

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

Your Ref  
TRO40011  
Our Ref  
ENB/BNG/005694.0379  
Date  
14 April 2021

By Email: [Metrowest1@planninginspectorate.gov.uk](mailto:Metrowest1@planninginspectorate.gov.uk)

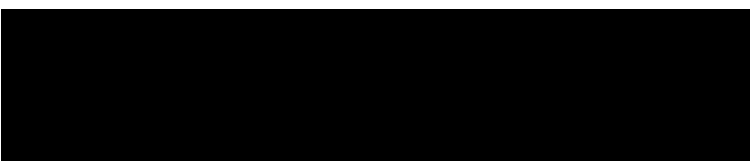
Dear Sir or Madam

**Proposed MetroWest Branch Line Order and Hinkley Point C Connection Project Order  
Deadline 7 - Response to ExA's Questions and Further Written Submissions by NGET  
Interested Party Reference Number: 20025228**

We are instructed by National Grid Electricity Transmission plc ('NGET') in relation to the interaction of North Somerset Council's proposed MetroWest Phase 1 Order and the National Grid (Hinkley Point C Connection Project) Order 2016 and Correction Order 2017.

In accordance with the Examination Timetable and the Examining Authority's ('ExA') Rule 17 Request for further information dated 29 March 2021 [PD-016], please find enclosed NGET's response to the ExA's request, along with further written submissions relating to the Applicant's proposed protective provisions for NGET, which we understand will be submitted at Deadline 7.

Please do not hesitate to contact us should you require any further information.



**BDB Pitmans LLP**

enc NGET's Deadline 7 Submission

**Registered Office**

One Bartholomew Close  
London  
EC1A 7BL  
DX 339401 London Wall

50/60 Station Road  
Cambridge  
CB1 2JH  
DX 339601 Cambridge 24

The Anchorage  
34 Bridge Street  
Reading, RG1 2LU  
DX 146420 Reading 21

Grosvenor House  
Grosvenor Square  
Southampton, SO15 2BE  
DX 38516 Southampton 3

T +44 (0)345 222 9222

W [www.bdbpitmans.com](http://www.bdbpitmans.com)

## PROPOSED PORTISHEAD BRANCH LINE – METROWEST PHASE 1

### RESPONSE TO THE EXAMINING AUTHORITY'S QUESTIONS AND FURTHER WRITTEN SUBMISSION BY NATIONAL GRID ELECTRICITY TRANSMISSION PLC ('NGET') FOR DEADLINE 7

#### 1 Introduction

- 1.1 Sections 2 and 3 of this document are a response to the Examining Authority's ('ExA') questions addressed to NGET (or addressed to NGET and the Applicant) at Annex B of their Rule 17 written request dated 29 March 2021 [PD-016].
- 1.2 At section 4 of this document, following on from NGET's response to the ExA's questions, are further submissions made in respect of proposed Protective Provisions ('PPs') which we understand the Applicant will be submitting at deadline 7 as an alternative to NGET's proposed PPs which were submitted at deadline 4 [REP4-046].

#### 2 ExA's Questions for NGET

**Q: "Provide details (eg extract from the relevant Land Plan, SoR or Book of Reference (BoR)) of the plots for the Hinkley C Connector DCO that would be affected by the Proposed Development and details of whether it is CA or TP of these plots that will be sought."**

- 2.1 At Appendix 1, we attach Sheet 3 (and Inset A to Sheet 3) of Section F of The National Grid (Hinkley Point C Connection Project) Order 2016 ('**HPCC DCO**') land plans. This sheet of the HPCC DCO land plans overlaps with Sheet 2 of the Applicant's MetroWest Phase 1 (the '**Proposed Development**') land plans. It can be seen from the key to the plan that the plots shaded green and blue are designated for compulsory acquisition of new rights (for apparatus and access, respectively), and the plots shaded mauve, red and yellow are plots where temporary possession only is sought. For context, and to understand the works that are authorised by the HPCC DCO in this area, we also attach at Appendix 1 Sheet 3 of Section F of the HPCC DCO works plans.
- 2.2 In order to see more clearly those plots of the HPCC DCO which would be affected by the Proposed Development, we attach at Appendix 2 a plan, based on sheet 2 of the Proposed Development land plans, with those HPCC DCO plots affected by the Proposed Development superimposed on top. We also attach a table of plots, based on the HPCC DCO Book of Reference, listing the purpose for which each plot is required and whether each plot is for permanent rights or temporary use.
- 2.3 Note that the HPCC DCO contains powers of compulsory acquisition and temporary possession for both NGET and for Western Power Distribution (South West) plc ('**WPD**'), which is also an undertaker in respect of aspects of the HPCC DCO. The two green corridors depicted on the extracts from the HPCC DCO land plans represent both NGET electricity transmission assets and WPD electricity distribution assets. Where these corridors cross the Proposed Development disused railway, the westernmost green corridor represents a 400kV overhead line easement corridor (which overhead line will be operated by NGET) and the easternmost green corridor represents a 132kV underground cable corridor (to be operated by WPD).

(These two distinct works corridors and their centre lines can be seen more clearly on the extract from the works plans at Appendix 1). However, it remains true to say that NGET have powers of compulsory acquisition and/or temporary possession over all of the plots in the HPCC DCO, even where the intention is for WPD to exercise its CA powers in respect of its own infrastructure built under the HPCC DCO.

**Q: “The focus of the comments received has been on where the overlap between the Hinkley C Connector DCO would interface with the Proposed Development. However, the BoR [REP5-018] lists a further 50 plots along the line where NGET is listed as either having a Category 1 or Category 2 interest. As currently drafted schedule 16 of the dDCO contains a general Protective Provision (Part 2) that would protect electricity, gas, water, petroleum and sewerage undertakers are NGET satisfied that this would protect their assets/ equipment/ land interests elsewhere along the route? If not why and what protections would NGET be seeking in relation to these plots? If NGET consider that a bespoke Protective Provision for these plots would be necessary provide the relevant drafting.”**

2.4 The proposed PPs which NGET submitted at deadline 4 [REP4-046] were not specific to the interests acquired or assets constructed under the HPCC DCO. Although the proposed PPs do reference the HPCC DCO at one place (paragraph 5(1)), they are general in nature and intended to protect NGET’s assets/equipment/land interests wherever they may occur along the route of the Proposed Development.

2.5 However, the ExA is correct that the focus of the discussion has been on where the route of NGET’s overhead lines constructed under the HPCC DCO crosses the Proposed Development (i.e. at sheet 2 of the Applicant’s land plans). NGET believes that with a few exceptions detailed below, many of the “further 50 plots along the line where NGET is listed as either having a Category 1 or Category 2 interest” do not represent actual subsisting land interests or assets owned by NGET.

2.6 NGET is listed in the Applicant’s Book of Reference as having a land interest in plots appearing on the following sheets of the Applicant’s land plans. NGET comments on the extent of its actual interests as follows:

2.6.1 Sheet 1 – This sheet depicts the centre of Portishead and NGET is listed as having “rights of a road bridge” and “rights of drainage” in respect of several plots, and as having apparatus in respect of plot 01/35. NGET is not aware of having any current assets or land interests in these plots. NGET suspects that the rights over a road bridge and drainage rights may be historic rights belonging to the Central Electricity Generating Board related to what was the Portishead B Generating Station, which was demolished in 1982.

2.6.2 Sheet 2 – As mentioned previously, this sheet is the main interface between NGET’s HPCC DCO and the Proposed Development. NGET clearly has many and varied interests in several plots here as detailed on the plans provided in response to the previous question and attached at Appendix 1 and Appendix 2.

2.6.3 Sheet 3 – NGET is listed as having an interest in several of the plots on sheet 3 in connection with options for easements. NGET did have option agreements to acquire easements with landowners of these plots in relation to the Hinkley Point C

Connection Project ('HPCCP'), however these options are now no longer exercisable and/or the agreements have been terminated. The reason for this is that when the application was made for the HPCC DCO, two alternative routes for the Project along the northern part of the route were put before the Secretary of State – Route Option A and Route Option B. The Secretary of State decided on Route Option B. However, the option agreements entered into in respect of this land prior to the Secretary of State's decision related to Route Option A. NGET believes that these interests may have been noted in the Applicant's BoR because notices may still appear on the HM Land Registry titles relating to these option agreements. However, NGET no longer has any interest in these plots.

- 2.6.4 Sheet 4 – NGET no longer has an interest in any of the plots on sheet 4 for which it is listed as having an interest, for the same reasons as given above for the sheet 3 plots. These interests all belong to 'Route Option A' option agreements which are either no longer exercisable or have been terminated.
- 2.6.5 Sheet 5 – On this sheet NGET have rights for the use, in connection with the HPCCP, of an access track depicted, broadly speaking, as the land shaded blue, coming off Marsh Lane, running adjacent to and north of the disused railway and then extending off to the northeast. This is a subsisting land interest and to that extent NGET would expect any PPs included in the Order for its benefit to apply to this interest. However, NGET are listed in the Applicant's Book of Reference as having an interest in many plots of land to either side of this access track, in which NGET does not in fact claim any interest. Although it is difficult to discern with clarity, the access track itself is perhaps comprised of plots 05/100; 05/107; and most of plot 05/112. NGET may have access rights over parts of 05/95; 05/105; 05/106 & 05/108 as well, to the extent that they form part of the access track also. NGET does not have an interest in the remainder of the land on this sheet not forming part of the access track.
- 2.6.6 Sheet 6 – NGET is listed as having an interest in plots 06/25 and 06/61, but NGET does not believe it has any such interest.
- 2.7 In summary then, there are many entries listed in the Applicant's BoR that do not accurately reflect NGET's current interests, and NGET only has 'live' interests in two of the six sheets listed above – sheets 2 and 5. All subsisting NGET interests on those sheets relate to the HPCC DCO, being land interests acquired by agreement, or subject to powers of compulsory acquisition or temporary possession under the HPCC DCO, or both (as is the case with some plots in the ownership of Mr Crossman on sheet 2). As stated above, NGET's proposed PPs are general in nature, and not intended to be specific to land interests acquired, or assets constructed, in connection with the HPCC DCO. However, since all of the subsisting interests in the Applicant's BoR do relate to the HPCC DCO in some way, it is a moot point whether alternative PPs would be more appropriate to protect other 'non-HPCCP' assets and land interests.

