

**ECOLOGY**

**THE NATIONAL GRID ELECTRICITY TRANSMISSION (LITTLE HORSTED  
SUBSTATION CONNECTION) COMPULSORY PURCHASE ORDER 2022**

**STATEMENT OF EVIDENCE**

**Amy Jane Copping  
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RSK Biocensus**

1. **QUALIFICATIONS AND EXPERIENCE**

- 1.1 I am Amy Jane Copping, Senior Ecological Consultant, BSc(hons), Associate member of the Chartered Institute of Ecology and Environmental Management (ACIEEM), Full membership pending.
- 1.2 I am a Senior Ecological Consultant at RSK Biocensus. I am responsible for carrying out and coordinating a range of protected species surveys, producing and technically reviewing reports and am an experienced project manager. As well as being responsible for my own career development and those I line-manage, I also organise internal training to help the wider team achieve their training objectives.
- 1.3 I have worked within ecological consultancy for over seven years. After completing my BSc (hons) in Environmental Science, I worked for a small ecological consultancy based in Devon that specialised in water vole (*Arvicola amphibius*) and bespoke mitigation solutions which involved the trapping, caring for and translocating of water vole to enhanced or newly created habitats. I then went on to work for a habitat contractor for a short period, focussing on habitat rehabilitation, restoration and creation projects in Perth, Western Australia. Upon my return to the UK in 2017, I secured an assistant ecologist position with RSK where I gained skills in protected species surveying, report-writing, the production of working method statements and protected species licence applications including bespoke mitigation strategies. I also have extensive experience in project management. I have progressed to senior level, manage complex projects and I hold protected species licences for great crested newt (GCN), hazel dormice and water vole.
- 1.4 I have managed and supported various small to large scale projects throughout my career including the Richborough Connection Project (RCP) in Kent and the Rampion Offshore Wind Farm Pipeline in West Sussex. The RCP and Rampion pipeline were Nationally Significant Infrastructure Projects (NSIPs). The majority of my role involved conducting surveys for protected species, carrying out mitigation works, and writing detailed reports, mitigation strategies and licence applications.
- 1.5 I have been leading the ecological support on behalf of RSK Biocensus to National Grid Electricity Transmission (NGET) on the Little Horsted Substation Connection Project (“the Project”) since 2019 to:
- 1.5.1 identify the ecological constraints on the land required for the construction of a new NGET Grid Supply Point (GSP) substation and South Eastern Power Networks (SEPN) substation (“GSP land”);
  - 1.5.2 provide advice during the design phase to reduce impacts on ecology; and
  - 1.5.3 develop appropriate and proportionate mitigation and compensation measures necessary to secure the relevant consents and licences.
- 1.6 Initial consultation between RSK Biocensus and NGET resulted in changes to the design of the proposed development to avoid habitat now located north of the GSP land. This high-quality habitat supported locally rare and protected species and contributed significantly to the overall biodiversity of the area.
- 1.7 Following this, I worked with NGET and Fisher German to liaise with local landowners to find suitable land close to the GSP land (Order Plot 35) that would need to be used as

compensatory habitat to address the impact of the Project on the GPS land. RSK Biocensus identified a number of potential options (discussed in Section 6), of which Order Plots 58a and 58b at Crockstead Farm were found to be the most ecologically suitable. Use of those Plots was, in fact, suggested by the owner of the land, Ridgewood Holdings Limited (RHL).

## 2. INTRODUCTION AND SCOPE OF EVIDENCE

2.1 My evidence is structured as follows:-

2.1.1 Section 3 provides a description of the Little Horsted project.

2.1.2 Section 4 describes the ecological constraints that have been considered to inform appropriate mitigation measures to offset the unavoidable ecological impacts that will result from the construction of the proposed substations on Plot 35.

2.1.3 Section 5 sets out the mitigation measures required for the protection of plant and animal species recorded on the GPS land (Plot 35) and where these measures would be accommodated.

