



Department for  
Energy Security  
& Net Zero

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12/02/2025

Dear Robert,

**ELECTRICITY ACT 1989 AND ACQUISITION OF LAND ACT 1981 – THE  
NATIONAL GRID ELECTRICITY TRANSMISSION PLC (SCOTLAND TO  
ENGLAND GREEN LINK 2) 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 2) 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 (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 Secretary of State notes that NGET holds an electricity transmission licence under section 6(1)(b) of the 1989 Act. Paragraph 1(2) of Schedule 3 to the 1989 Act 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 to the 1989 Act empower NGET 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.

## The Project:

3. Scotland to England Green Link 2 (SEGL2) is a subsea High Voltage Direct Current Link (HVDC) between Peterhead in Aberdeenshire and Drax in North Yorkshire (Project). The Project has been proposed in partnership with Scottish and Southern Electricity Networks (SSEN) which is the transmission owner for northern 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 network capability between Scotland and northern England by 2029 to enable the efficient and economic transmission of electricity. 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 located to the south of Peterhead, Aberdeenshire. There will be approximately 1 km of buried HVDC cable between the converter station and a landfall at Sandford Bay at Peterhead. The converter station will be connected to an adjacent substation by approximately 1 km of High Voltage Alternating Current (HVAC) cable. The substation connects the Project to the existing transmission system;
  - Marine Scheme: Approximately 436 km of subsea HVDC cable from Sandford Bay at Peterhead to the East Riding of Yorkshire coast at Barmston Sands, near Fraisthorpe of which 150 km is located in Scottish waters before entering English waters for the remainder of the Project. The Marine Scheme is being developed jointly by NGET and SSEN which have submitted marine licence applications to the Marine Scotland Licensing Operations Team (MS-LOT) and the Marine Management Organisation (MMO); and
  - English Onshore Scheme: Approximately 69 km of underground HVDC cable from the landfall at Fraisthorpe through East Riding of Yorkshire, across the River Ouse into Selby District to a converter station at Drax, adjacent to the Drax Power Station. The converter station will be connected to the existing substation at the Drax Power Station. The existing substation at Drax Power Station will be connected to the converter station by approximately 500m of HVAC) cable. The substation connects the Project to the existing transmission system.

## Land and Rights:

6. NGET seeks to secure all land and rights over land on a voluntary basis. In essence the Order provides for acquisition of land to construct and operate the new converter station and substation; rights to install, construct, use, inspect, maintain, repair, protect, alter, renew, remove and decommission the underground cables and associated infrastructure; rights in relation to access, drainage and landscaping; and rights in relation to construction compounds.
7. NGET states in section 6 of its Statement of Reasons that it has employed a comprehensive and consistent land rights strategy in order to acquire the interests in the plots that it requires to deliver the Project.
8. The following plots of land are to be compulsorily acquired as they are required by NGET on a permanent basis: Plot 1/7: Converter Station; and Plots 1/7a, 1/15a/ ,1/16a, and 1/17a.
9. Other than those parcels of land, NGET states its approach is to only acquire the interests that it requires over the various plots within the Order. Accordingly, for all of the plots other than those identified above, NGET is seeking to create new rights over land rather than to acquire land.
10. Several rights are to be created compulsorily in relation to the different elements of the English Onshore Scheme. NGET states its 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. Therefore, the Order creates new rights in land compulsorily, as opposed to permanently acquiring the relevant land. NGET states that its approach to the creation of rights follows a proportionate approach in the use of its powers of compulsory acquisition.
11. Not all plots require the same rights so NGET states its 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.
12. In regard to Special Category Land, there are several parcels of public open space which are affected by the Order and which are classified as Special Category Land under the 1981 Act. Plots 45/1250, 45/1251, 45/1251a, 45/1252, 45/1253, 45/1254, 46/1251b and 46/1251c comprise the beach, foreshore and sea (the Beach) and is subject to the acquisition of rights pursuant to the Order.
13. Although the Beach has no formal designation as open space, it is currently in use as informal public open space and is accessible by the general public. Therefore, the provisions of Schedule 3 to the 1981 Act are engaged and therefore the Order cannot be confirmed unless the Secretary of State for the Ministry of Housing, Communities and Local Government (MHCLG) issues a certificate pursuant to paragraph 6(1)(a) of Schedule 3 to the 1981 Act. This

is because of the definition of open space as meaning: “any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground”. The Order is made in the appropriate prescribed form that applies where public open space land is being acquired.

14. NGET submitted a request to the Secretary of State for the MHCLG requesting that they issue a certificate pursuant to the relevant provisions of the 1981 Act. The Secretary of State for MHCLG published a certificate on 18 January 2024 pursuant to paragraph 6(1)(a) of Schedule 3 to the 1981 Act, confirming that he was satisfied that the relevant land will be no less advantageous to the public, than it was before. As such, it did not need to be subject to special parliamentary procedure, in practical terms, the rights will not need to be exercised frequently once the scheme is constructed.
15. There is also land over which other statutory undertakers have an interest. However, as NGET is a statutory undertaker itself the special parliamentary procedures pursuant to the 1981 Act<sup>1</sup> do not apply.
16. There is no Crown Land onshore that is subject to the Order. The interests of the Crown have been excluded from the Order (although the interests of any other parties in land owned by the Crown are included in the Order). NGET states it is engaged with The Crown Estate in respect of the necessary rights required offshore.