### **3 ExA's Questions for NGET and the Applicant**

**Q: "NGET in their D6 submission [Para 2.6, REP6-039] refer to the fact that they have served notice regarding TP of a number of plots. Having checked the BoR [REP5-018] unlike all the other plots referred to by NGET, NGET are not listed as having an interest in plots 02/86 and**



**02/130. Can you confirm if NGET does have an interest in these plots and if so amend the BoR accordingly?"**

- 3.1 NGET have been liaising with the Applicant to confirm whether or not the temporary possession notices served under Article 29 of the HPCC DCO encroach onto plots 02/86 and 02/130.
- 3.2 In relation to plot 02/130, NGET do not have an interest over the entirety of this plot. The HPCC DCO plot 183 of Section F (which can be seen at Appendix 1) crosses over the old railway and appears to clip 02/130 on the western edge of 02/130. There is no HPCCP apparatus proposed to be constructed here, but the plot is intended to be used for permanent access in the HPCC DCO. NGET believes that the Applicant's BoR should be updated to include an NGET interest over (a small part of) plot 02/130.
- 3.3 In relation to plot 02/86, NGET had believed that there was some interaction with plot 137 of Section F of the HPCC DCO land plans, over which a temporary possession notice has been served. However, on closer inspection it appears that there is no overlap between plot 137 and the Applicant's plot 02/86. NGET therefore does not believe it has an interest in 02/86.

**Q: "To enable the ExA to better understand the overlap between the two schemes provide a plan showing the Hinkley C Connector plots and the Portishead plots overlaid with the plots coloured to show the powers being sought."**

- 3.4 NGET have been liaising with the Applicant and their land referencers Ardent and have provided the necessary mapping files relating to the HPCC DCO, where it crosses the Applicant's proposed MetroWest scheme on sheet 2 of the Applicant's land plans [REP5-003], in order that the Applicant may produce a plan showing the information requested by the ExA.
- 3.5 The Applicant will be submitting this plan with their deadline 7 response to the ExA's questions, a copy of which has been seen and approved by NGET.

**4 Commentary on the Applicant's proposed PPs**

- 4.1 NGET and the Applicant have been in communication regarding the issue of whether NGET should have the benefit of protective provisions included on the face of the Order, if made. It would appear that the Applicant now accepts both that section 127 of the Planning Act 2008 is engaged with respect to (at least some of) NGET's land interests where they interface with the Proposed Development land, and also the principle that protective provisions for NGET should be included in the Order, if made. NGET is grateful to the Applicant for this recognition.
- 4.2 However, NGET understands that the Applicant is not proposing to include NGET's suggested PPs in the Order, but is instead proposing to include its own 'mutually beneficial' PPs in the Order.
- 4.3 The Applicant stated in its 'Oral Case and response to Representations at Compulsory Acquisition Hearing 2 (CAH2)' [REP6-022 p30] submitted at deadline 6 that "The Applicant will provide its own suggested protective provisions to NGET shortly and provide the Panel with an update at Deadline 7".

- 4.4 Womble Bond Dickinson sent an initial draft of its suggested PPs (the '**Applicant's PPs**') to NGET's solicitors on 31 March 2021, stating that they were sent without client instructions. NGET received confirmation on 11 April 2021 that this initial draft had met with client approval from the Applicant. We are anticipating that these suggested PPs, or PPs to substantially like effect, will be submitted to the ExA at deadline 7, as part of a revised dDCO. We append a copy of the Applicant's PPs as they have been sent to us at Appendix 3.
- 4.5 NGET respectfully maintains (subject to what is said below) that its own PPs submitted at deadline 4 [REP4-046] should be included within the MetroWest Phase 1 Order, if made, and that the Applicant's PPs are not appropriate in several important respects. NGET continues to engage in dialogue with the Applicant over the suitable forms of protection for both the HPCCP and the Proposed Development. However, in light of the fact that NGET will not have a further opportunity to respond in the examination process after deadline 7, and in order to assist the Panel on coming to a view about whether PPs on the face of the order are merited, and if so what form they should take, NGET provides initial commentary on the Applicant's PPs as follows. Where specific provisions of the Applicant's PPs differ from NGET's proposed PP's and we have not commented on that provision below, this should not be taken to mean that NGET thereby agree to that specific provision.
- 4.6 The Applicant's PPs are titled, 'For the Mutual Protection of National Grid and the Railway Undertaker'. The 'railway undertaker' is defined as 'the undertaker as defined in article 2 of this Order and, in relation to property owned by Network Rail, Network Rail'. NGET notes that there are already extensive Protective Provisions at Schedule 15, Part 4 of the HPCC DCO for the protection of Network Rail ('**NR**') and its property. NGET's exercise of its powers under the HPCC DCO must be carried out subject to those PPs with respect to the railway property of Network Rail. NGET fails to see why NR needs further protection in the form of the Applicant's 'mutual' PPs.
- 4.7 Paragraphs 4 and 19 of the Applicant's PPs would have the effect of amending the HPCC DCO, such that the HPCC DCO would take effect subject to the Applicant's PPs and the Applicant would be afforded the protection of the PPs in the HPCC DCO for the benefit of NR. NGET consider this to be unacceptable. At the time of the examination for the HPCC DCO, North Somerset Council argued that it should be entitled to PPs in the HPCC DCO, such that land for the disused Portishead branch line should be afforded the same protection in the HPCC DCO as operational railway land in the ownership of NR.
- 4.8 It should be noted in this regard that the ExA's recommendation report and the Secretary of State's decision firmly rejected the inclusion of PPs for the benefit of North Somerset Council in the HPCC DCO. Appendix 1 of NGET's deadline 6 submission ('Written Summary of oral case put at CAH2' [REP6-039]) sets out the relevant extract of the ExA's report and the Secretary of State's decision letter.
- 4.9 The reasoning of the ExA in the recommendation report bears repeating:
- 4.9.1 *"If the [Portishead branch] railway is built first, the protective provisions within the [HPCC] DCO would automatically operate for its protection, assuming the railway formed part of NRIL's network. However, if the railway is not built first, treating it as operational railway land at this stage would place a disproportionate burden on*

*[NGET] in terms of the design and operation of the proposed development to accommodate the railway proposal together with the associated costs.” [Para 8.5.67]*

- 4.9.2 *“The Panel concludes that, in the light of the protective provisions that would be included in the recommended DCO for operational railway land, and the stage that the new railway project has reached in the development process, the powers under the DCO should not be restricted in the manner suggested by NSC. It is not necessary or appropriate to include new or additional protective provisions for the benefit of NSC, or the proposed railway within the [HPCC] DCO.” [Para 8.5.68]*
- 4.9.3 *“In reaching this conclusion, we have taken into account the fact that the new railway line would also be promoted as a nationally significant infrastructure project, and the public benefit associated with that scheme....” [Para 8.5.69]*
- 4.10 The Secretary of State’s decision letter noted the recommendations of the ExA above, and also said:
- 4.10.1 *“...The Secretary of State agrees with the ExA’s conclusion that the powers in the [HPCC] Order should not be restricted in the manner suggested by North Somerset Council and that new or additional protective provisions in the Order are not necessary...” [Para 114]*
- 4.11 Whilst the Secretary of State did note that it is “...possible for a future DCO to vary an existing DCO, if necessary for the later project...”, it is incumbent on the Applicant to explain why it thinks that the situation has changed in any fundamental respect, in terms of the chronological priority of the two schemes, or why the reasoning of the ExA in their recommendation report above, endorsed by the Secretary of State, no longer holds water. As stated in our deadline 6 submission, HPCCP is an already consented scheme the construction of which is well underway, whereas the Applicant’s scheme is yet to be consented. Even assuming that it receives development consent later in 2021, the fact remains that the NGET apparatus in the Sheepway area (i.e. on sheet 2 of the Applicant’s land plans) will be built well in advance of the Applicant’s railway becoming operational, with pylons either side of the railway land for the 400kV overhead line due to be constructed in July 2022. As stated by the ExA, and given that the railway will not be built first, “treating it as operational railway land at this stage would place a disproportionate burden on [NGET] in terms of the design and operation of the [HPCCP] to accommodate the railway proposal together with the associated costs”. NGET still fully agrees with the ExA’s reasoning, and rejects the amending of the HPCC DCO to give the Applicant the benefit of NR’s PPs and the treating of the disused railway land as operational railway land from day 1 of the Order.
- 4.12 In paragraph 2, ‘Interpretation’ of the Applicant’s PPs, there is a new defined term ‘existing apparatus’ introduced, which is defined as “*apparatus which is sited in, over, or under land on 19 April 2021 and belonging to or maintained by National Grid on that date [and] “existing electricity tower” shall be construed accordingly*”. Paragraphs 9, 11 and 12 (which correspond to paragraphs 6, 8 and 9 of NGET’s PPs submitted at deadline 4) are then re-written so that the protections afforded to NGET apparatus are only afforded to ‘existing apparatus’. These paragraphs relate to the removal and relocation of NGET apparatus, the protection of retained NGET apparatus, and the expenses associated with the protection of NGET apparatus.

