

Rule 5(2) of the Compulsory Purchase (Inquiries procedure) Rules 2007

Application for the proposed National Grid Electricity Transmission PLC (Scotland to
England Green Link 1) Compulsory Purchase Order 2023

Statement of Case is submitted by the National Farmers Union and Agents Acting on
behalf of its Members and Clients affected by the proposed Scotland to England Green
Link 1 Scheme

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1.0 General Introduction

1.1 On 12th January 2023, National Grid (NG) deposited to the Secretary of State for Transport to make the proposed National Grid (Scotland to England Green Link 1) Compulsory Purchase Order.

1.2 The Compulsory Purchase Order was made in accordance with the procedure contained in the Rule 5 (2) of the Compulsory Purchase (inquiries Procedure) rules 2007.

1.3 The Order, if made, would confer upon National Grid the powers necessary for the compulsory acquisition of land and rights necessary to deliver the English Onshore Scheme components of the Project.

1.4 It is the acquisition of the following that will affect our NFU members and clients of the three represented agents:

- 1 land required to construct and operate the new converter station and substation.
- 2 rights required to install, construct, use, inspect, maintain, repair, protect, alter, renew, remove and decommission the underground electricity cables and associated infrastructure.
- 3 rights required in relation to access, drainage and landscaping.
- 4 rights required in relation to construction compounds.

2.0 Purpose of this Statement of Case

2.1 This statement of case has been prepared by the NFU on behalf of its Farmer and Grower members and agents acting, Youngs RPS, George F White and GSC Grays on behalf of their clients affected by the proposals of the Order as stated above.

2.2 This Statement of Case sets out the particulars of the NFU's and Agents case on behalf of its members and clients for objecting to the Order as will be put forward by National Grid.

2.3 The NFU members and clients affected by the proposals are highlighted below:

Landowner/occupier	Acting Agent	NFU Member
J G Lamb	Youngs RPS	Yes
Hare (Farming) JG	Youngs RPS	No
Colin Stephen Ford	Jonathan Wallis	No

Edward Colin Snowdon & Mary Elizabeth Snowdon	GSC Grays	No
Helen Alexandra Ridley	GSC Grays	No
Keith John Davidson	George F White	Yes
Stephen Moore Gregson	George F White	Yes
Philip Lee	George F White	Yes
Ivan and Simon Weightman	Youngs RPS	Yes
Michael Ronald Ford	Youngs RPS	Yes
Linda and Philip Dryden	Youngs RPS	Yes
Martin Dryden	Youngs RPS	Yes
Katherine Pattison	Youngs RPS	No
Edward Peverley	Youngs RPS	No
Kevin Colin Howes	Youngs RPS	No
Christine Ann Howes	Youngs RPS	No
Victoria Jane Payne	GSC Grays	No
Nobles Promotions Ltd	GSC Grays	No

3.0 Background – NFU Objection (Obj18) Relevant

3.1 National Grid (NG) in their outline statement of case at section 12 has referenced the NFU objection (Obj18) at 12.173 and have stated that they believe the NFU objection is not a relevant objection due to the fact that no NFU members were identified but as the table above highlights the NFU has 8 members affected by this scheme out of the 18 landowners and occupiers affected and represented by the agents identified who the NFU has been engaging with since the announcement of the scheme when the NFU was notified by NG on the 5th March 2021.

3.2 The NFU contacted NG for further information on 13th May when we were notified of the soft launch, the newsletters which had been sent out for SEGL 1 and 2 and that this was so that discussions could take place in regard to the non -intrusive surveys NG were wishing to undertake. The NFU was again in contact with NG on the 9th June 2021 requesting the ‘Scoping Design Data’ and all files were sent through again this was to obtain information for affected members and to help agents acting directly for NFU members and landowners impacted by this scheme. Further information was received from NG following a meeting to confirm National Grid’s approach to requesting survey access, and the

powers which will be relied upon if voluntary agreement cannot be reached on 10th June 2021. The email also clarified what payments NG would be making for taking entry for surveys.

3.3 The NFU held a meeting with agents acting directly for landowners and members on 13th July 2021 to discuss the proposed scheme and the access for surveys being requested. The NFU can confirm that it never acts directly for landowners/members on any infrastructure scheme but works closely with the agents who are acting directly and helps to provide information about a scheme to members affected and works to achieve a better outcome by minimising the impact of a scheme on all landowners affected.

3.4 The NFU was then not contacted again until January 2023 this year by one of the agents, George F White to raise concerns over how discussions were going with NG regarding heads of terms and the lack of detail coming forward regarding the construction of the underground cables and associated infrastructure.

