

**Eversheds Sutherland  
(International) LLP**Two New Bailey  
6 Stanley Street  
Salford  
M3 5GX  
United KingdomT: +44 20 7497 9797  
F: +44 20 7919 4919  
DX 14344 Manchester

eversheds-sutherland.com

Jacquie Watt  
Canal & River Trust  
National Waterways Museum  
South Pier Road  
Ellesmere Port  
Cheshire  
CH65 4FW**Date:** 3 February 2023  
**Your Ref:** XD-001 JW  
**Our Ref:** BARKERFI\342778-000018  
**Direct:** +44 746 874 9830  
**Email:** fionabarker@eversheds-sutherland.com**By Special Delivery and by email**[jacquie.watt@canalrivertrust.org.uk](mailto:jacquie.watt@canalrivertrust.org.uk)

Dear Jacquie

**The National Grid Gas plc (Western Gas Network Project) Compulsory Purchase Order 2022 ("the Project" and "the Order")**

We write in response to the Canal & River Trust's ("CRT") objection to the above named Order dated 7 December 2022 ("Objection") and refer to our initial Objection acknowledgement letter of 21 December 2022 which confirmed that we act for National Grid Gas Plc ("NGG"), and e-mail correspondence between yourself and Fiona Barker of this office.

**CRT's interests in the land included in the Order ("Order land")**

We understand that CRT, acting as trustee of the Waterways Infrastructure Trust, own and operate the River Swift Feeder which comprises Order plots 9 and 11.

**Rights required over Order land owned by the CRT**

The below table sets out the rights that NGG are seeking to acquire over the above mentioned plots and explains the physical works that will be undertaken on those plots:

<b>Plot Nos</b>	<b>Rights to be acquired<sup>1</sup></b>	<b>Works to be carried out</b>
9	"Pipeline Rights and Pipeline Construction Rights"- Rights to construct and to retain, operate, maintain etc. the new pipelines and associated infrastructure, including rights to protect the pipelines from damage and interference.	NGG will need to carry out works to construct the pipeline which will involve a trenchless installation method in full agreement with CRT. These works will be concluded during the construction phase of the Project.  NGG also need rights to keep the pipeline in situ and to operate, inspect,

<sup>1</sup> The rights are set out in full in the Order

cloud\_uk\208784820\3\barkerfi

Eversheds Sutherland (International) LLP is a limited liability partnership, registered in England and Wales (number OC304065), registered office One Wood Street, London EC2V 7WS. Authorised and regulated by the Solicitors Regulation Authority (SRA number 383181). A list of the members' names and their professional qualifications is available for inspection at the above office.

Eversheds Sutherland (International) LLP is part of a global legal practice, operating through various separate and distinct legal entities under Eversheds Sutherland. For a full description of the structure and a list of offices, please visit [www.eversheds-sutherland.com](http://www.eversheds-sutherland.com).

		<p>maintain and protect it. Inspection and any maintenance works will be intermittent and as such the physical impact on the River Swift feeder post construction of the Project will be limited.</p> <p>All works will be carried out in accordance with the Master Agreement between NGG and CRT.</p>
11	<p>"Access Rights"- Rights to take access over the land with or without personnel, vehicles and equipment etc. for the purpose of operating and maintaining the Project.</p>	<p>NGG will need to take access over these plots to facilitate inspection and maintenance of the Project. Minor works may be required in order to facilitate such access, such as vegetation clearance.</p> <p>All works will be carried out in accordance with the Master Agreement between NGG and CRT.</p>

**The CRT’s concerns**

We note that the Objection is a ‘holding objection’ and that CRT do not object to the Order in principle.

The Objection states that it has been made to protect CRT’s position, pending a decision to either:

1. remove CRT’s property interests from the Order; or
2. complete a written agreement with NGG which addresses the concerns of CRT; thereby enabling the withdrawal of the Objection.

The Objection raises concerns about the impact of the carrying out of the works required for the Project on the River Swift Feeder (Order plots 9 and 11) and the level of engagement between NGG and CRT to date.

Retention of land in the Order

With regard to the retention of land in the Order, as confirmed in e-mail correspondence between Eversheds Sutherland and the CRT’s appointed solicitors Ward Hadaway on 21 October 2022, the strategy for the Project is to include all the land needed for the delivery of the Project in the Order, even where Heads of Terms (“HoTs”) have been agreed with landowners, or agreements have been concluded pursuant to HoTs. This is necessary to ensure that NGG will be able to complete the purchase of land/rights needed for the Project in the event that (1) purchase by agreement in accordance with HoTs is, for whatever reason, not completed such as would prejudice the timely delivery of the Project, (2) the landowner breaches the agreement entered into pursuant to HoTs or it is found to be illegal/invalid/unenforceable, or (3) unknown third party interests in the land subject to an agreement come to light which haven’t previously been identified despite diligent enquiry.

In light of this, NGG are willing to provide undertakings to landowners not to exercise compulsory purchase powers in respect of the interests of those landowners who have concluded voluntary agreements, save in the event that a landowner breaches an agreement or an agreement is found to be illegal/invalid/unenforceable.

#### Nature and impact of the works

With regard to the nature and anticipated impact of the works themselves, as a statutory undertaker, NGG is cognisant of the need to ensure that CRT's watercourse i.e. the River Swift Feeder, is not adversely affected by the proposed works.

CRT requested that the agreement of details of/methodologies for, works on Order plots 9 and 11, and the provision of rights over Order plots 9 and 11 for NGG, be dealt with under the Master Agreement between NGG and CRT, as opposed to under separate bespoke HoTs and a subsequent bespoke agreement as originally suggested by NGG. NGG have agreed to this.

The works approval process set out in the Master Agreement cannot be continued with until the detailed design process for the Project has been completed. The detailed design will be undertaken by NGG's contractors who are due to be appointed in September 2023. Following formulation of the detailed design the works approval, the process set out in the Master Agreement can be continued. The anticipated works on Order plots 9 and 11 are summarised in the table above.

Given that the process set out in the Master Agreement cannot proceed at present, a side letter is to be prepared to provide additional assurance to the parties in that regard. A draft side letter has been provided to CRT's solicitors by Eversheds Sutherland. We understand from email correspondence between yourself and Fiona Barker of this office in December 2022 that upon conclusion of the side letter, CRT will be able to withdraw its Objection which is welcomed.

#### Engagement

With regard to engagement, NGG are surprised and disappointed by the suggestion that there has been a lack of engagement on its part. The engagement log which comprises Appendix 2 to the Statement of Reasons which accompanies the Order clearly sets out the regular engagement that has taken place between NGG via its appointed land agents Fisher German, and the CRT over the last 12 months. Moreover, Eversheds Sutherland's Real Estate team have been in regular contact with CRT's appointed solicitors, Ward Hadaway for months in connection with the Master Agreement and negotiation of the side letter referred to above. NGG do not believe it is reasonable or factually accurate for the CRT to suggest that there has not been meaningful engagement in accordance with the Government's Guidance on Compulsory Purchase and the Crichel Down Rules (July 2019).

We trust the above is of assistance in clarifying the rights that NGG are seeking to acquire and the works that NGG will need to carry out on the land in which the CRT have an interest. All works will be carried out in accordance with the Master Agreement.

NGG are committed to working with the CRT to ensure that any remaining concerns are addressed, and to secure withdrawal of the Objection.

Yours faithfully

*Eversheds Sutherland (International) LLP*

**Eversheds Sutherland (International) LLP**

**cc John McKenna , Department for Business, Energy and Industrial Strategy**