- 4.13 The Applicant is thus proposing to include NGET's standard form of PPs in the Order, but is then in effect saying that they will not apply to any apparatus constructed after the close of the examination on 19 April 2021. Given that the NGET 400kV overhead line authorised by the HPCC DCO and crossing over the disused railway is yet to be constructed (although due to be constructed prior to the Proposed Development), it is difficult to see this arbitrary cut-off date as anything other than an attempt to render the PPs ineffective from NGET's point of view in relation to HPCCP apparatus.
- 4.14 A primary purpose of protective provisions is surely to afford protection to the apparatus, operations and interests of statutory undertakers which are affected by the carrying out of an authorised development. Given that in the dDCO [REP6-008] the time limit for commencement of the authorised development is up to 5 years from the date of the Order (Requirement 2), is the Applicant arguing that adequate protection should not be afforded to a statutory undertaker's apparatus which is constructed (pursuant to its own earlier development consent) in between the end of the DCO examination but prior to the commencement of the authorised development (or more precisely, prior to authorised works commencing in the vicinity of that apparatus), which could be many years later?
- 4.15 NGET notes that there is no such distinction made between apparatus that is in situ prior to the end of the DCO examination and apparatus that post-dates the end of the examination in any of the other protective provisions that are included within the most recent dDCO [REP6-008].
- 4.16 NGET further notes that there are protective provisions for the benefit of WPD included at Part 7 of Schedule 16 of the dDCO. NGET wish to point out that there are already 132kV underground cables which have been constructed as part of the authorised works of the HPCC DCO and which already cross the disused railway at Sheepway, to the east of where NGET will be constructing its 400kV overhead line across the railway (see paragraph 2.3 above). These 132kV underground cables will form part of WPD's electricity distribution network. Although the terms of WPD's PPs in the dDCO differ in detail from the terms of NGET's proposed PPs, the Applicant seems prepared to accept the principle that WPD's apparatus built under the HPCC DCO should be afforded the protection of WPD's PPs included in the Order and that WPD should have its expenses met in accordance with those PPs. But the Applicant seems unwilling to accept that NGET's apparatus built under the same DCO, which will be in situ before the Proposed Development, should be afforded a like protection under NGET's proposed PPs and that NGET should have its expenses met in a like manner, merely because NGET's apparatus happens to be constructed after the arbitrary cut-off date of the end of the examination.
- 4.17 NGET notes that paragraph 18 of the Applicant's PPs seeks to reintroduce some measure of protection for NGET's HPCCP apparatus by making some of the provisions of paragraph 11 'Retained existing apparatus' applicable to that apparatus. NGET does not regard this as sufficient protection for its assets for two reasons.
- 4.18 First, paragraph 18 does not afford NGET the protection for its assets contained in paragraph 9 'Removal of existing apparatus'. It is unclear from the Applicant's PPs whether paragraph 9 won't apply to NGET's HPCCP apparatus either (a) because the Applicant wishes to reassure NGET that it will not seek to relocate its HPCCP apparatus, or because (b) the Applicant thinks it should retain the ability to seek relocate such apparatus when carrying out the Proposed Development but that the protections for NGET in paragraph 9 should not apply. Given that

NGET anticipate the HPCCP apparatus to be in situ when the Applicant carries out its authorised works, NGET would be most reassured if it were afforded the protections of paragraph 9, even if relocation of NGET apparatus is likely to be avoided by cooperation between the parties ahead of the construction of such apparatus and of the Proposed Development.

- 4.19 Secondly, by making paragraph 12 'Expenses' applicable only to 'existing apparatus' and not to NGET's HPCCP apparatus, NGET are being asked to bear the costs of the steps necessary to protect their own assets even where it is accommodating a later scheme. Indeed, the position is even more back-to-front than this. By making the construction of NGET's own authorised works subject to NR's protective provisions in the HPCC DCO even where they are taking place on or over the Applicant's rather than NR's land (which seems to be the effect of paragraph 19 of the Applicant's PPs), NGET are in effect being asked to treat the disused railway land as operational railway land before construction of the Proposed Development has even started and furthermore to bear the Applicant's costs associated with protecting that land as if it were operational railway (see paragraph 38 of Schedule 15, HPCC DCO). NGET submits that this is entirely the wrong way round and is contrary to the ExA's and Secretary of State's reasoning at paragraphs 4.9.1 to 4.10.1 above.
- 4.20 In the Applicant's PPs the indemnity provision (paragraph 13 in the Applicant's PPs and paragraph 10 in NGET's suggested PPs) has been watered down in a manner which NGET find unacceptable.
- 4.21 In their 'Oral Case and response to Representations at Compulsory Acquisition Hearing 2 (CAH2)' [REP6-022], the Applicant states at page 22 that "[At] Para 9 and 10 of [NGET's] PPs - expenses and indemnities. NSC owns the freehold of the land. The practical effect of this is to reverse the compensation code. NGET seeks to penalise the Applicant for carrying out works on its own land over which it has powers". And again at page 28 "Para 9 [of NGET's PPs] – Expenses and Para 10 Indemnity. The effect of these two provisions are that the Applicant would have to pay compensation to NGET for carrying out work on the Applicant's land and must also indemnify the NGET for carrying out work. The Applicant does not accept that this provision is reasonable".
- 4.22 NGET do not follow the Applicant's reasoning in objecting to the indemnity provision in NGET's PPs. First, the fact that "NSC owns the freehold of the land" is irrelevant to the question of whether the Applicant should be liable or indemnify NGET for any damage caused to NGET apparatus, any interruption to NGET's supplies, or any third party claims made against NGET which arise as a consequence of the carrying out by the Applicant of the Proposed Development. Secondly, NGET does not see how the indemnity provisions would prevent the Applicant from claiming compensation from NGET for the exercise of HPCC DCO compulsory acquisition powers, or in any way "reverse the compensation code". The Applicant's rights as a claimant under the compensation code remain unaffected. The indemnity provisions in issue here are about potential loss or damage caused by the Applicant to NGET in carrying out the Proposed Development – nothing to do with exercise of compulsory purchase powers by NGET.
- 4.23 NGET note that sub-paragraphs 13(5) & 13(6) (sub-paragraphs 10(5) & 10(6) of NGET's own proposed PPs) of the 'Indemnity' paragraph, which require the posting of acceptable security and the procuring of acceptable insurance by the Applicant prior to commencing construction,

have been deleted by the Applicant in its PPs. The Applicant has stated that “NGET want to be able to injunct the Applicant – to prevent the Applicant from carrying out its own works on its own land. The Applicant will be the freehold sooner [sic] and have its own Order to permit it to carry out works on its own land. [In] the circumstances of this Application, such provision must be totally inappropriate” [REP6-022 pp 22-23]. NGET think this is to misunderstand the purpose of sub-paragraph 13(6), which merely states that nothing in NGET’s PPs prevent them from seeking injunctive relief (rather than positively enabling them to seek injunctive relief) if the Applicant fails to comply with sub-paragraph 13(5). NGET have no wish to obstruct or prevent the Applicant’s Proposed Development from proceeding, subject to its own interests receiving proper acknowledgement. Nevertheless, NGET is quite prepared to consider again whether sub-paragraphs 13(5) & 13(6) should be included or whether some acceptable alternative wording could be agreed with the Applicant.

- 4.24 The comments given above represent NGET’s initial thoughts on the Applicant’s PPs, and NGET reserve the right to comment further at a future date. NGET will continue in discussion with the Applicant over the appropriate form of PPs. But NGET submits that the Applicant’s PPs are wholly insufficient to protect its interests as a statutory undertaker and that those interests would be more appropriately protected by its own proposed PPs, submitted to the ExA at deadline 4.

**14 April 2021**

## **APPENDIX 1**

### **EXTRACTS FROM HPCC DCO LAND AND WORKS PLANS**



NATIONAL GRID (HINKLEY POINT C CONNECTION PROJECT) ORDER  
LAND PLANS  
(REGULATION 5(2)(i)(ii) & (iii))  
SECTION F  
SHEET 3 OF 4  
NORTH SOMERSET COUNCIL & BRISTOL CITY COUNCIL

Bristol City Council  
North Somerset Council

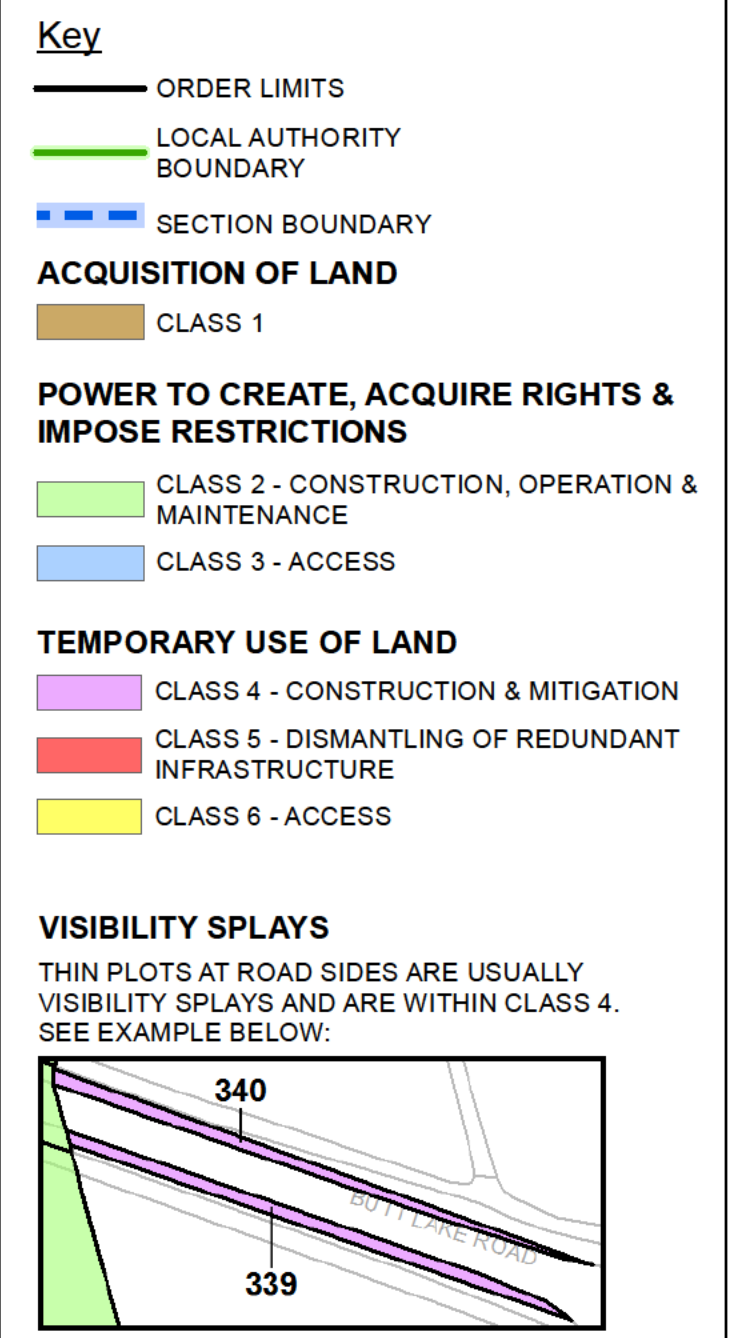
Portbury Wharf

233 234 235 237 236  
232 238 239 240 241  
231 229 248 245 243 275 276  
230 249 242 273 274 279 282  
228 226 225 250 251 247 246 272 277 278 280 281  
227 224 252 253 254 255 256 258 259 261 270 271 283 295 297  
222 223 260 266 268 269 284 293 294 296 298  
221 262 263 264 265 267 285 286 287 288 290 289  
220 217 216 215 205 207 213 209  
219.2 218 219.1 214.2 201 202 203 206 204 210 209  
214.1 199 151 150 152 153 174 172 173 170 169 171 177 178 187 185 186 188 184 181 168 167 166  
149 146 147 154 148 198 197 195 196 193 211 191 192 208 189  
145 144 143 142 140 141 139 138 137 164 159 155 163 160 162 161 165 180 182  
157 156

SHEET 3A INSET

FOR CONTINUATION SEE SHEET 1

FOR CONTINUATION SEE SHEET 4



Notes  
This drawing is scaled at paper size A1, therefore any prints taken at smaller sizes will affect accuracy of the measurement units and should not be scaled against.

