

Dated

27 JULY

2023

THE COUNTY COUNCIL OF DURHAM

and

NATIONAL GRID ELECTRICITY TRANSMISSION PLC

Agreement

pursuant to Section 106 of the Town and Country Planning
Act 1990 relating to land at Hawthorn Grid Site
Murton DH6 2RX

Application reference: DM/22/01663/OUT

**Durham County Council
County Hall
Durham
DH1 5UL
Ref: LA/35090**

This Deed is made the 27 day of JULY 2023

By

1. **THE COUNTY COUNCIL OF DURHAM** of County Hall, Durham, DH1 5UL ("**the Council**"); and
2. **NATIONAL GRID ELECTRICITY TRANSMISSION PLC** (CRN: 02366977) whose registered office is at 1 - 3 Strand, London, WC2N 5EH ("**the Developer**")

Whereas

- A. The Council is the local planning authority for the purposes of the Act for the area in which the Site is situated and is the authority by whom the obligations hereby created are enforceable.
- B. The Developer is the freehold owner of the Developer's Land which forms part of the Site and which is unregistered and was acquired pursuant to a conveyance dated 5 December 1966 and has also submitted the Application.
- C. The Developer has made The National Grid Electricity Transmission plc (Scotland to England Green Link 1) Compulsory Purchase Order 2023
- D. The Council's County Planning Committee resolved on 4 April 2023 to grant the Planning Permission subject to the prior completion of this Deed.
- E. The Developer has agreed to enter into this Deed with the intention that the obligations contained in this Deed may be enforced by the Council against the Developer and their successors in title.

Now this Deed witnesses as follows:

1. DEFINITIONS

For the purposes of this Deed the following expressions shall have the following meanings:

"Act" the Town and Country Planning Act 1990 (as amended);

"Application" the application for planning permission dated 7 June 2022 submitted to the Council for the Development and allocated reference number DM/22/01663/OUT;

"Biodiversity Land" the semi-natural habitats within the Site and shown on Plan 2 or such land (including part of the Biodiversity Land only or alternative land) as may be agreed in writing with the Council;

"Biodiversity Scheme and a management plan for the creation of the semi-natural habitats on the Biodiversity

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| Management Plan" | Land which shall contain target habitat descriptions, timescales for the target habitats to be delivered, details of the long term management of the habitats, monitoring of the delivery of the target habitats including a monitoring report to be submitted to the Council; |
| "Biodiversity Works" | the works for the creation of semi-natural habitats on the Biodiversity Land set out in the approved Biodiversity Scheme and Management Plan; |
| "Commencement of Development" | the implementation of the Planning Permission by the carrying out of any material operation as defined by Section 56 of the Act but, for the avoidance of doubt, the Planning Permission is deemed not to be implemented for the purposes of this definition by any works of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, the carrying out of any decontamination or landfill works, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements; |
| "Developer's Land" | that part of the Site shown edged blue on Plan 1; |
| "Development" | the Development of the Site pursuant to the Planning Permission comprising the erection of a new 400 kilovolt electricity substation, a converter station, and the laying out of replacement public open space on land to the west and south of Jade Business Park, with all matters reserved as set out in the Application; |
| "Management and Maintenance" | means the management and maintenance of the Biodiversity Land for the Management and Maintenance Period to be carried out in accordance with the provisions set out in the Biodiversity Scheme & Management Plan; |
| "Management and Maintenance | means the period of 30 years commencing with the completion of the Biodiversity |

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| Period" | Works; |
| "Operated" | means operated as part of the high-voltage electricity transmission network serving Great Britain; |
| "Plan 1" | means the plan marked 'Plan 1' attached to this Deed at the First Schedule; |
| "Plan 2" | means the plan marked 'Plan 2' attached to this Deed at the First Schedule; |
| "Planning Permission" | the planning permission subject to conditions to be granted by the Council pursuant to the Application as set out in the Second Schedule; |
| "Section 39 Agreement" | an agreement under Section 39 of the Wildlife and Countryside Act 1981, in substantially the form as appended at the Fifth Schedule with such amendments as agreed between the parties (acting reasonably and without delay), to secure the management and maintenance of the Biodiversity Land in accordance with the approved Biodiversity and Management Plan for not less than a 30 year period; |
| "Site" | the land at Hawthorn Grid Site Murton DH6 2RX subject of the Application as shown edged blue and red on Plan 1; |
| "Working Day" | any day apart from Saturday and Sunday and statutory bank holidays. |

2. CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed (unless the context otherwise requires).
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.

- 2.4 Where two or more people form a party to this Deed, the obligations they undertake may be enforced against them all jointly, or against each of them individually unless there is express provision otherwise.
- 2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.6 References to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Council the successors to their respective statutory functions.
- 2.7 The headings and contents list are for reference only and shall not affect construction.
- 2.8 Any covenant by the Developer or the Council not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing.
- 2.9 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 2.10 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site or the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 2.11 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission or any non-material amendment thereto) granted (whether or not on appeal) after the date of this Deed nor shall any payment be due under this Deed in respect of any development carried out under such other planning permission.

3. LEGAL BASIS

- 3.1 This Deed is made pursuant to Section 106 of the Act, Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011.
- 3.2 The covenants, restrictions and requirements imposed upon the Developer under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authority against the Developer.

4. CONDITIONALITY

- 4.1 The obligations contained within this Deed are conditional upon:

- 4.1.1 the grant of the Planning Permission; and

- 4.1.2 the Commencement of Development

save for the provisions of Clause 7 which shall come into effect immediately upon the completion of this Deed.

5. THE DEVELOPER'S COVENANTS

- 5.1 The Developer covenants with the Council (so as to bind the Developer's Land) to fully observe and perform the obligations in this Deed including those obligations set out in the Schedules and hereby agrees that the Developer's Land shall be subject to the obligations, restrictions and covenants herein, such obligations being planning obligations for the purposes of section 106 of the Act as set out in the Third Schedule.

6. THE COUNCIL'S COVENANTS

- 6.1 The Council covenants with the Developer to observe and perform the obligations set out in the Fourth Schedule.

7. FEES

- 7.1 The Developer shall pay to the Council on completion of this Deed the sum of £750 (SEVEN HUNDRED AND FIFTY POUNDS) incurred in the negotiation, preparation and execution of this Deed and shall also pay the Council's reasonable costs in monitoring compliance with the terms of this Deed in the sum of £150.

8. LOCAL LAND CHARGE

- 8.1 This Deed shall be registrable as a local land charge by the Council.
- 8.2 Following the performance and satisfaction of all the obligations contained in this Deed or where the obligations under this Deed are no longer enforceable the Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed against the Site (or relevant part).

9. COMMUNICATION AND COUNCIL'S CONSENT OR APPROVAL

- 9.1 Where the agreement, approval, consent or expression of satisfaction is required by the Developer from the Council under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld.
- 9.2 Any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party.

10. TERMINATION OF THIS DEED

- 10.1 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn (or without the consent of the Developer it is modified by any statutory procedure) or expires prior to the Commencement of Development.

11. THE CONTRACTS ACT

- 11.1 Save as provided in respect of successors in title to the Site or any successor to the relevant statutory function of the Council this Deed shall not be enforceable by any third party pursuant to the Contracts (Rights of Third Parties) Act 1999 and no third party shall acquire any benefit, rights or claims whatsoever thereto.

13. COUNCIL'S POWERS

- 13.1 Nothing contained or implied in this Deed shall prejudice or affect the rights discretions powers duties and obligations of the Council under all statutes bye-laws statutory instruments orders and regulations in the exercise of their functions as local authority.

14. EXEMPTIONS

- 14.1 The obligations in this Deed shall not bind or be enforceable against:

14.1.1 any Statutory Undertaker or other infrastructure provider holding an estate or interest in the Site or part of the Site nor against plant equipment conduits or structures located there for its operational purposes; nor

14.1.2 anyone whose only interest in the Site is in the nature of the benefit of an easement or covenant.

15. WAIVER

- 15.1 No waiver (whether expressed or implied) by the Council of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default.