3.5 The NFU has also been working very closely with agents on SEGL 2 on behalf of members and has been in regular contact with NG in regard to all areas of concern raised within this statement of case, including negotiations on the heads of terms.

3.6 The NFU and agents have been in regular contact since January 2023 regarding these concerns and so states the objection submitted by the NFU is very relevant on behalf of its members affected by this scheme.

3.7 The primary concerns submitted by the NFU and agents are as follows:

- **Communication:** There has not been enough direct contact with landowners and their agents to explain how construction of the underground cables will be undertaken and what infrastructure will impact farmers on a permanent basis.
- **Voluntary negotiations:** Heads of terms for a voluntary agreement were received in September 2022 by landowners but there has not been enough negotiation taking place to agree the heads of terms.
- **Cable Depth:** Agents have repeatedly been asking for cables to be at a depth of 1.2m and not 900mm.
- **Field Drainage:** Agents have repeatedly been requesting information as to how field drainage impacted by the construction of the underground cables will be maintained during construction and reinstated post construction.
- **Soils:** The NFU has requested NG to agree to wording set out in a NFU interface document which covers practical issues.

4.0 Communication and Consultation by National Grid

4.1 After the initial launch of the scheme in January 2021 and the consultation in May 2021, the main contact by NG was to agree access for surveys firstly walkover surveys and then intrusive survey access for boreholes, trial pits and trenches from September 2021. Survey work continued with no other contact being made by NG regarding the scheme. The first round of meetings which took place with agents regarding details of the scheme did not start until around June 2022 when basic information was given by NG on the cable route and the freehold acquisition requirements. Agents have repeatedly been requesting practical information on the working width, final easement width, detailed plans of the proposed route, access requirements, working method for installing the cables and cable depth etc. Again, information was requested in February 2023 by Youngs RPS for a client including drawings of working areas, details on compounds required and temporary haul roads, plans of the cable route. Some information has been provided but there are still questions unanswered.

4.2 George F White have also been repeatedly requesting information so that clients can understand how the proposed scheme will affect their clients' landholdings and farm businesses.

4.3 A letter was sent to Hugh Smith at National Grid on 10 November 2022 highlighting the frustration over the lack of engagement by NG and the lack of detailed consultation with clients on how the proposed scheme will affect landholdings and businesses. There have even been issues with NG not believing that a landowner was actually affected by the scheme when plans were actually showing the cables crossing directly through the middle of the land.

4.4 Details of emails and letters sent to NG and Bell Ingram by George F White repeatedly requesting information in regard to the scheme are set out at Annex 1.

4.5 In summary the NFU and Agents Acting strongly believe that NG and Bell Ingram have not been constructively engaging with them or the landowners and farmers. Detailed information has not been forthcoming as highlighted above and in Annex 1. NG have not been present themselves at meetings with only Bell Ingram present who have only been able to provide so much information or state they will have to take instructions from NG or obtain further information. It is strongly felt that NG have not given the attention that is required to landowners and farmers who will be affected by this proposed scheme, have not provided the fundamental details about the scheme and so NG do not understand how the scheme will affect farms and livelihoods.

Request

4.6 National Grid must engage directly with landowners and farmers and their agents, hold meetings on farm to provide detailed practical information over the build and construction of the underground cables, including how soil will be stored and reinstated along with the field drainage strategy.

5. Voluntary Heads of Terms

5.1 A draft set of Heads of Terms were first sent out in September 2022, dated 17th August 2022 with a plan and a copy of the “Construction best practice for underground cables”. An incentive deadline had also been stated as the 4th January 2022. Youngs RPS sent emails on 15th and 16th November 2022 and 2nd December to try to start negotiations on the heads of terms and to move the negotiations on. A chasing email sent on the 6th December and a response was received from Bell Ingram on 16th December 2022. Emails were sent again responding on the 22nd December and 6th January to Bell Ingram.

5.2 Youngs RPS requested the deadline for the incentive was extended and Bell Ingram on the 5th December confirmed to all agents that an extension of 3 weeks had been agreed by NG. Further requests sent to extend the deadline for the incentive payment on 23rd January 2023 and on 30th January Bell Ingram confirmed an extension to the 31st March 2023 with terms to be agreed by 20th February 2023.

5.3 Details of emails and letters sent to NG and Bell Ingram by Youngs RPS repeatedly requesting information in regard to the scheme in negotiations over the heads of terms are set out at Annex 1.

5.4 Since then the agents have been in general discussions but there has been no significant information coming forward so heads of terms have not been progressed.

