

DATE: 25 JULY 2023

**THE CADENT GAS LIMITED (WHASSETT TO BARROW HIGH PRESSURE GAS
PIPELINE DIVERSION) COMPULSORY PURCHASE ORDER 2023**

PUBLIC OPEN SPACE STATEMENT

CADENT GAS LIMITED

GAS ACT 1986

ACQUISITION OF LAND ACT 1981

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1. INTRODUCTION

- 1.1 Cadent Gas Limited (company number 10080864 of Cadent, Pilot Way, Ansty, Coventry, England, CV7 9JU) (“**Cadent**”) is the holder of a gas transporter licence (the “**Transporter Licence**”), granted pursuant to section 7 of the Gas Act 1986 (the “**1986 Act**”).
- 1.2 Cadent is promoting and has developed proposals for the construction, use, operation and maintenance of an 850-metre diversion of the 300NB Whassett to Barrow High Pressure (HP) Gas Pipeline located within the embankment/ towpath adjacent to the canal on the east side of Ulverston in Cumbria (the “**Project**”).
- 1.3 Cadent has made The Cadent Gas Limited (Whassett to Barrow High Pressure Gas Pipeline Diversion) Compulsory Purchase Order 2023 (the “**Order**”) under the provisions of the 1986 Act. The Order has been made to acquire compulsorily the new rights in land required to deliver the Project. A Statement of Reasons accompanies the Order. The Statement of Reasons sets out the extent of the Project and Cadent’s justification for seeking compulsory purchase powers within the Order. The Statement of Reasons also demonstrates that the public benefits of the Project substantially outweigh the private rights affected and that there is a compelling case in the public interest for the exercise of the powers of compulsory acquisition included within the Order.
- 1.4 This public open space statement has been prepared to support a request to the Secretary of State for Levelling Up, Housing and Communities to grant a certificate pursuant to paragraph 6 of Schedule 3 to the Acquisition of Land Act 1981 (the “**1981 Act**”) in respect of the compulsory acquisition of rights over land comprising open space.

2. THE PROJECT INFRASTRUCTURE

- 2.1 The Project broadly comprises the construction of an underground pipeline together with associated access and the temporary construction of works compounds.

3. THE PLANNING POSITION FOR THE PROJECT

- 3.1 The Project does not require planning permission on the basis that it is permitted pursuant to the Town and Country Planning (General Permitted Development) (England) Order 2015 (the “**GPDO**”).
- 3.2 Article 3(1) of the GPDO grants planning permission for certain developments comprised in Schedule 2 to the GPDO, subject to any exception, limitation or condition specified in Schedule 2 to the GPDO. Permitted development rights are also subject to general restrictions specified within Article 3 and Article 4 of the GPDO.
- 3.3 None of the general restrictions specified in Article 3 or Article 4 of the GPDO apply to the Project.

Pipeline diversion

- 3.4 Class A(a) of Schedule 2 to the GPDO (the “**Class A(a) PD Right**”) permits development by a gas transporter required for the purposes of its undertaking consisting of the laying underground of mains, pipes or other apparatus.
- 3.5 No limitations apply to the Class A(a) PD Right.
- 3.6 The Class A(a) PD Right is subject to one condition, which provides that not less than 8 weeks before the beginning of operations to lay a notifiable pipeline, Cadent must give notice in writing to the local planning authority of its intention to carry out that development, identifying the land under which the pipeline is to be laid. Cadent will comply with this condition.
- 3.7 Therefore, the Class A(a) PD Right will grant planning permission for the Project.

