

Secretary of State for the Department of Energy
Security and Net Zero
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F.A.O John McKenna

Date: 4 October 2023
Your ref:
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By Email (John.McKenna@energysecurity.gov.uk) and Special Delivery

Dear Sir/ Madam

**The National Grid Electricity Transmission plc (Scotland to England Green Link 2)
Compulsory Purchase Order 2023 ("the Order")
Land south of Goodmanham Dale in the Parish of Goodmanham ("the Property")
Our Client: INEOS Manufacturing (Hull) Limited ("INEOS")**

We act for INEOS in respect of the above Order, made by National Grid Electricity Transmission plc ("NGET") on 5 September 2023.

Our clients is generally supportive of the delivery of a high voltage direct current link between Peterhead in Aberdeenshire and Drax in North Yorkshire ("the Project").

However, the Order scheme could significantly and adversely impact upon the ability of our client to access its Property for the purpose of operating and maintaining the Teeside to Saltend Ethylene Pipeline ("TSEP"), part of which is located therein. NGET has made no meaningful attempts to explore the voluntary acquisition of rights needed to deliver the Project without resorting to the use of compulsory acquisition powers.

Accordingly, our client hereby objects to the Order. It considers that there is no proper basis for the Order to be confirmed by the Secretary of State in respect of the Property for the reasons set out in this letter.

The Property

The property comprises land which includes part of the TSEP at Goodmanham. The Property is located at a depth of between 0.610 metres and 9.144 metres below surface level.

The TSEP forms an essential infrastructure link in the transportation of gas to and from the Grangemouth complex.

The Order

The Order, if confirmed, would provide NGET with power to compulsorily acquire temporary and permanent rights over the land within Plots 21/605a, 21/606a and 21/608 as described in the schedule to the Order and as shown coloured blue on the Order map.

Each of these Plots comprise land within which part of the TSEP is located.

Accordingly, there is potential for rights acquired pursuant to the Order to interfere with the ongoing operation of the TSEP; and/or the carrying out of regular survey, maintenance,

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repair, renewal or replacement works; and/or the carrying out of emergency repair, renewal or replacement works. Any such interference has the potential to disrupt continuity in the operation of the TSEP. Moreover, interference with access to the TSPE could present a serious health and safety risk to those engaged in the operation of the TSEP and occupiers of land within the vicinity of the TSEP.

Grounds of objection

1. Inadequate engagement by NGET with our client in relation to the Order scheme.

The agent appointed by NGET, Fisher German, has provided our client with initial draft heads of terms for an agreement to acquire certain rights in respect of the Property.

However, the draft heads of terms follow a standardised format. These are suitable in an agricultural land context, but inappropriate for use in relation to the crossing of significant pipeline infrastructure containing ethylene. This position was made clear to Fisher German in December 2022.

We have provided Fisher German with details of the conditions and restrictions which our client requires to be adhered to in respect of activities in close proximity to the TSEP.

At the time of writing there has been inadequate engagement from NGET or Fisher German and we have not yet received a revised set of heads of terms which specifically addresses the issues relating to the ongoing use of the Property by our client.

2. Failure to give proper regard to our client's ongoing use of the Property.

As a result of the lack of proper engagement, NGET has failed to gain a proper understanding of the critical aspects of access to and use of the Property by our client and how it might be impacted.

Without gaining such an understanding, NGET has failed to explore whether its accessibility proposals could be adapted to mitigate their impact upon our client's Property.

Government Guidance¹ reinforces the importance of this engagement, stating that:

"Talking to landowners will also assist the acquiring authority to understand more about the land it seeks to acquire and any physical or legal impediments to development that may exist. It may also help in identifying what measures can be taken to mitigate the effects of the scheme on landowners and neighbours, thereby reducing the cost of a scheme." [Paragraph 17]

This matter, with which NGET has failed to grapple, is a matter which the Secretary of State requires to address in considering whether to confirm the Order. The Government Guidance states:

"The minister confirming the order has to be able to take a balanced view between the intentions of the acquiring authority and the concerns of those with an interest in the land that it is proposing to acquire compulsorily and the wider public interest." [Paragraph 13]

¹ "Guidance on compulsory purchase process and the Criche Down Rules", Department for Levelling Up, Housing & Communities, July 2019.

3. Lack of reasonable attempts to negotiate voluntary acquisition

Government Guidance provides that:

"The confirming authority will expect the acquiring authority to demonstrate that they have taken reasonable steps to acquire all of the land and rights included in the Order by agreement." [Paragraph 2]

As indicated above, the steps taken by NGET to acquire rights by agreement are largely limited to the issue of a standardised set of heads of terms for an agreement, which are unsuitable for use in relation to the Property.

Whilst we provided Fisher German with initial comments illustrating the inadequacy of the standardised heads of terms, we have not received a revised set of heads of terms which reflects the particular characteristics of the Property and the issues of concern to our client.

For the reasons set out above, we do not consider that a compelling case in the public interest has been made by the Council for the inclusion of the Property within the Order land.

Accordingly, we consider there to be no sound reason for the Secretary of State to confirm the Order and invite the Secretary of State to refuse to confirm the Order as drafted.

We would be grateful if you would kindly acknowledge receipt and direct all future correspondence on this matter to Eversheds Sutherland at the above postal address and by email to Roddy Macdonald (roddymacdonald@eversheds-sutherland.com).

Yours faithfully

Eversheds Sutherland (International) LLP

Eversheds Sutherland (International) LLP

cc Fisher German (ngegl2@fishergerman.co.uk)