5.5 The 31st March deadline passed and now NG on 17th August 2023 have offered that the SEGL 2 heads of terms could be taken forward on SEGL 1.

5.6 There is also an issue regarding the length of time landowners will be given to agree and sign the Option as the landowner who is affected by the converter station actually agreed heads of terms back on 22 December 2022 it then took NG two months to return a signed copy on the 21 February 2023. The heads of terms were then sent to the client’s solicitor to start drafting and agreeing the Option. The draft Option received though from NG did not resemble the heads of terms at all and work is still progressing confirmed by the solicitor on 10 August 2023. There is still no Draft Transfer document.

Request

5.7 The NFU and agents would like to be given time to consider the SEGL 2 heads of terms and would like clarification on whether the 16-week period identified at the end of the SEGL2 heads of terms stands giving an incentive payment if Heads of Terms are completed and signed.

5.7 The NFU and agents would like to know what time frame is being considered for completing the Option Agreement taking into account the time that has been required so far for the negotiations on the Option for the Converter Station site which is now at 8 months. No draft Option Agreement has yet been seen.

6. Cable Depth

6.1 The NFU raised initial concerns over the cable depth only being at 900mm at the very start of the scheme when first announced in March 2021 and the NFU knows that NG are very aware that the NFU does not agree to the depth of cables being at 900mm. The request is for cables to be at a depth of 1.2m from the surface to the top of the protective tile.

6.2 The agents have continuously been raising concerns on behalf of their clients in regard to the cables only being at a depth of 900mm and this concern has been raised in the individual objections submitted on behalf of clients.

6.3 A concern has also been raised regarding the depth of cables to in field land drainage. Agents have been stating that they need to understand any drainage design/scheme and how this will work with or influence cable depth.

6.4 NG has responded to the objections that in the draft heads of terms it states: "The cables will generally be laid so as to avoid continued interference with normal agricultural operations as far as reasonably practicable. The cables shall be laid to a contour with a depth of cover not less than 900mm from the original surface to the top of the protective tile above the cables".

6.5 NG/Bell Ingram have also replied to agents stating that a soil assessment will be carried out and that this will be used to ascertain the depth that the cables need to be laid at.

6.6 The NFU strongly believes that from the work that it has undertaken on other electric underground major infrastructure schemes that to be able to avoid interference with normal agricultural operations that cables of this size now need to be at a depth of 1.2m and should only be shallower than this if there is an engineering reason like cables are being laid above rock. The depth of 1.2m has now been agreed on multiple schemes.

6.7 The NFU can confirm that the same concerns have been raised with NG on the SEGL 2 project by the NFU and agents acting for members, landowners and occupiers affected.

Request

6.8 The NFU and agents acting request that all cables are laid to contour at a depth of not less than 1.2m from the restored surface level and that this can only be departed from due to good engineering reasons and if utilities need to be crossed then discussions should take place but in most cases it is assumed that the cables will go under utilities, ditches and drains.

7. Field Drainage

7.1 As stated in the NFU's representation the NFU has specific wording it likes to see agreed to cover field drainage which is highlighted in the NFU's Interface Document. The NFU likes to see the wording either agreed and included in the heads of terms or within the code of construction. The NFU knows that NG is aware of this wording as it has been submitted to NG in regard to the SEGL 2 project. The reinstatement of field drainage is very important to NFU members and landowners affected by infrastructure schemes such as SEGL 1 where large cables are laid underground in trenches and where field drains can be cut through during construction.

7.2 The agents have been requesting information regarding how field drainage will be dealt with since November 2022. A request was made about working methods to make sure that clients new how field drainage would be dealt with and reinstated. A further request was sent by George F White on 14 February 2023 to Bell Ingram asking how drainage would be dealt with before, during and after the works. Bell Ingram responded on the 2 March 2023 but only to confirm that flood assessments had been carried out. A further email was sent requesting the same information on 30 March 2023 which also stated that a drainage specialist needed to be instructed. On the 3 April 2023 Bell Ingram provided the NG Construction best practice to respond to how field drainage would be dealt with but still did not mention how any drainage plans or in practice how individual issues on each clients holding would be addressed.

7.3 Further an email on the 27th April 2023 at last confirmed that the firm LDCL had been appointed as the land drainage consultants to cover land drainage and cable depth issues. A meeting was arranged for one George F White client to take place on 18th May 2023 and only the drainage consultants LDCL turned up at the farm. LDCL confirmed that they had only received instructions from NG to find out information about the drainage on site but not to provide any information as to how drainage works may be carried out.