16. JURISDICTION

- 16.1 This Deed is governed by and interpreted in accordance with the law of England and Wales.

17. DISPUTE RESOLUTION

17.1 Where any dispute or difference arises between any of the parties to this Deed, except as to a matter of law which shall remain the jurisdiction of the Courts, any party to such dispute or difference shall be entitled to have the matter referred to the determination of an expert (the "Appointed Expert") having not less than 10 years' relevant experience in the field of the matter in dispute and being a member of the Royal Institution of Chartered Surveyors or if appropriate to the matter in dispute of another professional institution or body the identity of such person in default of agreement being an appointment made on the application of any party to such dispute at any time by or on behalf of the President for the time being of the Royal Institution of Chartered Surveyors.

17.2 In the absence of a direction by the Appointed Expert in accordance with this clause as to how the costs of the reference to the Appointed Expert should be borne as between the relevant parties the parties to such dispute shall bear their own costs and shall share equally the costs and charges of the Appointed Expert.

17.3 The Appointed Expert shall:

17.3.1 afford to each of the parties to the dispute an opportunity to make representations to him in writing and if he/she so directs submissions upon one another's representations;

17.3.2 be entitled to stipulate the periods of time for the making of such representations as is reasonable in the circumstances;



- 17.3.3 be bound to have regard to such representations;
- 17.3.4 have the power of making directions as to the responsibility for the costs of his/her award (including both the costs of the relevant parties and the costs and charges of the Appointed Expert) to be met by any party behaving unreasonably.
- 17.3.5 in the making of his/her award not be liable save to the extent in law as provided in relation to the decisions of an expert.
- 17.3.6 make awards which are final and conclusive as between the parties to such dispute (except that such awards shall not remove the parties' rights of appeal on matters of law); and
- 17.3.7 be replaced by a fresh appointee in the event of his/her becoming at any time unable or unwilling for any reason to proceed to discharge his/her function such fresh appointee to be appointed in the manner prescribed in this clause.

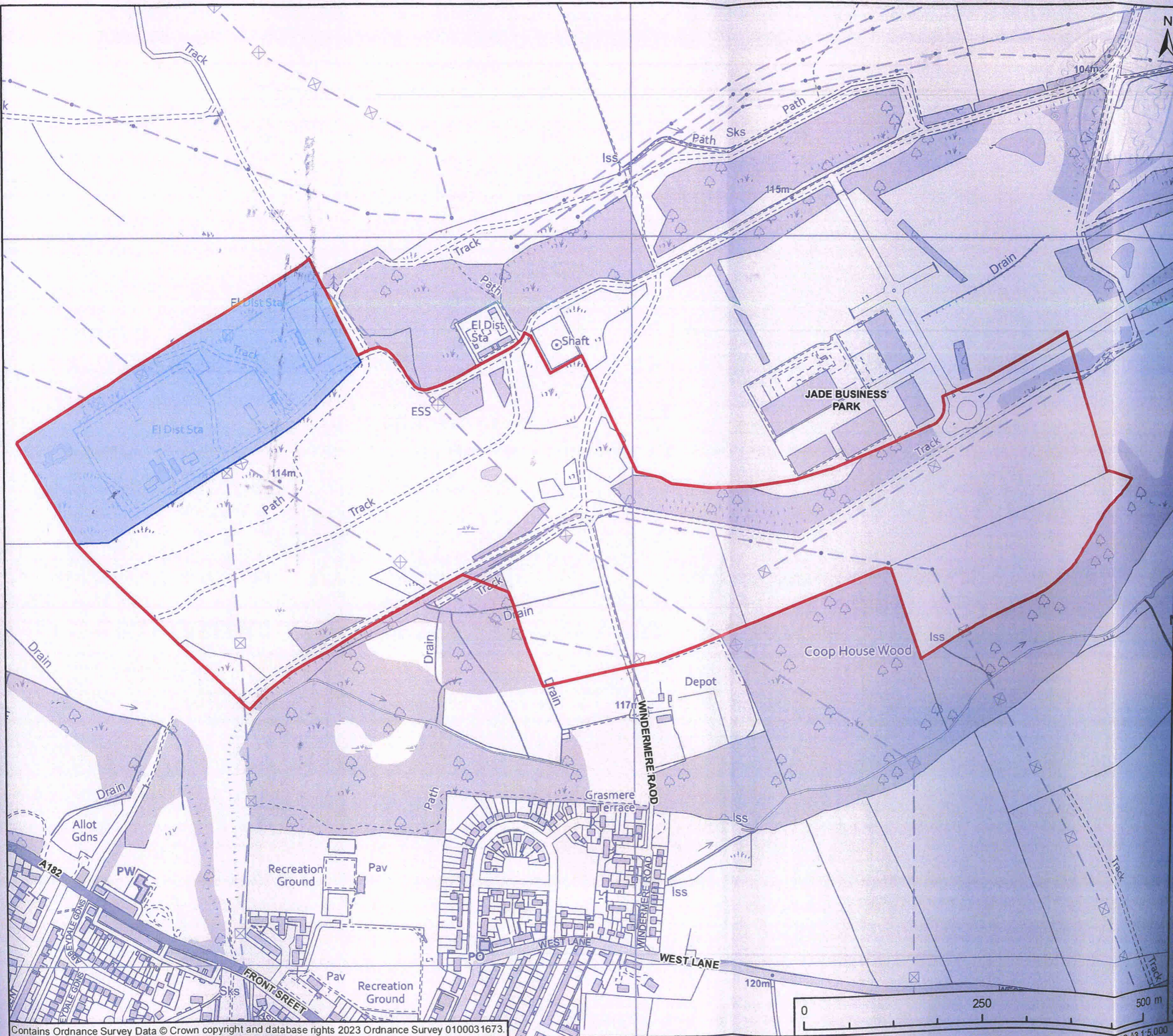
IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written.

FIRST SCHEDULE

The Plans

GIS: LC Checked: DF Approved: MS

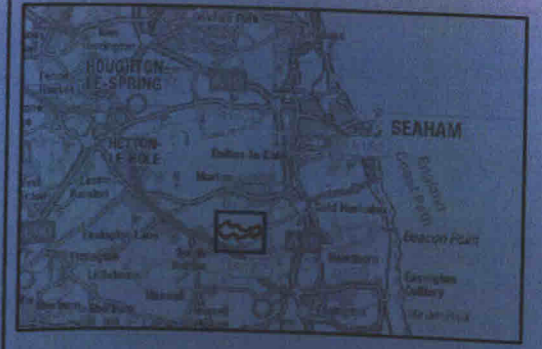
- KEY
-  Planning Application Boundary
 -  National Grid Existing Substation Land



