, 2/79, 2/84, 2/107, 2/108, 2/109, 2/110, 2/111, 2/112, 2/113, 2/114, 2/115, 2/116, 2/117, 2/123, 2/186, 2/187, 2/188, 3/3, 3/80, 3/86, 3/87 Suffolk: 5/27, 5/29, 5/32	Network Rail Infrastructure Ltd
Kent: 1/1, 1/2, 1/3, 1/4, 1/5, 1/7, 1/8, 1/9, 1/10, 1/11, 1/12, 1/13, 1/14, 1/15, 1/16, 1/17, 1/18, 1/20, 1/21, 1/22, 2/2, 2/3, 2/4, 2/5, 2/6, 2/7, 2/8, 2/10, 2/12, 2/13, 2/14, 2/15, 2/16, 2/17, 2/18, 2/24, 2/27, 2/28, 2/29, 2/30, 2/38, 2/40, 2/42, 2/44, 2/46, 2/47, 2/48, 2/49, 2/50, 2/51, 2/52, 2/53, 2/54, 2/55, 2/56, 2/57, 2/58, 2/59, 2/60, 2/61, 2/62, 2/63, 2/65, 2/66, 2/67, 2/68, 2/69, 2/70, 2/71, 2/72, 2/73, 2/74, 2/75, 2/76, 2/77, 2/81, 2/84, 2/85, 2/91, 2/98, 2/105, 3/59, 3/60, 3/61, 3/65, 4/10, 4/25 Suffolk:	National Grid Electricity Transmission plc

Plots where the project requires rights	Statutory Undertaker
1/49, 1/69, 1/70, 1/71, 1/72, 1/73, 2/10, 2/11, 2/12, 2/14, 2/15, 2/16, 2/17, 2/18, 2/19, 2/20, 2/22, 2/23, 2/24, 2/26, 2/27, 2/28, 2/29, 2/31, 2/32, 2/33, 2/34, 2/35, 2/36, 2/37, 2/38, 2/40, 2/41, 2/99, 3/1, 3/16, 3/17, 3/18	
Kent: 3/71, 3/90, 5/5, 5/6, 5/7, 5/8, 5/17, 5/24, 5/25	Thanet OFTO Limited
Kent: 1/1, 1/7, 1/8, 1/10, 2/81, 2/82, 2/83, 3/41, 3/44, 3/46, 3/47, 3/49, 3/52, 3/53, 3/54, 3/66, 3/67, 3/68, 3/70, 3/74, 3/75, 3/77, 3/79, 3/80, 3/81, 3/85, 3/86, 3/87, 3/91, 3/92, 3/93, 3/94, 3/95, 3/96, 3/97, 4/5, 4/6, 4/7, 4/10, 4/11, 4/12, 4/13, 4/19, 4/22, 4/23, 4/25, 4/26, 4/27, 6/1	Southern Water Services Limited
Kent: 1/2, 1/5, 1/7, 1/14, 1/18, 1/19, 2/12, 2/15, 2/27, 2/35, 2/36, 2/39, 2/40, 2/41, 2/42, 2/45, 2/49, 2/50, 2/51, 2/54, 2/55, 2/58, 2/60, 2/62, 2/63, 2/64, 2/65, 2/73, 2/83, 2/84, 2/85, 2/86, 2/145, 2/146, 2/149, 2/150, 2/151, 2/152, 2/155, 2/156, 2/157, 2/158, 2/159, 2/168, 2/173, 2/174, 2/180, 3/2, 3/7, 3/8, 3/42, 3/43, 3/47, 3/48, 3/52, 3/53, 3/54, 3/55, 3/56, 3/57, 3/58, 3/59, 3/60, 3/61, 3/62, 3/74, 3/75, 3/77, 3/78, 3/79, 3/80, 3/82, 3/84, 3/85, 3/87, 3/88, 3/90, 3/91, 3/92, 3/95, 3/96, 3/97, 4/6, 4/10, 4/11, 4/13, 4/18, 4/19, 4/21, 4/22, 4/23, 4/25, 4/26, 4/27, 6/1, 6/4, 6/5, 6/6 Suffolk: 1/11, 1/25, 1/49, 1/69, 1/70, 2/1, 2/3, 2/5, 2/6, 2/7, 2/8, 2/9, 2/10, 2/11, 2/12, 2/14, 2/15, 2/20, 2/24, 2/25, 2/42, 2/43, 2/44, 2/73, 2/77, 2/84, 2/86, 2/88, 2/89, 2/90, 3/2, 3/5, 3/10, 3/11, 3/12, 3/14, 3/15, 3/16, 3/19, 3/20, 3/21, 3/22, 3/34, 3/39, 3/40, 4/5, 4/7, 4/16, 4/18, 5/14, 5/17, 5/18, 5/19, 5/21, 5/22	UK Power Networks Services (Southeast) Limited
Kent: 1/1, 1/2, 2/81, 2/82, 2/83, 3/2, 3/4, 3/5, 3/6, 3/9, 3/11, 3/13, 3/15, 3/16, 3/18, 3/19, 3/22, 3/23, 3/25, 3/26, 3/35, 3/67, 3/68, 3/88, 3/90, 3/91, 3/92, 3/97, 4/4, 4/10, 4/12, 4/13, 4/18, 4/19, 4/21, 4/22, 4/23, 4/24, 4/26, 4/28, 6/1, 6/6 Suffolk: 1/1, 1/12, 1/14, 1/15, 1/16, 1/18, 1/25, 1/32, 1/50, 1/72, 2/2, 2/3, 2/4, 2/27, 2/28, 2/31, 2/40, 2/43, 2/44, 2/49, 2/51, 2/52, 2/53, 2/55, 2/73, 2/77, 3/4, 3/5, 3/31, 3/32, 3/33, 3/34, 3/35, 3/37, 4/1, 4/7, 4/12, 4/13, 5/14, 5/17, 5/18, 5/19, 5/22, 6/3, 6/6	Openreach Limited

