Planning Inspectorate
C/O Quadient
69 Buckingham Avenue
Slough
SL1 4PN

Date: 4 August 2026

Our ref:
6630\1253397846.1\217769.00001

[redacted]

E-mail:
[redacted]@gateleylegal.com

norwichtotilbury@planninginspectorate.gov.uk

Dear Examining Authority,

Our Clients: Thornbush Energy Limited (F958B2796) and H&O Godbold Limited [redacted])
Scheme: Norwich to Tilbury Electric Line Above Ground
Applicant: National Grid Electricity Transmission (NGET)
Representation and response to Deadline 8

On behalf of Thornbush Energy Limited and H&O Godbold Limited ("Clients") we are responding to the invitation by the Examining Authority (**ExA)** to provide closing statements from interested parties with a summary of matters that they have previously raised during the examination which have not been resolved to their satisfaction.

We attach:

1. A chronology of meetings to discuss matters prepared by [redacted] of Landbridge;
2. Letter from Bryan Cave Leighton Paisner to Gateley dated 21 May 2026.

We would also like to remind the ExA of our previously submitted representations, in particular to the sworn first witness statements of Stephen Baker and Anita Kasseean that were submitted to the Examination at the beginning of this DCO process in late December 2025.

Paragraph 2.6.3 of NPS EN-5 provides:

> ***2.6.3 As a <u>last resort</u>, where it does not succeed in reaching the agreement that it requires, the network company may, as part of its application to the Secretary***

of State, seek to acquire rights compulsorily over the land in question by means of a provision in the DCO.

Importantly, the witness statement of Anita Kasseean records and evidences both that meetings and discussions to then had been on an open basis (not subject to "without prejudice") (and that has remained the case to date) and, further, in particular she evidences that the agent of UKPN volunteered in December 2025 at the meeting that as at that date no agreement remained possible between NGET and UKPN and with our Clients (Mr Baker, Thornbush Energy Limited (F958B2796) and H&O Godbold Limited) *because* NGET and UKPN and BT Openreach (and two other utilities he referred to) had not yet agreed a development agreement between the 5 of them as at December 2025 and that that agreement was anticipated to be agreed in the Spring of 2026. That is, only after that 5 way agreement between those utilities had been actually agreed could any land agreement be made with my Clients. It is correct to note, as Miss Kasseean noted in her evidence and my Clients did also, that it follows that there was to the date of December 2025 no possible meaningful discussions or negotiations with my Clients nor unless and until that 5-way agreement could there be. At Deadline 8, 4 August 2026, that situation remains the case. The ExA is invited to read carefully her evidence because it proves that NGET included Part V powers in its Application dated 29 August 2025 not as the "last resort" required by paragraph 2.6.3 of NPS EN-5, but as a "first resort" and unlawfully did so.

We respectfully request that the ExA recommend the disapplication of Part V powers of the proposed draft DCO to the whole of my Clients' land because otherwise NGET and UKPN will profit from their breach of Parliament's protection provided by paragraph 2.6.3 and most widely profit, at the private expense of my Clients (and no doubt all other private affected parties).

It is clear from the most limited progress in relation to our Clients who have always and continue to maintain the utmost continuing willingness to enter into voluntary agreements for works in and over their land, conduct negotiations with NGET and their agents and UKPN since November 2025 – that NGET and UKPN need more time to begin to meaningfully engage and discuss matters with them.

The fact that the particular NSIP is comprised of many different segments (pylons with cables between each) shows that the exclusion of Part V powers from their land would not result to prevent the NSIP from being carried out per se and would enable NGET and UKPN to address their minds to this land extent and conclude detailed terms in the same way as they have recently agreed terms with Cadent Gas.

Section 153 and Schedule 6 of the Planning Act 2008 would enable NGET (and potentially UKPN) to apply to modify the DCO (If granted) to instate the Part V provisions as a properly evidenced and lawful "last resort". Such an approach would ensure that NGET and UKPN could not profit from their respective flagrant breaches of paragraph 2.6.3 and also of compulsory purchase principles of law referred to in the Submissions of Mr Zwart in December 2025.

In that context, my Clients now find themselves at the door of the final part of the Examination in August 2026 and yet cannot with certainty know the timetable that all parties are working to and how much work has to be undertaken by them to resolve matters between the parties.

There is also lack of transparency of future meetings or an indication as to how much time will be required to conclude agreements between the parties. There is no road map.

