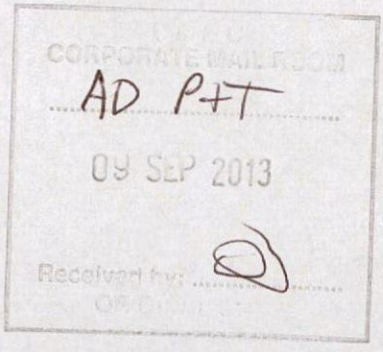
NORTHERN POWERGRID

Your ref:

Our ref: KW/YC_YP09284

Director of Planning
Barnsley Metropolitan Borough Council
PO Box 604
Barnsley
South Yorkshire
S70 9FE



Wayleave Department
Bentley House
Lowton Way
Hellaby
Rotherham
S66 8RY

www.northernpowergrid.com

Tel: 0113 227 4934
e-mail: keith.wade@northernpowergrid.com

05 September 2013

Dear Sirs

Re: Hazlehead – Scholes (Honley Tee) 33kV Overhead Line (OHL) Rebuilds

In order to continually distribute efficient and reliable supplies of electricity, Northern Powergrid are planning to undertake the above scheme in the near future.

Please find attached 3 copies of an exemption notice in accordance with the new exemption regulations of April 2009. If your Authority has no objections to the proposed works then I would be obliged if you could complete all copies of the aforementioned notices and return two copies to me within 6 weeks.

I have enclosed a copy of the Overhead Lines (Exemption) (England & Wales) Regulations 2009 Guidance Note for your attention but should you require any additional information regarding these regulations or the proposed works then please do not hesitate to contact me.

Please note that I have also forwarded similar correspondence to Kirklees Council as I understand most of the route falls within their jurisdiction..

Yours faithfully

Keith Wade DipSurvPract
Surveyor

Mobile: +44(0) 7568 112287

NORTHERN POWERGRID

THIS FORM IS FOR USE BY ELECTRICITY NETWORK OPERATORS TO ADVISE LOCAL PLANNING AUTHORITIES OF PROPOSED WORKS TO BE UNDERTAKEN WITHIN THEIR DESIGNATED AREA THAT ARE CONSIDERED TO BE EXEMPTED UNDER THE OVERHEAD LINES (EXEMPTION) (ENGLAND AND WALES) REGULATIONS 2009. LOCAL AUTHORITIES HAVE THE RIGHT TO INVOKE THE FULL SECTION 37 PROCESS UNDER THE ELECTRICITY ACT 1989 SHOULD IT BE CONSIDERED NECESSARY.

The Form should be sent in triplicate to each Local Planning Authority in whose area the proposed development would be situated.

Details of Applicant

Name: **Northern Powergrid (Yorkshire) Limited**
Contact Person: Keith Wade
Address: Northern Powergrid (Yorkshire) Limited
Bentley House
Lowton Way
Hellaby
Rotherham, S66 8RY
Telephone No: 0113 227 4934

Applicant's Ref: YC_YP09284 **Date:** 05/09/2013

To: The Chief Executive, Barnsley Metropolitan Borough Council

Electricity Act 1989: Overhead Lines (Exemption)(England and Wales) Regulations 2009

It is proposed to undertake the following work that is considered to be exempted from the Electricity Act 1989 by falling within the Overhead Lines (Exemption)(England and Wales) Regulations 2009:

Hazlehead - Scholes (Honley Tee) 33kV OHL - Poles E0601 - E0604 are to be rebuilt on line using a modern equivalent wood pole design.

Particulars of proposed development to be completed by Applicant:

As part of the on-going improvement works to our overhead electrical network in the Crow Edge/New Mill areas it is proposed to rebuild approx 0.4km of existing 33kV wood pole lines (between supports E0601 - E0604) along the route of the existing overhead electric lines. I have attached copies of drawing numbers C1004806 showing highlighted in Blue the existing overhead electric line that is to be worked upon. These works are deemed as minor by The Department of Energy and Climate Change and therefore fall within the exemption regulations.

The Council/Authority is requested to indicate that it has no objection to the work being carried out by returning two copies of this Form with the Certificate completed and signed.

Yours Faithfully

For and on behalf of the Applicant

NORTHERN POWERGRID

CERTIFICATE

TO BE COMPLETED BY THE LOCAL PLANNING AUTHORITY AND RETURNED TO THE APPLICANT ELECTRICITY NETWORK COMPANY WITHIN SIX WEEKS OF RECEIPT

Barnsley Metropolitan Borough Council

(i) objects/does* not object for the proposed development detailed above to be undertaken under the exemptions laid down in the Overhead Lines (Exemption)(England and Wales) Regulations 2009.

(ii) wishes/does* not wish the Secretary of State to consider the application using the full section 37 process under the Electricity Act 1989.

