

LAND AND NEGOTIATIONS

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

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STATEMENT OF EVIDENCE

OF

NIGEL BILLINGSLEY BSc MRICS Pg Dip MCIWM OF BRUTON KNOWLES

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## **1 Qualifications and Experience**

- 1.1 My full name is Nigel Billingsley. I am an equity partner at Bruton Knowles Limited, a firm of chartered surveyors with the head office at Olympus House, Quedgeley, Gloucester GL2 4NF. The firm operates from some 12 offices throughout the UK. I lead our Utility & Infrastructure team across the Midlands and North.
- 1.2 I am a member of The Royal Institution of Chartered Surveyors (RICS) having qualified in 1990, I am also an RICS registered valuer and a member of the Compulsory Purchase Association. I obtained a BSc Degree in Minerals and Estates Management from Sheffield Polytechnic in 1988 and was awarded a post graduate diploma in Urban Studies from Northumbria University in 1992. I was Estates and Consents Manager for Scottish Power Manweb between 1998 and 2000 and have worked as a consultant to the electricity industry since 2004.
- 1.3 I have worked for Bruton Knowles since 2004 and have practiced predominantly within the field of compulsory purchase and compensation. I have acted for a number of acquiring authority clients and claimants affected by projects including Compulsory Purchase Orders (CPO), Development Consent Orders (DCO) and Transport & Works Act Orders (TWAO). I attach a CV noting similar projects that I have worked on in recent years as appendix NB01.

## **2 Involvement with the Project**

- 2.1 The Harker Energy Enablement Project to which the National Grid Electricity Transmission (Harker Energy Enablement Project) Compulsory Purchase Order 2023 (the Order, **CD D01**) relates is a program of works to update the Harker electricity substation and associated overhead lines to enhance the transmission of electricity between England and Scotland. The works comprising the Harker Project are more fully described in the evidence of Mr Brown and throughout this statement of evidence I refer to these works as the Project.
- 2.2 Bruton Knowles were appointed on a framework to provide property and land agency services to National Grid Electricity Transmission Limited (NGET). Following a tender exercise Bruton Knowles were appointed to provide land Agency and property support to the Project. in July 2022.

2.3 NGET in house estates team and Fisher German LLP, a firm of chartered surveyors, commenced work on the Project in July 2021 prior to making contact with landowners in September of that year. . Fisher German and NGET estates team had contacted landowners and sought to acquire permanent rights for the existing electricity apparatus crossing their land. In addition, the NGET team had negotiated the purchase of land adjacent to the existing Harker substation site that was already in the ownership of NGET. Upon instruction Bruton Knowles were briefed by NGET surveyors on the land agency work undertaken to date and a copy of correspondence between Fisher German and landowners was electronically passed to Bruton Knowles. By letters of 20th September 2022 Bruton Knowles wrote to landowners explaining that the the firm had taken over the project from Fisher German LLP. However there was a need to arrange surveys in the Summer of 2022 and a number of landowners were contacted in August 2022 to arrange survey access.

### **3 INTRODUCTION AND SCOPE OF EVIDENCE**

3.1 As lead partner for the Project, my role is to oversee the property negotiations with those affected by the Project. I have been directly involved in negotiations with larger landowners and more complex claims and provided overarching guidance on other negotiations.

3.2 I am aware of the details of the Project from the study of the application documents including Project drawings. I have familiarised myself with the properties affected and the locality of the various sites where the works are to take place by attending these locations and viewing from the public highway. I have also attended meetings with the wider Project team.

3.3 Bruton Knowles employ a number of staff to undertake land agency work on a project of this scale, key members of the team were Patrick Hackett AssocRICS who led the work from commencement until July 2023 and Chris Renshaw MRICS who led the work from July 2023, they were responsible for delivery of the Project on a daily basis and reporting progress to the client. In their roles they undertook negotiations with landowners and organised access for surveys utilising junior team members to support them as necessary. In addition Lynn Alderson and Adam Taylor led the process of land referencing with Damien Garrigan leading on GIS and plan production. In writing this statement I have had regard to information passed to me by those members of staff. In addition, I have been given information by NGET in particular David Harker who was NGET's lead surveyor until July 2023 and latterly Steven Hesketh who is the

current lead surveyor. Information from Addleshaw Goddard Solicitors and the wider project team including Jason Brown, the project manager, has also been considered.

3.4 I have studied publicly available information on properties that I have not been able to inspect, and I have considered the objections and representations that have been submitted.

3.5 This proof is one of four statements of evidence on behalf of NEGТ and I refer to the statements of evidence of the following;

- Jason Brown – Project Need and engineering
- Emma Pickard – Planning and Consenting
- Tim Kell – Ecology

3.6 In this statement of evidence I will consider the following:

- A description of the land that is affected by the Order.
- A consideration of the land and rights sought under the Order.
- A commentary regarding the strategy adopted to acquire rights and land.
- Negotiations to date with landowners.
- Compliance with the requirements of CPO rules.
- Consideration of outstanding objections.

