



**EAST RIDING**  
OF YORKSHIRE COUNCIL

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**ELECTRICITY ACT 1989**

**THE NATIONAL GRID ELECTRICITY TRANSMISSION PLC (SCOTLAND TO ENGLAND GREEN  
LINK 2) COMPULSORY PURCHASE ORDER 2023**

**STATEMENT OF CASE ON BEHALF OF THE EAST RIDING OF YORKSHIRE COUNCIL  
MADE BY ADAM LEWIS MILNER BSC (HONS) MSC MRICS**

**RULE 7(1) OF THE COMPULSORY PURCHASE (INQUIRIES PROCEDURE) RULES 2007**

**21<sup>ST</sup> FEBRUARY 2024**

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## 1. INTRODUCTION

- 1.1. My name is Adam Lewis Milner and I submit this statement of case on behalf of the East Riding of Yorkshire Council (“the Council”) in its capacity as a landowner affected by the National Grid Electricity Transmission Plc (Scotland to England Green Link 2) Compulsory Purchase Order 2023 (“the CPO”).
- 1.2. For the avoidance of doubt, the Council does not intend to submit a separate proof of evidence in connection with the Public Inquiry, as it is not considered that this would add to the Council’s case, as set out in the following sections. Furthermore, it is considered that the burden lies with National Grid Electricity Transmission Plc (“NGET”) to prove that it reasonably requires the rights specified within the CPO, and not with the Council to demonstrate that those rights are not required. Nevertheless, the Council wishes to reserve its position in respect of speaking at the Public Inquiry and, therefore, my relevant qualifications and experience are set out below.
- 1.3. I have a BSc Hons degree in agricultural resource management from the Royal Agricultural University and a MSc degree in Rural Estate and Land Management from Harper Adams University. I am a chartered member of the Royal Institution of Chartered Surveyors’ rural practice division. I am also a probationary member of the Central Association of Agricultural Valuers and of the East Riding of Yorkshire Association of Agricultural Valuers.
- 1.4. I have held the post of principal rural and estates surveyor within the valuation and estates service of the Council since August 2022. I have worked for the Council since March 2017, having previously held the roles of rural valuation & estates surveyor and assistant principal surveyor (rural).
- 1.5. Throughout my employment with the Council, I have been responsible for managing the Council’s smallholding estate, and for the management of some of its rural land more generally, including other agricultural land.
- 1.6. In addition, I provide specialist advice to the Council on compulsory purchase matters, particularly representing the Council’s interest where it is affected by both Compulsory Purchase Orders and Development Consent Orders. I also, on occasion, act for the Council in its capacity as an Acquiring Authority.

## 2. THE COUNCIL'S OBJECTION – OBJ17

- 2.1. The Council objected to the CPO on the following main grounds:
  - 2.1.1. Lack of detail as to construction methodology (particularly in relation to public rights of way (“PRoW”));
  - 2.1.2. That the rights being sought were unnecessary, unreasonable, unduly onerous to the Council, and/or that they were not capable of being properly exercised by NGET and its authorised contractors, agents, servants, etc.;
  - 2.1.3. That the rights being sought were not defined in the Statutory Notice of the CPO (“the Notice”)
- 2.2. These grounds of objection related to various plots across the East Riding, as set out in the Council’s original objection.
- 2.3. The Council did not object to the Scotland to England Green Link 2 Project (“the Scheme”) on the grounds of lack of engagement, though it notes with interest the extent to which this has formed a ground of objection among other parties.
- 2.4. The Council did, however, also make clear in its letter of objection that the Council is not fundamentally opposed to the principle of the Scheme, recognising it as an important step towards both net zero and to UK energy security.
- 2.5. The Council maintains its views in this regard, and “Valuing the Environment” remains one of its five corporate priorities. However, when considering its response to projects such as this, equal weight must be given to the Council’s other priorities, which include “Growing the Economy” and “Empowering and Supporting Communities”.
- 2.6. At the time of submitting the objection, the Council hoped that its various grounds of objection could be resolved through constructive negotiation with NGET and its agents.
- 2.7. Unfortunately, despite repeated attempts to raise these issues, face-to-face, by e-mail and by telephone, no constructive engagement took place until January 2024, when NGET finally made concerted efforts to arrange a meeting.
- 2.8. That meeting took place on 9<sup>th</sup> February 2024 and a useful discussion was had. Some of the points agreed in that meeting have since been captured in a

Statement of Common Ground (“SoCG”) (included at Appendix ERYC/1), and on the basis of this the Council is in a position to withdraw some elements of its objection. This is dealt with in more detail below.