Environmental Impact Assessment (EIA) Status

- 3.8 The relevant EIA regulations for the Class A(a) PD Right are the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended) (the “**PGTP EIA Regulations**”). The PGTP EIA Regulations reference the old version of the GPDO, but the intention of the PGTP EIA Regulations remains clear.
- 3.9 Pursuant to the PGTP EIA Regulations, a gas pipeline with a diameter of more than 800 millimetres and a length of more than 40 kilometres (or an extension to a pipeline which in itself meets the thresholds)¹ **must** be accompanied by an environmental statement (“**Part 1 Development**”). Part 1 Development cannot commence without Cadent first giving the Secretary of State a notice of preparation of an environmental statement². The Project does not meet this threshold.
- 3.10 Pursuant to the PGTP EIA Regulations, a gas pipeline:
- 3.10.1 the whole or any part of which, or the whole or any part of any working width for which, will be within a sensitive area **may** need to be accompanied by an environmental statement; or
 - 3.10.2 which will have a design operating pressure exceeding 7 bar gauge **may** need to be accompanied by an environmental statement (“**Part 2 Development**”).
- 3.11 Part 2 Development cannot commence without:
- 3.11.1 the Secretary of State making an environmental determination (confirming that there are no likely significant effects) which has not at the time of commencement of such works ceased to have effect in accordance with Regulation 6(8) below (i.e., those works have not commenced within 5 years); or

¹ Part 1 of Schedule 3 to the GTP EIA Regulations.

² Regulation 3 of the GTP EIA Regulations.

3.11.2 the Secretary of State determining that an environmental statement is required.

3.12 Any gas diversion which does not fall within the meaning of Part 2 Development (for example a pipeline which has an operating pressure below 7 bar gauge and which is not located in a sensitive area) does not need to go through any formal approval process under the PGTP EIA Regulations. However, Regulation 6 of the PGTP EIA Regulations does acknowledge that Cadent can still make requests in respect of such development.

3.13 The Project has been screened out as EIA development by the Secretary of State (formerly BEIS) pursuant to the PGTP EIA Regulations following consultation with South Lakeland District Council. This was confirmed in the BEIS decision letter dated 5 May 2021 and South Lakeland District Council's consultation response dated 16 March 2021.

Habitats Regulation Assessment (HRA) Status

3.14 The Project does not have a likely significant effect on any European site for the purposes of the Conservation of Habitats and Species Regulations 2017 (the "**Habitats Regulations**").

Conclusion

3.15 The Project will benefit from planning permission granted under the GPDO. None of the general limitations to permitted development rights are applicable to the Project.

4. PUBLIC OPEN SPACE: THE ACQUISITION OF RIGHTS

Summary

4.1 The provisions of the 1981 Act apply to the acquisition of a right over land³. There are a number of parcels of land included in the Order which fall within the definition of open space pursuant to Schedule 3 to the 1981 Act and over which rights are sought pursuant to the Order. This is because section 19(4) of the 1981 Act sets out the definition of "*open space*" as "*any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground*".

4.2 In respect of land over which rights are sought to be acquired, there is a legal test which must be considered. This is that the Secretary of State may issue a certificate if satisfied that the land, when burdened with that right, will be no less advantageous to those persons in whom it is vested and other persons, if any, entitled to rights of common or other rights, and to the public, than it was before (the "**Rights Test**").

The Informal Open Space

³ by virtue of Paragraph 6 of Schedule 3 to the 1981 Act.

- 4.3 Plots 1, 2, 6, 21, 32, 33, 34, 35, 36, 37, 40, 41, 42, 43 and 44 comprise informal public open space (the “**Informal Open Space**”). This area totals 13,411 square metres. These parcels of land are described in **Appendix 1** to this statement.
- 4.4 The Informal Open Space has no formal designation and is not laid out as a public garden and is not land being a disused burial ground. Cadent understands that it is informally used for the purposes of access alongside the canal (in respect of Plots 1, 2, 6, 21 and 32), walking and recreation, and so Cadent has treated it as public open space to which Schedule 3 of the 1981 Act applies on the basis that the term “used for the purposes of public recreation” is a broad term.
- 4.5 The Informal Open Space will be subject to various rights to enable the construction, use, operation and maintenance of the Project. The rights to be acquired over each parcel of land are set out in **Appendix 1** to this statement and described in more detail in **Appendix 2** to this statement.
- 4.6 The use of the Informal Open Space, when burdened with the rights pursuant to the Order, will be no less advantageous to those persons in whom it is vested and other persons, if any, entitled to rights of common or other rights, and to the public, than it was before. This is because, following construction of the Project, the permanent infrastructure will be situated below ground and public access will remain available over the entire area of the Informal Open Space. Any disturbance caused by the exercise of the rights will be temporary and occur over a short construction period. In respect of those plots on which a construction compound is required, any disturbance caused will be limited to the construction period.
- 4.7 Cadent requests that the Secretary of State certify under paragraph 6(1)(a) of Schedule 3 to the 1981 Act that the Informal Open Space, when burdened with the relevant rights for each parcel of land, will be no less advantageous to those persons in whom it is vested and other persons, if any, entitled to rights of common or other rights, and to the public, than it was before.