The reasons for requesting the full section 37 process are*:

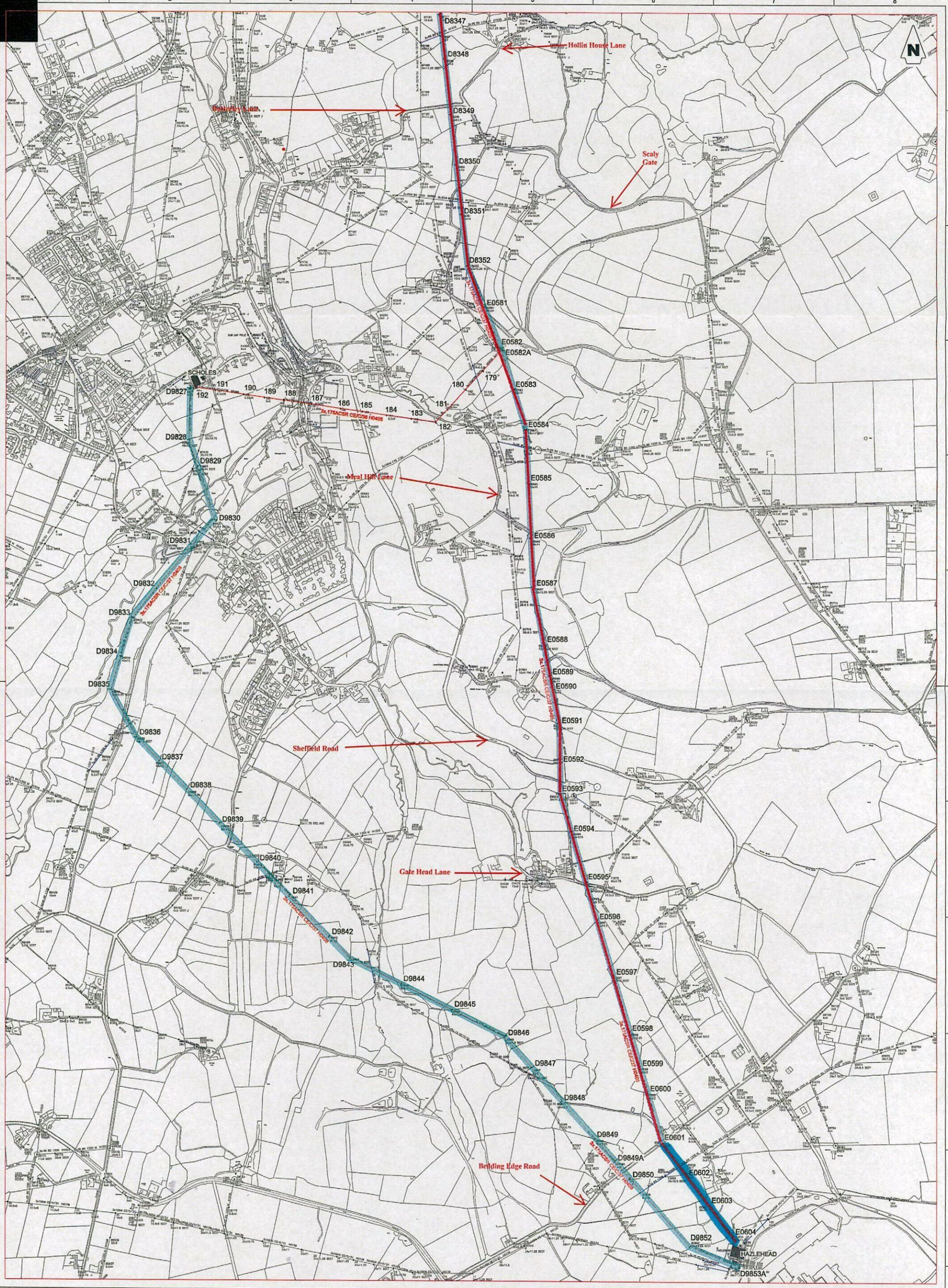
Signed: **Dated:**

Designation:

on behalf of **Barnsley Metropolitan Borough Council**

***delete as appropriate**

Applicant's Reference: YC_YP09284



Notes:
This plan shows PROPOSED cable positions only. Up to date Main Records plans must be obtained prior to commencing work on site. Other Electricity Cables, not owned by ourselves, may also be laid in the area shown on this plan. Information on these can be obtained from the owners.

Based on the Ordnance Survey Map with the sanction of the controller of HM Stationery Office Crown copyright reserved.
Licensee: Northern Powergrid Holdings Company
Registered Office: Lloyds Court, 78 Grey Street, Newcastle Upon Tyne, NE1 6AF
Registered in England and Wales Number 3476201

DRAWING KEY

A1 PORTRAIT

3x175ACSR CE/C/37 HO405 33kV OVERHEAD LINE

NORTHERN POWERGRID

Lloyds Court, 78 Grey Street, Newcastle Upon Tyne, NE1 6AF

Manufacturer Details

HAZLEHEAD - SCHOLES
33kV OVERHEAD TOWER REFURBISHMENTS

Sheet No. | Scale

Prepared By: Ashley.James

Document Details: OVERHEAD TOWERS

Revised | Grid Reference

Drawing No.: C1004806 | Historic Ref No.: YC

Date Issued: 29/12/2011 | Checked By

Revision: 02 | Notes

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The Statutory Consents Regime for Overhead Power Lines in England and Wales and New Measures introduced by the Overhead Lines (Exemption) (England and Wales) Regulations 2009: guidance note

