

IN THE MATTER OF THE NATIONAL GRID ELECTRICITY  
TRANSMISSION (HARKER ENERGY ENABLEMENT PROJECT)  
COMPULSORY PURCHASE ORDER 2023

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**WRITTEN STATEMENT  
ON BEHALF OF JAMES WESTOLL AND RICHARD  
FAIRFAX WESTOLL**

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**Introduction**

Below is the Written Statement on behalf of James Westoll and Richard Fairfax Westoll (“the Objector”), pursuant to Rules 15(1), (2) and (3) of the Compulsory Purchase (Inquiries Procedure) Rules 2007 (modified by the Compulsory Purchase (Inquiries Procedure) (Miscellaneous Amendments and Electronic Communications) Rules 2018). This is in connection with the National Grid Electricity Transmission (Harker Energy Enablement Project) Compulsory Purchase Order 2023 (“the Order”), made by the National Grid Electricity Transmission Plc (“NGET”) on 28<sup>th</sup> September 2023. The Objector reserves the right to amend or expand the Written Statement below as necessary.

**Responses to submissions in NGET’s Statement of Case**

1. Contrary to 9.1 of NGET’s Statement of Case, NGET has not engaged constructively in meaningful discussions with a view to acquiring new rights by agreement, as required by the *Guidance on Compulsory purchase process and The Crichel Down Rules* (July 2019) (the CPO Guidance). Specifically, Bruton Knowles (BK), acting on behalf of and managed/instructed by NGET, has refused to confirm how they have accounted for impact on hope value in their proposals, as they allege to have done. This is unusual in negotiations of this nature and is potentially in

breach of the expected standards of reasonable conduct laid down in the mandatory RICS Professional Statement *Surveyors advising in respect of compulsory purchase and statutory compensation* (1<sup>st</sup> edition, April 2017). This is because refusing to provide this crucial information conceals the valuation and compensation amounts applied, thereby preventing the offer from being scrutinised and meaningful discussions from taking place.

2. Contrary to 9.4 of NGET's Statement of Case, NGET's land rights strategy does not ensure people are treated fairly and consistently. As evidenced by NGET's Schedule of Landowner Engagement, out of the landowners who have accepted offers for Deeds, a number are not professionally represented. NGET's land rights strategy does not include a mechanism to ensure these landowners are treated fairly and consistently, when compared with landowners who are represented. To further explain, NGET's land rights strategy adopts a set payment per tower and does not have regard to the injurious affection caused by the towers, merely stating "*injurious affection* and any other appropriate Heads of Claim will be considered on an individual basis in accordance with current legislation.". This relies solely on the landowner to ensure they are treated fairly and consistently. BK applied uplifts in their initial offers to some landowners but not others, further demonstrating a lack of fairness and consistency.

3. Contrary to 9.10 of NGET's Statement of Case, NGET is not continuing to progress negotiations throughout the CPO process in order to acquire rights by agreement where possible, in accordance with the CPO Guidance. Despite multiple requests, BK refused to provide the information referred to in 1 above and refused to discuss certain aspects, such as the impact of the overhead lines on potential development. Notwithstanding the above, the Objector resolved to accept BK's latest offer, but NGET's failure to formalise this agreement prior to the deadline for this Written Statement resulted in the expiry of the Objector's acceptance. This situation reinforces NGET's failure to acquire rights by agreement where possible,

simultaneously highlighting concerns about potentially strategising to exhaust the Objectors' opportunities for submitting this Written Statement. In addition, NGET does not require the rights and therefore does not need to run the CPO process in parallel with private treaty negotiations, as further explained at 4 below. By acquiring the rights, NGET removes its potential future financial liability to landowners whose land comes forward for development or other initiatives (which leads to claims for the loss of such development), but these rights are not required to deliver the Project.

