



Department for
Energy Security
& Net Zero

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Dear Ms Barker,

ELECTRICITY ACT 1989 AND ACQUISITION OF LAND ACT 1981 - THE NATIONAL GRID ELECTRICITY TRANSMISSION PLC (Little Horsted Substation Connection) COMPULSORY PURCHASE ORDER 2022 (“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 Energy Security & Net Zero (“the Secretary of State”) to refer to the National Grid Electricity Transmission PLC, Little Horsted substation connection Compulsory Purchase Order (“the Order”), which was submitted for confirmation 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 authorise NGET the compulsory acquisition of land and rights in land required for the construction and operation of:
 - a. a new 400KV grid supply point substation (“substation A”);
 - b. a 132KV substation and two new pylons within the site (“substation B”); and
 - c. associated works to connect the new grid supply point substation to the existing 400KV Bolney to Ninfield overhead electricity line.

3. The overall project was triggered by South-Eastern Power Networks (SEPN) – A Distribution Network Operator – making an application to NGET to reinforce the surrounding electricity network. The Secretary of State notes that planning permission for substations A and B was granted by Wealden District Council on 12 November 2021. There are other aspects of the scheme which are stated to fall within permitted development in accordance with the Town and Country Planning Act (General Permitted Development) (England) Order 2015. Wealden District Council (LPA) and East Sussex County have also confirmed that certain works relating to the pylons and overhead lines do not require consent under Section 37 of the 1989 Act.
4. Having regard to the Little Horsted substation connection project (“the Project”), it is noted that SEPN made a connection request on 18 November 2016 through the National Grid Electricity System Operator Ltd (NGESO) to NGET, for a Grid Supply Point at Little Horsted consisting of two 240MVA Super Grid Transformers (“SGT”) for the reinforcement of its network. In accordance with NGET’s license obligation, NGET made a connection offer via the NGESO to SEPN. That offer was accepted on 10 May 2018. Subsequently, SEPN submitted a modification application to the NGESO on 30th July 2019 requesting additional network capacity due to increased forecast demand in the local area. NGET provided a revised offer, again via the NGESO to SEPN, which was accepted on 5th November 2019. The Project is required to fulfil that offer.
5. The making of the Order commenced on 24 March 2022. The objection period ran from 21 April 2022 until 13 May 2022. During this period, the Secretary of State received seven objections. The Order was formally submitted to the Secretary of State on 5 May 2022.
6. The Secretary of State wrote to the Planning Inspectorate on 26 May 2022 formally requesting that they make provisions for the public inquiry and to appoint an Inspector to oversee proceedings. Mr Mark Yates was appointed as the Inspector.
7. The Secretary of State wrote to the Applicant and all interested parties who had outstanding objections, on 6 July 2022, 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 inquiry into the above Compulsory Purchase Order. For the purposes of Rule 3(3), the 6 July 2022 became the ‘relevant date’.
8. 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.
9. As per rule 4 of the Rules 2007, the Applicant also requested a pre-inquiry meeting, which was accepted by the Inspector, and commenced on 13 October

2022. After the pre-inquiry meeting, The Secretary of State subsequently wrote to all outstanding objectors and the Applicant on 18 October 2022, to inform them that the full pull public inquiry would commence on 29 November 2022.

10. It is noted that six objections were withdrawn before the public inquiry began. The Inspector noted in his report that the final objection, from Ridgewood Holdings Limited (RHL), was still in place when the public inquiry began, but that it was apparent that RHL and NGET were close to reaching agreement and an adjournment was taken to facilitate negotiations. A further adjournment was allowed to finalise legal matters. Whilst the objection was unable to be withdrawn until the required documents were completed, RHL did not take an active role when the inquiry resumed, and the Inspector heard briefly from the five witnesses called on behalf of NGET. The inquiry was then adjourned until 2 December 2022. RHL withdrew their objection in writing on 1 December 2022 and the inquiry was closed shortly after it resumed the following day.
11. 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.
12. However, as no other electricity licence holders land was included in the Order, GEMA consent was not required.

