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Dear Mr Norman,

**Consultation Response form Suffolk County Council; to The Office of Gas and Electricity Markets (Ofgem) Assessment of capital costs for the Hinkley-Seabank electricity transmission project.**

Suffolk County Council welcomes the opportunity to provide a response to the consultation on The Hinkley-Seabank project, produced by the Office of Gas and Electricity Markets (Ofgem).

The County Council recognises the need for effective regulation of both markets and infrastructure delivery in the energy sector. While this case is a considerable distance from our area, the impact of regulation on the broader consenting process is of great interest to us, as a local statutory consultee for a county that has been and continues to be, the location for a succession of electricity connection and generation projects.

The Council is particularly mindful of the potential adverse impacts of the construction and operation of these projects on its residents and its environment. However, it is also mindful of the need to provide more low carbon energy in order to reach net zero by 2050 and to deliver 30GW of offshore wind capacity by 2030.

The Council considers the operation of regulatory frameworks must balance the need to deliver cost-effective schemes for the consumer, whilst maintaining an effective and robust consenting process that has the confidence of consultees and the public at large.

The Council considers it is essential that the overall process provides, as far as is possible, clarity and certainty for host communities. Therefore, it is also essential that the process recognises and responds to wider public interest issues which are a key component of planning decisions under the terms of the Planning Act 2008.

It is in considering these local conditions and concerns, as well as the national interest, that we are making this representation. This response, therefore, focuses on the implications of Ofgem's findings for the wider operation of the planning system.

**The approach of Ofgem**

The concerns of the Council arise in relation to the problem of justification for additional costs, specifically the issues this raises in relation to the planning process.

Of particular note are the following findings in the assessment of capital costs;

*“2.12. Overall, we consider that, ahead of NGET’s submission of its planning application, it appears that NGET neither:*

*2.12.1. gave sufficient consideration to the costs and benefits that T-Pylons might provide along all or parts of the HSB route; nor*

*2.12.2. carried out a sufficient assessment of the risks of not using T-Pylons or of ways such risks might have been mitigated (such as putting forward alternative proposals in the planning application and prior consultation).”*

The consultation goes on to expand on these issues further;

*“Assessment of the risks of not using T-Pylons or consideration of alternative ways such risks might have been mitigated*

*2.20. We acknowledge that NGET’s actions in proposing that HSB be constructed using T-Pylons for the majority of the route may be expected to have reduced the risk of planning refusal. It is always possible to remove or reduce the risk of objection and refusal by offering greater mitigation. However, in accordance with its duties, we consider that it would have been reasonable for NGET to consider whether costs could be reduced without jeopardising delivery of HSB to an unacceptable extent.*

*2.21. Further to ‘Consideration of costs and benefits’ (above), NGET does not appear to have appropriately assessed the risk, at the time of its planning application, of whether a case could be made that T-Pylons could have been used on less of the route than it proposed, or whether the planning application could have included lattice towers as an alternative option to T-Pylons.”*

### **The likely impacts of this approach**

The Council considers that these findings will have potentially significant impacts on the function of the planning system.

Consent under the 2008 Planning Act involves a *front-loaded process where the developer consults on a proposed project before submitting an application*. The application will then be examined by a single inspector or a panel of inspectors from the Planning Inspectorate, known as the Examining Authority. On completion of the examination, the Examining Authority will provide a recommendation report to the Secretary of State who will decide whether development consent should be granted.

- 1) The findings presented by Ofgem will place an additional onus on the applicant to prepare a cost benefit analysis on a range of scheme options. Such an analysis is not usually required in order to obtain planning consent; however, the findings of this CBA are likely to impact on the design of a scheme and as such will need to be available for the Examining Authority (ExA) and the Secretary of State (SoS) to consider.
- 2) Likewise, a consenting risk analysis will also be relevant to the design of the submitted scheme or schemes and will also need to be available for consideration.
- 3) In order to demonstrate conclusively to Ofgem that additional mitigation costs are justified to secure consent in most cases (outside protected or designated land?) it may well be necessary for the applicant to submit, along with the relevant impact

assessments, one or more alternate proposals for the ExA and the SoS to consider. Based on Ofgem's observations on the Hinkley – Seabank connection, this is likely to be required in most instances where additional mitigation costs will be incurred, in order to provide definitive evidence that they are reasonably required.

