



Department for
Energy Security
& Net Zero

By email: Robert.Garden@cms-cmno.com

Robert Garden
CMS Cameron McKenna Nabarro Olswang LLP
Cannon Place, 78 Cannon Street London
EC4N 6AF
United Kingdom

**Department for Energy Security and Net
Zero**
Energy Infrastructure Planning
3-8 Whitehall Place
London,
SW1A 2JP

01/08/2024

Dear Robert,

**ELECTRICITY ACT 1989 AND ACQUISITION OF LAND ACT 1981 - THE
NATIONAL GRID ELECTRICITY TRANSMISSION PLC (SCOTLAND TO
ENGLAND GREEN LINK 1) COMPULSORY PURCHASE ORDER 2023**

Your client: National Grid Electricity Transmission PLC.

The Compulsory Purchase Order:

Introduction

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 Electricity Transmission PLC (Scotland to England Green Link 1) Compulsory Purchase Order 2023 (the “Order”), which was submitted to the Secretary of State by CMS Cameron McKenna Nabarro Olswang LLP, representing National Grid Electricity Transmission PLC (the “Acquiring Authority”), 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 Secretary of State notes that the Acquiring Authority holds an electricity transmission licence under section 6(1)(b) of the Electricity Act 1989. Paragraph 1(2) of Schedule 3 to the Electricity Act 1989 clarifies that licence holders are authorised to acquire rights in land as well as the title to land, and that this can be done by creating new rights as well as by acquiring existing rights. Section 10 and Schedule 3 of the Electricity Act 1989 empower the Acquiring Authority to purchase compulsorily any land, including rights in land,

required for any purpose connected with the carrying on of the activities which it is authorised by its licence to carry on.

3. Scotland to England Green Link 1 (SEGL1) is a subsea High Voltage Direct Current Link (HVDC). This will provide an HVDC link between Torness in East Lothian and Hawthorn Pit in County Durham (“the Project”). The Project has been proposed in partnership with Scottish Power Transmission (SPT), which is the transmission owner for southern Scotland and responsible for the onshore and offshore aspects of the Project in Scotland.
4. The primary objective of the Project is to reinforce the electricity network and increase transmission capacity across the B6 boundary between southern Scotland and northern England before 2030. The Acquiring Authority states that the benefits of the Project are that it provides this reinforcement and provides resilience to the electricity network, addressing the current boundary constraints and transmitting renewable energy produced in Scotland to the English national electricity system.
5. The Project comprises the following components:
 - Scottish Onshore Scheme: A converter station to the east of the Dunbar Energy Recovery Facility at Oxwell Mains, Dunbar, and a substation at Branxton in East Lothian, Scotland, with approximately 6.5 km of buried HVDC cable to a landfall south-east of Thorntonloch beach. The converter station and substation will be connected by approximately 3.5 km of High Voltage Alternating Current (HVAC) cable. The substation connects the Scottish Onshore Scheme to the existing transmission system.
 - Marine Scheme: Approximately 176 km of subsea HVDC cable from Thorntonloch Beach, Torness on the east coast of Scotland to Seaham, County Durham, in the north-east of England. The Marine Scheme is being developed jointly by NGET and SPT who have submitted marine licence applications to the Marine Scotland Licensing Operations Team (MS-LOT) and the Marine Management Organisation (MMO).
 - English Onshore Scheme: Approximately 10 km of underground HVDC cable from the mean low water mark at Seaham, to a converter station at Hawthorn Pit in County Durham. The converter station will be connected to a new 400 kilovolt (kV) substation by approximately 1 km of underground of HVAC cable. The new 400 kV substation will connect the project to the existing 275 / 400 kV Hawthorn Pit substation and the existing electricity transmission system.
6. It is noted that the Acquiring Authority also submitted to the Secretary of State a Section 37 application, submitted under the Electricity Act 1989 on 8 December 2022. The Section 37 application includes works to existing overhead line electricity infrastructure and the installation of new overhead line electricity infrastructure, comprising the re-alignment of existing overhead lines at Hawthorn Pit, the relocation of a pylon, the removal of two pylons and the removal of existing overhead lines.