#### **Gas and Electricity Markets Authority consent:**

17. 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.
18. 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 NGET is not acquiring land, or rights over land, owned by another electricity undertaker pursuant to the Order.

#### **The making of the Order:**

19. The process for making and confirming the Order commenced on 5 September 2023. The objection period ran from 12 September 2023 until 3 October 2023. During this period, the Secretary of State received 21 objections. The Order was formally submitted to the Secretary of State on 26 October 2023.
20. 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 Order. Notification was sent

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<sup>1</sup> See section 17(3)

to all interested parties, via email, on 1 November 2023. For the purpose of Rule 3(3), 1 November 2023 became the 'relevant date'.

21. A Virtual Pre-Inquiry Meeting took place on 12 January 2024 via MS Teams and it was confirmed that the full inquiry would be held in person, starting at 10:00 on Tuesday 5 March 2024 and would continue as required on 6, 7, 8, 12, 13, 14 and 15 March 2024. The public local inquiry was held at Raise Business Centre, Tom Pudding Way, Goole DN14 6BS.

**Inspector's report:**

22. The Inspector submitted his report to the Secretary of State on 8 May 2024. Paragraph 6.1 of the Inspector's report notes that the Order was made in accordance with the Compulsory Purchase (Inquiries Procedure) Rules 2007. The Order, if confirmed would give NGET the powers needed for the compulsory acquisition of land and rights necessary to deliver the English Onshore Scheme components of the Project. Relevant guidance includes the Compulsory purchase process and the Crichel Down Rules (CPO guidance) 2015, updated July 2019, MHCLG issued updated CPO guidance in October 2024 and the Secretary of State has had regard to that in his consideration of the Order.

23. The Inspector referred to the CPO guidance which states that an Order should only be made where NGET can demonstrate that there are sufficiently compelling reasons for the powers to be sought at this time. The case must justify the interference with Human Rights. The Minister confirming the Order has to be able to take a balanced view between the intentions of NGET and the concerns of those with an interest in the land that it is proposing to acquire compulsorily and the wider public interest. The Inspector states that he has had due regard to the aims expressed in s149(1) of the Equality Act 2010.

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

*Planning history:*

25. The Secretary of State notes that East Riding of Yorkshire Council (ERYC) granted planning permission on 3 March 2023, for the construction of a sub-surface cable route from Drax Power Station to Fraisthorpe Coastline with associated accesses and temporary construction compounds in association with the Scotland to England Green Link.

26. North Yorkshire Council (NYC) granted planning permission on 11 August 2023 for a Hybrid Planning Application comprising two parts: (Part 1) Outline planning application (all matters reserved) for the construction of a converter station at Drax, Selby; (Part 2) full planning application for the installation of HVDC underground cables from the River Ouse to the converter station and HVAC underground cables from the converter station to the existing Drax Substation as well as all associated temporary works including compounds,

accesses and bellmouths as part of the construction of SEGL2, a two gigawatt (GW) reinforcement of the electricity transmission system between Peterhead, Scotland and Drax, England.

27. Condition 9, attached to the ERYC permission, requires a Construction Environmental Management Plan (CEMP) incorporating the provisions of the Outline CEMP. It lists matters that must be included. It does not make specific reference to an Agricultural Liaison Officer (ALO). The Secretary of State notes that some of the objections to the Order raise Condition 9 and the CEMP. This is considered further below in this decision letter.

28. The committee reports for each application set out the justification for the permissions with reference to key policies. ERYC noted that NGET would be required to enter into agreement with Network Rail for the use of railway land. The Secretary of State notes that NGET and Network Rail have reached an agreement and therefore this is no longer an issue. This is considered further below.

#### *Environmental Impact Assessment.*

29. Both ERYC and NYC confirmed that the proposed English Onshore scheme amounted to Environmental Impact Assessment (EIA) development. The applications were therefore accompanied by a statutory Environmental Statement (ES) which covered both applications. The Inspector states he studied these documents and was satisfied that the ES meets the information requirements of the relevant policies.

#### *Other matters:*

30. The Inspector notes that Heads of terms (HoTs), frequently with caveats, have been signed by many objectors, as have some Statements of Common Ground (SoCG). The Secretary of State notes that there remain a number of outstanding objections and considers those below.

#### *The case for the Order:*

- The Order is intended to facilitate the delivery of the SEGL2 electricity interconnector by authorising the acquisition of the land and rights required to construct the English onshore elements of the Project
- Permitted development rights will be relied upon for works within NGET's operational land at the existing Drax substation, and for the formation of temporary access roads to construction areas.
- Planning permissions have already been granted by local planning authorities (please see paragraphs 25, 26 and 27 of this decision letter).
- The wider Project also has the benefit of the following consents: marine licences for the subsea cables in both English and Scottish waters; planning permission in principle for the Peterhead converter station; permitted development rights for the onshore cables in Scotland; and a Section 37 application consent for overhead line works in Scotland. The

Scottish Onshore Scheme does not require a CPO. NGET states there is no planning impediment to the delivery of the wider Scheme.

