

**THE NATIONAL GRID ELECTRICITY TRANSMISSION PLC (LONDON POWER
TUNNELS 2) (CIRCUIT 2 – NEW CROSS TO HURST) COMPULSORY PURCHASE
ORDER 2019**

THE ELECTRICITY ACT 1989 AND THE ACQUISITION OF LAND ACT 1981

STATEMENT OF CASE



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STATEMENT OF CASE

1 INTRODUCTION

- 1.1 National Grid Electricity Transmission PLC (company registration number 02366977) ("**NGET**") has made The National Grid Electricity Transmission PLC (London Power Tunnels 2) (Circuit 2 – New Cross to Hurst) Compulsory Purchase Order 2019, (the "**Order**") on 13 June 2019 under Section 10 of the Electricity Act 1989 and Schedule 3 of the Electricity Act 1989 (the "**1989 Act**") and the Acquisition of Land Act 1981 (the "**1981 Act**"). The Order was submitted to the Secretary of State for Business, Energy and Industrial Strategy on 29 July 2019.
- 1.2 This document is the Statement of Case prepared in accordance with Rule 7 the Compulsory Purchase (Inquiries Procedure) Rules 2007 (the "**2007 Rules**") and has regard to the Guidance on Compulsory Purchase Process and the Crichel Down Rules (2019) (the "**Guidance**"). NGET reserves the right to alter or expand its case as may become necessary.
- 1.3 NGET successfully undertook the London Power Tunnels 1 project ("**LPT1**") which was energised in early 2018 after a seven year construction programme. LPT1 comprised the construction of around 32 kilometres of high voltage electricity cable tunnel between Hackney and Willesden (via Kensal Green), Kensal Green and Wimbledon. LPT1 replaced existing aged surface buried cable assets, providing a more resilient transmission network in North London to meet current and future energy demands.
- 1.4 Following the successful implementation of LPT1, NGET turned its attention to tunnelling through and beneath South London and laying high voltage cables through those tunnels. "London Power Tunnels 2" ("**LPT2**") is the collective term for three projects, each relating to a specific "Circuit". The Circuit 2 Project is described further in Section 2 of this Statement of Case.
- 1.5 As with LPT1, the objective of LPT2 is to replace aged and degrading oil-filled cables before they reach the end of their operational life and to ensure a stable electricity transmission system.
- 1.6 This Statement of Case relates to the Circuit 2 Project only. For information, the Circuit 1 Project (Wimbledon to New Cross) has been the subject of a separate compulsory purchase order dated 13 June 2019. The compulsory purchase orders for the Circuit 1 Project and the Circuit 2 Project will be considered for confirmation at a conjoined public inquiry, scheduled to open on 7 January 2020. The compulsory purchase order for the Circuit 3 Project (Hurst to Crayford) has not yet been made. Each Circuit is separate and independently operable from the others.
- 1.7 This Statement sets out NGET's justification for promoting the Order and explains why, in NGET's opinion, there is a compelling case in the public interest for compulsory purchase powers to be confirmed.
- 1.8 If confirmed by the Secretary of State for Business, Energy and Industrial Strategy, the Order will enable NGET to acquire compulsorily the land and new rights

included in the Order for the tunnel (the "**Order Rights**") in order to facilitate the delivery of the Circuit 2 Project. In addition, while most of the above ground sites are now owned by NGET, there is a need to take some above ground land and rights/interests under the Order (the "**Order Land**").

- 1.9 NGET's approach to the Order is to seek Order Rights only for those parts of the tunnel that are in land that is not beneath the public highway (and in one location a private road). NGET will rely on its statutory street works powers under Schedule 4 of the 1989 Act, and the New Roads and Street Works Act 1991 ("**NRSA**") for those parts beneath the highway (and in one location a private road). This has allowed NGET to reduce the number of interests that are included in the Order.
- 1.10 On 1 April 2019 the Electricity System Operator became a legally separate company within the National Grid Group. NGET remains the transmission owner and operator and remains responsible for the delivery of the Circuit 2 Project.
- 1.11 A total of 3 objections have been made to the Order. The Secretary of State has therefore directed that a public inquiry should be held to consider and determine whether the Order should be confirmed. The inquiry has been listed to commence on Tuesday 7 January 2020 and is scheduled for six days (7-10 (inclusive) and 14-15 January 2020). It will be conjoined with the public inquiry for the compulsory purchase order for Circuit 1, but not for the compulsory purchase order for Circuit 3 which is not yet made.

2 **THE SCHEME**

2.1 **Description of the Scheme**

- 2.1.1 NGET is proposing to build underground tunnels over approximately 18km to carry cables that can operate at up to up to 400kV between existing substations at New Cross (Old Gas Holder Site, Old Kent Road, Peckham) and Hurst (Vicarage Lane, Old Bexley). These start and finish points are fixed as direct replacement points for the existing circuit cables. Planned construction for Circuit 2 will commence from March 2020. Circuit 2 is expected to be commissioned in 2025, with it becoming operational in 2026.
- 2.1.2 The tunnels are constructed from a series of vertical deep shafts located at sites detailed in sections 2.1.4 to 2.1.8 that will send and receive (as appropriate) the tunnel boring machines ("**TBMs**") which will tunnel the cable route at depth, connecting these shaft access points and thus facilitating electrical connections between National Grid substations. At Kidbrooke a shaft will be constructed to allow the TBM to pass through and provide access and ventilation to the tunnel in both construction and operational phases. This means that during the construction phase of the Circuit 2 Project, the above ground activity which is perceptible to the general public will be in and around these shaft sites and once operational, the activity will diminish significantly. During construction and then in operation, the deep shafts provide access to the tunnels for maintenance and inspection purposes and allow for ventilation.
- 2.1.3 The tunnels will be constructed from sites at New Cross and Hurst. At these shaft sites materials required to construct the tunnel (tunnel lining and grout) and various TBM backup equipment (rails, pipes, TBM consumables) will be lowered down the shaft and transported to the TBM via rail mounted battery locomotives. Excavated material from the tunnelling process will be transported away from the TBM using these same locomotives and will be removed from the tunnel via the shafts. Works will be undertaken on a 24 hour/day 5 day/week basis with works on the surface at these sites limited to the supply of the TBM and the removal of

excavated material from the tunnel. All vehicle movements will be restricted to day times only with stockpiles of segments and excavated material kept on site to allow continuation of the tunnel construction activity during the night.