2.1.4 Section 6 explains the consideration of alternative land options for the purpose of mitigation and, sets out my assessment of these options to meet licensing requirements.

2.1.5 Section 7 sets out my response to the objection made by RHL.

## 3. DESCRIPTION OF THE LITTLE HORSTED SUBSTATION CONNECTION PROJECT

3.1 NGET and SEPN have identified the need to establish a new GSP substation on the Bolney – Ninfield 400 kV overhead line (OHL) within the Little Horsted area. NGET has acquired circa 9.7ha of land from RHL by voluntary agreement (Plot 35 in the Order and referred to as the 'GSP land' in RHL's objection to the Order- OBJ 4 (**CD D9**) for the construction of a new 400kV NGET GSP substation, which will be connected to the National Electricity Transmission System (NETS) via the existing 400 kV OHL and a new SEPN 132 kV substation. In addition, works on the existing OHL and the construction of two new / replacement pylons (4VM068B and 4VM069B) are required, and will be completed under permitted development rights.

## 4. ECOLOGICAL CONSIDERATIONS

4.1 Plot 35/the GSP land comprises habitat suitable for protected species including GCN, common reptiles, hazel dormice, breeding birds, badgers and foraging bats. The proposed construction of new substations on the GSP land will result in the loss of the majority of these habitats. The impacts of the development on protected species were assessed within the ecological reports submitted as part of the planning application (Ref. WD/2021/0733/MAJ- "Planning Permission"- **CD C5**). It was assessed that in the absence of mitigation, the loss of habitat on Plot 35/the GSP land (which extends to c.9.7ha) had the potential to adversely affect the aforementioned protected species which would result in breaches of wildlife legislation.

4.2 The Wildlife and Countryside Act 1981 (as amended) (**CD A3**) (WCA) is the primary legislation relating to nature conservation in England. The WCA is supplemented by provisions in the Countryside and Rights of Way (CRoW) Act 2000 and the Natural

Environment and Rural Communities (NERC) Act 2006. The WCA provides protection for species listed in Schedules 1 (birds), 5 (other animals) and 8 (plants) of the Act (**CD A3**).

4.3 Under Section 9 of the WCA (**CD A3**), for animals listed in Schedule 5, it is an offence in England to intentionally or recklessly:

- kill, injure or take any wild animal listed on Schedule 5<sup>1</sup>;
- possess or control any live or dead those wild animals or anything derived from it<sup>1</sup>;
- damage or destroy any structure or place which wild animals listed on Schedule 5 uses for shelter or protection<sup>1</sup>;
- disturb any such animal while it is occupying a structure or place of shelter or protection;
- obstruct access to any structure or place used by any such animal for shelter or protection;
- sell, offer or expose for sale, or have in their possession or transports for the purpose of sale, any live or dead wild animal listed on Schedule 5 or any part of, or anything derived from such an animal.

4.4 In addition, The Conservation of Habitats and Species Regulations (known as the Habitats Regulations) 2017 (as amended) (**CD A14**) provided for the designation and protection of the national site network (formerly 'Natura 2000 sites'), the adaptation of planning and other controls for those sites, and the protection of European Protected Species (EPS; listed on Schedules 2 and 5). In the absence of mitigation the development would likely result in an offence to:

- deliberately capture, injure or kill a wild animal of a EPS,
- deliberately disturb wild animals of any such species,
- deliberately take or destroy the eggs of such an animal,
- damage or destroy a breeding site or resting place of such an animal,
- impair their ability to survive, to breed or reproduce, or to rear or nurture their young, or in the case of animals of a hibernating or migratory species, to hibernate or migrate or,
- to affect significantly the local distribution or abundance of the species to which they belong.

4.5 To allow activities that would otherwise be offences under the above protected species legislation, a non-licensed method statement will be implemented for bird, bats, badgers and reptiles (as appropriate) and, EPS licences are required for GCN and hazel dormice. In order to compensate for the loss of habitat on the GSP land and mitigate impacts to protected species, off-site land was required to provide compensatory habitat.