NGET11425



MEMBER OF THE BOARD SEALING COMMITTEE



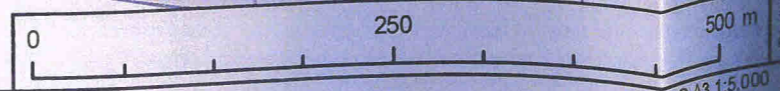
TITLE
Figure 1
Site Plan

Plan 1

REFERENCE
SEGL1_T_S106_1_v1_20230612
















SHEET NUMBER
1 of 1

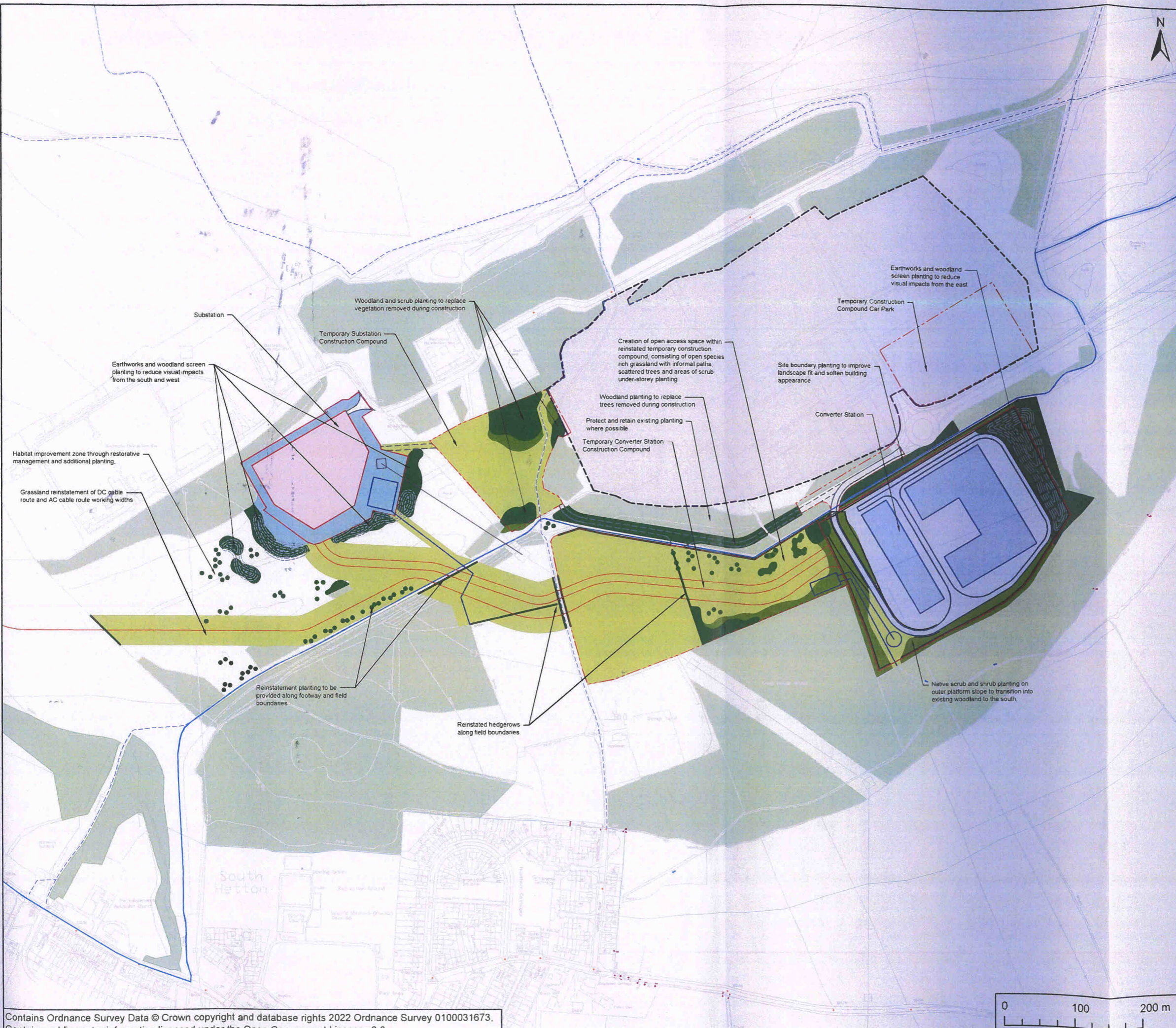
DATE
12/06/2023



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- KEY
-  SITE BOUNDARY
 -  CONVERTER STATION AREA
 -  SUBSTATION
 -  UNDERGROUND DC AND AC CABLE ROUTE
 -  EXISTING WOODLAND TO BE RETAINED WHERE POSSIBLE
 -  NATIVE WOODLAND PLANTING
 -  SCATTERED TREE PLANTING
 -  NATIVE SCRUB AND WOODLAND EDGE PLANTING
 -  ENHANCED GRASSLAND REINSTATEMENT
 -  WET MEADOW / SWALE GRASSLAND
 -  NATIVE HEDGEROW PLANTING
 -  EARTHWORKS MOUND
 -  JADE BUSINESS PARK PHASE 2 PLANNING APPLICATION BOUNDARY
 -  NATIONAL CYCLE NETWORK - ROUTE 1
 -  PUBLIC RIGHT OF WAY



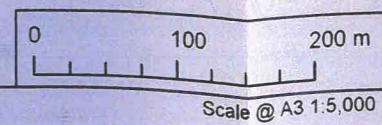
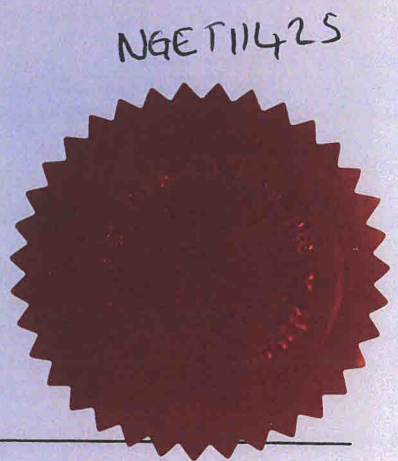
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TITLE
**Figure 8
Outline Landscape Mitigation Plan**

REFERENCE
SEGL1_T_ES_8-7_v2_20220518

SHEET NUMBER
1 of 1

DATE
18/05/2022



SECOND SCHEDULE

The draft planning permission

Regeneration, Economy and Growth
Durham County Council
Planning Development (Strategic)
Room 4/123-128, County Hall, Durham DH1 5UL Main
Telephone: 03000 262 830

x

OUTLINE PLANNING PERMISSION APPROVAL

TOWN AND COUNTRY PLANNING ACT 1990

Application Number: **DM/22/01663/OUT**

Applicant

National Grid Electricity Transmission Ltd
Mr Hugh Smith
4th Floor
Crossgates House
Crossgates
Leeds
LS15 8DU
West Yorkshire

Agent

PART 1 – PARTICULARS OF THE APPLICATION

Proposed: Outline planning application for the erection of a new 400 kilovolt electricity substation, a converter station, and the laying out of replacement public open space on land to the west and south of Jade Business Park, with all matters reserved

At: Hawthorn Grid Site
Murton
DH6 2RX

Date of Application: 8 June 2022

PART 2 – PARTICULARS OF DECISION

The **Durham County Council** hereby give notice in pursuance of the Town and Country Planning Act 1990 that planning permission has been **GRANTED** for the carrying out of the development referred to in Part 1 hereof in accordance with the application and plans submitted subject to the following conditions and reasons:

1. In respect of the planning application where outline planning permission has been granted with all matters reserved for subsequent approval, being i) the scale, layout and appearance of the Converter Station buildings, with associated permanent vehicular access off the Jade Business Park roundabout at its junction with Spring Road, and landscaping (referred to in this permission as the "Converter Station Development" and delineated on the drawing Substation and Converter Station Areas); ii) the scale, layout and appearance of the Substation buildings, with associated access off the existing substation access road, and landscaping (referred to in this permission as the "Substation Development" and delineated on the drawing Substation and Converter Station Areas); and iii) the landscaping, scale and layout of the replacement public open space (referred to in this permission as the "Open Space Development") shall be begun either before the expiry of

three years from the date of this decision notice, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

REASON: To allow a reasonable time period for work to start; to comply with Section 91 of the Town and Country Planning Act 1990.

2. For the Converter Station Development and the Substation Development all matters reserved for subsequent approval, being details of the permanent access, appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before either the Converter Station Development or the Substation Development (as appropriate) is commenced and the development shall be carried out as approved.

REASON: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3. For the Open Space Development all matters reserved for subsequent approval, being details of the landscaping, layout and scale (hereinafter called the "reserved matters") shall be submitted to and approved in writing by the local planning authority before either the Converter Station Development or the Substation Development (as appropriate) is commenced and the development shall be carried out as approved.

