



Department for
Business, Energy
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Dear Mr Pink,

**ELECTRICITY ACT 1989 AND ACQUISITION OF LAND ACT 1981 - THE
NATIONAL GRID ELECTRICITY PLC (LONDON POWER TUNNELS 2) (CIRCUIT
1 – WIMBLEDON TO NEW CROSS; CIRCUIT 2 – NEW CROSS TO HURST)
COMPULSORY PURCHASE ORDER 2019 (“the Order”)**

Your client: **National Grid Electricity Transmission PLC**

The Compulsory Purchase Order and background:

1. I am directed by the Secretary of State for Business, Energy and Industrial Strategy (“the Secretary of State”) to refer to the National Grid London Power Tunnels 2 Compulsory Purchase Order 2019 (“the Order) Circuit 1 (Wimbledon and New Cross) and Circuit 2 (New Cross to Hurst), which was submitted to the Secretary of State by National Grid Electricity Transmission PLC (NGET), for consideration under section 10 of, and Paragraph 1 of Schedule 3 to, the Electricity Act 1989 (“the 1989 Act”) and Part 2 of the Acquisition of Land Act 1981 (“the 1981 Act”)
2. The purpose of the Order is to replace aged and de-grading oil filled cables to meet current energy demands in South London. The cables are an integral part of the transmission network and their replacement is necessary to ensure that the network remains compliant with the Security and Quality Supply Standards, with which transmission licensees must comply.

3. The objective of LPT2 (Circuits 1 and 2) is to replace these cables beneath the ground which are reaching the end of their operational life and to ensure stable and reliable electricity transmission. To minimise disruption, NGET has proposed to replace the existing cables, with a cable tunnel constructed with tunnel boring machines (TBMs) operating from drive sites. The tunnels in Circuits 1 and 2 will lie between 20m and 60m below ground level with protection zones around them to ensure their integrity.
4. The making of the Order commenced on 13 June 2019. The objection period ran from 28 June until 1 August 2019. During this period, the Secretary of State received 13 objections. The Order was formally submitted to the Secretary of State on 1 August 2019.
5. The Secretary of State wrote to the Applicant on 20 August 2019, under Rule 3(3) of the Compulsory Purchase (Inquiries Procedure) Rules 2007, to state that the Secretary of State had decided to hold a public local inquiry into the above Compulsory Purchase Order. For the purposes of Rule 3(3), the 20 August 2019 became the 'relevant date'.
6. The Secretary of State also informed the Applicant that a Statement of Case must be submitted to each outstanding objector within six weeks of the relevant date. The Secretary of State noted that the Statement of Case must set out in full the case that the Applicant intended to put forward at the inquiry, including the reasons for making the Order.
7. The Secretary of State wrote to the Planning Inspectorate on 20 August formally requesting that they make provisions for the public local inquiry and to appoint an Inspector to oversee proceedings. Mr C Sherratt was appointed as the Inspector.
8. The Secretary of State subsequently wrote to all outstanding objectors on 23 August to inform them of the inquiry.
9. The Secretary of State is required to seek consent from the Gas and Electricity Markets Authority ("GEMA") where any land subject to compulsory acquisition, including rights over land, belongs to another licence holder. By virtue of paragraph 2(1) of Schedule 3 to the Electricity 1989 Act, no order may be made which authorises the compulsory purchase of land (or rights in land) belonging to another Electricity 1989 Act licence holder, unless and until consent to the making of the order has been obtained from GEMA.
10. Ofgem had begun provisional consultations with electricity licence holders and the Secretary of State formally wrote to Ofgem on 10 July 2020 seeking GEMA consent. Notification by Ofgem was provided on 20 January 2021 that GEMA consent for the LPT2 compulsory purchase order was not required. This was on the basis of notification from NGET that UKPN's rights in respect of the plots listed will be unaffected by the CPO.
11. The inquiry commenced on 7 January 2020 and concluded on 8 January 2020. Before the inquiry began, ten objections were withdrawn. After the

inquiry, but before the Inspector was able to draft his report and recommendation to the Secretary of State, a further two objections were withdrawn. The final objection, from the Right Honourable Tenth Earl of Dartmouth - freeholder of Blackheath common – was formally withdrawn on 23 March 2020.