- Section 8 of NGET's Statement of Case (SoC) sets out the need for the Project and its strong support in policy. In summary, there is an urgent need for the Project as part of the decarbonisation of the electricity grid and, in particular, in the context of the target of 50GW of offshore wind energy by 2030.
- Analysis by the National Grid Electricity System Operator (NGESO) has forecasted that unless the electricity transmission network is upgraded, there would be significant constraints across the network, and in particular across the Scottish English border throughout the next decade. The boundary between Scotland and England is particularly constrained and the capability unlikely to be sufficient to accommodate the future network requirements as forecasted by the NGESO. In each of the scenarios explored by NGESO in the Future Energy Scenarios, the required North-South transfers significantly exceed current capability, continuing to indicate a strong need for transmission reinforcement. The importance of this point has been recognised in national policy, with the recently designated EN-1 noting a required doubling of north south power transfer capacity.
- As explained in the Final Needs Case (FNC), options for addressing these constraints have been considered in detail. Ofgem, as the regulator, has indicated that four east coast subsea HVDC links between the Scottish network and English network should proceed – this being the second of the four. The regulator's position is therefore that the Project and indeed further similar schemes, are required to meet the national need for increased North-South transmission capacity.
- There is an urgent need to decarbonise the electricity grid to achieve Net Zero by 2050. Part of that process requires the development of new sources of renewable energy to replace existing sources of generation. If those sources cannot be connected to where the electricity is needed, they will not displace existing carbon intensive generation. NGET states that there is a direct carbon cost because renewable energy north of the border will not reach demand centres to the south of the border.
- A NGET witness at the inquiry explained that if the Project is operating at capacity to transfer renewable energy south, and thus displacing the normal mix of electricity on the grid, the carbon savings are around 400 tonnes carbon dioxide equivalent (CO<sub>2</sub>e) per hour. The Project has been designed to remain in operation for at least 40 years, so the potential carbon savings are very significant indeed. In financial terms, if new renewable generators cannot sell their electricity because of grid constraints, they will be paid to reduce the amount of power being put into the grid. That means consumers will, ultimately, have to bear the cost of not reinforcing the electricity network. The constraint costs of a one-year delay to both this Project and the Scotland to England Green Link 1

Scheme may lead to a detriment of c.£400m, and c.£800m for a two year delay.

- The Secretary of State notes the points made regarding alternatives – that there are no objections that suggest there are alternatives – and that there are only two locations in which NGET seeks optionality. The first is for the crossing of the A164 and reflects the two alternative alignments for which planning permission has been granted. Secondly, to the north of Skerne, an alternative alignment to accommodate a landowner has been proposed. In both cases the optionality is sought to ensure that the best solution can be pursued so long as it is not prevented by other planning matters.

*Post inquiry Inspector notes:*

31. The Secretary of State notes that in his consideration of the needs case at the inquiry the Inspector requested further information. This is summarised below.

- a. Decarbonisation regarding carbon rates and calculation: based on 1 hour of the Project operating at full power at 2GW (2,000,000 kW), there would be a 400 Tonne CO<sub>2</sub>e saving per hour. This figure is illustrative. The Project will not continually operate at full power; the precise carbon savings for any given period will depend on the wider operation of the grid which is operated by NGENSO.
- b. Decarbonisation payback periods: As discussed with NGET's witness, – the Project cannot currently confirm its potential embedded carbon or potential 'payback' (the period of time that the potential carbon savings, from the operation of the Project, would equal the carbon emitted in the construction of the Project). That is because the detailed design has not been completed.
- c. Decarbonisation and comparable projects: NGET has considered comparable electricity transmission projects involving HVDC cables to provide connections to lower carbon energy sources.
- d. Network Rail objection: NGET has a basic asset protection agreement (BAPA) in place with Network Rail. The purpose of the BAPA is for the provision of safety management to enable NGET's works to be carried out in proximity of the operational railway. NGET hopes to conclude an agreement with Network Rail as soon as practicably possible, but Network Rail has not submitted a statement of case or a proof of evidence to the Inquiry and has not provided any evidence to demonstrate that there will be serious detriment to the operational railway.
- e. Cable depths: 900mm is the minimum depth to be used. Points raised at the inquiry included deviation from the technical standard; other schemes where this point has been raised.



- f. Mr Smyth – objection reference OBJ3: in relation to both temporary access during construction and rights during maintenance phase; the impact on neighbouring properties;
  - g. Condition 9 of the ERYC Planning Permission.
- In conclusion, NGET stated that the Order will deliver significant public benefits by enabling the construction of a nationally important reinforcement of the electricity transmission system. It will enable the flow of renewable energy to demand centres, overcoming costly constraints on the network and helping the transition to Net Zero. There remains very limited objection to the Order. There are no other impediments to the delivery of the Project NGET concluded that the Order should therefore be confirmed.