Above Ground Works/Sites

- 2.1.4 There will be above ground sites operating as drive sites and/or reception sites for the TBM's during the construction phase and as headhouse/ventilation/access sites during operation. Travelling west to east these are:
- 2.1.5 **New Cross** – where Circuits 1 and 2 meet. NGET has an interest in the site as it has an existing substation on operational land. A lease for a temporary laydown area has been secured from Southern Gas Network ("**SGN**") for the duration of the construction period. All permanent works are to be constructed on operational land owned by NGET. For the purposes of the Circuit 2 Project there will be one headhouse at New Cross. This site will also share construction related activity as being the commencement point for the Circuit 1 Project, which will be the subject of a separate Compulsory Purchase Order. The entirety of the New Cross Site will be contained in the order for both projects because each circuit is separate and independently operable. Access to the New Cross site will be from the A2 Old Kent Road. New Cross will serve as a drive site for the TBM, which will travel East through Kidbrooke and will be removed at Eltham. During the operational phase the headhouse above the shaft will allow access to the tunnel and provide ventilation.
- 2.1.6 **Kidbrooke** – an open, grassed, area of a wider site containing a storage facility owned by the National Maritime Museum in relation to which NGET has secured an agreement. This site is subject to an agreement for lease and remains in the Order in case there is a problem with the lease drawdown. This site will be used for the construction of a shaft and allow maintenance of the TBM as it passes through the bottom of this shaft. During operation the shaft will have a headhouse to provide access to cables for operational reasons. The storage facility will still be capable of being used by the National Maritime Museum for its current purposes. Access to this site will be from the A2 Old Kent Road, Rochester Way and the existing secured access gate Nelson Mandela Way. Vehicles will leave the site in reverse order.
- 2.1.7 **Eltham** – land owned by and adjacent to an existing UKPN operational substation site. The land required is occupied by the Welling and District Model Engineering Society (WDMES). Temporary construction access will be required across the adjoining Falconwood Field, owned by the Royal Borough of Greenwich, as the construction traffic movements will disrupt UKPN's operational requirements for the substation, potentially damage critical infrastructure and the access is not as suitable as the route across Falconwood Field. Planning permission has been granted for this access route as set out below. This site will have significantly fewer vehicle movements during the construction phase when compared to other LPT2 sites as no TBMs will be driven from this site. Furthermore, because only smaller vehicles will require access to the site post construction, NGET can utilise the permanent operational access through the existing substation site. This site will require a shaft to receive TBMs from both New Cross and Hurst and will have a permanent headhouse erected during the operational phase.
- 2.1.8 **Hurst** – an existing substation on operational land and land required for access during the construction phase. This is a drive site for the TBM for the Circuit 2 Project from Hurst to Eltham and will have a permanent headhouse erected for the operational phase. Hurst is also the drive site for the TBM for the Circuit 3 Project (Hurst to Crayford). During the construction phase this site will be accessed along a

temporary haul road to the west of the Hurst substation site. On completion of the overall project works the haul road and associated works will be removed and the land will be reinstated. During the operations phase access to the headhouse will be made using the existing access roads to the Hurst site. The temporary haul road will link the A223 North Cray Road with Vicarage Road, providing access for vehicles during the construction phase.

Underground/Tunnelling Works

- 2.1.9 The route of the tunnel has been selected as the best available, taking into account engineering, economic and environmental considerations. The route of the tunnel has been selected, as far as reasonably practicable, to lie beneath the public highway. NGET will use its statutory street works powers (contained in Schedule 4 of the 1989 Act and in NRSWA) to carry out the necessary tunnelling works (and thereafter to operate and maintain) in land which lies under the public highway. This is consistent with the approach that was taken in relation to LPT1.
- 2.1.10 The Order therefore excludes those areas of the tunnel beneath or within the highway. This is consistent with the way NGET used its street works powers in relation to LPT1 and allows NGET to take a proportionate approach to reduce the number of landowners whose interests are affected by the Order.
- 2.1.11 In respect of the land comprised in the Order along the tunnel alignment, no surface access is required in order to construct, use and maintain the tunnel. Access to the land comprised in the Order will be via adjacent sections of the tunnel.
- 2.1.12 The depths of the tunnels (measured to the crown of the tunnel) range between 20 metres and 60 metres and most of the tunnel will be located at a depth of approximately 30 metres. The Order seeks an ability for the tunnel to deviate vertically, but will set a "not less than" depth for the rights to provide clarity and certainty to landowners that the tunnel and rights zone will be of a minimum depth.
- 2.1.13 The Order contains the rights for the construction, maintenance etc of the tunnel together with a zone surrounding the tunnel which will safeguard that area from third party interference to protect the structural integrity of the tunnel. The protection zone will be 6 metres above and below the tunnel and 3 metres either side of the tunnel. Therefore, the rights corridor will be at a depth of at least 14 metres below the ground. In some locations, on a case by case basis, the overall rights corridor will reduce from a maximum 10.5 metres (i.e. 3m either side of a 4.5 metre external diameter tunnel). In these cases excluding a very small extent of a new interest from the Order is judged appropriate on balance without affecting the deliverability or integrity of the tunnel.

2.2 **Need**

- 2.2.1 It is NGET's statutory duty to ensure that there is sufficient electricity transmission infrastructure available to support future energy demand in London. NGET owns and maintains the high-voltage electricity transmission network in England and Wales. The network carries electricity from the generators to substations where the voltage is lowered ready for distribution.
- 2.2.2 The current New Cross to Hurst cables were commissioned in 1967 and the anticipated asset life for these cables was determined to be 45 years. These cables are largely laid in the street at shallow depth, together with apparatus from numerous and various other undertakers. These cables are 275kV BICC oil filled

paper insulated with a lead sheath design. They are approaching the end of their asset life and are beginning to corrode.

