

PROJECT

**THE NATIONAL GRID GAS PLC (WESTERN GAS NETWORK PROJECT)
COMPULSORY PURCHASE ORDER 2022**

STATEMENT OF EVIDENCE

**JAMES TOMISON
SENIOR PROJECT MANAGER
NATIONAL GRID GAS PLC**

1. **QUALIFICATIONS AND EXPERIENCE**

- 1.1 I am James Tomison, Senior Project Manager at National Gas Transmission. I have a master's degree in mechanical engineering and am a Chartered Engineer with the Institute of Mechanical Engineers (IMechE).
- 1.2 I have over ten years' experience working in Gas Construction in a variety of Design & Project Management roles. I graduated from Durham University in 2012 and have been Chartered since 2017.
- 1.3 I am currently leading a quarter of a billion-pound scheme to upgrade two compressor stations on the National Transmission System in the east of England which will complete later this year following the commissioning of four low-emission compressors. I have been involved in the design and construction of this complex, multi-disciplinary project since 2018. Prior to that, I led a variety of pipeline diversion and maintenance schemes across the Gas National Transmission System.
- 1.4 In my role as a Senior Project Manager at National Gas, I am accountable for all aspects of the design, build and commissioning of the Western Gas Project including award of all contracts to ensure safe delivery of the project on time, to budget, to high quality standards, and to the satisfaction of our stakeholders both internally and externally.

2. **INTRODUCTION AND SCOPE OF EVIDENCE**

- 2.1 My proof of evidence is set out as follows:-
- 2.1.1 The Western Gas Network Project
 - 2.1.2 The need for and benefits of the Project
 - 2.1.3 Development of the Project and alternatives
 - 2.1.4 The land and rights needed for the Project
 - 2.1.5 Acquisition strategy and status of negotiations
 - 2.1.6 Project delivery and funding
 - 2.1.7 Planning position
 - 2.1.8 Power under which the Order is made
 - 2.1.9 Human Rights and the Equality Act
 - 2.1.10 Response to objections
 - 2.1.11 Conclusions

3. **THE WESTERN GAS NETWORK PROJECT**

- 3.1 The Western Gas Network Project consists of a new 9km section of gas pipeline between Wormington (Gloucestershire) and Honeybourne (Warwickshire), a new 2km section of gas pipeline at Churchover (Warwickshire) and works to facilitate

pressure uprating of the existing gas pipeline (Feeder Main 28) between Felindre (Swansea) and Three Cocks (Powys).

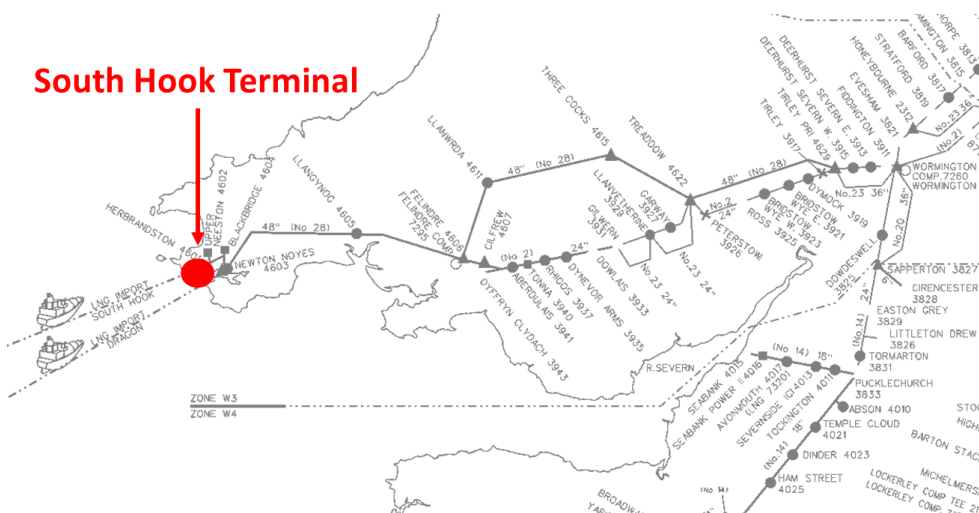
3.2 The works to facilitate the pressure uprating involve equipment modifications and, where necessary, equipment replacement at the following sites:

- Alltwn Above Ground Installation (Swansea);
- Felindre Compressor Station & Multi-Junction (Swansea);
- Three Cocks Above Ground Installation (Powys);
- Llandwrda Above Ground Installation (Carmarthenshire).

4. **THE NEED FOR AND BENEFITS OF THE PROJECT**

4.1 South Hook LNG (SHLNG) own and operate a liquified natural gas (LNG) terminal at Milford Haven. SHLNG intends to install equipment to enable it to increase the amount of gas it can flow into the National Gas Transmission System (NTS) by a further 15 million cubic meters per day.

Figure 1: Location of South Hook LNG Terminal in South Wales



4.2 In conjunction with this, South Hook Gas Company Limited (SHGCL) has submitted a Planning and Advanced Reservation of Capacity Agreement (PARCA) application to National Gas. The PARCA is a contract that allows long-term NTS entry capacity to be reserved for a customer. National Gas has a duty under the Gas Act 1986 to comply, as far as it is economical to do so, with any reasonable request by shippers (such as SHGCL) to convey gas.