APRIL 2009

THE STATUTORY CONSENTS REGIME FOR OVERHEAD POWER LINES IN ENGLAND AND WALES AND NEW MEASURES INTRODUCED BY THE OVERHEAD LINES (EXEMPTION) (ENGLAND AND WALES) REGULATIONS 2009

Introduction

This guidance note outlines the mechanics of the statutory consents regime for overhead power lines in England and Wales. It also clarifies how the regime should regard resilience measures for works to existing power lines as proposed by electricity distribution companies following the storms in October 2002 that resulted in approximately 2 million domestic customers losing supplies for up to 10 days, and the outcomes from the Government's Energy Review consultation on the resilience of overhead power line networks of December 2006.

This guidance applies to the Overhead Lines (Exemption) (England and Wales) Regulations 2009 (the 2009 Regulations) that come into force on 6 April 2009[1]. In line with recommended practice where original enabling powers have been devolved, the Overhead Lines (Exemption) Regulations 1990 (the 1990 Regulations) have been revoked for England and Wales, where the 2009 Regulations will apply. The 1990 Regulations remain in force in Scotland but will be revoked and reintroduced in the same form as the 2009 Regulations with effect from 12 May 2009. The 2009 Regulations largely replicate the statutory regime in the 1990 Regulations, but also introduce minor new resilience measures. This guidance covers the amended regime for England and Wales only. Transitional arrangements for any proposals already notified to the Local Planning Authority (LPA) in England and Wales on or before 5 April 2009 and where the LPA makes its determination on or after 6 April 2009 provide that the 1990 Regulations apply to those proposals.

The 2009 Regulations

The 2009 Regulations extend in England and Wales the works that may be carried out by the network companies without the need to apply to the Secretary of State for Energy and Climate Change for fresh section 37 consent under the Electricity Act 1989. They introduce a better balance between those changes to the electricity networks requiring the full section 37 process, and those where an LPA is to be notified. In particular, the regulations streamline the administration for undertaking minor works in National Parks and

[1] Statutory Instrument 2009 No. 640

Areas of Outstanding Natural Beauty, by bringing them into line with current practices for minor works in other areas that are already carried out without section 37 consent. By doing so, a more proportionate, flexible and less bureaucratic approach to handling clearance for minor changes to existing overhead power lines can be achieved in the regime.

The package of measures to be implemented under the 2009 Regulations comprises:

- Removal of the existing requirement for a fresh section 37 consent to modest network changes being carried out in National Parks and Areas of Outstanding Natural Beauty. LPAs will continue to have the right to invoke the full section 37 consent procedures in cases where they consider significant adverse effect on the environment is likely. However, DECC accepts the need to retain the restrictions for SSSIs given the sensitivities of the sites and the statutory obligation to consult Natural England or the Countryside Council for Wales (CCW);

- There will be no change to the restrictions already placed on replacement lines in terms of height and lateral tolerances and the voltage cannot be increased from that of the existing line without fresh section 37 consent;

- The installation of additional pole supports (including wooden poles) into an existing line will be allowed subject to the LPA being given the opportunity to form a view on whether the change is likely to have a significant adverse environmental impact;

- Removal of the previous requirement for section 37 consent for temporary lines in National Parks and Areas of Outstanding Natural Beauty (but not in SSSIs); and

- Guidance that makes clear that the introduction into existing overhead lines of a new generation of components, performing broadly the same function as their predecessors but introduced genuinely to improve network resilience, is regarded by DECC as falling within the meaning of "an electric line ... which replaces an existing line" (Reg 3(1)(e) of the 2009 Regulations). These new components should be regarded by LPAs as generally acceptable. For convenience they can be termed generically as "design successors" and would notably include covered conductor systems, such as Aerial Bundled Conductors or Compact Covered Conductors.

GUIDANCE NOTE

THE STATUTORY CONSENTS REGIME FOR OVERHEAD POWER LINES IN ENGLAND AND WALES

1. Work on overhead power lines requires a fresh section 37 consent unless it is permitted under an existing section 37 consent or under an available exemption. Exemptions for some alterations and temporary works are permitted under the Overhead Lines (Exemption)(England and Wales) Regulations 2009 (the 2009 Regulations) and exemption is provided by the Electricity Act 1989 for: (i) any line up to and including 20 kV which is used or intended to be used for supplying a single customer; and (ii) where a line is only on the land of the person installing it. DECC considers emergency works as a special category as outlined in paragraph 17 below.

2. It is important that Local Planning Authorities (LPAs) should look at resilience proposals from network operators in the context of the Government's energy supply objectives and the need to put in place network improvements as quickly as possible. The 2009 Regulations broaden the extent to which network distribution companies are able to strengthen overhead power lines by using more substantial wires and additional supports or slightly repositioning lines without needing the full section 37 consent process. Using modern covered conductors instead of bare wire should result in an improvement in supply reliability (due to lower risk of faults from wind debris in storms) and a greater level of public protection (reduced risk of injury due to inadvertent contact from the ground) from the overhead conductors.