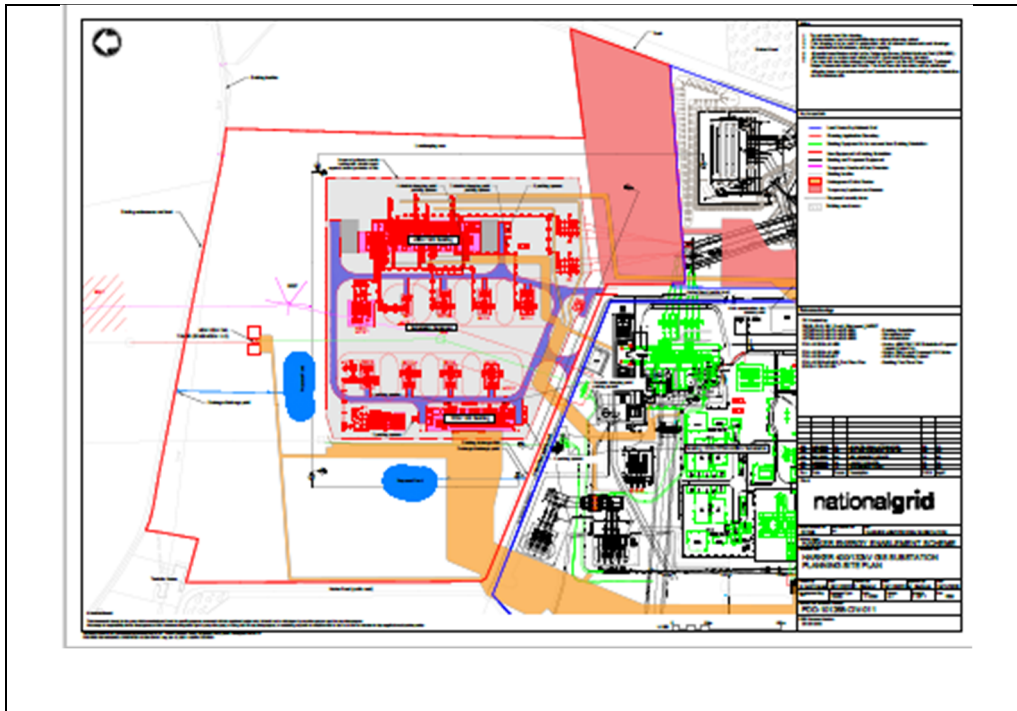
#### **4 DESCRIPTION OF THE ORDER LAND**

4.1 The land subject to proposed compulsory acquisition in the Order falls into two categories: that which is subject to freehold acquisition (shown in pink on the CPO plans, **CD D02**) and that which is subject to the acquisition of new rights in land (shown in blue on the CPO plans). Together, that land is described in my evidence as the Order land.

4.2 In summary, the Order land consists of a parcel of land upon which the Substation redevelopment will take place. This includes three existing substation units known as HARK1



Hark 2 and Hark 4. A plan showing the Substation extension is included in appendix B of the Statement of Case (CD D06) and is reproduced below.



4.3 The remaining Order land is land is a corridor of land within which sit three separate overhead powerlines along with their Towers<sup>1</sup>. In addition, land over which access is required along with passing bays and areas of land required for construction compounds and other ancillary uses required to facilitate the Project is included within the Order. I set out below a satellite image with the Order land shown outlined in red and the land coloured pink, the substation site can be seen in the South East corner of the image.

<sup>1</sup> Towers is the name given to the structures which carry the overhead lines by the Electricity industry, towers are more commonly referred to as pylons, however in this proof I will refer to them as towers



4.4 The Order land covers three Overhead line routes which I list below;

- (a) V route which runs for 13Km to the North of the Harker substation site crossing predominantly agricultural land but also skirts the town of Longtown.

(b) AL route connects to the V route some 1km to the south of the Scottish Border from where it runs for 3.5km to the east where it joins the Scottish electricity transmission network.

(c) T route is 6.5Km route which crosses agricultural land and then continues across the River Esk where it links to the Scottish transmission network North of the River.

4.5 The Order land is more particularly shown in the Order plans which accompanied Order. The plans show the land where rights are required in blue, and the plans clearly show the majority of the land within the Order is required for rights only. The land that is to be used for the substation, plots 202, and plots 205 to 210 are coloured pink on the Order plans and NGET have acquired this land, with the final transaction having completed in March 2023. The Substation site is included in the Order to allow NGET to acquire subsurface mineral rights as described further in section 5 below.

4.6 Within the Order each plot is more fully described in column 3 of Table 1 in the schedule of land to be acquired and new rights. This notes the extent, description and situation of the land in each plot.

## **5 LAND AND RIGHTS REQUIRED**

5.1 When considering the land and rights that are required to deliver the Project, NGET had regard to guidance on making a compulsory purchase order. In particular, regard was had to government guidance note Compulsory Purchase Process and the Crichel Down Rules: Guidance (MHCLG July 2019) (**CD B09**). Throughout the process, NGET has sought to take a proportionate approach by seeking to acquire rights in land in preference to freehold acquisition, where possible, and in separating the rights sought into separate 'packages' necessary over the relevant plots in order to deliver the Project.

5.2 In making the Order, NGET have sought to reflect this approach and have sought to minimise the rights, in scale and in the nature of rights sought, required to that which are required to deliver the Project.

5.3 The Order plans show that the only land to be acquired is the substation site which is in the ownership of NGET. This land has been included in the Order because it is subject to other rights/interests (principally in respect of mines and minerals), I note that there have been no objections in respect of land interests associated with the substation site. The remainder of the Order relates exclusively to rights only. The Project can be delivered using rights only due to the nature of the works and apparatus which do not require freehold acquisition.

