



# The Planning Inspectorate Yr Arolygiaeth Gynllunio

**The Planning Act 2008 (as amended)**

**Palm Paper 3 Combined Cycle Gas Turbine King's Lynn**

**Examining Authority's Report of Findings and Conclusions**

**And**

**Recommendation to the  
Secretary of State for Energy and Climate Change**

---

**Examining Authority**

**Martin Broderick**

**18 November 2015**

This page intentionally left blank

**ExA's findings and conclusions and recommendation in respect of an application for a Development Consent Order for a new gas fired Combined Cycle Gas Turbine 3 (CCGT) plant (Palm Paper Project) with a thermal capacity of 162MW, a nominal gross electrical output of between 51 and 60MWe (for internal use) and an output of 130 tonnes of steam per hour (for internal use) at the Palm Paper Mill, Saddlebow Industrial Estate, King's Lynn, Norfolk.**

### **File Ref EN010039**

- The application, dated 22 September 2014, was made under s37 of the Planning Act 2008 and was received in full by The Planning Inspectorate on 23 September 2014.
- The applicant is Palm Paper Limited.
- The application was accepted for examination on 20 October 2014.
- The examination of the application began on 18 February 2015 and was completed on 18 August 2015.
- The development proposed comprises a new gas fired Combined Cycle Gas Turbine 3 (CCGT) plant (Palm Paper Project) with a thermal capacity of 162MW, a nominal gross electrical output of between 51 and 60MWe (for internal use) and an output of 130 tonnes of steam per hour (for internal use) at the Palm Paper Mill, Saddlebow Industrial Estate, King's Lynn, Norfolk.

### **Summary of Recommendation:**

The Examining Authority recommends that the Secretary of State should make the Order in the form attached.

# Report Contents

<b>1</b>	<b>INTRODUCTION .....</b>	<b>5</b>
1.0	INTRODUCTION .....	5
1.1	THE EXAMINATION AND PROCEDURAL DECISIONS .....	6
1.2	SITE VISITS .....	7
1.3	OTHER CONSENTS REQUIRED .....	7
1.4	REQUESTS TO BECOME OR WITHDRAW FROM BEING AN INTERESTED PARTY (S102A, S102B AND S102ZA). .....	7
1.5	STRUCTURE OF REPORT.....	7
<b>2</b>	<b>MAIN FEATURES OF THE PROJECT AND SITE .....</b>	<b>9</b>
2.0	INTRODUCTION .....	9
2.1	APPLICATION AS MADE.....	10
2.2	THE APPLICATION AT THE CLOSE OF EXAMINATION .....	11
2.3	RELEVANT PLANNING HISTORY .....	12
<b>3</b>	<b>LEGAL AND POLICY CONTEXT .....</b>	<b>15</b>
3.0	INTRODUCTION.....	15
3.1	PLANNING ACT 2008 (AS AMENDED) (PA 2008).....	15
3.2	NATIONAL POLICY STATEMENTS.....	15
3.3	EUROPEAN AND INTERNATIONAL REQUIREMENTS AND RELATED UK REGULATIONS .....	17
3.4	OTHER LEGAL AND POLICY PROVISIONS .....	22
3.5	TRANSBOUNDARY EFFECTS.....	24
3.6	PLANNING OUR ELECTRIC FUTURE: A WHITE PAPER FOR SECURE, AFFORDABLE AND LOW CARBON ELECTRICITY (JULY 2011). .....	24
3.7	NATIONAL PLANNING POLICY FRAMEWORK .....	25
3.8	LOCAL IMPACT REPORTS.....	25
3.9	THE DEVELOPMENT PLAN .....	25
<b>4</b>	<b>FINDINGS AND CONCLUSIONS IN RELATION TO POLICY AND FACTUAL ISSUES .....</b>	<b>27</b>
4.0	MAIN ISSUES IN THE EXAMINATION .....	27
4.1	ISSUES ARISING FROM WRITTEN SUBMISSIONS.....	28
4.2	ISSUES ARISING IN LOCAL IMPACT REPORTS (LIR) .....	28
4.3	STATEMENTS OF COMMON GROUND .....	29
4.4	CONFORMITY WITH THE DEVELOPMENT PLAN POLICIES.....	29
4.5	THE PRINCIPLE OF THE DEVELOPMENT .....	29
4.6	CONFORMITY WITH NPS'S AND OTHER KEY POLICY STATEMENTS.....	30
4.7	FINANCIAL VIABILITY .....	32
4.8	ENVIRONMENTAL IMPACT ASSESSMENT (EIA) / ENVIRONMENTAL STATEMENT (ES) .....	33
4.9	GOOD DESIGN .....	36
4.10	COMBINED HEAT AND POWER (CHP) .....	38
4.11	GAS CONNNECTION.....	38
4.12	ELECTRICAL CONNECTION .....	39
4.13	AIR QUALITY AND EMISSIONS.....	39

4.14	BIODIVERSITY, BIOLOGICAL ENVIRONMENT, ECOLOGY AND GEOLOGICAL CONSERVATION .....	41
4.15	CIVIL AND MILITARY AVIATION AND DEFENCE INTERESTS .....	44
4.16	CLIMATE CHANGE MITIGATION AND ADAPTATION .....	45
4.17	DUST AND OTHER POTENTIAL NUISANCE .....	46
4.18	FLOOD RISK .....	48
4.19	HAZARDOUS SUBSTANCES AND SAFETY .....	49
4.20	HEALTH .....	50
4.21	HISTORIC ENVIRONMENT .....	51
4.22	LAND USE .....	52
4.23	LANDSCAPE AND VISUAL IMPACTS.....	53
4.24	NOISE AND VIBRATION .....	57
4.25	OTHER MATTERS.....	58
4.26	POLLUTION CONTROL AND OTHER ENVIRONMENTAL REGULATORY REGIMES .....	59
4.27	SECURITY CONSIDERATIONS .....	60
4.28	SOCIO-ECONOMIC IMPACTS.....	60
4.29	TRAFFIC AND TRANSPORT .....	62
4.30	WASTE MANAGEMENT .....	64
4.31	WATER QUALITY AND RESOURCES.....	64
<b>5</b>	<b>OVERALL FINDINGS AND CONCLUSIONS IN RELATION TO HABITAT REGULATIONS .....</b>	<b>67</b>
5.0	INTRODUCTION.....	67
5.1	PROJECT LOCATION .....	68
5.2	EUROPEAN SITES AND QUALIFYING FEATURES SCREENED INTO THE ASSESSMENT .....	69
5.3	HRA IMPLICATIONS OF PROJECT .....	73
5.4	ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS RESULTING FROM THE PROJECT, ALONE AND IN COMBINATION .....	76
5.5	OVERALL CONCLUSIONS ON THE ASSESSMENT OF EFFECTS RESULTING FROM THE PROJECT, ALONE AND IN COMBINATION .....	82
5.6	CONSERVATION OBJECTIVES .....	85
5.7	FINDINGS IN RELATION TO ADVERSE EFFECTS ON THE INTEGRITY OF EUROPEAN SITES .....	86
5.8	CONCLUSIONS .....	91
<b>6</b>	<b>THE EXA CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT .....</b>	<b>93</b>
6.0	INTRODUCTION .....	93
6.1	CONCLUSIONS .....	93
<b>7</b>	<b>DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS .....</b>	<b>95</b>
7.0	INTRODUCTION .....	95
7.1	ARTICLES .....	96
7.2	DESCRIPTION OF WORKS .....	100
7.3	PROTECTIVE PROVISIONS.....	102
7.4	REQUIREMENTS .....	102
7.5	OTHER LEGAL AGREEMENTS/RELATED DOCUMENTS.....	106
7.6	CONCLUSION .....	107

**8 SUMMARY OF FINDINGS AND CONCLUSIONS ..... 108**  
8.1 RECOMMENDATION ..... 108

**Appendices Contents**

**APPENDIX A: EXAMINATION LIBRARY**

**APPENDIX B: EVENTS IN THE EXAMINATION**

**APPENDIX C: LIST OF ABBREVIATIONS**

**APPENDIX D: RECOMMENDED DEVELOPMENT CONSENT ORDER**

# **1 INTRODUCTION**

## **1.0 INTRODUCTION**

- 1.0.1 The applicant is Palm Paper Limited (PPL) [APP-002], the UK subsidiary of Papierfabrik Palm, which is headquartered in Aalen-Neukochen (Baden-Wuerttemberg), Germany. They currently operate 20 production facilities comprising 4 paper mills (of which Palm Paper is one) and 16 box plants.
- 1.0.2 PPL propose to construct and operate a 162MW Combined Cycle Gas Turbine (CCGT) Power Station on its existing site at the Palm Paper Mill, Saddlebow Industrial Estate, King's Lynn, Norfolk, comprising of a new gas fired Combined Cycle Gas Turbine 3 (CCGT) plant (Palm Paper Project) with a thermal capacity of 162MW, a nominal gross electrical output of between 51 and 60MWe (for internal use) and an output of 130 tonnes of steam per hour (for internal use). The power station will operate as a Combined Heat and Power (CHP) plant.
- 1.0.3 The application, dated 22 September 2014, was made under section 37 of the Planning Act 2008 (as amended) (PA 2008) and was received in full by The Planning Inspectorate on 23 September 2014.
- 1.0.4 The application was accepted for examination on 20 October 2014 [PD-001].
- 1.0.5 On 11 December 2014, the Secretary of State for Energy and Climate Change appointed Martin Broderick as the single Examining Authority (ExA) for the application under s65 of the PA 2008 as amended [PD-003].
- 1.0.6 The examination of the application began on 18 February 2015 and was completed on 18 August 2015.
- 1.0.7 The proposed CCGT would be an electrical generating station with a nominal gross electrical output of between 51 to 60MWe [APP-001]. The project is therefore a Nationally Significant Infrastructure Project (NSIP) because it is above the threshold capacity of 50 Megawatts as defined by 15(2)(c) of the PA 2008.
- 1.0.8 The application is an Environmental Impact Assessment (EIA) development as defined by the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended) (EIA Regulations). It was accompanied by an Environmental Statement (ES) [APP-031] which in the view of the ExA met the definition given in regulation 2(1) of these regulations.
- 1.0.9 In reaching its recommendation, the ExA has taken into account, according to the terms required by EIA regulation 3(2), the environmental information as defined in EIA regulation 2(1) including the ES and any other information on the environmental effects of the development.

- 1.0.10 The applicant gave notice under s56 PA 2008 to the persons prescribed that the application had been accepted, and gave them an opportunity to make relevant representations. It certified on 5 December 2014 [PD-008] that this had been carried out. Twelve relevant representations were subsequently received [REP-009 to REP-020].
- 1.0.11 In accordance with s83(1)(b)(i) and 83(1)(b)(ii) of PA 2008, this report sets out the ExA's findings and conclusions in respect of the application and the ExA's recommendation to the Secretary of State as to the decision to be made on the application.