4.3 Analysis of gas flows around the NTS showed that the additional gas capacity requested under the PARCA could only be accommodated when demand local to the terminal was high (e.g. Pembroke Power Station was running) which is not a common scenario. Restrictions to gas flow were likely in most scenarios due to constraints on the existing NTS infrastructure principally in England between

Tirley and Honeybourne, and near Churchover, but also on an existing pipeline in South Wales (Feeder Main 28).

- 4.4 To remove the constraints, there is a need to reinforce the existing NTS to meet the SHGCL PARCA requirement. To determine the most economic and efficient way to achieve this, a Strategic Options Appraisal was undertaken by National Gas which identified and considered a range of possible solutions.

5. **DEVELOPMENT OF THE PROJECT AND ALTERNATIVES**

- 5.1 To assess potential alternative options available to address the shortfall in capability of the NTS to accept gas from the South Hook Terminal, National Gas carried out a Strategic Options Appraisal. National Gas's internal guidance defines a Strategic Options Appraisal **(CD E3)** as "a robust and transparent process used to compare options and to assess the effects they may have across a wide range of criteria including environmental, socio-economic, technical and cost factors".

- 5.2 In taking forward the preparation of a Strategic Options Appraisal, National Gas's Stakeholder, Community and Amenity Policy (SCA Policy) **(CD E5)** sets out how the company will meet its commitments to the environment. These commitments include:

5.2.1 only seeking to build new assets where the existing transmission infrastructure cannot be upgraded (technically or economically) to meet transmission security standards;

5.2.2 where new infrastructure is required, seeking to avoid areas which are designated for their landscape, wildlife, or cultural significance; and

5.2.3 reducing the effects of new infrastructure on other sites valued for their amenity.

- 5.3 In terms of meeting these commitments, National Gas generally considers options to be preferable if they are shorter, cheaper, less technically complex and/or avoid, reduce, or mitigate environmental impacts.

- 5.4 The Strategic Options Report **(CD E11)** considered whether the requested capacity could be delivered through, or by a combination of, the following mechanisms:

5.4.1 Commercial Mechanisms- Various commercial mechanisms (e.g. bilateral contract arrangements with entry/exit points or capacity substitution such as terminating another entry point early) are

available to National Gas to seek to either constrain or boost supply and demand;

- 5.4.2 System Management- The amount of gas within the National Transmission System at any time is known as "linepack" and increased linepack is achieved by raising pressures above those of the supply. This provides some inherent buffering to respond to fluctuating levels of supply and demand across the system, whilst ensuring that gas pressures are maintained above agreed minimum supply levels;
- 5.4.3 Upgrading of Operational Pressures and Potential Modification of Existing Infrastructure- The NTS operates at a range of pressures between approximately 25barg and 94barg with some NTS pipelines operating at lower pressures than their physical capability can allow. System modelling has shown that a substantial contribution to the additional capacity needed can be achieved by operating some sections of pipeline at higher pressures, referred to as 'uprating'. As pressure is increased by uprating there may be a requirement to modify or replace existing assets;
- 5.4.4 Additional Infrastructure & Other Measures- Achieving additional capacity by the construction of new infrastructure provides a further means of potentially meeting the reserved capacity. Several options were considered:
 - 5.4.4.1 Construction of new buried pipelines (with associated infrastructure)- this provides one solution to moving more gas beyond the constraint areas either to new markets or to connect elsewhere on the NTS.
 - 5.4.4.2 Compression- Where additional equipment is installed to increase the pressure and flow rates within existing pipeline infrastructure;
 - 5.4.4.3 The use of other transport modes (ship, road, or rail) to transport LNG to other locations- LNG requires 1/600th the storage volume of natural gas at standard atmospheric pressure so represents significantly lower volume than even highly compressed natural gas. This lower volume reduces the number of movements required and increases feasibility of transporting large quantities of LNG compared with transporting compressed natural gas;
- 5.4.5 Storage- A facility to remove gas from the NTS at an entry point or elsewhere on the NTS provides a means of creating additional capacity

during constraint periods. Storage may be as LNG or compressed natural gas (CNG).

5.5 Drawing on the mechanisms described above, a complete list of potential strategic options (identified before consideration of factors such as capital cost or feasibility) was developed to consider alternative means to achieve the capacity requirement of the PARCA. The list was then reviewed against technical filters to discount those which fell outside the scope of National Gas's licenced activities, did not achieve the capacity or programme requirements of the PARCA, or were limited by other factors. The remaining options were then considered against a "benefit filter". This removed options which facilitated the release of the requested NTS entry capacity, but which did not offer any advantage over other options or may have performed poorly in another aspect.