4.6 EPS licences can only be issued by Natural England if they meet three "licensing tests". One of the relevant considerations is: *will the action authorised be detrimental to the maintenance of the population of the species concerned at a favourable conservation status<sup>2</sup> in their natural range ('the FCS test')*<sup>3</sup>. In order to ensure that the affected species requiring licensed mitigation, namely GCN and hazel dormice, will be maintained at a favourable conservation status, any replacement land should:

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<sup>1</sup> This clause does not apply to EPS which receive equivalent protection under The Habitat Regulations.

<sup>2</sup> FCS is described as a situation where a habitat type or species is doing sufficiently well in terms of quality and quantity and has good prospects of continuing to do so in future. It must clearly be demonstrated that the mitigation hierarchy has been followed and that all reasonable steps have been taken to minimise/mitigate the impact and that any remaining damage will be adequately compensated. If it cannot be demonstrated that FCS will be maintained, then a licence cannot be issued.

<sup>3</sup> Natural England (2013), *EPS Mitigation Licensing: How to get a licence*

- a) be located in a place that would not risk wildlife mortality; this would be achieved by using land that avoids the need for animals to cross highways, i.e. avoiding land south of the A22;
- b) be ecologically connected to the affected habitat in Plot 35/the GSP land and the wider landscape, and as close to Plot 35/the GSP land as reasonably practicable to benefit protected species affected by the Project;
- c) be of low ecological value to minimise impacts to any protected species that might already be using the land during any habitat improvement or creation works; and
- d) be of an appropriate size/quality.

4.7 In addition to the requirement for EPS licences from Natural England, the Planning Permission for the development of the GSP land included the following two pre-commencement conditions relevant to ecology: -

**Condition 7**

4.7.1 *No development shall commence until a wildlife management plan has been submitted to and approved in writing by the local planning authority. The management plan shall include detailed proposals for the protection of bats, birds, reptiles, great crested newts, hazel dormice and badgers, water voles and otters, and measures, including translocation if required, for the mitigation of any harm to them likely to be caused by the development. The works and other measures forming part of that plan shall be carried out in accordance with it.*

**Condition 8**

4.7.2 *No development shall commence for the development hereby approved until a scheme for the enhancement of the site for biodiversity purposes has been submitted to and approved in writing by the Local Planning Authority, in accordance with:*

- *paragraph 4.2 of Water Vole and Otter Report date-stamped 19 March 2021*
- *paragraph 4.2 of Reptile Report date-stamped 19 March 2021*
- *paragraph 4.3 of Hazel Dormouse Report date-stamped 19 March 2021*
- *paragraph 4.2 of Great Crested Newt Survey Report date-stamped 19 March 2021*
- *paragraphs 4.2 and 4.3 of Breeding Bird Report date-stamped 19 March 2021*
- *paragraph 4.3.2 of Badger Survey Report date-stamped 19 March 2021*
- *paragraphs 5.3.1 – 5.3.4 of Bat Survey Report date-stamped 19 March 2021*

4.7.3 *Details shall include timescales for implementation and future management. The approved scheme of enhancements shall be implemented in accordance with the approved details and thereafter so retained.*

4.8 In order to discharge those conditions, an Ecological Mitigation and Management Strategy (EMMS)<sup>4</sup> (**CD F10**) was prepared to provide detail on the mitigation measures to manage impacts on ecology. The proposed measures followed the mitigation hierarchy: to avoid, minimise impacts, restore and finally, compensate. The EMMS was approved by the LPA in April 2022 to discharge Conditions 7 and 8 of the Planning Permission (**CD C6**) and supported the EPS mitigation licences, granted by Natural England in May 2022. The mitigation measures required for the protection of plant and animal species recorded on

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<sup>4</sup> RSK Biocensus (2022), *Little Horsted Grid Supply Point, Substation and associated Works – Ecological Mitigation and Management Strategy*. RSK Biocensus, on behalf of National Grid.

the GPS land are set out in Section 5 of this Statement of Evidence and detailed within the EMMS and legally enshrined in the EPS mitigation licences for GCN (**CD F5.1** and hazel dormice (**CD F5.2**). In summary, the EMMS (**CD F10**) and licences (**CD F5.1 and 5.2**) require the provision of compensatory habitat on Plots 58a and 58b.