3. A simple procedure is applied under which the network company submits a notification to the LPA (Annex A) for proposed works. The LPA will screen notifications and respond to the operator within six weeks advising if they have no objections, or wish to invoke the full section 37 process for that proposal.

What can be done under existing consents?

4. Development consent under section 37 is granted to install an overhead power line and keep it installed, which DECC would see as normally meaning in perpetuity. There may be provision for a review of a consent, but such reviews are rare and the public service benefit of the electricity networks will be a critical factor. Routine refurbishment and damage repair during the life of an overhead power line may be carried out on worn or damaged components under existing consents on a "like-for like" basis

including the installation in some situations of any additional pole support or supports subject to a notification procedure to the LPA so that they could consider the proposal. Although some of the line components originally used in its construction may still be available, a new generation of components that differ in some respects from their predecessors, usually referred to as "design successors", have become available. In particular, advances in design and technology have led to the use of improved materials, resulting in more robust overhead power lines with greater resilience against accidental damage and to cope with adverse weather conditions. The installation of these "design successors" is regarded by DECC as replacing an existing electric line and thus exempt (other than in specified sensitive areas) from the consent requirements (see para 5 below)

What is the "replacement electric line" exemption and what do the 2009 Regulations do?

5. The 2009 regulations extend the exemption to such changes carried out in National Parks and Areas of Outstanding Natural Beauty (AONBs) previously applied in the 1990 Exemption regulations (revoked) for straightforward replacement of an existing overhead power line. LPAs will continue to have the right to invoke the full section 37 consent procedure in these areas for cases where the LPA considers a significant adverse environmental effect is likely. However, the existing need for consent to such works in SSSIs remains, given the sensitivities of the sites and the statutory obligation to consult Natural England or the Countryside Council for Wales (CCW).

6. The 2009 Regulations thus extend to National Parks and AONBs the exemption from consent requirements for minor diversions of existing lines or increases in height within limitations, subject to LPA acquiescence under the notification procedure. The limitations allowed are: (i) up to 30 metres for diversions of lines with supports not exceeding 10 metres in height; (ii) up to 60 metres for diversions of lines with higher supports; and (iii) increases in height for individual supports not exceeding the height of the highest support being replaced by more than 10%. Provided the limitations on diversions and height are met, and the LPA does not consider a significant adverse environmental effect likely, there is no restriction on introducing replacement supports that are more substantial into an existing line, such as H-poles.

7. DECC and LPAs already regard the introduction of covered conductor systems, such as Aerial Bundled Conductors (ABC) for low voltage lines and Compact Covered Conductors (CCC) for 11 kV,

as generally falling within the scope of the replacement of electric line exemption (see paragraph 2 above).

8. The 2009 Regulations extend to National Parks and AONBs the existing exemption from consent requirements to temporary diversions for periods not exceeding six months, provided they connect two points on the existing lines up to 500 metres apart for lines with a nominal voltage below 66 kV, or up to 850 metres apart for other lines.

Who decides whether the full section 37 process should apply?

9. It would be for the network operator to consult the relevant LPA. Being familiar with the local landscape, the LPA is in a good position to judge the degree of significance of what is being proposed for the local environment. If the position on the proposal is not clear-cut, then either the network operator or the LPA can approach DECC for a view. As DECC's responsibility for overhead line consents carries across England and Wales this would enable a consistent view to be taken.

What about modest diversions and increases in height?

10. The 2009 Regulations make no changes to the tolerances exempted from consent requirements in the original 1990 Exemption Regulations on height and lateral shifts in replacements to existing electric lines. They are designed to distinguish between modest and material change where the need to apply for a further section 37 consent arises.

What about installing additional supports into an existing overhead power line?

11. The 2009 regulations allow for installation of additional poles (for example wood) into an existing overhead power line without the need for fresh consent, subject to the LPA determining that no significant adverse environmental impact is likely.

Why are temporary overhead power lines exempted?

12. Such lines are temporary incursions into the landscape with the ground being restored afterwards in order to facilitate more permanent works. But they do not have permanent authority to remain in situ and as such it is appropriate for the exemptions from the full section 37 process be extended by the 2009 Regulations. Such lines must nevertheless be notified to the LPA.

What about working in sensitive areas?

13. The full section 37 process for all temporary diversions and minor changes in National Parks and Areas of Outstanding Natural Beauty has been shown by experience and consultation to be an unnecessary regulatory burden. The 2009 Regulations provide that such works in these areas are exempt from the consent requirements, subject to certain restrictions and to the LPA's power to invoke the full section 37 consent procedure where it considers significant adverse environmental effect is likely. Such works in SSSIs, however, remain subject to the full section 37 consent requirements, given the sensitivities of the sites and the obligation to consult Natural England or the Countryside Commission for Wales.

What about emergency works?

