



Department for
Business, Energy
& Industrial Strategy

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12/04/2021

Dear Mr Garden,

ELECTRICITY ACT 1989 AND ACQUISITION OF LAND ACT 1981 - THE GREENLINK INTERCONNECTOR LIMITED (GREENLINK, PEMBROKE) COMPULSORY PURCHASE ORDER 2020 (“the Order”)

Your client: **Greenlink Interconnector Limited.**

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 Greenlink Interconnector Compulsory Purchase Order, which was submitted to the Secretary of State by Greenlink Interconnector Limited (“GIL”), 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 compulsorily purchase land and rights to enable it to construct an electricity interconnector between Wales and Ireland.
3. GIL is promoting and developing an electricity interconnector linking the existing electricity grids in Ireland and Great Britain, known as Greenlink. The aim of Greenlink is to connect the high voltage electricity transmission network in Wales with the high voltage electricity transmission network in Ireland to provide additional nominal capacity of 500MW to the respective electricity transmission systems.
4. Greenlink will consist of two electricity converter stations, one close to the existing National Grid Pembroke substation in Pembrokeshire, and one close

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to an existing Eirgrid substation at Great Island in County Wexford, Ireland. The converter stations will be connected by cables running underground (onshore) and subsea (offshore)

5. The making of the Order commenced on 10 January 2020. The objection period ran from 15 January 2020 to 7 February 2020. During this period five objections were received. A further objection, from National Grid, was received after the objection period had ended. The objection was accepted and the objection period was extended to 1 April 2020; no further objections were received.
6. The Secretary of State wrote to the Applicant on 20 May 2020, 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), 20 May 2020 became the 'relevant date'.
7. 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.
8. The Secretary of State wrote to the Planning Inspectorate on 20 May 2020 formally requesting that it make provisions for the public local inquiry and to appoint an Inspector to oversee proceedings. Mr David Richards was appointed as the Inspector.
9. The Secretary of State subsequently wrote to all outstanding objectors on 20 May 2020 to inform them of the inquiry.
10. 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 1989 Act, no order may be made which authorises the compulsory purchase of land (or rights in land) belonging to another 1989 Act licence holder, unless and until consent to the making of the order has been obtained from GEMA.
11. Ofgem had begun provisional consultations with electricity licence holders and the Secretary of State formally wrote to Ofgem on 20 July 2020 seeking GEMA consent. Notification by Ofgem was provided on 16 February 2021 that GEMA consent for the Greenlink compulsory purchase order was not required.
12. It was agreed, that as per Rule 4 of the Compulsory Purchase (Inquiries Procedure) Rules 2007, a virtual pre-inquiry meeting would be held on Wednesday 2 September 2020 and a virtual full public meeting would be held on Tuesday 20 October and Wednesday 21 October 2020.

13. Five objections had been withdrawn by 16 October 2020, leaving RWE Generation UK Plc (“RWE”), as the only outstanding objection. RWE had raised concerns that providing consent to the Order could potentially put them in breach of the consent under s.36 of the 1989 Act for its Pembroke combined cycle gas-fired power station which required RWE to retain an area of land for the future installation of carbon capture plant. The route of Greenlink crosses the area of land retained for Carbon Capture and Storage (“CCS”) readiness (“the CCS Area”). A statement of common ground between Greenlink Interconnector Limited and RWE was presented to the Inspector on 18 October 2020.
14. It was decided to defer the public inquiry until 20 November 2020, to allow both GIL and RWE to continue negotiations. During this period, BEIS commissioned Natural Resources Wales to advise – referring to and using the White Young Green Report, (this report was originally commissioned by RWE and analysed potential plot locations within the CCS Area which could accommodate the carbon capture plant. It took into account specific site constraints that could restrict the siting of the carbon capture facilities) - on whether there was sufficient space for CCS at the Pembroke site for the proposed Greenlink interconnector cables to co-exist.
15. The Report confirmed that there was sufficient space for a future CCS plant in an area of land not required by the Greenlink Interconnector project, and on the basis of the conclusions of the Report and the confirmation received from Natural Resources Wales on 27 November 2020, BEIS confirmed that the laying of the Greenlink cables in the location proposed, pursuant to easement rights granted by RWE, would not result in a breach of Condition 3(2) of its consent.
16. Subsequently, RWE withdrew its objection on 27 November meaning there are no outstanding objections to the Order.