5. **MITIGATION MEASURES**

5.1 The EMMS (**CD F10**) provides mitigation measures to avoid, minimise impacts, restore and compensate the impacts arising from the Project. Compensatory, habitat suitable for the protected species recorded on Plot 35/the GPS land is required. This habitat is to be provided on Plots 58a and 58b, owned by RHL (Plate 1 below). Given that the habitat to be lost (c. 9.7ha) exceeds the site area to be provided as compensatory habitat (c.8.3ha comprising Plots 58a and 58b), the quantitative loss must be addressed through qualitative improvements to Plots 58a/b.

Plate 1. Location of Plot 35 (GPS land) and Plots 58a/b (RHL land)



5.2 The mitigation measures detailed in the EMMS (**CD F10**) and also within the EPS and non-licensed method statements include:

- the protection of retained habitats including priority hedges and tree root protection areas;
- translocation, protection and long-term management of locally rare plants (Wild strawberry and Heath speedwell);
- translocation of GCN and common reptiles;
- temporary displacement of hazel dormouse and the installation of habitat boxes;
- protection of nesting birds through appropriate timings of works and other measures;
- avoidance and minimisation measures to protect foraging bats;
- measures that need to be followed to protect a known bat roost (*Pipistrellus* sp. day roost) and any additional roosting bats that may be recorded on site including the provision of compensatory roosting habitat;
- regular monitoring of a main badger sett and measures to mitigate impacts to badgers;

- the creation of good quality scrub and wildflower meadows, and woodland enhancements; and
- long-term management and monitoring of retained, created and enhanced habitats.

5.3 Of the above, the following measures can be accommodated within the GSP land:

- a receptor area (enhanced with log piles and hibernacula) for accommodating GCN and reptiles removed from the proposed development site as part of the translocation exercise;
- protection of the existing bat roost (day roost) throughout the works;
- an area for the translocation of Wild strawberry and Heath speedwell; and
- the creation of new hedgerows as part of the landscape works.

5.4 The following measures can be accommodated on adjacent off-site land, by agreement:

- installation of hazel dormouse boxes to increase the carrying capacity for displaced hazel dormice.

5.5 GCN (as agreed in the EPS mitigation licence), hazel dormice (as agreed in the EPS mitigation licences), reptiles (following good practice guidelines) and foraging bats (following good practice guidelines) are reliant on off-site compensation on Plots 58a/b to offset the unavoidable habitat losses on Plot 35. To ensure the affected species will be maintained at a favourable conservation status, the following measures (detailed in the EMMS (**CD F10**)) are to be accommodated on Plots 58a/b:

- scrub creation;
- wildflower meadow creation;
- woodland enhancement;
- long-term management and maintenance of the newly created habitats; and
- monitoring surveys to assess the success of the newly created habitats and maintenance of protected species populations

## 6. **CONSIDERATION OF ALTERNATIVES**

### **Alternative land options considered for mitigation purposes:**

6.1 In line with the above requirements, two fields (totalling c.13.7 ha) were initially identified by NGET's ecology advisors (RSK Biocensus) on 14<sup>th</sup> January 2021 as potentially suitable for compensatory habitat as they were within 500m (the typical natural range for GCN)<sup>5</sup> of the proposed substations, were ecologically connected to the site and of low ecological value. Both of these fields are owned by RHL. NGET approached RHL in January 2021 to discuss the use of those fields for ecological mitigation. RHL explained that they were not willing to allow NGET to use those fields but were, in principle, amenable to NGET using an alternative area (Plots 58a and 58b) for the creation of compensatory habitat (please see **Appendix 1**, which confirms their suggestion to use this area for "improvements as part of the project").