*Objections – the case against the Order:*

32. As noted earlier in this decision letter, the Secretary of State received 21 objections to the Order. The Secretary of State notes that three objections were withdrawn before the inquiry begun. It is also noted that by the end of the inquiry five objections were withdrawn during/after the inquiry. This decision letter only summarises those objections that remain outstanding.
33. In addition to an objection, Network Rail also submitted a representation to the Department for Transport under section 16 of and Schedule 3, part II to the 1981 Act. Unless withdrawn, this would have prevented the Secretary of State from confirming the Order until the Secretary of State for the Department for Transport issued a certificate under the 1981 Act. Network Rail formally withdrew its objection and representation under the 1981 Act to the Order on 23 December 2024, meaning there are 11 live objections.
34. Sections 8 to 11 of the Inspector's report covers the case made by objectors. Due to the length of this within the Inspector's report, this section of the decision letter will summarise the main points made:

*The case for the NFU and LIG:*

35. The NFU and LIG are raising these outstanding issues as, generally, only voluntary HoTs with caveats have been agreed and signed by landowners and returned to NGET. The NFU and LIG have been working together on behalf of members and clients on the intrusive licence for ground investigation surveys and then the voluntary HoTs. Negotiations are still on-going due to outstanding issues which have not been resolved. Landowners have signed HoTs but nearly all of them have been signed subject to caveats.
36. The main points raised by the NFU were as follows:
- Drainage rights: potential impact on landowners.

- Occupiers: The NFU/LIG have been requesting from the start of negotiations that occupiers (farm tenants) should be addressed directly by NGET and a voluntary agreement entered into with any occupiers on the Project. The NFU and LIG would like NGET to reconsider how it is going to address the occupiers/tenants affected by the proposed Project because a tenancy agreement will not provide the extensive rights NGET is seeking. NFU and LIG would like NGET to offer an Occupiers Consent with payments to all occupiers affected.
- Option agreement: NFU and LIG state that NGET is refusing to send a copy of the draft Option agreement.
- Attenuation ponds and de-watering: The NFU and LIG would like to know when landowners and occupiers will receive information that an attenuation pond will be necessary on their land, a description of the attenuation pond, and details of a payment.
- Cable depth: The NFU and LIG have been continuously raising concerns over the depth of the cables being at a standard 900mm from the surface to the top of the protective tile. Concerns have been raised in individual objections and within the NFU/LIG submission. The request is for cables to be at a depth of 1.2m from the surface to the top of the protective tile.
- Survey works: The NFU and LIG are concerned that the extent of ground investigation (GI) works on the cable route seems to have been quite limited. There have been walkover surveys as well as trial pits and boreholes, but not that many or any other GI works. There is concern that, with the limited information available from the surveys that it has carried out, NGET cannot have confidence that this route is workable.
- ALO: An ALO is mentioned in the outline CEMP at 18.3.5 but this does not clearly set out in enough detail the roles that are to be carried out by an ALO to make sure that landowners and tenants understand what is happening with construction and how they will be able to carry on with farming operations.
- Field drainage: Land drainage is one of the main issues which landowners and occupiers are concerned about on this Project. The NFU and LIG seek detail of exactly how field drainage will be dealt with pre- and post-Project. Clarity is required of the strategy to be undertaken and how this is fixed within the Order.
- Soils – Management and Reinstatement: The treatment and reinstatement of soil during and after construction is another major concern for landowners and tenants. It is noted that an Outline Soil Management Plan has been submitted as part of the planning application for SEGL2. Limited detail has been provided to landowners and occupiers.
- Order boundaries: The NFU and LIG are concerned that redline boundaries highlighted within the Order do not correspond to boundaries which have been agreed under negotiation.
- Kiplingcotes: The NFU and LIG ask that NGET fully investigates alternatives to the use of the access and undertakes discussions with ERYC highways department, specifically considering the possibility of

NGET traffic utilising Kiplingcotes Lane and Kiplingcotes Road between the road crossing point, rather than the access.

37. Following the Inspector's requests at the Inquiry, the NFU provided the following information:

- The names of other schemes with underground cables and agreed depths: Hornsea 3 (Orsted) – Norfolk – underground cables – 1m not less than 1m from the restored ground level of the final lease area to the top of the protective tile; Hornsea 4 (Orsted) – East Yorkshire – underground cables – at a depth of not less than 1.2m from the restored surface level to the protective tile; Vanguard (Vattenfall) – Norfolk – underground cables – 1.05m from the restored surface level to the protective tape; Dogger Bank A to B – Yorkshire – underground cables – not shallower than 1.2m from the surface of the ground; Dogger Bank South – Yorkshire – underground cables – indicative depth of 1.6m below the restored surface.
- ALO: A request within the SoC for further wording to be included within the Outline CEMP to cover the role of the ALO. There is no detail within the CEMP or the best practice for underground cable installation.
- Soil Management and Aftercare: A request within the SoC for further wording to be included within the Outline CEMP to cover soil management and aftercare. There is no detail within the CEMP or the best practice for underground cable installation.

*The case for Mr Smyth (OBJ3)*

38. Mr Smyth owns numerous plots near Driffield, his main complaints are:

- Long-term compromises to agricultural drainage.
- Noise and light pollution during construction.
- Health risks from electromagnetic radiation.
- In oral evidence, Mr Smyth explained his concern that the rights would be going through land on which he had sold an option for a solar farm. He had been told that the cable route would be moved, but discovered in January 2024 that it would not be moved far enough to avoid the solar farm entirely. The matter was now with solicitors. He had agreed to HoTs, but only with caveats.