- 2.2.3 The Circuit 2 Project is a “non-load” related project because the investment required is triggered by asset condition rather than load related demand at this time. As part of the Network Development Process, System Design studies confirmed the need to maintain transmission connections between the Hurst and New Cross substations in order to continue to supply consumers in South London.
- 2.2.4 The replacement of these cables is urgent and necessary. As stated above, the cables are now beyond their originally anticipated design-life. This places into acute doubt their ability to be used for the efficient transmission of electricity. Over time, the existing cables will become progressively less efficient until they pass beyond their repairable life. Network Intervention is therefore required to ensure ongoing compliance with the Security and Quality of Supply Standards and to avoid potential “Energy Not Supplied” scenarios including the risk of system failure that could lead to power failures. In addition, the risk of environmental harm caused by oil leakage from corroded cables increases.
- 2.2.5 National Grid’s most recent asset health score for the current New Cross to Hurst cables within Circuit 2 concludes that the current cables are in the highest category (category 1) in terms of asset health and are amongst the worst in the network. Under the current “Monetised Risk” approach, NGET also considers the cost of repair and maintenance of the existing asset against the replacement of that asset. Under this basis of assessment the existing cables are still an urgent priority for replacement. In both cases, NGET is prioritising their replacement.
- 2.2.6 In accordance with Schedule 9 of the 1989 Act, NGET, in formulating the proposals for the installation below ground of an electric line, or the execution of any other works for or in connection with the transmission of electricity, must have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest. In determining the options for the project NGET believes that a cable tunnel is the most effective way of avoiding negative impacts and complying with its Schedule 9 duties.

3 **ENABLING POWER**

- 3.1 By section 9(2) of the 1989 Act, the holder of a licence authorising him to participate in the transmission of electricity is charged with the duty “*to develop and maintain an efficient, co-ordinated and economical system of electricity transmission*”.
- 3.2 NGET is a holder of an electricity transmission licence granted or treated as granted under section 6(1)(b) of the 1989 Act. NGET owns the high voltage electricity transmission network in England and Wales and operates the transmission system across Great Britain.
- 3.3 Section 10 and Schedule 3 of 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 [NGET] is authorised by [its] licence to carry on.*”
- 3.4 Schedule 4 of the 1989 Act and NRSWA enable NGET to use street works powers for those parts of the Circuit 2 Project in and beneath the “street”, hence not all of the tunnel route is the subject of this Order.

- 3.4.1 More specifically, Paragraph 1 of Schedule 4 to the 1989 Act provides that a licence holder may undertake street works to install electric lines under the street and undertake any incidental works including tunnelling or boring under streets.
- 3.4.2 NRSWA governs the process by which statutory undertakers can exercise their powers to undertake street works. It effectively provides the administrative provisions to ensure the effective co-ordination of street works to minimise the impact on street authorities, statutory undertakers and road users.
- 3.4.3 NGET are able to reduce the impact on private interests by utilising their street works powers under the 1989 Act and NRSWA will ensure the effective co-ordination of these works.
- 3.5 The Guidance provides that a compulsory purchase order should only be made where there is a compelling case in the public interest. Specifically the Guidance provides that the Secretary of State should ensure that NGET:
- 3.5.1 have "*a clear idea of how it intends to use the land which it is proposing to acquire*" – this is highlighted in sections 2 and 4 of this Statement of Case;
- 3.5.2 have "*taken reasonable steps to acquire all of the land and rights included in the Order by agreement*" – this is covered in section 5 below;
- 3.5.3 are able to show that the Order is "*unlikely to be blocked by any physical or legal impediments to implementation*" such as the programming of infrastructure accommodation works or the need for planning permission – section 6 of this Statement of Case deals with this;
- 3.5.4 have "*the necessary resources [...] available to achieve that end within a reasonable time-scale*" and that there is sufficient funding available to deliver the Order – this is discussed in section 8 of this Statement of Case; and
- 3.5.5 NGET can "*justify interfering with the human rights of those with an interest in the land affected*" – this is detailed in section 10 of this Statement of Case.
- 3.6 Where special kinds of land, or rights over that land, are proposed to be acquired other tests must be satisfied and this is detailed in section 7 below.

4 **LAND AND RIGHTS REQUIRED**

4.1 **Permanent Land Acquisition**

4.1.1 The sites coloured pink on the Order Map are those where permanent land acquisition is sought. The plot references in the Order for these sites are: 18-10, 27-02, 27-04, 27-05, 27-08 and 27-09.

4.1.2 For the Circuit 2 Project permanent land acquisition is sought at the above ground sites at Eltham and Kidbrooke.

(a) Kidbrooke

A headhouse site at Kidbrooke is primarily required to provide emergency access and ventilation for the tunnel when it is operational. The location criteria is based on distance from other access points (headhouses) on the tunnel route. In this case New Cross to the West and Eltham to the East. Limited activity will take place at this site as the TBM will pass through and be removed at Eltham. An agreement for lease has been exchanged with

the owner but NGET must cover circumstances where the lease cannot be drawn down and as such requires compulsory purchase powers.

(b) Eltham

Similar to the Kidbrooke site, Eltham is required to provide emergency access and ventilation for the tunnel when it is operational. Eltham is equal distance between Kidbrooke and Hurst. The site is adjacent to existing electricity infrastructure owned by UKPN, and may serve as a potential supply point to that facility in the future. The TBM's from both Hurst and New Cross will be removed from this site. Heads of terms for the acquisition of the permanent headhouse site, temporary laydown area and tunnel easement are agreed and solicitors instructed.

4.2 Acquisition of New Rights

4.2.1 The new rights to be purchased compulsorily over the land under this Order are described in Table 1 of the Order Schedule in accordance with the definitions set out in Appendix 1 to this Statement of Case. The land over which the new rights are to be purchased compulsorily is shown coloured blue on the Order Map.

4.2.2 The land shown edged red and with no colour wash and to which no plot number has been assigned is comprised within the Circuit 2 Project but does not form part of this Order.