## **1.1 THE EXAMINATION AND PROCEDURAL DECISIONS**

- 1.1.1 A list of procedural decisions made by the ExA [PD-001 to PD-007 and PD-013 to PD-017] is shown in the examination library appended to this report (Appendix A).
- 1.1.2 A preliminary meeting was held on 18 February 2015, at which the applicant and all other Interested Parties (IPs) and statutory parties were able to make representations about how the application should be examined. The timetable (Appendix B) for the examination [PD-004], and a procedural decision of the ExA under Rule 8 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR), was issued to IPs on 25 February 2015. It was accompanied by the ExA's first round of written questions [PD-005].
- 1.1.3 The ExA issued three rounds of written questions, the first on 25 February 2015 [PD-005], the second on 15 June 2015 [PD-013] and the third in the Rule 17 and 8(3) letter of 1 July 2015 [PD-014]. Three requests for further information under Rule 17 of the EPR were issued on 2 April 2015 [PD-006], 8 May 2015 [PD-007] and 1 July 2015 [PD-014] respectively.
- 1.1.4 As set out in the timetable for the examination [PD-004], an Issue Specific Hearing (ISH) relating to the DCO was held on 29 April 2015 [HR-018]. An open floor hearing was held on 29 April 2015 [HR-019], and an ISH relating to environmental matters [HR-020] was held on 30 April 2015.
- 1.1.5 As required under s60 of the PA 2008, relevant local authorities were invited to submit a Local Impact Report (LIR) [PD-004]. A LIR was received from Norfolk County Council (NCC) [DL3-003] and the Borough Council of King's Lynn and West Norfolk (BCKLWN) [DL3-033].
- 1.1.6 Under regulation 5(2)(g) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP), where required, an application must be accompanied with sufficient information to enable the Secretary of State to meet their statutory duties as the competent authority under The Conservation of Habitats and Species Regulations 2010 (as amended) (Habitats Regulations) relating to European Sites. A Habitat Regulations Report [APP-045]



and Location Statement [APP-027] were submitted with the application.

## **1.2 SITE VISITS**

1.2.1 An accompanied site visit (ASV) was carried out on 28 April 2015 [HR-017]. It was attended by the ExA, case team, applicant and a representative from the BCKLWN.

1.2.2 The ASV covered the following sites:

- Palm Paper site from the dam of the River Ouse, near the tail sluice;
- South Lynn High Road, near Saddlebow Caravan Park;
- Main site, on Poplar Avenue;
- Saddlebow County Wildlife Site (CWS);
- Dersingham Bog Special Area of Conservation (SAC); and
- Roydon Common SAC.

1.2.3 An unaccompanied site visit (USV) was carried out on the 12 August 2015 by the ExA alone details of which are noted in HR-022.

## **1.3 OTHER CONSENTS REQUIRED**

1.3.1 Other consents necessary for the construction and operation of the proposed project are provided in the ES [APP-031]. This lists the following:

- An Environmental Permit (EP), as required by the Environmental Permitting (England and Wales) Regulations 2010 (as amended) - this will be a variation to the existing permit;
- A Greenhouse Gas Emission Permit, as required under the Greenhouse Gas Emissions Trading Scheme Regulations 2005 (as amended);
- A Water Abstraction Licence under the Water Resources Act 1991 (as amended); and
- Discharge Consent under the Environmental Permitting (England and Wales) Regulations 2010 (as amended).

## **1.4 REQUESTS TO BECOME OR WITHDRAW FROM BEING AN INTERESTED PARTY (S102A, S102B AND S102ZA).**

1.4.1 There were no requests under s102A to become an IP during the examination period. There was one request to withdraw from IP status. This was from the Royal Mail Group Limited [REP-011].

## **1.5 STRUCTURE OF REPORT**

1.5.1 The Report is structured as follows:

- Section 2 sets out the main features of the proposed Project;
- Section 3 summarises the legal and policy context applicable to consideration of the application;

- Section 4 sets out the ExA's findings and conclusions in respect of each of the policy and factual issues and the other potentially important and relevant matters, identified by the ExA;
- Section 5 assesses the application against the Habitats Regulations and summarises the findings in Section 5;
- Section 6 summarises the ExA's conclusion on the case for Development Consent;
- Section 7 assesses the draft Development Consent Order (DCO) and
- Section 8 sets out the ExA's overall conclusions and recommendations to the Secretary of State.

1.5.2 The following appendices are included within this Report:

- Appendix A: Examination Library;
- Appendix B: Events in the Examination;
- Appendix C: List of Abbreviations; and
- Appendix D: ExA's recommended Development Consent Order.

## **2 MAIN FEATURES OF THE PROJECT AND SITE**

### **2.0 INTRODUCTION**

- 2.0.1 The applicant PPL is the UK subsidiary of Papierfabrik Palm, which has headquarters in Aalen-Neukochen (Baden-Wurttemberg), Germany. Papierfabrik Palm is an independent, family-owned company which currently operates 20 production facilities comprising 4 paper mills and 16 box plants. Three paper mills are in Germany and one in the UK. In addition Papierfabrik Palm operates a range of electricity and steam generating plants which include one sludge combustor and two gas turbine plants [APP-092].
- 2.0.2 The applicant proposes to construct a CCGT to serve their existing paper recycling mill. The CCGT would operate by using natural gas to produce both steam and electricity which would be supplied to the mill for use within the paper recycling process. It would be housed within a single building with a footprint of 55m by 33m. The building would have a height of 25m, with a stack of 80m in height, and would be connected with the existing mill building via a pipe bridge [APP-006]. The building will be constructed from pre-cast concrete panels, primarily covered with light grey sheet metal cladding [APP-002].
- 2.0.3 The existing Palm Paper mill sits within a site of approximately 40 hectares, all of which is owned by Palm Paper. The site for the purpose of the DCO extends to approximately 1 ha, and the CCGT itself would have a footprint of 3,500sqm and the temporary construction compound would extend to 7,000sqm [APP-005] [APP-006]. The site is located approximately 2.5km to the south of King's Lynn town centre, in an area bound to the north by the A47 road, to the west by the River Ouse, to the south east by Saddlebow Industrial Estate, and to the south by the gas fired Centrica power station King's Lynn A (325MW CCGT<sup>1</sup>) [APP-005].
- 2.0.4 The Palm Paper mill complex accesses the local road network with a junction on to High Street, with traffic generally proceeding north towards the A47/A148 Saddlebow junction on the King's Lynn bypass. The proposed CCGT lies at a central point immediately to the east of the existing mill complex. The immediate surrounding area is mainly low-lying intensively farmed arable land [APP-008].

---

<sup>1</sup> Construction of this power station began in October 1994 and was completed and started producing electricity in December 1997. The plant was mothballed on 1 April 2012.

## **2.1 APPLICATION AS MADE**

2.1.1 PPL has applied to the Secretary of State for a DCO under s37 of the Planning Act 2008 (as amended) (PA 2008). The development proposed comprises a new gas fired Combined Cycle Gas Turbine 3 (CCGT) plant (Palm Paper Project) with a thermal capacity of up to 162MW, a nominal gross electrical output of up to 60MWe (for internal use) and an output of 130 tonnes of steam per hour (for internal use) at the Palm Paper Mill, Saddlebow Industrial Estate, King's Lynn, Norfolk [APP-003].

2.1.2 The application site is located wholly within the administrative boundary of the BCKLWN.

2.1.3 Part 1, Schedule 1 of the draft DCO [APP-020], submitted with the application form, describes the Authorised Development, which comprises a generating station and associated development, including the following components:

Work No 1: A combined cycle plant fuelled by gas with a thermal input of up to 162MW, a nominal gross electrical output of up to 60MWe and an output of up to 130 tonnes of heat (steam) per hour including:

- One gas turbine within a turbine hall;
- One steam turbine within a turbine hall;
- Two electricity generators and two transformers within a compound;
- A heat recovery steam generator;
- A main stack for discharge of flue gas;
- 4-8 banks of hybrid cooling towers;
- Condenser equipment and auxiliary cooling equipment;
- A demineralised water treatment facility;
- A gas insulated switchgear;
- A pipe bridge including pipes and cables for electricity, steam, condensate, and raw water, connecting the CCGT building with the paper machine building; and
- Control room and laboratory.

Work No 2: Temporary contractors' construction area including:

- Temporary construction site offices;
- Canteen, welfare, and related support facilities<sup>2</sup>;
- Hardstanding on site for the parking of construction vehicles plant and machinery or for the vehicles of construction workers;
- Open and covered storage of construction materials and equipment;
- Workshops for repair<sup>3</sup>, maintenance<sup>4</sup>, assembly and testing of equipment.

---

<sup>2</sup> Removed from the DCO by the applicant [DL5-019]

<sup>3</sup> Removed by the applicant from the DCO [DL5-019]

And in connection with such works, further associated development such as:

- Water supply works, foul drainage provision, surface water management systems, and culverting<sup>5</sup>;
- Internal site roads and vehicle parking facilities<sup>6</sup>;
- Bunds, embankments, swales, landscaping and boundary treatments and fencing<sup>7</sup>; and
- Lighting columns and lighting.

2.1.4 A range of site layouts has been considered by the applicant before culminating in the final design of the project [DL8-004; DL8-005]. Alternative design options were limited due to the existing physical site layout of the paper mill, and primarily due to the requirement of having the steam generation plant as close as possible to the paper production process.

2.1.5 The main maps and plans which accompanied the application include:

- 2.1 Land Plan and Site Location [APP-005];
- 2.2 Site Layout and Works Plan [APP-006];
- 2.4 Land Use Plan [APP-008];
- 2.5 Existing Site Layout [APP-009];
- 2.6 Statutory Designated Sites within 10km [APP-010];
- 2.7 Surface Water Drainage System [APP-011];
- 2.8 Indicative Elevations and simplified layout [APP-012];
- 2.9 Indicative Internal Layout Plan 0-00 6-10 [APP-013];
- 2.10 Indicative Internal Layout Plan 8-88 and Top View [APP-014];
- 2.11 Indicative Plan Section A-A and B-B [APP-015];
- 2.12 Lighting Scheme [APP-016];
- 2.13 Indicative Gas Connection Plan [APP-017];
- 2.14 Historic Environment Assessment - Location Statement [APP-018];
- 2.15 Outline Landscaping Plan [APP-019];
- 15.4 Site layout 2012 [DL8-004];
- 15.5 Site layout 2014 [DL8-005]; and
- 15.6 CCGT Ground Plans [DL8-006].

## **2.2 THE APPLICATION AT THE CLOSE OF EXAMINATION**

2.2.1 The revised draft DCO, version 4, submitted for Deadline 7 [DL7-011] removed Work No 2 from the description of the Authorised

---

<sup>4</sup> Removed from the DCO by the applicant [DL5-019]

<sup>5</sup> All removed by applicant from DCO apart from surface water management systems [DL5-019]

<sup>6</sup> Removed from DCO by applicant [DL5-019]

<sup>7</sup> Removed from DCO by applicant [DL5-019]

Development (paragraph 2.1.3 of this report), and instead listed them as part of Work No 1. The ExA agrees that these elements can be classed as associated development (see paragraph 7.2.6 of this report).