*The case for Mr Wright, partner of C R Wright & Son (OBJ4):*

39. Mr Wright farms land at Newsholme which is a family farm with arable, beef and Christmas trees under the banner of Newsholme Christmas Trees. The main complaints are:

- The family have objected to NGET's proposal mainly because of a lack of engagement and negotiation specific to compensation on how it will impact their current and future business. Trees cannot be grown on the option area upon signing the option agreement which will create an immediate

effect on their business. Where the wire is to be installed by horizontal directional drilling, trees cannot be grown above 8ft or for longer than 10 years, whichever comes sooner. No tree can be grown on the easement area to any height in perpetuity where the wire has been open cut and as they are a family business his son plans to carry it on as long as possible.

- Mr Wright has also raised concerns about drainage, due to the fact that after National Gas Transmission plc (NGT) came through with a gas pipeline in the same field, it left the field drainage system design and quality poor at best. With the electric cables cutting through the same drainage system, it will further decrease its suitability. As agreed, it will leave the whole field with a very poor drainage system. Mr Wright believes the full field should be redrained and would like to have a post construction plan which would address these issues.
- In oral evidence, Mr Wright argued that he had tried to engage with NGET, over a period of two years, but that a meeting had only finally been arranged on 17 January 2024. Of the log of 42 communications, only 12 were directly to him. He argued that the cables would write off a whole field and result in the loss of 1,000 trees. On 1 March 2024 Mr Wright signed HoTs, accepting that he now had information for a compensation calculation, and with caveats regarding easements.
- In cross-examination, NGET 'put its hand up' and conceded that in this instance, while there had been practical engagement, particularly recently, it could have done better to seek to minimise the impact on Mr Wright's Christmas tree business.

*Written statements:*

40. The Inspector covers the other remaining objections, the majority of which were covered by the NFU and also Driffield Navigation Trust, which owns sections of the Driffield Navigation Canal, over which NGET seeks access. The Trust has responsibility for maintenance but has not received terms from NGET. The main points raised by these objections concerned poor communications, lack of engagement and issues regarding compensation – it should be noted here that compensation is not within the remit of the Secretary of State and no further comments will be made about compensation issues.

41. The Inspector did go into further detail in regard to the objections from Network Rail and ERYC. However, as Network Rail has now withdrawn its objection and representation under the 1981 Act, the Secretary of State has no comments to make on this. In regard to ERYC the Inspector noted the following:

- The ERYC objects on the main grounds of lack of detail as to construction methodology, particularly for public rights of way; that the rights sought are unnecessary, unreasonable and unduly onerous to ERYC and/or not capable of being properly exercised; and that they were not defined in the

Statutory Notice. These objections relate to various plots as set out in its original objection. It aimed to resolve the objections through negotiation. However, this did not happen until January 2024.

- ERYC listed a number of outstanding matters, including:
  - that NGET already has powers of entry onto third party land as a statutory undertaker so that additional rights are neither essential nor proportionate;
  - alternatively, the rights are unduly onerous and restrictive to ERYC's development plans for the Wilsthorpe Estate, for which it has a future use for leisure and tourism purposes in line with its priorities;
  - NGET does not seem to realise how permanent access rights would freeze the route of the farm track and ERYC's ability to develop it as part of a wider tourism scheme;
  - should the CPO be confirmed it should be accompanied by a lift and shift clause to prevent prejudice to ERYC's retained land;
  - NGET does not need rights over a public highway;
  - a permanent right of access over part of the beach is not appropriate and all beach access should be coordinated with ERYC
- EYRC is not fundamentally opposed to the Project and remains willing to try and resolve these matters by negotiation.
- At the inquiry, NGET submitted a rebuttal to ERYC and stated that discussions were ongoing and a possible way forward had been agreed.

### **The Inspector's conclusions:**

42. The Secretary of State notes the following relating to the Inspector's conclusions.

#### *Justification:*

43. The Inspector sets out that the Order should be judged on its own merits and that the CPO guidance is not intended to imply that any particular degree of justification is required for any specific order. The case must justify the interference with Human Rights (Article 1 to the First Protocol to the European Convention on Human Rights (ECHR) – protection of property). In addition, Article 6 of the ECHR provides that everyone is entitled to a fair and public hearing. An Inquiry was called and all those affected have been notified. All public sector bodies are bound by the Public Sector Equality Duty set out in s149 of the Equality Act 2010.

44. The Inspector also stated that National Policy Statements EN-1 is a significant material consideration in support of the Order. It is also noted that the Inspector stated that the Project would accord with and be supported by relevant policy, which the Inspector gave considerable weight. The Secretary of State agrees with this observation.

*Need case:*

45. The Conditional Decision of the FNC was that the Project is necessary to overcome power flow limitations. That is, to carry renewably generated electricity from areas of over production in northeast Scotland to areas currently undersupplied in southeast England. The Inspector concludes that there is an acute need for the link in the public interest. The Secretary of State agrees with this statement.

*Benefits:*

46. The Inspector noted that NGET characterised the public benefits as enabling the construction of a nationally important reinforcement of the electricity transmission system which would enable the flow of renewable energy to demand centres, overcoming costly constraints on the network and helping the transition to Net Zero. The Secretary of State agrees with this point.

47. The Inspector stated that the benefits should be seen as follows: the greatest benefit would be to NGET avoiding costly constraints (penalties) that it would otherwise incur in paying Scottish suppliers to switch off their wind turbines at times of oversupply. The extent to which this would be a public benefit is complicated by the status of NGET as a plc regulated by Ofgem, rather than a public authority. As such, any immediate financial benefits are likely to be to the shareholders. However, it is also the case that any increase in the cost of transmission is likely to be reflected in electricity bills. The Inspector notes that none of the objections relates to a loss of land, only rights.

