

14th November 2019

**THE INFRASTRUCTURE PLANNING (EXAMINATIONS PROCEDURE) RULES 2010
SOUTHAMPTON TO LONDON PIPELINE PROJECT DEVELOPMENT CONSENT
ORDER**

WRITTEN REPRESENTATION ON BEHALF OF NATIONAL GRID PLC

OBJECTOR REGISTRATION NO. 20022319

REF: AW/2026502.300

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1 INTRODUCTION

- 1.1 National Grid Plc have made a relevant representation in this matter on 12 July 2019 in order to protect apparatus owned by National Grid Electricity Transmission PLC ("NGET"). National Grid Plc does not object in principle to the development proposed by the Promoter.
- 1.2 National Grid does however, object to the Authorised Works being carried out in close proximity to their apparatus in the area unless and until suitable protective provisions and related agreements have been secured to their satisfaction, to which see further at paragraph 5. They also object to any compulsory acquisition powers for land or rights or other related powers to acquire land temporarily, override or otherwise interfere with easements or rights or stop up public or private rights of access being invoked which would affect their land interests, rights, apparatus, or right to access and maintain their apparatus. This is unless and until suitable protective provisions and any necessary related amendments to the wording of the DCO have been agreed and included in the Order.
- 1.3 NGET own and operate the electricity transmission network in England and Wales, with day-to-day responsibility for balancing supply and demand. NGET operate but do not own the Scottish networks. NGET is required to comply with the terms of its Electricity Transmission Licence in the delivery of its statutory responsibility. Under Section 9 of the Electricity Act 1989, NGET have a statutory duty to maintain 'an efficient, co-ordinated and economical' system of electricity transmission.

2 NGET ASSETS

- 2.1 National Grid Electricity Transmission PLC ("NGET") has high voltage electricity overhead transmission lines and underground cables within the Order or in very close proximity to the authorised development. Details of these assets are as follows:

- (a) 4YC (400kV) overhead line route;
- (b) VB (400kV) overhead line route;
- (c) ZH (275kV) overhead line route;
- (d) ZC (275kV) overhead line route;
- (e) VW (275kV) overhead line route;
- (f) Laleham 1.132kV Substation;
- (g) Laleham 2.275kV Substation;
- (h) Underground fibre cables within or in close proximity to the proposed order limits;

as more specifically detailed in the plans at Appendix 1.

- 2.2 The overhead lines, substations and underground cables form an essential part of the electricity transmission network in England and Wales. NGET will require the Promoter to enter into crossing agreements in respect of crossings of any of their buried apparatus (cable routes).
- 2.3 In respect of all NGET infrastructure located within the DCO boundary, or in close proximity to the proposed project and associated works, NGET will require protective provisions to be put in place to ensure (i) that all NGET interests and rights including rights of access are unaffected by the power of compulsory acquisition, grant and extinguishment of rights and temporary use powers and (ii) to ensure that appropriate protection for the retained apparatus is maintained during and after construction of the project. This includes compliance with all relevant standards on safety clearances EN 43 -8, Development near overhead lines and HSE Guidance Note GS6 Avoiding Danger from Overhead Electric Lines. In this instance the safe working under and around the overhead lines and buried cables is of particular concern.

3 NGET - REGULATORY PROTECTION FRAMEWORK

- 3.1 NGET have issued guidance in respect of standards and protocols for working near to Electricity Transmission equipment in the form of:
- 3.1.1 Third Party Working near National Grid Electricity Transmission equipment - Technical Guidance Note 287. This document gives guidance and information to third parties working close to National Grid Electricity Transmission assets. This cross refers to statutory electrical safety clearances which are used as the basis for ENA (TA) 43-8, which must be observed to ensure safe distance is kept between exposed conductors and those working in the vicinity of electrical assets, and
- 3.1.2 Energy Network Associations Development near Overhead Lines ENA (TS) 43-8. This sets out the derivation and applicability of safe clearance distances in various circumstances including crossings of OHL and working in close proximity.
- 3.1.3 Additionally HSE's guidance note 6 "Avoidance of Danger of Overhead Lines". Summarises advice to minimise risk to life/personal injury and provide guidance to those planning and engaging in construction activity in close proximity to Overhead Lines.
- 3.2 National Grid requires specific protective provisions in place to provide for an appropriate level of control and assurance that industry standards will be complied with in connection with works to and in the vicinity of their electricity assets.