- 2.2.2 Additionally, the electrical output has been re-defined as 'between 51 and' 60MWe, rather than 'up to' 60MWe [DL7-011].
- 2.2.3 The ExA believes that these non-material changes do not change the nature of the development applied for because the effect of these changes is not materially different to the application as assessed in the ES [APP-031].
- 2.2.4 No external gas or electrical connections development is being sought as part of the proposal. A new underground pipeline would be required to supply high pressure gas to the CCGT and a number of potential routes exist for that pipeline. The applicant stated in their application form that when a preferred route is chosen, planning permission will be sought separately under the Town and Country Planning Act 1990 [APP-003].
- 2.2.5 However, a Gas Connection Statement [APP-029] has been provided to comply with regulation 6(1)(a)(ii) of the APFP Regulations. A Grid Connection Statement was not required as the proposed CCGT will provide electricity and steam solely to the Palm Paper mill and it will not export any electricity to the national electricity grid. This information has been referred to in the five versions of the draft DCO [APP-020, DL3-030, DL5-018, DL7-010 and DL9-014].
- 2.2.6 The application documents included an indicative programme [APP-032] showing the chronological events that would take place, should a DCO for development be granted, including construction of the new development and its commissioning. An indicative duration of 19 months is given for construction and commissioning [APP-032].
- 2.2.7 There have been no amendments i.e. material changes, to the application during examination.
- 2.2.8 The project is contained within the existing site of the applicant and no additional land or rights are required.

### **2.3 RELEVANT PLANNING HISTORY**

- 2.3.1 The application site is part of an area formerly occupied by a British sugar beet factory, in operation between 1927 and 1994. The factory buildings and large settling tanks were situated across the site at different periods throughout its history, and railway lines crossed the site from northeast to southwest. The sugar beet factory closed in 1994, and many of the buildings were demolished in 1997 [APP-092].
- 2.3.2 In November 2007 PPL received planning permission to build a new paper mill for newsprint at the site [APP-024]. Planning application

reference 07/01708/FM was made to BCKLWN, describing the proposal as:

*'Erection of paper recycling facility, combined heat and power plant, effluent treatment works, gatehouse, roads, yardage, parking, landscaping and ancillary building works.'*

- 2.3.3 Construction was completed in December 2009 [APP-092].
- 2.3.4 The Planning Statement [APP-024] refers to the permitted sludge combustor<sup>8</sup>. Palm Paper already operate such facilities at their paper mills in Europe but the sludge combustor element of the King's Lynn paper mill has not yet been constructed. The original permitted siting and orientation of the sludge combustor would not have allowed both it and the proposed CCGT to be constructed. Therefore the reorientation was achieved by making a planning application under s73 of the Town and Country Planning Act 1990. The application was submitted to the BCKLWN in May 2013 and was approved, under reference 13/00648/F<sup>9</sup>, on 12 February 2014. As a development for which planning permission exists, but has not yet been constructed, the sludge combustor has therefore been included in the cumulative assessments presented within the ES [APP-031].
- 2.3.5 King's Lynn A was commissioned in 1997 generating 325MW of electricity as a CCGT but was mothballed in 2012. Centrica requested National Grid to connect a proposed 1020MW CCGT power station, King's Lynn B<sup>10</sup>, to the national electricity transmission network and the application for the DCO was made to the Planning Inspectorate on 26 July 2012<sup>11</sup>. The new power station King's Lynn B would be built next to the existing power station (King's Lynn A)<sup>12</sup> at Willows Business Park, King's Lynn. As a development for which planning permission exists the King's Lynn B power station has therefore been included in the cumulative assessments presented within the ES [APP-031].
- 2.3.6 National Grid was granted a DCO on 18 December 2013 for the King's Lynn B Connection Project [Planning Inspectorate's reference EN020003]. The proposal was for a 400 kilovolts overhead electric line of approximately 2.8km (1.75 miles) in length connecting the proposed King's Lynn B 981MW CCGT power station to the existing National Grid high voltage electricity transmission network (line reference 4VV) that connects the National Grid substations at Norwich

---

<sup>8</sup> <http://online.west-norfolk.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=KH0NG4IV05900>

<sup>9</sup> <http://online.west-norfolk.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

<sup>10</sup> Consent under section 36 of the Electricity Act 1989, reference 01.08.10.04/124C, was given on 5 February 2009 by the Department of Energy and Climate Change

<sup>11</sup> <http://infrastructure.planninginspectorate.gov.uk/projects/eastern/kings-lynn-b-connection-project/?ipcsection=overview>

<sup>12</sup> <https://www.oq.decc.gov.uk/EIP/pages/projects/CentricaDecisionConsent.pdf>

and Walpole<sup>13</sup>. As a development for which a DCO has been made the King's Lynn B Connection Project has therefore been included in the cumulative assessments presented within the ES [APP-031].

---

<sup>13</sup> [http://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN020003/3.%20Post%20Decision%20Information/Decision/Secretary\\_of\\_State\\_Decision\\_letter.pdf](http://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN020003/3.%20Post%20Decision%20Information/Decision/Secretary_of_State_Decision_letter.pdf)



## **3 LEGAL AND POLICY CONTEXT**

### **3.0 INTRODUCTION**

3.0.1 The application includes a Planning Statement [APP-024] and ES [APP-031] which set out the applicant's views of the policy context for the project. Additional information on local planning policies was provided by BCKLWN in its LIR [DL3-033].

3.0.2 This section sets out the legal and policy context as understood by the ExA. The findings and conclusions of the ExA's consideration of the application project against the policies presented here are set out in Sections 4 and 5 this report.

### **3.1 PLANNING ACT 2008 (AS AMENDED) (PA 2008)**

3.1.1 The application is a NSIP, being an electricity generating station with a capacity of more than 50MWe (PA 2008, s14 (1)(a) and s15 (2)). Accordingly, the principal policy basis against which the proposal must be decided is that set out in the relevant National Policy Statements (NPS) (PA 2008, s104).

3.1.2 Whilst other policies, including those contained in the development plans for the area, may constitute matters that the Secretary of State may regard as important and relevant to the decision, the primacy of the NPSs is clear (PA 2008 s104(3) and EN-1, paragraph 1.1.1). In the event of a conflict between policies contained in any other documents (including development plan documents) and those contained in an NPS, those in the NPS prevail for the purposes of decision making on nationally significant infrastructure (EN-1, paragraph 4.1.5).

### **3.2 NATIONAL POLICY STATEMENTS**

3.2.1 The ExA has had regard first and foremost to the requirements of the PA 2008. In relation to s104 the ExA has had regard to the matters in subsection (2)(a) and (b) of the Act.

3.2.2 The NPSs which are relevant to the consideration of the DCO application are:

- EN-1 Overarching National Policy Statement for Energy<sup>14</sup>; and
- EN-2 National Policy Statement for Fossil Fuel Electricity Generating Infrastructure<sup>15</sup>.

---

<sup>14</sup> Overarching National Policy Statement for Energy (EN-1). Department for Energy and Climate Change July 2011. [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/47854/1938-overarching-nps-for-energy-en1.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/47854/1938-overarching-nps-for-energy-en1.pdf)

<sup>15</sup> National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (EN-2). Department for Energy and Climate Change July 2011.

3.2.3 These two NPSs formed the primary policy context for this examination. These were formally designated as statements of national policy and presented to Parliament in accordance with s5 and s9 of the PA 2008 in July 2011.

3.2.4 EN-1 states at paragraph 1.1.2 that:

*'The Planning Act 2008 also requires that the IPC<sup>16</sup> must decide an application for energy infrastructure in accordance with the relevant NPSs except to the extent it is satisfied that to do so would:*

- *lead to the UK being in breach of its international obligations;*
- *be in breach of any statutory duty that applies to the IPC;*
- *be unlawful;*
- *result in adverse impacts from the development outweighing the benefits; or*
- *be contrary to regulations about how its decisions are to be taken.'*

3.2.5 EN-1 states at paragraph 3.1.1 that:

*'...the UK needs all the types of energy infrastructure covered by this NPS in order to achieve energy security at the same time as dramatically reducing greenhouse gas emissions'.*

3.2.6 Fossil fuel generation is recognised as playing a vital role in providing reliable energy supplies and providing flexibility in response to changes in supply and demand and diversity in the energy mix. The NPS recognises that fossil fuel plants produce CO<sub>2</sub> and sets a requirement that new plants over 300MW have to be constructed Carbon Capture Ready so that Carbon Capture and Storage can be retrofitted to the plant at a later date if required. As the maximum capacity of the proposed plant is 162MW there is no requirement to provide for carbon capture.

3.2.7 EN-2 provides the primary basis for decisions on applications for nationally significant fossil fuel electricity generating stations. It sets out the factors which should influence the development of sites for fossil fuel power stations (land use, transport infrastructure, water resources, connection to a transmission network) and the criteria which the Government requires to be met (combined heat and power, carbon capture readiness, climate change adaptation, and consideration of good design). In terms of the impacts of gas power stations, EN-2 reiterates the policy in EN-1 and adds the need to consider impacts on air emissions, landscape and visual, noise and vibration, and water quality and resources.

---

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/47855/1939-nps-for-fossil-fuel-en2.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/47855/1939-nps-for-fossil-fuel-en2.pdf)

16 Infrastructure Planning Commission

- 3.2.8 In relation to s104 of PA 2008 the ExA has had regard to the matters in subsection (2)(b). Two LIRs from BCKLWN [DL3-033] and NCC [DL3-003] were submitted and are considered in Section 4.2 of this report.
- 3.2.9 In relation to s104(4) of PA 2008 the question of whether deciding the application in accordance with the NPS would lead to the UK being in breach of its international obligations under the Habitats & Birds Directive is considered in Section 5 of this report.
- 3.2.10 The urgent national need established in national policy is set out in EN-1 and EN-2 to deliver new energy generation capacity of the sort proposed for in the Palm Paper Project. EN-1 at paragraph 4.1.2 goes on to state that if a development is in accordance with the NPS, the decision maker should start with a presumption in favour of that development. The ExA considers the application project against the policies of the NPS in Section 4 of this report.

### **3.3 EUROPEAN AND INTERNATIONAL REQUIREMENTS AND RELATED UK REGULATIONS**

#### **The Birds and Habitats Directives (Council Directive 2009/147/EC and Council Directive 92/43/EEC respectively)**

- 3.3.1 The Birds and Habitats Directives form the cornerstone of the EU's nature conservation policy.
- 3.3.2 The Habitats & Birds Directives are built around two pillars:
- (i) the Natura 2000 network of protected sites (SACs designated under the Habitats Directive and Special Protection Areas (SPAs) designated under the Birds Directive); and
  - (ii) a strict system of species protection.
- The Habitats Directive protects over 1000 animals and plant species and over 200 habitat types which are of European importance.
- 3.3.3 The Habitats Directive requires that where a project is likely to have a significant effect on a Natura 2000 site designated under the Habitats Directive either individually or in combination with other plans or projects, it shall be subject to Appropriate Assessment (AA) of its implications for the site in view of the site's conservation objectives. In accordance with the Directive, in combination effects need to be considered for relevant Natura 2000 site features (habitats and species).
- 3.3.4 The process of determining whether there are any Likely Significant Effects (LSE) and, where appropriate, the undertaking of an AA, is known as a Habitats Regulations Assessment (HRA).
- 3.3.5 Under the Habitats Directive, the AA is legally "the competent authority's own assessment" of the material effects on site integrity and must be undertaken on a precautionary basis.