14. A network operator may find it necessary to carry out emergency works, perhaps following a storm which has left an overhead power line in a dangerous condition or even damaged it beyond repair. Additionally, Health and Safety Executive Inspectors have the power to require that the height of an existing section of overhead power line needs to be increased without delay for safety reasons. Most of these works will now fall into the categories exempted from the full section 37 consent process and it is clear that essential and urgent work must be carried out as soon as possible to ensure security of supply. In such circumstances, the 2009 Regulations now provide that, while the relevant LPA must be notified as soon as possible by the network operator, the essential and urgent work can be commenced within the LPA's 6-week determination period, with any necessary action to formalise the situation being completed as soon as practicable. In the case of SSSIs, the specific SSSI regime provides explicitly for emergency works with an express reasonable excuse for non-compliance provided that Natural England or the Countryside Commission for Wales is notified as soon as practicable after the start of the operation.

General Questions and Answers on the Statutory Consents Regime for Overhead Power Lines in England and Wales

Q1 What is this note?

A1 This note is intended to help those who need to understand the mechanics of the statutory consents regime for overhead power lines in England and Wales: network operators of overhead power lines, Local Planning Authorities, statutory consultees and other interested parties.

Q2 Why has it been produced now?

A2 The guidance has been written following the work undertaken in 2003 by the DTI facilitated Network Resilience Working Group to consider the disruption to electricity supplies as a result of the storms in October 2002 and the findings of the Government's Energy Review consultation on the resilience of overhead power line networks in December 2006[2].

Q3 How does it fit in with the Energy Review?

A3 The 2006 Energy Review Report "The Energy Challenge"[3] noted that the Government believes a better balance can be struck between changes for which the full section 37 consents process under the Electricity Act 1989 is required and changes where a more proportionate approach can be adopted. It committed Government to consult on its proposals for new guidance on the consenting arrangements for overhead power lines.

Q4 What is the statutory consents regime?

A4 Development consent from the Secretary of State for Energy and Climate Change under section 37 of the Electricity Act 1989 is required to install or keep installed all but the most minor overhead power lines. The Secretary of State may also, alongside the section 37 consent, grant deemed planning permission for such developments under section 90 of the Town and Country Planning Act 1990. These arrangements perpetuate a regime which has operated for over a century since the consents mechanism began under section 10(b) of the Schedule to the Electric Lighting (Clauses) Act 1899.

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[2] http://www.berr.gov.uk/consultations/page36107.html
[3] http://www.berr.gov.uk/files/file31890.pdf

Q5 Why does a separate regime exist for overhead power lines rather than making them subject to normal Town and Country planning procedures?

A5 Parliament has decided that it is in the public interest to have an effective public electricity supply which is managed under a dedicated regime. The privatisation of electricity network companies does not change the rationale of public interest. Given that an overhead power line may well extend across a number of Local Authority areas it also makes practical sense.

Q6 What impact does planning reform have on the consenting process for overhead power lines?

A6 The Infrastructure Planning Commission (IPC) will start accepting applications in 2010 and determine consent for all overhead power lines of 132kV and above in England and Wales. The IPC will also determine consent for any new power lines below this threshold that form part of, or are associated with, a Nationally Significant Infrastructure Project (NSIP) e.g. such as a power station or wind farm. Determination of decisions for consent on other power lines below 132kV will remain with the Secretary of State for Energy and Climate Change, as will applications for consent for any works received before the IPC begins operation. A formal review of the consenting arrangements in DECC for overhead power lines will take place alongside a review of the IPC following two years of IPC operation. Any overhead power line applications received by the IPC that would be exempt under the 2009 regulations will remain exempt.

Q7 What regime is in place for underground cables?

A7 Network operators do not need specific planning permission to install underground power cables. Such development is carried out under Permitted Development Rights (the Town and Country Planning (General Permitted Development) Order 1995). However, any LPA can if so warranted, insist that specific planning permission be sought.

Q8 Who initiates and operates these overhead power lines and underground power cables?

A8 In England and Wales an overhead power line normally forms part of either the electricity transmission network, operated at 400 kV and 275 kV by National Grid, or the electricity distribution networks, operated at 132 kV and below by the network distribution

companies. As such it falls to those companies to bring forward proposals for their networks.

Q9 Why are power lines not normally placed underground?

A9 Overhead power lines remain a cost effective and acceptable means of transferring electricity to consumers. Underground cables are not without their operational disadvantages in that they introduce constraints on land use and development, they can be less reliable being more susceptible to third party damage, and they can take much longer to repair, particularly at higher voltages. Undergrounding new power lines is considerably more expensive, particularly at higher voltages, and this would be reflected in higher electricity prices to the consumer. Technological developments are unlikely to change that situation in the immediate future. The majority of low voltage lines, however, particularly in urban areas, are already undergrounded. Network operators will always consider placing lines underground during refurbishment work should practicalities and cost allow.

Q10 How does the section 37 regime work?