The Examiners will recall that [redacted] of Counsel attended the CAH2 on behalf of my Clients and advised the **ExA** that Heads of Terms were issued by NGET in 2025 after the date of the 29 August 2025 Application being made and before the December 2025 meeting at which UKPN evidenced that they could not actually be agreed until a development agreement had yet to be agreed between NGET and UKPN and BT (to name but 3 of the 5 required first). Such an approach by NGET to apparently create the mere appearance of a paper trail of meaningful negotiations at the same time as NGET knew it could not agree terms with my Clients is cynical in the extreme and must not be rewarded by inclusion of Part V powers in respect of my Clients' land.

[redacted] further noted the spartan meetings that followed by a meeting in December 2025 and subsequent meetings on 10 March 2026 and 22 April 2026 etc, and it remains clear why matters have not progressed. As my Clients originally submitted in December 2025, it remains the evidenced case that NGET and UKPN are not engaging in any meaningful discussions or negotiations because they well knew and know that they cannot absent the 3 or 5 way development agreement. A couple more meetings have taken place since then but so far no revised heads of terms have been received and certainly nothing has been concluded by way of formal agreement as has been the case recently with Cadent Gas. This indicates that NGET and UKPN have failed to reach the required 3 or 5 way agreement to enable an concluded agreement in respect of my Clients' land and are significantly under resourced and so (understandably perhaps) themselves need more time to engage with each other and with my Clients.

Removal of Part V powers of the draft DCO would enable all parties to discuss matters as close as possible to the position required by paragraph 2.6.3 of NPS EN-5 – without the particular threatening shadow or time constraints existing at this time as a result of NGET's flagrant breach of Parliament's protection for my Clients.

Instead, our Clients have been advised that a revised set of Heads of terms will be issued sometime in August 2026. We do not know when. Again, this reinforces the need by NGET for more time and the need for the disapplication of Part V powers in the draft DCO being recommended by the ExA as unlawful and otherwise not in compliance with paragraph 2.6.3 as above.

In line with the ongoing and historic open nature of dialogue between my Clients and NGET and UKPN, the most recent meeting contained further terms but we do not even know how these are to be reflected and confirmed in the revised set of terms which are yet to be received.

We have also emphasised the importance of our continuing to negotiate and reach agreement but have also explained the unsatisfactory position that our Clients finds themselves in which is that the Examination is coming to a close, a meeting may/is due to take place on 10 August 2026 and yet there is still no sign of a revised heads of terms. Again, this reinforces the need by NGET for more time and the need for the disapplication of Part V powers in the draft DCO being recommended by the ExA as unlawful and otherwise not in compliance with paragraph 2.6.3 as above.

We know that the project is under resourced and yet we also know that there have been agreements completed with other parties which would suggest that we are being treated as less important even though access to our Clients' land is required and Compulsory acquisition is proposed to support this project. They feel that they are at the end of a very long line even though they have always been more than willing to negotiate and help the Applicants who want this scheme.

There also remains a failure to demonstrate a joined-up approach between NGET with UKPN as at Deadline 8 - 4 August 2026, that reflects and evidences the ongoing absence of agreement of a development agreement described by the UKPN agent to my Clients at the December 2025 meeting referred to above between NGET, UKPN, BT and 2 other utilities, and indeed other arms of NGET in respect of UKPN's desires for part of the Scheme. There is no evidence that a utilities development agreement has been agreed yet or when it is likely to be agreed between the 3 utilities (including BT) or the 5 mentioned by the UKPN agent in December 2025, to which the UKPN also described as a necessary but outstanding precondition in December 2025 that in fact precluded agreement by NGET and UKPN with my Clients pending the outstanding utilities agreement as between themselves (and BT and others). We were told by BCLP in May 2026 in response to our request for a multi-party agreement that NGET's expectation is that any concerns are fully capable of being addressed through continued engagement as part of the HOTs process, alongside a commitment to future multi-party meetings to ensure joined up working practices between the relevant parties. This evidences that NGET maintains the charade of a meaningless discussion process in the face of the evidence of UKPN in December 2025. This is quite simply not good enough and restates the position at December 2025 that a development agreement is far from being agreed. This is also unlawful and in breach of paragraph 2.6.3 as referred to above. Our own previous representations and evidence demonstrate that a failure as here by NGET (and also UKPN) to engage meaningfully with affected persons can weigh in the public interest – here in the <u>national</u> public interest - against the inclusion of compulsory acquisition powers such as are proposed by this DCO over my Clients land (not to mention the land of other affected private parties) and here, by reason of paragraph 2.6.3 of NPS EN-5, that public interest is of national importance and supports the disapplication of Part V DCO powers from my Clients' land.