### **The Ramsar Convention (the Convention on Wetlands of International Importance, especially as Waterfowl Habitat)**

- 3.3.6 The UK is also bound by the terms of the Convention on Wetlands of International Importance 1971 (the Ramsar Convention), resulting in the designation of Ramsar sites in the UK, which are wetlands of international importance.
- 3.3.7 The Ramsar Convention is an intergovernmental treaty that provides the framework for national action and international cooperation for the conservation and wise use of wetlands and their resources. Under the 'three pillars' of the Convention, the Contracting Parties commit to:
- work towards the wise use of all their wetlands;
  - designate suitable wetlands for the list of Wetlands of International Importance (the "Ramsar List") and ensure their effective management;
  - co-operate internationally on transboundary wetlands, shared wetland systems and shared species.
- 3.3.8 The Convention is relevant to this application due to the proximity to the project of three Ramsar sites:
- (i) Roydon Common Ramsar;
  - (ii) Dersingham Bog Ramsar; and
  - (iii) The Wash Ramsar.

### **Conservation of Species Regulations 2010 (as amended) (the Habitats Regulations)**

- 3.3.9 The Habitats Regulations are the principal means by which the Habitats Directive is transposed in England and Wales in the terrestrial environment and in territorial waters out to 12 nautical miles.
- 3.3.10 The Secretary of State is the competent authority for the purposes of the Habitats Regulations. The integrity of a site is related to its Conservation Objectives. The assessment of the site is informed by the AA and embodies the Precautionary Principle.
- 3.3.11 The Habitats Regulations define a 'European site' as including SACs and SPAs. In addition, as a matter of policy, the Government also applies the procedures under the Habitats Regulations to potential SPAs and possible SACs, listed or proposed Ramsar sites and sites identified, or required, as compensatory measures for adverse effects on Natura 2000 sites, which are collectively referred to as 'European sites'.
- 3.3.12 The relevance to of these pieces of legislation to the application is discussed in Section 5 of this report. No protected species were identified on site, but the Habitats Regulations are engaged because the project is in proximity to six European sites, subject to the protection required by Article 6(2) of the Habitats Directive:

- (i) The Wash and North Norfolk Coast SAC;
- (ii) Roydon Common and Dersingham Bog SAC;
- (iii) Roydon Common Ramsar;
- (iv) Dersingham Bog Ramsar;
- (v) The Wash SPA; and
- (vi) The Wash Ramsar.

3.3.13 The applicant's response to question HA02-01 of the ExA's second written questions [PD-013] confirmed that the project is not connected with or necessary to the management for nature conservation of any of the European sites considered within the applicant's HRA (paragraph 5.1.3 [DL7-002]). As such it is clear that further consideration of any LSE of the project is required (see Section 5 of this report)<sup>17</sup>. In determining this application, the Secretary of State for Energy and Climate Change will be acting as competent authority for the purposes of regulations 61, 62 and 66 of the Habitats Regulations.

#### **LIKELY SIGNIFICANT EFFECTS (LSE)**

3.3.14 A Likely Significant Effect (LSE), has been explained by the European Court of Justice in the Waddenzee judgement<sup>18</sup> (C-127/02) as follows in paragraphs 47 and 45 respectively:

*'a) Significant: "Where a plan or project has an effect on that site but is not likely to undermine its conservation objectives, it cannot be considered likely to have a significant effect on that site"; and*

*b) Likely: "if it cannot be excluded, on the basis of objective information, that it will have a significant effect on the site...".*

3.3.15 The applicant describes how they have determined what would constitute a 'significant effect' in their response to Question HA02-02 of the ExA's second written questions [DL7-002].

#### **INFRASTRUCTURE PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2009 (as amended)**

3.3.16 The application is also subject to EIA Regulations.

3.3.17 The EIA Regulations establish the minimum information to be supplied by the applicant within an ES, as well as information that the ExA can request as being reasonably justified given the circumstances of the case. Part 2 of Schedule 4 represents the minimum requirements for an ES under the EIA Regulations and this is reinforced by regulation 3(2), which sets out the core duty of the decision maker in making a decision on EIA Development. Regulation 3(2) of the EIA Regulations states:

---

<sup>17</sup> Habitats & Species Regulations 2010 No. 490, regulation 61(1)(b)

*"the decision-maker must not make an order granting development consent unless it has first taken the environmental information into consideration, and it must state in its decision that it has done so."*

- 3.3.18 The application is EIA development as defined by the EIA Regulations. It was accompanied by an ES [APP-31 to APP-98]. Other environmental information was supplied during the course of the examination. The ExA in reaching its conclusions and recommendation, has taken into consideration the environmental information as defined in regulation 2(1) (including the ES and all other information on the environmental effects of the development) (see Section 4 of this report).

### **Water Framework Directive**

- 3.3.19 The EU Water Framework Directive (WFD) (Directive 2000/60/EC) established a framework for Community action in the field of water policy. Some amendments have been introduced into the Directive since 2000. The purpose of the WFD is to establish a framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater.
- 3.3.20 The Water Environment (Water Framework Directive) (England and Wales) Regulations 2003 transposed the WFD into law in England and Wales (the WFD Regulations).
- 3.3.21 The WFD requires Member States to identify 'river basin districts' – the area of land and sea made up of one or more neighbouring river basins with their associated coastal waters and groundwater. Environmental objectives for the district must be proposed, together with a programme of measures to achieve them, contained within River Basin Management Plans (RBMP).
- 3.3.22 The environmental objectives to be included in RBMPs are those required to comply with Article 4 of the WFD. Broadly the WFD requires that there be no deterioration in status and that good ecological and chemical status be achieved by 2015. However, for 'artificial and heavily modified bodies of water', the objective is for them to reach good ecological potential and good chemical status by that date. These are bodies of water that are either created by human activity or whose character has been substantially changed by human activity.
- 3.3.23 The Secretary of State has a specific duty to have regard to the relevant RBMP – and any supplementary plans made under it – in exercising their functions, under the PA 2008. The Secretary of State will need to consider the implications of the project firstly in regard to her specific duty to have regard to the RBMP and secondly – in more general terms – in relation to the UK's ability to comply with the WFD including (if applicable) the derogation provisions of Article 4.7.

3.3.24 The relevant RBMP in this case is the North West Norfolk Management Catchment and is addressed in paragraphs 4.31.1 to 4.31.7 of this report.

**Directive 2010/75/EU of 24 November 2010 on Industrial Emissions (Integrated Pollution Prevention and Control (IPPC)) and (the "Industrial Emissions Directive" ("IED"))**

3.3.25 Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control) (IED) recast seven directives related to industrial emissions, in particular Directive 2008/1/EC of 15 January 2008 concerning integrated pollution prevention and control (the Integrated Pollution Prevention and Control (IPPC) Directive) and Directive 2001/80/EC of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants (the Large Combustion Plant Directive (LCPD)), into a single legislative instrument to improve the permitting, compliance and enforcement regimes adopted by Member States.

3.3.26 The LCPD and IPPC Directive are implemented in the UK by the Environmental Permitting (England and Wales) Regulations 2010 (as amended) (the EP Regulations). The EP Regulations seek to provide a single streamlined environmental permitting and compliance regime to apply in England and Wales. They do this by integrating the previous regimes covering waste management licensing and Pollution Prevention and Control.

3.3.27 The Environment Agency (EA) would control and regulate the Project with respect to the emissions to air through an EP that will be required for the Project, under the EP Regulations. The EP would include specific emissions limits values to apply to the Project for the relevant pollutants considered within the IED. These Regulations are discussed in Section 4 of this report.

**Directive 2008/50/EC of 21 May 2008 on ambient air quality and cleaner air for Europe (the "Ambient Air Quality Directive")**

3.3.28 Council Directive 96/62/EC on ambient air quality assessment and management (the Air Quality Framework Directive) described the basic principles as to how air quality should be assessed and managed in the Member States. Subsequent daughter Directives introduced numerical limits, thresholds and monitoring requirements for a variety of pollutants including oxides of nitrogen and sulphur dioxide to guarantee that there are no adverse effects with regard to human health.

3.3.29 The Air Quality Standards Regulations 2010 (the AQS Regulations 2010) give effect, in England, to the Ambient Air Quality Directive. The relevance of these standards to this application is discussed in Section 4 of this report.

### **3.4 OTHER LEGAL AND POLICY PROVISIONS**

#### **United Nations Environment Programme Convention on Biological Diversity (CBD) 1992**

- 3.4.1 As required by regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010, the ExA has had regard to the CBD in its consideration of the likely impacts of the project and appropriate objectives and mechanisms for mitigation and compensation. In particular the ExA finds that compliance with the UK provisions on environmental impact assessment and transboundary matters, referred to below, satisfies, with regard to impacts on biodiversity, the requirements of Article 14.
- 3.4.2 The UK Government ratified the CBD in June 1994. Responsibility for the UK contribution to the Convention lies with the Department for Environment, Food and Rural Affairs who promote the integration of biodiversity into policies, projects and programmes within Government and beyond. The UK Biodiversity Action Plan (BAP) (published in 1994) is the governmental response to the Convention, succeeded by the UK Post-2010 Biodiversity Framework in 2012. The UK BAP described the biological resources of the UK and provided detailed plans for conservation of these resources. Action plans for the most threatened species and habitats were set out to aid recovery, and national reports, produced every three- to five-years, showed how the UK BAP was contributing to the UK's progress towards the significant reduction of biodiversity loss called for by the CBD.
- 3.4.3 The Saddlebow Reedbeds, a designated County Wildlife Site (CWS), is an area of reedbed approximately 400m north of the project. CWSs are non-statutory designations for sites of county significance for wildlife or geology. Reedbed habitat is listed as a priority habitat in the UK BAP. This is of relevance to e.g. biodiversity, biological environment and ecology and landscape matters which are discussed in Section 4 of this report and HRA as discussed in Section 5 of this report.

#### **THE NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT 1949**

- 3.4.4 The Act provides the framework for the establishment of National Parks and Areas of Outstanding Natural Beauty (AONBs). It also establishes powers for the appropriate nature conservation body to declare National Nature Reserves (NNRs) and for local authorities to establish Local Nature Reserves (LNRs).
- 3.4.5 National Parks have statutory protection. The purposes of designating a National Park are set out in s5 of the 1949 Act:
- conserving and enhancing the natural beauty, wildlife and cultural heritage of the areas; and
  - promoting opportunities for the understanding and enjoyment of their special qualities by the public.



- 3.4.6 If it appears that there is a conflict between those purposes, greater weight is to be given to conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park.
- 3.4.7 In relation to the application the project is not either located within, or within the setting of, any nationally designated sites [APP-031]. Dersingham Bog, Roydon Common and The Wash are all designated as National Nature Reserves and are within 10km of the project, and the Norfolk Coast AONB is approximately 7 km from project [APP-031].