A10 The section 37 regime enables views to be gathered on a particular overhead power line proposal that has been submitted to DECC for consent by a network operator. Principally these tend to be the views of the relevant LPA on behalf of the local community, and those statutory bodies with responsibilities for environmental protection (such as Natural England, the Countryside Council for Wales (CCW), CADW: Welsh Historic Monuments and, where appropriate, the Environment Agency), although the public and non-governmental organisations may actively engage on particular cases. All applications are considered by DECC carefully on a case-by-case basis and a decision for consent taken on the merits of each proposal. Before DECC grants any section 37 consent the Department will need to be reassured by the network operator that voluntary wayleaves agreements or permanent easements have been concluded with the landowner(s). Should a voluntary wayleave or permanent easement not be agreed with a landowner(s) then compulsory powers can be sought for a "necessary" wayleave under Schedule 4 of the Electricity Act 1989.

Q11 What concerns are there with regard to overhead power lines?

A11 The presence of overhead power lines may give rise to concerns within local communities. These are mainly in respect of visual intrusion and impacts on property prices, but also with regard

to concerns about possible adverse health effects. Other impacts can arise through proximity to sensitive environmental features such as nature conservation sites and archaeological heritage sites. This means that DECC looks carefully at all applications for development consent, having careful regard to the factual basis of any concerns raised.

On health effects, there is presently no specific UK legislation setting exposure limits for electro-magnetic fields (EMFs) and powerlines. The UK has adopted the 1998 international ICNIRP[4] guidelines[5] for limiting exposure to EMFs as recommended by the Health Protection Agency (HPA) and in the terms of the 1999 EU Recommendation[6]. The ICNIRP guidelines have thus far, been adopted on a voluntary basis by electricity network operators. During 2009, the Government will issue its response to the First Interim Assessment: Power Lines and Property, Wiring in Homes, and Electrical Equipment in Homes, delivered to the Public Health Minister in April 2007 by the Stakeholder Advisory Group on Extremely Low Frequency Electric and Magnetic Fields (SAGE)[7]. The response will set out further information and address any possible precautionary action with regard to EMFs/ELFs.

Q12 What is the role of the electricity network companies?

A12 Each electricity network company has a public service role to ensure the supply of electricity to the domestic, industrial and business consumers located throughout England and Wales. The network infrastructure they manage and operate will continue to develop and evolve as demand for electricity grows and new energy sources are built to be connected to those systems. The network companies have a statutory duty placed upon them by the industry regulator Ofgem, to develop and maintain an efficient, co-ordinated and economical system. They must therefore keep their electricity networks in good working condition, implement any changes necessary to keep pace with developments in local supply and demand, and rectify any identified weaknesses in the system. At the same time, companies have a statutory duty to have regard to amenity when bringing forward proposed developments (set down in Schedule 9 to the 1989 Act; see A17 below). As such it is for these companies to bring forward balanced proposals for scrutiny.

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[4] The International Commission on Non-Ionizing Radiation

[5] http://www.icnirp.de/documents/emfgdl.pdf

[6] Published on 12 June 1999 EU Council Recommendation (1999/519/EEC) Framework for restricting EMF exposure of the general public within Europe

[7] Stakeholder Advisory Group on ELF EMFs (SAGE) First Interim Assessment: Power Lines and Property, Wiring in Homes and Electrical Equipment in Homes. RK Partnership Ltd, 27 April 2007

Q13 What is DECC's role?

A13 DECC is responsible for operating an effective development control regime which subjects overhead power line proposals to appropriate scrutiny. This role includes ensuring that the applicant company has provided information appropriate to the scale and nature of the proposed development so that its effects and impacts can be judged by LPAs, statutory bodies and interested parties. A development that is likely to have significant effects on the environment is subject to the detailed scrutiny of an environmental impact assessment (EIA) and advertised locally, usually in the press, to give everyone the opportunity of seeing the proposals put forward and making any views known to DECC. Once satisfied that sufficient information has been provided, DECC has to balance all this material properly in the determination process. As well as deciding whether or not to grant consent, DECC has to consider whether planning conditions are needed to control and mitigate the impact of the development. DECC must also take into account its obligations under other legislation such as the Habitats Regulations.

Historically DECC has administered a scheme for the registration by network companies of new overhead line designs. From 31 March 2009 this scheme is discontinued and in its place network companies are now asked to include a statement in their applications to the Local Planning Authorities on the design and to what specification a design is to be made. Given future designs will not be registered with DECC, Local Authorities are asked to apply a common-sense approach when assessing any proposals that include such non-DECC registered designs.

Q14 What is the function of the Local Planning Authority in the consenting process?

A14 The LPA is responsible for consulting with the local community on overhead power line proposals within its geographical jurisdiction. As part of its information gathering process, the LPA may also wish to approach any bodies with relevant specialist expertise and information it considers relevant to inform its role in the process. Under The Electricity (Applications for Consent) Regulations 1990[8] (the Applications for Consent Regulations), the LPA is obliged to make its representations to DECC on the application proposal within a statutory two month period or obtain an extension to the time limit. The LPA has a key role to play in the consents process given its familiarity and understanding of the local terrain. Should the LPA object to a section 37 consent application,

[8] The Electricity (Applications for Consent) Regulations 1990
http://www.opsi.gov.uk/si/si1990/Uksi_19900455_en_1.htm

and that objection cannot be overcome through consultation with the applicant company or addressed by an appropriate planning condition, the Secretary of State is then obliged to arrange for a public inquiry to be held. This role gives the LPA considerable influence over network operators' proposals, and their plans may well be amended. The LPA may also recommend appropriate planning conditions to be imposed to mitigate the development's impact on the local community. In terms of applications requiring EIA development, the LPA will place the environmental statement on Part 1 of the Planning Register together with any related documents including screening and/or scoping opinions given under the pre-application procedures so that it is available for public inspection.