12. However, on 8 April 2020 the Secretary of State was contacted by NGET to inform him that Network Rail, when lodging their official objection to LPT2 Circuit 3, had not been aware of the objection period for Circuit 1. It was agreed that the objection would be accepted, even though the objection period had passed and the inquiry had already taken place. Network Rail formally withdrew their objection on 2 December 2020 resulting in no outstanding objections to the CPO.
13. The Secretary of State notes that An Open Space Certificate, pursuant to paragraph 6(1) of Schedule 3 to the 1981 Act was issued to the Applicant by the Secretary of State for the Ministry of Housing, Communities and Local Government (“MHCLG”) on 6 November 2019.
14. The Secretary of State notes that at the time the CPO was promoted, and associated land referencing was carried out, and throughout the inquiry, Plots 13-05 and 13-06 were “Crown interests” through escheat/bona vacantia. Following a successful negotiation, National Grid purchased the freehold title to the plots on 19 June 2020. Registration at the Land Registry is still being administered so the transfer has not yet been registered. The Crown Estate Commissioners give no title guarantee because of the circumstances by which they came into “ownership” hence the need to retain the plots within the Order. Modifications to the Order have been made to make clear that, while the plots remain in the Order, the scope of the CPO to compulsorily acquire rights does not extend to Crown interests (in accordance with section 63 of the Electricity Act 1989).

Inspector’s report:

15. Paragraph 5(1) of Schedule 3, to the 1989 Act applies the 1981 Act to a compulsory purchase by a licence holder. The Ministry of Housing, Communities & Local Government issued updated Guidance on Compulsory purchase process and the Crichel Down Rules in July 2019 which is applicable to all compulsory purchase orders to which the Acquisition of Land Act 1981 applies. The Inspector framed his conclusions on the principles of this guidance, including: the need for the Order; the public interest; the compelling case; resources and procedural requirements and other consents.
16. The Inspector submitted his report to the Secretary of State on 3 March 2020, stating in his conclusions that, under section 9(2) of the Electricity Act 1989, the holder of a licence is authorised to participate in the transmission of electricity and is charged with the duty “to develop and maintain an efficient, co-ordinated and economical system of electricity transmission”. The Inspector stated that it was clear that some form of action is required to

ensure the continued efficient supply of electricity in the South London area, given the poor health assessment of the existing aged cables. The Inspector stated that the case for replacement of the existing cables was therefore compelling and a solution was required.

17. The Inspector further stated that LPT2 (Circuits 1 and 2) is necessary to replace the existing cables, as they are reaching the end of their asset life, to ensure reliable and efficient electricity transmission infrastructure is available to support existing and future energy demand in London. The Inspector stated that there was clear support both within local and national policies for the provision of infrastructure to support existing and proposed development. The provision of an efficient and reliable supply of electricity will contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the area. Accordingly, the purpose for which the land is being acquired fits in with the relevant development plan policies.

18. The Inspector concluded that the Order is justified and necessary and it meets the requirements of the Act and recommends that the Order should be confirmed with no modifications required.

Consideration of the Compulsory Purchase Order:

19. In consideration of the Order, the Secretary of State has weighed up the relevant impacts of the proposed cable route and has considered whether the rights over the Order Land that are sought interfere with the human rights of those with an interest in the affected land. The Secretary of State has also considered whether, in accordance with MHCLG "Guidance on Compulsory Purchase Process and The Crichton Down Rules for the disposal of surplus land acquired by, or under threat of, compulsion", a compelling case for compulsory purchase in the public interest is made out, and whether any interference with the human rights of those affected is sufficiently justified and proportionate in light of the purposes for which the compulsory purchase order would be made in this instance.

20. In considering whether there is any interference with the human rights of those with an interest in the land affected, the Secretary of State has taken account of the compelling public interest justification for the development and notes that there are no outstanding objections from any owners, lessees, tenants or occupiers of any of the land to be acquired.

21. The Secretary of State has taken the view that the rights over the land sought by the Applicant will interfere with the human rights of those with an interest in the land affected, particularly rights under Article 1 and 8 of the First Protocol of the European Convention on Human Rights. However, he is satisfied that the Applicant has sought to keep interference to a minimum in respect of the rights sought over the Order land and considers that any interference is necessary and proportionate. The Secretary of State also considers that any

interference strikes a fair balance with the public benefit of delivering an important scheme that will help to guarantee the UK's future energy security.

22. The Secretary of State has therefore concluded that there would not be an unlawful interference with human rights under Article 1 of the First Protocol or in the case of a dwelling, Article 8 of the European Convention on Human Rights and that in confirming the Order there would not be a disproportionate or unjustified interference with human rights so as to conflict with the provisions of the Human Rights Act 1998.

23. The Equality Act 2010 requires public authorities to have due regard in the exercise of their functions to the need to:

- eliminate discrimination, harassment and victimisation;
- advance equality of opportunity between persons who share a relevant protected characteristic and those who do not; and
- foster good relations between people who share a relevant protected characteristic and those who do not.