7.4 It is understood by the NFU and agents that LDCL have been asked to prepare a report for NG and at the earliest this will not be completed until October 2023. Further it is understood that LDCL are not instructed to do pre and post drainage plans and this is why wording to cover this has not been included in the heads of terms.

7.5 The Construction Best Practice outlines the following:

- The Construction Working Width will be restored to a condition no worse than recorded at the pre-construction assessment,
- Repairing damage to field drainage systems and or carrying out any additional drainage work will be agreed with landowners,
- If agreement cannot be reached then the matter will be referred to an independent expert,

- Drains located during works to have the location recorded with pegs and GPS and photos taken of any repairs along with landowners and occupiers being able to inspect the works,
- Header drains will be installed where required before construction begins,
- After the cables are installed, NG will carry out the drainage works as agreed between NG and the landowner and occupier. The timings of the works to be agreed,
- NG will be responsible for any repairs or losses resulting from defects during the duration of the easement as long as the landowner has been maintaining the drains.

Request

7.6 The NFU and agents would like clarification on how all the drainage issues raised are going to be addressed to enable landowners and occupiers to understand how works which may impact land drains will be rectified.

7.7 The report that LDCL is undertaking is it a pre -construction drainage assessment and that pre - construction drainage plans will be produced as stated within the Construction Best Practice?

It is not understood why LDCL are stating that they have not been instructed to do pre and post drainage plans. If LDCL is not carrying out this work, then which contractor will be doing this work? The NFU and agents would like to know how all the drainage works above are going to be communicated and agreed with landowners and occupiers. Are LDCL drainage consultants going to stay as the drainage consultant through out the works and post works? Is there to be a different drainage contractor carrying out the work? Is there to be an Agricultural Liaison Officer who will liaise between the drainage consultants and contractors and the Landowners and occupiers when the drainage design needs to be agreed or when repairs to drains have been carried out and need to be inspected?

7.8 Due to the lack of information coming forward to date on land drains it is really important that landowners and occupiers understand how the work identified in the Construction best practice will be carried out and agreed.

8.0 Soils – Management and Reinstatement

8.1. The NFU and agents have raised concerns regarding soil storage and reinstatement in emails and in the individual objections submitted on behalf of clients. Landowners and occupiers are seeking reassurance as to how soils will be managed during construction and reinstated to their condition pre-works.

8.2 The wording included in the SEGL 1 heads of terms, and the Construction Best Practice is not specifically detailed enough. The heads of terms and the Best Practice state that the soil will be reinstated to a pre-works condition as far as reasonably possible having carried out a photographic

pre-entry schedule of condition by an ALO. There is nothing else included in the heads of terms to cover how soil will be treated during the works and within the Best Practice document all that is stated is that topsoil and sub soil will be stored separately, the height of topsoil bunds restricted to reduce compaction and soil stripping will only take place on the construction area. The NFU and agents would like to see greater outline detail included either directly in the heads of terms or within the Best Practice Document.

Request

8.3. It is agreed that a photographic record of condition will need to be carried out, but a pre-construction soil statement will also need to be carried out so that the contractors carrying out the works know what condition the soil was in before works started.

8.4 The NFU and agents would also like to see NG appointing a soil specialist to manage soil handling during the works and have the necessary input into the reinstatement. The wording that the NFU would like to see included is set out in the Interface Document which also covers work during wet weather conditions, treatment of topsoil bunds, water discharge, weed growth and after reinstatement how soil testing should be carried out to inform aftercare of the soils to restore the soil to the pre soil works condition. The NFU would like to see aftercare being carried out for 5 years if necessary.

8.5 The wording that the NFU and agents would like to see included in the heads of terms and/or within the Best Practice document is included in the Interface Document submitted by the NFU with the Objection.

9.0 Conclusion

9.1 The NFU and the agents acting at the present time object strongly to National Grid being granted compulsory powers to carry out the proposed SEGL 1 scheme including all land and rights required until National Grid has engaged and carried out meaningful negotiation providing the necessary information with landowners, farmers, agents acting and the NFU.

Annex 1 - Communication

George F White – Requesting Information and Consultation

- 1) **28th October 2022** - An email was sent to Bell Ingram requesting:
 - a plan with easement and working width dimensions,
 - dates for a meeting,
 - information on professional fees
 - latest set of Heads of Terms
 - detail regarding other projects on clients' land

- 2) **10th November 2022** – A letter to Hugh Smith at National Grid requesting:
 - Clear plans of the route with dimensions of the working width and easement
 - Working method of installing the cables
 - How reinstatement of field drainage will be undertaken
 - Access and ancillary routes needed to be able to install the cables.
 - Understanding of other projects/developments on clients' land
 - Cost undertaking of professional fees
 - Dates for meetings

- 3) **6th December 2022** – An email to Bell Ingram stating:
 - How do NG expect agents and landowners to engage in meaningful negotiation when Bell Ingram as their agents seem to be unclear to the extent of the scheme and how it will impact landowners.
 - Still no information forthcoming following the requests in the email and letter of the 28th October and 10th November.