5.4 In addition, NGET has separated the rights that it is seeking to acquire into bespoke 'packages' so as to minimise any potential impacts on affected parties as much as is reasonably practicable. There are five 'packages' of right sought under the Order, which are as follows;

- Overhead line rights
- Access rights
- Construction compound rights
- Cabling rights
- Earthing rights

5.5 These different rights are fully described in the Order and the specific rights being sought in relation to the Order Land are identified on a plot by plot basis in column 4 of Table 1 of the Order schedule.

5.6 In summary NGET have sought to minimise the extent of the land required to that which is needed to ensure delivery of the Project. In addition to minimising the land areas required, NGET have separated the rights that it seeks to acquire into bespoke 'packages' necessary to enable the delivery of the Project so as to minimise any potential impacts on affected parties as much as is reasonably practicable.

## 6 **ACQUISITION STRATEGY**

6.1 NGET's preference is always to secure land rights on a voluntary basis. To that end, it sought to engage with affected persons as early as possible, to explain the requirements of the Project and the rights sought; understand any concerns from the affected landowners; and provide the

opportunity for questions and feedback. The acquisition strategy adopted for the Project is in line with NGET's published document 'Guidance on Land Rights for New Electricity Transmission Assets (England and Wales)' (**CD F20**).

- 6.2 A land referencing exercise was undertaken to identify affected landowners between July and September 2021 by Fisher German, landowners were contacted in September 2021. Contact relating to land acquisition and land referencing continued via Bruton Knowles from August 2022 when landowners were contacted requesting access for survey, this was followed up by landowners being contacted in September 2022 with a letter setting out Bruton Knowles role in the Project. NGET agreed to make payment for landowners' agents in addition to assessing compensation that would be payable due to injurious affection and any other relevant head of claim. NGET sought to enter into voluntary deeds of easement with affected landowners.
- 6.3 The freehold of the Substation site was acquired in stages by NGET with the final stage being transferred to NGET in March 2023. Contact was made with the owner of mineral rights beneath the substation site and the substation is included in the Order to facilitate the acquisition of mineral rights beneath the substation site. With regard to the wider rights ought outside the substation area, it is considered appropriate to incorporate the 'Mining Code' into the Order as explained in section 13 of the Statement of Case. Whilst the rights that NGET is seeking through the Order will not interfere with any mining and mineral rights over the land and there is no existing or planned mineral working close to the Order land, the incorporation of the 'Mining Code' provides asset protection and should a situation exist where a potential mineral working would impact the Project then the beneficial owner of the minerals and the mine operator would be able to claim compensation.
- 6.4 A land rights audit was undertaken in respect to the overhead line routes, initially by Fisher German and then by Bruton Knowles whereby all the existing agreements affecting apparatus were reviewed and this showed that there were a number of existing deeds of easement covering sections of the overhead line route. The easements were reviewed to ensure that they were fit for the purpose of the Project. A number of easements were in place and in such cases NGET did not seek to agree new easements but determined to rely upon existing easements. However, in many cases, the original electricity infrastructure apparatus was erected pursuant

to wayleave agreements rather than easements. Wayleaves are a form of licence, but they do not run with the land and following a sale of land or upon receipt of notice, the rights expire.

- 6.5 NGET does not consider it appropriate to rely on voluntary wayleaves and seeks permanent rights which provide greater certainty and reliability. NGET's basis for seeking permanent rights is set out in the aforementioned National Grid guidance document and paragraph 9.11 of the Statement of Case. In summary it is in the public interest to secure permanent rights that are commensurate with the nature and lifetime of the infrastructure comprised in the Project and which reflect NGET's statutory duty to maintain an efficient network. This approach also reflects NPS EN-5 (**CD B02**) which states in paragraph 2.6.3 that *"permanent arrangements are strongly preferred over voluntary wayleaves (which could, for example, be terminable on notice by the landowner) in virtue of their greater reliability and economic efficiency and reflecting the importance of the relevant infrastructure to the nation's net zero goals"*.
- 6.6 Accordingly, NGET determined that new rights in land were required to facilitate the Project and ensure its longevity.
- 6.7 Following initial contact with landowners, an assessment of the potential compensation that may be awarded under the Compensation Code to each landowner without an existing agreement was undertaken. There was then a period of negotiation with the landowners' agents and in many cases, agreements for easements (subject to contract agreement as to terms) were reached.
- 6.8 As explained in section 7 below, NGET's approach of relying on existing easements and seeking to agree further voluntary easements has been largely successful in that of a total of 53 grantors, NGET has been able to rely on 10 pre-existing easements; 36 offers of a deed of easement have been accepted but not yet finally concluded and just 7 offers of a deed of easement have yet to be accepted.
- 6.9 NGET intends to utilise their powers under a deed of easement where possible, rather than relying on powers of compulsory acquisition, however, those powers are necessary to ensure the delivery of the Project in the event of a defect in the deed or unknown rights that could impact the Project. In addition, as a number of 'subject to contract' agreements are yet to be

legally completed, powers under a voluntary deed may not be available at the commencement of the Project.

- 6.10 Bruton Knowles on behalf of NGET will continue to seek agreement with landowners in parallel to the CPO process and those efforts will continue in the event that the CPO is confirmed, given NGET's preference to reach voluntary agreements where possible, rather than relying on powers of compulsory acquisition.

## **7 STATUS OF NEGOTIATIONS**

- 7.1 As noted above, negotiations with landowners have been ongoing since 2021. As a result of NGET's engagement and negotiations with affected parties, there are a number of pre-existing deeds of easement in place and additional easements have been agreed. In other cases the offer of a deed of easement has been accepted by the landowner and they are being processed via solicitors completion; in addition there are cases which are in a pre offer acceptance stage and these are in active negotiation. As the substation land is owned by NGET there is no requirement to negotiate the acquisition of freehold land interests.

