



Department for
Energy Security
& Net Zero

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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
3 – HURST TO CRAYFORD) 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 Energy Security and Net Zero (“the Secretary of State”) to refer to the National Grid London Power Tunnels 2 Compulsory Purchase Order 2019 (Circuit 3 - Hurst to Crayford) (“the Order”), 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 (Circuit 3) 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 Circuit 3 will lie between 20m and 60m below ground level with protection zones around them to ensure their integrity.

4. The process for making and confirming the Order commenced on 6 December 2019. The objection period ran from 19 December 2019 until 16 January 2020. During this period, the Secretary of State received no formal objections.
5. On 13 March 2020, NGET wrote to Network Rail Limited and Bexley Council concerning minor amendments to the Order which would impact their land. The amendments were required to include other plots of open space land in the special category land Schedule to the Order. NGET gave the parties 21 days to make representations to BEIS.
6. However, on 8 April 2020 NGET informed the Secretary of State that Network Rail, when lodging their official objection to LPT2 Circuit 3, had not been aware of the original objection period. It was agreed that Network Rail's objection would be accepted, even though the objection period had passed. The Order was formally submitted to the Secretary of State on 14 October 2020.
7. Network Rail formally withdrew their objection on 11 November 2022 resulting in no outstanding objections to the CPO.
8. However, negotiations with Bexley Council continued in relation to open space land, and rights over it, at Crayford Rough ("the Open Space Land"). NGET sought to acquire the freehold interest of some of the Open Space Land from Bexley Council and Special Parliamentary Procedure would have been required if NGET wanted to use the Order to acquire the land. NGET also sought to acquire rights over other parts of the Open Space Land, the acquisition of which would also have been subject to special Parliamentary Procedure unless the Secretary of States certified that one of the exceptions set out in paragraph 6(1) of Schedule 3 to the 1981 Act applied to the rights in question.
9. NGET made an application to the Ministry of Housing, Communities & Local Government (now the Department for Levelling Up, Housing and Communities ("DLUHC")) pursuant to Section 28 and paragraph 6 of Schedule 3 to the 1981 Act, on 14 October 2020, for a certificate exempting the acquisition of the rights over the Open Space Land from Special Parliamentary Procedure ("the S28 Application").
10. The Secretary of State wrote to NGET on 21 January 2022– via email – to inform them that he was invoking Rule 20 of The Compulsory Purchase

(Inquiries Procedure) Rules 2007, so that negotiations with Bexley Council could continue without the need for an inquiry.

11. NGET has now completed the deal with Bexley Council to acquire both the freehold interest of some of the Open Space Land and the rights over other parts of it. NGET will not therefore need to compulsorily acquire either the freehold interest or rights over the Open Space Land. The S28 Application was therefore withdrawn on 6 March 2023 and the Order has been modified to reflect that it no longer covers the Open Space Land or rights over it.
12. The Order does not affect any electricity licence holders meaning approval from the Gas and Electricity Markets Authority (“GEMA”) was not required.

Consideration of the Compulsory Purchase Order:

13. Paragraph 5(1) of Schedule 3, to the 1989 Act applies the 1981 Act to a compulsory purchase by a licence holder. DLUHC 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 Secretary of State has framed their 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.
14. 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 DLUHC’s “Guidance on Compulsory Purchase Process and The Crichel 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.
15. In considering whether a compelling case for compulsory purchase in the public interest, the Secretary of State notes the rationale set out in the Statement of Reasons. The Statement of Reasons states that the cables are beyond their originally anticipated design-life and that this places into acute doubt their ability to be used for the efficient transmission of electricity. The Statement of Reasons further states the existing cables will become progressively less efficient until they pass beyond their repairable life, and there will then be a risk of system failure and risk of environmental harm caused by oil leakage from corroded cables increases. NGET also stated that it is satisfied that there are no planning or financial impediments to the

implementation of Circuit 3 of the LPT2 project and that Circuit 3 of the LPT2 project is therefore likely to proceed if the Order is confirmed.

16. 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.
17. The Secretary of State considers that rights over the land sought by the Applicant will interfere with the convention rights of those with an interest in the land affected, particularly rights protected by Article 1 of the First Protocol and Article 8 of the European Convention on Human Rights. However, she 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.
18. The Secretary of State has therefore concluded that there would not be an unlawful interference with convention 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 convention rights so as to conflict with the provisions of the Human Rights Act 1998.
19. 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.
20. 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.
21. The Secretary of State notes “the general biodiversity objective” to conserve and enhance biodiversity in England, in section 40(A1) of the Natural Environment and Rural Act 2006, and considers the application consistent with furthering that objective, having had regard to the United Nations Environmental Programme Convention on Biological Diversity of 1992. . The

Secretary of State has also had regard to the requirements of the Habitats Directive, as applied by the Conservation of Habitats and Species Regulations 2017, under regulation 9(3) of those Regulations, so far as they may potentially be affected by her 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:

22. Energy security is one of this government’s greatest priorities. Our Powering Up Britain policy paper launched in March 2023 made clear how important the planning system is to deliver the government’s commitments on energy security, net zero and energy prices. We need lots of new low carbon infrastructure: including generation, network connections, and storage.
23. To that end, in February 2023, government published its Action Plan for reforming Nationally Significant Infrastructure planning. In July 2023, we published our consultation on operational reforms to the Nationally Significant Infrastructure Projects (NSIP) consenting process, which sets out the detailed proposals that the government intends to make to reform the end-to-end process. This included a commitment to reform our National Policy Statements (NPSs) across sectors, including energy.
24. Following two rounds of public consultation, on 17 January 2024 DESNZ designated five revised energy National Policy Statements. They covered EN-1 – the overarching NPS for energy - and four technology-specific NPSs covering electricity networks, gas fired generation, renewable generation, gas and oil pipelines, and storage. They have been strengthened to emphasise the need for new low carbon energy infrastructure, to meet our energy security and Net Zero objectives.
25. The updated National Policy Statements define low carbon infrastructure as a “Critical National Priority” – this improves how decisions will be made on low carbon infrastructure projects and highlights the urgent priority for this infrastructure.
26. The Secretary of State has carefully considered NGET’s Statement of Reasons that sets out a justification for the making of the Order and is summarised at paragraph 15 above. The Secretary of State also considers that the provision of an efficient and reliable supply of electricity is necessary to contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the area and so, 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.
27. **The Secretary of State has decided to confirm the Order with minor modifications to the Order.** The proposed modifications concern the

exclusion from the Order of all land and rights in those plots that were deemed to be open space land in accordance with section 19 of the 1981 Act. These plots are: 09-11, 09-12, 09-13, 09-14, 09-15, 09-16, 09-17, 10-02, 10-03 and 10-04 (the "Open Space Land) [As a result of the Open Space Land being excluded, the Order has also been modified to delete paragraph 4].

28. The inclusion of the Open Space Land would necessitate special parliamentary procedure under section 19 of the 1981 Act and (in relation to those plots for rights only) the alternative of applying for a certificate under Schedule 3 paragraph 6 of the 1981 Act. NGET no longer requires the inclusion of the Open Space Land plots within the Order for the purposes of carrying out the Project.
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
Head of Network Planning team
Energy Infrastructure Planning Delivery Team
Energy Development