

Guidance on Land Rights for New Electricity Transmission Assets (England and Wales)

V4



INTRODUCTION

National Grid is not a generator of electricity. National Grid transports electricity from the power generating facilities around the UK via its overhead transmission network to customers in the regional distribution areas. The network must have sufficient capacity and, as the cost of transmitting the electricity ultimately passes through to the end customer, it is important for National Grid to find the most cost-effective way of connecting new sources of power generation consistent with its duty to maintain 'an efficient, co-ordinated and economical' system of electricity transmission.

Since the introduction of the Planning Act 2008, most new electricity transmission assets in England and Wales will require a Development Consent Order (DCO) from the Planning Inspectorate. A Development Consent Order provides planning consent as well as associated land rights, rather than land rights being sought by way of a separate Compulsory Purchase Order (CPO).

As National Grid owns and operates nationally significant infrastructure, specifically the country's electricity transmission network, National Grid will seek to obtain permanent land rights by negotiation for all new electricity transmission assets. This approach is consistent for all new National Grid assets, including overhead power lines, underground electricity cables and gas transmission pipelines where permanent land rights are required.

The purpose of this guidance note is to explain National Grid's process for obtaining land rights for new electricity transmission assets for a DCO or CPO project.

1. NON-CONTACT LAND REFERENCING

National Grid must identify and consult with everyone who has an interest in land which is either the subject of, or may be affected by, the development of new electricity transmission assets.

"People with an interest in land" are defined as owners, tenants, occupiers and mortgagees and also anyone who exercises rights over land, for example, private rights of way, sporting rights or rights to receive payments in respect of land.

For all new electricity projects, National Grid will seek to identify everyone who has an interest in the land which may be affected by the new electricity transmission assets. National Grid will use public sources of information, such as information held by HM Land Registry, to create an initial Book of Reference which details all people with an interest in land, who are affected or may be affected, by the project.

2. CONTACT LAND REFERENCING

When a route corridor for proposed new electricity transmission assets has been identified and announced, National Grid will make enquiries to identify and confirm all relevant land interests as well as the extent to which they apply within the route corridor. As a part of this exercise National Grid will endeavour to contact and meet with every person with an interest within the route corridor. At this time, National Grid will seek to establish full contact details for every person with an interest in land and request the details of their appointed land agent and/or solicitor.

National Grid will issue a Landowner Interest Questionnaire (LIQ) for people with an interest in land to ensure the correct information is held in relation to each parcel of land. The information collected through the LIQ will be used to refine the Book of Reference to formally record all relevant land interests within or affected by the route corridor.

National Grid hopes that everyone contacted, including appointed land agents will co-operate and provide information on land interests voluntarily. However, if National Grid is unable to obtain the required information for the application voluntarily, Section 52 of the Planning Act 2008 enables National Grid to seek authorisation from the Planning Inspectorate to serve a statutory notice. This will require full and accurate information regarding all relevant land interests to be provided. National Grid will use this statutory process as a last resort, after repeated and unsuccessful attempts have been made to obtain the required information voluntarily.

3. ACCESS FOR ENGINEERING AND ENVIRONMENTAL SURVEYS

National Grid will be required to carry out a number of engineering, ecological and environmental surveys on land affected by the project. All surveys and investigation works carried out by National Grid's appointed contractors and are critical in identifying and understanding constraints that influence the routing of the new electricity transmission assets.

Some ecological and environmental surveys will be time critical and can only be carried out at specific times of the year. Engineering surveys may involve the drilling of boreholes or the excavation of trial pits to assess ground conditions. A schedule of proposed surveys, including the type, timing and duration of surveys, will be discussed with landowners and occupiers in as much detail as possible.

Whilst voluntary agreement for conducting surveys is always sought, National Grid has statutory rights to gain access to land for surveys and investigation works. The Payments Schedule for New Electricity Transmission Assets details the payments made in respect of survey access, these payments are not made for the grant of access rights but are advance payments in recognition of damage and disturbance that could potentially be caused by survey and investigation works. The payment does not preclude negotiation for further compensation where additional land damage and disturbance has been caused and will be settled after surveys are completed.

Where an agreement for taking access onto land for survey requirements cannot be reached voluntarily, National Grid will use its powers to take access. There are three ways in which access can be taken:

1. Schedule 4 of the Electricity Act 1989, paragraph 10 enables National Grid in its capacity as a statutory undertaker to take access to land for surveys. A statutory notice would be served on the relevant person giving at least 14 days notice of access to land for survey being taken. If access is still refused following the service of a statutory notice, then the relevant person would be committing a criminal offence which carries a penalty of up to £1000.
2. Section 172 of the Housing and Planning Act 2016 authorises National Grid as an acquiring authority to access land in order to survey or value land where there is a proposal to acquire an interest in land or a right over land. A statutory notice would be served on the relevant person giving at least 14 days notice of access to land for survey being taken.
3. Section 53 of the Planning Act 2008 allows National Grid to seek authorisation for access to land for surveys from the Planning Inspectorate.

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3. Section 53 of the Planning Act 2008 allows National Grid to seek authorisation for access to land for surveys from the Planning Inspectorate.

4. AGREEMENT TO GRANT AN EASEMENT

Once National Grid has identified a route alignment for the proposed new electricity transmission assets, it will seek to enter into an Agreement to Grant an Easement with owners, tenants and mortgagees of the land which the new electricity transmission assets may affect. The Agreement enables National Grid to take entry onto the land on notice following the grant of planning consent to construct the new electricity transmission assets.