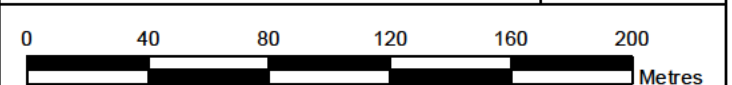
REVISION B COMMENTS:  
UPDATED TO REFLECT THE LAND REGISTRY  
REFRESH AND SUBDIVISION OF SOME PLOTS  
SHEET 1: ANNOTATION FOR PLOTS  
94.2 AND 94.3 AMENDED.

REVISION C COMMENTS:  
UPDATED TO REFLECT THE LAND REGISTRY  
REFRESH AND SUBDIVISION OF SOME PLOTS

UPDATED TO REFLECT THE ORDER AS MADE

Coordinate System: British National Grid  
Units: Metre  
Projection: Transverse Mercator  
Datum: OSGB 1936  
Scale Factor: 0.9996

X Centroid Coordinate: 348441  
Y Centroid Coordinate: 176775



REPRODUCED FROM ORDNANCE SURVEY MAPS,  
BY PERMISSION OF THE ORDNANCE SURVEY ON  
BEHALF OF THE CONTROLLER OF HER MAJESTY'S  
STATIONARY OFFICE. © CROWN COPYRIGHT  
ORDNANCE SURVEY, OS LICENCE NO. 100048471

C	MAR 2016	PLEASE SEE NOTES ABOVE FOR REVISION C COMMENTS	JC	LD	JB
B	JUL 2015	PLEASE SEE NOTES ABOVE FOR REVISION B COMMENTS	JC	LD	JB
A	MAR 2015	FIRST ISSUE	JC	LD	JB
ISSUE	DATE	COMMENTS	DRAW	CHKD	APP'D

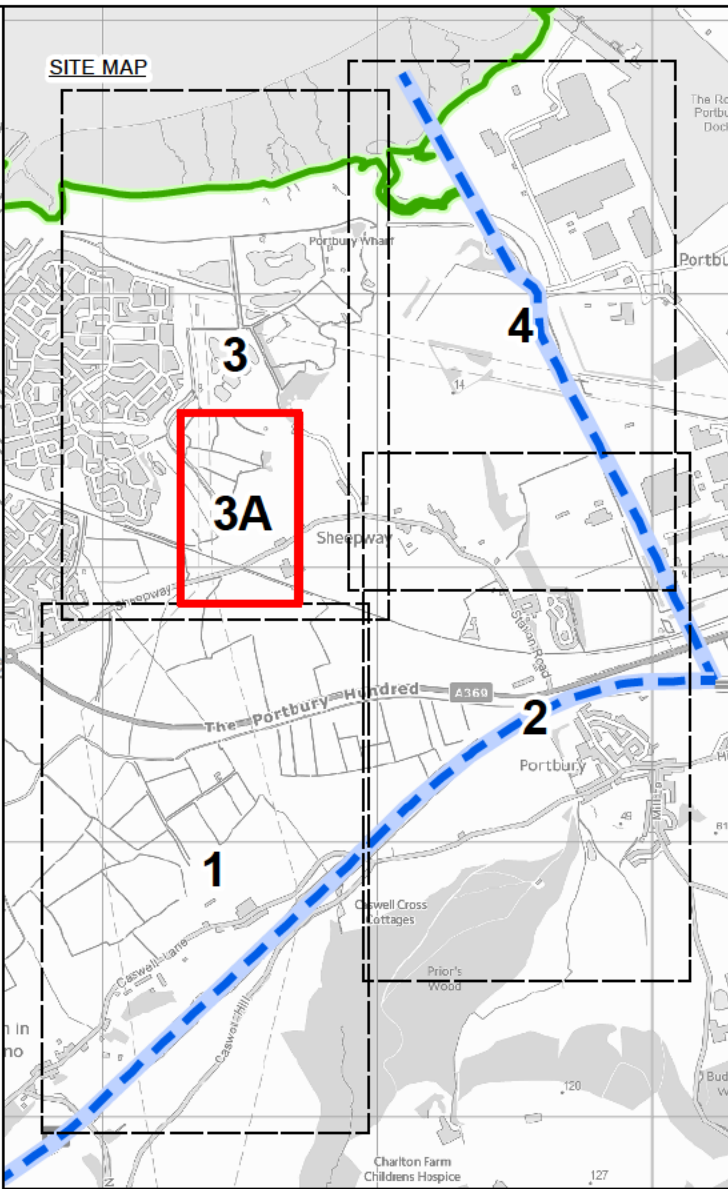
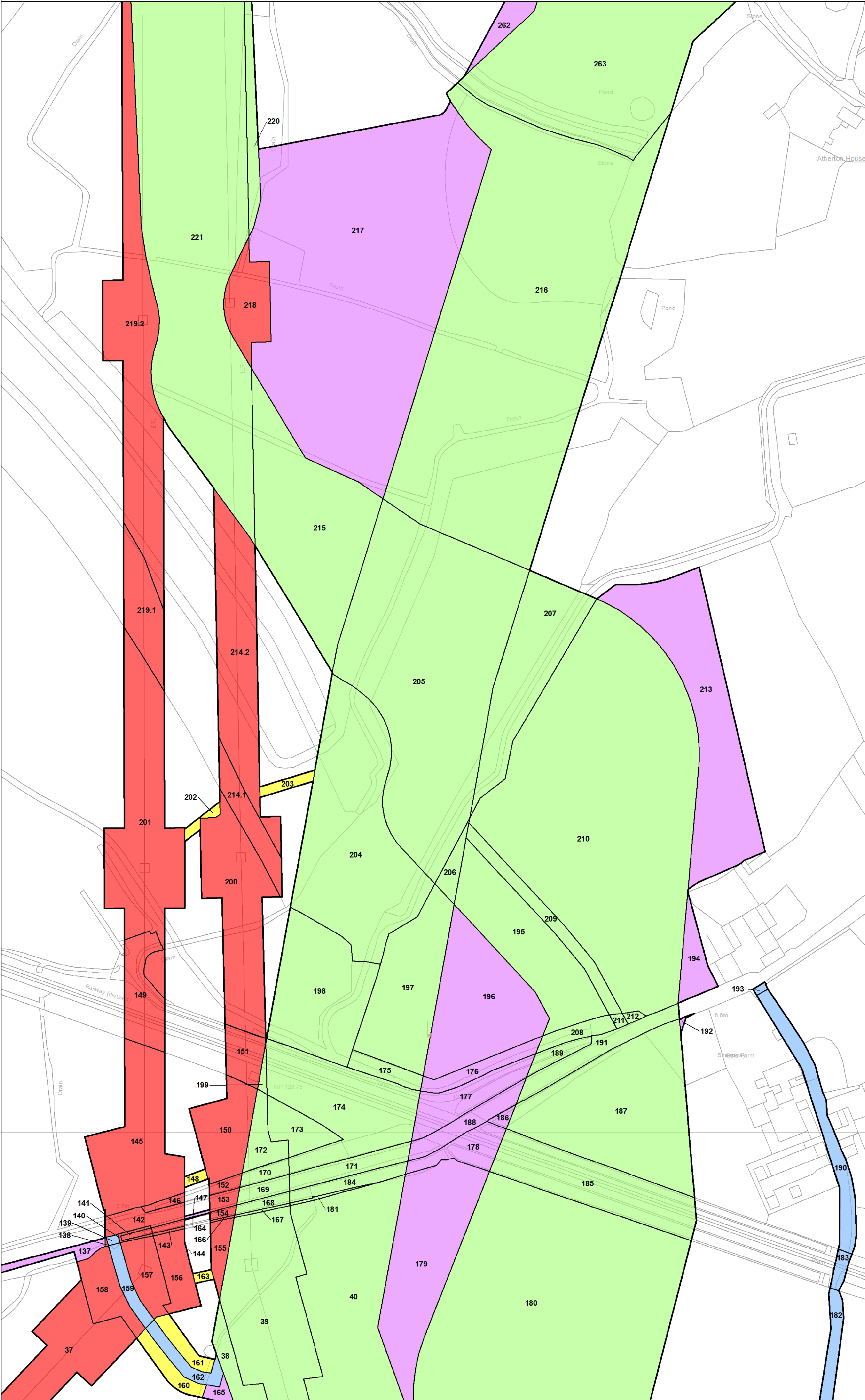
<u>Title</u>
<p>NATIONAL GRID (HINKLEY POINT C CONNECTION PROJECT) ORDER LAND PLANS (REGULATION 5(2)(i)(ii) &amp; (iii)) SECTION F NORTH SOMERSET COUNCIL &amp; BRISTOL CITY COUNCIL</p>

**nationalgrid**

NG INVESTMENT No. 20897	APPLICATION No. EN020001	GIS A1
NG DRAWING No. 13/NG/0371	DRAWING No. F/LP/PS/3	SCALE 1:2,500
SHEET 3 OF 4	N/A	ISSUE C



NATIONAL GRID (HINKLEY POINT C CONNECTION PROJECT) ORDER  
LAND PLANS  
(REGULATION 5(2)(i)(ii) & (iii))  
SECTION F  
INSET A TO SHEET 3 OF 4  
NORTH SOMERSET COUNCIL



**Key**

- ORDER LIMITS
- LOCAL AUTHORITY BOUNDARY
- SECTION BOUNDARY

**ACQUISITION OF LAND**

- CLASS 1

**POWER TO CREATE, ACQUIRE RIGHTS & IMPOSE RESTRICTIONS**

- CLASS 2 - CONSTRUCTION, OPERATION & MAINTENANCE
- CLASS 3 - ACCESS

**TEMPORARY USE OF LAND**

- CLASS 4 - CONSTRUCTION & MITIGATION
- CLASS 5 - DISMANTLING OF REDUNDANT INFRASTRUCTURE
- CLASS 6 - ACCESS

**VISIBILITY SPLAYS**

THIN PLOTS AT ROAD SIDES ARE USUALLY VISIBILITY SPLAYS AND ARE WITHIN CLASS 4. SEE EXAMPLE BELOW:

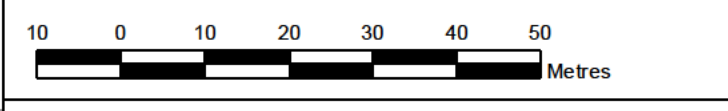
**Notes**  
This drawing is scaled at paper size A1, therefore any prints taken at smaller sizes will affect accuracy of the measurement units and should not be scaled against.