The national policy recognises that electricity network projects often require extensive land rights and that compulsory acquisition powers may be necessary but their very complexity from their length demands an earlier start and not tardy approach as here. The NPS expects applicants to:

1. Engage with affected landowners and occupiers at an early stage.
2. Seek to secure rights by voluntary agreement wherever possible as a "last resort".
3. Demonstrate that negotiations have been pursued seriously and in good faith before inclusion of powers of CPO in a draft DCO and not as a mere parallel insurance of land to be acquired.
4. Provide evidence explaining why compulsory powers remain necessary for any land not secured. That is, the CPO powers can only be lawfully necessary if concluded terms cannot be reached and in consequence compulsion is then 'needed'. The NPS guidance need does not justify in itself the inclusion of CPO powers as that would short circuit and obviate section 122(1) of the Planning Act 2008.

EN-5 is reinforced by the Government's Planning Act 2008 Compulsory Acquisition Guidance (not an NPS itself), which assumes that the proposed CPO powers have only been included as a "last resort" and not as mere "insurance" and in that context which expressly encourages that such negotiation continue in parallel with the DCO process notwithstanding their conclusion may have resulted in the use of CPO powers as a "last resort", and states that applicants should seek agreements wherever practicable nevertheless. The words "in parallel" are particularly important here as they assume that meaningful negotiations begin before and are unsuccessfully concluded <u>before</u> CPO powers were considered to be included in an application. If it were otherwise, then there would be no evidence of "need" for the CPO powers. Our clients are being asked to wait for revised heads of terms which seemingly will be offered outside the DCO process that is seeking to acquire their land and rights. The Secretary of State can only authorise compulsory acquisition where there is also a "compelling" case in the public interest. As was the case in the Nicholson Quarter CPO where even a clear need was rejected due to the lack of meaningful discussions and negotiations with one landowner and resulted in a refusal by the Inspector on behalf of the Secretary of State to confirm the CPO.

We maintain that poor engagement in this process can unfortunately undermine that case because it would demonstrate that the Applicant has not properly exhausted less intrusive alternatives. We would argue here that there is an apparent lack of engagement with our clients which demonstrates this has not been done.

Against that policy and guidance framework, the Applicant's engagement with our clients has been absent from the outset and since December 2025 has been materially deficient and the Applicant has not demonstrated that it has genuinely sought prior to 29 August 2025 nor until most recently to acquire the relevant interests by voluntary agreement. That absence is evidence that the UKPN agent in December 2025 properly set out the true factual position as at that date: neither NGT nor UKPN were in a position and could agree terms with my Clients before a development agreement had been concluded between the utilities involved: NGET, UKPN and BT.

In particular:

- Our client has still at Deadline 8 not been provided with clear and finalised information identifying precisely what land and rights are said to be required, why they are required, and whether alternatives have been considered.
- The Applicant has not provided a sufficiently clear explanation of the relationship between the powers sought in the draft DCO and the actual operational requirements of the project and has not provided adequate information to enable meaningful negotiation on heads of terms. Moreover, the Applicant has not demonstrated that any failure to reach agreement is attributable to the landowner rather than to the Applicant's own lack of clarity or lack of engagement i.e. such as is the case here.

This pattern by NGET remains entirely consistent with the evidence described to my Clients in the open meeting of December 2025 and which, again, I invite the ExA and Secretary of State to read, digest and most carefully consider.

The ExA will be aware this is particularly serious situation where the Applicant cynically seeks rights to take and to take over private land not only for its own benefit but also for the benefit of for example of at least two further parties ("UKPN" comprises two separate companies, and BT appears also to operate the communications along the cables) and if the Applicant is not itself in a position to explain, fix and negotiate the rights required by those third parties over <u>his</u> land, the case for compulsory acquisition is simply absent. The Secretary of State cannot be satisfied that rights are yet known to be required by all parties seeking such rights, let alone that they are no more than reasonably necessary for each relevant party, where the Applicant's own evidence engenders actual uncertainty as to what rights are needed, by whom, when and for what purpose, and subverts its own case for CPO powers.

We are concerned that if the Secretary of State affirms the approach advocated here by NGEY, then he will be doing do so against his own law and policy and the clear terms of paragraph 2.6.3 and Prest common law, and it would set a most dangerous precedent for any future DCO of this magnitude as well as being unlawful here.