Plots where the project requires rights	Statutory Undertaker
Kent: 3/68, 3/70, 5/3, 5/4, 5/6	National Grid Ventures Limited
Kent: 2/110, 2/114, 2/116	OCU Group Limited
Suffolk: 1/2, 1/4, 1/5, 1/7, 1/8, 1/9, 1/10, 1/11, 1/13, 1/14, 1/15, 1/16, 1/17, 1/18, 1/20, 1/21, 1/22, 1/23, 1/24, 1/25, 1/26, 1/27, 1/28, 1/29, 1/30, 1/31, 1/32, 1/33, 1/34, 1/35, 1/36, 1/37, 1/38, 1/39, 1/40, 1/41, 1/42, 1/43, 1/44, 1/45, 1/46, 1/47, 1/48, 1/49, 1/52, 1/56, 1/57, 1/58, 1/60, 1/62, 1/63, 1/64, 1/66, 1/67, 2/1, 2/5, 2/6, 2/7, 2/20, 2/73, 2/77, 3/17, 3/25, 3/26, 3/29, 3/31, 3/32, 3/33, 3/36, 3/38, 3/39, 3/40, 4/2, 4/4, 4/5, 4/6, 4/8, 4/9, 4/10, 4/11, 4/14, 4/15, 4/16, 4/17, 4/19, 4/24, 4/25, 4/26, 5/1, 5/2, 5/27, 5/29, 5/32	Anglian Water Services Limited
Suffolk: 1/12, 1/13, 1/15, 1/16, 1/17, 1/19, 1/31, 1/32, 1/39, 1/43, 1/45, 1/47, 1/60, 1/62, 1/63, 1/64, 1/66, 1/68, 2/20, 2/40, 2/43, 2/49, 2/52, 2/55, 2/57, 2/58, 2/59, 2/61, 2/65, 2/66, 2/77, 2/84, 2/86, 5/14, 5/17, 5/19, 6/3	Essex and Suffolk Water Limited
Suffolk: 1/2, 1/4, 1/5, 1/7, 1/8, 1/9, 1/10, 1/11, 1/12, 1/49, 1/50, 1/53, 1/54, 1/58, 1/61, 1/62, 1/63, 1/64, 1/65, 1/66, 1/67, 1/68, 2/5, 2/6, 2/7, 5/14, 5/17, 5/19, 5/27, 5/29, 5/32	Cadent Gas Limited
Suffolk: 1/49, 1/69, 1/70, 1/71, 1/72, 1/73, 2/4, 2/8, 2/9, 2/10, 2/11, 2/12, 2/13, 2/14, 2/15, 2/16, 2/17, 2/18, 2/20, 2/35, 2/36, 2/37, 2/38, 2/42, 2/46, 2/47, 2/48, 2/57, 2/58, 2/59, 2/60, 2/61, 2/63, 2/64, 2/65, 2/68, 2/69, 2/70, 2/71, 2/72, 2/78, 2/79, 2/99, 3/17	ScottishPower (UK) Renewables Limited
Suffolk: 4/1, 4/13, 5/14, 5/17, 5/19	Virgin Media Limited
Suffolk: 3/34, 3/35, 3/37, 3/40, 4/1, 4/3, 4/4	EXA Networks Limited
Suffolk: 4/1, 4/13, 5/14, 5/17, 5/19	Vodafone Limited