REASON: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

4. Application for the approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

REASON: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

5. The Converter Station Development and Substation Development shall be carried out in accordance with the following approved documents and drawings:

- a) Design principles in Section 5.6 of the Design & Access Statement (Aecom, May 2022)

5. The Converter Station Development and Substation Development shall be carried out in accordance with the following approved documents and drawings:

- a) Design principles in Section 5.6 of the Design & Access Statement (Aecom, May 2022)

- b) Drawing SEGL1_T_PA_2_Proposed_Site_Layout_v3_20220517_LC Proposed Site Layout

- c) Drawing SEGL1_T_PA_4_Proposed_Converter_Station_Site_Layout_v3_20220503_LC Proposed Converter Station Site Layout

- d) Drawing PDD_30317_SK_003_Rev_P4 Hawthorn Pit Converter Station Zoned Plan Sketch

- e) Drawing SEGL1_P18_v1_20220913 Substation and Converter Station Area

- f) Written Scheme of Investigation for Archaeological Evaluation and Mitigation (Aecom, October 2022)

REASON: In order to ensure a high-quality development in accordance with County Durham Plan Policies 29 and 39 and Part 15 of the National Planning Policy Framework.

B Converter Station Development

Planning conditions relating to the erection of converter station buildings (to a maximum height of 26 metres), associated vehicular accesses and roads to enable access / egress via Jade Business Park roundabout / Spring Road, and security fencing.

Ground and floor levels

6. No development in relation to the erection of the Converter Station Development shall commence until details of the internal finished floor levels of buildings along with the finished levels of the associated access road, in relation to the existing and finished ground levels, have been submitted to and approved by the local planning authority in writing. The Converter Station Development shall be carried out in accordance with the approved details.

REASON: In order to ensure a high-quality development in accordance with County Durham Plan Policies 29 and 39 and Part 15 of the National Planning Policy Framework.

7. None of the Converter Station Development to be erected upon the site shall exceed 26 metres in height measured from the approved site level upon which they are to be constructed (save for any lightning protection measures which may exceed this height restriction).

REASON: In order to ensure a high-quality development in accordance with County Durham Plan Policies 29 and 39 and Part 15 of the National Planning Policy Framework.

Surface water drainage

8. No development in relation to the Converter Station Development shall commence until details of the surface water drainage works have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in the National Planning Policy Framework (July 2021) and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- b) include a timetable for its implementation; and
- c) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The Converter Station Development shall be carried out in accordance with the approved details.

REASON: To prevent the increased risk of flooding, to ensure the appropriate management of surface water and foul water and to ensure the protection of water quality in accordance with County Durham Plan Policies 35 and 36 and Part 14 of the National Planning Policy Framework.

Lighting

9. No development in relation to the Converter Station Development shall commence until a scheme of permanent external lighting has been submitted to and approved in writing by the local planning authority. The details shall include a layout plan and a schedule of the equipment design (luminaire type, mounting height, aiming angles, luminaire profiles, and lighting times). Development of the converter station buildings shall be carried out in accordance with the approved details.

REASON: In order to minimise light spillage and glare and minimise impact upon ecological interests and in the interests of air safety, in accordance with Policies 31 and 41 of the County Durham Plan and Local Plan and Part 15 of the National Planning Policy Framework

Fencing

10. No development in relation to the Converter Station Development shall commence until a scheme showing details of the converter station perimeter security fencing, including pedestrian and vehicular access arrangements, has been submitted to and approved in writing by the local planning authority. The Converter Station Development shall be carried out in accordance with the approved details.

REASON: In order to ensure a high-quality development in accordance with County Durham Plan Policies 29 and 39 and Part 15 of the National Planning Policy Framework.

Noise from use of the buildings and the site

11. The rating level of noise emitted from the Converter Station Development (excluding vehicles travelling beyond the boundary of the site) shall not exceed the stated levels at the following location:
- o Woodlands Caravan Storage (Windemere Road) 40dB (1hr) 07.00 - 23.00 and 35dB LAeq (15 minutes) 23.00 - 07.00
- The measurements and assessment of noise levels shall be made in accordance with BS 4142:2014.

REASON: To safeguard the amenities of nearby residents in accordance with the County Durham Plan Policy 31, Part 15 of the National Planning Policy Framework

Archaeology

12. No development in relation to the Converter Station Development shall commence until the programme of archaeological work set out in the approved Written Scheme of Investigation for Archaeological Mitigation and Evaluation has been undertaken and approved by the local planning authority in writing

REASON: To safeguard any Archaeological Interest in the site in accordance with County Durham Plan Policy 44 and Part 16 of the National Planning Policy Framework. Required to be a pre-commencement condition as the archaeological investigation/mitigation must be devised prior to the development being implemented.

Contaminated land

13. No development shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be prepared by a suitably competent person and include a Phase 2 site investigation and ground gas risk assessment. If the Phase 2 site investigation identifies any unacceptable risks, a Phase 3 remediation strategy shall be prepared by a suitably competent person (including a programme of implementation and where necessary gas protection measures and method of verification) and submitted for approval by the Local Planning Authority.

If during development, contamination not previously identified by the land contamination scheme is found to be present at the site, then no further development shall be carried out until a remediation strategy prepared by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority detailing how this contamination shall be dealt with.

REASON: To ensure that the presence of contamination is identified, risk assessed, and proposed remediation works are agreed in order to ensure the site is suitable for use, in accordance with County Durham Plan Policy 32 and Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.

14. All remediation works shall be carried out in accordance with the approved remediation strategy prepared by a suitably competent person. The development shall not be brought into use until a Phase 4 verification report has been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with County Durham Plan Policy 32 and Part 15 of the National Planning Policy Framework.

Construction and operational access and traffic management

15. No development in relation to the Converter Station Development shall commence until a Construction Traffic Management Plan has been submitted to and approved by the local planning authority in writing. The Construction Traffic Management Plan shall specify lorry routes, parking and turning provision to be made on site for construction vehicles and operatives' vehicles, measures to prevent mud from being deposited on the highway, and a programme of construction. The development in relation to the Converter Station Development shall be carried out in accordance with the approved Construction Traffic Management Plan.

REASON: In the interests of highway safety in accordance County Durham Plan Policy 21 and Part 9 of the National Planning Policy Framework

16. No development in relation to the Converter Station Development shall commence until details of the permanent access/egress point off Jade Business Park roundabout / Spring Road to be used in connection with the operation of the Converter Station Development, has been submitted to and approved by the local planning authority in writing. The details shall specify:

a) The means of construction, the layout and width, the turning radii and visibility splays provided for the permanent access / egress point. The approved access / egress point off Jade Business Park roundabout / Spring Road for construction of the Converter Station Development and its operation shall be constructed and operated in accordance with the approved details.

REASON: In the interests of highway safety in accordance County Durham Plan Policy 21 and Part 9 of the National Planning Policy Framework

Construction Environmental Management Plan

17. No development in relation to the Converter Station Development shall commence until a Construction Environmental Management Plan has been submitted to and approved by the Local Planning Authority. The Construction Environmental Management Plan shall include:
- a) details of the working times and working arrangements;
 - b) details of a coal mining risk assessment and generic quantitative risk assessment and any appropriate remedial measures or construction methodologies;
 - c) details of the management of public access, via public highways and public or permissive rights-of-way, during the works;
 - d) a health and safety plan;
 - e) a management plan for noise, vibration, dust, smoke and odour emissions;
 - f) a detailed construction soil management plan, incorporating the provisions of the submitted 'Outline Construction Soil Management Plan';
 - g) a soil and land drainage management plan;
 - h) a site compound and working area drainage management plan;
 - i) an artificial light emissions plan;
 - j) a site waste management plan;
 - k) a pollution prevention and emergency incident response plan;
 - l) an ecological and biodiversity management plan, to be informed by updated pre-commencement surveys; and
 - m) a communications plan.

The carrying out of the Converter Station Development shall take place strictly in accordance with the Construction Environmental Management Plan approved pursuant to this condition unless any variation is first agreed in writing by the local planning authority.

REASON: In the interests of protecting the amenity of neighbouring site occupiers and users from the impacts of the construction phases of the development having regards to Policies 21 and 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be a pre-commencement condition and the details of the construction management statement must be agreed before works on site commence.

Tree protection

18. No development in relation to the Converter Station Development shall commence until a detailed scheme for tree protection in accordance with BS 5837:2012 relating to the existing trees and other planting which is to be retained, along with details about when the protective fencing is to be erected, has been submitted to and approved in writing by the local planning authority. The protective fencing shall be erected and thereafter retained in situ in accordance with the approved details.