#### **THE WILDLIFE AND COUNTRYSIDE ACT 1981 (AS AMENDED)**

- 3.4.8 The Wildlife and Countryside Act 1981 (as amended) is the primary legislation which protects animals, plants, and certain habitats in the UK. The Act provides for the notification and confirmation of Sites of Special Scientific Interest (SSSIs). These sites are identified for their flora, fauna, geological or physiographical features by the countryside conservation bodies (in England, Natural England (NE)). The Act also contains measures for the protection and management of SSSIs.
- 3.4.9 The Act is divided into four parts: Part I relating to the protection of wildlife, Part II relating to designation of SSSIs and other designations, Part III on public rights of way and Part IV on miscellaneous provisions. If a species protected under Part I is likely to be affected by development, a protected species licence will be required from NE.
- 3.4.10 In relation to the application Roydon Common SSSI, Dersingham Bog SSSI, The Wash SSSI and the River Nar SSSI fall within 10 km of the project. This has relevance to consideration of impacts on SSSIs and on protected species and habitats and is considered in Section 4 of this report.

#### **THE COUNTRYSIDE AND RIGHTS OF WAY ACT 2000**

- 3.4.11 The Countryside and Rights of Way Act brought in new measures to further protect AONBs, with new duties for the boards set up to look after AONBs. These included meeting the demands of recreation, without compromising the original reasons for designation and safeguarding rural industries and local communities.
- 3.4.12 The role of local authorities was clarified, to include the preparation of management plans to set out how they will manage the AONB asset. There was also a new duty for all public bodies to have regard to the purposes of AONBs. The Act also brought in improved provisions for the protection and management of SSSIs.
- 3.4.13 In relation to the application the Norfolk Coast AONB is approximately 7 km from the project [APP-031]. This is relevant to the examination of effects on and mitigation in relation to impacts on any AONB affected by the project and is considered under landscape and visual effects in Section 4 of this report.

## **NATURAL ENVIRONMENT AND RURAL COMMUNITIES ACT 2006**

- 3.4.14 The Natural Environment and Rural Communities Act (NERC) made provision for bodies concerned with the natural environment and rural communities, in connection with wildlife sites, SSSIs, National Parks and the Broads. It includes a duty that every public body must, in exercising its functions, have regard so far as is consistent with the proper exercising of those functions, to the purpose of biodiversity. In complying with this, regard must be given to the United Nations Environment Programme Convention on Biological Diversity of 1992.
- 3.4.15 This is of relevance to biodiversity, biological environment and ecology and landscape matters in the project. These matters are considered in Section 4 of this report.

### **3.5 TRANSBOUNDARY EFFECTS**

- 3.5.1 Under regulation 24 of the EIA Regulations the Secretary of State screened the project for potential transboundary effects on 25 October 2012 and 24 November 2014 and concluded that the project is not likely to have a significant effect on the environment in another European Economic Area (EEA) [PD-009]. In reaching this view the Secretary of State applied the precautionary approach. Consultation on transboundary issues under regulation 24 of the EIA Regulations was therefore not considered necessary.
- 3.5.2 On this basis, the ExA is not of the view that the project was likely to have significant effects on the environment in another EEA State and is satisfied that with regard to regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010, all transboundary biodiversity matters have been addressed and there are no such matters outstanding that would argue against the Order being confirmed.

### **3.6 PLANNING OUR ELECTRIC FUTURE: A WHITE PAPER FOR SECURE, AFFORDABLE AND LOW CARBON ELECTRICITY (JULY 2011).**

- 3.6.1 Planning our electric future: a White Paper for secure, affordable and low carbon electricity (July 2011) states in Box 2:

*Box 2: Why investment in low-carbon technologies differs from standard investment choices*

*Gas-fired power stations are a mature technology with low and predictable capital expenditure. They are quick to build and their fuel costs, which are a large proportion of operating costs, are naturally hedged because the price of electricity moves in line with the price of gas, since gas (or sometimes coal) is typically the price-setting (or marginal) plant. Their generation costs will tend to fall in line with any fall in revenues as electricity prices fall, preserving profitability. Gas-fired power stations are able to run flexibly and can therefore relatively easily respond to shifting demand. The costs of flexing a gas plant to respond to daily peaks in demand are relatively modest*

*although more frequent stop/start and fast ramp-up operations do have a significant impact on maintenance costs’.*

3.6.2 Conformity with this policy is addressed in Sections 4.5 and 4.6 of this report.

### **3.7 NATIONAL PLANNING POLICY FRAMEWORK**

3.7.1 The National Planning Policy Framework (NPPF) published in 2012 sets out the Government’s planning policies for England and how these are expected to be applied.<sup>19</sup> The Framework does not contain specific policies for NSIPs for which particular considerations apply. These are determined in accordance with the decision-making framework set out in PA 2008 and relevant NPS for major infrastructure, as well as any other matters that are considered both important and relevant (which may include the NPPF) and these are discussed in the sections below where they are considered relevant.

### **3.8 LOCAL IMPACT REPORTS**

3.8.1 There is a requirement under s60(2) of PA 2008 to give notice in writing to each local authority falling under s56A inviting them to submit LIRs. This notice was given on 25 February 2015 [PD-004].

3.8.2 Two LIRs from BCKLWN [DL3-033] and NCC [DL3-003] were submitted and are considered in Section 4.2 of this report.

### **3.9 THE DEVELOPMENT PLAN**

3.9.1 The Development Plan consists of the King's Lynn and West Norfolk Core Strategy adopted in 2011 and saved policies from the King’s Lynn and West Norfolk Local Plan 1998.

3.9.2 Relevant policies from the Core Strategy are:-

- CS01 – Spatial Strategy: setting an overarching spatial strategy for the borough encouraging economic growth and inward investment, emphasising development of brownfield land and the protection and enhancement of natural and historic assets;
- CS02 – Settlement Strategy;
- CS03 – King’s Lynn area: addressing King's Lynn and establishing a strategy for growth;
- CS08 – Sustainable Development: promotes the reduction of site emissions through the generation of cleaner energy (paragraphs 4.9.6, 4.23.23 and 6.1 of this report);
- CS10 – The Economy;
- CS11 – Transport: including the need to achieve improvements in air quality where there are issues; and

---

<sup>19</sup> National Planning Policy Framework DCLG, March 2012.  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6077/2116950.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf)

- CS12 – Environmental Assets: establishing the need to protect and enhance the historic environment together with landscape character, biodiversity and geodiversity (paragraphs 4.23.23 and 6.1 of this report).

3.9.3 Saved policies from the King's Lynn and West Norfolk Local Plan (1998) of relevance are as follows:

- Policy 4/25. This addresses disused railway trackbeds and routes, including the Harbour Junction- South Lynn, which runs through the north of the existing paper mill site;
- Policy 9/11 identifies the A47 to the north of the mill site as a Primary Corridor of Traffic Movement and notes that development on side roads connecting to these primary corridors will be resisted where the traffic generated would have an adverse impact of the traffic carrying function and capacity.

3.9.4 In addition, the BCKLWN Site Allocations and Development Management Policies Pre-submission Document has been published. The consultation period for this document ended at the beginning of March 2015.

3.9.5 Relevant development management policies from the emerging policy document are:

- DM1 – Presumption in favour of sustainable development;
- DM15 – Environment, design & amenity (see paragraph 4.17.14 of this report); and
- DM21 – Sites in areas of flood risk.

3.9.6 Relevant site allocations:

- E1.12 King's Lynn – Employment Land (see paragraphs 4.22.5 and 4.28.9 of this report).

## **4 FINDINGS AND CONCLUSIONS IN RELATION TO POLICY AND FACTUAL ISSUES**

### **4.0 MAIN ISSUES IN THE EXAMINATION**

#### **PRELIMINARY IDENTIFICATION OF PRINCIPAL ISSUES**

- 4.0.1 In accordance with s88 of the PA 2008, the ExA made an initial assessment of the Principal Issues arising from the ExA's consideration of the application documents [APP-001 to APP-098] and twelve (12) relevant representations [REP-009 to REP-020] received concerning the Palm Paper Project. This was sent to all IPs on 15 January 2015 [PD-003] and was part of the agenda for the Preliminary Meeting (PM) held on 18 February 2015. The ExA has had regard to all important and relevant matters in putting forward this recommendation to the Secretary of State.
- 4.0.2 The ExA received no requests during the PM for any additions to be made to the list of Principal Issues [HR-002; HR-003].
- 4.0.3 The ExA confirmed that the Principal Issues have broad headings, and that all the issues would be covered by the relevant heading in the Principal Issues [PD-003]. The ExA confirmed that these issues would be examined in accordance with national policy and under the procedure established in the PA 2008, and relevant secondary legislation (see Section 3 of this report: Legal and Policy Context).
- 4.0.4 The selection of these issues informed the ExA's first round of written questions [PD-005] and decisions as to which topics might require ISHs. The Principal Issues identified by the ExA were as follows:
- Design, Layout and Visibility;
  - The DCO;
  - Economic and Social impacts;
  - Environmental Impact Assessment including its adequacy, cumulative effects and climate change;
  - Other Environmental issues including Health Impact, Air Quality, Flooding, Noise, Lighting, Dust and Vibration, and Water Quality and Supply;
  - Habitats, Ecology and Nature Conservation;
  - The Historic and Archaeological Environment;
  - Operational; and
  - Transport and Traffic.
- 4.0.5 The following Sections (4.1 onwards of this report) deal with the matters that have emerged as the key issues in the Examination, which are of relevance to the Secretary of State's final decision.

## **4.1 ISSUES ARISING FROM WRITTEN SUBMISSIONS**

- 4.1.1 Twelve (12) Relevant Representations were received in the pre-examination period [REP-009 to REP-020]. The issues raised informed the initial identification of the Principal Issues [PD-003].
- 4.1.2 The ExA's findings and conclusions to all the issues raised in the written and oral submissions are summarised in the remainder of Section 4 and also in Section 5 of this report.

## **4.2 ISSUES ARISING IN LOCAL IMPACT REPORTS (LIR)**

- 4.2.1 Two LIRs have been submitted:
- (i) BCKLWN [DL3-033]; and
  - (ii) NCC [DL3-003].
- 4.2.2 The issues arising from the BCKLWN LIR were as follows:
- (i) Landscape and visual impact;
  - (ii) Socio-economic;
  - (iii) Air quality;
  - (iv) Contaminated land;
  - (v) Operational noise;
  - (vi) Construction noise and vibration;
  - (vii) Lighting; and
  - (viii) Flooding.
- 4.2.3 The Applicant was the only commentator [DL4-005] on BCKLWN's LIR [DL3-033]. The Applicant and BCKLWN reached agreement on issues raised in the LIR via agreed requirements in the draft DCO [DL9-014]. These agreements are reflected in a Statement of Common Ground (SoCG) [DL3-024].
- 4.2.4 It is considered that NCC is a Relevant Authority in accordance with s56(3) and s60(2)(a) of the PA 2008.
- 4.2.5 The issues arising from the NCC LIR were as follows:
- (i) Landscape;
  - (ii) Conservation - Ecological;
  - (iii) Highways and Traffic;
  - (iv) Flood risk and drainage;
  - (v) Socio Economic and
  - (vi) Minerals and waste.
- 4.2.6 The Applicant was the only commentator [DL4-005] on NCC's LIR [DL3-003]. The Applicant and NCC reached agreement on issues raised in the LIR via agreed requirements in the draft DCO [DL9-014] as reflected in a SoCG [DL3-025].