We have always maintained on behalf of our Clients that there is not an objective to undermine this project and we remain willing and committed to working with the Applicant to reach a solution. However, we consider that the powers of compulsory acquisition should be removed or disapplied from this DCO, by means of a Protective Provision under section 120(3) and Schedule 5, paragraph 10 of the Planning Act 2008, or a requirement to like effect, or to provide under paragraph 1 of Schedule 5 that no land may be acquired absent an agreement with my Clients, . If not, then NGET and UKPN will be authorised to profit from their breaches of paragraph 2.6.3 of NPS EN-5, and in breach of fundamental principles of common law referred to in our Clients' December 2025 Submissions and evidence.

Our Clients remain committed to concluding a voluntary agreement which can be provided for in this case but maintains that it can only really do so once all parties are joined up as to what is required.

To date however there remains no development agreement between NGET, UKPN and BT Open Reach and therefore we maintain that there has been no meaningful engagement throughout this process which justifies the exclusion of our Clients' land and interests from this DCO.

In conclusion our Clients were driven by NGET's absence of meaningful discussions to object and incur costs, were told by UKPN in December 2025 that a concluded agreement remained impossible with them unless and until a development agreement had been agreed between the 3 utilities at least, and at Deadline 8 - 4 August 2026, remain unable to withdraw their objections and refer the Examining Authority to the representations and *evidence* made to date. We are prepared to review this if final terms are agreed in due course with all relevant parties simultaneously.

If the Examining Authority has any questions in respect of this correspondence it should not hesitate to contact us using the details at the top of this letter.

Yours faithfully

[redacted]

Gateley Legal

APPENDICIES

Our Clients: Thornbush Energy Limited ([redacted]) and H&O Godbold Limited [redacted])
Scheme: Norwich to Tilbury Electric Line Above Ground
Applicant: National Grid Electricity Transmission (NGET)
Representation and response to Deadline 8

<u>Chronology of meetings with NGET</u>

Since the start of the year we have had the following meetings:

23 February 10.30 – 1pm –Dalcour Maclaren –[redacted])– first meeting to discuss UKPN works

10 March 10am – 1 pm - NG N to T – Nick Robinson and Oscar Brown – FG – (WB/SB) additional terms discussed

22 April 2pm – 3pm – NG N to T – [redacted]) (WB/ON/SB)

8 May 2pm – 4pm NG B to T & N -T – [redacted] – first all parties meeting and first with both N-T & B-T

13 May 4.30pm – 5pm – N to T catch up with [redacted] (WB/ON)– discussing option plan, practical points and additional terms

5 June – 1400-1500 – N-T – [redacted] – N-T plus [redacted] (B-T) (WB/ON/SB/KH / KC)

Bryan Cave Leighton Paisner

BRYAN CAVE LEIGHTON PAISNER LLP
Governor's House
5 Laurence Pountney Hill
London EC4R 0BR
United Kingdom
T: +44 (0)20 3400 1000
F: +44 (0)20 3400 1111
DX92 London
bclplaw.com

Date: 21 May 2026
Our ref: TWHI/2026502.000475
DDI: [redacted]
e-mail: [redacted]@bclplaw.com

[redacted]@gateleylegal.com

[redacted]
Gateley Legal
One Eleven Edmund Street
Birmingham
B3 2HJ

Dear [redacted]

Your clients: Thornbush Energy Limited & H&O Godbold Limited
Project: Norwich to Tilbury DCO

1 Thank you for your letter dated 30 April 2026, the contents of which we have discussed with our client, National Grid Energy Transmission PLC ("**NGET**").

Heads of Terms

2 NGET agrees that a version of Heads of Terms ("**HoTs**") relating to the proposed voluntary acquisition of approximately 2.63 acres of your clients' land and rights was shared with William Barton on 22 April 2026, following HoTs initially being sent to Mr Baker on 9 April 2026. These HoTs relate to acquisition by NGET only and so do not relate to any other interface arrangements or any land rights to be acquired by any other party, including UKPN.

3 In its Deadline 4 submission 'Applicant's Response to Compulsory Acquisition Hearing 2 Action Points' ([**REP4-304**]), NGET has explained to the Examining Authority how the NGET HoTs are intended to work alongside the UKPN HoTs, including that coordination measures are intended to provide a clear, coordinated and consistent approach to voluntary land acquisition across both organisations. The aim is to reduce complexity for affected parties, while maintaining appropriate separation between the respective statutory undertakers' legal rights and obligations. The submissions made to the Examining Authority are of direct relevance in the context of ongoing engagement with your clients.