- 4) As is demonstrated by the example of Progress Power, to make this approach effective, it will also be necessary for the ExA and by extension the SoS to set out in their findings and decision respectively, why the additional expenditure for mitigation is required for a development. (See Annex A)

## **Conclusion**

In summary the approach taken by the regulator to the assessment of capital costs seeks to scrutinise not only the costs of the consented scheme, but also the components of that consent and their supporting evidence base.

The Council considers the approach as set out in this consultation places a significant burden on applicants, also by extension consultees and the ExA. In addition, it will create significant uncertainty at both consultation and application stage, regarding the extent, nature and design of the proposals.

It is the view of the Council, that the regulator should only seek to scrutinise the costs of the scheme as it has been consented, including any mitigation measures which have been deemed to be reasonable and necessary by the ExA and SoS.

In the event that the regulator chooses to maintain the position set out in this consultation, The Council considers that, in the absence of changes to the mandate and operation of the regulator, the Development Consent Order process for energy transmission projects will need to be modified. The Council recognises that discussion of the detail and options for such changes is outside this scope of this consultation.

However, the Council suggests that in the interim, Ofgem will need to engage with the relevant departmental and non-departmental public bodies to prepare guidance for applicants, consultees and the ExA. This guidance will need to clarify the additional requirements the regulator's approach imposes on them, when preparing and considering proposals for energy transmission infrastructure.

The Council considers that not only is this guidance and clarification essential for applicants and others, but that it would also provide the information necessary to explain to the wider public the increased uncertainty around the design and impacts of proposed transmission projects.

Yours sincerely,



Sue Roper  
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## **Annex A – Excerpt from SoS decision on Progress Power In the case of Progress Power Limited, the Secretary of State’s decision letter<sup>1</sup>**

“46. The Secretary of State notes National Grid Electricity Transmission plc (“NGET”) expressed a preference for the AIS variant and suggested that restricting its choice to a GIS design would prevent it from performing its duty to balance amenity considerations against its other obligations to be economic and efficient. NGET therefore argued that the choice between the AIS and GIS options should be left to them. The Secretary of State agrees with the ExA [ER 9.11] that there are significant differences in planning terms between the impacts of the AIS and the GIS options that are relevant to the consideration as to whether to grant an Order and that coming to a view on the choice between the AIS and GIS options would not override NGET’s duties under the Electricity Act 1989 but just set the parameters in which these duties must be undertaken [ER 9.11].

47. The Secretary of State notes the consideration given by the ExA [ER 6.40] to the permanent damage that would result from the AIS variant and that the same benefits could be achieved through the GIS variant. The Secretary of State acknowledges that the GIS variant will cost an additional £4m that will be passed on to consumers but that this will be over the lifetime of the Development.

48. The Secretary of State agrees with the conclusion reached by the ExA [ER 6.41] that on balance the need for new generating capacity and the lower cost of the AIS variant does not provide exceptional reasons to justify the harm to the field boundaries, as an asset of equivalent significance to a SM, or the harm to the landscape and visual impact that would result from the AIS variant. The Secretary of State agrees with the ExA that with the GIS variant, the need for the Development and other benefits would be greater than the harm to landscape and visual impact and to heritage assets. The Secretary of State is therefore satisfied that whilst the case for the AIS variant has not been made, the case for the GIS variant has been”

<sup>1</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010060/EN010060-001044-Decision%20Letter%20and%20Statement%20of%20Reason%20-%20Superseded.pdf>