5.6 The application of filters discounted the following options:

- Do Nothing
- Use of Commercial and System Management Mechanisms
- New Demand Customer (e.g. a commercial mechanism to bring on a major new user of gas)
- Utilise existing third-party infrastructure
- New storage (LNG and / or natural gas)
- Connect to new markets (offshore pipelines to Ireland and France outside the NTS)
- LNG transfer past the area of constraint (i.e. bring in the LNG at another terminal)
- Uprating with Maximum Operating Pressure (MOP) above equipment classification limits (i.e. deviate to the equipment safety requirements)
- Construct a new pipeline from the terminal to allow connection into a different section of the NTS.

5.7 Following the appraisal, a shortlist of options was costed from an asset investment perspective. The preferred strategic proposal (known as F6.6) comprised the following elements, and was supported by a Cost Benefit Analysis (CBA) **(CD E8)** which considered investment costs, constraints and contracts costs, and operational costs:

- Pressure uprating of the existing Feeder 28 pipeline between Milford Haven (Pembrokeshire) and Three Cocks (Powys);
- Construction of 9km of new pipeline between Wormington and Honeybourne and 2km of new pipeline between Churchover Compressor and Churchover Multijunction;

- Related works at several existing AGI sites to facilitate the pressure uprating, connection of new pipelines and effective compression at existing stations.
- 5.8 The preferred strategic proposal was selected because it was the best performing option in the CBA **(CD E8)** i.e. it has the lowest capital cost for the greatest customer benefit (therefore representing the most efficient solution for consumers). Additionally, it required the least new infrastructure by maximising the use of the existing NTS (therefore minimising the impact of the Project on communities and the environment);
- 5.9 Although the option involves uprating and is therefore technically more complex, and a divergence from current National Gas practice, initial assessments indicated that the uprating would continue to be safe and that any remaining challenges could be resolved, and the option successfully delivered.
- 5.10 Since the appraisal, National Gas has continued to review and refine the detailed composition and scope of the preferred strategic proposal. This refinement has led to several changes to the extent of the scope of Option F6.6 including:
- 5.10.1 a reduction in the extent of pressure uprating between Milford Haven and Felindre (including removing the branch to Cilfrew);
 - 5.10.2 specification changes to some of the new pipeline required (reducing from 1200mm to 900mm diameter);
 - 5.10.3 a partial bypass of Churchover compressor station removing the need to modify pipework within the compressor station itself, or modify the compressor units; and
 - 5.10.4 the removal of a proposed bypass at Tirley which would have allowed bi-directional flows.
- 5.11 Following identification of the preferred strategic proposal, a process to identify routes for the two new sections of pipeline was commenced. The process comprised the following steps:
- Identification of potential route corridors
 - Evaluation of the constraints associated with each route corridor option to inform the selection of preferred route corridors
 - Identification of a preferred route corridor
 - Evaluation of pipeline routing constraints associated with the preferred route corridors
 - Identification of a route for the pipeline
- 5.12 The process considered the following:

- environmental considerations (biodiversity, landscape and historic constraints, and physical aspects such as flooding);
- socio-economic (e.g. potential impacts on existing properties);
- technical considerations (complexity, delivery and construction issues);
- cost-benefit analysis (weighing capital and lifetime costs against reduced system constraint costs); and
- programme considerations

5.13 The preferred options are shown on the two figures below. The red outline indicates the selected route corridor, the black outline indicates possible alternative route corridors (not selected) and the yellow marking indicates existing pipelines.

Figure 2: Wormington to Honeybourne Preferred Route Corridor (CD D2)