Inspector’s report:

13. Section 10 of the 1989 Act provides that the powers in schedule 3 of the Act have effect in relation to the holder of an electricity transmission licence, such as NGET. Paragraph 1(1) of schedule 3 specifies that the Secretary of State may authorise a licence holder to purchase compulsorily any land required for any purpose connected with the carrying on of the activities which they are authorised by their licence to carry on. Paragraph 1(2) outlines that ‘land’ includes any right over land.
14. The Department for Levelling Up, Housing and Communities, 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 has 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.
15. The Inspector submitted his report to the Secretary of State on 25 January 2023; the Secretary of State notes the following in the Inspector’s report:
 - None of the land within the Order is Crown or Special Category land.

Official

- Regarding alternatives, paragraph 17 of the Inspector's report sets out NGET's responsibilities in regard to communities, landscape, visual amenity, cultural heritage and ecological resources impacts. It is noted that NGET undertook several option appraisals between 2018 and 2021 to identify a preferred site in the locality of the existing Bolney to Ninfield overhead line. Paragraph 20 of the Inspector's report states that there were twenty-three potential sites identified as part of the site selection and options appraisal undertaken in 2018. Plot 35 was the preferred option and, after further reviews in 2019, 2020 and 2021, it was determined that this site remained the best option.
- It is also noted that NGET only seeks to acquire the freehold title for the purposes of above ground permanent infrastructure, namely the substations (Plot 35), and to mitigate the impacts of the new substations on the habitat of protected species (Plots 58a and 58b). In all other instances rights in land would be acquired.
- NGET outlines that it has an excellent track record in delivering infrastructure projects, including new substations and has an excellent financial standing. The Secretary of State notes section 10 of the Statement of Reasons that NGET investments inclusive of this project are funded via Ofgem's regulatory framework known as RIIO T2 (Revenue = Incentives + Innovation + Outputs). Ofgem reviews the level of funding provided on a periodic basis at the start of each price control period. As part of the RIIO-T2 price control determination, funding was provided for the Project, where Ofgem reviewed the needs case and associated costs for the Project.
- The Secretary of State notes paragraph 44 of the Inspector's report in relation to the loss of habitat due to the construction of the new substations. The Inspector notes that evidence outlined at the inquiry stated that the required management plan and licences from Natural England are reliant on the provision of a compensatory habitat. The Inspector states that it is evident that consideration was given to five sites and plots 58a and 58b were considered to be the most appropriate of these sites. NGET's view is that the replacement habitat needs to be secured in perpetuity. Nothing has been pursued in support of the use of another site as a compensatory habitat. The Secretary is content with this approach.
- The Secretary of State notes that the Applicant states within their Statement of Case (section 6) that any potential section 37 works fall within The Overhead Line (Exemption) (England & Wales) Regulations 2009 (as amended) and this is also confirmed by the Local Planning Authority (Wealden District Council) in their letter dated 11 May 2021: <https://www.nationalgrid.com/electricity->

[transmission/document/146626/download](#) The Inspector references this in paragraph 15 of their report.

- The Inspector makes their recommendation in paragraph 52 of their report in which they state that they consider that NGET makes a compelling case for the CPO and recommends that the Order be confirmed with no modifications.

Consideration of the Compulsory Purchase Order:

16. In consideration of the Order, the Secretary of State has weighed up the relevant impacts of the proposed project and has considered whether the rights over the land requested for the Order 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 DLUHC Guidance on Compulsory Purchase Process and the Crichel Down Rules, 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.
17. 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.
18. 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 of the First Protocol and Article 8 of the European Convention on Human Rights. However, the Secretary of State 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.
19. 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.
20. 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.

21. 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.

22. 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.

23. The Inspector notes that there is nothing to suggest that there would be any impediment to the implementation of the scheme. Planning permission has been granted for the substations. The Secretary of State is content that there are no obvious reasons why any consents might be withheld.

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

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

25. 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.

26. The British Energy Security Strategy, which was published on 7 April 2022 reinforces the importance of flexible and efficient network infrastructure.

27. The Secretary of State has carefully considered NGET's Statement of Reasons and Statement of Case that sets out a justification for the making of the Order as well as the report submitted by the Planning Inspectorate Inspector and their recommendation. The Secretary of State concludes that there is a compelling,

Official

proportionate and justifiable case in the public interest for the acquisition of the Order land.

28. **The Secretary of State has decided to confirm the Order as made.**
29. 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.
30. 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.
31. 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.
32. 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,

John McKenna

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