4.2.3 The Rights to be acquired and the plots they relate to are defined in Appendix 1.

4.2.4 The rights to be acquired under Circuit 2 are:

- (a) Tunnel and Cable Rights in the subsoil at a depth of no less than 14 metres along the route of the tunnel as described in the Schedule to the Order and shown on the Order plans;
- (b) Construction Access Rights over land comprising private road (north east of Old Kent Road, A2, Southwark);
- (c) Construction Compound Rights over land comprising gas holder and hardstanding (east of Sandgate Street, Southwark);
- (d) Construction Access Rights over land comprising access track (south of Nelson Mandela Road, Greenwich);
- (e) Operational Access Rights over land providing access to a maritime artefact storage facility (south of Nelson Mandela Road, Greenwich);
- (f) Permanent Rights for a headhouse at Kidbrooke;
- (g) Construction Compound Rights over vacant grassland adjoining the maritime artefact storage facility (south of Nelson Mandela Road, Greenwich);
- (h) Construction Access Rights over land comprising Metropolitan Open Space (Falconwood Field) (south of Welling Way, Greenwich);
- (i) Operational Access Rights over land comprising private access and hardstanding (Eltham Grid Substation) (east of Rochester Way, Greenwich);

- (j) Construction Compound Rights over land adjoining UKPN substation currently occupied by WDMES;
 - (k) Permanent Rights for a headhouse at Eltham;
 - (l) Construction Compound Rights over land comprising grassland and hardstanding (Hurst Grid Substation) (south of Vicarage Road, Bexley); and
 - (m) Construction Access Rights over land comprising private road (Vicarage Road) and agricultural land (north of Vicarage Road, Bexley).
- 4.2.5 The above new rights are for the benefit of the undertaking of NGET for the transmission of electricity including without limitation such land and hereditaments forming part of that undertaking as are accommodated by the rights set out in the Order and this notice.

5 **ACQUISITION STRATEGY AND PROGRESS TO DATE**

5.1 **NGET's Acquisition Strategy**

- 5.1.1 NGET seeks to acquire land and all rights by voluntary agreement. A rigorous process has been undertaken firstly to identify and thereafter to engage with landowners and occupiers to acquire the necessary interests by agreement.
- 5.1.2 Negotiations with landowners and occupiers to secure voluntary easements, wayleaves or licences for the tunnels within the Circuit 2 Project have been ongoing since July 2018. Land required for permanent headhouse and construction activities has been acquired from SGN at New Cross. Land required for construction activities and a headhouse site has been acquired from the National Maritime Museum by way of an agreement for lease. NGET makes particular efforts to avoid the use of compulsory purchase powers by negotiating by private treaty.
- 5.1.3 Initially, heads of terms ("**HoTs**") are entered into, agreeing the principal terms which are translated into legal agreements.
- 5.1.4 Given that this is a linear, deep tunnel scheme passing through and beneath London it will inevitably cross existing assets held by statutory undertakers, including transport/highway authorities, in respect of which asset protection and crossing agreements will be required. NGET are in regular liaison with affected statutory undertakers in order to reach agreement on any necessary engineering details and monitoring related to the crossing of other statutory undertakers assets and are also progressing negotiations for asset protection agreements for the benefit of statutory undertakers, where relevant.
- 5.1.5 Whilst particular effort is being made to secure the necessary rights voluntarily, in order to ensure the timely delivery of this critical linear infrastructure project, it is now necessary to use compulsory purchase powers. Voluntary negotiations for the remainder of the necessary rights will continue in parallel to the CPO process.
- 5.1.6 In Circuit 2 plots 10-18, 13-01, 13-02, 14-02, 14-03 and 26-02 are owned by the Crown and, therefore, cannot be compulsorily acquired. Discussions continue with the Treasury Solicitor and NGET is confident that this will not impede the scheme. Discussions have been ongoing since mid-2018 and several meetings between NGET and the Treasury Solicitor have been held. Solicitors have now been instructed on the Crown's behalf and it is hoped that the remaining rights required will be secured soon.

5.2 **Progress**

As at 27 September 2019, NGET has secured 50 of the required 70 easements for the tunnels (71%). There are a further 7 where HoTs have been agreed, leaving 13 yet to be agreed.

6 **PLANNING POSITION**

6.1 **Permitted Development Rights**

6.1.1 The majority of the Circuit 2 Project is to be consented pursuant to permitted development rights under Part 15 of the Town and Country Planning (General Permitted Development) (England) Order 2015. This comprises: the tunnel and related activities, the drive shafts, reception shaft, intermediate shaft, headhouses (those sited on operational land) and upgrades to existing substations on operational land.

6.1.2 For those elements of the Circuit 2 Project that are consented pursuant to permitted development rights, it is necessary for the relevant local planning authorities to confirm through the environmental impact assessment ("**EIA**") screening process that the development is not "EIA development". The Circuit 2 Project passes through and is within the London Boroughs of Southwark, Lewisham and Bexley, and the Royal Borough of Greenwich. NGET submitted an Environmental Screening Report for Circuit 2 to the relevant Boroughs on the 31 January 2018 and all four local planning authorities have screened the Circuit 2 Project as not being EIA development. This includes the London Borough of Southwark on 9 August 2018 (ref: 18/AP/0463), Lewisham on 8 March 2018 (Ref: DC/18/105851), Bexley on 29 March 2018 (ref: 18/00210/SCREEN) and the Royal Borough of Greenwich on 18 April 2018 (ref: 18/382/EIA). Therefore, permitted development rights are available.

6.1.3 Where NGET proposes the erection of headhouses on operational land under permitted development rights, an application for prior approval will be made to the relevant local planning authority for approval of details of the design and external appearance of the headhouse. In respect of the Circuit 2 Project, this application for prior approval was made to the London Borough of Southwark on 22 May 2019 for the proposed headhouse on operational land at NGET's New Cross site. Details of the design and external appearance of the headhouses were agreed by the local authority on 17 July 2019 (ref: 19/AP/1536).

6.1.4 A second prior approval application was made to the London Borough of Bexley on 22 May 2019 for a proposed headhouse on operational land at NGET's Hurst site. Details of the design and external appearance of the headhouse were agreed by the local authority on 20 June 2019 (ref: 19/01240/GPDOPD).

6.1.5 All activities beneath ground associated with the tunnel, including its ultimate fit-out and cable installation are also carried out pursuant to permitted development rights under Part 15.