### **4.3 STATEMENTS OF COMMON GROUND**

4.3.1 SoCG's were agreed between the Applicant and:

- BCKLWN [DL3-024];
- NCC [DL3-025];
- NE [DL5-005]; and
- EA [DL5-027].

### **4.4 CONFORMITY WITH THE DEVELOPMENT PLAN POLICIES**

4.4.1 BCKLWN's LIR states on pages 2 and 7 respectively [DL3-033]:

*'The Development Plan consists of the Core Strategy adopted in 2011 and saved policies from the King's Lynn and West Norfolk Local Plan 1998. In addition, the Council's Site Allocations and Development Management Policies Pre-submission Document has been published. The consultation period for this document ended at the beginning of March and by the time the hearings are held for this proposal the document will have been submitted to the Planning Inspectorate.'*

*'The Borough Council recognises the benefits of the project in terms of providing jobs during the construction phase and the role the CCGT will play in securing Palm Paper's operations in the Borough. The Council considers that, subject to suitable requirements being attached to the Development Consent Order, the impacts of the proposed NSIP can be mitigated to an acceptable level.'*

4.4.2 The ExA has received no evidence to contradict the above statement.

4.4.3 The conclusions from the BCKLWN and NCC LIRs [DL3-033; DL3-003] and their SoCG's with the Applicant [DL3-024; DL3-025] are that adequate mitigation would secure conformity with BCKLWN's Development Plan<sup>20</sup>.

### **4.5 THE PRINCIPLE OF THE DEVELOPMENT**

4.5.1 The Project is an NSIP, as set out in s14 and s15 of the PA 2008 (as amended). The need for the development is covered in EN-1, paragraph 3.1, which states that such applications should be assessed on the basis that the Government has demonstrated that there is a need for this type of infrastructure and that substantial weight should be given to its contribution to satisfying this need. Paragraphs 3.6.1 and 3.6.2 of the same NPS state that there is a need for a mix of energy sources including fossil fuels to meet demand in a flexible manner, which will help in the transition to a low-carbon economy.

---

<sup>20</sup> <http://www.west-norfolk.gov.uk/Default.aspx?page=26072>

- 4.5.2 The need for the project was questioned by Miss Jenny Perryman in her relevant representation [REP-016] and in her written representations [DL5-020 to DL5-025]. She contended there was a lack of national need for this non-essential infrastructure and this would lead to an unnecessary increase of greenhouse gases when better alternatives are available.
- 4.5.3 However, the need for fossil-fuelled power plants, including gas-fired plants, has been clearly set out in paragraphs 3.6.1 and 3.6.2 of NPS, EN-1.

#### **4.6 CONFORMITY WITH NPS'S AND OTHER KEY POLICY STATEMENTS**

4.6.1 The project is a NSIP comprising a generating station as defined in s14(1)(a) and s15(2)(a)(c) of the 2008 Act.

4.6.2 EN-1 paragraph 3.1 states:

*'The UK needs all the types of energy infrastructure covered by this NPS in order to achieve energy security at the same time as dramatically reducing greenhouse gas emissions.'*

*It is for industry to propose new energy infrastructure projects within the strategic framework set by Government. The Government does not consider it appropriate for planning policy to set targets for or limits on different technologies.'*

*The [Secretary of State] should therefore assess all applications for development consent for the types of infrastructure covered by the energy NPSs on the basis that the Government has demonstrated that there is a need for those types of infrastructure and that the scale and urgency of that need is as described for each of them in this Part.'*

*The [Secretary of State] should give substantial weight to the contribution which projects would make towards satisfying this need when considering applications for development consent under the Planning Act 2008.'*

4.6.3 Paragraph 3.6.1 of EN-1 states:

*'Fossil fuel power stations play a vital role in providing reliable electricity supplies: they can be operated flexibly in response to changes in supply and demand, and provide diversity in our energy mix. They will continue to play an important role in our energy mix as the UK makes the transition to a low carbon economy, and Government policy is that they must be constructed, and operate, in line with increasingly demanding climate change goals.'*

4.6.4 The Applicant states in paragraphs 1.2.1 to 1.2.5 of the ES [APP-031]:

*'The paper mill consumes significant amounts of energy in the form of electricity and steam within the recycling and production processes.'*



*Steam is required for heating of water, pulp, air and chemicals to the required process temperature and for drying the paper. In addition, electricity is required for driving the machinery, pumping, vacuum, ventilation and wastewater treatment systems. The mill requires at least 56 megawatt of electricity and 100 t/h of steam under normal operating conditions and 60 megawatt of electricity and 130 t/h of steam during short term 'peak' loads.*

- 4.6.5 The supply of electricity is currently provided by importing power from the local electricity network. The connection of the mill to the local network is required irrespective of on-site generation to maintain the security of electricity supplies to site. The connection is made via an EDF-substation adjacent to the King's Lynn power station.

*'All steam required at the mill is currently generated by package boilers using an existing connection to a low pressure gas pipeline*

*PPL propose to construct and operate a 162 megawatt CCGT Power Station which will have the capacity to supply all steam and electricity required by the adjacent paper mill. No supplementary fossil fuel will be burned by the new CCGT and the development site will not incorporate any fuel storage areas.*

*As part of the proposal, the new CCGT will replace existing package boilers, although these boilers will remain on-site to be used as a back-up. The proposed CCGT and the existing boilers will not operate concurrently.'*

- 4.6.6 The need for a gas-fired power facility and the consequential impact on climate change and air quality generally was raised in the relevant representation from Miss J Perryman [REP-016] and her submissions (six separate documents [DL5-020 to DL5-025]) for deadline 5. However, the need for fossil-fuelled power plants, including gas-fired plants, has been set out in paragraphs 3.6.1 and 3.6.2 of NPS, EN-1. The Applicant's comments [DL5-004] in response to this written representation and submissions state that there is evidence to demonstrate that air quality and climate change would not be significantly influenced by the project.

#### **NATIONAL PLANNING POLICY FRAMEWORK (NPPF)**

- 4.6.7 The NPPF, published in 2012, sets out the Government's planning policies for England. However, paragraph 3 of that document states that it does not contain specific policies for NSIPs. This type of development is determined in accordance with the PA 2008 and the policies set out in the relevant NPSs. As such, the NPPF has only limited weight in assessing NSIP proposals but is important and relevant in relation to matters such as climate change and flood risk (Section 10, paragraphs 93-104) and the historic environment (Section 12).

## **4.7 FINANCIAL VIABILITY**

4.7.1 The financial and technical viability of the scheme, taking into account paragraph 4.1.9 of EN-1, has been considered by the Applicant.

4.7.2 The Applicant is the UK subsidiary of Papierfabrik Palm, which is headquartered in Aalen-Neukochen (Baden-Württemberg), Germany. Papierfabrik Palm is an independent, family-owned company which currently operates twenty production facilities comprising four paper mills and sixteen box plants. Three of their paper mills are in Germany, in addition to their King's Lynn mill in the UK. Papierfabrik Palm operates a range of electricity and steam generating plants at their paper mills which include one sludge combustor and two gas turbine plants [APP-024].

4.7.3 Palm Paper received planning consent in November 2007 to build their King's Lynn paper mill on the former British Sugar Site at the Saddlebow Industrial Estate in King's Lynn. Construction was completed in December 2009 and currently PPL produces approximately 400,000 to 500,000 tons of newsprint paper per year, with their mill employing some 200 people [APP-024].

4.7.4 The Applicant in its Summary Statement [APP-002] states at paragraphs 1.3.1 to 1.3.3 that:

*'The Palm Paper mill consumes significant amounts of energy in the form of electricity and steam within the recycling and production processes. The mill requires at least 56MW of electricity and 100 tonnes per hour of steam under normal operating conditions and 60MW of electricity and 130 tonnes per hour of steam during short term 'peak' loads.*

*Electricity is currently supplied by importing power from the local electricity network, with two gas fired package boilers within main mill building then generating all the steam required at the mill.*

*Palm Paper is seeking both to reduce the carbon emissions and to reduce their reliance on imported energy. The company therefore propose to construct and operate a 162MW Combined Cycle Gas Turbine (CCGT) Power Station which would provide electricity and steam for use within the paper mill.'*

4.7.5 Paragraph 4.1.9 of EN-1 states:

*'In deciding to bring forward a proposal for infrastructure development, the applicant will have made a judgement on the financial and technical viability of the project, within the market framework and taking account of Government interventions. Where the [Secretary of State] considers, on information provided in an application, that the financial viability and technical feasibility of the proposal has been properly assessed by the applicant it is unlikely to be of relevance in [Secretary of State] decision making (any exceptions to this principle are dealt with where they arise in this or*

*other energy NPSs and the reasons why financial viability or technical feasibility is likely to be of relevance explained).*'

4.7.6 The Applicant states at paragraph 14.5.1 of the ES [APP-031] that:

*'The inward investment of the project is estimated at £50 million and there will also be substantial annual operating costs. These expenditures will result in economic benefit to the local economy.'*

4.7.7 The ExA is sufficiently confident that the resource implications of the implementation of the project can be met based on the Applicant's parent company, Papierfabrik Palm having a stated turnover of 1.2 billion Euro in 2014 [DL8-002; DL8-003]. During the examination, no IP has suggested that the financial viability of the Project has not been properly assessed.

## **4.8 ENVIRONMENTAL IMPACT ASSESSMENT (EIA) /ENVIRONMENTAL STATEMENT(ES)**

### **ADEQUACY OF EIA/ES**

4.8.1 The adequacy of the EIA/ES [APP-031] and its assessment of potential impacts were highlighted in the initial identification of Principal Issues [PD-003].

4.8.2 Miss Jenny Perryman raised concerns regarding the adequacy of the EIA/ES in her Relevant Representation [REP-016], and also during the course of the examination [DL5-020 to DL5-025].

4.8.3 The ES comprises:

- ES text [APP-031];
- Twenty one supporting volumes of appendices [APP-032 to APP-052];
- Figures [APP-053 to APP-091;]and
- A standalone Non-Technical Summary [APP-092].

4.8.4 EN-1 Paragraph 4.2.4 states:

*'The [Secretary of State] should request further information where necessary to ensure compliance with the EIA Directive.'*

4.8.5 The ExA investigated the adequacy of the information provided in the ES, in the first [PD-005] and second [PD-013] round of written questions and in their questions to the Applicant at the EIA/HRA ISH [HR-020].

4.8.6 The Applicant's responses to the ExA written questions can be found at [first round of questions, DL3-027; second, DL7-002].

## **Conclusion on Adequacy of Environmental Impact Assessment EIA/ ES**

- 4.8.7 It is the view of the ExA that the environmental information supplied with the DCO application and during the examination, is sufficient for the Secretary of State to take into consideration before making a decision in compliance with regulation 3(2)<sup>21</sup> of EIA Regulations.