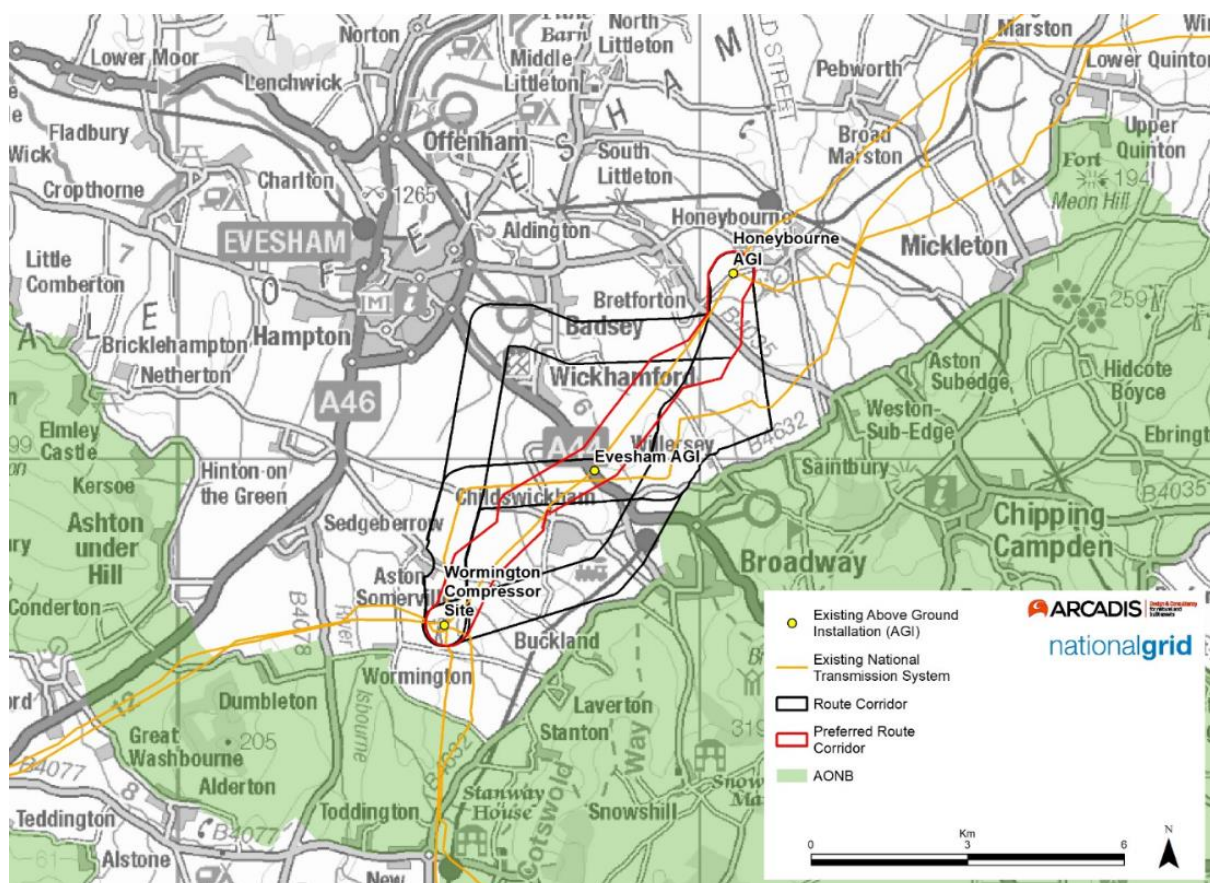
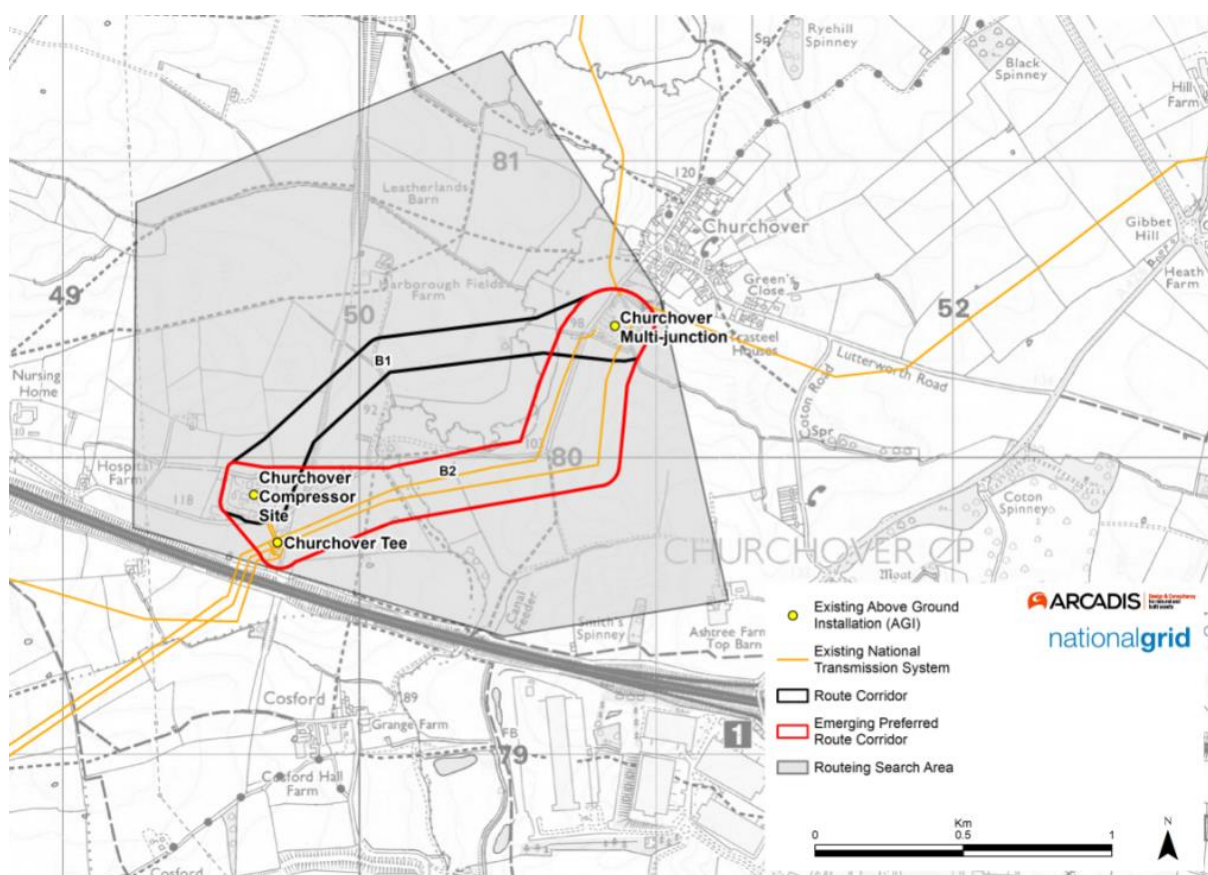


Figure 3: Churchover Preferred Route Corridor (CD D2)



5.14 These options require the least new infrastructure and thus minimise the impact on communities and the environment and have the lowest capital cost with the greatest consumer benefit. They therefore represent the most economic and efficient solution for UK consumers.