Plots where the project requires rights	Statutory Undertaker
Suffolk: 1/1	Cityfibre Holdings Limited

- 7.3.2 Sections 127 (5 and 6) of the Act provides that a DCO may only authorise the compulsory acquisition of rights over statutory undertakers' land where a representation has been made by the statutory undertaker objecting to the acquisition and the Secretary of State is satisfied that:
- the rights can be acquired without serious detriment to the carrying on of the undertaking, or
 - any consequential detriment to the carrying on of the undertaking can be made good by the undertaker by the use of other land belonging to or available for acquisition by the undertaker.
- 7.3.3 Section 138 of the Act is engaged by Article 40 of the DCO. This article would permit National Grid to extinguish or relocate the rights or apparatus of statutory undertakers. Such power may only be included in the DCO if the Secretary of State is satisfied the extinguishment or removal is necessary for the authorised development. The construction of the Scheme will require interference with statutory undertakers' land and the possible relocation of their apparatus. However, the exercise of such powers will be carried out in accordance with the protective provisions which set out constraints on their exercise with a view to safeguarding the statutory apparatus owners' interests. National Grid therefore considers that the test set out section 138 of the Act is satisfied.
- 7.3.4 The protective provisions are set out in detail in Schedule 14 of the **Application Document 3.1 draft Development Consent Order**. Part 1 of Schedule 14 includes provisions to protect electricity, gas, water and sewage undertakers and include provisions for alternative apparatus which allows the undertaker(s) to fulfil their statutory functions in a manner not less efficient than previously. Part 2 of Schedule 14 provides protection for operators of electronic communications code networks whereby if the proposed project causes damage to that network, the undertaker shall bear and pay the costs reasonably and properly incurred and make such damage good.
- 7.3.5 National Grid therefore considers that the tests set out in section 127 and section 138 of the Act are satisfied.

7.4 Other Consents

- 7.4.1 The DCO would be the principal consent required to allow the proposed project to proceed. In addition, there are other consents, licences and permissions that National Grid would require from authorities such as the Environment Agency and Natural England to allow certain elements of the development to proceed. Further detail is located in section 2.5 of the **Application Document 7.1 Planning Statement**.
- 7.4.2 National Grid is in discussion with all relevant bodies and is not aware of anything that is likely to prevent the grant of consent.

- 7.4.3 The need for these other consents does not therefore present any obstacle to the implementation of the proposed project.