5. CONCLUSION

- 5.1 The Informal Open Space satisfy the Rights Test. These parcels of land when burdened with the rights pursuant to the Order, will be no less advantageous to those persons in whom it is vested and other persons, if any, entitled to rights of common or other rights, and to the public, than it was before. Cadent requests that the Secretary of State certify under paragraph 6(1)(a) of Schedule 3 to the 1981 Act accordingly.

APPENDIX 1
The Informal Open Space

Table 1					
Number on map (1)	Extent, description and situation of the land (2)	Qualifying persons under section 12(2)(a) of the Acquisition of Land Act 1981 – name and address (3)			
		Owners or reputed owners	Lessees or reputed lessees	Tenants or reputed tenants (other than lessees)	Occupiers
Plot 1 (Map 1 of 2)	Access Rights in respect of approximately 1205 square metres of the towpath north of the Ulverston Canal.	Ulverston Canal Co Ltd 183 St. Vincent Street First Floor Glasgow Scotland G2 5QD Boughton Estates Limited Estate Office Weekley Kettering Northamptonshire NN16 9UP <i>(in respect of mines and minerals)</i>	None	None	Ulverston Canal Co Ltd 183 St. Vincent Street First Floor Glasgow Scotland G2 5QD
Plot 2 (Map 1 of 2)	Access Rights in respect of approximately 89 square metres of green space situated north of the Ulverston Canal.	Ulverston Canal Co Ltd See Address at Plot 1 Boughton Estates Limited See Address at Plot 1 <i>(in respect of mines and minerals)</i>	None	None	Ulverston Canal Co Ltd See Address at Plot 1

Plot 6 (Map 1 of 2)	Access Rights in respect of approximately 339 square metres of the towpath north of the Ulverston Canal.	Ulverston Canal Co Ltd See Address at Plot 1 Boughton Estates Limited See Address at Plot 1 <i>(in respect of mines and minerals)</i>	None	None	Ulverston Canal Co Ltd See Address at Plot 1
Plot 21 (Map 1 of 2)	Access Rights in respect of approximately 2018 square metres of towpath north of the Ulverston Canal.	Ulverston Canal Co Ltd See Address at Plot 1 Boughton Estates Limited See Address at Plot 1 <i>(in respect of mines and minerals)</i>	None	None	Ulverston Canal Co Ltd See Address at Plot 1
Plot 32 (Map 2 of 2)	Pipeline Rights in respect of approximately 567 square metres of green space north of the Ulverston Canal.	Ulverston Canal Co Ltd See Address at Plot 1 Boughton Estates Limited See Address at Plot 1	None	None	Ulverston Canal Co Ltd See Address at Plot 1

		<i>(in respect of mines and minerals)</i>			
Plot 33 (Map 2 of 2)	Construction Compound Rights in respect of approximately 2557 square metres of green space south of the Ulverston Canal.	Westmorland and Furness Council (Registered office): South Lakeland House, Lowther Street Kendal Cumbria LA9 4DQ Boughton Estates Limited See Address at Plot 1 <i>(in respect of mines and minerals)</i>	None	None	Westmorland and Furness Council (Registered office): South Lakeland House Lowther Street Kendal Cumbria LA9 4DQ
Plot 34 (Map 2 of 2)	Pipeline Rights in respect of approximately 393 square metres of green space south of the Ulverston Canal.	Westmorland and Furness Council See Address at Plot 33 Boughton Estates Limited	None	None	Westmorland and Furness Council See Address at Plot 33