The Agreement allows for changes in the final route alignment within a specified corridor as a consequence of public consultation and during construction as a result of engineering requirements, surveys and other routing factors. Once construction is complete the Agreement allows National Grid to enter into an Easement in respect of the new, as built, electricity transmission assets.

The Payments Schedule for New Electricity Transmission Assets sets out the amount that will be paid in respect of the Easement.

Once the Agreement has been signed, up to the completion of the Easement or expiry of the Agreement, landowners and occupiers are restricted from doing anything that would adversely affect National Grid's ability to take and benefit from the Easement.

If landowners transfer their interest in the affected land, they must oblige the incoming owners to enter into agreement with National Grid on the same terms.

The Agreement authorises National Grid to sign and complete the Easement as an attorney of the landowner and occupier. The Easement may also be signed on behalf of any mortgagee by National Grid as an attorney, although a separate consent from the mortgagee would also be sufficient.

Even for land where voluntary Agreements are in place, National Grid will still apply for compulsory powers to acquire land rights in its application because:

the Order must comprehensively list all necessary land rights in relation to the entirety of the new electricity transmission assets;

if insufficient or incomplete land rights are obtained through voluntary agreements, National Grid must be able to rely upon the land rights granted to it under the Order in order to avoid any delay and/or additional cost in constructing its new electricity transmission assets;

National Grid will continue to voluntarily agree land rights with landowners right up to the point at which the Order is granted. On submission of its application for a Development Consent Order or Compulsory Purchase Order, National Grid will not know whether compulsory powers will need to be relied upon to acquire the necessary land rights. The application must therefore include all land rights needed to construct and subsequently operate the new electricity transmission assets.

National Grid will always seek to acquire land rights by negotiation, and we will always try to negotiate terms by voluntary agreement where possible. Terms are negotiated with landowners over a period of months but ultimately a landowner can refuse to voluntarily agree.

Where National Grid has been unable to obtain a voluntary agreement from a third party, National Grid will seek to acquire the relevant land or land rights through the compulsory acquisition powers granted to it through the Order. Compulsory powers would only be granted to National Grid if the rights sought are in the public interest and provided that reasonable efforts had been made to agree by voluntary means.

A copy of the Order and a compulsory acquisition notice will be served by National Grid on the relevant third party and the notice will be posted on or near to the relevant land. Generally, following the processes for compulsory acquisition of land and land rights under both Part 1 of the Compulsory Purchase Act 1965 and the Acquisition of Land Act 1981, National Grid will implement the compulsory acquisition provisions of the Order by serving a Notice to Treat or, if the Order provides, by a General Vesting Declaration. Compensation would then be calculated and, if due, payable to the relevant third party in accordance with the relevant provisions of the land compensation legislation.

5. WORKING WITH THIRD PARTY LAND AGENTS

National Grid wants to engage fully, not only with all those having an interest in land which may be affected by its proposed new electricity transmission assets, but also with their appointed land agents to obtain accurate and comprehensive information about all relevant land interests, agree access to land for engineering, ecological and environmental surveys, and in relation to the acquisition of required land rights.

Following identification of the route corridor for the proposed new electricity transmission assets, National Grid will organise consultation/information events to which people with an interest in land within the route corridor will be invited together with their professional advisors. National Grid's Project Team will be available at these events to answer questions in relation to the status of the project and the process for acquiring the necessary land rights.

FURTHER INFORMATION CAN BE OBTAINED BY VISITING NATIONAL GRID'S WEBSITE
WWW.NATIONALGRID.COM

FREQUENTLY ASKED QUESTIONS

QUESTION 1: If I sign an Agreement to Grant an Easement with National Grid, I don't understand why National Grid also needs rights to compulsorily acquire my land?

ANSWER: All land rights which are necessary for new electricity transmission assets must be included within the application. The compulsory rights enable National Grid to deliver its statutory and contractual duties without interruption if, for any reason, the voluntary rights are subsequently removed, prove to be insufficient or are not granted.

QUESTION 2: Why do National Grid require an Easement, rather than a Wayleave?

ANSWER: National Grid owns and operates nationally significant infrastructure and can only ensure certainty and continuity of electricity supply through permanent Easements.

QUESTION 3: Am I able to enter into an Easement now rather than an Agreement?

ANSWER: National Grid is securing land rights at the same time as undertaking stakeholder engagement and public consultation as required by legislation. Such engagement and consultation as well as the determination of the application may result in changes to the route alignment of the proposed new electricity transmission assets. It would be inappropriate for National Grid to complete Easements and make full payment until such time as it obtains planning consent for the new electricity transmission assets and understands the terms and conditions on which the Order is granted. This also avoids land being burdened with an Easement which is not required.

QUESTION 4: I don't need to appoint and use a land agent. Will you pay me the fee (£150.00) for completing the Landowner Questionnaire?

ANSWER: National Grid acknowledges that landowners may prefer to engage professional assistance in order to properly complete the Landowner Questionnaire. The fee contribution of £150.00 is therefore offered so that landowners may use a professional advisor. It is a contribution towards that professional cost if incurred. It is not a payment for the completion of the Landowner Questionnaire.

QUESTION 5: Am I able to obtain compensation through the compulsory land acquisition process rather than agree the Easement consideration with National Grid voluntarily?

ANSWER: National Grid is confident that the payments set out in The Payments Schedule for New Electricity Transmission Assets are competitive in comparison to the likely compensation that may be awarded under land compensation legislation.