7. The Order relates to the Acquiring Authority acquiring four parcels of land concerning the English Onshore Scheme. These will take the form of the freehold acquisition of the following plots of land:
 - Substation Land and Converter Station Land (Plots 6-25 and 7-28) is necessary to ensure that the Acquiring Authority has exclusive possession and control of the land required for the safe construction, operation and maintenance of the Substation and Converter Station.
 - Converter Station Compound and part of the Biodiversity Net Gain and Landscaping Land (comprised in Plot 7-19) is necessary to ensure that the Acquiring Authority has exclusive possession and control of the land required for the compound throughout the construction period and given the accumulation of additional rights that would be required over this plot relating to both the HVAC Cable and HVDC Cable.
 - Replacement Public Open Space (Plots 6-49 and 6-50) is required to ensure that replacement public open space is secured in exchange for the acquisition of the Substation site.
8. Other than those parcels of land, the Acquiring Authority's approach has been to only acquire the interests that it requires over the various plots within the Order. Accordingly, for all of the plots over than those identified above, the AA is seeking to create new rights over land rather than to acquire land.
9. A number of rights are to be created compulsorily in relation to the different elements of the English Onshore Scheme. The Acquiring Authority's land rights strategy has been to acquire easements for the electricity cables as the infrastructure is situated underground and permanent acquisition of the land is not required. The Order creates new rights in land compulsorily, as opposed to permanently acquiring the relevant land.
10. Not all plots require the same rights, and so the Acquiring Authority's strategy has been to compulsorily acquire different classes of rights over different plots to ensure that it only compulsorily acquires the rights that are necessary for the relevant plot. The classes of rights are defined in the Order and Statement of Reasons.
11. It is noted that there are several parcels of public open space which are affected by the Order and which are classified as special category land under the Acquisition of Land Act 1981. These are:
 - The Beach area, over which NGET will be acquiring rights to facilitate the landfall and the installation of HVDC cables;
 - Informal public open space, which NGET will be acquiring to deliver the substation. The Order includes exchange land in respect of the informal public open space; and
 - Informal public open space, over which NGET will be acquiring rights for a variety of purposes.

12. The Acquiring Authority submitted a request, on 2 March 2023, to the Secretary of State for Levelling Up, Housing and Communities requesting that they issue a certificate pursuant to the relevant provisions of the Acquisition of Land Act 1981. On 15 December 2023, the Secretary of State for the Department for Levelling Up, Housing and Communities (DLUHC) directed the Acquiring Authority to issue notice of its intention to issue the public open space certificate, which was publicised on 9 January 2024 with a period for objections until 31 January 2024.
13. On the 21 March 2024, the Secretary of State for Levelling Up, Housing and Communities confirmed the signed certificate, which is given under Section 19(1)a of, and paragraph 6(1)(a) of Schedule 3 to, the Acquisition of Land Act 1981.
14. 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.
15. However, the Secretary of State notes that there is no requirement for GEMA Consent pursuant to paragraph 2 of Schedule 3 to the 1989 Act, as the Acquiring Authority is not acquiring land, or rights over land, owned by another electricity undertaker pursuant to the Order.
16. The process for making and confirming the Order commenced on 12 January 2023. The objection period ran from 24 January 2023 until 21 February 2023. During this period, the Secretary of State received 18 objections. It is noted that the Acquiring Authority has not recognised the objection from the National Farmers Union (NFU) (reference OBJ18) but this objection is referenced in the Inspector’s report.
17. Due to the number of objections received, the Secretary of State wrote to the Planning Inspectorate, via email, on 24 February 2023 to request that an Inspector be appointed in preparation to oversee the inquiry. Mr Malcolm Rivett was appointed as the Inspector.
18. The Order was formally submitted to the Secretary of State on 2 March 2023.
19. As per Rule 3(3) of the Compulsory Purchase (Inquiries Procedure) Rules 2007 (SI 2007 No 3617), amended by the Compulsory Purchase (Inquiries Procedure) (Miscellaneous Amendments and Electronic Communications) Rules 2018 (SI 2018 No 248) the Secretary of State decided it was appropriate to hold a public local inquiry into the abovementioned Order. Notification was sent to all interested parties, via email, on 26 May 2023. For

the purpose of Rule 3(3), 26 May 2023 became the 'relevant date'. This email was followed up on 31 May 2023 to confirm that a Pre-Inquiry meeting would take place.