REASON: To ensure the avoidance of damage to existing trees and natural features to be retained in accordance with County Durham Plan Policy 40 and Part 15 of the National Planning Policy Framework.

Landscaping implementation

19. No development in relation to the Converter Station Development shall commence, other than site remediation works, until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall be in general accordance with the Drawing SEGL1_T_ES_8-7_Outline Landscape Mitigation Plan and shall include the following:
- Trees, hedges and shrubs scheduled for retention.
 - Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.
 - Details of planting procedures or specification.
 - Finished topsoil levels and depths.
 - Details of temporary topsoil and subsoil storage provision.
 - Seeded or turf areas, habitat creation areas and details etc.
 - The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.
 - The approved landscaping scheme shall be implemented and completed in accordance with the approved details and timescales.
 - Any trees or plants which die, fail to flourish or are removed within 5 years of completion of the development shall be replaced in the next planting season with others of similar size and species. Replacements will be subject to the same conditions.

REASON: In order to ensure a high-quality development in accordance with County Durham Plan Policies 29 and 39 and Part 15 of the National Planning Policy Framework.

20. No development associated with the landscaping scheme for the Converter Station Development shall commence until details of all earth bunds associated with the approved landscaping scheme have been submitted to and approved in writing by the local planning authority. These details shall show:
- the proposed grading and mounding of land areas including the levels and contours to be formed;
 - the relationship of the mounding to the existing surrounding landform
 - that the soil to be used for the earth bunds is appropriate for its purpose, and is free from contamination which would pose a risk to human health, or the wider environment including water resources.

The Converter Station Development shall be carried out in accordance with the approved details.

REASON: In order to ensure a high-quality development in accordance with County Durham Plan Policies 29 and 39 and Part 15 of the National Planning Policy Framework.

C Substation Development

Planning conditions relating to the erection of a 400kV substation (buildings to a maximum height of 14 metres), associated vehicular access and roads to enable access / egress via the existing Hawthorn Pit substation access road, and security fencing.

Ground and floor levels

21. No development in relation to the erection of the Substation Development shall commence until details of the internal finished floor levels of buildings along with the finished levels of the associated access road, in relation to the existing and finished ground levels, have been submitted to and approved by the local planning authority in writing. The Substation Development shall be carried out in accordance with the approved details.

REASON: In order to ensure a high-quality development in accordance with County Durham Plan Policies 29 and 39 and Part 15 of the National Planning Policy Framework.

22. None of the Substation Development shall exceed 14 metres in height measured from the approved site level upon which they are to be constructed (save for any lightning protection measures which may exceed this height restriction).

REASON: In order to ensure a high-quality development in accordance with County Durham Plan Policies 29 and 39 and Part 15 of the National Planning Policy Framework.

Surface water drainage

23. No development in relation to the Substation Development shall commence until details of the surface water drainage works have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in the National Planning Policy Framework (July 2021) and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- b) include a timetable for its implementation; and
- c) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The Converter Station Development shall be carried out in accordance with the approved details.

REASON: To prevent the increased risk of flooding, to ensure the appropriate management of surface water and foul water and to ensure the protection of water quality in accordance with County Durham Plan Policies 35 and 36 and Part 14 of the National Planning Policy Framework

Lighting

24. No development in relation to the Substation Development shall commence until a scheme of permanent external lighting has been submitted to and approved in writing by the local planning authority. The details shall include a layout plan and a schedule of the equipment

design (luminaire type, mounting height, aiming angles, luminaire profiles, and lighting times). Development of the substation shall be carried out in accordance with the approved details.

REASON: In order to minimise light spillage and glare and minimise impact upon ecological interests and in the interests of air safety, in accordance with Policies 31 and 41 of the County Durham Plan and Local Plan and Part 15 of the National Planning Policy Framework

Fencing

25. No development in relation to the Substation Development shall commence until a scheme showing details of the substation perimeter security fencing, including pedestrian and vehicular access arrangements, has been submitted to and approved in writing by the local planning authority. The Substation Development shall be carried out in accordance with the approved details.

REASON: In order to ensure a high-quality development in accordance with County Durham Plan Policies 29 and 39 and Part 15 of the National Planning Policy Framework.

Noise from use of the buildings and the site

26. The rating level of noise emitted from the Substation Development (excluding vehicles travelling beyond the boundary of the site) shall not exceed the stated levels at the following location:
- o Woodlands Caravan Storage (Windemere Road) 40dB (1hr) 07.00 - 23.00 and 35dB LAeq (15 minutes) 23.00 - 07.00
- The measurements and assessment of noise levels shall be made in accordance with BS 4142:2014.

REASON: To safeguard the amenities of nearby residents in accordance with the County Durham Plan Policy 31, Part 15 of the National Planning Policy Framework.

Contaminated land

27. No development shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be prepared by a suitably competent person and include an updated Phase 2 site investigation and ground gas risk assessment. If the Phase 2 site investigation identifies any unacceptable risks, a Phase 3 remediation strategy shall be prepared by a suitably competent person (including a programme of implementation and where necessary gas protection measures and method of verification) and submitted for approval by the Local Planning Authority.

If during development, contamination not previously identified by the land contamination scheme is found to be present at the site, then no further development shall be carried out until a remediation strategy prepared by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority detailing how this contamination shall be dealt with.

REASON: To ensure that the presence of contamination is identified, risk assessed, and proposed remediation works are agreed in order to ensure the site is suitable for use, in accordance with County Durham Plan Policy 32 and Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.

28. All remediation works shall be carried out in accordance with the approved remediation strategy prepared by a suitably competent person. The development shall not be brought

into use until a Phase 4 verification report has been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with County Durham Plan Policy 32 and Part 15 of the National Planning Policy Framework.

Construction and operational access and traffic management

29. No development in relation to the Substation Development shall commence until a Construction Traffic Management Plan has been submitted to and approved by the local planning authority in writing. The Construction Traffic Management Plan shall specify lorry routes, parking and turning provision to be made on site for construction vehicles and operatives' vehicles, measures to prevent mud from being deposited on the highway, and a programme of construction. The development in relation to the Substation Development shall be carried out in accordance with the approved Construction Traffic Management Plan.

REASON: In the interests of highway safety in accordance County Durham Plan Policy 21 and Part 9 of the National Planning Policy Framework

30. No development in relation to the Substation Development shall commence until details of the permanent access/egress point off the existing Hawthorn Pit substation access road to be used in connection with the operation of the Substation Development, has been submitted to and approved by the local planning authority in writing. The details shall specify:

a) The means of construction, the layout and width, the turning radii and visibility splays provided for the permanent access / egress point.
The approved access / egress point off the existing Hawthorn Pit substation access road for construction of the Substation Development and its operation shall be constructed and operated in accordance with the approved details.

REASON: In the interests of highway safety in accordance County Durham Plan Policy 21 and Part 9 of the National Planning Policy Framework

Construction Environmental Management Plan

31. No development in relation to the Substation Development shall commence until a Construction Environmental Management Plan has been submitted to and approved by the Local Planning Authority. The Construction Environmental Management Plan shall include:
- a) details of the working times and working arrangements;
 - b) details of a coal mining risk assessment and generic quantitative risk assessment and any appropriate remedial measures or construction methodologies
 - c) details of the management of public access, via public highways and public or permissive rights-of-way, during the works;
 - d) a health and safety plan;
 - e) a management plan for noise, vibration, dust, smoke and odour emissions;
 - f) a detailed construction soil management plan, incorporating the provisions of the submitted 'Outline Construction Soil Management Plan';
 - g) a soil and land drainage management plan;
 - h) a site compound and working area drainage management plan;
 - i) an artificial light emissions plan;
 - j) a site waste management plan;
 - k) a pollution prevention and emergency incident response plan;
 - l) an ecological and biodiversity management plan, to be informed by updated pre-commencement surveys; and
 - m) a communications plan.

The carrying out of the Substation Development shall take place strictly in accordance with the Construction Environmental Management Plan approved pursuant to this condition unless any variation is first agreed in writing by the local planning authority.