- 2.9. Nevertheless, various points remain outstanding and, despite assurance that the meeting would be followed up in writing, nothing yet has been forthcoming beyond the SoCG.
- 2.10. With all of this in mind, and notwithstanding NGET’s various assertions regarding landowner engagement in section 6 of its Statement of Case, the Council considers that engagement made by NGET in response to the Council’s objection has been inconsistent at best, at times bordering on non-existent and disregarding.
- 2.11. Prior to the Council lodging its objection, NGET has refused to properly consider dealing with occupiers of land (i.e. tenants), instead expecting this to be undertaken by landowners. This approach seeks to ignore the significant security of tenure enjoyed by some agricultural tenants, including some of the Council’s own tenants.
- 2.12. NGET has instead attempted to deal with those occupiers by way of a nominal one-off payment in return for a signed “occupier’s consent form”. This fails to address instances where (e.g.) an occupier may be subject to some of the extensive rights being sought by NGET through private negotiation, but not falling within the main cable corridor, over which the proposed consideration has been calculated.
- 2.13. NGET failed to recognise both (a) that landowners do not in all cases have the exclusive power to grant the rights NGET is seeking, and (b) that under the CPO process many of those occupiers would be considered to have a legal interest in the land and should properly be considered as parties to the CPO.
- 2.14. While this approach may have been convenient to NGET, it is our opinion that this falls far short of the engagement expected by the statutory code and which occupiers with an interest in land are entitled to expect.
- 2.15. Although NGET has latterly (February 2024) agreed to deal with occupiers under a tri-partite agreement, this has come unnecessarily late in the day. It remains

unclear whether the Council's tenants have all been properly served with notices as qualifying parties.

- 2.16. On this basis, the Council feels compelled to add the lack of proper and meaningful engagement to its other grounds of objection.

### **3. MATTERS NO LONGER IN DISPUTE**

- 3.1. For ease of reference, these matters are set out as they appeared in the Council's objection.

#### **Plot No. 22/642**

- 3.2. The Council understands that this plot has now been removed from consideration and does not form part of the CPO. This has not been covered in the SoCG and it would be helpful to have some confirmation in this regard.

#### **Plot No. 22/665**

- 3.3. As set out in the SoCG, NGET has confirmed that it will use horizontal directional drilling under the PRoW and will seek to avoid disruption to the PRoW (Etton Bridleway No. 5) and to users thereof.
- 3.4. Subject to receiving a formal undertaking, the Council is content to withdraw its objection with regard to this plot.

#### **Plot No. 46/1251g**

- 3.5. As set out in the SoCG, NGET has agreed to divert its planned access away from the Council's boat launch compound and to realign the route along the PRoW (Carnaby Bridleway No. 4).
- 3.6. The Council is pleased that this has been agreed, and it will hopefully help to alleviate the impact on the operator of the boat launch compound. However, this element formed only one of the grounds of objection in relation to this plot and the Council is therefore unable at this stage to withdraw its objection in respect of Plot 46/1251g.