6.2 **Express Planning Permission**

6.2.1 Express planning permission is required in three instances for Circuit 2. The first relates to the provision of a headhouse on non-operational land at the Kidbrooke site and as such, planning permission is required from the Royal Borough of Greenwich. An application for full planning permission was submitted to Greenwich on 6 December 2018 (application number 18/4265/F) and sought permission for the "*Construction of a single storey head house, temporary removal of link corridor*

to facilitate head house construction, formation of a new access track and associated hard and soft landscaping." Planning permission was secured from the local planning authority on 26 February 2019.

- 6.2.2 The second relates to the provision of a headhouse on non-operational land at the Eltham site and temporary construction access across Falconwood Field, owned by the Royal Borough of Greenwich. An application for full planning permission was submitted to Greenwich on 6 December 2018 (application number 18/4264/F) and sought permission for the "*Construction of a head house and associated hard and soft landscaping and provision of a temporary access from Welling Way.*" Planning permission was secured from the local planning authority on 1 March 2019.
- 6.2.3 The third relates to the provision of a temporary haul road to provide access to the Hurst site during the construction phase of the development and as such, planning permission is required from the London Borough of Bexley. An application for full planning permission was submitted to Bexley on 27 June 2019 (application number 19/01579/FUL) and sought permission for the "*Formation of a temporary access haul road from A223 North Cray Road to Stable Lane to provide temporary access for construction vehicles to the National Grid Hurst Substation site for the duration of the London Power Tunnels II project.*" Planning permission has not yet been granted for the development, but it is expected that the local planning authority will recommend approval and the application is scheduled to be heard at planning committee on the 10 October 2019.

7 SPECIAL CATEGORY LAND

- 7.1 Sections of the Circuit 2 Project will pass beneath "open space" and "common land" as the terms are defined in the 1981 Act. For example, tunnelling is proposed underneath Blackheath Common.
- 7.1.1 Rights over special category land such as commons or open space relate to the use of the surface land. Apart from the plot mentioned below, the Circuit 2 Project primarily proposes to acquire subsoil rights beneath areas of special category land these rights will not impact the rights enjoyed at the surface and as such the provisions in the 1981 Act relating to special category land will not be engaged for most of these plots.
- 7.2 The Order seeks the authorisation of the purchase of the following land forming part of a common, open space or fuel or field garden allotment for the purposes of the 1981 Act. The access route at Falconwood Field to the Eltham above ground site is open space. NGET has made an application pursuant to s.28 and Schedule 3 of the 1981 Act for a certificate as it will be no less advantageous to the public when burdened with the right than it was before.
- 7.3 NGET submitted their application for the above certificate to the Ministry for Housing, Communities and Local Government (MHCLG) on 29 July 2019. MHCLG provided NGET with an overview of the process for obtaining the certificate and a draft public notice of MHCLG's intention to issue a certificate. In accordance with MHCLG's directions, NGET has placed site notices around Falconwood Field, sent notices to the London Borough of Bexley and the Royal Borough of Greenwich as the relevant local authorities, sent a notice to the Royal Borough of Greenwich as the qualifying person for Falconwood Field, deposited the notice and copies of the Order, Order Maps and a plan showing the rights proposed over Falconwood Field at the depository locations used previously and placed notices in the relevant local newspapers. The objection period for the application began on 27 September 2019 and will run until 28 October 2019.

- 7.4 There are interests held by local authorities and statutory undertakers in the Circuit 2 Project. NGET's negotiation with these parties continues. In respect of negotiations with SGN it is anticipated that the asset protection agreement can be concluded in the very near future to secure the removal of their objection. In respect of the Transport for London ("TfL") Objection, which covers Docklands Light Railway, TfL and Rail for London Limited, NGET are in detailed negotiations with all entities to agree easements and/or asset protection agreements (as relevant). The parties are working proactively together to secure the conclusion of all necessary agreements and the withdrawal of TfL's objection thereafter.

8 **FUNDING AND DELIVERY**

8.1 **Timetable for delivery**

- 8.1.1 NGET is proposing to award the contract for tunnelling works in November 2019. The current timetables for the Circuit 2 works are as follows:

- (a) Tunnel Construction between March 2020 – July 2025
- (b) Cable Installation and Jointing between January 2024 – September 2026
- (c) Headhouse Construction between February 2022 – October 2025
- (d) Substation Works between February 2023 – October 2026

- 8.1.2 LPT2 will let NEC4 contracts to deliver the portfolio of works and use Secondary Option X12 Partnering clause to effectively form a Project 13 Enterprise (P13 Infrastructure Client Group/ICG contracting initiative) and overarching incentivisation model. This is designed to encourage collaborative delivery against project outcomes.

8.2 **Funding**

Circuit 2 forms part of the Non-load related Underground Cables and Tunnels portfolio which is included in National Grid's current regulatory period as agreed with the Office of Gas and Electricity Markets (OfGEM) in 2013. The National Grid Group Executive sanctioned the LPT2 investment on 23 July 2019. Further, OfGEM confirmed the need case for the Circuit 2 Project and confirmed that NGET's proposed spend within RIIO-T1 period could be covered off by existing T1 allowances. LPT2 is an efficient and well justified asset intervention in critical electricity transmission infrastructure. Funding is provided through the regulatory price control mechanism for investments of this nature.

9 **ALTERNATIVES TO THE ORDER**

9.1 **No Action**

This is not an alternative option given the urgent and compelling need to replace the cables as described elsewhere in this Statement of Case.

9.2 **Options appraisal**

The replacement methodologies that were considered for these circuits were: construction of a new overhead line, direct buried cables using cut and cover and cable replacement via tunnel construction. The only viable option that meets all project outcomes is the construction of a new tunnel to facilitate the installation of high voltage circuits.