- 7.2 In total, there are some 53 land interests that are affected by the Order. A summary of the position regarding land agreements is set out in paragraph 9.9 of NGET's Statement of Case. Since then, one additional easement has been legally completed and the current summary is as set out below. For consistency, the same table layout and definitions from the Statement of Case have been used. However, it should be noted that land owned by the Westolls is affected by AL and V lines, so that their land-holding is counted twice in the summary table. The Castletown Estates properties were also counted as one landowner in the table in the Statement of Case, which has now been adjusted below to reflect the fact that there are three separate landowners. Hence there is a discrepancy between the total figures in the table below and those in the Statement of Case.

	AL	T	V	Total
<b>Number of Grantors</b>	<b>5</b>	<b>8</b>	<b>41</b>	<b>54<sup>2</sup></b>
<b>Existing deed Pre project</b>	<b>1</b>	<b>1</b>	<b>8</b>	<b>10</b>
<b>Deed of Easement agreed</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>4</b>
<b>Deed of Easement Offer Accepted</b>	<b>1</b>	<b>1</b>	<b>30</b>	<b>32</b>
<b>Deed of Easement at pre-offer acceptance stage</b>	<b>1</b>	<b>5</b>	<b>2</b>	<b>8<sup>3</sup></b>

7.3 A schedule showing the current position regarding negotiations is attached hereto as appendix NB02.

**Landowners with whom there has been no agreement**

7.4 Despite ongoing negotiations, NGET have been unable to reach a voluntary agreement with 7 landowners (noting that in the table above Westoll is counted twice) . However, it should be noted that of those, only 4 have objected to the CPO.

7.5 The landowners with whom there has been no agreement yet but who have not objected are set out below.

7.6 **David Bell & Allan Bell** (Plot numbers 250, 251, 252, 253, 254, 255, 257, 258, 259, 260): NGET sought to reach an agreement to purchase a permanent easement for the landowners on a voluntary basis. As part of the negotiations NGET has made fair offers to acquire the rights based on comparable evidence of similar agreements across the country. Negotiations are

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<sup>2</sup> This figure double-counts the Westolls land-holding (since it is affected by two of the routes), so the total number of landowners is 53.

<sup>3</sup> This figure double-counts the Westolls land-holding (since it is affected by two of the routes), so the total number of landowners is 7.



ongoing to ascertain if settlement can be agreed. This landowner has not objected to the CPO and has raised no concerns regarding the principle of the Project or the principle of entering into a voluntary easement. The only issue between the parties is the financial settlement for that easement.

7.7 **Richard H Ferguson & David H Ferguson** (Plot numbers 021, 027, 028, 029, 030, 031, 032, 033, 034, 035, 036, 037): NGET has sought to engage with these landowners and has been informed by their land agent that they are affected by age and ill-health, which has led to some delay in finalising an agreement. The land agent is of the opinion that the proposed financial settlement is likely to be acceptable but in light of the above circumstances, no final agreement has been concluded. These landowners have not objected to the CPO.

7.8 **NATIONAL HIGHWAYS** (Plot numbers 100,101,102,256): National Highways have agreed in principle to enter into a deed of easement. However, National Highways have not yet instructed their land agent to agree financial terms and so they have been included in the "not agreed" group for the time being.

7.9 In the following cases the landowners have objected to the Order. I consider their objections in more detail in Section 8 below.

**Castletown Trst Llp, Armeria (Uk) Llp and Giles Herchard Gubbins Mounsey-Heysham**

7.10 The T route crosses the Castletown Estate, for which there are three related landowners: Castletown Trst Llp, Armeria (Uk) Llp and Giles Herchard Gubbins Mounsey-Heysham. A plan attached to this statement as appendix NB03 shows each land interest in the context of the land within the Order. All three land owners have lodged objections to the Order.

7.11 Notwithstanding efforts to conclude a voluntary agreement, it has not proved possible to reach an agreement that is mutually acceptable to both parties, albeit that NGET continues to be open to reaching such agreement.

**James and Richard Westoll**

7.12 The AL and V Routes cross this landowner's land. A plan attached to this statement as appendix NB04 shows each land interest in the context of the land within the Order. This landowner has objected to the Order.

7.13 Notwithstanding efforts to conclude a voluntary agreement, it has not proved possible to reach an agreement that is mutually acceptable to both parties, albeit that NGET continues to be open to reaching such agreement.

7.14 In summary, there are 7 landowners with whom a voluntary deed of easement has not been agreed at least in principle. Four of those landowners have objected to the CPO.

#### 7.15 **Unknown Owners**

7.16 There are a number of plots where despite reasonable endeavours and positing site notices, it has not been possible to identify the landowner. The CPO rules provide a mechanism for dealing with unknown owners which NGET will follow when implementing the Order. A schedule of unknown owner plots is attached to this document as appendix NB05.

### **8 COMPLIANCE WITH CPO GUIDANCE**

8.1 In developing the Order and in dealing with land issues NGET, their legal team and Bruton Knowles as their land agents have had regard to legislation and government guidance as set out in the document Compulsory Purchase Process and the Criche Down Rules: Guidance (MHCLG July 2019). I set out below a more detailed consideration of some of the key elements of the guidance and how NGET have followed these in the context of land agency matters. Much of the guidance is procedural and I have not sought to consider these elements in this statement.