**REVISION B COMMENTS:**  
UPDATED TO REFLECT THE LAND REGISTRY REFRESH AND SUBDIVISION OF SOME PLOTS  
SHEET 1: ANNOTATION FOR PLOTS 94.2 AND 94.3 AMENDED.

**REVISION C COMMENTS:**  
UPDATED TO REFLECT THE LAND REGISTRY REFRESH AND SUBDIVISION OF SOME PLOTS  
UPDATED TO REFLECT THE ORDER AS MADE

Coordinate System: British National Grid  
Units: Metre  
Projection: Transverse Mercator  
Datum: OSGB 1936  
Scale Factor: 0.9996

X Centroid Coordinate: 352189  
Y Centroid Coordinate: 177681



REPRODUCED FROM ORDNANCE SURVEY MAPS, BY PERMISSION OF THE ORDNANCE SURVEY ON BEHALF OF THE CONTROLLER OF HER MAJESTY'S STATIONARY OFFICE. © CROWN COPYRIGHT ORDNANCE SURVEY. OS LICENCE NO. 100048471

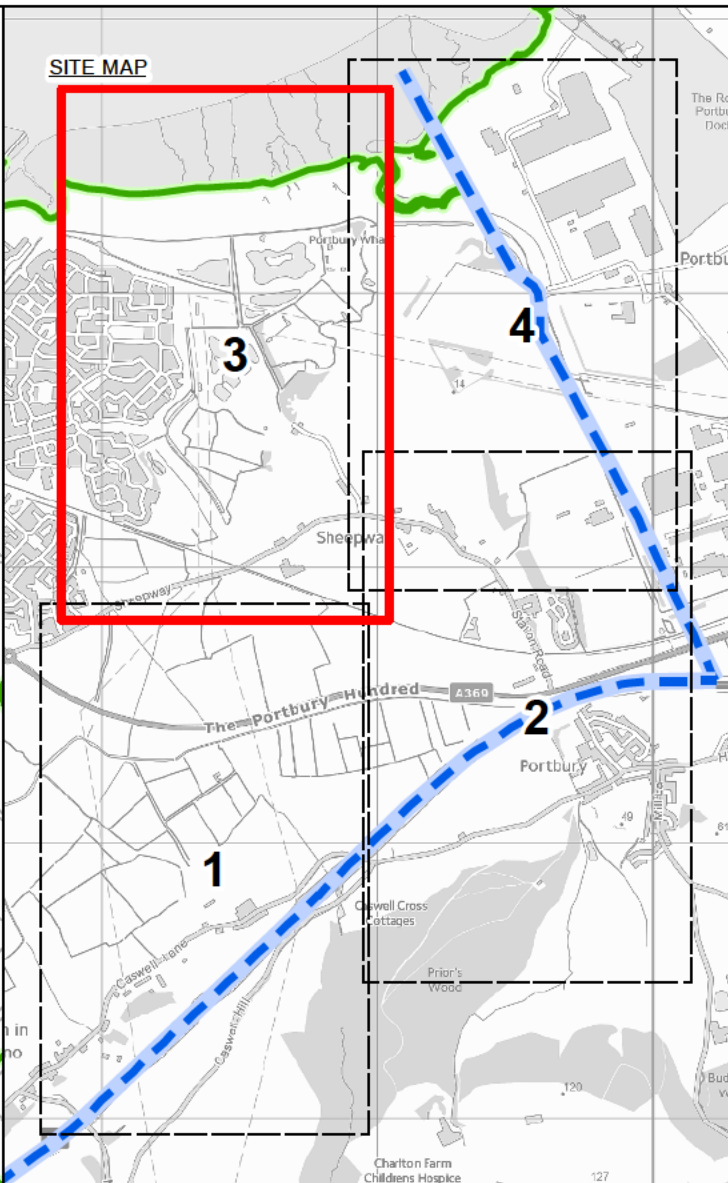
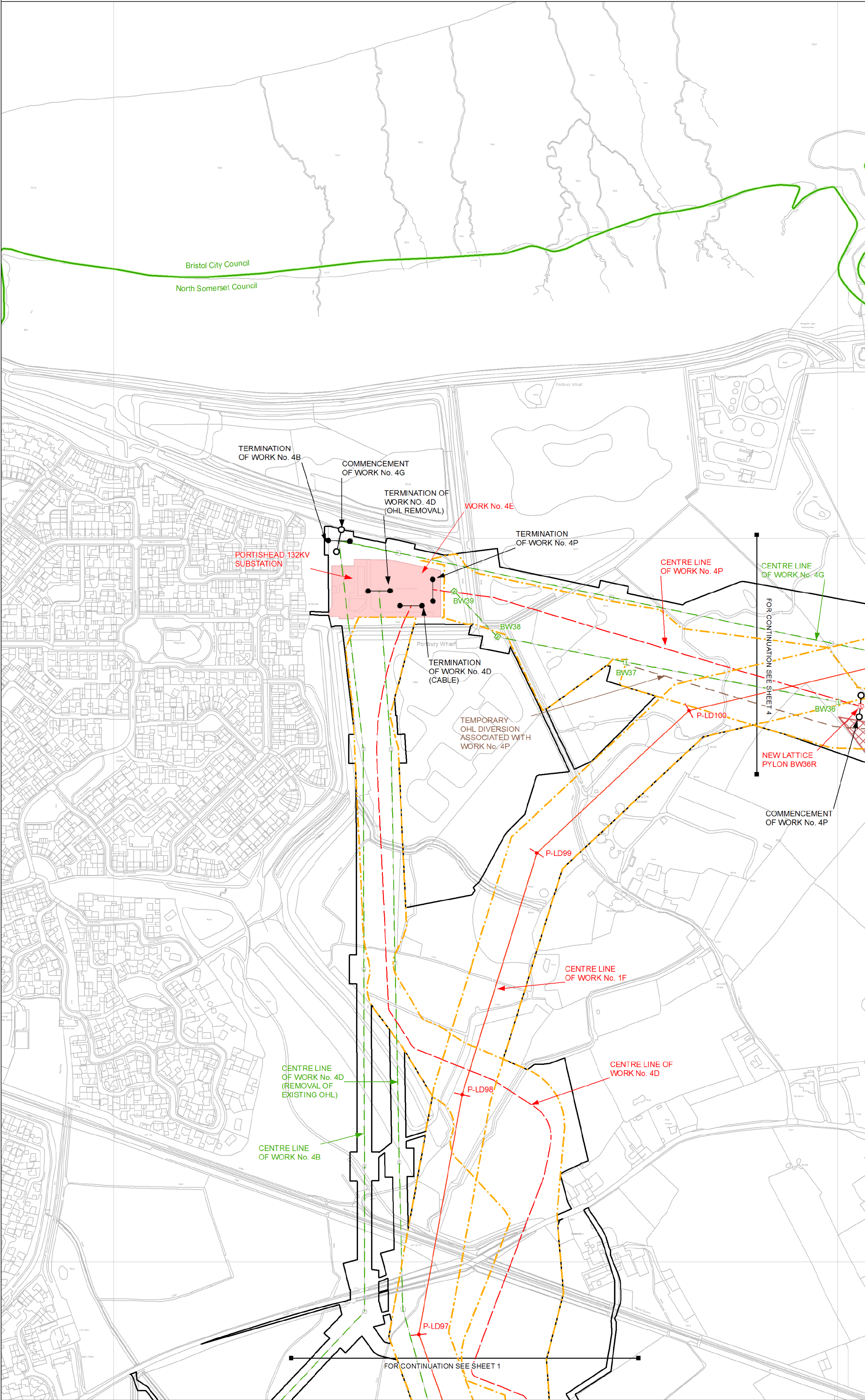
ISSUE	DATE	COMMENTS	DRAW	CHKD	APPD
C	MAR 2016	PLEASE SEE NOTES ABOVE FOR REVISION C COMMENTS	JC	LD	JB
B	JUL 2015	PLEASE SEE NOTES ABOVE FOR REVISION B COMMENTS	JC	LD	JB
A	MAR 2015	FIRST ISSUE	JC	LD	JB

**Title**  
NATIONAL GRID (HINKLEY POINT C CONNECTION PROJECT) ORDER  
LAND PLANS  
(REGULATION 5(2)(i)(ii) & (iii))  
SECTION F  
NORTH SOMERSET COUNCIL

nationalgrid		
NG INVESTMENT No. 20897	APPLICATION No. EN020001	GIS A1
NG DRAWING No. 13/NG/0371	DRAWING No. F/LP/PS/3A	SCALE 1:900
INSET A TO SHEET 3 OF 4		ISSUE C



NATIONAL GRID (HINKLEY POINT C CONNECTION PROJECT) ORDER  
WORKS PLANS  
(REGULATION 5(2)(j))  
SECTION F  
SHEET 3 OF 4  
NORTH SOMERSET COUNCIL & BRISTOL CITY COUNCIL

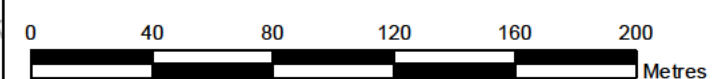


- Key**
- LATTICE PYLON (NEW)
  - LATTICE PYLON (REMOVED)
  - T PYLON
  - WOOD POLES
  - ORDER LIMITS
  - LOCAL AUTHORITY BOUNDARY
  - SECTION BOUNDARY
  - COMMENCEMENT OF WORK
  - TERMINATION OF WORK
  - LIMIT OF DEVIATION
  - LIMIT OF DEVIATION & ORDER LIMITS
  - TEMPORARY OHL DIVERSION
  - NEW UNDERGROUND CABLE
  - NEW OVERHEAD LINE
  - OVERHEAD LINE TO BE REMOVED
  - SITE COMPOUND
  - WORK AREA

**Notes**

This drawing is scaled at paper size A1, therefore any prints taken at smaller sizes will affect accuracy of the measurement units and should not be scaled against.