6. THE LAND AND RIGHTS NEEDED FOR THE PROJECT

6.1 National Gas is taking a proportionate approach to acquisition and is only seeking to acquire the freehold of land for the purposes of the installation of above ground equipment next to Churchover Tee where the equipment is required to be installed above ground due to the constraints of existing equipment below ground. This equipment, for security and safety, will be incorporated into the existing National Gas site. The Churchover main works compound for the pipeline construction will also be utilised for these works. In all other instances only new rights in land will be acquired.

6.2 The consents required for the Project are defined by the nature and scale of the Project and its potential environmental effects. Screening opinions have confirmed that the Project does not constitute development for which an Environmental Impact Assessment is required.

7. ACQUISITION STRATEGY AND STATUS OF NEGOTIATIONS

- 7.1 National Gas has engaged constructively in meaningful discussions with all known owners and occupiers of the Order Land with a view to acquiring the land and new rights required for the Project by voluntary agreement if possible. This is in accordance with the Compulsory Purchase Order (CPO) Guidance (**CD A15**).
- 7.2 Having identified the relevant landowners through contact referencing (commencing in February 2021), National Gas, supported by Fisher German, has undertaken a program of engagement with each landowner and their professional advisors through letter/email correspondence, telephone communication, and face-to-face meetings where appropriate.
- 7.3 As of 18th April 2023, objections remained from the Canal and River Trust (CRT), Mr. I Miles and National Grid Electricity Distribution. For further details on these objections and the Nation Gas response, please refer to the Lands Negotiation Statement of Evidence Section 8.
- 7.4 The overriding aim of the engagement has been to minimise impact on landowners.

8. PROJECT DELIVERY AND FUNDING (BUSINESS DECISIONS)

- 8.1 To meet the PARCA timescales, National Gas is forecasting to award contracts for both the pipeline and the uprating works in September 2023 such that the detailed design and safety assessment process can begin. The mobilisation works for the pipeline are scheduled to begin in November 2023 and therefore all land and rights are required to have been acquired significantly in advance of this date. The uprating mobilisation is scheduled to commence in April 2024.
- 8.2 National Gas is responsible for and has assessed the costs of developing, constructing, and financing the Project. It is also responsible for and has assessed the compensation that will be payable for the acquisition of land and rights required for the Project.
- 8.3 The funding for the Project will be determined through a mechanism in Ofgem's current regulatory framework (RIIO-T2) known as a Funded Incremental Obligated Capacity (FIOC) Re-Opener Price Control Deliverable Uncertainty Mechanism.
- 8.4 The above-mentioned process involves two separate stages:
- 8.4.1 The first stage requires National Gas to receive approval for the Project's needs case. In July 2021, National Gas submitted this needs case setting out the significant investment the Project would require.

The needs case was reviewed and approved by Ofgem on 14 December 2021.

- 8.4.2 The second stage involves submitting a full funding request in the form of a Project Direction application which will include detailed costs for the pipeline and uprating design, construction & commissioning. At this stage, Ofgem will make its final decision as to the level of funding available for the Project. National Gas is proposing to make its submission in May 2023 to allow this final decision to be made prior to awarding the contracts for the pipeline & uprating works in September 2023.
- 8.5 Once the FIOC Project Direction is approved, the requirement to complete the works is written into the National Gas Licence (**CD E1**) and the allowances for the works will be made available. In the unlikely event that Ofgem do not approve the scheme, or SHGCL withdraw the PARCA, National Gas would recover the costs to date via a different mechanism under the regulatory finance process.
- 8.6 National Gas consider the non-approval of the scheme by Ofgem to be exceptionally unlikely for the following reasons:
- 8.6.1 Ofgem have been extensively engaged by the Project since the submission of the PARCA, have approved the Project need case and have approved the National Gas Procurement process for the appointment of the pipeline contractor.
- 8.6.2 Within the needs case, Ofgem have stated that the project is required "to maximise the potential security of supply benefits previously identified" and given the current global environment it is inconceivable that a Project with these benefits would not be approved.
- 8.6.3 National Gas have had multiple pre-submission meetings with Ofgem through March 2023 where the principles for the Project Direction have been agreed. Any outstanding queries are likely to be commercial (in relation to funding allowances) rather than technical in nature and will not affect approval of the Project Direction in September 2023.
- 8.7 In any event, given National Gas's working capital and strong credit rating, the requisite funds are available to meet the implementation and land acquisition/compulsory purchase compensation costs associated with the Project.