Cut and Cover

- 9.2.1 In London, electricity has traditionally been transmitted through cables located just beneath the road surface, within the "street". For the Circuit 2 Project, using a "cut and cover" technique to run cables in the street would cause very significant traffic disruption across South London. This is aside from other effects from construction, including the noise associated with the process. This technique would be to simply dig a trench (in sections), lay the cable and back-fill the trench.
- 9.2.2 Maintenance and replacement of the assets would also be difficult, time consuming and costly because roads would need to be cut up again when maintenance or renewal is required.
- 9.2.3 In addition, there are technical constraints in using this process because of the inability to use forced-air ventilation to cool the cables – and so there is a limit on cable ratings (i.e. the kV level that can be achieved).
- 9.2.4 The Cut and Cover technique also increases the risks of impacts and damage to apparatus of other Statutory Undertakers as the roads in South London are densely populated with varying apparatus.
- 9.2.5 Construction works for the routes identified would require significant utility diversions, lead to extensive traffic restrictions, diversion, reduced speed limits, closures and part closures of roads. Access to homes and local shops would be restricted and may lead to temporary loss of amenity and affect local businesses.
- 9.2.6 This technique takes materially longer than other options because of the time required to cut up small sections of road and then move along the road. The stakeholder engagement undertaken to date confirms that replacement via direct buried cables would cause unacceptable levels of disruption to the road network and consenting bodies would be minded to refuse any planning applications. TfL have expressed serious concerns about an in-situ replacement due to the level of disruption this would cause to the London Road Network and are, therefore, supportive of the tunnelling option. This option also fails to meet the project outcomes, such as Accepting Commercial Load dates and the requirements of the local community, businesses and stakeholders and has therefore been rejected.

Overhead Lines

- 9.2.7 The density of London's built environment means that an overhead line corridor does not exist and therefore this option is not feasible.
- 9.2.8 An overhead line option would be far more costly due to the impacts of sterilising land in London. This would also not be a viable option from a programming perspective as it would take a long time to construct and energise the system.

Tunnelling

- 9.2.9 There are greater than 100km of cable tunnels in London owned by the District Network Operator and Electricity Transmission Operator, this is primarily due to insufficient space in the highway and the high levels of disruption an alternative would cause. Cable replacement by tunnel mitigates those risks identified above and provides many benefits both during installation and for the full asset life of the new circuits:

- (a) The tunnel infrastructure will be designed for 120 years;

- (b) The construction impacts associated with the removal of spoil from the tunnel are limited to a small number of above ground sites, rather than across the whole of the cable route;
- (c) There is the potential for other circuits to be accommodated within the tunnel;
- (d) Future maintenance and repairs would be able to be carried out with ease and no disruption to the public. Access can be taken through the shafts that are put in place during the construction of the tunnel. Such maintenance would not require any excavation or heavy plant movement and the associated disruption that can ordinarily be caused on the road network when direct buried cables have to be accessed;
- (e) At the end of the cable asset life the ease of cable removal and replacement is significantly increased through the tunnel providing access to the full cable route without the need for any excavation; and
- (f) Enclosing the new cables within a tunnel provides almost certain protection for the cable over its asset life due to the depth and protection the tunnel offers.

9.2.10 The clear and compelling advantages of tunnelling over cut and cover are:

- (a) a more direct route can be followed below the ground with the need for fewer joints, making for a more efficient design;
- (b) the impact on local traffic is much less in both the construction phase and any subsequent maintenance and renewal;
- (c) protection, maintenance and renewal of the assets is easier in a tunnel;
- (d) the construction of the tunnel does not carry as much risk of damaging the apparatus of other statutory undertakers as a cut and cover method;
- (e) noise and vibration arising from the tunnelling operation is imperceptible at the proposed depth; and
- (f) a higher cable rating can be achieved because of the ventilation techniques deployed for a tunnel solution.

9.2.11 The clear and compelling advantages of tunnelling over overhead lines are:

- (a) tunnelling avoids a visual impact that some may perceive as being harmful;
- (b) the limitations of routeing overhead lines in a dense urban environment where there are likely to be many taller buildings;
- (c) the impact on local traffic is much less in both the construction phase and any subsequent maintenance and renewal; and
- (d) protection, maintenance and renewal of the assets is easier in a tunnel.

10 HUMAN RIGHTS AND EQUALITY ACT 2010 CONSIDERATIONS

10.1 Human Rights Implications

10.1.1 The Convention rights potentially applicable to the making of the Orders are Articles 6, 8 and Article 1 of the First Protocol as contained in the Schedule to the Human Rights Act 1998. The position is summarised in paragraph 12 of Stage 2 of the Guidance.

10.1.2 Relevant parts of Article 1 of the First Protocol of the Convention provide:

"Every natural or legal person is entitled to peaceful enjoyment of his possessions" and "no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law".

10.1.3 Relevant parts of Article 8 of the Convention provide:

"1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of ... the economic well-being of the country ..."

10.1.4 The Order has been made pursuant to Section 10 and Schedule 3 of the 1989 Act which authorises NGET to acquire land and new rights compulsorily subject to following the procedures laid down in the 1981 Act.

10.1.5 NGET is taking a proportionate approach to compulsory purchase and is seeking to acquire rights in most situations. NGET is only proposing to acquire the freehold for the above ground sites at Eltham and Kidbrooke (as described above). Each plot included in the Order is required to build the cable tunnel or to facilitate the building of the cable tunnel.

10.1.6 NGET has sought to acquire the rights in land which are required to deliver Circuit 2 through private treaty negotiation as detailed above. All agreements for freehold land and temporary laydown areas have either completed or are with solicitors for completion.

10.1.7 Notwithstanding the substantial efforts that have been made to acquire interests in the land by way of voluntary agreement, as at the date of making the Order, NGET has been unable to secure all interests by negotiation. It is therefore necessary to seek a range of compulsory powers to enable delivery of Circuit 2.

10.1.8 Negotiations to acquire interests by private treaty will continue in parallel with the CPO process.

10.1.9 NGET considers that it has taken a proportionate approach to land assembly, having regard to the impact on those holding interests in the Order land. NGET has sought to acquire only the rights and land which are absolutely necessary for Circuit 2. NGET has also routed large portions of Circuit 2 under highway by using its powers under NRSWA in order to lessen interference with private rights.

10.1.10 Between April and July 2018, NGET held a number of public information events for members of the public to find out more about the proposals for the Circuit 2 Project. The events were held in locations near to the proposed headhouse and

construction sites. They were also well-advertised in local newspapers, on the project website and on Twitter to capture a wider audience. The information events were held at: Bexley Village Library on 9 April 2018 (for Hurst substation site); Flintmill Community Hall on 16 April 2018 (for the Kidbrooke site); Bishop Ridley Church Hall on 21 April 9 (for the Eltham site); Links Community Centre in Bermondsey on 8 May and 11 June 2018 (for the 'New Cross' site). Members of the project team were available at the events to talk through NGET's plans and answer any questions, while pop-up banners provided a project summary and proposals at each headhouse site. Leaflets were available to take away with site-specific inserts, as well as feedback forms, location maps and highways plans to view. NGET asked members of the public to provide their feedback on the design and external appearance of the headhouses.