		See Address at Plot 1 <i>(in respect of mines and minerals)</i>			
Plot 35 (Map 2 of 2)	Pipeline Construction Rights in respect of approximately 185 square metres of green space south of the Ulverston Canal.	Westmorland and Furness Council See Address at Plot 33 Boughton Estates Limited See Address at Plot 1 <i>(in respect of mines and minerals)</i>	None	None	Westmorland and Furness Council See Address at Plot 33
Plot 36 (Map 2 of 2)	Construction Compound Rights in respect of approximately 4146 square metres of green space south of the Ulverston Canal.	Westmorland and Furness Council See Address at Plot 33 Boughton Estates Limited See Address at Plot 1 <i>(in respect of mines and minerals)</i>	None	None	Westmorland and Furness Council See Address at Plot 33

Plot 37 (Map 2 of 2)	Temporary Caravan Park Access Rights and Access Rights in respect of approximately 1156 square metres of access track north of N Lonsdale Road.	Westmorland and Furness Council See Address at Plot 33 Boughton Estates Limited See Address at Plot 1 <i>(in respect of mines and minerals)</i>	None	None	Westmorland and Furness Council See Address at Plot 33
Plot 40 (Map 2 of 2)	Construction Compound Rights and Temporary Access Rights in respect of approximately 316 square metres of open public space to the south of the Ulverston Canal.	Westmorland and Furness Council See Address at Plot 33 Boughton Estates Limited See Address at Plot 1 <i>(in respect of mines and minerals)</i>	None	None	Westmorland and Furness Council See Address at Plot 33
Plot 41 (Map 2 of 2)	Temporary Caravan Park Access Rights in respect of approximately 172 square metres of green	Westmorland and Furness Council See Address at Plot 33	None	None	Westmorland and Furness Council See Address at Plot 33

	space south of the Ulverston Canal.	Boughton Estates Limited See Address at Plot 1 <i>(in respect of mines and minerals)</i>			
Plot 42 (Map 2 of 2)	Pipeline Rights in respect of approximately 66 square metres of green space south of the Ulverston Canal.	Westmorland and Furness Council See Address at Plot 33 Boughton Estates Limited See Address at Plot 1 <i>(in respect of mines and minerals)</i>	None	None	Westmorland and Furness Council See Address at Plot 33
Plot 43 (Map 2 of 2)	Pipeline Rights in respect of approximately 18 square metres of green space south of the Ulverston Canal.	Westmorland and Furness Council See Address at Plot 33 Boughton Estates Limited See Address at Plot 1 <i>(in respect of mines and minerals)</i>	None	None	Westmorland and Furness Council See Address at Plot 33

<p>Plot 44 (Map 2 of 2)</p>	<p>Pipeline Rights and Temporary Caravan Park Access Rights in respect of approximately 184 square metres of green space south of the Ulverston Canal.</p>	<p>Westmorland and Furness Council See Address at Plot 33</p> <p>Boughton Estates Limited See Address at Plot 1 <i>(in respect of mines and minerals)</i></p>	<p>None</p>	<p>None</p>	<p>Westmorland and Furness Council See Address at Plot 33</p>
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APPENDIX 2
Classes of Rights