Coordinate System: British National Grid  
Units: Metre  
Projection: Transverse Mercator  
Datum: OSGB 1936  
Scale Factor: 0.9996  
X Centroid Coordinate: 348441  
Y Centroid Coordinate: 176775



REPRODUCED FROM ORDNANCE SURVEY MAPS,  
BY PERMISSION OF THE ORDNANCE SURVEY ON  
BEHALF OF THE CONTROLLER OF HER MAJESTY'S  
STATIONARY OFFICE. © CROWN COPYRIGHT  
ORDNANCE SURVEY. OS LICENCE NO. 100048471

ISSUE	DATE	COMMENTS	DRAW	CHKD	APPD
B	FEB 2016	UPDATED TO REFLECT THE ORDERAS MADE	JC	LD	JB
A	MAR 2015	FIRST ISSUE	JC	LD	JB

**Title**

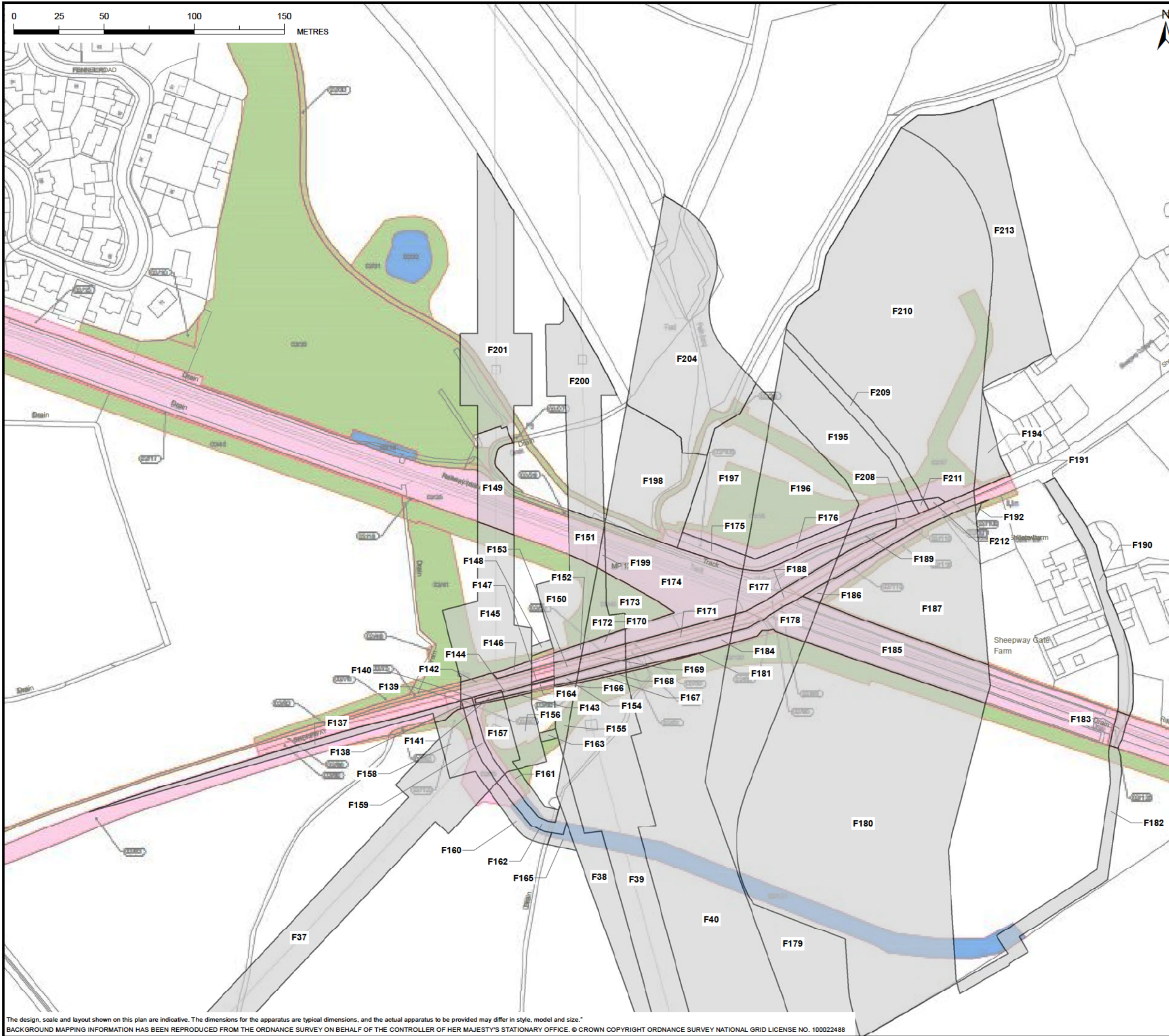
NATIONAL GRID (HINKLEY POINT C  
CONNECTION PROJECT) ORDER  
WORKS PLANS  
(REGULATION 5(2)(j))  
SECTION F  
NORTH SOMERSET COUNCIL &  
BRISTOL CITY COUNCIL

NG INVESTMENT No.	APPLICATION No.	GIS
20897	EN020001	A1
NG DRAWING No.	DRAWING No.	SCALE
13/NG/0385	F/WP/PS/3	1:2,500
SHEET 3 OF 4	N/A	ISSUE
		B



## **APPENDIX 2**

### **PLAN SHOWING HPCC DCO PLOTS AFFECTED BY PROPOSED DEVELOPMENT AND TABLE OF HPCC DCO PLOTS**



### INKLEY CONNECTION PROJECT

Title: NATIONAL GRID  
MetroWest DCO/ Hinkley Connection

Ref. No.: Plan: 1 of 1

INTEREST NAME:  
MetroWest

**LEGEND**

HINKLEY CONNECTION DCO PLOTS

F183

Coordinate System: British National Grid Projection: Transverse Mercator Datum: OSGB 1936 Units: Metre		Grid Reference Easting: 348,400 Northing: 176,048		
Version history:				
Version	Date	Remarks	Author	Checked
v1	12/04/2021	Published	SB	BJ

Scale:	1:2000	Paper Size:	A3
--------	--------	-------------	----

**Notes**

This drawing is scaled at paper size A3, therefore any prints taken at different sizes will affect the accuracy of the measurement units and should not be scaled against.

The design, scale and layout shown on this plan are indicative. The dimensions for the apparatus are typical dimensions, and the actual apparatus to be provided may differ in style, model and size.  
BACKGROUND MAPPING INFORMATION HAS BEEN REPRODUCED FROM THE ORDNANCE SURVEY ON BEHALF OF THE CONTROLLER OF HER MAJESTY'S STATIONARY OFFICE. © CROWN COPYRIGHT ORDNANCE SURVEY NATIONAL GRID LICENSE NO. 100022488



<b><u>HPCC DCO PLOTS IN METROWEST DCO</u></b>			
<b>PlotNo</b>	<b>Plot_Area sqm</b>	<b>Permanent Rights or TP</b>	<b>COMMENTS</b>
F37	11226.8	TEMPORARY_DISMANTLING	DISMANTLING ONLY
F38	2139.27	PERMANENT_EASEMENT	OHL PERMANENT RIGHTS ONLY
F39	10596.7	PERMANENT_EASEMENT	DISMANTLING & OHL PERMANENT RIGHTS
F40	29115.5	PERMANENT_EASEMENT	OHL PERMANENT RIGHTS ONLY
F137	645.63	TEMPORARY_CONSTRUCTION	TEMPORARY CONSTRUCTION ONLY
F138	5.14651	TEMPORARY_DISMANTLING	TEMPORARY ACCESS FOR CONSTRUCTION WHICH CROSSES DISMANTLING
F139	26.1453	PERMANENT_ACCESS	PERMANENT ACCESS RIGHTS WHICH CROSSES DISMANTLING
F140	40.2404	TEMPORARY_DISMANTLING	TEMPORARY ACCESS FOR CONSTRUCTION WHICH CROSSES DISMANTLING
F141	41.241	TEMPORARY_DISMANTLING	TEMPORARY ACCESS FOR CONSTRUCTION WHICH CROSSES DISMANTLING
F142	366.902	TEMPORARY_DISMANTLING	DISMANTLING ONLY
F143	20.4608	TEMPORARY_DISMANTLING	DISMANTLING ONLY
F144	52.4738	TEMPORARY_DISMANTLING	DISMANTLING ONLY
F145	2411.82	TEMPORARY_DISMANTLING	DISMANTLING ONLY
F146	82.4204	TEMPORARY_DISMANTLING	DISMANTLING ONLY
F147	16.0625	TEMPORARY_CONSTRUCTION	TEMPORARY CONSTRUCTION ONLY
F148	58.552	TEMPORARY_ACCESS	TEMPORARY ACCESS FOR CONSTRUCTION ONLY
F149	912.384	TEMPORARY_DISMANTLING	DISMANTLING ONLY
F150	1093.63	TEMPORARY_DISMANTLING	DISMANTLING ONLY
F151	463.257	TEMPORARY_DISMANTLING	DISMANTLING ONLY
F152	99.1181	TEMPORARY_DISMANTLING	DISMANTLING ONLY
F153	117.114	TEMPORARY_DISMANTLING	DISMANTLING ONLY
F154	57.4702	TEMPORARY_DISMANTLING	DISMANTLING ONLY
F155	278.502	TEMPORARY_DISMANTLING	DISMANTLING ONLY
F156	579.094	TEMPORARY_DISMANTLING	DISMANTLING ONLY
F157	596.019	TEMPORARY_DISMANTLING	TEMPORARY ACCESS FOR CONSTRUCTION WHICH CROSSES DISMANTLING
F158	685.722	TEMPORARY_DISMANTLING	TEMPORARY ACCESS FOR CONSTRUCTION WHICH CROSSES DISMANTLING
F159	263.863	PERMANENT_ACCESS	PERMANENT ACCESS RIGHTS WHICH CROSSES DISMANTLING
F160	304.151	TEMPORARY_ACCESS	TEMPORARY ACCESS FOR CONSTRUCTION ONLY
F161	268.186	TEMPORARY_ACCESS	TEMPORARY ACCESS FOR CONSTRUCTION ONLY
F162	319.41	PERMANENT_ACCESS	PERMANENT ACCESS RIGHTS ONLY