10.1.11 NGET has kept stakeholders informed at key milestones of the project. This includes London Assembly Members, Members of Parliament and Councillors. A project website, project email address and 0800 number are available for the public to ask any questions regarding the Circuit 2 Project.

10.1.12 NGET considers that there is a compelling case in the public interest that the new rights and land referred to in the Order be acquired in order to achieve the purposes described in this Statement of Case. If the Secretary of State agrees with NGET that there is a compelling case in the public interest, he may confirm the Order. If the Order is confirmed, compensation may be claimed by persons whose interests in land have been acquired or whose possession of land has been disturbed proportionate to any losses that they incur as a result of the acquisition. In the circumstances, if the Order is confirmed, it is considered that the compulsory acquisition of the land and new rights referred to in the Order will not conflict with Article 1 of the First Protocol or Article 8 of the Convention as any interference with the rights will be in accordance with the law, justified and proportionate.

10.1.13 Relevant parts of Article 6 provide that:

"1. In the determination of his civil rights and obligations ... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law."

10.1.14 So far as the Order is concerned, any owner, lessee or occupier of land included in the Order will be notified and may have the opportunity to make representations to the Secretary of State and to be heard at a public inquiry before a decision is made as to whether or not the Order should be confirmed, and would in any event have legal rights under the 1981 Act to challenge any order made on the relevant statutory grounds.

10.1.15 NGET is satisfied that there are no planning or financial impediments to the implementation of Circuit 2 of the LPT2 project and that Circuit 2 of the LPT2 project is therefore likely to proceed if the Order is confirmed.

10.1.16 For the reasons set out above, there is considered to be a compelling case in the public interest to proceed with the Order to facilitate the replacement of the existing ageing oil filled cables and the upgrade of the cables.

10.2 **Equality Act 2010**

10.2.1 As a non-public body exercising public functions, NGET has a statutory duty under section 149 of the Equality Act 2010 to have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it; and
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 10.2.2 The relevant protected characteristics are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.
- 10.2.3 NGET's use of the tunnelling method (as mentioned above) for the Circuit 2 Project will keep the disruption to those living along the route to a minimum; this will not cause differential impacts to those individuals or groups of individuals who share a relevant protected characteristic.
- 10.2.4 As mentioned in Paragraph 5 above, NGET has undertaken extensive negotiation with landowners impacted by the Circuit 2 Project and has made particular efforts to avoid the need to use compulsory purchase powers, by negotiating by private treaty and by using its powers under NRSWA. Furthermore, NGET is using existing sites in its ownership, or above ground sites that have been acquired voluntarily, such that this has minimised any disadvantages to those who share a relevant protected characteristic.
- 10.2.5 NGET has carried out extensive community consultation. Nothing arose from that consultation that caused NGET to become concerned that the Circuit 2 Project would have a disproportionate effect on any individuals or groups of individuals with protected characteristics.
- 10.2.6 In light of the above, NGET considers that it has given due regard to the public sector equality duty set out in s149 of the Equality Act 2010 in promoting this Order for the Circuit 2 Project.

11 **OBJECTIONS**

A total of 3 objections were made to the Order. The table at Appendix 2 of this Statement provides the high level details of those objections, summarises their grounds, and sets out in brief NGET's response to each of them.

Dated: 30 September 2019

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Solicitors to National Grid Electricity Transmission PLC**

APPENDICES TO STATEMENT OF CASE:

Appendix Document

- 1 Description of Rights in the Order
- 2 Schedule of Objections to Order

In the event of a public inquiry being held in respect of the Order, NGET would intend to refer to or put in evidence such other documents as NGET considers necessary to respond to any objections.

OGRV/200708018.6

Appendix 1
Description of Rights in the Order

Right Name	Description of Right	Plot Numbers
"Construction Access Rights"	<p>All rights necessary to:</p> <ul style="list-style-type: none"> • access the land and adjoining Order land for the purposes of constructing and installing the electricity cables and tunnel infrastructure, carrying out de-watering and drainage works and installing, altering or reinstating land drainage systems and commissioning the electricity cables with or without vehicles, plant, machinery, apparatus, equipment, materials and personnel; and • carry out works to facilitate such access including to construct, lay down, use and remove access roads including any necessary temporary bridging, culverting or diversion of watercourses and drains, erecting fencing/gates, carrying out security operations, carrying out earth works, modifying road verges and junctions and installing, using, altering, diverting, and removing services and utilities. 	01-01, 18-02 18-03, 18-04, 18-06, 27-06 45-01
"Operational Access Rights"	All rights necessary to access the land and adjoining Order land for the purposes of operating, inspecting, maintaining, repairing and altering the electricity cables and tunnel infrastructure with or without vehicles, plant, machinery, apparatus, equipment, materials and personnel.	01-01, 27-01
"Tunnel and Cable Rights"	<p>All rights necessary for the purposes of or incidental to the construction of the hereinafter mentioned Cable Tunnel and operation of the electricity infrastructure, including:</p> <ul style="list-style-type: none"> • the right to construct and install a concrete cable tunnel with an overall external diameter not exceeding 4.5 metres at a depth of not less than 20 metres below the surface of the land at the date of the Order together with any necessary or auxiliary apparatus (in the Order referred to as the "Cable Tunnel"); • the right to retain and make use of and from time to time inspect, cleanse, maintain, repair, alter and decommission and make safe the Cable Tunnel; • the right to place, attach and install electricity cables for the transmission and distribution of electricity together with all necessary ancillary cables, pipes, equipment, apparatus and fibre optic cables required in connection with the use and operation of the aforementioned electricity cables; • to test and commission the electricity 	01-04, 01-05 02-01, 02-02 02-03, 03-01 03-02, 03-03 03-04, 03-05 04-01, 04-02 04-03, 04-04 04-05, 04-06 04-07, 04-08 04-09, 05-01 06-01, 06-02 06-03, 06-04 06-05, 07-01 07-02, 07-03 07-04, 09-01 09-02, 09-03 09-04, 09-05 10-01, 10-02 10-03, 10-04 10-05, 10-06 10-07, 10-08 10-09, 10-10 10-11, 10-12 10-13, 10-14 10-15, 10-16