Term	Definition
Access Rights	<p>All rights necessary to access the Order Land and adjoining land including to:</p> <ul style="list-style-type: none"> a) access the Order Land and adjoining land for the purposes of constructing, installing, commissioning, inspecting, surveying, maintaining, repairing, altering, renewing, replacing and removing or decommissioning the pipeline and associated infrastructure, and carrying out de-watering and drainage works and installing, altering or reinstating land drainage systems, with or without vehicles, plant, machinery, apparatus, equipment, materials and personnel; b) to carry out works to facilitate such access including to construct, lay down, use and remove access roads including any necessary bridging, culverting or diversion of water courses and drains, modifying road verges and junctions and installing, using, altering, diverting, and removing services and utilities; c) to access the Order Land and adjoining land to use horizontal directional drilling, where appropriate, for the installation of the cables; d) to fell, trim or lop trees, shrubs, hedges and bushes and to clear and remove any and all vegetation which may damage, obstruct or interfere with the exercise of these Access Rights; e) to prevent and remove any works or use of the land which may interfere with or obstruct such access or the exercise of the Access Rights; f) to make good any damage caused in connection with the exercise of these Access Rights; and g) to carry out any activities ancillary or incidental thereto.
Construction Compound Rights	<p>All rights necessary for the purposes of or incidental to the establishment, use and removal of works compounds associated with the construction, commissioning and decommissioning of the pipeline and associated infrastructure, including to:</p> <ul style="list-style-type: none"> a) erect, create, use and remove a works compound which may include portable cabins and offices, and welfare facilities including portable toilets and electricity generators; b) store, stockpile and where necessary use, manage and process plant, machinery, apparatus, materials (including excavated material) and/or equipment; c) access the land and adjoining land with or without vehicles, personnel and plant, machinery, apparatus, equipment and materials for such purposes; d) fence, erect hoardings or signage or otherwise secure the compound; e) carry out de-watering and drainage works and install, alter or reinstate land drainage systems; f) discharge water into existing drains and water courses; g) install, use and remove artificial lighting; h) park cars; i) protect and prevent damage to or interference with the operation and maintenance of any works constructed pursuant to these Construction Compound Rights;

Term	Definition
	<ul style="list-style-type: none"> j) fell, trim or lop trees, shrubs, hedges and bushes and to clear and remove any and all vegetation which may damage, obstruct or interfere with the exercise of these Construction Compound Rights; k) prevent and remove any works or use of the land which may interfere with or obstruct the exercise of these Construction Compound Rights; l) install, use, alter, divert and remove services and utilities; m) make good any damage caused in connection with the exercise of these Construction Compound Rights; and n) carry out any activities ancillary or incidental thereto.
Pipeline Construction Rights	<p>All rights necessary for the purposes of or incidental to the construction and commissioning of the pipeline and associated infrastructure on the adjoining land, including to:</p> <ul style="list-style-type: none"> a) enter the land and carry out surveys and investigations, including aerial surveys (including the right to fly an unmanned air craft over the land and to enter and retrieve and recover any such unmanned aircraft from the land); b) carry out archaeological works and environmental and/or ecological mitigation; c) carry out works required or permitted by a planning permission and/or consent or licences; d) erect and remove fencing; e) store and stockpile and where necessary use, manage and process plant, machinery, apparatus, and materials (including excavated material) and/or equipment; f) access the land and adjoining land with or without vehicles, personnel and plant, machinery, apparatus, equipment and materials for such purposes; g) construct, lay down, use and remove access roads including any necessary temporary bridging, culverting or diversion of water courses and drains, modifying road verges and junctions and installing, using, altering, diverting, and removing services and utilities; h) carry out de-watering and drainage works and install, alter, reinstate or remove land drainage systems; i) discharge water into existing drains and watercourses; j) protect and prevent damage to or interference with the pipeline and the construction of the same; k) fell, trim or lop trees, shrubs, hedges and bushes and to clear and remove any and all vegetation which may damage, obstruct or interfere with the exercise of these Pipeline Construction Rights; l) prevent and remove any works on or use of the land that may interfere with or obstruct the exercise of the Pipeline Construction Rights; m) erect, create, use and remove welfare facilities including portable toilets, portable cabins and offices and electricity generators; n) install, use and remove artificial lighting; o) install, use, alter, divert and remove services and utilities; p) make good any damage caused in connection with the exercise of these Pipeline Construction Rights; and q) carry out any activities ancillary or incidental thereto.