8. Human Rights and Equalities

8.1 The Protected Rights

- 8.1.1 The European Convention on Human rights (the Convention) was applied within UK domestic law by the Human Rights Act 1998.
- 8.1.2 The articles of the Convention that are relevant when determining whether a DCO should be made which includes powers of compulsory acquisition are Article 1 of the First Protocol to the Convention, Article 6 and Article 8.
- 8.1.3 Article 1 of the First Protocol to the Convention protects the right of everyone to the peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to the relevant national and international laws and principles.
- 8.1.4 Article 6 entitles those affected by powers sought for the proposed project to a fair, public hearing by an independent and impartial tribunal. These requirements could be secured by the availability of judicial review if the decision-making is not considered to be independent within the meaning of Article 6.
- 8.1.5 Article 8 protects private and family life, home and correspondence. No public authority can interfere with these interests except if it is in accordance with the law and is necessary in the interest of national security, public safety, or the economic well-being of the country. As with Article 1 of the First Protocol to the Convention, any interference if justified, must be proportionate. The proposed Project has the potential to infringe the human rights of persons who hold interests in the Order Land. Such infringement can be authorised by law provided the appropriate statutory procedures for making the DCO are followed and a compelling case in the public interest is made for the compulsory acquisition and the interference with the convention right is proportionate. On the basis of decisions of the courts, the test of proportionality is satisfied if the DCO strikes a fair balance between the public benefit sought and the interference with the rights in question. National Grid has weighed the potential infringement of convention rights in consequence of the inclusion of compulsory powers within the DCO with the potential public benefits if the DCO is made.
- 8.1.6 Appropriate consultation took place for the project, statutory consultation October 2023 – December 2023; targeted consultation July 2024 to August 2024 and pre submission engagement with targeted consultation November 2024 to January 2025. The opportunity to make representations during the examination has also allowed representations and objections to be made which may be considered by the Secretary of State if not resolved. Furthermore, those directly affected by the Order (i.e. the landowners and interests of the land required for the project) would in principle be entitled to statutory compensation in accordance with the Compensation Code.
- 8.1.7 National Grid has concluded that the significant public benefits of the project outweigh the effects of the DCO upon persons who own property in the Order Limits such that there would not be a disproportionate interference with their Article 8 and Article 1 First Protocol rights. The need for the project is well established and is of national importance, as detailed in the **Application Document 7.2 Strategic Options and Back Check Report**, those affected by the exercise of compulsory acquisition or temporary

use powers would in principle be entitled to compensation and National Grid has the resources to provide such compensation.

- 8.1.8 As for Article 6, third parties were able to make representations on the application for development consent while it was being prepared. In accordance with Part 5 of the Act, the Applicant consulted persons set out in the categories contained in section 44 of the Act. This included the known owners and occupiers of land within the Order Limits and those who might be able to make claims either under section 10 of the Compulsory Purchase Act 1965 in respect of injurious affection, or under Part 1 of the Land Compensation Act 1973. The beneficiaries of restrictive covenants and other rights that would be overridden by the exercise of powers in the DCO would be capable of making claims under section 10 of the Compulsory Purchase Act 1965. Furthermore, third parties were able to make representations by way of objections to the application in response to notices given under section 56 of the Planning Act 2008 ('Notifying persons of accepted application'). The Act provided for a detailed examination of the application for development consent by an independent Examining Authority. The Examination includes careful scrutiny of any powers of compulsory acquisition or other compulsory powers, to ensure that they are justified and proportionate. Whilst the Examination has mainly been conducted in writing, the Examining Authority has held two Compulsory Acquisition Hearings. All affected persons were invited to these and had the opportunity to make oral representations about the compulsory acquisition requests. Should the DCO be made, a person aggrieved may challenge the DCO by judicial review in the High Court if they consider that the grounds for doing so are made out. In relation to disputes about compensation, affected persons have the right to apply to the Lands Chamber of the Upper Tribunal.
- 8.1.9 For the above reasons, National Grid considers that the inclusion of powers of compulsory acquisition in the draft DCO would not constitute any unlawful interference with Convention Rights and further that it would be appropriate and proportionate to make the draft DCO, including the grant of powers of compulsory acquisition.

8.2 Consideration of Duties Under the Equality Act 2010

- 8.2.1 The proposed Project seeks to limit the impact on personal and business property as set out above. Notwithstanding this, the proposed Project would require limited permanent acquisition of land and acquisition of permanent rights, as set out in Chapter 6 of this Statement. In addition, to limit the impact, wherever possible National Grid is seeking temporary use powers only, for example where land required is for construction of the proposed project only.
- 8.2.2 National Grid has taken into account the duties under section 149 of the Equality Act 2010 and has had due regard to the need to (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by or under the Equality Act 2010; (ii) advance equality of opportunity between persons who share a protected characteristic and persons who do not share it; and (iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. In terms of engagement with communities, various rounds of consultation took place for the project including statutory consultation October 2023 – December 2023; targeted consultation July 2024 to August 2024 and pre submission engagement with targeted consultation November 2024 to January 2025. Representations can also be made in the context of the draft DCO application process, which allows objections to be made which may be considered by the Secretary of State if not resolved. Furthermore, those directly affected by the Order (i.e. the landowners and those with other interests in the

land required for the project) would be entitled to statutory compensation, subject to a validation exercise for the appropriate element of the Compensation Code. National Grid has conducted an Equalities Impact Assessment which explains how it has had regard to the public sector equality duty in the context of the application for development consent for the proposed Project. See **Application Document 7.9 Equalities Impact Assessment**.