Right Name	Description of Right	Plot Numbers
	<p>infrastructure installed within the Cable Tunnel and to remedy initial faults and defects in it at any time prior to the date on which it is energised and ready for commercial operation;</p> <ul style="list-style-type: none"> • to retain, commission, operate, inspect, maintain, repair, alter, renew, replace and remove or decommission the electricity infrastructure; • the right to enter the hereinafter mentioned Protective Strip and the Cable Tunnel from any adjoining cable tunnels and adits as often as may be required with or without vehicles and at all times with all necessary materials apparatus plant and equipment for the purposes set out above and/or for the purpose of access to and egress from other parts of the NGET's Cable Tunnel and adits; • the right to all necessary rights of support for the Cable Tunnel; and • The right to all necessary rights of protection for the Cable Tunnel from any excavation, mining foundation or piling works within such part of the subsoil and under the surface of the land as comprises a strip (in the Order referred to as the "Protective Strip") thereof the upper limit of which shall not be greater than 6 metres from the top of the Cable Tunnel at the date of the Order and the lower limit of which shall not be greater than 6 metres below the bottom of the Cable Tunnel and the lateral limits shall not be greater than 3 metres on each side of the Cable Tunnel. 	<p>10-17, 10-18 13-01, 13-02 13-03, 13-04 14-01, 14-02 14-03, 14-04 14-05, 15-01 15-02, 16-01 16-02, 16-03 16-04, 17-01 18-01, 18-03 18-05, 18-06 18-07, 18-08 18-13, 18-14 18-15, 18-16 19-01, 19-02 19-03, 19-04 20-01, 21-01 24-01, 26-01 26-02, 27-10 27-11, 27-12 27-13, 27-14 27-15, 28-01 28-02, 28-03 28-04, 28-05 28-06, 28-07 39-01, 39-02 39-03, 39-04 39-05, 39-06 40-01, 41-01 41-02, 41-03 41-04, 41-05 42-01, 42-02 43-01, 43-02 43-03</p>
<p>"Construction Compound Rights"</p>	<p>All rights necessary for the purposes of or incidental to the construction, installation and commissioning of the electricity cables and tunnel infrastructure, including:</p> <ul style="list-style-type: none"> • to erect, create, use and remove a works compound which may include portable cabins and offices, and welfare facilities including portable toilets and electricity generators; • to store, stockpile and where necessary use, manage and process plant, machinery, apparatus, materials (including excavated material) and/or equipment; • to access the land with or without vehicles, plant, machinery, apparatus, equipment, materials and personnel; • to fence, erect hoardings or signage or otherwise secure the compound; • to carry out de-watering and drainage works and install, alter or reinstate land drainage systems; 	<p>01-02, 01-03 01-06, 18-08 18-09, 18-11 18-12, 18-13 27-03, 27-07 27-10</p>

Right Name	Description of Right	Plot Numbers
	<ul style="list-style-type: none"> • to discharge water into existing drains and watercourses; • to install, use and remove artificial lighting; • to install, use, alter, divert and remove services and utilities; and • to reinstate the land. 	

Appendix 2
Schedule of Objections

LPT2 - Circuit 2 (New Cross to Hurst) - register of objections

Objecting Party	Address	Plot no.	Agent	Date of Objection	Grounds of Objection	Acquiring Authority Comment
Transport for London, Docklands Light Railway Limited and Rail for London Limited	55 Broadway, London, SW1H 0BD	TfL: 8-15, 8-16, 13-01, 13-02, 16-04, 18-01, 18-15, 19-04, 19-04, 20-01, 29-07, 39-01 DLR: 10-02, 10-03, 10-06 RfL: 03-01 and 04-01	Burges Salmon LLP	01-Aug-19	<p><u>1. Highways</u> TfL want to ensure that its highway infrastructure is protected from the tunnelling in the Order.</p> <p><u>2. Birdbrook Nature Reserve</u> London Wildlife Reserve are licenced occupier but not listed in the Order. TfL want discussions between NGET and LWR to understand any potential implications.</p> <p><u>3. Docklands Light Railway</u> DLR want an asset protection agreement for areas where cable tunnels fall within DLR's freehold ownership. The current rights sought are too wide and need to be more specific.</p> <p><u>4. Railway</u> RfL contend that at plot 04-01 they should be listed as the owner of the railway bridge. RfL also want asset protection of railways and bridges at these locations.</p>	The Acquiring Authority is negotiating with TfL/DLR/RLL provisions for the protection of their respective highway and underground infrastructure. The Acquiring Authority is very experienced at delivering projects in proximity to the assets of other undertakers. In relation to Birdbrook Nature Reserve, see the comments below in relation to the LWT objection.
Southern Gas Networks Plc	St. Lawrence House, Station Approach, Horley, Surrey RH6 9HJ	Plots 01-01, 01-02-01-03, 01-06, 41-02, 41-05, 45-01	Addleshaw Goddard	30-Jul-19	Acquisition of rights will adversely affect SGN's undertakings and their operational land.	The Acquiring Authority is negotiating with SGN provisions for the protection of its infrastructure. The Acquiring Authority is very experienced at delivering projects in proximity to the assets of other undertakers.
London Wildlife Trust	Dean Bradley House, 52 Horseferry Road, London SW1P 2AF	Plot 18-15	N/A	06-Aug-19	<p>1) LWT are not listed as an occupier in the Schedules but they have a licence from TfL for occupation;</p> <p>2) there is a lack of information about the possible impacts on wildlife (especially amphibians in the ponds) from the above ground site works that is adjacent to the nature reserve.</p>	The Acquiring Authority takes seriously any adverse effect from its projects on wildlife, including amphibious wildlife. The effects from the Circuit 2 Project, be that from the tunnelling operations or the adjacent above ground site will be mitigated appropriately and with regard to the effects on wildlife including amphibious wildlife. The relevant plot in the Order land is at sub-soil only thus LWT as licensee of the surface was not included in the Order Schedule.