REASON: In the interests of protecting the amenity of neighbouring site occupiers and users from the impacts of the construction phases of the development having regards to Policies 21 and 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be a pre-commencement condition and the details of the construction management statement must be agreed before works on site commence.

Tree protection

32. No development in relation to the Substation Development shall commence until a detailed scheme for tree protection in accordance with BS 5837:2012 relating to the existing trees and other planting which is to be retained, along with details about when the protective fencing is to be erected, has been submitted to and approved in writing by the local planning authority. The protective fencing shall be erected and thereafter retained in situ in accordance with the approved details.

REASON: To ensure the avoidance of damage to existing trees and natural features to be retained in accordance with County Durham Plan Policies 29 and 39 and Part 15 of the National Planning Policy Framework.

Landscaping implementation

33. No development in relation to the Substation Development shall commence, other than site remediation works, until a detailed landscaping scheme has been submitted to and approved in writing by the local planning authority. The landscape scheme shall be in general accordance with the Drawing SEGL1_T_ES_8-7_Outline Landscape Mitigation Plan and shall include the following:
- Trees, hedges and shrubs scheduled for retention.
 - Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.
 - Details of planting procedures or specification.
 - Finished topsoil levels and depths.
 - Details of temporary topsoil and subsoil storage provision.
 - Seeded or turf areas, habitat creation areas and details etc.
 - The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.
 - The approved landscaping scheme shall be implemented and completed in accordance with the approved details and timescales.
 - Any trees or plants which die, fail to flourish or are removed within 5 years of completion of the development shall be replaced in the next planting season with others of similar size and species. Replacements will be subject to the same conditions.

REASON: To ensure appropriate planting is provided and maintained to ensure a high quality development in accordance with County Durham Plan Policy 39 and Part 15 of the National Planning Policy Framework.

34. No development associated with the landscaping scheme for the Substation Development shall commence until details of all earth bunds associated with the approved landscaping scheme have been submitted to and approved in writing by the local planning authority. These details shall show:
- the proposed grading and mounding of land areas including the levels and contours to be formed;
 - the relationship of the mounding to the existing surrounding landform
 - that the soil to be used for the earth bunds is appropriate for its purpose, and is free from contamination which would pose a risk to human health, or the wider environment including water resources.

The Substation Development shall be carried out in accordance with the approved details.

REASON: In order to secure the satisfactory appearance of the development in accordance with County Durham Plan Policies 29 and 39 and Part 15 of the National Planning Policy Framework.

D Open Space Development

Planning conditions relating to the laying out of public open space to the west of the Converter Station Development, including planting of native woodland, native scrub, native hedgerows, scattered trees, and grassland.

35. No development associated with the Open Space Development shall commence until a details of the public open space have been submitted to and approved by the local planning authority in writing. The Open Space Development shall be in general accordance with the Drawing SEGL1_T_ES_8-7_Outline Landscape Mitigation Plan and shall include the following:
- Trees, hedges and shrubs scheduled for retention.
 - Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.
 - Details of planting procedures or specification.
 - Finished topsoil levels and depths.
 - Details of temporary topsoil and subsoil storage provision.
 - Seeded or turf areas, habitat creation areas and details etc.
 - The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.
 - The approved landscaping scheme shall be implemented and completed in accordance with the approved details and timescales.
 - Any trees or plants which die, fail to flourish or are removed within 5 years of completion of the development shall be replaced in the next planting season with others of similar size and species. Replacements will be subject to the same conditions.

REASON: To ensure a programme of delivery of high quality public open space in accordance County Durham Plan Policy 26 and Part 8 of the National Planning Policy Framework.

36. The Open Space Development shall be carried out in accordance with the approved programme of work.

REASON: To ensure a programme of delivery of high quality public open space in accordance County Durham Plan Policy 26 and Part 8 of the National Planning Policy Framework.

Archaeology

37. No development in relation to the Open Space Development shall commence until the programme of archaeological work set out in the approved Written Scheme of Investigation for Archaeological Mitigation and Evaluation has been undertaken and approved by the local planning authority in writing

REASON: To safeguard any Archaeological Interest in the site in accordance with County Durham Plan Policy 44 and Part 16 of the National Planning Policy Framework. Required to be a pre-commencement condition as the archaeological investigation/mitigation must be devised prior to the development being implemented.

Tree protection

38. No development in relation to the Open Space Development shall commence until a detailed scheme for tree protection in accordance with BS 5837:2012 relating to the existing trees and other planting which is to be retained, along with details about when the

protective fencing is to be erected, has been submitted to and approved in writing by the local planning authority. The protective fencing shall be erected and thereafter retained in situ in accordance with the approved details.

REASON: To ensure the avoidance of damage to existing trees and natural features to be retained in accordance with County Durham Plan Policy 40 and Part 15 of the National Planning Policy Framework.

PART 3 – APPROVED PLANS

| Plan | Drawing No. | Date Received |
|---|--------------------------|---------------|
| Proposed Site Layout | SEGL1TPA_2_v3_20220517 | 23 Jun 2022 |
| Hawthorn Pit Converter Station Zoned Plan Sketch | PDD-30317-SK-003 Rev P4 | 23 Jun 2022 |
| Figure 8-7 Outline Landscape Mitigation Plan | SEGL1TES_8-7_v2_20220518 | 23 Jun 2022 |
| Proposed Substation Indicative Layout | PDD_30317_LAY_504 Rev P3 | 23 Jun 2022 |
| Proposed Substation Indicative Elevations | PDD_30317_LAY_505 Rev P2 | 23 Jun 2022 |
| Hawthorn Pit Converter Station Proposed Converter Station Elevations - Maximum Parameters | PDD-30317-SK-005 Rev P1 | 23 Jun 2022 |
| Proposed Converter Station Site Layout | SEGL1TPA_4_v3_20220505 | 23 Jun 2022 |
| Site Location Plan | SEGL1TPA_1_v3_20220517 | 23 Jun 2022 |
| SEGL1 English Onshore Scheme | SEGL1TPA_3_v5_20220505 1 | 23 Jun 2022 |
| SEGL1 English Onshore Scheme | SEGL1TPA_3_v5_20220505 2 | 23 Jun 2022 |
| SEGL1 English Onshore Scheme | SEGL1TPA_3_v5_20220505 3 | 23 Jun 2022 |
| Site Location Plan | SEGL1_T_PA_1_v3_20220517 | 7 Jun 2022 |
| Proposed Site Layout | SEGL1_T_PA_2_v3_20220517 | 7 Jun 2022 |
| Proposed Converter Station Elevations - Maximum Parameters | PDD-30317-SK-005 Rev P1 | 7 Jun 2022 |
| Proposed Substation Indicative Layout | PDD_30317_LAY_504 Rev P3 | 7 Jun 2022 |
| Proposed Substation Indicative Elevations | PDD_30317_LAY_505 Rev P2 | 7 Jun 2022 |
| Zoned Plan Sketch | PDD-30317-SK-003 Rev P4 | 7 Jun 2022 |
| Outline Landscape Mitigation Plan | SEGL1TES_8-7v2_20220518 | 7 Jun 2022 |
| Site Layout | SEGL1_T_PA_4_v3_20220505 | 7 Jun 2022 |
| SEGL1 English Onshore Scheme | SEGL1_TPA3_v5_20220505 1 | 7 Jun 2022 |
| SEGL1 English Onshore Scheme | SEGL1_TPA3_v5_20220505 2 | 7 Jun 2022 |
| SEGL1 English Onshore Scheme | SEGL1_TPA3_v5_20220505 3 | 7 Jun 2022 |

STATEMENT OF PROACTIVE ENGAGEMENT

In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF.

SIGNATURE

Signed:

Date:

Michael Kelleher
Head of Planning and Housing

INFORMATIVES

Section 106 Agreement

You are reminded that the approved development is the subject of a Planning Obligation under Section 106 of the Town and Country Planning Act 1990 (as amended).