#### 4. THE COUNCIL'S CASE IN RESPECT OF OUTSTANDING MATTERS

##### **Plot Nos. 45/1237, 45/1239, 45/1240 & 46/1255**

- 4.1. The Council maintains its objection to the acquisition of "Access Rights" over these plots for the following reasons.
- 4.2. In the first instance, it is considered the NGET already has powers of entry onto third party land, which are conferred on it as a statutory undertaker. The existence of these rights has not been denied by NGET.
- 4.3. NGET's rights in this regard, so far as they are capable of being exercised for the purposes set out in the Notice, do not appear to have been addressed in NGET's Statement of Case. Nor is it clearly explained why additional rights are considered reasonable or necessary.
- 4.4. The Access Rights being sought under the CPO therefore appear to be supplementary to NGET's existing rights and are neither essential nor proportionate.
- 4.5. The Council submits that they should not be granted under the CPO.
- 4.6. In the alternative, the Council continues to consider that these rights are unduly onerous and restrictive to the Council's long-term development plans for its Wilsthorpe Estate, over which the rights are sought.
- 4.7. As noted in the Council's objection, the Council anticipates that this land will have a future use for leisure and tourism purposes. This aspiration accords with the Council's corporate priorities "Growing the Economy" and "Empowering Local Communities", both of which must be given due weight.
- 4.8. NGET sets out in its Statement of Case (paragraph 12.176) that it "does not consider it to be a reasonable conclusion that obtaining permanent access rights would sterilise the farm track and prejudice long-term tourism and development plans."
- 4.9. NGET does not make clear what evidence it has relied upon to form this judgement; nor is it clear that it has fully understood the basis of the Council's objection.
- 4.10. The reality is that the existing farm track follows field boundaries and does not take a direct route from the metalled road (the status of which is discussed in

more detail at paragraph 4.16, below) to the cable route. This access would be unlikely to remain in its current form in the future event of the land being developed for leisure and tourism purposes. The acquisition of a permanent right over this track would effectively freeze the route as it now lies and, with it, the Council's (or any future owner/developer's) ability to develop the track as part of a wider tourism scheme, e.g. a caravan park, leisure resort, or similar.

- 4.11. The Council notes with concern that the Access Rights that would be conferred on NGET under the CPO (as defined in the Notice) include the power to "prevent and remove any works or use of the land which may interfere with or obstruct [...] the Access Rights". This could readily include any material change of use of the land that the Council wished to implement and would be prejudicial to the long-term economic development of the area.
- 4.12. The feasibility of the Council's aspirations for this land is demonstrated by the history of the site.
- 4.13. All of the Council's land at Wilsthorpe was previously allocated for tourism development as part of the Brid17 allocation within the now-superseded East Yorkshire Borough Wide Local Plan, which was the prevailing local planning policy until the adoption of the current Local Plan in 2016. Further details of this are included at Appendix ERYC/2.
- 4.14. More recently, a significant area of the Wilsthorpe smallholding estate was repurposed when for leisure use when the Council's South Cliff Caravan Park was extended in spring 2019 (opening).
- 4.15. If the Inspector is minded to recommend that the Secretary of State for Energy Security and Net Zero ("the Secretary of State") approve NGET's acquisition of these rights, then it is respectfully submitted that they should be accompanied by an appropriate "Lift & Shift" clause to prevent material prejudice to the Council's retained land. Alternatively, this may be a matter for compensation, and the Council will seek to quantify the diminution in value of its retained land caused as a result of the acquisition of these rights.
- 4.16. The Council's objection also notes that Plot 46/1255 arises from a metalled road that does not form part of the adopted highway network. While it is part of the Carnaby Bridleway No. 4, the metalled road is otherwise a private access road,



forming part of the Council's Wilsthorpe estate, over which only private rights of way are enjoyed.

- 4.17. The use of the Carnaby Bridleway No. 4 as a means of vehicular access by NGET would constitute an offence under s.34 of the Road Traffic Act 1988. It would also be regarded as an act of trespass without the Council's prior consent.
- 4.18. NGET has failed to address this point in its Statement of Case, including how the problem might be overcome, though it is briefly acknowledged in the SoCG.
- 4.19. In the event the Secretary of State is minded to approve the CPO, consideration needs to be given as to how these rights can be exercised, if at all.

**Plot Nos. 46/1251e, 46/1251f & 46/1251g**

- 4.20. Notwithstanding the specific points made in relation to part of Plot No. 46/1251g (paras 3.5 & 3.6, above), the Council's more general objection in relation to these plots stands.
- 4.21. The route, in its entirety, forms part of the adopted public highway network and so NGET enjoys general highway rights in common with other lawful road users.
- 4.22. NGET fails to address this point in its Statement of Case and it remains unclear why either temporary or permanent access rights should be required over the public highway.
- 4.23. In respect of Plot No. 46/1251g, the Notice also refers to part of Village Road being a private road, which, so far as we are aware, it is not (though further detail on this can be provided if it would be of assistance).
- 4.24. Similarly, in respect of the same plot, the Notice incorrectly describes the Carnaby Bridleway No. 5 as "the Carnaby Footpath No. 5".
- 4.25. The Council contends that the rights being sought over these plots have not been given appropriate consideration before their inclusion in the CPO, and that they are therefore unjustified and superfluous (being rights already held by NGET in common with other lawful road users).
- 4.26. The Council respectfully submits that these rights should not be conferred under the CPO unless sufficient evidence can be provided to demonstrate why they are necessary.