#### 8.2 **CPO Guidance para 2:**

8.3 Acquiring authorities should use compulsory purchase powers where it is expedient to do so. However, a compulsory purchase order should only be made where there is a compelling case in the public interest.

8.4 NGET consider that there is a compelling case in the public interest to deliver the Project and the background to this is set out in the Statement of Evidence of Mr Brown. Hence the use of Compulsory Purchase Powers is expedient to allow for delivery of the land rights in a timely manner and for a reasonable cost.

8.5 *The confirming authority will expect the acquiring authority to demonstrate that they have taken reasonable steps to acquire all of the land and rights included in the Order by agreement. Where*

*acquiring authorities decide to/arrange to acquire land by agreement, they will pay compensation as if it had been compulsorily purchased, unless the land was already on offer on the open market.*

- 8.6 Bruton Knowles have adopted an orthodox approach to locating landowners using Land Registry information, other publicly available information and direct contact with landowners and their agents to compile the schedule of land interests. Public notices have been placed where ownership has not been found and the standard unknown owners procedures followed.
- 8.7 As explained above, affected landowners have been contacted by Bruton Knowles and an offer to acquire the rights for delivery of the Project by voluntary means has been made, a summary of the contact made is set out in appendix NB06 and in the statement of case appendix 3. The offers were based upon an estimate of the likely compensation that each land interest holder would receive was made based upon the compensation code and the offers made were based upon the compensation assessment.
- 8.8 *Compulsory purchase is intended as a last resort to secure the assembly of all the land needed for the implementation of projects. However, if an acquiring authority waits for negotiations to break down before starting the compulsory purchase process, valuable time will be lost. Therefore, depending on when the land is required, it may often be sensible, given the amount of time required to complete the compulsory purchase process, for the acquiring authority to:*
- plan a compulsory purchase timetable as a contingency measure; and*
  - initiate formal procedures*
- This will also help to make the seriousness of the authority's intentions clear from the outset, which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations.*
- 8.9 As set out above, landowners were first contacted in 2021 to negotiate voluntary agreements, long before the Order was made in September 2023. NGET sought to negotiate agreements both before and in parallel to undertaking the work to make a Compulsory Purchase Order and NGET had continued to seek voluntary agreement with landowners after the Order had been made.
- 8.10 Key elements to developing a CPO are that the land to be acquired must be necessary to deliver the Project. In this case through working with the design team NGET have developed a project

that required minimal land to the point where no land is being acquired outside the substation site, only rights are sought in the Order for the overhead lines. The rights have been limited to what is strictly necessary to deliver the Project and ensure maintenance of the apparatus in the long term, for example access routes have been sought and not wide swathes of access rights.

8.11 As part of liaising with landowners Bruton Knowles team identified a number of concerns from landowners where concerns were raised regarding the Project these were fed back to design engineers. Where possible changes to the design and land requirements were noted and made to the project. An example of such a change is that the initial plan to cross some residential properties on Arthuret Drive was amended following discussions.

8.12 Most recently NGET engineers have reconsidered the requirement for a compound area on plot 314 and are now able to avoid using this. Consequently, a formal request to amend the Order to remove this plot has been made to the Secretary of State (CD D07).

8.13 *When making and confirming an order, acquiring authorities and authorising authorities should be sure that the purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected. The officers' report seeking authorisation for the compulsory purchase order should address human rights issues*

8.14 NGET considered Human Rights aspects of the Order when making the Order, details of the consideration of Human Rights are set out in section 16 of the Statement of Case and Mr Brown's evidence.

8.15 **CPO guidance paragraph 3**

8.16 *When offering financial compensation for land in advance of a compulsory purchase order, public sector organisations should, as is the norm, consider value for money in terms of the Exchequer as a whole in order to avoid any repercussive cost impacts or pressures on both the scheme in question and other publicly-funded schemes. Acquiring authorities can consider all of the costs involved in the compulsory purchase process when assessing the appropriate payments for purchase of land in advance of compulsory purchase. For instance, the early acquisition may avoid some of the following costs being incurred: • legal fees (both for the order making process as a whole and for dealing with individual objectors within a wider order, including compensation claims) • wider compulsory purchase order process costs (for example,*

*staff resources) • the overall cost of project delay (for example, caused by delay in gaining entry to the land) • any other reasonable linked costs (for example, potential for objectors to create further costs through satellite litigation on planning permissions and other orders) In order to reach early settlements, public sector organisations should make reasonable initial offers, and be prepared to engage constructively with claimants about relocation issues and mitigation and accommodation works where relevant.*

8.17 Guidance also requires that land and rights are sought on a voluntary basis, as can be seen above the strategy adopted by NGET has been to liaise with landowners and seek voluntary agreements. An updated copy of the landowner engagement schedule was appended to the Statement of Case.

8.18 NGET have made reasonable offers and have undertaken negotiation with landowners considering counter proposals such that agreement can be reached within the parameters of the guidance. In some cases despite potential cost of Public inquiry, the difference between landowner aspirations and NGET valuations is such that the parties have not been able to reach a mutually agreed settlement.