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

Standing Advice valid from 1st January 2023 until 31st December 2024

IMPORTANT NOTICE

THIS PERMISSION IS NOT VALID UNLESS THE CONDITIONS LISTED ARE COMPLIED WITH

DRAFT

THIRD SCHEDULE

The Developer's Covenants

The Developer covenants with the Council that:

1. BIODIVERSITY SCHEME AND LONG TERM MANAGEMENT/MAINTENANCE INTEREST

- 1.1 The Development shall not be Operated until the Biodiversity Scheme and Management Plan for the Biodiversity Land has been submitted to and agreed by the Council.
- 1.2 The Development shall not be Operated until the Developer has delivered to the Council the agreed final form Section 39 Agreement duly executed by the Developer which is fully and finally released to the Council for completion.
- 1.3 The Development shall not be Operated until the Biodiversity Works have been completed on the Biodiversity Land.

2. ALTERNATIVE MECHANISMS FOR DELIVERY

- 2.1 Paragraph 1 shall not apply in the event that the Developer and the Council agree in writing that biodiversity measures can be delivered either by off-site biodiversity improvements or through the payment of statutory credits.
- 2.2 In the event that the Developer and the Council agree that biodiversity measures can be delivered through off-site biodiversity improvements, then the Development shall not be Operated until the off-site biodiversity measures have been completed.
- 2.3 In the event that the Developer and the Council agree that biodiversity measures can be delivered through the payment of statutory credits, then the Development shall not be Operated until the statutory credits have been paid and evidence of such payment has been provided to the Council.

FOURTH SCHEDULE

The Council's Covenants

The Council covenants as follows:

1. Upon the Developer complying with paragraph 1.2 of the Third Schedule, to enter into the final form Section 39 Agreement.
2. At the written request of the Developer the Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed.
3. To use reasonable endeavours to issue the Planning Permission within 10 Working Days of the date of this Deed.

FIFTH SCHEDULE

Form of Section 39 Agreement

Dated

2023

THE COUNTY COUNCIL OF DURHAM

and

NATIONAL GRID ELECTRICITY TRANSMISSION PLC

Deed

pursuant to Section 39 of the Wildlife and Countryside
Act 1981 relating to land at Hawthorn Grid Site
Murton DH6 2RX

Planning Permission: DM/22/01663/OUT

This Deed is made the
2023

day of

By

1. **THE COUNTY COUNCIL OF DURHAM** of County Hall, Durham, DH1 5UL ("**the Council**"); and
2. **NATIONAL GRID ELECTRICITY TRANSMISSION PLC** (Co. Regn. No. 02366977) of 1 - 3 Strand, London, WC2N 5EH ("**the Developer**")

hereinafter called the "Parties" and reference to "Party" shall be construed accordingly.

Whereas

- (A) The Council is the local planning authority for the area within which the Biodiversity Land is situated.
- (B) The Developer has made The National Grid Electricity Transmission plc (Scotland to England Green Link 1) Compulsory Purchase Order 2023
- (C) The Biodiversity Land benefits from the Planning Permission and is subject to the Planning Obligation.
- (D) The Parties have agreed to enter into this Deed in pursuance of section 39 of the 1981 Act and in order to fulfil the requirements of paragraph 1.2 of the Third Schedule to the Planning Obligation

NOW THIS DEED is made pursuant to section 39 of the 1981 Act, section 111 of the Local Government Act 1972 and section 1 of the Localism Act 2011 and **WITNESSES** as follows:

IT IS AGREED AS FOLLOWS:

1. **DEFINITIONS**

For the purposes of this Deed the following expressions shall have the following meanings:

"1981 Act" means the Wildlife and Countryside Act 1981;

"1990 Act" means the Town and Country Planning Act 1990 (as amended);

"Application" means the application for planning permission dated 7 June 2022 submitted to the Council for the Development, and allocated reference number DM/22/01663/OUT;

| | |
|--|--|
| "Biodiversity Land" | means the areas of land shown edged red on the Plan; |
| "Biodiversity Scheme & Management Plan" | means the plan for the creation of semi-natural habitats on the Biodiversity Land including timescales for such creation, long term management of the habitats and monitoring of delivery, which has been submitted to the Council and approved in accordance with paragraph 1.1 of the Third Schedule to the Planning Obligation and which from time to time may be amended with the written agreement of the Council; |
| "Commencement Date" | means the date upon which the Planning Permission is implemented by the carrying out of any material operation as defined by Section 56 of the Act but, for the avoidance of doubt, the Planning Permission is deemed not to be implemented for the purposes of this definition by any works of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, the carrying out of any decontamination or landfill works, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements; |
| "Development" | means the development of the Biodiversity Land and other land pursuant to the Planning Permission comprising the erection of a new 400 kilovolt electricity substation, a converter station, and the laying out of replacement public open space on land to the west and south of Jade Business Park; |
| "Management and Maintenance" | means the management and maintenance of the Biodiversity Land for the Management and Maintenance Period to be carried out in accordance with the provisions set out in the Biodiversity Scheme & Management Plan; |
| "Management and Maintenance Period" | means the period of 30 years commencing with the date of completion of this Deed; |
| "Plan" | mean the plan attached to this Deed as Schedule 1; |
| "Planning Obligation" | the agreement under Section 106 of the 1990 Act relating to the Planning Permission, dated |

[] 2023 and made between 1) the Council; 2) the Developer

"Planning Permission"

the planning permission granted by the Council on [] for the Development pursuant to the Application together with any non-material amendment thereto pursuant to section 96A of the 1990 Act.

2. CONSTRUCTION

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons shall include companies, corporations and all such words shall be construed interchangeable in that manner.
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.
- 2.5 Any reference to an Act of Parliament shall include modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.6 References to any party to this Deed shall include the successors in title to that party and to any party deriving title through or under that party and in the case of the Council the successors to its respective statutory functions.
- 2.7 In this Deed clause headings and the contents list are for reference only and shall not affect the construction of this Deed.

3. LEGAL BASIS

- 3.1 This Deed is made pursuant to section 39 of the 1981 Act, Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other powers so enabling.
- 3.2 This Deed shall be of no effect until the Commencement Date.
- 3.3 For the avoidance of doubt, this deed shall be binding on persons deriving title to the Biodiversity Land under or from the Developer and shall be enforceable by the Council against those persons accordingly (insofar as the Biodiversity Land lies upon their respective landholdings).

4. **COVENANTS**

- 4.1 The Developer covenants with the Council so as to bind their interest in the Biodiversity Land as set out in Schedule 3.

5. **FEES**

- 5.1 The Developer shall pay to the Council on completion of this Deed the sum of £585 (FIVE HUNDRED AND EIGHTY FIVE POUNDS) incurred in the negotiation, preparation and execution of this Deed.

6. **MISCELLANEOUS**

- 6.1 No provision of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 6.2 Where the agreement, approval, consent or expression of satisfaction is required from the Council under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed.
- 6.3 Any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party.
- 6.4 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 6.5 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or (without the consent of the Developer) it is modified by any statutory procedure or expires prior to the Commencement Date and in any of those events the Council will forthwith effect the cancellation of all entries made in the register of local land charges in respect of this Deed.
- 6.6 No person shall be liable for any breach of or failure to perform any of the provisions of this Deed occurring after it shall have parted with its entire interest in the Biodiversity Land or the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 6.7 Save for the Developer, no statutory authority or service company acquiring part of the Biodiversity Land or any electricity sub-station or gas governor shall be liable for any breach of this Deed.
- 6.8 Notices may be given by either party by letter addressed to the other party at its address or in the case of a company its registered office and any notice given by letter shall be deemed to have been given at the time at which the letter would be delivered in the ordinary course of post or if delivered by hand upon delivery and in proving service by post it shall be sufficient to provide that the notice was properly addressed and posted.