20. A Pre-Inquiry meeting took place on 27 July 2023 via MS Teams and it was confirmed that the full inquiry would begin at 10:00 on 26 September 2023 and would continue as required on 27, 28 and 29 September and 3 October 2023 as this was the earliest date the Inspector could preside over the inquiry. It was also confirmed that the inquiry would be held at Glebe Centre, Durham Place, Murton, SR7 9BX. The inquiry formally closed on 5 February 2024.

21. It is noted that no objections have been withdrawn up until the date of this decision letter. The Secretary of State emailed the Acquiring Authority on 22 March 2024 asking for any updates and was informed that no objections had been withdrawn.

Inspector's report:

22. The Inspector submitted his report to the Secretary of State on 5 February 2024. Paragraph 4.1 of the Inspector's report notes that the Inspector has taken into account the Guidance on Compulsory Purchase Process and The Crichel Down Rules (DLUHC, 2019), section 12 of which advises that a Compulsory Purchase Order (CPO) should only be made where there is a compelling case in the public interest. The Inspector has also had due regard to the aims expressed in S149(1) of the Equality Act 2010

23. The Secretary of State notes the following in the Inspector's report:

Objections – the case against the Order:

24. In paragraph 1.7 the Inspector has categorised the objections made into five groups:

- The effect on agricultural operations;
- The effect on landowners' aspirations for future developments;
- The effect on existing businesses and planning permissions;
- The extent of rights sought through the Order;
- The lack of engagement or information provided in respect of the acquisition proposals.

25. In regard to the effect on agricultural operations – of which 12 objectors fall within this category – the Inspector notes the following key points raised by objectors: cable depth; field drainage; management of soil and NFU's suggested Construction Best Practice wording.

26. In regard to the effect on landowners' aspirations for future developments, the Inspector notes the following issues: residential development (four objectors); a battery storage scheme (one objector); a solar farm (one objector); unnamed aspirations (two objectors).

27. In regard to the effect on existing businesses and planning permissions, it is noted that the effect on the Seaham Hall Farm car boot sale, which has been operational for over 20 years, impacts four objectors.
28. Also noted is the Jade Business Park and Battery Storage Facility, which concerns the objections made by Durham County Council (DCC). DCC objects to the provisions of the Order enabling acquisition of Construction Compound Rights over plot 7-27 and Overhead Line Removal Rights and Landscaping Rights over plot 6-17. DCC considers that the public benefits of the Order, in relation to the acquisition of rights over plots 7-27 and 6-17, do not substantially outweigh the private rights affected. DCC also state there is not a compelling case in the public interest for the exercise of the powers of compulsory acquisition in respect of these plots.
29. One objector has objected to the use of Plot 5-04 which is to be acquired for a construction compound due to it being used as a pony paddock for the landowner's livery business and proposed an alternative site for the Acquiring Authority to use instead; another objector has objected to Plots 7-13 due to the impact on their caravan storage business; and another objector has planning permission for a solar park scheme expected to be operational in 2024/2025 and is concerned since the route of the cable scheme goes directly through the solar park scheme.
30. In regard to the extent of rights sought through the Order, four objectors have raised concerns that the wording of the rights sought through the Order leaves too much scope for Acquiring Authority to do anything it chooses on the Order land and does not take into account the landowners' obligations, the damage caused and any liability thereof, with the issue around Construction Compound Rights being used as an example.
31. In regard to lack of engagement or information provided in respect of the acquisition proposals, objectors state that there has been a lack of engagement on the part of the Acquiring Authority. Concerns were raised about a lack of information, specifically: (i) the scale of some of the works (ie the Transition Joint Pit), (ii) access arrangements, (iii) working widths, (iv) pre and post drainage surveys and, (v) the management of soils. It was also raised that a period of only three months was given to agree Heads of Terms. It has been suggested that the area of land affected by the Order is, in some instances, much greater than that initially suggested by the Acquiring Authority. However, it is noted that the Inspector states in their report that any minor discrepancies in compliance with statutory requirements, would not, in their opinion, warrant not confirming the Order. The Secretary of State agrees with this assessment.