For overhead power line developments that might affect aviation interests[9], such as those proposed near certain civil aerodromes, the LPA has responsibility to check for any likely impact the development might have to ensure the proposal does not infringe on any safeguarded airspace. The network company should nevertheless check if the positioning of any new installation indicates a need to be cleared with the Civil Aviation Authority and Controllers of non-safeguarded airports.

Q15 How do the views of the statutory bodies feed in to the process?

A15 Considerable importance is attached to the views of the statutory bodies, as they have been established to provide specialist advice to Government. As well as the desirability of the relevant bodies being consulted in advance (see A16 below), applications for overhead power lines inside SSSIs must be served by applicants on Natural England or CCW as appropriate to ensure that they have the opportunity to comment during the section 37 process. Statutory bodies also contribute as appropriate to the EIA scoping process and the consent determinations of EIA development applications described below.

Q16 How do the views of the public feed into the process?

A16 Applications in respect of new overhead power lines of a nominal voltage of 132 kV or above, and other EIA developments that may be higher or lower voltage developments, must be drawn to the public's attention under the Applications for Consent

[9] Joint Circular from ODPM/NAFW: Safeguarding aerodromes, technical sites and military explosives storage areas: The Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas) Direction 2002
http://www.lcacc.org/safeguarding/205634%20ODPM%20Aerodromes_1.PDF

Regulations and also the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000 (the Electricity Works EIA Regulations)[10]. To ensure that the public is made aware of the proposed development and is informed of where they may obtain information on its environmental effects, operators are required to publicise it by placing a notice in those newspapers that are available in the locality of the development and the London Gazette. Operators are also required to publicise the existence of additional relevant information obtained after submission of the application to the Secretary of State under The Electricity Works (Environmental Impact Assessment) (England and Wales) (Amendment) Regulations 2007.[11]

Members of the public are able to make representations to the Secretary of State for Energy and Climate Change on the application within 28 days from the latest publication date of the notice in the newspapers. When the Secretary of State has determined an application for EIA development he must ensure his decision is made available to the public. In other applications where there are no publicity requirements to follow, the relevant LPAs are regarded as responsible for carrying out whatever public consultations they deem appropriate when they consider applications submitted by companies.

Q17 What should the companies be doing to facilitate smooth consideration of their applications?

A17 Network companies have to establish, by providing appropriate information, that an overhead power line connection or reinforcement is needed (for instance in areas where there is little or no existing network or to connect a new energy generation) and that the development applied for, including the route proposed, is an acceptable way of satisfying that need. It is important for a network company to contact bodies with relevant specialist expertise and information at an early stage when framing its proposals. The extent to which prior consultation will need to be undertaken before making the application, and with whom, is of course a matter for the applicant to determine. Much will depend on the nature and size of the proposed development, and the potential local impact that would occur. The way a company's proposed development is perceived externally may be influenced by how it has been presented, and consultation at an early stage in the right spirit can be beneficial to both network companies and those potentially impacted by the proposal. It is from such contacts with people, who either have to judge the development in the consents

[10] http://www.opsi.gov.uk/si/si2000/20001927.htm
[11] http://www.opsi.gov.uk/si/si2007/uksi_20071977_en_1

process or expect to have to live with it on the ground should it be installed, that difficulties with a proposal can be identified and aired, and the applicant given the opportunity to strengthen the application, either by making modifications to the project or to explain why they need not or cannot be made.

ENVIRONMENTAL AND HUMAN RIGHTS ASPECTS

Q18 Don't companies also have responsibilities for the environment?

A18 The electricity network companies have statutory duties placed upon them under the Electricity Act 1989 requiring them to develop and maintain economic and efficient transmission and distribution systems. In doing so they have to behave in an environmentally responsible way. Network operators are obliged by Schedule 9 to the Electricity Act 1989 to do what they reasonably can to mitigate the effects of their proposals on the natural beauty of the countryside, flora, fauna and historical or archaeological interests. In respect of SSSIs, companies also have the duty set out in section 281 of the Wildlife and Countryside Act 1981, to take reasonable steps, consistent with the proper exercise of their functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest. Under the Conservation (Natural Habitats, &c) Regulations 1994[12] ("the Habitats Regulations"), companies must comply with its provisions for conservation of European sites and the protection of certain species of wild animals and plants.