### **CONSIDERATION OF ALTERNATIVES**

- 4.8.8 The EIA Regulations require that an ES should include an outline of the main alternatives that have been studied by the Applicant and an indication of the main reasons for its choices, taking into account the likely significant environmental impacts of each alternative (Schedule 4, Part 1 (18) and Part 2 (27)). Therefore, under the EIA Regulations there is no requirement to assess all potential alternatives, only a requirement to provide a review of those alternatives that have actually been considered.

- 4.8.9 EN-1 (Paragraphs 4.4.1- 4.4.2) states:

*'From a policy perspective this NPS does not contain any general requirement to consider alternatives or to establish whether the proposed project represents the best option. Furthermore, it is not necessary to consider alternative technologies for generating stations.'*

*However:*

*'Applicants are obliged to include in their ES, as a matter of fact, information about the main alternatives they have studied. This should include an indication of the main reasons for the Applicant's choice, taking into account the environmental, social and economic effects and including, where relevant, technical and commercial feasibility.'*

- 4.8.10 In the case of the Project, the alternatives that have been considered are detailed in Section 3.8 of the ES [APP-031] and in the Carbon Assessment [APP-030]:

- Alternative technologies;
- Alternative design; and
- Alternative locations.

- 4.8.11 The Applicant states in Section 19 of its Planning Statement [APP-024] that:

*'The proposed CCGT is a technique used successfully by Palm Paper in two of their German paper mills, where it has allowed them to reduce overall CO<sub>2</sub> emissions as well as their reliance on imported energy.'*

---

<sup>21</sup> 3.- Prohibition on granting consent without consideration of environmental information. Regulation 3(1) explains when this regulation applies.

*There are no oil or biomass fuelled processes currently available which have the capacity to serve the energy needs of the Palm Paper mill in a manner which is as environmentally benign as the proposed CCGT. Furthermore a 'Do Nothing' approach would in this case result in the continued use of the on-site gas boilers together with imported gas and electricity and would not result in the significant reductions in the overall CO<sub>2</sub> emissions generated by the paper mill which the use of the CCGT is able to achieve. Planning permission exists for a sludge combustor on the site, which would be capable of generating some energy for use within the paper mill but would not be able to fulfil the entire requirements of the mill and which would therefore again not lead to the same benefits which can be created by the CCGT.*

*In terms of the project itself, the scale and design of the building is largely defined by its function and operational capacity, with aspects such as the finishing materials selected to complement the existing mill buildings. The size of the stack is a variable which has been considered in respect of air quality impacts; an issue discussed in the Environmental Statement, and following discussions with statutory consultees and the local community is considered to represent an appropriate balance between air quality and visual impacts. The positioning of the proposed CCGT within the site has been defined by the existing paper recycling process and the need for the steam and electricity created by the CCGT to feed into the paper machine at an appropriate point.'*

- 4.8.12 A range of site layouts [DL8-004; DL8-005; DL8-006] has been examined before culminating in the final design of the project. Alternative design options for the project are limited due to the existing physical site layout of the paper mill, and primarily due to the requirement of having the steam generation plant as close as possible to the paper production process (para.3.8.10 of [APP-030]).
- 4.8.13 The Applicant in its Carbon Assessment [APP-030] determined the carbon impact of the proposed CHP facility compared to the current methods of producing steam and power i.e. a "do nothing" alternative. The base case is a maximum production at the paper mill, which is the production of 460,000 tonnes of paper per annum. At this level of production, the current plant consumes 399,500MWh of electricity per annum from the grid and 520,500MWh of natural gas per annum. This base case is compared to the case in which the alternative of a CCGT is used on site for the production of electricity and steam.
- 4.8.14 The overall results show that the operation of a CHP would lead to a carbon benefit of approximately 67,000 tonnes of CO<sub>2</sub>/annum over the base case or a "do nothing" alternative.

#### **Conclusion on the consideration of alternatives**

- 4.8.15 The ExA considers that the Applicant has addressed the case in relation to:

- Alternative locations;
- Alternative designs; and
- Alternative technologies.

4.8.16 The ExA consider that the examination of alternatives has been addressed adequately and that the requirements of EN-1 and the requirements of the EIA Regulations are met.

#### **MITIGATION MEASURES**

4.8.17 A series of mitigation measures have been proposed within the ES [APP-031]. The Schedule of Mitigation [DL3-028] identifies precisely how construction mitigation measures would be secured in the DCO. A number of the construction phase mitigation measures would be delivered via a Construction Environmental Management Plan (CEMP) [APP-098] as identified in the Schedule of Mitigation [DL3-028]. An outline CEMP has been provided [APP-098]. The Schedule of Mitigation will be part of the final CEMP (as Appendix 7) and will be submitted to and approved in writing by the BCKLWN (Applicant's response to the ExA first round question DCO-019 [DL3-027]).

4.8.18 Section 7 of this report, contains a description of key draft DCO Requirements, and explanation of modifications either agreed by the Applicant or proposed by the ExA together with the identification of who has responsibility for discharge of specific requirements.

#### **4.9 GOOD DESIGN**

4.9.1 EN-1 requires, at paragraph 4.5.4, that applicants should be able to demonstrate how the design process was conducted and how the proposed design evolved. Section 5 of the ES [APP-031] and the Design and Access Statement (DAS) [APP-025] which formed part of the application, carry out this function.

4.9.2 EN-1 notes, at paragraph 4.5.1, that applying good design to energy projects should produce sustainable infrastructure sensitive to place, efficient in the use of natural resources and energy used in their construction and operation, matched by an appearance that demonstrates good aesthetics. It continues, at paragraph 4.5.3, by noting that applicants should take into account both functionality (including fitness for purpose and sustainability) and aesthetics (including its contribution to the quality of the area in which it would be located) as far as possible. It also notes, at paragraph 5.9.22, that materials and design of buildings should always be given careful consideration.

4.9.3 The Design and Access Statement (DAS) [APP-025] contains an explanation of the design concept. As EN-1 advises, at paragraph 4.5.5, the design should be the subject of a Design Council CABE review. The Design Council CABE was identified as a statutory party and was invited to become an IP and make a relevant representation in the Rule 6 letter [PD-003]. Design Council CABE did not respond to the [Rule 6] letter and were chased for a response on 13th June 2014

but chose not to make any comment on the application or proposed scheme.

- 4.9.4 In response to ExA's first round Question (DLV06)[PD-005] the Applicant responded that:

*'The proposed CCGT would function as an additional piece of plant within the wider Palm Paper mill site. As such the design rationale used is intended to complement and coordinate with the design and appearance of the existing mill buildings, in order for the CCGT to appear as an integral part of the paper mill. The building would be constructed from pre-cast concrete panels, with external sheet metal cladding in a light grey, to match the appearance of the existing paper mill buildings, with the scale and layout of the building defined by its operational and functional requirements.'*

*In accordance with Paragraph 5.9.22 of NPS EN-1 the applicant considers that the design and appearance of the proposed building has therefore been given careful consideration.*

*The Examining Authority is referred to Section 2.1.4 of the SoCG agreed with NCC and to Section 2.2.1 of the SoCG agreed with BCKLWN which confirm that both those Authorities consider the design approach taken to be appropriate.'*

- 4.9.5 The layout within the application site is largely driven by the requirements of the process, site access and gas delivery. The ExA recognises these constraints.

### **Conclusion on Design**

- 4.9.6 The ExA is satisfied by the design approach to the Project. This has been secured as far as possible in the draft DCO Requirements 4 and 5 (Detailed design and Landscaping) and by the limits set on opportunities for subsequent change in Requirements 17 and 18 [DL9-014]. The design approach accords with the aims of EN-1 and BCKLWN Core Strategy (2011) Policy CS08 – Sustainable Development which establishes the need for good design, by promoting good design in new development in paragraph 7.1.7<sup>22</sup>:

*'Good design is a key element of sustainable development. In preparing for population growth in the borough it is imperative that proposals for new development and redevelopment are based on sound design principles.'*

- 4.9.7 Given the evidence presented, the ExA is content that the final design will be appropriate given the proposed requirements.

---

<sup>22</sup> <http://www.west-norfolk.gov.uk/Default.aspx?page=26072>

#### **4.10 COMBINED HEAT AND POWER (CHP)**

- 4.10.1 In accordance with planning guidance for thermal power stations, an application for a DCO requires consideration to be given to CHP options and economics (Section 4.6 EN-1).
- 4.10.2 EN-1 specifically considers CHP, noting that this allows less fuel to be used to generate the same amount of heat and power, thereby reducing emissions. Paragraph 4.6.4 identifies that for industrial purposes intensive heat users such as paper mills will be appropriate for this type of technology. Paragraph 4.6.8 states that to encourage proper consideration of CHP, substantial additional positive weight should therefore be given by the Secretary of State to applications incorporating CHP.
- 4.10.3 CHP is the process whereby a power generating plant supplies heat, in the form of steam or hot water to another user (usually for an industrial process). A CHP plant can, under the right conditions, achieve a higher overall thermal efficiency compared with power generation alone.
- 4.10.4 The proposed CCGT is a CHP plant as it will be designed so that it does supply electricity and steam to the existing paper mill [APP-031].

#### **Conclusion on CHP**

- 4.10.5 The ExA acknowledges that the proposed CCGT is a CHP Plant and therefore the requirements of EN-1 have been met.

#### **4.11 GAS CONNECTION**

- 4.11.1 The Applicant is not seeking development consent for the construction and operation of the Gas Connection. This would be obtained through an application for planning permission under the Town and Country Planning Act 1990 (as amended) to the BCKLWN, which is the Local Planning Authority (LPA) for the area in which the Project is located.
- 4.11.2 The Applicant will submit a connection application to National Grid Gas (NGG) for the Minimum Offtake Connection (MOC) to connect the CCGT plant to the National Transmission System (NTS). Upon submission of the application, NGG will have 6 months to provide the Applicant a connection offer at which point the Applicant will have a further 3 months to decide whether to accept the terms of the offer. Upon acceptance, the Applicant will enter into a Design and Build Agreement (DBA) with NGG for the construction of the new MOC. The DBA will set out the cost and timescales for delivery of the MOC [APP-017].
- 4.11.3 The Applicant in its response to the ExA's first round question OM06 [DL3-027] stated that BCKLWN saw no environmental impediments to the granting of planning permission (paragraph 2.9.2 of SoCG [DL3-024]). At the close of the examination no planning permission application had been submitted.



## **4.12 ELECTRICAL CONNECTION**

- 4.12.1 Steam and electrical power will be supplied only to Palm Paper's paper milling processes and electrical network respectively. There will be no connection to the National Electricity Transmission System (NETS) [APP-024].