9. Conclusions

9.1 Conclusions

- 9.1.1 This Statement provides an explanation and reasoning for why it is necessary and justifiable for the draft DCO to contain the rights and powers sought, referred to in Chapter 4 of this Statement. The matters addressed in this Statement may be summarised as follows:
- 9.1.2 Introduction – This provides an overview of this Statement including why this project is a NSIP and why a draft DCO is being submitted to acquire land and rights.
- 9.1.3 The Need for the Project – EN-1 and EN-5 set out that it is critical that the UK continues to have secure and reliable supplies of electricity as part of the transition to a low carbon economy.
- 9.1.4 The Project – This provides an outline of the Proposed Project the installation of underground cables, converter stations and substations. It also identifies the environmental measures that are required to enable National Grid to construct, operate and maintain the project in line with their corporate policy and government guidance.
- 9.1.5 Compulsory Acquisition - This chapter sets out the Classes of Rights to be acquired as set out in the **Application Document 2.3 Land Plans** and the **Application Document 4.3 Book of Reference**. The chapter further explains the draft DCO articles to be relied upon if National Grid cannot obtain the land and rights required for the project by voluntary agreement. National Grid considers that the powers sought in the draft DCO as set out in this chapter are reasonable, proportionate and necessary to deliver and thereafter maintain the Scheme.
- 9.1.6 The Order Land and Persons with Interest in Land - This chapter describes the nature and extent of the Order Land, including the existing use of the land, the majority of which is agricultural land with some protected areas, which have been identified by the project and assessed in full in the Environmental Statement. It describes the land referencing process undertaken to identify Persons with an Interest in Land in Categories 1, 2 and 3. It also sets out what negotiations have taken place to date and identifies that further detail can be found in Appendix B of this Statement.
- 9.1.7 Justification for the powers of compulsory acquisition – This chapter identifies the tests set out in Section 122 of the Act that govern the grant of powers of compulsory acquisition and explains how those tests have been satisfied. In particular, it explains that there is a compelling case in the public interest for the inclusion of CA powers based on the need to ensure the timely delivery of the project, for which there is a national need. Chapter 6 also summarises the alternatives considered, and explains how the powers sought are legitimate, necessary and proportionate. Finally, the chapter concludes that the **Application Document 4.1 Funding Statement** demonstrates that there is a reasonable prospect of the requisite funds being available to fund all aspects of the project.
- 9.1.8 Special Considerations - The project would affect land categorised as Special Category Land in the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. In this case, National Trust Inalienable Land and Open Space are

affected. There is however no permanent land acquisition of Special Category Land, only the acquisition of rights.

- 9.1.9 Chapter 7 also sets out the affected Statutory Undertakers and the proposals to ensure their statutory operations are not detrimentally affected by the project, specifically the protective provisions set out in the draft DCO.
- 9.1.10 Human Rights (Chapter 8) – sets out the legislation that the project has consideration to in relation to the rights of the public and duties of National Grid and the Secretary of State in making, granting, constructing, operating and maintaining the project. National Grid has concluded that the significant public benefits outweigh the effects of the draft DCO upon persons who own property in the Order Limits such that there would not be a disproportionate interference with their Article 8 and Article 1 First Protocol rights. National Grid has also taken into account the duties under section 149 of the Equality Act 2010 and has carried out activities such as undertaking consultation exercises with stakeholders. For the reasons set out in Chapters 2 to 8, particularly the **Application Document 7.2 Strategic Options and Back Check Report** the inclusion of powers of compulsory acquisition within the draft DCO in respect of land and rights in land as set out in the **Application Document 4.3 Book of Reference** and shown on the **Application Document 2.3 Land Plans** is justified, and the draft DCO should be granted containing these powers.

References

Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended). (n.d.).

Electricity Act 1989 (s38, Schedule 9). (n.d.)

Planning Act 2008. (n.d.).

Equalities Act 2010. (n.d.).

Human Rights Act 1998. (n.d.).

Climate Change Act 2008. (n.d.).

Acquisition of Land Act 1981. (n.d.).

Land Compensation Act 1965. (n.d.).

Compulsory Purchase (Vesting Declarations) Act 1981. (n.d.).

National Trust Act 1907. (n.d.)

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