32. Points were also made about compensation; however, the Secretary of State cannot make any decisions in respect of compensation and this will be covered further in this decision letter.

The needs case - the case for NGET:

33. Section 3 of the Inspector's report covers the case made by NGET as to why this project is necessary, the main points being:

- The Scotland to England Green Link 1 would deliver a major reinforcement to the electricity network by increasing the transmission capacity between Scotland and northern England. It would do so by providing a direct connection between East Lothian and County Durham.
- The Holistic Network Design: Pathway to 2030 (F13) makes clear that the scheme forms an essential part of the delivery of the step change in offshore wind electricity generation required to achieve "net zero". Ofgem, as the regulator, has identified the scheme within its Accelerated Strategic Transmission Investment (ASTI) framework which accelerates the approval and funding approach to the delivery of projects which are essential for the pathway to "net zero".
- Great Britain's major demand centres lie in central and southern England. Connecting new, renewable, energy sources to demand centres is a critical priority in ensuring the transition to "net zero".
- The existing boundary between Scotland and England has a capacity of 6.3GW. The scheme would add a further 2GW of capacity across that boundary: a transformative and nationally important contribution to developing the transmission network to meet "net zero".
- The pressing need for the scheme is reflected in the support for it detailed at paragraphs 4.7-4.14 of Mr Law's evidence. This has included the support for the scheme in the Ofgem Final Needs Case Conditional Decision which confirms that it will receive the requisite funding if and when the Order is confirmed (thus meeting the requirement to demonstrate a reasonable prospect of funding) and which recognises that there is a clear consumer benefit in the scheme progressing. Delaying delivery of the scheme could cause a significant detriment to consumers in terms of additional constraint costs.
- It is also noted that the converter station and new substation has the benefit of planning permission granted by DCC last year. DCC also gave a negative EIA screening opinion, allowing NGET to rely on permitted development rights to lay the cable.

34. In relation to resources/finance, the Secretary of State notes the Acquiring Authority's Statement of Reasons, specifically Section 10 and has no further comments on this matter. It is however noted that Ofgem are currently holding a "minded-to" consultation in regards to the final funding position. As of the date of this decision letter, no decision has been made.
35. Regarding Human Rights, the Secretary of State notes the comments made by the Inspector in paragraphs 3.30 and 4.47 of their report; the Secretary of State covers these matters within the considerations section of this decision letter.

The Inspector's conclusions:

36. The Inspector's conclusions are covered in Section 4 of his report, the Secretary of State notes the following:
 37. The Inspector notes that confirming the Order would enable the implementation of the English Onshore element of the overall Scotland to England Green Link 1 scheme. The overall scheme would add 2GW of electricity transmission capacity to the existing 6.3GW capacity across the Scotland - England boundary and in doing so would provide a substantially increased ability for electricity generated in Scotland to be used in England.
 38. The scheme would contribute to the Governments overall aim to transition to Net Zero and that there is no in principle objection to the scheme nor suggestion that its cited benefits are unlikely to be achieved or that the same benefits could be delivered with a substantially different scheme. In light of this, the Inspector concludes that the scheme's likely significant contribution to the UK's transition to "net zero" is a very substantial public benefit, of national significance, which would be enabled by the Order.
 39. In regard to alternatives, the Inspector notes that whilst there are suggestions that there are more suitable alternatives to a small number of the plots and objections to some of the specific rights sought, there is no fundamental argument that the broad thrust of the land and rights included in the Order are not required to implement the scheme. The Secretary of State agrees with the overall conclusion of the Inspector in relation to alternatives to the Project and addresses the issues for individual plots later in this decision letter.
 40. The Inspector states that it was verbally confirmed at the inquiry that the overall scheme will cost around £2.5bn which includes approximately £4.8m for costs associated with acquiring the land and rights included in the Order. Ofgem has confirmed that the scheme is to be delivered by the Acquiring Authority through the Large Onshore Transmission Investments process which involves three stages of approval by Ofgem, the first two stages of which have been approved (the final stage is the "minded to" consultation noted above). Whilst the final stage of approval which will set the funding

allowance for the Acquiring Authority to construct the scheme is still awaited, there is no evidence to indicate that this is not likely to be forthcoming. Consequently, funding is unlikely to be an impediment to implementation of the scheme. The Secretary of State is content with this approach.