9. **PLANNING POSITION**

- 9.1 It is intended that the majority of the works comprising the Project will be carried out as permitted development under the Town and Country Planning

(General Permitted Development) (England) Order 2015 (as amended) **(CD A12)** and the Town and Country Planning (General Permitted Development) Order 1995 (as amended) **(CD A6)**.

- 9.2 Due to the characteristics of the Project and to confirm that permitted development rights were not removed, National Gas submitted a request for a screening opinion by the Secretary of State for Business, Energy and Industrial Strategy under the provisions of regulations 3, 4 and 6 of the Public Gas Transporter Pipeline Works (Environmental Impact Assessment) Regulations 1999 (as amended) in September 2020.
- 9.3 Pressure uprating of the existing NTS is covered within the existing pipeline consents for the pipelines (Milford Haven to Aberdulais, and Felindre to Tirley) therefore there is no requirement for this screening request to consider pressure uprating. In particular, the existing pipelines were constructed in accordance with permitted development rights under the Town and Country Planning Act 1990 **(CD A5)** and under Regulation 14(1) of the Public Gas Transporter Pipeline works (EIA) Regulations 1999). Conditions attached to the Regulation 14(1) consent required the pipelines to be installed in compliance with the Environmental Statements. Installation was completed in full compliance with those conditions. National Gas also concludes that increasing operating pressure does not of itself constitute development under the terms of Section 55 of the Town and Country Planning Act 1990 **(CD A5)** which sets out that development 'means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land'.
- 9.4 On 17th December 2020 a decision letter was issued confirming that the Secretary of State had concluded that the Project was not an EIA development as it was unlikely to have significant effects on the environment **(CD B1)**.
- 9.5 Similarly, confirmation that the proposed works at Felindre and Three Cocks (required to be screened by virtue of the size of the potential area of works exceeding the screening thresholds) did not constitute EIA development was also received from the respective authorities Swansea Council (16th March 2021) **(CD B2)**, Neath Port Talbot Council (30th March 2021) **(CD B3)**, and Powys County Council (15th March 2022) **(CD B4)**.
- 9.6 Formal Prior Notification (with an 8-week statutory response period) was only required for the new pipeline works at Churchover and between Honeybourne and Wormington. This was submitted in February 2022. The notification periods expired in mid-April 2022. There is no formal requirement for approval by the relevant authorities of such notifications and no queries or comments have been received from any authority.

- 9.7 National Gas also informed the relevant local authorities (as set out below) of the other permitted development works (where formal prior notification is not required) and provided a period 28 days' for any comments. The final submission related to Three Cocks in January 2022. All relevant response periods have passed and no comments have been received:
- Swansea Council – Alltwern and Felindre
 - Powys – Three Cocks
 - Neath Port Talbot – Cilfrew
 - Carmarthenshire – Llanwrda
 - Tewkesbury Borough Council – Tirley
- 9.8 Full planning permission (Reference R22/0130) under the Town and Country Planning Act 1990 was granted (subject to conditions) on 8th August 2022 by Rugby Borough Council for the permanent extension of Churchover Tee (**CD B5**). Prior to commencement of construction a condition discharge application will be required to obtain approval for details of the proposed new vehicular access. This will be obtained once the Main Works Contractor has prepared the required design detail.
- 9.9 It is therefore considered that the necessary permitted development rights and planning consents are in place to enable to Project to proceed.
- 9.10 Two applications under the Town and Country Planning Act 1990 (**CD A5**) are required to secure consent for temporary accesses required at two locations on the Wormington to Honeybourne Section of pipeline. Initial discussions with the relevant Highway Authorities have confirmed acceptability in principle of these locations. Relevant applications will be made following detailed design by the appointed contractor for the following two locations:
- A44 to south east of Evesham on Pitchers Hill; and
 - B4035 Weston Road to south west of Honeybourne Airfield.
- 9.11 A range of ecological surveys have already taken place during the lifetime of the project. Pre-construction phase 1 walkovers and protected species surveys will take place between March and September 2023 to update the ecological baseline and ensure the relevant survey data is available to support any required licence applications. Depending on the outcome of these ecological surveys, a range of protected species licences may be required as per the requirements of the Wildlife and Countryside Act 1981 and Conservation of Habitats and Species Regulations 2010.
- 9.12 Consent to temporarily close or divert existing highways or Public Rights of Way (ProW) may be required to ensure the safety of members of the public whilst construction works are taking place in proximity. The appropriate consents would

be obtained by the appointed Main Works Contractor following detailed design, once it is known which areas would need to be subject to closure/diversion.

- 9.13 Abstraction and discharge consents will be needed to enable National Gas to create two temporary lagoons for the purposes of temporarily storing water to be used to pressure test the pipelines as part of the commissioning process. Following completion of the hydrotesting the water in the lagoons will be discharged at the point of abstraction. National Gas has identified suitable locations for the abstraction from watercourses crossed by the two pipelines and established in principle with the Environment Agency the availability and acceptability of abstraction of the volume necessary noting some normal restrictions preventing abstraction under low flow conditions in the watercourse.
- 9.14 The above consents and licences are typical for this type of development and National Gas is familiar with the necessary scope of works to fulfil these. Should additional consents/licences be identified as being required as the Project's detailed design develops, National Gas is confident that these will also be satisfactorily agreed with the relevant authorities.