F163	47.5052	TEMPORARY_ACCESS	TEMPORARY ACCESS FOR CONSTRUCTION ONLY
F164	4.16566	TEMPORARY_CONSTRUCTION	TEMPORARY CONSTRUCTION ONLY
F165	114.028	TEMPORARY_CONSTRUCTION	TEMPORARY CONSTRUCTION ONLY
F166	12.4778	TEMPORARY_DISMANTLING	DISMANTLING ONLY
F167	35.5799	PERMANENT_EASEMENT	DISMANTLING & OHL PERMANENT RIGHTS
F168	143.877	PERMANENT_EASEMENT	DISMANTLING & OHL PERMANENT RIGHTS
F169	213.26	PERMANENT_EASEMENT	DISMANTLING & OHL PERMANENT RIGHTS
F170	182.662	PERMANENT_EASEMENT	DISMANTLING & OHL PERMANENT RIGHTS
F171	534.672	PERMANENT_EASEMENT	OHL PERMANENT RIGHTS ONLY
F172	443.381	PERMANENT_EASEMENT	DISMANTLING & OHL PERMANENT RIGHTS
F173	567.868	PERMANENT_EASEMENT	OHL PERMANENT RIGHTS ONLY
F174	2747.92	PERMANENT_EASEMENT	OHL PERMANENT RIGHTS ONLY
F175	324.011	PERMANENT_EASEMENT	OHL PERMANENT RIGHTS ONLY
F176	440.886	TEMPORARY_CONSTRUCTION	TEMPORARY CONSTRUCTION ONLY
F177	873.662	TEMPORARY_CONSTRUCTION	TEMPORARY CONSTRUCTION ONLY
F178	579.534	TEMPORARY_CONSTRUCTION	TEMPORARY CONSTRUCTION ONLY
F179	8397.29	TEMPORARY_CONSTRUCTION	TEMPORARY CONSTRUCTION ONLY
F180	19108.7	PERMANENT_EASEMENT	UGC PERMANENT RIGHTS ONLY
F181	43.8046	PERMANENT_EASEMENT	OHL PERMANENT RIGHTS ONLY
F182	1255.81	PERMANENT_ACCESS	PERMANENT ACCESS RIGHTS ONLY
F183	119.485	PERMANENT_ACCESS	PERMANENT ACCESS RIGHTS ONLY
F184	373.868	PERMANENT_EASEMENT	OHL PERMANENT RIGHTS ONLY
F185	2251.18	PERMANENT_EASEMENT	UGC PERMANENT RIGHTS ONLY
F186	69.9311	TEMPORARY_CONSTRUCTION	TEMPORARY CONSTRUCTION ONLY
F187	4556.51	PERMANENT_EASEMENT	UGC PERMANENT RIGHTS ONLY
F188	543.527	TEMPORARY_CONSTRUCTION	TEMPORARY CONSTRUCTION ONLY
F189	216.391	PERMANENT_EASEMENT	UGC PERMANENT RIGHTS ONLY
F190	969.226	PERMANENT_ACCESS	PERMANENT ACCESS RIGHTS ONLY
F191	723.908	PERMANENT_EASEMENT	UGC PERMANENT RIGHTS ONLY
F192	13.5368	TEMPORARY_CONSTRUCTION	TEMPORARY CONSTRUCTION ONLY
F194	485.54	TEMPORARY_CONSTRUCTION	TEMPORARY CONSTRUCTION ONLY
F195	2644.65	PERMANENT_EASEMENT	UGC PERMANENT RIGHTS ONLY
F196	2906.3	TEMPORARY_CONSTRUCTION	TEMPORARY CONSTRUCTION ONLY

F197	2534.02	PERMANENT_EASEMENT	OHL PERMANENT RIGHTS ONLY
F198	2764.63	PERMANENT_EASEMENT	OHL PERMANENT RIGHTS ONLY
F199	61.1395	PERMANENT_EASEMENT	DISMANTLING & OHL PERMANENT RIGHTS
F200	2554.55	TEMPORARY_DISMANTLING	DISMANTLING ONLY
F201	3737.31	TEMPORARY_DISMANTLING	DISMANTLING ONLY
F204	5546.1	PERMANENT_EASEMENT	OHL PERMANENT RIGHTS ONLY
F208	292.258	PERMANENT_EASEMENT	UGC PERMANENT RIGHTS ONLY
F209	708.95	PERMANENT_EASEMENT	PERMANENT ACCESS RIGHTS WHICH CROSSES UGC PERMANENT EASEMENT RIGHTS
F210	14297	PERMANENT_EASEMENT	UGC PERMANENT RIGHTS ONLY
F211	42.1809	PERMANENT_EASEMENT	PERMANENT ACCESS RIGHTS WHICH CROSSES UGC PERMANENT EASEMENT RIGHTS
F212	44.5238	PERMANENT_EASEMENT	UGC PERMANENT RIGHTS ONLY
F213	4276.12	TEMPORARY_CONSTRUCTION	TEMPORARY CONSTRUCTION ONLY

## **APPENDIX 3**

### **APPLICANT'S PROPOSED DRAFT PROTECTIVE PROVISIONS PROVIDED TO NGET 31.3.2021**



# **SCHEDULES**

## **SCHEDULE 16** **PROTECTIVE PROVISIONS**

### **PART [8]**

#### **FOR THE MUTUAL PROTECTION OF NATIONAL GRID AND THE RAILWAY UNDERTAKER**

##### **Preliminary**

##### **Application**

**1.** For the protection of National Grid and the railway undertaker referred to in this Part of this Schedule the following provisions will, unless otherwise agreed in writing between the railway undertaker and National Grid, have effect.

##### **Interpretation**

**2.** In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991;

“2016 Order” means the National Grid (Hinkley Point C Connection Project) Order 2016 as amended;

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of National Grid to enable it to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means electric lines or electrical plant as defined in the Electricity Act 1989, belonging to or maintained by National Grid, together with any replacement apparatus and such other apparatus constructed that becomes operational apparatus of National Grid for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2 of this Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“commence” has the same meaning as in article 2 of this Order and commencement shall be construed to have the same meaning;

“existing apparatus” means apparatus which is sited in, over, or under land on 19 April 2021 and belonging to or maintained by National Grid on that date “existing electricity tower” shall be construed accordingly;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by the railway undertaker (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the railway undertaker to submit for National Grid’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground

monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Grid including construct, use, repair, alter, inspect, renew or remove the apparatus;

“National Grid” means National Grid Electricity Transmission plc (registered company number 2366977);

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“parent company” means a parent company of the railway undertaker acceptable to and which shall have been approved by National Grid acting reasonably;

“railway property” means –

- (a) any railway belonging to the railway undertaker;
- (b) any stations, land, works, apparatus and equipment belonging to the railway undertaker and connected with any such railway; and
- (c) any easement or other property interest held or used by the railway undertaker for the purposes of such railway or works, apparatus or equipment;

“railway undertaker” means the undertaker as defined in article 2 of this Order and, in relation to property owned by Network Rail, Network Rail;

“the relevant authorised development” means so much of any of the authorised development or activities undertaken in association with the authorised development as will or may be situated under, over, or within 15 metres measured in any direction of any apparatus proposed to be constructed or installed by National Grid under the powers of the 2016 Order;

“the relevant 2016 Order development” means so much of any of the development authorised under the 2016 Order as will or may be situated under, over or within 15 metres of, or which may in any way adversely affect, railway property;

“[specified railway works]” means any of the authorised works or activities undertaken in association with the authorised works which:

- (a) will or may be situated over, or within 15 metres measured in any direction of any existing apparatus the removal of which has not been required by the railway undertaker under paragraph 10(2) or otherwise; and/or
- (b) may in any way adversely affect any existing apparatus the removal of which has not been required by the railway undertaker under paragraph 10(2) or otherwise.

3. Except for paragraphs 7(*apparatus of National Grid in stopped up streets*), 11(*retained apparatus*), 12(*expenses*) and 13 (*indemnity*) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of the railway undertaker, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the railway undertaker and National Grid are regulated by the provisions of Part 3 of the 1991 Act.

4. The provisions of the 2016 Order take effect subject to the provisions of this Part.

5. The provisions of Part 2 of this Schedule do not apply in relation to National Grid or any

apparatus of National Grid.

### **Duty to co-operate**

6.(1) The railway undertaker and National Grid will co-operate and work together to secure that the works proposed to be carried out by National Grid under the powers of the 2016 Order and the authorised works to be carried out by the railway undertaker under this Order will so far as reasonably possible be programmed, and arrangements for the carrying out of those works will be made, so as, so far as reasonably possible, to avoid undue delay or any conflict arising between the carrying out of those proposed works and the implementation of the authorised development.

(2) Any consent, agreement or approval by National Grid or the railway undertaker under this Part of this Schedule must not be unreasonably withheld or delayed.

## **Provisions for the protection of National Grid**

### **Apparatus of National Grid in stopped up streets**

7.—(1) Without prejudice to the generality of any other protection afforded to National Grid elsewhere in the Order, where any street is stopped up under article 14 (*permanent stopping up of streets*), if National Grid has any apparatus in the street or accessed via that street National Grid will be entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the railway undertaker will grant to National Grid, or will procure the granting to the National Grid of, legal easements reasonably satisfactory to it in respect of such apparatus and access to it prior to the stopping up of any such street or highway.