48. The Inspector also states that exploiting Scottish renewable energy to the full would also have the effect of supporting plans to transition to Net Zero by 2050. An important part of this goal is to decarbonise the UK power system. Renewable energy exported from Scottish wind turbines to the English grid would reduce the amount of fossil fuel burnt to power the grid and contribute to this goal.

*Alternatives:*

49. It is noted that the Project is one of four overall schemes and that collectively they set out to achieve the need as set out above. While not discussed at the Inquiry, the Inspector states there are no doubt sound reasons why it would be better for power transmission to be split across more than one cable route. Also, that NGET's (unchallenged) claim that all four will be required and that all options were considered as part of the FNC. The Secretary of State agrees with this observation.

50. The Inspector noted that while some objectors disagreed that there were no sound alternatives, their objections focused on local circumstances that might create difficulties for them. The Inspector noted that no objector suggested an alternative to the Project, nor to the compulsory acquisition authorised by the Order.

*Viability/funding/impediments:*

51. The Inspector has given substantial weight to the likelihood that all the necessary resources are likely to be available within a reasonable timescale and that, if the Order is confirmed, the Project would proceed. The Inspector also noted that in December 2023, NGET successfully delivered and connected to the system a similar project in the Viking Link. This illustrates an ability to deliver such projects. None of the objectors referred to funding or viability in their objections.

*Engagement/negotiation:*

52. NGET advised that 101 HoTs are with solicitors to draft option agreements and that 26 options have been agreed. While engagement has been extensive, gaps were highlighted, particularly in regard to meetings with tenant farmers, the owners of the Christmas tree business (as fairly acknowledged in evidence) and where potential noise and light might cause considerable disturbance.

53. The Inspector notes that many of the objections were around the HoTs. The Inspector states that it should be hoped that most of these will be transformed into signed option agreements before the Order is confirmed and that where engagement could have been fuller that this will be completed. It is apparent from the fact that some objections have been withdrawn, and that only three objectors attended the Inquiry, the Inspector states that NGET has been generally reasonable in its approach to negotiations with existing owners and tenants, as advised by the CPO guidance, albeit that fewer HoTs have been concluded than is desirable.

*Detailed design:*

54. NGET explained that detailed design, with the benefit of full site investigations, would be carried out by contractors who would confirm the precise cable alignments. Similarly in respect of drainage, NGET claims that it has already engaged with landowners to understand how land drainage can be managed before, during and after construction. The NFU evidence indicates that NGET has not engaged to the complete satisfaction of landowners and farmers and that, at the time of the Inquiry, significant uncertainty surrounded some of the details.

*Drainage:*

55. The Inspector notes that the Onshore Scheme is a large endeavour over a great distance and accepted that these concerns are a further indication that engagement could have been fuller and more prompt. The Inspector accepts that many of these matters could be controlled by the conditions to the ERYC planning permission but also that this route relies on the performance of the planning authority over which objectors have no control. The Inspector noted that NGET confirmed to Mr Smyth that it will maintain the drainage over the cable easement.

56. The Dogger Bank South Report does not state that a crossing of the River Hull at Wansford would be impossible, only too complex when the developer there had other options. NGET provided detailed engineering evidence that it does have other feasible options for its proposed crossing. The Inspector concluded on this point that a route is likely to be found but also that the uncertainty, of precisely what is proposed, is a further weakness in the Order case.

*Cable depth:*

57. The minimum cable depth across the full length of the Project would be 900mm. For most of it, voluntary HoTs require that the cables will have a minimum depth of 1.2m. NGET argues that there is no need for cable burial depths below the industry standard of 900mm unless there is a specific reason. It explained the issues with doing so, mostly around cost and delay from additional excavation and soil handling.

58. The Inspector stated that he understands that further survey work is required before final cable depths are agreed and that not all the delays over this could be attributed to NGET. The Inspector noted that mole drainage could go deeper than 900mm and sympathised with landowners' and farmers' safety concerns. The Inspector stated that NGET's technical deviation process essentially amounts to it marking its own homework, but also that this is a pretty sound assurance that operations would not encounter the cables.

59. The Inspector concluded that, on balance, while hoping that depths for the full length of the Project can be further explored and agreed with landowners before work starts, this concern should not of itself prevent the Project proceeding, albeit a factor to weigh in the balance. The Secretary of State agrees with this assessment.

*Survey Works:*

60. The Inspector recognises the risk to the Order that further survey work might reveal complications and that NGET might seek variations. However, the Inspector stated that NGET has carried out most of the investigations that the Inspector would expect at this stage and that it has sought rights over a sufficient width to ensure that minor difficulties could be entertained. Given that it only seeks rights rather than land ownership, any unused margins should not raise difficulties. The Secretary of State agrees with this assessment.

*Agricultural Liaison Officer (ALO):*

61. The Inspector accepts that individual option agreements could include clearer responsibilities, but most of these are at the HoTs stage and are neither generic nor before him.