6.2 In addition to the options on RHL's land, four other nearby land parcels (belonging to different landowners) were identified in May 2021 as being potentially suitable for compensatory habitat, on the basis that they were likely to be of low ecological value and were connected to the GSP land (Plot 35) through the wider natural landscape (via outgrown hedges and water courses). Of these options (illustrated in **Appendix 2**), Options 4 and 5

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<sup>5</sup> English Nature (2001), *Great Crested Newt Mitigation Guidelines*.

could not be directly accessed from a road, which would be required to facilitate access for the intended long-term management of the land. Options 2 and 3 are fragmented from the site by roads, which would risk species mortality. Only Option 1 (Plots 58a/b) was accessible from an existing road, did not risk animals impacted by the development having to cross roads to access the land and was located within the natural range of GCN (typically 500m). Option 1 therefore met the first two criteria outlined in paragraph 4.6.

- 6.3 Ecological surveys of Plots 58a/b were carried out on 21<sup>st</sup> January 2021 by RSK Biocensus to acquire baseline habitat information; these confirmed this land to be of low ecological value, thereby meeting the third criterion. Although Plots 58a/b are slightly smaller in extent than Plot 35 (GPS land), the quality of habitats to be created on Plots 58a/b would ensure that the quantitative reduction would be addressed through qualitative improvements. This has been accepted by the local planning authority and Natural England in discharging conditions 7 and 8 of the Planning Permission (**CD C6**) and granting the requisite licences.
- 6.4 The information demonstrated that Plots 58a/b met all the requirements outlined at a)-d) above in paragraph 4.6, making these Plots appropriate for compensatory habitat.
- 6.5 Plots 58a and 58b are considered to be ecologically suitable. Moreover, RHL confirmed, in the context of NGET's applications for protected species licences, that they were, in principle, amenable to the use of this land as compensatory habitat. The EMMS (**CD F10**) and Natural England licences (**CD F5.1 and 5.2**) require the delivery of compensatory habitat on Plots 58a and 58b. That land is therefore required to facilitate the delivery of the Little Horsted Project in order to meet the approved mitigation measures within the EMMS and Natural England licences.

**Nature of the interest to be acquired**

- 6.6 It is necessary for the compensatory habitat to be secured in the long term, and not reversed by subsequent development or incompatible uses, of the land that are not in keeping with maintaining the favourable conservation status (FCS) of the species covered by Natural England and the protected species licences (**CD F5.1 and 5.2**).
- 6.7 RHL raised the point in their objection dated 13 May 2022 (OBJ4) (**CD D9**) that "*compulsory purchase powers are not required because they could be achieved by the use of lesser powers than compulsory purchase (temporary possession and acquisition of rights of maintenance)*".
- 6.8 It should be noted that while the Housing and Planning Act 2016 includes temporary possession powers, I am advised that these are not yet in force so are not available to NGET. As to the acquisition of new rights, as explained at paragraph 8.12 of the Statement of Reasons (**CD D3**), "*NGET is taking a proportionate approach to acquisition and only seeks to acquire the freehold title to the Order Land for the purposes of above ground permanent infrastructure, namely the NGET GSP substation and the SEPN substation (CPO Plot 35), and to mitigate the impacts of the new substations on the habitat of protected species (CPO Plots 58a and 58b). In all other instances rights in land will be acquired.*"
- 6.9 NGET needs to secure the compensatory habitat in perpetuity. I am advised that NGET is not able to acquire a leasehold interest through compulsory acquisition. In my view, the



acquisition of rights would not be sufficient in preventing detrimental uses for the lifetime of the Project, which is anticipated to be at least 60 years. Therefore, the freehold of Plots 58a and 58b is required.

6.10 The rights to be acquired are more fully considered in the proof of evidence of Mr James Ingram.

## 7. **RESPONSE TO OBJECTIONS**

7.1 RHL raised the following points in their objection dated 13 May 2022 (OBJ4) (**CD D9**):

- i. Compulsory purchase of Plots 58a and 58b is not 'required' for the stated purpose;
- ii. Compulsory purchase would impact the farm and business;
- iii. Alternatives to compulsory acquisition have not been considered;
- iv. Alternatives to Plots 58a and 58b have not been properly considered.