Inspector’s report and conclusions:

17. 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 Criche Down Rules in July 2019 and the Welsh Government have published equivalent guidance, Compulsory Purchase in Wales and the Criche Down Rules (Wales Version, 2020) (Circular 003/2019). 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.
18. The Inspector submitted his report to the Secretary of State on 6 January 2021, stating that GIL is the holder of an electricity interconnection licence (the Interconnector Licence), granted pursuant to s.6(1)(c) of the 1989 Act.

19. The Secretary of State notes from the Inspector's report his analysis of RWE's objection which, at the time of the public inquiry, was still outstanding. However, as detailed above, RWE has now formally withdrawn its objection and the Secretary of State now considers this matter resolved. The Secretary of State does not consider therefore that the obligations set out in the Unilateral Undertaking given by GIL and referred to in the Inspector's report at paragraphs 147-149 are necessary and has therefore accorded them no weight in this decision.
20. The Inspector states that a final project assessment will need to be undertaken by Ofgem before the project can reach financial close, and as such there remains some uncertainty about the overall viability of the project. However, the Inspector states it is clear that GIL has engaged with Ofgem throughout, which has in turn found, in principle, that the project would benefit the consumer and is suitable for cap and floor support. The Secretary of State also notes that the Inspector, in his opinion, believes the scheme is likely to have a low impact on the land affected, and unlikely to give rise to claims for any significant compensation. The Inspector states that the resources currently available would appear to be more than adequate to cover any such claims arising.
21. The Inspector also notes that, throughout the development process, the design of Greenlink was reassessed to take into account newly identified environmental and technical constraints, which included the avoidance of protected sites (SAC, SPA, SSSI, Scheduled Monuments, etc.), maximising spatial separation from local residences, aligning the route through existing field gaps (gates, existing breaks in hedgerows, etc.) as far as reasonably practicable to minimise fragmentation of tree lines, hedgerows and watercourses, and that the route selection process set out in the Environmental Statement was not challenged by any objector to the Order. The Inspector concluded that, in his opinion, there was no other obviously preferable route for the on-shore cable.
22. The Inspector concluded that the Order is justified and necessary and recommends that the Order should be confirmed with no modifications required.

Consideration of the Compulsory Purchase Order:

23. 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 the relevant guidance, 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.

24. 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.
25. 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.
26. 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.
27. 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.
28. 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.
29. The Secretary of State has had regard to the duty in section 6 of the Environment (Wales) Act 2016, to maintain and enhance biodiversity and in particular had regard 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:

30. 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.
31. The Secretary of State notes that the energy National Policy Statements (including EN-1 and the NPS for Electricity Networks Infrastructure (EN-5)) set out the most recent Government policy for the delivery of major energy infrastructure. EN-1 recognises that interconnection will play an important role in a low carbon electricity system within the UK whilst maintaining security of energy supply. EN-1 further recognises the economic and other benefits of electricity interconnection.
32. The Energy White Paper, Powering our Net Zero Future, was published on 14 December 2020. It announced a review of the suite of energy National Policy Statements but confirmed that the current National Policy Statements were not being suspended in the meantime.
33. The Secretary of State has carefully considered GIL'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.
34. The Secretary of State was informed by GIL, on 9 March 2021, that Natural Resources Wales had issued the marine licence. Importantly, in approving the Habitats Regulations Assessment derogation case under Article 6(4) of the Habitats Directive, Natural Resources Wales and the Welsh Government have concluded that there are no alternative solutions to the project and that there are imperative reasons of overriding public interest.
35. The Secretary of State also notes the Inspector's final conclusions in his report that there is a compelling case in the public interest for the Order to be confirmed. The Secretary of State agrees with this assessment.
36. **The Secretary of State has decided to confirm the Order with minor modifications to the Order.** GIL sought modifications to the Order after it was agreed that GEMA consent was no longer required, the modifications are to Map 1, Plot 15, Plot 16 and Plot 17 to remove reference to RWE interests.

37. 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.
38. 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.
39. 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.
40. 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,



Gareth Leigh
Head of Energy Infrastructure Planning