62. The Inspector notes that the ALO is not a specific requirement of the CEMP, but rather the CEMP condition requires the incorporation of the Outline CEMP which refers to an ALO as little more than an optional requirement. The Inspector states that this is not ideal as in order to achieve certainty objectors would need to contact ERYC to request that the requirement for an ALO be included in the submitted CEMP before granting written approval for the condition.

*Soils – Management and Reinstatement:*

63. The Inspector states that he sees no reason why the CEMP would not be sufficient to ensure that the lands are reinstated to their pre-works condition. As with the ALO concern, objectors could contact ERYC if they are uncertain whether the CEMP will cover their concerns. The Secretary of State agrees with this assessment.

*Order boundaries:*

64. The NFU was concerned that redline boundaries highlighted within the Order do not correspond to those which have been agreed under negotiation. The Inspector is aware that some of the boundaries agreed by negotiation may well include additional areas. Should there be other discrepancies, these should be taken care of in any option agreements. Otherwise, it would be the responsibility of NGET to ensure that the Order covers all of the lands it requires. The Secretary of State agrees with this assessment.

*Effects on aspirations for future development:*

65. The Inspector noted that these were legal and compensation matters.

*Effects on existing businesses:*

66. Again, the majority of the issues are compensation related.

*Noise and light impacts:*

67. The Inspector states that while there would be expected to be some impacts on residents, that he was satisfied these would be kept to a minimum. The Secretary of State agrees with this assessment.

*Optionality:*

68. The Order includes alternative routes at two locations. NGET referred to this as optionality and, in its supplemental SoC, emphasised that it would only exercise powers in respect of one option.

69. The first is at Kiplingcotes where there are potential difficulties with an offline haul road. This is referred to in more than one objection. The NFU raised concerns that this had not been properly investigated. The Inspector noted that NGET now intends to follow the western option but is keeping the alternative in the Order given the possibility that this might not work. Further objections relate to concern around disruption to the landowner's residential

access; temporary rights to create a construction compound on the offline haul road (and concerns over the suitability of the area of land due to the topography, soil structure and the propensity for the area to flood); the impact of the works on business access; water supply and contamination and; subsidence.

70. The Inspector noted that NGET claimed that these have been addressed by Ms Horsfall's evidence and that traffic mitigation and water borehole monitoring have also been proposed and discussed with the objector. No HoTs have been signed and it remains a concern that the Project could have a significant impact on more than one objector.

71. The second is for the crossing of the A164 where planning permission has been granted for two alternative alignments. Detailed design is required to establish whether a trenchless crossing can be carried out without unacceptable risks to water supply. If not, then an open cut crossing is feasible but less desirable.

*Wansford crossing:*

72. Objectors' own parts of the River Hull Site of Special Scientific Interest (SSSI) at the Wansford location. They believe that NGET has not carried out the ground investigation works which it should have done to prepare for the Order. This location has been identified as one of the most challenging parts of the route to cross, including a road, a canal, a field and a river with artesian ground water which is a SSSI. No further surveys will be undertaken until September 2024. These objectors felt that until these surveys have been carried out, NGET does not have the information required to reach a voluntary agreement with potentially willing landowners and so CPO powers would be premature. On the Dogger Bank South Project, PEIR (the contractor) disregarded such a crossing.

73. The Inspector notes that NGET felt that, regardless of RWE's caution, issues surrounding the Wansford crossing have now been addressed in detail in Mr Perkins' evidence, showing that a trenchless crossing in this location is feasible subject to detailed design work. The fact that RWE discounted a crossing in this location for its own scheme reflects the other options available to it. Although the Golden Hill Club originally argued that the HoTs were not appropriate to the unique circumstances and took no comfort from the CEMP condition, HoTs have now been agreed.

*Other matters:*

74. Driffield Navigation Trust's primary objection relates to a bridge over which NGET is seeking access rights. The concern is that the access route will cause damage to the existing bridge. The Inspector notes that NGET has asked for the as-build drawings. Engagement with the objector is ongoing.

NGET is continuing to seek to enter into a legal agreement with INEOS (objector) to address the crossing point of the ethylene pipeline.

*Conclusions:*

75. The Inspector makes the following points in regard to conclusions:
76. There is a clear strategic planning framework for the Project and a demonstrable need. The need relates more to the economic imperative of reducing costs, and fines in particular, than reducing CO<sub>2</sub>e. The Secretary of State agrees with this assessment.
77. The Inspector notes that the relevant components of the English Onshore Scheme have been granted planning permission by both relevant planning authorities. In the context of the length of the cable route and the number of rights to be acquired, the extent of opposition has been relatively low, with only three participants at the Inquiry speaking to object (albeit that the NFU represented many of its members including other objectors). Of these, the two individuals had no objection in principle. With few exceptions, the Inspector accepted that genuine progress has been made to reach agreement with those affected. The Secretary of State agrees with this assessment.
78. The Inspector states that, even without Ofgem's final sign off, financial viability has been demonstrated in that funding should be available soon and confidence in delivery is very high. There are no other impediments. The Order lands are suitable for, and required, in order to secure the carrying out of the Project. The Project has an excellent prospect of going ahead. There is no material planning, financial, physical or legal impediments to the Project and, given the evidence that all four schemes are needed and that it would not be safe to wait for other renewable projects, there are no other ways that the objectives could be achieved. The Secretary of State agrees with this assessment.
79. The Inspector did point out that some elements of NGET's case remain unresolved. However, with the exception of agreement with Network Rail, these are relatively minor matters compared with the potential benefits of the Project as a whole. Notwithstanding these shortcomings, and noting that the concerns of those with an interest in the lands that would be acquired compulsorily only relate to rights and not ownership, the Inspector finds that all but one of these concerns (the Network Rail objection and representation under the 1981 Act) would be outweighed to such extent to justify acquisition in the public interest. The Secretary of State agrees with this assessment.
80. In regard to Human Rights, the Inspector notes that most of the objections relate to lack of engagement or compensation rather than opposition in principle. It follows that the weight to be given to the degree of infringements on Article 1 to the First Protocol to the ECHR are less than they would be if

the Order involved the displacement of landowners from their land rather than the loss of Rights. The Secretary of State notes this point.