Term	Definition
Pipeline Rights	<p>All rights necessary for the purposes of or incidental to the construction, retention, commissioning, operation, protection, maintenance, surveying, repair, renewal, replacement, removal and decommissioning of the pipeline and associated infrastructure, including to:</p> <ul style="list-style-type: none"> a) enter the land and carry out surveys and investigations, including aerial surveys (including the right to fly an unmanned air craft over the land and to enter and retrieve and recover any such unmanned aircraft from the land); b) carry out archaeological works and environmental and/or ecological mitigation; c) carry out works required or permitted by a planning permission and/or consent or licences; d) erect and remove fencing; e) store and stockpile and where necessary use, manage and process plant, machinery, apparatus, and materials (including excavated material) and/or equipment; f) access the land and adjoining land with or without vehicles, personnel and plant, machinery, apparatus, equipment and materials for such purposes; g) construct, lay down, use and remove access roads including any necessary temporary bridging, culverting or diversion of water courses and drains, modifying road verges and junctions and installing, using, altering, diverting, and removing services and utilities; h) carry out de-watering and drainage works and install, alter, reinstate or remove land drainage systems; i) discharge water into existing drains and watercourses; j) protect and prevent damage to or interference with the pipeline and the construction of the same; k) fell, trim or lop trees, shrubs, hedges and bushes and to clear and remove any and all vegetation which may damage, obstruct or interfere with the exercise of these Pipeline Rights; l) prevent and remove any works on or use of the land that may interfere with or obstruct the exercise of the Pipeline Rights; m) erect, create, use and remove welfare facilities including portable toilets, portable cabins and offices and electricity generators; n) install, use and remove artificial lighting; o) install, use, alter, divert and remove services and utilities; p) construct and install the pipeline and associated infrastructure in, on, under or over the land, including using trenchless techniques such as horizontal directional drilling; q) test and commission the pipeline and associated infrastructure installed in, on, under or over the land and to remedy initial faults and defects in it at any time prior to the date on which it is energised and ready for commercial operation; r) access the Order Land and adjoining land with or without vehicles, personnel and plant, machinery, apparatus, equipment and materials for such purposes; s) protect and prevent damage to or interference with the operation and maintenance of the pipeline and associated infrastructure; t) prevent changes to the use, or level of the surface of, the land; u) make good any damage caused in connection with the exercise of these Pipeline Rights; and v) carry out any activities ancillary or incidental thereto.

Term	Definition
Temporary Access Rights	<p>All rights necessary to access the Order Land and adjoining land for the purposes of constructing, commissioning and decommissioning the pipeline and associated infrastructure and/or the establishment, use and removal of works compounds, and carrying out de-watering and drainage works and installing, altering or reinstating land drainage systems, with or without vehicles, plant, machinery, apparatus, equipment, materials and personnel, including to:</p> <ul style="list-style-type: none"> a) access the Order Land and adjoining land to use horizontal directional drilling, where appropriate, for the installation of the cables; b) carry out works to facilitate such access including to construct, lay down, use and remove access roads including any necessary temporary bridging, culverting or diversion of water courses and drains, modifying road verges and junctions and installing, using, altering, diverting, and removing services and utilities; c) fell, trim or lop trees, shrubs, hedges and bushes and to clear and remove any and all vegetation which may damage, obstruct or interfere with the exercise of these Temporary Access Rights; d) prevent and remove any works or use of the land which may interfere with or obstruct such access or the exercise of the Temporary Access Rights; e) make good any damage caused in connection with the exercise of these Temporary Access Rights; and f) carry out any activities ancillary or incidental thereto.
Temporary Caravan Park Access Rights	<p>All rights necessary to access the adjacent caravan park including to:</p> <ul style="list-style-type: none"> a) carry out works to facilitate such access including to construct, lay down, use and remove access roads including any necessary temporary bridging, culverting or diversion of water courses and drains, modifying road verges and junctions and installing, using, altering, diverting, and removing services and utilities; b) fell, trim or lop trees, shrubs, hedges and bushes and to clear and remove any and all vegetation which may damage, obstruct or interfere with the exercise of these Temporary Caravan Park Access Rights; c) prevent and remove any works or use of the land which may interfere with or obstruct such access or the exercise of the Temporary Caravan Park Access Rights; d) make good any damage caused in connection with the exercise of these Temporary Caravan Access Rights; and e) carry out any activities ancillary or incidental thereto.