8.19 **CPO Guidance Paragraph 14**

8.20 *In preparing its justification, the acquiring authority should address: a) sources of funding - the acquiring authority should provide substantive information as to the sources of funding available for both acquiring the land and implementing the scheme for which the land is required. If the scheme is not intended to be independently financially viable, or that the details cannot be finalised until there is certainty that the necessary land will be required, the acquiring authority should provide an indication of how any potential shortfalls are intended to be met. This should include: • the degree to which other bodies (including the private sector) have agreed to make financial contributions or underwrite the scheme; and • the basis on which the contributions or underwriting is to be made b) timing of that funding - funding should generally be available now or early in the process. Failing that, the confirming minister would expect funding to be available to complete the compulsory acquisition within the statutory period (see section 4 of the Compulsory Purchase Act 1965) following the operative date, and only in exceptional circumstances would it be reasonable to acquire land with little prospect of the scheme being implemented for a number of years. Evidence should also be provided to show that sufficient*

*funding could be made available immediately to cope with any acquisition resulting from a blight notice.*

8.21 NGET have funding available for the Project, and this is set out in more detail in paragraph 14.2 of the Statement of Case and in Mr Brown's evidence.

8.22 **CPO Guidance Paragraph 22**

8.23 *The parties who must be notified of a compulsory purchase order are referred to as qualifying persons. A qualifying person includes: • an owner • an occupier • a tenant (whatever the period of the tenancy) • a person to whom the acquiring authority would be required to give notice to treat if it was proceeding under section 5(1) of the Compulsory Purchase Act 1965 • a person the acquiring authority thinks is likely to be entitled to make a claim for compensation under section 10 of the 1965 act (compensation for injurious affection) if the order is confirmed and the compulsory purchase takes place, so far as he is known to the acquiring authority after making diligent inquiry; this relates mainly, but not exclusively, to easements and restrictive covenants When serving notice of an order on qualifying persons, the acquiring authority is also expected to send to each one a copy of the authority's statement of reasons for making the order. A copy of this statement should also be sent, where appropriate, to any applicant for planning permission in respect of the land. This statement of reasons, although non-statutory, should be as comprehensive as possible. The general public will also be notified through newspaper notices and site notices.*

8.24 In making the Order all notices have been properly served upon those who require a notice along with relevant public notices having been posted and placed in newspapers. Copies of the Order have been placed in local libraries during the objection period. Hence all relevant parties have had an opportunity to object to the Order.

8.25 **CPO Guidance Paragraph 25**

8.26 *Below is a checklist of the documents to be submitted to the confirming minister with a compulsory purchase order: • one copy of the sealed compulsory purchase order and two copies of the sealed map • two copies each of the unsealed compulsory purchase order and unsealed map –follow the link for further guidance on order maps • one copy of the general certificate in support of order submission including (where appropriate) confirmation that the proper notices*

*have been correctly served in relation to: (a) an order made on behalf of a parish council; (b) Church of England property; or (c) a listed building in need of repair • one copy of the protected assets certificate giving a nil return or a positive statement for each category of assets protection referred to in What information needs to be included in a positive statement? in section 16 (except for orders under section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990) 19 • two copies of the statement of reasons and, wherever practicable, any other documents referred to therein. A statement of reasons must include a statement concerning the planning permission*

8.27 NGET considered the checklist and ensured that the Order documents were produced and submitted in accordance with the guidance. In addition to the Order documents, a Protected Assets Certificate (CD D04) and General Certificate (CD D05) were provided to the Secretary of State.

## **9 CONSIDERATION OF OBJECTIONS**

9.1 As noted above, four landowners have objected to the Order. I set out the objectors and the Order plots in which they own a land interest in the table below. I note that three of the objectors are owners of different parts of the Castletown Estate, All of the objectors are represented by the same land agent.

Objector	Order Plots
<b>Objection 1:</b> ARMERIA (UK) LLP	264, 265, 267, 282, 289, 293, 303, 304, 306, 307, 308, 310, 323, 324, 326, 327, 328, 329, 330, 334 and 335;
<b>Objection 2:</b> CASTLETOWN TRST LLP	266, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 286, 287, 290, 291, 295, 297, 298, 299, 301, 302 and 305
<b>Objection 3:</b> GILES HERCHARD GUBBINS MOUNSEY-HEYSHAM	296, 309, 311, 312, 313, 314, 316, 317, 318, 319, 320, 321, 322, 332 and 333;
<b>Objection 4:</b> JAMES WESTOLL AND RICHARD FAIRFAX WESTOLL	001, 002, 003, 004, 005, 006, 007, 009, 010, 011, 012, 013, 015, 016, 017, 024, 226, 236, 237 and 239.

I include plans at appendix NB03 and NB04 showing the land interests of the four objectors in the context of the Order Plans.

9.2 There are a number of similar themes raised in the objections (CD E01-E04) that are common to all of the objectors and some are more specific. I address the objections, insofar as they relate to my evidence. I will consider three areas of objection as set out with the details of landowners who have raised the ground of objection in the table below:

Objection	Landowner
Objection relating to Countryside Stewardship Schemes	<ul style="list-style-type: none"> <li>• ARMERIA (UK) LLP</li> <li>• CASTLETOWN TRST LLP</li> <li>• JAMES WESTOLL AND RICHARD FAIRFAX WESTOLL</li> </ul>
Objections relating to a lack of communication between the objectors and NGET and their agents	<ul style="list-style-type: none"> <li>• ARMERIA (UK) LLP</li> <li>• CASTLETOWN TRST LLP</li> <li>• GILES HERCHARD GUBBINS MOUNSEY-HEYSHAM</li> <li>• JAMES WESTOLL AND RICHARD FAIRFAX WESTOLL</li> </ul>
Objection relating to impact of the Project on farm diversification	<ul style="list-style-type: none"> <li>• ARMERIA (UK) LLP</li> <li>• CASTLETOWN TRST LLP</li> <li>• GILES HERCHARD GUBBINS MOUNSEY-HEYSHAM</li> <li>• JAMES WESTOLL AND RICHARD FAIRFAX WESTOLL</li> </ul>