4 PROPERTY ISSUES

- 4.1 NGET assert that maintaining appropriate property rights to support their assets is a fundamental safety issue. Insufficient property rights would have the following safety implications:
- 4.1.1 Inability for qualified personnel to access apparatus for its maintenance, repair and inspection.
- 4.1.2 Risk of strike to cable/overhead lines if development occurs within the easement zone which seeks to protect the cable/overhead lines from development.
- 4.1.3 Risk of inappropriate development within the vicinity of the assets increasing the risk of damage to the asset and integrity of the system.

5 PROTECTIVE PROVISIONS

- 5.1 National Grid seeks to protect its statutory undertaking, and insists that in respect of connections and work in close proximity to their Apparatus as part of the authorised development the following procedures are complied with by the Applicant:
- (a) National Grid is in control of the plans, methodology and specification for works within 15 metres of any retained Apparatus; and
 - (b) DCO works in the vicinity of NGET apparatus are not authorised or commenced unless protective provisions are in place preventing compulsory acquisition of National Grid's land or rights or the overriding or interference of the same and including appropriate insurance and indemnity provisions to protect National Grid. Any acquisition of rights must be subject to NGET's existing interests and rights and not contradict with or cut across such rights.
- 5.2 National Grid maintain that without an agreement or qualification on the exercise of unfettered compulsory powers or connection to its apparatus the following consequences will arise:
- 5.2.1 Failure to comply with industry safety standards, legal requirements and Health and Safety Executive standards create a health and safety risk;
 - 5.2.2 Any damage to apparatus has potentially serious hazardous consequences for individuals located in the vicinity of the pipeline/apparatus if it were to fail.
- 5.3 The proposed Order does not yet contain fully agreed protective provisions expressed to be for the protection of National Grid to National Grid's satisfaction, making it currently deficient from National Grid's perspective. The promoter is currently asserting that they would prefer to deal with National Grid by way of a separate Asset Protection Agreement outside the Order. Whilst some issues between the parties may be capable of being dealt with in this way National Grid would however require Protective Provisions on the face of the Order due to the risk of the transfer of undertaking under the DCO. Accordingly, we append National Grid's template protective provisions as Appendix 2 hereto. National Grid contend that these are required in this format. We are continuing to liaise with the promoter with the intention of reaching agreement over a set of protective provisions for inclusion in the Order.
- 5.4 Issues currently in dispute include; (i) the need for insurance and surety to back up the indemnity (ii) whether third party claims against National Grid recoverable under the indemnity should be in the control of the promoter to settle and the extent of the obligations on National Grid to mitigate such claims outside National Grid's control (iii) the wording for National Grid's protection for retained apparatus (iv) the need for crossing agreements in respect of buried cables and (v) the appropriateness of the promoter seeking powers to carryout diversion of NG apparatus themselves, amongst other matters.
- 5.5 National Grid is continuing to seek to engage with the promoters solicitors in connection with the negotiation of the protective provisions. Should it not be possible to reach agreement with the promoter National Grid reserve the right to attend a Compulsory Acquisition Hearing or Issue Specific Hearing to address the required format of the Protective Provisions. If this is necessary National Grid reserve the right to provide further written information in advance in support of any

detailed issues remaining in dispute between the parties at that stage, along with further updated protective provisions if necessary.

Appendix 1

Asset Plans

Appendix 2
National Grid Protective Provisions