- 4) **14th February 2023** – a letter to Bell Ingram requesting again the following information:
 - Detailed plan of route with measurements of working and easement width
 - Confirm cable route and types of cables.
 - Route options
 - Access points and access requirements
 - Other apparatus to be installed on clients' land.
 - Aware of coastal erosion on land and impact on cable depth
 - Details of the construction compound
 - Understanding of landholdings respective development opportunities
 - Field drainage strategy and reinstatement

- 5) A response received from Bell Ingram **3rd March 2023 covering the following:**
 - A plan provided of the route with measurements.

- Drainage – confirmed flood assessments carried out.
 - NG aware of projects/development potential on a landholding
 - Access points provided.
 - Other apparatus -informed link boxes may be required but no information.
 - No information forthcoming on the following
 - Access routes and maintenance
 - Construction of compound details
 - Alternative route assessment
 - Cable requirements, location and depth
 - No information on drainage strategy or reinstatement
- 6)** A meeting was held between Bell Ingram and George F White on **30th March 2023** and after the meeting an email was sent requesting:
- Plans showing the location of cables and associated infrastructure.
 - Access points
 - Cable depth
 - Drainage strategy
 - A request for a meeting with NG representatives for the project with authority to make decisions required to enable negotiation to progress.

GSCG Grays - Requesting Information

9th September 2022:

- GSCG Grays requests for more detailed plans of cable route and timeline of events.
- Still have no more detailed plans other than straight line plan (i.e., no infrastructure included)

26th September 2022:

- GSCG confirmation of receiving to HoTs' include proposal to change the route around the car boot site.

27th September 2022:

- Bell Ingram confirms that re-route proposal from GSCG around car park has been put to NG design team.

21st October 2022

- Brief response from NG regarding moving cable route.

30th January 2023

- GSCG Grays asks if any update has been made on the re-route proposal.

22nd February 2023

- Bell Ingram email with detailed decision on why route cannot be moved, first requested in Sept 2022.

22nd February 2023

- GSCG points out to Bell Ingram that Grays had to read through the Statement of Reasons and HOT's to work out that the compound, TPJ and link pillars will be on the client's land. This information regarding the infrastructure was not divulged by NG or BI.

March 2023

- Email from Bell Ingram in March 2023 that car boot needs to move site from Oct 2024 for 3 years. Found out by email 21.08.2023 when discussing the requirements for grass seeding a temporary site for the boot sale area that work in that location will not take place until March 2026.

Youngs RPS – Communication on Heads of Terms**15 November 2022**

- Email to Bell Ingram to start negotiations on Heads of Terms following agreement of claims.

16 November 2022

- Follow up email to Bell Ingram setting out points to start to negotiate Heads of Terms.

2 December 2022

- Meeting with Bell Ingram to try to move Heads of Terms forward.

5 December 2022

- Follow up email to Bell Ingram & request for extension to incentive deadline.

5 December 2022

- Email from Bell Ingram offering 3-week extension to incentive deadline.

6 December 2022

- Chase up Heads of Terms with BI.

16 December 2022

- Response from BI in relation to proposed Heads of Terms. Provision of flood survey maps and Joint Bay plans.

22 December 2022

- YRPS responded to BI in relation to Heads of Terms.

6 January 2023

- Further points sent by email to BI to negotiate Heads of Terms.

13 January 2023

- Email BI confirming that CPO documents would be sent by clients. Replied asking for copies of all correspondence. This has not yet been received.

16 January 2023

- Email to BI requesting extension to incentive deadline and further feedback on Heads of Terms.

23 January 2023

- Further chaser email, and request for extension of incentive deadline.

23 January 2023

- Response from BI in relation to Heads of Terms.

24 January 2023

- Email to confirm receipt of Heads of Terms comments, and request for update on incentive deadline.

25 January 2023

- Draft revised Heads of Terms received from Bell Ingram.

30 January 2023

- Incentive deadline extended to 31 March, with terms to be agreed by 20 February. Copy of email included below. Note this email was received after the previous deadline had passed on 25.01.23.

7 February 2023

- Email to Bell Ingram re. revised Heads of Terms.