4. Contrary to 9.11 of NGET's Statement of Case, it is not essential for NGET to secure the grant of permanent easements on the overhead lines rather than wayleaves. While it is acknowledged, as per 9.12 of NGET's Statement of Case, that wayleaves are terminable on notice by the landowner, this does not result in the infrastructure having to be removed. Paragraph 8(2) of Schedule 4 to the Electricity Act 1989 provides that, even where a landowner gives Notice to Remove, the licence holder shall not be obliged to comply with such a notice except where the licence holder fails to make an application for the grant of a Necessary Wayleave or an order authorising the compulsory purchase of the land within 3 months. In practical terms, this means that all NGET would need to do, in the event of receiving a valid Notice to Remove, is apply for a Necessary Wayleave (which is a straightforward application) within 3 months. Accordingly, NGET already has the rights necessary to lawfully retain its overhead lines. Furthermore, not all of the apparatus for which NGET is seeking to secure rights is essential either. NGET is seeking rights for towers of unspecified height and up to 24 conductors, operating at an unspecified voltage. This would provide the right for NGET to replace the towers with much larger towers and increase the conductors and voltage (including on land owned by the landowners it has reached agreement with), which is not required.

5. Contrary to 9.11(a) of NGET's Statement of Case, it is not in the public interest for NGET to obtain permanent rather than temporary rights.

As explained at 4 above, the existing rights for the overhead lines already provide sufficient security for the electricity supply network. The Project underlying the Order can therefore be achieved without NGET obtaining the rights, which means the use of compulsory purchase powers is unnecessary and NGET has failed to minimise the acquisition of rights, thereby contravening CPO Guidance. Further, acquiring the rights requires NGET to pay compensation for loss, which includes loss of hope value (potential development value), as exists on the Objector's land (although NGET has so far refused to consider impact on hope value). An implication of this is that, by acquiring rights now rather than when needed (following receipt of a valid Notice to Remove), NGET is obliged to pay compensation for potential development losses that may never be incurred. This unnecessarily increases the costs of the Project and is also not in the Objector's interests, who would equally be forced to accept a speculative assessment now that might only reflect a fraction of their eventual loss.

6. Contrary to 10.1 and 10.2 of NGET's Statement of Case, NGET has not helped owners and occupiers affected by the Order by meeting reasonable professional advisors fees in accordance with the advice provided at paragraph 19 of the CPO Guidance. BK initially confirmed NGET's agreement to contribute to professional fees. However, after the Objector's professional advisor had subsequently incurred considerable time and costs, BK then confirmed that NGET would only reimburse any contribution to professional fees on completion of a Deed of Easement. The implication of this shift being that NGET has reneged on its agreement to reimburse professional fees, resulting in the Objector either being forced to accept BK's terms or face the prospect of escalating costs by referring the matter of unpaid professional fees to a court, or else the Objector and/or their professional advisor will have to fund these fees themselves. This situation contradicts the notion of support, as NGET's offer to meet

professional fees is predicated on acceptance of their terms, rather than being unconditional support as owners/occupiers might have expected.

### **Responses to replies to Objections in NGET's Statement of Case**

7. In light of the circumstances described at 3 above, in terms of the Objectors having accepted BK's latest proposal but this agreement not being documented by the deadline for this Written Statement, leading to their acceptance expiring and this Written Statement therefore having to be prepared in haste, the Objectors have not had time to include their responses to NGET's replies to their Objections in this Written Statement. In view of this, and the matters raised in NGET's Statement of Case, the Objectors presently intend to call witnesses to the inquiry on the following issues:

- a) the need for the Project and the compelling case in the public interest for the Order; and
- b) land and rights acquisition matters; and
- c) land management matters; and
- d) the necessity of the use of compulsory purchase powers.

The Objector reserves their right to submit evidence in relation to further matters, and to refer to the documents in NGET's Core Documents list, in addition to documents related to points made in their objections (with the prior permission of the Inspector), in the event that it is necessary to do so.

8. Accordingly, the Secretary of State should not confirm the Order, or should confirm it modified to exclude the rights over the Objectors lands.

SIGNED:

A handwritten signature in black ink, appearing to be 'M. S. S. S.', written in a cursive style.

DATED:

12.02.2024