**Plot Nos. 45/1251a, 46/1251b & 46/1251c**

- 4.27. The Council acknowledges that two of these plots do not fall within the Council's ownership. However, Plot 46/1251c does fall with the Council's ownership and, in common with the other two plots, forms part of the Wilsthorpe beach, which the Council has a duty to manage. Accordingly, it is considered that the Council should properly have been notified of the rights being sought in respect of the two plots it does not own and, in the absence of evidence to the contrary, it is assumed that those rights are the same as for Plot 46/1251c.
- 4.28. Having regard to the use of the beach as a public space, the Council maintains that a permanent right of access over a precisely defined route along it is not appropriate.
- 4.29. Moreover, given the changing nature of the beach, tide patterns, erosion and, more generally, public access, such a precise right is likely to be incapable of being exercised.
- 4.30. NGET sets out in the Statement of Case that further details have been submitted to the Council on the type of access required and associated timings and purpose for said access. It is also stated that NGET understands this has been accepted by the Council.
- 4.31. The Council can confirm that some brief, non-specific information was provided verbally at the meeting on 9<sup>th</sup> February 2024. Details covered the fact that, during the operational phase of the English Onshore Scheme, the rights would be "likely" to be exercised only "once a year" by someone "in a Land Rover".
- 4.32. The Council does not consider that these brief facts as to the type, timings and purpose of access (which remain to be confirmed in writing) dispense with the issue set out in the Council's objection, that an access over so narrowly defined a route cannot be guaranteed to be exercisable as and when required.
- 4.33. It is noted that the definition of "Access Rights" in the Notice does not impose any of the limitations mentioned in 4.31 (above) and that the rights include, as a matter of fact, access with plant, machinery, apparatus and equipment.
- 4.34. While the Council recognises that the need may arise to access the cables in an emergency, and that such a need could necessitate the use of plant and

machinery (etc.) to carry out urgent repairs, the rights being sought under the CPO appear to be unrestricted in these respects, such that they could be exercised at all times regardless of propriety.

- 4.35. The Council contends that the public nature and seasonality of the beach mean that all access, other than in an emergency, should properly be coordinated with the Council.
- 4.36. The Council is also concerned that the exercise of this right (if granted) could interfere with the Council's duty in respect of the public beach. No information has been provided to dispel this concern.
- 4.37. The Council respectfully submits that a more general route for occasional road vehicle access would be more appropriate, subject to a condition that the most direct route available be taken at all times.
- 4.38. Further, that the wider rights being sought in respect of plant, machinery and equipment (etc.) should only be capable of being exercised in an emergency, or otherwise with the Council's approval, which is not to be unreasonably withheld.

## **5. CONCLUSION**

- 5.1. The Council reasserts its position that it is not fundamentally opposed to the principle of the Scheme, nor to the prospect of Council-owned land being used to accommodate sections of the cable.
- 5.2. Indeed, subject to resource availability, the Council has endeavoured to undertake reasonable engagement with NGET and its agents since the inception of the Scheme, attending various meetings and facilitating access to the Council's land for (e.g.) surveys.
- 5.3. The Council's objection to the Scheme is founded broadly on the fact that elements of the CPO do not appear to have been fully thought through and that some of the rights being sought are unnecessary, are unduly restrictive and materially prejudicial to the Council, or that they are otherwise incapable of being exercised in the manner suggested.
- 5.4. The Council considers that its concerns in relation to specific aspects of the CPO are well-founded and that they have been set out sufficiently clearly in the

foregoing sections and also variously in correspondence with both NGET and its agents. That these concerns have not yet been satisfactorily resolved is a matter of regret.