Therefore, in selecting its choice of route for an overhead power line, or in deciding perhaps whether the situation merits the installation of a stretch of underground cable instead, a company will have to achieve an appropriate balance between the need for a robust electricity network and the need to protect the environment. Such a balance will clearly vary from case to case and will be considered during the consent process. In providing appropriate environmental information, applicants should at a minimum describe how they have complied with the Schedule 9 amenity duty.

However, in other cases, including when they are making proposals for operations which might damage a SSSI or result in habitat loss or disturbance covered by the Habitats Regulations, they should provide sufficiently detailed material, perhaps in the form of reports, tailored to the scale and nature of the environmental

[12] http://www.opsi.gov.uk/si/si1994/uksi_19942716_en_1

impact of their proposals. This applies particularly in cases where environmental impact assessment is required (see Q and A19).

Q19 What about environmental impact assessment?

A19 There are EU requirements for environmental impact assessment (EIA) of overhead electric lines which are likely to have significant effects on the environment. The requirements are implemented in English law by the Electricity Works EIA Regulations. Applications for overhead lines of 220 kV or more with a length of more than 15 km must be accompanied by an environmental statement (Schedule 1 developments). Overhead power lines of 132 kV or more, and other power lines which cross sensitive land, must be considered by DECC to determine whether they are EIA development (Schedule 2 developments). Some developments outside Schedule 1 or 2 may still require EIA if the Secretary of State considers particular circumstances apply. The Regulations also include procedures under which Natural England (or CCW in Wales) must be given the opportunity of contributing to decisions on EIA development, and developers may obtain screening and scoping opinions from DECC. Most overhead power line developments do not require EIA as they are for relatively modest development.

Q20 What about the human rights of those affected by overhead power line proposals?

A20 Before taking any decision on a section 37 application, DECC will take into account any representations received, particularly from those affected by an operator's proposal. Such representations can be received direct, as a result of public notices, or in other cases can arise through the local consideration of the application by the LPA. Experience has shown that only major network proposals give rise to significant representations with few if any being received for more routine works. The Electricity Act 1989 provides the Secretary of State with a discretionary power to call a public inquiry into a proposal in the light of objections by other persons ie not a LPA objection.

Q21 Is there any appeal against DECC's decisions on overhead power line applications?

A21 Whilst there is no appeals procedure built-in to the statutory consents regime, it is still open to anyone dissatisfied with a decision made by DECC to apply to the High Court to take judicial review proceedings. The procedure, however, is concerned with the

improper exercise of power and is not a process to re-evaluate the merits of the development.

Disclaimer: This document is designed to provide general guidance only. While every effort has been made to ensure that the information provided is accurate and comprehensive, consideration of other regimes such as that enforced by the Health & Safety Executive may also need to be taken into consideration. This guidance should not be regarded as a substitute for taking legal or professional advice.

Annex A

THIS FORM IS FOR USE BY ELECTRICITY NETWORK OPERATORS TO ADVISE LOCAL PLANNING AUTHORITIES OF PROPOSED WORKS TO BE UNDERTAKEN WITHIN THEIR DESIGNATED AREA THAT ARE CONSIDERED TO BE EXEMPTED UNDER THE OVERHEAD LINES(EXEMPTION)(ENGLAND AND WALES) REGULATIONS 2009. LOCAL AUTHORITIES HAVE THE RIGHT TO INVOKE THE FULL SECTION 37 PROCESS UNDER THE ELECTRICITY ACT 1989 SHOULD IT BE CONSIDERED NECESSARY.
The Form should be sent in triplicate to each Local Planning Authority in whose area the proposed development would be situated.

DETAILS OF APPLICANT

Name:

Address:

Telephone No:

Applicant's reference: Date:

To: Chief Executive, District/Borough Council/Authority

Electricity Act 1989: Overhead Lines (Exemption)(England and Wales) Regulations 2009

It is proposed to undertake the following work that is considered to be exempted from the Electricity Act 1989 by falling within the Overhead Lines (Exemption)(England and Wales) Regulations 2009:
Particulars of proposed development to be completed by Applicant
[A short description of the works accompanied by such plans as may be necessary to enable the Local Planning Authority to identify the land affected by the proposals and to appreciate the nature and extent of the proposed development and by a copy of the environmental statement if the applicant has prepared one.]

The Council/Authority is requested to indicate that it has no objection to the work being carried out by returning two copies of this Form with the Certificate completed and signed.

Yours faithfully

For and on behalf of the Applicant

_____

CERTIFICATE

TO BE COMPLETED BY THE LOCAL PLANNING AUTHORITY AND RETURNED TO THE APPLICANT ELECTRICITY NETWORK COMPANY WITHIN SIX WEEKS OF RECEIPT

The District/Borough Council/Authority

*(i) objects/does not object for the proposed development detailed above to be undertaken under the exemptions laid down in the Overhead Lines (Exemption)(England and Wales) Regulations 2009

* (ii) wishes/does not wish the Secretary of State to consider the application using the full section 37 process under the Electricity Act 1989

*The reasons for requesting the full section 37 process are:

Dated:

Signed:

Designation
(on behalf of xxx
District/Borough
Council/Authority)

**delete as appropriate*

Department of Energy and Climate Change www.decc.gov.uk
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