10. **POWER UNDER WHICH THE ORDER IS MADE AND DECISION TO MAKE THE ORDER**

- 10.1 The Order was made under Section 9 of and Schedule 3 to the Gas Act (**CD A5**), and having regard to the Department for Housing, Communities and Local Government's *Guidance on Compulsory Purchase process and The Crichel Down Rules* (July 2019) ("the CPO Guidance") (**CD A15**).
- 10.2 Section 9 of the Gas Act (**CD A5**) provides that the powers in schedule 3 (which provides for the compulsory purchase of land) have effect in relation to the holder of a gas transporter licence. National Gas holds a Gas Transporter Licence (**CD E1**) granted by the Authority.
- 10.3 Paragraph 1(1) of Schedule 3 of the Gas Act (**CD A5**) provides that:
- (a) *"The Secretary of State, after consultation with the Director¹, may authorise a gas transporter to purchase compulsorily any land."*
- 10.4 Paragraph 1(2) of Schedule 3 to the Gas Act confirms that "Land" includes any right over land, and that the Secretary of State's power includes power to authorise the acquisition of rights over land by creating new rights, as well as acquiring existing ones.

¹ References to the Director General of Gas Supply ("the Director") shall be read as references to the Gas and Electricity Markets Authority ("the Authority") (20.12.2000) by virtue of the Utilities Act 2000 (c. 27), s. 3(2); S.I. 2000/3343, art. 2, Sch.

- 10.5 The Project is required to fulfil the PARCA application request from South Hook Gas Company Limited and National Gas needs to acquire the land and new rights needed for the construction, operation, and maintenance of the Project.
- 10.6 To help meet the Project programme outlined above, National Gas is promoting the Order to ensure that National Gas can secure all land and rights required for the Project compulsorily, if voluntary agreement cannot be reached with all landowners and occupiers in time to enable the programme milestones to be achieved. The current programme for the Project is driven by the PARCA capacity release date.
- 10.7 If any landowner negotiations are ultimately not successful, the Order will enable the land and rights needed for the Project to be acquired to ensure that the Project is not delayed.

11. HUMAN RIGHTS AND THE EQUALITY ACT

Human Rights

- 11.1 Each plot of land described in the Order is required for the purposes of the Project.
- 11.2 National Gas is taking a proportionate approach to compulsory acquisition and, rather than seek to acquire the freehold title to all the Order Land, is seeking to acquire a combination of freehold title (for the new infrastructure at Churchover Tee) and permanent rights (such as rights to install and maintain the new sections of pipeline).
- 11.3 National Gas considers that it has taken a proportionate approach to land assembly, having regard to the impact on those holding interests in the Order Land. National Gas has sought to acquire only such land and/or interests which are necessary for the Project to proceed.
- 11.4 Notwithstanding the substantial efforts that have been made to acquire interests in the land by way of voluntary agreement, as of 18th April 2023, National Gas has been unable to secure all of the interests required for the Project by negotiation. It is therefore necessary to seek compulsory powers to enable delivery of the Project.
- 11.5 Negotiations to acquire interests by private treaty will continue in parallel with the CPO process. Where an agreement is reached with the owner of any part of the land required for the Project, that land, save where expressly stated otherwise, will be retained as part of the Order Land. This will enable National Gas (and its successors) to acquire any third-party interests that may subsist in the land which might otherwise delay, impede or prevent the implementation or operation of the Project. This is the approach recommended in the CPO Guidance **(CD A15)**.

- 11.6 With regard to Human Rights, Section 6 of the Human Rights Act 1998 **(CD A7)** prohibits public authorities from acting in a way which is incompatible with rights protected by the European Convention on Human Rights (“the Convention”) **(CD A1)**. The position is summarised in paragraph 12 of the General Overview of the CPO Guidance **(CD A15)**, which states that a compulsory purchase order should only be made where there is “a compelling case in the public interest”. The CPO Guidance makes it clear that an acquiring authority should be sure that the purposes for which it is seeking compulsory acquisition powers sufficiently justify interfering with the human rights of those with an interest in the land affected. In making this assessment, an acquiring authority should have regard, to the provisions of Article 1 of the First Protocol to the Convention, and in the case of dwellings, Article 8.
- 11.7 Article 1 of the First Protocol **(CD A1.3)** states that:
- “...Every natural or legal person is entitled to peaceful enjoyment of his possessions” and “no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by the law and by the general principles of international law...”.
- 11.8 Whilst owners and occupiers of the Order Land may be deprived of their property/interest in property if the Order is confirmed, this will be done in accordance with the law. National Gas is only seeking the acquisition of the freehold title to the Order Land for new above ground infrastructure at Churchover Tee. The remainder of the Order Land is proposed to be affected by the acquisition of new rights only. The new rights sought by National Gas have been separated into “packages” based on their purpose and applied to specific plots, as appropriate. Some of the rights are only required for temporary purposes, such as the creation of construction compounds, and will only be exercised during the construction phase. Other rights will be permanent in nature, such as the right to keep installed, operate, repair and maintain the new sections of pipeline. The rights “packages” have been tailored in this way to ensure that a proportionate approach to compulsory purchase is taken, and that the impact for affected landowners and occupiers is limited so far as reasonably practicable.
- 11.9 The Order is being promoted in the public interest as required by Article 1 of the First Protocol and the public benefits have been set out in detail earlier in this Statement. National Gas considers that the Order will therefore strike the right balance between the public interest in the implementation of the Project and those private rights that will be affected by the Order.
- 11.10 Article 6 of the Convention **(CD A1.1)** provides that:

- “In determining his civil rights and obligations... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.”

