

DATED 31st July 2017

BARNSELY METROPOLITAN BOROUGH COUNCIL

and

NORTHERN POWERGRID (YORKSHIRE) PLC

and

ADD RENEWABLES No.3 Limited

AGREEMENT

under Section 106 of the Town and Country Planning Act 1990 (as amended)
relating to development on land West of Hopewell Street Stairfoot, Barnsley in
the County of South Yorkshire

A.C. Frosdick, LL.B. DipLG,
Director of Legal and Governance
Town Hall,
Barnsley, S70 2TA

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Director of
Legal and Governance

 JASON FIELD
SOLICITOR

THIS DEED OF AGREEMENT is made the 21st
Two Thousand and Seventeen

day of July

BETWEEN

- (1) BARNSELY METROPOLITAN BOROUGH COUNCIL of Town Hall
Barnsley South Yorkshire S70 2TA ("the Council") of the first part and
- (2) NORTHERN POWERGRID (YORKSHIRE) PLC (Company number
4112320) whose registered office is situate at Lloyds Court, 78 Grey Street,
Newcastle Upon Tyne, NE1 6AF ("the Owner") of the second part
- (3) ADD RENEWABLES NO. 3 LIMITED (Company number 10042216)
whose registered office is situate at 1 High Street, Exton, Oakham, Rutland,
LE15 8AS ("the Developer") of the third part

RECITALS

- (1) The Council is the Local Planning Authority for the purposes of this Agreement for the area within which the land described in the First Schedule hereto ("the Land") is situated and is the Authority by whom the obligations contained in this Agreement are enforceable
- (2) The Owner is the registered proprietor with absolute title of the Land registered under Land Registry Title Number SYK590443.
- (3) The parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Agreement and agree that the obligations comply with regulation 122 of the Community Infrastructure Levy Regulations 2010.
- (4) The Owner acknowledges that the Planning Permission would only be granted if the 2016 Planning Permission was not implemented.

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NOW THIS DEED WITNESSETH AS FOLLOWS:-

DEFINITIONS

1 For the purposes of this Deed the following expressions shall have the following meanings

"the 1990 Act" means the Town and Country Planning Act 1990 (as amended)

"the Application" means the application submitted to the Council for the erection of a battery storage facility on the Land and known to the Council by reference number 2017/0117

"the Commencement of Development" means the actual date upon which the Development is begun by the carrying out of any material operation as defined by Section 56(4) of the Town and Country Planning Act 1990 and **"Commence Development"** is to be construed accordingly

"the Development" means the development of the Land in accordance with the Planning Permission

"the Land" means the freehold land described in the First Schedule hereto against which this Agreement may be enforced.

"the Plan" means the plan annexed hereto

"the Planning Permission" means a planning permission to be granted pursuant to the Application

"the 2016 Planning Permission" means the planning permission granted by the Council under reference 2016/0296 for 'Erection of enclosed battery storage area to assist with the balance of supply and demand of the national grid', on land adjacent to existing Electricity Substation

CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.
- 2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.6 References to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Council the successors to its statutory functions.

LEGAL BASIS

- 3 This Agreement is made pursuant to section 106 of the Town and Country Planning Act 1990 section 111 of the Local Government Act 1972 section 2 of the Local Government Act 2000 and all other enabling powers

and is a planning obligation for the purposes of and as defined in the said Section 106 and the covenants restrictions and requirements imposed on the Owner herein are enforceable by the Council as the local planning authority against the Owner

COMMENCEMENT

4 The provisions of this Deed shall have immediate effect upon the completion of this Deed

OWNER COVENANTS

5 The Owner covenants with the Council as set out in the Second Schedule

MISCELLANEOUS

6.1 The Developer shall pay to the Council on completion of this Deed the sum of £500 (on which no VAT shall be payable) in respect of the legal costs of the Council incurred in the negotiation, preparation and execution of this Deed.

6.2 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999

6.3 This Deed shall be registrable as a local land charge by the Council.

6.4 Where the agreement, approval, consent or expression of satisfaction is required by the Developer and/or the Owner from the Council or by the Council from the Owner and/ or the Developer under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of the Council by the Head of Planning and Building Control and any notices shall be deemed to have been properly served if sent by recorded delivery or special

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delivery to the principal address or registered office (as appropriate) of the relevant party.

6.5 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall upon receipt of a written request by the Owner effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.

6.6 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.

6.7 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Land but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

6.8 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.

6.9 No waiver (whether expressed or implied) by the Council of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

6.10 The Developer shall indemnify the Owner against any liability incurred by the Owner as a result of a breach by the Developer of the provisions of this agreement.