41. It is noted that the Scottish element of the project has planning permission in principle, granted on 2 May 2023 and that the Acquiring Authority has gained approval for the necessary marine licences by the English Marine Management Organisation and Marine Scotland – Licensing Operations Team on 20 July 2023 and 26 May 2023 respectively. The Acquiring Authority has also received outline planning permission from DCC on 28 July 2023 for the converter station, substation and the laying out of replacement public open space. The Secretary of State notes this point.

Management of soil and field drainage

42. The Inspector notes the concerns raised about the potential damage to soil structures and to field drainage systems due to the laying of cables. The Inspector asked The Acquiring Authority to consider how an obligation to make good any damage caused could be addressed in the Order. However, the Inspector accepted the Acquiring Authority's subsequent argument that there could be legal difficulties in including a "make good any damage" clause in the Order itself.
43. NGET's preferred approach for addressing this matter is by unilateral undertaking. This obligates the Acquiring Authority to follow measures to prevent/mitigate damage to soils/drainage similar to those included in the Heads of Terms of private agreements. It is not necessary for the undertaking to address every detailed point of concern raised by objectors in respect of soils and drainage because, crucially, it provides for soils to be left in the same condition and drainage to be in no worse condition than before implementation of the scheme.
44. Any such undertaking would have to be enforced by DCC, as per other planning obligations. DCC would need to consider the possibility of any legal action brought by landowners if it were not to enforce the breach of the undertaking, however it was noted this is the case for many such planning obligations.
45. The Inspector noted in paragraph 4.19 that he believed the unilateral undertaking to be essential to the acceptability of the Order, the Secretary of State agrees with this assessment.

Cable depth

46. It is noted that the depth of cable is a major concern for objectors. It was argued that the minimum depth should be 1,200mm, however the Acquiring Authority has argued that the depth should be 900mm as per its Construction Best Guidance, wider industry guidance and the conclusions of the September 2023, Interim Drainage Report.
47. The Inspector noted that there would be many disadvantages to a minimum 1200mm cable depth, this included adding time and cost to the overall project, more soil would need to be handled, which could include the risk of damage and it might require a greater separation width of the cables increasing the amount of land affected (the Acquiring Authority explained verbally at the Inquiry that this might be required to avoid overheating of the cables).
48. The Inspector concluded that the 900mm would be appropriate for the project, however acknowledging that there would likely be a limited adverse effect on agricultural operations, but such effects being significantly outweighed by the benefits of the SEGL1 scheme. The Secretary of State agrees with the conclusions of the Inspector in relation to this point.

Future developments

49. In regards to effects on possible future developments, the Inspector concluded that he was not aware that planning permissions exists for any of the proposals and concluded that the harm likely to result from any impediment the Order would cause to such development would be significantly outweighed by the benefits of the SEGL1 scheme. The Secretary of State agrees with this conclusion.

Existing businesses and planning permissions

50. The Inspector stated that the scheme would interfere with the Seaham Hall Farm car boot sale, however there was land nearby which, if planning permission was sought and approved, could be used as an alternative site. The Secretary of State agrees with this conclusion.
51. In relation to Plot 5-04, the Inspector regarded the Acquiring Authority to have persuasively argued that the topographical challenges mean the alternative site is unsuitable for the construction compound and is liaising with the landowner to identify an alternative site for the paddock. The Inspector concluded that the harm likely to be caused to the livery business would be outweighed by the benefits of the SEGL1 scheme. The Secretary of State agrees with this conclusion.