### **Response to objection related to Countryside Stewardship Schemes**

9.3 The three objectors who raised this ground of objection appear to be concerned that the Project will have a negative impact on their ability to maintain payments under Countryside Stewardship



Schemes (CSS) and to implement any new CSS. It should also be noted that, although reference is made to CSS in their respective objection letters, the issue was not raised by the relevant landowners until a without prejudice e mail of 15th September 2023. We have been given no details of the scope or nature of the current or any proposed CSSs in respect to any of the objectors' landholdings despite requesting details in our response letters to the objections **(CD E05-E08)**.

- 9.4 To more fully assess the position regarding CSS I have instructed that a note be produced by my colleague Hannah Morgan who has the benefit of a high level of expertise in this matter. This note is attached as appendix NB07 and is referred to as "the CSS Note" in the remainder of this Statement.
- 9.5 In summary the Countryside Stewardship (England) Regulations 2020 provide for landowners to apply for grant aid to support farm management activity that enhances the environment. An agreement is entered into between the landowners and the Government and the landowners manage the land in accordance with the agreement and the Rural Payments Agency (RPA) make payments to the landowner as set out in the agreement.
- 9.6 I note from the Government Magic Map Application that there are existing higher tier, middle tier and woodland scheme on the land forming the Castletown Estate and that the overhead lines that are the subject of this Order along with other overhead lines cross those scheme areas. The relevant extract from the Magic Maps plan is included in the CSS Note.
- 9.7 Additionally, I note that there is an existing easement that already covers a large part of the Castletown Estate, including the overhead line that is part of the Order. The deed relates to larger towers consisting of a powerline that runs in parallel with the overhead lines which are the subject of this Order. A copy of the deed is attached hereto as appendix NB08, in addition appendix NB09 is a plan showing the existing deed area in the context of the Castletown Estate objectors' landholdings.
- 9.8 Given the electric lines and towers already in situ on the Castletown Estate and the extent of the existing deed, it is difficult to understand how the confirmation and implementation of the Order would have any potential impact on CSS payments to these landowners.

- 9.9 Turning to the Westoll land, as the CSS Note records, the Magic Maps Application does not show any CSS schemes on the Westoll land the subject of Objection 4. It therefore appears that, for this particular landowner, this ground of objection relates to prospective CSSs that have yet to even be applied for. As such, at the present time, the confirmation and implementation of the Order would not have any impact on CSS payments to this landowner.
- 9.10 In any event, each objector who has raised this ground appears to have done so based on the same misunderstandings of the Project and NGET's usual practices concerning vegetation maintenance under powerlines. Firstly, insofar as the Project relates to the objectors' land, the Project is to refurbish existing overhead lines, there is no requirement to erect new posts or pylons as they describe. Secondly, it is not correct for any of the objectors to say that the usual practice of NGET is to cut or mow all vegetation under powerlines. Across the UK, most agricultural land under powerlines is managed by the landowner and it is usual for agricultural operations to take place under lines including livestock farming. NGET will survey the overhead lines from time to time and where trees are growing close to the overhead lines NGET, along with other electricity distribution and transmission companies will cut trees back for health and safety reasons as is required in national guidance and legislation. Powers exist within the Electricity Act 1989 allowing NGET to seek powers to lop trees.
- 9.11 In light of all of this, it is difficult to understand this ground of objection. However, as set out in the CSS Note, if there is a requirement to undertake works to the overhead lines that impacts on the ability of the objectors to deliver the CSS agreement then they would be able to seek a variation for works from the RPA. If by doing so they incur a financial penalty as a result of the variation order then the objectors would be able to submit a claim to recover the loss under the compensation code. This is because if the Order is confirmed and implemented the landowners would be able to claim for any financial loss that they can demonstrate falls within the compensation code thereby ensuring that they do not end up in a worse financial position as a result of the implementation of the Order. In the event of a dispute regarding the quantum of any loss/compensation, the landowners would have recourse to the Upper Tribunal which would ensure that fair compensation is paid.

#### **Response to objection relating to impact of the Project on farm diversification**

- 9.12 All of the Objectors in their objections suggest that the presence of apparatus will impact upon the ability of the landowners to diversify their farm business. In addition two of the three objectors with interests in the Castletown Estate specifically highlight a recent planning permission on land owned by Armeria (UK) LLP for the development of a wedding venue.
- 9.13 With regard to the wedding venue permission (CD C10), I have reviewed the planning portal and note that the site which is subject to the planning permission lies outside the Order land within a woodland area. Indeed the planning and access statement which accompanied the planning application (CD C12) says, *'The site is indicated above and is largely isolated and surrounded by woodland.'*
- 9.14 To illustrate this, I attach as an appendix NB10 a plan showing the location of the wedding venue along with a satellite photograph showing the relevant location of the existing 400kV apparatus the closest tower is approximately 200m from the wedding site and access is taken underneath the 400kV line and photographs from the public highway . The tower subject to the Order is also shown. This is further away being circa 280m from the wedding site. Additionally, the access to the wedding site does not interact with the overhead line which is subject to the Order and the line will not be visible from the wedding venue. In these circumstances it is difficult to attach any weight to the objection.
- 9.15 If there is a reduction in value of the wedding venue site due to the implementation of the Order then the landowner would be able to recover any financial loss through a claim for compensation although for the reasons noted above it is difficult to envisage a successful claim being brought. The potential wedding venue was not raised as an issue in early discussions with the relevant landowner (having first been raised September 2023) and we note the planning application was lodged in April 2023 in full knowledge of the NGET proposal.
- 9.16 With regard to other potential diversification projects, we have not been provided with details of any further schemes or proposals on the land of the objectors despite requesting further details in our responses to each of the objectors. I have searched the objectors land using LandInsight a software package which allows a geographic search for planning applications. I have not noted any current planning applications or recent planning permissions that are extant for diversification schemes.