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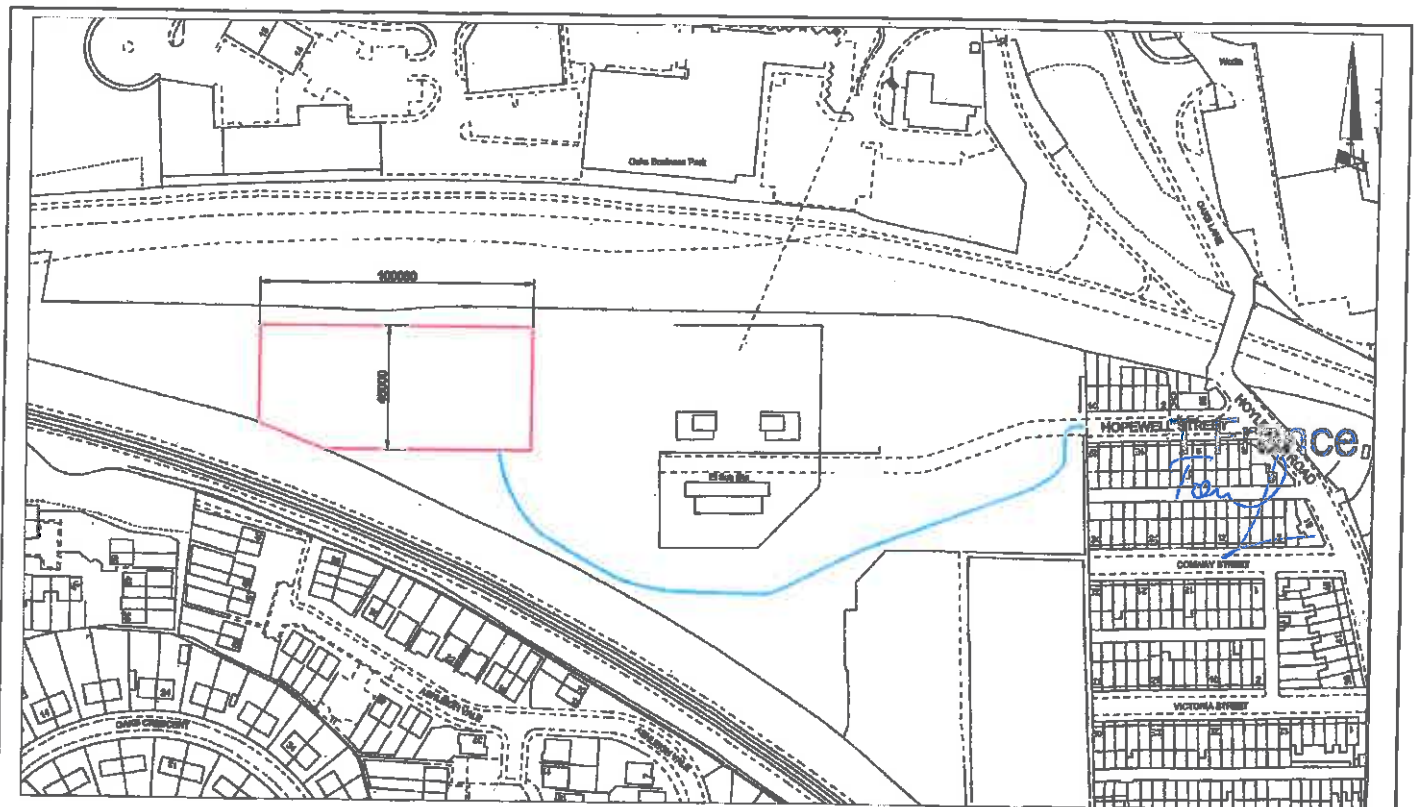
IN WITNESS whereof these presents have been duly executed as a Deed by
the parties hereto the day and year first before written

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FIRST SCHEDULE

All that land at West of Hopewell Street Stairfoot, Barnsley, and for the purpose of identification shown edged red on the Plan



Based on the Ordnance Survey Map with the
 sanction of the controller of His Majesty's Office.
 Crown copyright reserved.
 Licensees: Northern Powergrid Holdings Company
 Registered Office: Lloyd's Court, 78 Grey Street,
 Newcastle upon Tyne, NE1 6AF
 Registered in England and Wales No 3478201

**NORTHERN
 POWERGRID**

Manufacture Details

Sheet No. 1
 Scale 1:1250
 Prepared By J.A.M./T.M.
 Drawn 04/07/98
 Date Issued 20/09/98
 Grid Reference 022005
 Checked By D.W.B./G.R.C.H.

Lloyd's Court, 78 Grey Street, Newcastle upon Tyne, NE1 6AF

**HUNNINGLEY
 HOPEWELL STREET
 LEASE AREA FOR GENERATION SITE
 WALTERS POWER SITE**

TYPE LEGAL DRAUGHTSMAN

PLAN

Ref No. C1080931

Historic
 Dep. No. C1080931

Revision

Notes

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SECOND SCHEDULE

The Owner and the Developer covenant to observe and perform the following obligations:

- 1 Not to Commence the Development (or if already commenced at the date of this Agreement continue the development) of the 2016 Planning Permission nor permit or suffer the Commencement of Development (or if already commenced at the date of this Agreement permit or suffer the continuation of the development) of the 2016 Planning Permission**
- 2 Not to seek any compensation damages or other legal remedy statutory or otherwise pursuant to the 2016 Planning Permission restrictions imposed in the obligation entered into in paragraph 1 above**

SIGNED as a DEED by

ADD RENEWABLES No.3 Limited)

Alex Pnce)

Director:

)

Signature of Witness

)

Name of Witness

Lewis Burden.)

Address

Rockhouse, Scrymgeour, Stamford, Lines PG 242

THE COMMON SEAL of BARNSELY

METROPOLITAN BOROUGH

COUNCIL was hereunto affixed to this

Deed in the presence of:-

)
)
)
)

~~Sent to~~ Director of Legal and Governance/Authorised Signatory

PRB 18/4/17 M.A. 107



SIGNED as a DEED by NORTHERN

POWERGRID (YORKSHIRE) PLC

)
)

Director:

)

T France

Signature of Witness

)

Name of Witness

)

Andrew Laws

Address

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

Secretariat Compliance Officer