(2) Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 15 (*temporary stopping up of streets and public rights of way*), National Grid will be at liberty at all times to take all necessary access across any such stopped up highway and/or to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

### **Acquisition of land**

8. (1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the railway undertaker may not acquire or extinguish any land interest or apparatus or override any easement and/or other interest of National Grid, including any rights contained in the 2016 Order, otherwise than by agreement.

(2) The railway undertaker and National Grid agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of existing apparatus (including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Grid and/or other enactments relied upon by National Grid as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

(3) Any agreement or consent granted by National Grid under paragraph 11 or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under paragraph 8(1).

### ***Provisions relating to existing apparatus***

### **Removal of existing apparatus**

9.—(1) If, in the exercise of the agreement reached in accordance with paragraph 8 or in any other authorised manner, the railway undertaker acquires any interest in any land in which any apparatus is placed or requires that National Grid's existing apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule and any right of National Grid to maintain that existing apparatus in that land must not be extinguished, until alternative apparatus has been

constructed, and is in operation to the reasonable satisfaction of National Grid in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the railway undertaker requires the removal of any existing apparatus placed in that land, it must give to National Grid 56 days' advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Grid reasonably needs to remove any of its apparatus) the railway undertaker must, subject to sub-paragraph (3), afford to National Grid to its satisfaction (taking into account paragraph 10(1) below) the necessary facilities and rights for the construction of alternative apparatus in other land of or land secured by the railway undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the railway undertaker, or the railway undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, National Grid must, as soon as is reasonably possible and on receipt of a written notice to that effect from the railway undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for National Grid to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the railway undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between National Grid and the railway undertaker or in default of agreement settled by arbitration in accordance with article 56 (arbitration).

(5) National Grid must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 56, and subject to the grant to National Grid of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the railway undertaker to be removed under the provisions of this Part of this Schedule.

### **Facilities and rights for alternative apparatus**

**10.** —(1) Where, in accordance with paragraph 9 of this Part of this Schedule, the railway undertaker affords to or secures for National Grid facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the railway undertaker and National Grid and must be no less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Grid.

(2) If the facilities and rights to be afforded by the railway undertaker and agreed with National Grid under paragraph 10(1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the matter will be referred to arbitration in accordance with article 56 (arbitration) and the arbitrator shall make such provision for the payment of compensation by the railway undertaker to National Grid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

### **Retained existing apparatus**

**11.** —(1) Not less than 56 days before the commencement of any specified railway works that are near to, or will or may affect, any existing apparatus the removal of which has not been required by the railway undertaker under paragraph 9(2) or otherwise, the railway undertaker must submit to National Grid a plan of the works to be executed and seek from National Grid details of the underground extent of their electricity tower foundations.

(2) [In relation to specified railway works which will or may be situated on, over, under or within (i) 15 metres measured in any direction of any existing apparatus, or (ii) involve embankment works within 15 metres of any existing apparatus,] the plan to be submitted to National Grid under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant;
- (d) the position of all existing apparatus as provided by National Grid under sub-paragraph (1);
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;
- (f) any intended maintenance regimes; and
- (g) an assessment of risks of rise of earth issues.

(3) In relation to any works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an existing electricity tower or between any two or more existing electricity towers, the plan to be submitted under sub-paragraph (1) must, in addition to the matters set out in sub-paragraph (2), include a method statement describing -

- (a) details of any cable trench design including route, dimensions, clearance to pylon foundations;
- (b) demonstration that pylon foundations will not be affected prior to, during and post construction;
- (c) details of load bearing capacities of trenches;
- (d) details of cable installation methodology including access arrangements, jointing bays and backfill methodology;
- (e) a written management plan for high voltage hazard during construction and ongoing maintenance of the cable route;
- (f) written details of the operations and maintenance regime for the cable, including frequency and method of access;
- (g) assessment of earth rise potential if reasonably required by National Grid's engineers; and
- (h) evidence that trench bearing capacity is to be designed to 26 tonnes to take the weight of overhead line construction traffic.

(4) The railway undertaker must not commence any works to which sub-paragraphs (2) or (3) apply until National Grid has given written approval of the plan so submitted or they have been settled by arbitration under article 56 (arbitration).

(5) Any approval of National Grid required under sub-paragraphs (2) or (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and
- (b) must not be unreasonably withheld.

(6) In relation to any work to which sub-paragraphs (2) or (3) apply, National Grid may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any existing apparatus.

(7) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (5), as approved or as amended from time to time by agreement between the railway undertaker and National Grid and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6) or (8) by National Grid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid will be entitled to watch and inspect the execution of those works.

(8) Where National Grid requires any protective works to be carried out by itself or by the railway undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph,

must be carried out to National Grid's satisfaction prior to the commencement of any authorised works (or any relevant part thereof) for which protective works are required and National Grid shall give 56 days' notice of such works from the date of submission of a plan pursuant to this paragraph (except in an emergency).

(9) If National Grid in accordance with sub-paragraphs (6) or (8) and in consequence of the works proposed by the railway undertaker, reasonably requires the removal of any existing apparatus and gives written notice to the railway undertaker of that requirement, paragraphs 1 to 3 and 5 to 7 apply as if the removal of the apparatus had been required by the railway undertaker under paragraph 9(2).

(10) Nothing in this paragraph precludes the railway undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the authorised works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph shall apply to and in respect of the new plan.

(11) The railway undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to National Grid notice as soon as is reasonably practicable and a plan of those works and must—

- (a) comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances; and
- (b) comply with sub-paragraph (12) at all times.

(12) At all times when carrying out any works authorised under the Order, the railway undertaker must comply with National Grid's policies for development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines".

## **Expenses**

**12.** —(1) Subject to the following provisions of this paragraph, the railway undertaker must pay to National Grid on demand all charges, costs and expenses reasonably anticipated or incurred by National Grid in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any existing apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part of this Schedule including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by National Grid in connection with the acquisition of rights or the exercise of statutory powers for such existing apparatus including without limitation all costs incurred by National Grid as a consequence of National Grid;
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 9(3); and/or
  - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Grid;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller

dimensions; or

- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the railway undertaker or, in default of agreement, is not determined by arbitration in accordance with article 56 (*arbitration*) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to National Grid by virtue of sub-paragraph (1) will be reduced by the amount of that excess save where it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the railway undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to National Grid in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on National Grid any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

**13.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the railway undertaker or in consequence of any act or default of the railway undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the railway undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of National Grid, or there is any interruption in any service provided, or in the supply of any goods, by National Grid, or National Grid becomes liable to pay any amount to any third party, the railway undertaker will—

- (a) bear and pay on demand the cost reasonably incurred by National Grid in making good such damage or restoring the supply; and  
make reasonable compensation to that undertaker for any other expenses, loss, damages, penalty or costs incurred by the undertaker .

(2) The fact that any act or thing may have been done by National Grid on behalf of the railway undertaker or in accordance with a plan approved by National Grid or in accordance with any requirement of National Grid or under its supervision will not (unless sub-paragraph (3) applies), excuse the railway undertaker from liability under the provisions of sub-paragraph (1) unless National Grid fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) shall impose any liability on the railway undertaker in respect of any damage or interruption to the extent that it is attributable to the neglect or default of National Grid, its officers, servants, contractors or agents.

(4) National Grid must give the railway undertaker reasonable notice of any such third party claim or demand and no settlement or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the railway undertaker and considering their representations.



## **Enactments and agreements**

**14.** Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between National Grid and the railway undertaker, nothing in this Part of this Schedule shall affect the provisions of any enactment or agreement regulating the relations between the railway undertaker and National Grid in respect of any apparatus laid or erected in land belonging to the railway undertaker on the date on which this Order is made.

## **Co-operation**

**15.** Where in consequence of the proposed construction of any of the authorised works, the railway undertaker or National Grid requires the removal of apparatus under paragraph 9(2) or National Grid makes requirements for the protection or alteration of apparatus under paragraph 11, the railway undertaker shall use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of National Grid's undertaking and National Grid shall use its best endeavours to co-operate with the railway undertaker for that purpose.

## **Access**

**16.** If in consequence of the agreement reached in accordance with paragraph 8(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the railway undertaker must provide such alternative means of access to such apparatus as will enable National Grid to maintain or use the apparatus no less effectively than was possible before such obstruction

## **Provisions for the protection of National Grid's proposed works and for the railway undertaker**

**17.** As soon as reasonably practicable after the coming into force of this Order, and in any event no later than 70 days before commencing a part of the relevant 2016 Order development, National Grid will give the railway undertaker plans of the works to be carried out including in particular a method statement and the exact position of the works and sufficient details to enable the engineer to ascertain the impact of the works on railway property and on the carrying out of the authorised works and for the railway undertaker to give the details set out in paragraph 18.

**18.** (1) As soon as reasonably practicable after the coming into force of this Order, and in any event no later than 56 days before commencing any of the relevant authorised development, the railway undertaker will give National Grid plans of the works to be carried out comprised in that development which must include a method statement and describe the position of the proposed apparatus as provided by National Grid under sub-paragraph (1) and the matters set out in paragraph 11(2)(a) to (c) and (e) to (g).

(2) In relation to any works which will or may be situated on, over or within 10 metres of any part of the foundations of a proposed electricity tower or between any two or more proposed electricity towers, the plan to be submitted under sub-paragraph (1) must, in addition to the matters set out in that sub-paragraph, include a method statement describing the matters set out in paragraph 11(3) so far as relevant in this scenario.

(3) Paragraphs 11(4) to (8) and (10) to (12) apply in relation to works to which sub-paragraph (1) or (2) applies.

**19.** Part 4 of Schedule 15 to the 2016 Order (protection for railway interests) has effect as if any reference to Network Rail included a reference to the railway undertaker and if references to railway property included the authorised development.



## **General**

### **Arbitration**

**20.** Any difference or dispute arising between the railway undertaker and National Grid under this Part of this Schedule must, unless otherwise agreed in writing between the railway undertaker and National Grid, be determined by arbitration in accordance with article 56 (*arbitration*).

### **Notices**

**21.** The plans submitted to National Grid by the railway undertaker pursuant to paragraph 11 must be sent to National Grid Plant Protection at **plantprotection@nationalgrid.com** or such other address as National Grid may from time to time appoint instead for that purpose and notify to the railway undertaker in writing.