52. In relation to the caravan storage business, the Inspector notes that statutory compensation could alleviate fears over the impact on the viability of the business, but that even if such an impact did occur the benefits of the SEGL1 scheme outweigh these issues. The Secretary of State agrees with this conclusion.
53. It is noted that planning permission for a solar farm at Seaham Grange Farm exists and that the cable for the scheme would run through the solar farm, however the Inspector is of the view that the cables would be unlikely to have a major adverse impact on the solar farm development and that any resulting impact would be outweighed by the benefits of the SEGL1 scheme. The Secretary of State agrees with this conclusion.
54. A battery storage facility is currently being constructed on plot 6-17 and it is anticipated that the facility will be completed by the time the proposed rights to remove existing overhead cables are exercised. However, at the inquiry the Inspector notes that the Acquiring Authority persuasively explained how, at worst, this would be likely to result in a short period of outage for the facility whilst the overhead cable work is undertaken. The Inspector noted that it was therefore highly unlikely that the facility's operator would seek to surrender their lease and concluded that the likely adverse impact of the Order on the battery storage facility would be outweighed by the benefits of the SEGL1 scheme. The Secretary of State agrees with this conclusion.
55. In regard to the Jade Business Park, the Inspector notes that it is an important employment site and Enterprise Zone, which to date has created 133 jobs. Planning permission is in place for the development of the remainder of the park including plot 7-27.
56. The plot is proposed to be used as a construction compound during implementation of the SEGL1 scheme and a recommended modification to the Order would clarify that the Acquiring Authority's rights over the land would only apply during the construction period of the scheme.
57. DCC has proposed use of an alternative nearby site for the construction compound and the Inspector notes that negotiations for the Acquiring Authority to acquire this are at an advanced stage but not yet complete. The Acquiring Authority indicates that the relevant agreement would include a commitment that it would not exercise the rights over plot 7-27. The Inspector noted he thought it highly unlikely that DCC would reach agreement in respect of the alternative site without such a commitment being made. In the event of such an agreement being reached the Order would be likely to have no material impact on plans to develop plot 7-27. Indeed, if agreement is reached on the alternative site before the Secretary of State makes a final decision on the Order there would be the potential for the Order to be modified to exclude plot 7-27. The Secretary of State agrees with this conclusion.

58. However, if, for whatever reason, agreement is not reached in respect of the alternative site, plot 7-27 would be required as a construction compound to enable implementation of the scheme. In such circumstances there would be potential delay to development of the plot as part of the business park. However, bearing in mind the limitation of the Order's right (as recommended to be modified) over this plot to the construction period of the scheme, it is highly unlikely that there would be a long term impact on the development of the Jade Business Park. In the light of this, the Inspector concluded that any adverse effect of the Order on the business park would be outweighed by the benefits of the SEGL1 scheme. The Secretary of State agrees with this conclusion if agreement is not reached between the Acquiring Authority and DCC.

Engagement

59. The Inspector notes that there is no dispute that the Acquiring Authority first made contact with landowners about the scheme and land acquisition in early 2021. Concerns were raised about the engagement regarding voluntary terms for mitigation measures around agricultural drainage and the management/protection of soils (which has been covered earlier in this decision letter) and the level of compensation. With regards to whether or not the Acquiring Authority engaged constructively about mitigation measures, the Inspector made no finding on this and noted that even if he found that the Acquiring Authority had not engaged constructively on this matter that it would not be a reason to not confirm the Order. The Secretary of State comments further on this matter below. In regard to compensation, this is not within the remit of the Secretary of State and no comments are made regarding this.

Other matters

60. The Inspector raised an issue about the wording in the Order concerning "adjoining land" and stated that slight modifications to the Order – but not in relation to the cable depth of the unilateral undertaking – were necessary, especially within the construction period. The modifications also included a minor typographical error and additional clarifications in relation to HVDC rights.
61. The Inspector states that the modifications are of a relatively minor nature and do not expand or exceed the rights set out in the Order as originally drafted. Consequently, the Inspector considered that further consultation on these modifications is not necessary before a decision on the Order is made. The Secretary of State agrees with this assessment and the suggested modifications.

62. The Secretary of State notes the recommendation of the Inspector in paragraph 5.1 and 5.2, which states “If and when the Secretary of State for Levelling Up Housing and Communities issues a s19 certificate in respect of open space and subject to the Secretary of State being satisfied that she has approved, or will approve, the s37 application, in respect of overhead line works, I recommend that the Order is modified as set out in Appendix C and is then confirmed. In so doing I recommend that the Secretary of State indicates that the unilateral undertaking has been of material weight in her decision. Should the Secretary of State for Levelling Up Housing and Communities not issue a s19 certificate in respect of open space and/or the Secretary of State not be satisfied that she will approve the s37 application in respect of overhead line works, I recommend that the Order is not confirmed.” The Secretary of State comments further on this matter below.
63. As noted earlier in this decision letter, the Acquiring Authority confirmed that the Secretary of State for DLUHC had issued the Open Space certification on 21 March 2024.