24. The Secretary of State has considered the potential impacts of granting the Order in the context of the general equality duty and has concluded that it is not likely to result in any significant differential impacts on people sharing any of the relevant protected characteristics.

25. The Secretary of State, in accordance with the duty in section 40(1) of the Natural Environment and Rural Communities Act 2006, has to have regard to the purpose of conserving biodiversity, and in particular to the United Nations Environmental Programme Convention on Biological Diversity of 1992 in so far as is consistent with the proper exercise of his functions. The Secretary of State has also had regard to the requirements of the Habitats Directive, as required by regulation 9(3) of the Conservation of Habitats and Species Regulations 2017, so far as they may potentially be affected by his confirmation of the Order. The Secretary of State is of the view that the Application considers biodiversity, environmental impacts and protected sites to accord with this duty.

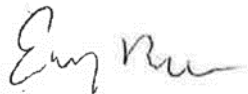
Secretary of State's decision on the Compulsory Purchase Order:

26. The Secretary of State has carefully considered the intentions of the Applicant and the concerns expressed by the objectors as set out in their original objections and stated within the public inquiry.

27. The Secretary of State notes that the National Policy Statements (NPS) and specifically The Overarching National Policy Statement for Energy (EN-1) offers support for new electricity network infrastructure projects, which will add to the reliability of the national energy supply, provide crucial national benefits, which are shared by all users of the system.

28. The Secretary of State notes the observations made by the Inspector in his report, that LPT2 (Circuits 1 and 2), is necessary to replace the existing cables, which are reaching the end of their asset life, to ensure reliable and efficient electricity transmission infrastructure is available to support existing and future energy demand in London. The Inspector stated that there was clear support both within local and national policies for the provision of infrastructure to support existing and proposed development. The provision of an efficient and reliable supply of electricity will contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the area. Accordingly, the purpose for which the land is being acquired fits in with the relevant development plan policies. The Secretary of State agrees with this observation.
29. The Secretary of State has carefully considered NGET's Statement of Reasons that sets out a justification for the making of the Order. The Secretary of State concludes that there is a compelling, proportionate and justifiable case in the public interest for the acquisition of the Order land.
30. **The Secretary of State has decided to confirm the Order with minor modifications to the Order.** NGET sought modifications to Plots 13:05 and 13:06 (the "Crown plots") - in relation to Circuit 1 - to make clear that while the plots remain in the Order the scope of the CPO to compulsorily acquire rights does not extend to Crown interests (aligning with section 63 of the Electricity Act 1989) Further modifications were identified during Ofgem's GEMA consent consultations, this identified potential issues with land owned by UK Power Networks (UKPN) On 13 November 2020, NGET concluded an agreement with UKPN for the necessary land and rights in the Order (in relation to Circuit 2) in relation to plots 27.01, 27.02, 27.04, 27.05, 27.08, 27.09 and 27.03, 27.07, 27.10 (the "UKPN Plots"). Modifications have been made to the Order to confirm that rights of UKPN in relation to those plots remain unaffected.
31. The confirmed Order is enclosed together with the plans referred to in that Order. The Order and plans are authorised on behalf of the Secretary of State.
32. Your attention is drawn to the notice obligations in section 15 of the 1981 Act, including that relating to publishing a confirmation notice in one or more local newspapers circulated in the locality of the land subject to the compulsory purchase order. The Order will become operative on the date which Notice of Confirmation is first published. It is important you advise the Secretary of State of this date. We should be grateful if you would in due course, send to the Secretary of State a copy of the pages from the local newspaper containing the Notice of Confirmation of the Order. The page should identify at the head thereof the name of the newspaper and the date of publication.

33. Section 15(6) of the 1981 Act provides that a confirmation notice shall be a local land charge and requires it to be sent to the Chief Land Registrar, and this will be the case where the order is situated in an area for which the Chief Land Registrar has given notice that he now keeps the local land charges register following changes made by Schedule 5 to the Infrastructure Act 2015. However, where land in the order is situated in an area for which the local authority remains the registering authority for local land charges (because the changes made by the Infrastructure Act 2015 have not yet taken effect), the Acquiring Authority should comply with the steps required by section 5 of the Local Land Charges Act 1975 (prior to it being amended by the Infrastructure Act 2015) to ensure that the charge is registered by the local authority.
34. The validity of the Secretary of State's decision may be challenged by making an application to the Planning Court. Such application must be made not later than six weeks from the date on which notice of the confirmation or making of the Order is first published in accordance with section 15 of the 1981 Act.



Yours sincerely,
Emily Bourne
Director, Energy Development and Resilience