7.2 These objections were addressed in a response letter to RHL dated 12 July 2022 ("Response Letter") (**CD D13**).

7.3 Of the matters raised in the objection, (i); and (iv) cover issues relevant to my area of expertise. Matters (ii) and (iii) do not appear relevant to my area of expertise, save to note that the freehold interest in Plots 58a and 58b is required in order to maintain the compensatory habitat for the lifetime of the Project. Matters (ii) and (iii) are more fully considered in the proof of evidence of Mr James Ingram.

7.4 As to (i), Plots 58a and 58b are necessary to facilitate the delivery of the Project in that they provide essential mitigation to address the ecological impacts of the Project on Plot 35. The creation of compensatory habitat is required pursuant to the EMMS (**CD F10**) approved by the local planning authority pursuant to condition 7 and 8 on the Planning Permission and the licences granted by Natural England (**CD F5.1 and 5.2**), without which the works on Plot 35 would constitute an offence. The creation of compensatory habitat on Plots 58a/b is therefore a legal requirement, pursuant to the Natural England licences (**CD F5.1 and 5.2**), with which NGET must comply in order to deliver the Project. Failure to comply with the approved EMMS would constitute a breach of planning control and expose NGET to potential enforcement action.

7.5 As to (iv), my understanding is that the requirement in the CPO guidance is for the acquiring authority to consider alternatives to compulsory acquisition, rather than alternative plots of land on which to accommodate the relevant mitigation measures. Notwithstanding that, NGET has considered a number of alternatives to Plots 58a and 58b for the purposes of compensatory habitat. Through that process, Plots 58a and 58b have been identified as suitable for the purposes of compensatory habitat. Indeed, they were suggested by RHL in preference to other potential land which had been identified as potentially suitable within their landholding.

## 8. **CONCLUSIONS**

8.1 Various land options have been assessed to ensure the protection of plant and animal species recorded on the GPS land. Mitigation measures will be accommodated on the GPS land and on immediately adjacent land where appropriate. However, there remains the

need for compensatory habitat to mitigate the unavoidable impacts of the Project through the development of Plot 35.

8.2 Plots 58a and 58b are ecologically suitable to provide appropriate compensatory habitat, and were, in fact, suggested by RHL as an alternative to other plots which NGET was previously considering for this purpose.

8.3 The creation of compensatory habitat on Plots 58a/b is required in order to deliver the Project, in accordance with the approved EMMP and licences secured from Natural England. The Planning Permission for the development of Plot 35 (**CD C5**) included two pre-commencement conditions relating to ecology. In order to discharge the conditions, an EMMS (**CD F10**) was prepared and approved by the local planning authority in April 2022. The strategy required NGET to deliver the following measures on Plots 58a/b:

- scrub creation;
- wildflower meadow creation;
- woodland enhancement;
- long-term management and maintenance of the newly created habitats; and
- monitoring surveys to assess the success of the newly created habitats and maintenance of protected species populations.

8.4 NGET has also secured a protected species licence from Natural England (**CD F5.1 and 5.2**) to carry out works on the GSP land that would otherwise constitute an offence under wildlife legislation. In order to secure the licences (**CD F5.1 and 5.2**), NGET has committed to provide compensatory habitat on Plots 58a/b to mitigate the impacts on protected species so as to ensure that their conservation status is maintained. The creation of compensatory habitat on Plots 58a/b is therefore a legal requirement, pursuant to the Natural England licences (**CD F5.1 and 5.2**), with which NGET must comply in order to deliver the Project.

## 9. **DECLARATION**

9.1 This proof of evidence has been prepared and provided for this inquiry and given in accordance with the guidance of the Chartered Institute of Ecology and Environmental Management (CIEEM). I further confirm that the opinions expressed are my true and professional opinions.



Amy Copping

16 November 2022