



Your reference EN020027

Our reference [REDACTED]

21 July 2026

BY EMAIL TO:
norwichtotilbury@planninginspectorate.gov.uk

National Infrastructure Planning
Temple Quay House
2 The Square
Bristol
BS1 6PN

Dear Sirs

DCO Scheme: Norwich to Tilbury Project

Our client: Network Rail Infrastructure Limited

Registered Party Reference: [REDACTED]

Applicant: National Grid Electricity Transmission

Subject: Network Rail Infrastructure Limited's Response to Further Information Request dated 14 July 2026

This Firm is instructed by Network Rail Infrastructure Limited (**NR**) in relation to the DCO Scheme and we write in response to the Request for Information dated 14 July 2026.

Question 1.7 – Protective Provisions

Our preferred protective provisions are contained within Appendix 1 of our Relevant Representations [\[RR-2671\]](#) upon which Network Rail continues to rely.

Question 2.4 - Section 127/138 Planning Act

NR has previously made submissions on sections 127 and 138 of the Planning Act 2008 in its Written Representations [\[REP1-252\]](#) and relies on the points raised in those submissions. The present response is supplemental to and should be read together with those earlier submissions.

While NR notes and welcomes the proposed inclusions referred to by the Applicant under 1.7.12, in particular the suggested clause restricting anything which would render railway property incapable of being used/maintained, the requirement for the Applicant to enter into an asset protection agreement or basic asset protection agreement (as appropriate) and the approval of plans for specified works, these measures alone do not provide sufficient protection for the purposes of sections 127 and 138 of the Planning Act 2008. Those provisions principally regulate the review, design and execution of works in proximity to the railway. They do not adequately restrict or regulate the separate exercise of the Applicant's compulsory acquisition powers over railway property, rights, easements, access arrangements and operational assets.

The relevant statutory question under section 127 is whether the rights sought can be acquired without serious detriment to the carrying on of NR's undertaking, or whether any detriment can be made good by the use of other land. The distinct question under section 138 is whether any extinguishment of rights or removal of apparatus is necessary for carrying out the development. In NR's view, the proposed measures identified by the Applicant do not sufficiently address those statutory tests. What is required

for that purpose is an effective restriction on the exercise of compulsory acquisition powers affecting railway property, rights and assets without NR's consent, such consent not to be unreasonably withheld or delayed.

The purpose of the proposed restriction in NR's preferred protective provisions is not intended to prohibit progress of or frustrate the Scheme. Rather, it is intended to ensure that compulsory acquisition powers affecting railway property, easements, access rights, apparatus and other operational assets cannot be exercised unless and until their effect on NR's undertaking has been properly assessed and appropriate protections are in place. That control is necessary to give practical effect to the statutory protections for statutory undertakers. NR's consent in this regard would not be unreasonably withheld or delayed.

NR acknowledges the Applicant's statements at 1.7.10, 1.7.11 and 1.7.15 that any proposed rights to be acquired are intended to co-exist with NRIL's rights and assets. However, the fact that rights may legally co-exist does not mean that their compulsory acquisition would be free from operational conflict or constraint in practice. The acquisition of rights without adequate control, and without the ability to assess fully their scope, timing and operational consequences before vesting, could cause serious detriment to the carrying on of NR's undertaking should compulsory acquisition powers be exercised.

For the purposes of section 127(5) and (6), NR does not consider that the Applicant has demonstrated that the rights sought can be acquired without serious detriment to the carrying on of its undertaking. Nor has the Applicant demonstrated that any detriment could be made good by the use of other land. In the case of operational railway access rights, maintenance corridors and interfaces with railway structures, there is frequently no realistic substitute "other land" capable of performing the same operational function.

By way of example, where NR holds the benefit of access rights necessary to enable it to inspect, maintain and repair operational track, the Applicant could seek similar overlapping access rights to install and maintain its own infrastructure (e.g. overhead cables). Even if such rights do not formally extinguish NR's own rights, this could interfere with or constrain their exercise in practice. That may, in turn, delay critical maintenance, repairs, emergency access or other safety related functions to ensure railway safety. Requiring NR's consent prior to acquisition of rights would enable the likely effects of those rights to be assessed in advance and, where appropriate, regulated through tailored protections or interface arrangements so as to manage interference and any co-existence of the proposed rights.

NR welcomes the Applicant's engagement with NR's technical teams as set out in paragraph 1.7.18 in respect of construction traffic using railway crossings, access routes and other railway interfaces and expects those discussions to continue. However, should the Applicant be able to exercise compulsory acquisition powers affecting such rights or interfaces without adequate protective control, that could adversely affect NR's ability to manage safe access and egress across the railway, protect the existing access arrangements and maintain operational control of safety-critical interfaces.

So far as section 138 is concerned, NR does not consider that the Applicant has demonstrated the necessity for powers of extinguishment or removal in the breadth proposed insofar as they may affect railway rights or apparatus. Asset protection agreements, basic asset protection agreements and approval of plans for specified works may regulate the manner in which works are carried out near the railway, but they do not in themselves establish that extinguishment, removal or interference with railway rights or apparatus is necessary for carrying out the development.

NR notes the Applicant's reliance on the Cambridge Waste Water Treatment Plant Relocation Development Consent Order. That decision turned on its own facts, the particular rights sought and the protective provisions in issue. It does not establish that asset protection arrangements and plan approval will always be sufficient to satisfy sections 127 and 138 where operational railway land and rights are affected.

NR and the Applicant remain in discussions regarding an appropriate side agreement and the form of protective provisions. However, material issues remain outstanding, including the need for an effective restriction on the exercise of compulsory acquisition powers affecting railway property, rights and apparatus without NR's consent.

Should you have any queries, please don't hesitate to contact us on the details below.

Yours faithfully

[Redacted signature block]

Addleshaw Goddard LLP

Direct line

[Redacted]

[Redacted]