Consideration of the Compulsory Purchase Order:

64. 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 her 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.
65. 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 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.
66. The Secretary of State needs to be satisfied that there are sufficiently compelling reasons for the powers to be sought at this time and the Secretary of State notes that the purpose of the project is to scale up the capability of the network to deliver greener electricity generated in Scotland to the rest of the UK. The project has the ability to carry enough green electricity to power 2 million homes across the UK and will play a key element in helping the Government achieve its Net Zero ambitions.

67. The Secretary of State notes the following in the Acquiring Authority's Statement of Case, section 8.58 "the need for the Project, and the associated public benefits, is that it meets an identified urgent national need for new electricity transmission infrastructure." The Secretary of State agrees that the Project will play a crucial role in reinforcing the current electricity network. The Secretary of State also notes that the Scottish Government is considering the onshore element which falls within in Scotland and that that Ofgem are currently holding a "minded-to" consultation in regards to the final funding position. Taking all of these factors into account, the Secretary of State agrees that this Project is a priority and that a decision should be made.
68. In considering whether a compelling case for compulsory purchase in the public interest, the Secretary of State notes the rationale set out in the Acquiring Authority's Statement of Reasons and the conclusions within the Inspector's report. Particularly, the Secretary of State notes Sections 1, 4, 5 and Appendix 1 of the Statement of Reasons and Section 5 of the Inspector's report.
69. The Secretary of State considers that rights over the land sought by the Acquiring Authority 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, the Secretary of State is satisfied that the Acquiring Authority 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.
70. 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.
71. 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 persons who share a relevant protected characteristic and those who do not.

72. The Secretary of State has considered the potential impacts of granting the Order in the context of the public sector 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.
73. 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:

74. Energy security is one of the government’s priorities. The 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. The National Policy Statements (NPS), which may be relevant considerations for projects consented under the Town and Country Planning Act 1990, set out the government’s policy for delivery of major energy infrastructure and explains the urgent need for significant amounts of large-scale energy infrastructure in meeting the government’s objectives.
75. The Secretary of State has carefully considered the Acquiring Authority’s Statement of Reasons which sets out a justification for the making of the Order. 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 land specified in the Order.
- 76. The Secretary of State has decided to confirm the Order, with minor modifications.**
77. The Secretary of State notes that the Order is necessary to support delivery of greener electricity generated in Scotland to the rest of the UK, and that the rights being obtained via the Order are both necessary and proportionate.
78. The Secretary of State notes the comments made by the Inspector in their report regarding the separate section 37 application that was submitted to the

Secretary of State on 8 September 2022. The Secretary of State confirmed the section 37 application on 1st August 2024.

79. The Secretary of State acknowledges that there are still 18 live objections and would advise the Acquiring Authority to continue to engage with all objectors to find mutual agreements. The Secretary of State is also in agreement with the recommendation made by the Inspector that the land and rights included in the Order are necessary to implement the English Onshore element of the Scotland to England Green Link 1 scheme, and that its contribution towards the UK's transition to "net zero" would have substantial benefits of public interest and of national significance. It is noted that NGET maintains that the Order should include Plot 7-27 because unless land is secured which can be used as construction compound, the converter station cannot be constructed. If other land is made available by DCC, then NGET will use that land instead and will not rely on its CPO powers. However, unless and until it concludes an agreement for that alternative compound site, it remains necessary to include land for the compound within the CPO.
80. The Secretary of State is also in agreement with the Inspector in regard to the slight modification in relation to "Construction Period" and of "adjoining land". These modifications, and the required additional clause referred to in paragraph 4.24 of the Inspector's report are set out in red underlined text in Appendix C of the Inspector's report.
81. 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.
82. 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.
83. 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.

84. The validity of the Secretary of State's decision may be challenged by making an application for Judicial Review to the 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 Directorate