4 It is acknowledged that the NGET HoTs remain in standard form. However, NGET has been engaging extensively with land agents, including your clients' agent William Barton, in relation to the HoTs and, based on feedback received, will be issuing a further version of these HoTs to your clients' agent shortly. It is anticipated that these will be circulated to relevant parties at Deadline 5.

5 The NGET HoTs will, in any case, allow for site specific concerns to be addressed and documented, including as Special Conditions where required. Indeed, taking account of continuing engagement with your clients and their agents, NGET notes that specific matters are already anticipated to be addressed in this manner, with meetings having been held for both Thornbush Energy Limited (8 May 2026) and H&O Godbold Limited (22 April 2026).

6 It is worth noting that Fisher German also met with William Barton on 13 May 2026, with the aim of progressing outstanding actions and other residual points. At the latest meeting, a number of actions were taken which still sit with your clients' agent. NGET look forward to receiving this information in order to advance discussions.

BCLP
Bryan Cave Leighton Paisner

7 NGET has subsequently requested that a regular meeting between the parties is diarised going forwards to ensure that specific matters are addressed through the HoTs.

8 Considered alongside other controls intended to be secured through the wider suite of DCO documentation, NGET considers the use of HoTs to be sufficient to address your clients' concerns relating to the potential future impact on their land interests of works undertaken as a consequence of the Project by other third parties, including UKPN and BT Openreach, as well as in relation to the NGET Bramford to Twinstead ("**BTNO**") project.

Other engagement

9 Separately to discussions relating to the HOTs, representatives from NGET's engineering and design teams have held a number of meetings with the team responsible for bringing forwards the proposed battery storage development scheme on a part of your clients' land, with the ultimate aim of facilitating the delivery of both projects. It is notable that these discussions have been held whilst maintaining the initial confidentiality of the BESS project.

10 As set out in paragraph 6.1.2 of '5.15 Design Development Report' ([APP-122]) the Applicant moved the 400kV JC route gantries (JC1 and JC2) and pylon JC3 around 60 m to the east. This change was made to create space for the BESS substation to the north west corner of the BESS site. This also had consequential changes to move pylons JC4 to JC8 and associated overhead line slightly to the north by approximately 50m. There was also specific discussion regarding the angle pylon to ensure there was space for stringing whilst also seeking to reduce effects on land use. This reduced the potential encroachment of the overhead lines over the BESS area with commitment to also seek to keep the pylons as far north in the corridor as possible albeit dependent on detailed ground investigation and design conclusions. The gantries within the substation were unable to be moved further to the east as the connection point at the Bramford Substation cannot be moved substantially further east as the south-eastern part of the substation is occupied by UK Power Networks (UKPN) and provides the link to the distribution network.

11 The proposed UKPN mitigation diversion works were again altered to minimise impacts where possible, the 132kV PHB and PLD proposed underground cable routes altered to remain to the east and north of the proposed NGET JC route pylons and, as such, the proposed battery storage assets. The UKPN 11kV mitigation works located within the proposed battery storage site works buffer was widened significantly to enable further micrositing of the proposed cable route within the battery storage site once layouts are finalised.

12 Additionally, NGET changed the route of the proposed temporary haul road to construct pylons JC3 through JC7 to come from the east of Bramford Substation and along the northern side of the proposed overhead line route, instead of as presented at the Statutory Consultation from the western side of the substation and along the southern edge of the overhead line route which further impacted the proposed battery storage site.

13 All these changes made to the Project were as a direct consequence of detailed engagement between NGET, the BESS developers and your clients with regards the micrositing of the proposed permanent infrastructure and temporary works of the Project to minimise impacts to the proposed Battery Storage development and to ensure both projects can progress accordingly.

Next steps

14 It is understood that a productive meeting was held on the 23 February 2026 between H&O Godbold Limited and UKPN's representatives.

Bryan Cave Leighton Paisner

15 NGET expects that multi-party meetings will continue and understands that a meeting has been proposed for 5 June 2026. It is intended that representatives from the Norwich to Tilbury Project, the BTNO Project and UKPN will attend. Attendance will be confirmed once both parties have agreed the agenda in advance of the meeting.

16 Taking account of the above, and whilst noting your clients' request for a multi-party agreement with NGET, UKPN and BT Openreach, NGET's expectation is that any concerns are fully capable of being addressed through continued engagement as part of the HOTs process, alongside a commitment to future multi-party meetings to ensure joined up working practices between the relevant parties.

Yours sincerely

[redacted]

Bryan Cave Leighton Paisner LLP