- 5.5. It is also considered that no proper evidence has been submitted in support of the Scheme to demonstrate, either, why these rights are necessary, or that the Scheme would be incapable of being delivered properly without them.
- 5.6. In the event that the Inspector is minded to recommend that the Secretary of State confirm the CPO, then the Council respectfully requests that this be done with such amendments as may be necessary to mitigate the impact on the long-term management of the Council's estate and of the beach, and to similarly mitigate the impact of the Scheme on the economic development prospects for the area.
- 5.7. In the meantime, the Council remains willing to try and resolve these matters by private negotiation.

## APPENDIX ERYC/1: STATEMENT OF COMMON GROUND

**DATE: 9<sup>TH</sup> FEBRUARY 2024**

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**THE NATIONAL GRID ELECTRICITY TRANSMISSION PLC (SCOTLAND TO ENGLAND  
GREEN LINK 2) COMPULSORY PURCHASE ORDER 2023**

**STATEMENT OF COMMON GROUND**

**(1) NATIONAL GRID ELECTRICITY TRANSMISSION PLC  
AND  
(2) ADAM MILNER**

**RULE 15 OF THE COMPULSORY PURCHASE (INQUIRIES PROCEDURE) RULES 2007**

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**NATIONAL GRID ELECTRICITY TRANSMISSION PLC**

**THE ELECTRICITY ACT 1989  
AND  
THE ACQUISITION OF LAND ACT 1981**

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## 1. INTRODUCTION

- 1.1 National Grid Electricity Transmission plc (NGET) made The National Grid Electricity Transmission plc (Scotland to England Green Link 2) Compulsory Purchase Order 2023 (the **Order**) on 5 September 2023 in respect of the English onshore elements of a subsea High Voltage Direct Current Link (HVDC) between Peterhead in Aberdeenshire and Drax in North Yorkshire (the **Project**).
- 1.2 Adam Milner submitted an objection to the Order dated 06<sup>th</sup> October 2023 (the **Objection**).
- 1.3 The Objection was based on project design and access rights being sought. In particular, the Objection was based on the methodology of the crossing at the Hudson Way, the permanent access rights unnecessarily burdening the land and access being sought through the Council's commercially leased boatyard. (the **Objection Matters**):

## 2. OBJECTION MATERS

- 2.1 Since making the Order, NGET and Adam Milner have been engaged in order to ensure that Adam Milner has sufficient information to understand the implications of the Project and the Order for East Riding of Yorkshire Council.
- 2.2 On 09<sup>th</sup> February 2024 NGET and Adam Milner met at East Riding of Yorkshire's County Offices in order to discuss the implications of the Project and the Order for East Riding of Yorkshire Council and the Objection Matters. NGET provided details to Adam Milner in respect of each of the Objection Matters.
- 2.3 Adam Milner is satisfied that he has sufficient information in respect of the design and route of the cable crossing at the Hudson Way, access rights NGET are seeking to gain access to Fraisthorpe beach and that all plots under the councils ownership have been included in the Order and voluntary Heads of Terms agreement.
- 2.4 Adam Milner is satisfied that he has been provided with information in respect of
- 2.5 Adam Milner supports the confirmation of the Order and the delivery of the Project.

Topic	Sub-section	Objector's comment	EGL2 response	Status
Public Right of Way (PROW)	Disruption to the enjoyment of a council owned PROW	Plots 22/642 & 22/665 form part of the Hudson Way. The Council requests that cables be laid by directional drilling in this area.	NGET have confirmed that in this location a trenchless solution will be used to avoid disruption to the PROW.	AGREED
Permanent Access Rights		Plots 45/1237, 45/1239 & 45/1240 form an access route over land that the Council have long-term leisure and tourism plans for. If these permanent access rights are granted, they will place an	NGET are seeking advice from their advisers and progressing this matter through voluntary negotiations.	IN NEGOTIATION

		unnecessary burden on the land and sterilise the land which will in turn have an affect on the development potential.		
Access Rights	Additional rights to be sought.	Plot 46/1255 arises from a privately owned road. Without additional rights being sought, it will be impossible for NGET to access this plot.	NGET are progressing this matter through voluntary negotiations.	IN NEGOTIATION
Access Rights	Design of access route	Plot 46/121g runs through the Council's boat launch facility which is operated by a licensee acting under the Council. Any access through this yard will have a detrimental impact on the licensee's business. This could be avoided by taking the more direct route along the former public highway.	NGET have agreed to the change request and have arranged to take access via the formal public right of way.	AGREED
Missing Plots		Plots 45/1251a & 46/1251b are not defined in the Notice provided to the Council.	We believe these plots are outside the Council's ownership.	AGREED

**NATIONAL GRID ELECTRICITY TRANSMISSION PLC**

(SIGN).....