81. The Inspector's recommendation was that prior to confirming the Order, that the Secretary of State should obtain confirmation that the BAPA with Network Rail has been completed to Network Rail's satisfaction and that Network Rail's objection has been withdrawn. This was confirmed to the Secretary of State and Network Rail's objection and representation were withdrawn on 23 December 2024. The Inspector also states that ideally, during any interval, many other matters of objection, and Ofgem's final approval, will also have been resolved and this would strengthen NGET's case.

### **Consideration of the Compulsory Purchase Order:**

82. Paragraph 5(1) of Schedule 3, to the 1989 Act applies the 1981 Act to a compulsory purchase by a licence holder. MHCLG issued updated Guidance on Compulsory purchase process and the Crichel Down Rules which is applicable to all compulsory purchase orders to which the 1981 Act applies. The Secretary of State 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.
83. 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 CPO 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 Order would be made in this instance.
84. The Secretary of State needs to be satisfied that there are sufficiently compelling reasons for the powers to be sought at this time and 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 millions of homes across the UK and will play a role in helping the Government achieve its Net Zero ambitions.
85. The Secretary of State notes the following in NGET's SoC section 8.30: "The Project is one of twelve developments which make up National Grid's 'Great Grid Upgrade', which will enable more clean energy to be delivered to communities across England and Wales. The Great Grid Upgrade is formed through a partnership approach, to enable a more integrated and cost-effective acceleration of vital grid infrastructure, such as the Project."

86. 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 Ofgem has identified the Project as an Accelerated Strategic Transmission Investment (ASTI) project. ASTI projects will form part of a new regulatory framework which is aimed at providing earlier access to project funding in order to accelerate the delivery of ASTI projects and achieve the Government's 2030 objectives.
87. Ofgem's analysis suggests that, if all ASTI projects are delivered by their optimal delivery dates, consumers will see a net benefit of up to £2.1bn in terms of reduced constraint costs and carbon savings. Ofgem is clear that this consumer benefit is contingent upon timely project delivery.
88. Taking all of these factors into account, the Secretary of State agrees that this Project is a priority and that a decision on the Order should be made at this time.
89. In considering whether a compelling case for compulsory purchase in the public interest, the Secretary of State notes the rationale set out in NGET's SoC and the conclusions within the Inspector's report. However, the Secretary of State notes that there are still 11 live objections. The Secretary of State wrote to NGET on 7 January 2025 asking for an update on negotiations in relation to the outstanding objections, NGET replied to the Secretary of State on 7 January 2025 stating that in terms of the remaining objectors, the focus has been on progressing voluntary agreements. The Secretary of State has carefully considered the objections and agrees with the Inspector that the concerns are outweighed to such extent as to justify acquisition in the public interest.

#### *Human Rights:*

90. The Secretary of State considers that rights over the land sought by NGET 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 ECHR. However, the Secretary of State is satisfied that NGET 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.
91. 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 ECHR 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.

### *Equality Act:*

92. 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.

93. The Secretary of State has considered the potential impacts of confirming 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.

### *Biodiversity:*

94. 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 Order 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 his confirmation of the Order. The Secretary of State is of the view that the Project considers biodiversity, environmental impacts and protected sites to accord with this duty.

### **Secretary of State’s decision on the Compulsory Purchase Order:**

95. Energy security is one of the government’s priorities. The Plan for Change document, which was published on 5 December 2024, emphasises the importance of security of supply and improving the electricity network as key components of the UK’s mission to achieve clean power by 2030. The 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.

96. The Secretary of State has carefully considered NGET’s SoC which sets out a justification for confirming 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.

**97. The Secretary of State has decided to confirm the Order.**

98. 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. The Secretary of State also believes that the land and rights included in the Order are necessary to implement the English Onshore element of the SEGL2 scheme, and that its contribution towards the UK's transition to "net zero" would have substantial benefits of public interest and of national significance.

99. The Secretary of State notes the comments made by the Inspector in his report regarding the separate Section 37 application, which was submitted to the Secretary of State on 8 December 2022 and a decision to grant the section 37 application being made on 2 August 2024. .

100. The Secretary of State acknowledges that there are still 11 live objections and would advise NGET to continue to engage with all objectors to find mutual agreements. However, the Secretary of State does not feel that this is a sufficient reason not to confirm the Order as per the Inspector's conclusions.

101. 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.

102. 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.

103. 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 NGET 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.

104. 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  
Energy Infrastructure Planning Delivery Team  
Energy Development  
Department for Energy Security & Net Zero.