- 11.11 The Order has been extensively publicised and consultation has taken place with the community and key stakeholders in the region. All those affected by the Order will be notified, will have the right to make representations and objections to the Secretary of State, and objecting parties will have the right to be heard at a public inquiry. It has been held that statutory processes are in compliance with Article 6 of the Convention.
- 11.12 Those whose interests are acquired under the Order will also be entitled to compensation which will be payable in accordance with the Compulsory Purchase Compensation Code. The Compensation Code has been held to be compliant with Article 8 and Article 1 of the First Protocol to the Convention.
- 11.13 National Gas has sought to keep any interference with the rights of those with interests in the Order Land to a minimum. The land within the Order has been limited to the minimum required for the Project infrastructure to be installed, operated and maintained.
- 11.14 The requirements of the Human Rights Act 1998 and the Convention, particularly the rights of property owners, have therefore been fully considered. There is a compelling case in the public interest for the Order to be made and confirmed, and the interference with the private rights of those affected that would be the inevitable result of the exercise of compulsory purchase powers conferred by the Order would be lawful, justified and proportionate.

Equality Act

- 11.15 National Gas has, as a non-public body exercising public functions, had regard to the public sector equality duty set out in s149(1) of the Equality Act 2010 (**CD A10.1**) and has, in promoting the Order, and has undertaken a landowner engagement exercise as detailed in Appendix 2.
- 11.16 National Gas has taken account of and considered receptors and effects on those receptors through its environmental assessment processes for the Project.
- 11.17 National Gas does not currently consider that the Project will give rise to any impacts or differential impacts on persons who share a relevant protected characteristic as defined in the Equality Act, or upon persons who do not share such relevant protected characteristic. However, the engagement process is ongoing and National Gas’s position will be continually monitored and should any persons be identified who may be adversely impacted by the Project, packages of assistance measures will be put in place as necessary so as to mitigate so far

as practicable any identified activity that may have an adverse impact on these individuals.

12. **RESPONSE TO OBJECTIONS**

12.1 On 4 December 2022 Mr. I Miles wrote to the Department for Business, Energy and Industrial Strategy to raise an objection to National Gas acquiring rights over his land (Order plots 64-68) located between Wormington & Honeybourne **(CD C7)**. The objections were made on three grounds:

1. That National Gas had not properly considered alternatives;
2. That National Gas had not properly considered the calculation of compensation in the context of voluntary negotiations; and
3. Energy supply considerations relating to "blackouts".

12.2 A response to point 1 is contained within the Engineering Statement of Evidence and, briefly, in Section 5 above. A response to point 2 is contained within the Lands & Negotiations Statement of Evidence.

12.3 As regards point 3, this ground of objection raised concerns around electricity supply. Whilst as owner and operator of the National Gas Transmission System energy supply is a key consideration for National Gas, it is National Grid Electricity Plc that is responsible for the transmission of electricity and ensuring that "blackouts" are avoided. Concerns regarding electricity "blackouts" are not therefore relevant to the promotion of the Order for this Project.

13. **CONCLUSIONS**

13.1 The above statement of evidence satisfied the relevant sections of the CPO guidance **(CD A15)** as follows:

13.1.1 National Gas has demonstrated that it has taken reasonable steps to acquire all the land rights included in the Order by voluntary agreement as laid out in Section 6 and the Lands statement of evidence.

13.1.2 National Gas has proceeded with the Order in parallel to progressing voluntary agreements as a sensible precaution and last resort to avoid putting the PARCA timescales at risk if negotiations with a particular landowner(s) break down.

13.1.3 National Gas has a clear idea of how it intends to use the land within the Order and has progressed designs to this effect (please see the Engineering statement of evidence).

13.1.4 National Gas has developed a detailed cost forecast and design & construction programme and is in the process of engaging a design & build contractor to carry out the required works in 2023.

13.1.5 National Gas is in frequent communication with the customer (SHGCL) and its regulator (Ofgem) to ensure that preparation for the works is carried out in line with the formal requirements of the PARCA and FIOC process and therefore the works are unlikely to be blocked by any physical or legal impediments.

13.2 There is therefore a compelling case in the public interest to make this Compulsory Purchase Order in line with the referenced guidance.

14. **DECLARATION**

I believe that the facts stated in this proof of evidence are true.

A handwritten signature in black ink, appearing to read 'James Tomison', with a horizontal line above it.

James Tomison

18th April 2023