- 9.17 If a new project did come forward on the objectors' land in the future, NGET have a published policy to support development in proximity to overhead lines and towers, 'Third-party guidance for working near National Grid Electricity Transmission equipment' (CD F21). This sets out the statutory requirements for working near high voltage electricity, including electrical clearance distances from overhead lines, and specific development guidance (e.g. for wind farms, commercial and housing development, etc).
- 9.18 In the event that a new project comes forward and the implementation of the Order results in a financial loss to the landowner than the landowner will be entitled to submit a claim for loss that is assessed under the compensation code and in the event of dispute a mechanism is in place through the Upper Tribunal to resolve the dispute.

**Response to objections relating to a lack of communication between the objectors and NGET and their agents**

- 9.19 The objectors allege that NGET has failed to engage with them in any substantive way. However there has been substantial engagement with the three landowning entities under the umbrella of the Castletown Estate and with Messrs Westoll. This has been ongoing since Fisher German first contacted the landowners in September 2021. Bruton Knowles contacted the landowners with regard to land acquisition in by letter dated 17th September 2022, prior to this contact regarding access for survey had been made in August 2022, and there have been ongoing dialogue since then.
- 9.20 Details of contact with the landowners are included in Schedule C of the Statement of Reasons which accompanied the Order (CD D03). Subsequent to the making of the Order discussions have continued and an updated schedule of landowner engagement was appended to the Statement of Case.
- 9.21 To further demonstrate that there has been substantive engagement I attach a schedule of contact with Castletown Estate and Messrs Westoll as appendix NB11 of this statement. Much of the communication has been on a without prejudice basis and I am therefore not detailing the contents of such communication. In addition, NGET has continued to engage with the landowners through their land agent and will continue to do so.

## **10 SUMMARY AND CONCLUSIONS**

- 10.1 In summary, NGET has taken a proportionate approach in seeking to acquire predominantly right over land rather than freehold acquisition. The only land subject to freehold acquisition is that comprised in the substation site, which is already owned by NGET. Notwithstanding that ownership, it is necessary to include the land in the Order given third party interests in the land. No party with interests in the substation land has objected to the Order.
- 10.2 In addition to the substation site, NGET requires permanent rights to enable the delivery and secure the long-term future of the Project. Where NGET requires rights over land, it has separated them into the 'packages' of rights necessary to deliver the Project, in an effort to minimise impacts on affected landowners. NGET has engaged with affected persons for a considerable period of time; has sought to acquire necessary rights through voluntary agreements and relies on compulsory purchase powers as a last resort.
- 10.3 Bruton Knowles and their predecessors have been in contact with landowners since 2021 with negotiations for voluntary agreements having been ongoing since that time. As a result of negotiations there are 36 landowners who have agreed to enter a deed on a voluntary basis, 10 landowners have existing deeds for apparatus on their land and 7 landowner have not reached agreement, of these four have objected to the Order.
- 10.4 There have been only 4 objections to the CPO. Negotiations have taken place with those objectors but it has not proved possible to reach mutually acceptable terms.
- 10.5 My response to three of the grounds of objection that have been raised is set out above.

## **11 Declaration**

- 11.1 I hereby declare as follows:
- 11.2 This statement of evidence includes all facts which I regard as being relevant to the professional opinion which I have expressed, and I have drawn the inquiry's attention to any matter which would affect the validity of that opinion.

11.3 I confirm that I am able to give evidence in light of my relevant experience as summarised above. I can confirm that the evidence I prepared is in accordance with the guidance of my professional institution and that the opinions given are my true professional opinions.

11.4 I believe the facts which I have stated in this statement of evidence are true and that the opinions are correct.

11.5 I understand my duty to the Inquiry to help it with the matters within my expertise and I believe I have complied with that duty.

**Nigel Billingsley**

**Partner**

A handwritten signature in black ink, appearing to read 'Nigel Billingsley', written in a cursive style.

**Bruton Knowles Ltd**

**Dated 13<sup>th</sup> February 2024**

## **APPENDICES:**

- Appendix NB01: Nigel Billingsley CV
- Appendix NB02 : Schedule of current position on landowner negotiations
- Appendix NB03 : Plans showing project in the context of Castletown land holdings
- Appendix NB04: Plans showing project in the context of Westoll land holdings
- Appendix NB05 : Unknown Owner Plots
- Appendix NB06 : Summary of contact with landowners
- Appendix NB07 : Note on CSS
- Appendix NB08 : Existing deed for National Grid apparatus on Castletown Estates
- Appendix NB09 : Plan showing extent of deed across the Castletown land
- Appendix NB10 : Wedding venue plan and photographs
- Appendix NB11 : Detailed schedule of contact with Messrs Westoll and Castletown Estate