- 6.9 The Developer grants to the Council, its officers, employees, servants, licencees and agents, upon giving fourteen days' notice in writing, free right of access to the Biodiversity Land for all purposes connected with this Deed PROVIDED ALWAYS that the Council has first of all notified the Developer of the reasons for such rights of access being sought and where such rights of access relate to the rectification by the Council of a material breach of any term of this Deed the Developer has been given at least 1 months' notice of such breach and a detailed account of the reasonable measures required to rectify such breach and the Developer has been afforded a reasonable opportunity to rectify such breach himself whereupon the right of access in favour of the Council pursuant to this clause shall lapse upon the Developer satisfying the Council that such breach has been rectified.
- 6.10 In the event of any breach of the provisions of Schedule 3 on the part of the Developer, the Council may serve notice on the Developer requiring the breach to be remedied and if the said breach is not remedied within such reasonable timescale as set out in the notice then the Council may remedy the breach itself and the cost thereof shall be a debt due from the Developer to the Council.

7. DISPUTE RESOLUTION

- 7.1 Where any dispute or difference arises between any of the parties to this Deed, except as to a matter of law which shall remain the jurisdiction of the Courts, any party to such dispute or difference shall be entitled to have the matter referred to the determination of an expert (the "Appointed Expert") having not less than 10 years' relevant experience in the field of the matter in dispute and being a member of the Royal Institution of Chartered Surveyors or if appropriate to the matter in dispute of another professional institution or body the identity of such person in default of agreement being an appointment made on the application of any party to such dispute at any time by or on behalf of the President for the time being of the Royal Institution of Chartered Surveyors.
- 7.2 In the absence of a direction by the Appointed Expert in accordance with this clause as to how the costs of the reference to the Appointed Expert should be borne as between the relevant parties the parties to such dispute shall bear their own costs and shall share equally the costs and charges of the Appointed Expert.
- 7.3 The Appointed Expert shall:
- 7.3.1 afford to each of the parties to the dispute an opportunity to make representations to him in writing and if he/she so directs submissions upon one another's representations;
 - 7.3.2 be entitled to stipulate the periods of time for the making of such representations as is reasonable in the circumstances;
 - 7.3.3 be bound to have regard to such representations;
 - 7.3.4 have the power of making directions as to the responsibility for the costs of his/her award (including both the costs of the relevant parties and the costs and charges of the Appointed Expert) to be met by any party behaving unreasonably.
 - 7.3.5 in the making of his/her award not be liable save to the extent in law as provided in relation to the decisions of an expert.

7.3.6 make rewards which are final and conclusive as between the parties to such dispute (except that such awards shall not remove the parties' rights of appeal on matters of law); and

7.3.7 be replaced by a fresh appointee in the event of his/her becoming at any time unable or unwilling for any reason to proceed to discharge his/her function such fresh appointee to be appointed in the manner prescribed in this clause.

8. **WAIVER**

8.1 No waiver (whether expressed or implied) by the Council or the Developer of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council or the Developer from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

9. **CHANGE IN OWNERSHIP**

9.1 The Developer agrees to give the Council written notice not more than 14 days' after any change in ownership of any of its interest in the Biodiversity Land occurring before all the obligations under this Deed have been discharged, such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area or unit of occupation purchased by reference to a plan.

10. **JURISDICTION**

10.1 This Deed is governed by and interpreted in accordance with the law of England and Wales.

11. **DELIVERY AND EXECUTION**

11.1 The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before

SCHEDULE 1

Plan

DRAFT

SCHEDULE 2

The Biodiversity Scheme and Management Plan

DRAFT

SCHEDULE 3

Covenants

1. The Biodiversity Land shall be Managed and Maintained in accordance with the provisions set out in the Biodiversity Scheme and Management Plan for the Management and Maintenance Period and as follows:
 - 1.1 Features and habitats which have been created for protected and/or notable species and or all other common species shall be retained and shall be managed wherever practicable in accordance with the relevant provisions (with regard to the particular feature, habitat or notable species) of the following (or any reasonable successor replacement thereof):
 - 1.1.1 Part I of the Wildlife and Countryside Act 1981;
 - 1.1.2 Part 3 of the Conservation of Habitats and Species Regulations 2017;
 - 1.1.3 The Durham Biodiversity Action Plan (DBAP)
 - 1.1.4 Natural England's Bat Mitigation Guidelines and the Standing Advice Species Sheet: Bats (2012);
 - 1.1.5 Natural England's Great Crested Newts; Surveys and Mitigation for Development Projects, December 2015;
 - 1.1.6 Natural England's Research Report NERR024 - Managing for Species: Integrating the needs of England's priority species into habitat management, January 2010.
 - 1.2 In such a way as promotes the development and conservation of biodiversity through the natural colonisation of flora and fauna and that no activities shall take place which will prejudice this.
 - 1.3 So far as reasonably practicable be safeguarded against:
 - 1.3.1 harmful and uncontrolled fires;
 - 1.3.2 ploughing or other form of land reclamation or cultivation;
 - 1.3.3 afforestation of planting of trees, shrubs or other vegetation except as may have been approved by the Council from time to time;
 - 1.3.4 the introduction deliberately from elsewhere of any species or variety of animal or plant;
 - 1.3.5 the storage of goods and materials of any nature
 - 1.4 Save as authorised by the Planning Permission or as required for the retention, commissioning, operation, protection, maintenance, surveying, repair, renewal, replacement, removal and decommissioning of the Project, the following acts shall not be carried during the Management and Maintenance Period out unless authorised in writing by the Council:

- 1.4.1 interference with drainage, springs, water courses (but for the avoidance of doubt acts to repair and maintain shall not be a breach of this Deed);
- 1.4.2 carrying out of earthworks, ploughing, disturbance of soil or arable cultivation;
- 1.4.3 use of herbicides, fertilisers and other chemicals (except for the purpose of controlling injurious weeds as defined in section 1 (2) of the Weeds Act 1959);
- 1.4.4 felling or lopping of trees and shrubs (except for the purposes of maintenance);
- 1.4.5 carrying out development within the meaning of Section 55 of the Town and Country Planning Act 1990 (and which for the avoidance of doubt shall include development otherwise permitted by Article 3 and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015);
- 1.4.6 deposition of any material or waste;
- 1.4.7 use of motorcycles or other motor vehicles (except vehicles being used for agricultural or maintenance purposes);
- 1.4.8 bringing of tents or caravans onto it
- 1.5 To regularly remove any rubbish or litter and, so far as reasonably practicable, to keep it free from rubbish and litter.
- 1.6 To promptly and fully inform the Council of any communications concerning it received by the Developer affecting:-
 - 1.6.1 relations with central or local government authorities and regulatory bodies;
 - 1.6.2 drainage; or
 - 1.6.3 the animal or plant life therein or
 - 1.6.4 where works by statutory undertakers or other outside agencies are necessary
- 1.7 If any works to the Biodiversity Land are proposed to be undertaken, the Owner shall take all reasonable measures to agree the scope of those works with the Council prior to such works being undertaken (such agreement not to be unreasonably withheld).
- 1.8 To take all reasonable measures to prevent other persons doing the acts prohibited by this paragraphs 1.3 and 1.4 of this Schedule.
- 1.9 For the avoidance of doubt the covenants in paragraph 1 of this Schedule shall lapse and be of no further force or effect at the conclusion of the Management and Maintenance Period.

Executed as a Deed (but not delivered
Until the date of it) by the affixing of
THE COMMON SEAL of
THE COUNTY COUNCIL OF DURHAM by Order

.....
Authorised Sealing Officer
(A permanent Officer of the County Council)

Executed as a deed by affixing the)
Common seal of **NATIONAL GRID**)
ELECTRICITY TRANSMISSION)
PLC in the presence of:)

Authorised Signatory
Member of the Board Sealing Committee

24 1997

DRAFT

Executed as a Deed (but not delivered

Until the date of it) by the affixing of

THE COMMON SEAL of

THE COUNTY COUNCIL OF DURHAM by Order



Authorised Sealing Officer

(A permanent Officer of the County Council)



597633



The COMMON SEAL of
**NATIONAL GRID ELECTRICITY
TRANSMISSION PLC**
was hereunto affixed
in the presence of:

Authorised Signatory
Member of the Board Sealing Committee

NGET11425