**AND**

**ADAM MILNER**

(SIGN).....

**9<sup>TH</sup> FEBRUARY 2024**



**APPENDIX ERYC/2: EXCERPT FROM THE EAST YORKSHIRE BOROUGH WIDE LOCAL PLAN  
– POLICY BRID17**

### POLICY BRID17 - LAND AT WILSTHORPE

APPROXIMATELY 80 HECTARES OF LAND AT WILSTHORPE ARE PROPOSED FOR MAJOR LEISURE/TOURISM DEVELOPMENT. PROPOSALS WILL BE PERMITTED WHERE THEY FORM ALL OR PART OF A COMPREHENSIVE SCHEME FOR THE SITE AND:-

1. WILL BE ACCEPTABLE IN TERMS OF POLICY CZ2 AND OTHER RELEVANT COASTAL AND ENVIRONMENTAL POLICIES; AND
2. WILL NOT BE DETRIMENTAL TO HIGHWAY SAFETY; AND
3. RETAIN PUBLIC ACCESS TO THE CLIFF TOP; AND
4. WOULD NOT ADVERSELY AFFECT THE BEACHES WITHIN BRIDLINGTON BAY.

#### **Justification**

- 14.59 At Wilsthorpe, south of Bridlington, an extensive site offers the potential for large scale development aimed at the leisure/tourism market. In the past, proposals have been prepared for marina development supported by high quality housing. With additional financial resources available from the EC, the marina development may still emerge, and the site remains suitable for major leisure/tourism uses which will enable the resort to respond and adapt to meet modern tourism needs.
- 14.60 Due to the size of the site and the fact that it represents one of the major development opportunities put forward in the Local Plan, it may be necessary in certain circumstances for an Environmental Impact Assessment to be undertaken prior to any planning permission being considered. Guidance is offered on Environmental Impact Assessments in Department of the Environment Circular 15/88 "Environmental Assessments".
- 14.61 The site would be suitable for a holiday village, or a tourism proposal with significant holiday accommodation, but it is not the intention of this Local Plan that the site should include permanent residential accommodation. The preparation of a Development Brief will be necessary to ensure that development takes place in a comprehensive and co-ordinated manner. Whilst existing natural sea defences may afford sufficient protection to development, dependant upon the nature of development proposed, additional coastal protection measures may be required. Any proposals will need to be considered in accordance with Policy CZ2.

### POLICY BRID18 - LAND AT CARNABY COURT

APPROXIMATELY 20 HECTARES OF LAND ARE ALLOCATED FOR TOURISM/LEISURE DEVELOPMENT AT CARNABY COURT. PROPOSALS WILL BE PERMITTED WHERE THEY FORM ALL OR PART OF AN ACCEPTABLE COMPREHENSIVE SCHEME FOR THE SITE WHICH MAKES PROVISION FOR SUBSTANTIAL LANDSCAPING TO FORM A PERMANENT AND CONTINUOUS BOUNDARY TO THE ENTIRE ALLOCATED SITE IN ADVANCE OF DEVELOPMENT.

#### **Justification**

- 14.62 The land subject to this allocation is owned by the Borough Council and forms an extension and consolidation of existing tourism based uses adjoining the Carnaby Industrial Estate. These uses have now become established within a substantial landscaped setting and are major attractions for summer visitors. Further expansion or additional uses could not be accommodated within the existing landscaped area and would be likely to be visually intrusive. As landowner the Council will ensure that the provision of the perimeter landscape planting is made necessary to enable further uses to be assimilated into their surroundings. A central car parking area will be provided to serve further development without necessitating