## **4.13 AIR QUALITY AND EMISSIONS**

- 4.13.1 EN-2 states in paragraph 2.5.6:

*'In considering whether to grant consent, the [Secretary of State] should take account of likely environmental impacts resulting from air emissions and that in the case of SO<sub>x</sub>, NO<sub>x</sub> or particulates in particular, it follows the advice in EN-1 on interaction with the EA's regulatory processes.'*

- 4.13.2 In the case of the Project, air quality and emissions that have been considered are detailed in Section 6 of the ES [APP-031] and accompanying technical appendices [APP-035; APP-036]. The AQS Regulations 2010 specify a series of standards and objectives for air quality in the UK. The objectives are summarised in Table 6.1 [APP-031] and consider pollutants that are the principal products of industrial combustion processes. These are the basis for the assessment of emissions for the operational phase.
- 4.13.3 The assessment of potential air quality impacts was highlighted in the identification of Principal Issues [PD-003].
- 4.13.4 Miss Jenny Perryman raised specific concerns [REP-016 and HR-020] regarding the:
- (i) Cumulative increase of emissions to air and water:
    - i) upwind of heavily populated area;
    - ii) discharges will further affect fragile ecology and areas of national and international importance;
    - iii) existing poor air quality contributing to higher than national average health problems;
    - iv) unique local weather pattern increasing effects of pollution over sensitive areas;
  - (ii) Unnecessary increase of greenhouse gases when better alternatives are available.
- 4.13.5 The ExA addressed the adequacy of the information and the assessment provided in the ES [APP-031] in the first round of written questions (questions EIA06 and EIA12 to EIA26) [PD-005] and in their questions to the Applicant at the EIA/HRA ISH on the 30 April 2015 [HR-020].
- 4.13.6 The Applicant's responses can be found at [DL5-004]. The Applicant specifically responded to Miss Jenny Perryman's concerns via:

- Rosalind Flavell (the Applicant's air quality expert witness) responded directly to Miss Jenny Perryman at the EIA/HRA hearing on cumulative issues and greenhouse gas emissions [HR-020]; and
- A bespoke note for Deadline 6:

*'Comments on Miss Perryman's Submissions'* [DL6-001].

4.13.7 Miss Jenny Perryman did not provide any comment on the Applicant's responses during the examination.

4.13.8 BCKLWN's LIR [DL3-033] concluded on page 4 that:

*'Positive impacts*

*CHP Unit will provide both steam and power for the Palm Paper plant potentially reducing emissions from separate generation of steam and power.*

*A Construction Environmental Management plan is proposed. The implementation of these mitigation measures should prevent construction work generating levels of atmospheric dust and emissions which would constitute a risk to health or nuisance to local people or industry.*

*Neutral impacts*

*The ES states that 'the main construction site is located within an industrial area with the closest industrial properties over 200m from the main working area. Therefore, the site is considered to be a 'low risk site' when considering the potential for annoyance due to dust soiling and the risk to health effects due to a significant increase in exposure to PM10.'*

*Installation of an 80m stack is predicted to result in a negligible impact on air quality. This minimum height can be secured by provisions in the development consent order.'*

4.13.9 The Applicant's assessment [APP-031] argued that overall, the Project will have a negligible impact on air quality in relation to human receptors<sup>23</sup> during construction, operation and decommissioning. This applies both for the Project alone and cumulatively with other proposed facilities in the vicinity of the Project site.

4.13.10 The EA have stated that [HR-015]:

*'based on the information we have seen so far, to date we have not identified any issues which would preclude us from granting an*

---

<sup>23</sup> Air quality impacts to ecological receptors are dealt with in paragraphs 4.14.1 to 4.14.12 and air quality impacts on European sites are dealt with in Section 5 of this report

*environmental permit for the proposed operations. This statement should not be taken in any way as to prejudice any determination we may make with respect to the Environmental Permit application. We wish to clarify this position and offer the following guidance.*

*During pre-application discussions on a Development Consent Order (DCO) we will give a view on permitting based on information we have at that time, using one of three preliminary positions as outlined in our 'Guidance on developments requiring planning permission and environmental permits'. These preliminary positions are:*

- No major permitting concerns*
- More detailed consideration is required and parallel tracking is recommended*
- Don't proceed - unlikely to grant a permit*

*With respect to the Palm Paper DCO application our preliminary position is that we have 'No major permitting concerns'.*

*It is important to note that the first position of 'no major concern' means that we consider that the activity in question is of a type and nature that should be capable of being permitted. It is not a statement of 'no impediment'.'*

- 4.13.11 The EA have not raised any concerns with the Applicant's assessment of the impacts of air emissions as being negligible.

#### **Conclusion on Air Quality and Emissions**

- 4.13.12 The ExA considers that by the examination the issues of air quality and emissions has been addressed adequately (including the baseline and cumulative issues, health, temperature inversion raised by Miss Jenny Perryman) and that the requirements of EN-1 and EN-2 are met together with the objectives of AQS Regulations 2010.
- 4.13.13 The ExA concludes that there is no evidence presented, that the granting of any necessary licence under other regulatory regimes will be withheld as a result of the effects of the project on air quality, and that therefore based on EN-1 paragraph 4.10.8, the Secretary of State as decision-maker should have no reason to withhold development consent on these grounds.

#### **4.14 BIODIVERSITY, BIOLOGICAL ENVIRONMENT, ECOLOGY AND GEOLOGICAL CONSERVATION**

- 4.14.1 Issues relating to HRA (EN-1 Section 4.3) are covered in Section 5, Findings and Conclusions Relating to Habitats Assessment, of this report.
- 4.14.2 EN-1 paragraphs 5.3.7 and 5.3.8 state:

*'As a general principle, and subject to the specific policies below, development should aim to avoid significant harm to biodiversity and geological conservation interests, including through mitigation and consideration of reasonable alternatives (as set out in Section 4.4 above); where significant harm cannot be avoided, then appropriate compensation measures should be sought.*

*In taking decisions, the [Secretary of State] should ensure that appropriate weight is attached to designated sites of international, national and local importance; protected species; habitats and other species of principal importance for the conservation of biodiversity; and to biodiversity and geological interests within the wider environment.'*

- 4.14.3 No geological conservation interests were identified in the ES [APP-031] or during the course of the examination.
- 4.14.4 The Applicant provided information on the baseline ecology and biodiversity and its assessment of these issues in Section 9 of the ES [APP-031] and in Appendices 9.1 to 9.3 and 9.6 of the ES [APP-041 to APP-043 and APP-046].
- 4.14.5 The application site does not lie within or overlap any designated statutory or non-statutory nature conservation sites [APP-073; APP-074]. The potential impacts of the proposal on designated sites within 10km of the site have also been considered within the ES [APP-073; APP-074]. A number of international and national designations exist, which comprise the:
- The Wash SPA;
  - The Wash Ramsar;
  - The Wash SSSI;
  - The Wash NNR;
  - The Wash and North Norfolk Coast SAC;
  - Roydon Common and Dersingham Bog SAC;
  - Roydon Common Ramsar;
  - Roydon Common SSSI;
  - Roydon Common NNR;
  - Dersingham Bog SSSI;
  - Dersingham Bog NNR; and
  - River Nar SSSI.
- 4.14.6 The nearest non-statutory designated site is the Saddlebow County Wildlife Site, which is an area of reedbed approximately 400m to the north of the project. The County Wildlife Site supports a modest range of relatively common species of birds, with the habitats within the application site considered to provide a poor habitat for birds [APP-031]. Mudflats along the Great Ouse River, less than 500m to the west of the site, are listed as a priority habitat in the UK BAP.
- 4.14.7 There are no records of protected species within the application site boundary and none observed during the Applicants Phase 1 Habitat

Survey [APP-075]. There are no records of Great Crested Newts within 1km of the application site and surveys of the site and the immediate surrounding area found no evidence of Great Crested Newts, with low numbers of adult Smooth Newts noted.

- 4.14.8 The assessment of potential ecological and biodiversity impacts was highlighted in the identification of Principal Issues [PD-003].
- 4.14.9 The ExA investigated the adequacy of the information and the assessment provided in the ES in the first [PD-005] and second [PD-013] round of written questions and in its questions to the Applicant at the EIA/HRA ISH on the 30 April 2015 [HR-020]. The Applicant's responses can be found at [DL3-027; DL7-002].
- 4.14.10 NE at paragraphs 2.2 and 2.3 of their SoCG [DL5-005] state:

*'It is agreed that the ES has been produced using an appropriate methodology, is based on an appropriate baseline and that as a result makes an appropriate judgement regarding the likely significant residual impacts of the project on site specific habitats and protected species.'*

*The parties agree the conclusions at Section 9.7.1 and 9.7.2, which state that there is no evidence of protected species having been found at the site and that the presence of protected species is considered unlikely. It is agreed that given the low ecological value of the application site the project is unlikely to have a significant effect on ecological features within the site itself.'*

*The River Nar SSSI*

*The parties agree the methodology and conclusions reached regarding the potential impact of the project on the River Nar SSSI. The conclusions of Section 3.5.2 of the ES [Document 5.1] are agreed, which state that the emissions from the CCGT are only greater than 1% of the critical load in approximately 0.2ha of the designated site, which comprises an area which is not considered to have particular sensitivity to emissions.'*

- 4.14.11 The EA at paragraph 2.8.2 of their SoCG [DL5-027] state:

*'The parties agree the conclusions at Section 9.7.1 and 9.7.2, which state that no evidence of protected species has been found at the site and that the presence of protected species is considered unlikely. It is agreed that given the low ecological value of the application site the project is unlikely to have a significant effect on ecological features within the site itself.'*

## **CONCLUSIONS ON BIODIVERSITY AND GEOLOGICAL CONSERVATION**

- 4.14.12 Given the evidence presented, the ExA considers that ecology and biodiversity issues have been adequately assessed, and that the requirements of EN-1 are met.
- 4.14.13 The ExA is satisfied that effects on biodiversity have been dealt with adequately by the Applicant via draft DCO requirements 9(j) and 14 [DL9-014].

### **4.15 CIVIL AND MILITARY AVIATION AND DEFENCE INTERESTS**

- 4.15.1 EN-1 paragraph 5.4.16 states:

*'There are statutory requirements concerning lighting to tall structures<sup>24</sup>. Where lighting is requested on structures that go beyond statutory requirements by any of the relevant aviation and defence consultees, the [Secretary of State] should satisfy itself of the necessity of such lighting taking into account the case put forward by the consultees. The effect of such lighting on the landscape and ecology may be a relevant consideration.'*

- 4.15.2 The CAA stated in their Relevant Representation [REP-009]:

*'...Aerodromes. The planning process will need to definitively establish whether there are any aerodrome safeguarding issues. The Environmental Statement (ES) suggests that the developer has undertaken this assessment and concluded that there are no aerodrome safeguarding issues. Note that aerodrome safeguarding responsibility rests in all cases with the relevant aerodrome operator / licensee, not the CAA; to that end it is not for the CAA to undertake such a study.'*

*Aviation Warning Lighting. Notwithstanding that the ES concludes at 9.8.14 that 'it is not considered that any (aviation) warning lights will be required' because the 80m stack would be below the 150m threshold where lighting is 'normally required', I refer back to earlier CAA input. Throughout the planning process the CAA has commented that:*

*As the chimney stack would most likely be the tallest structure in the immediate vicinity, some form of aviation warning lighting would be a sensible consideration.*

*In the absence of any aerodrome issue, at such a height this suggestion of lighting could not be mandated, merely recommended.'*

---

<sup>24</sup> Articles 219 and 220 Air Navigation Order 2009

- 4.15.3 The Applicant acknowledged the difficulties met with making contact with the Ministry of Defence and the Defence Infrastructure Organisation, given the lack of any response from those organisations either at the pre-application or post submission stages. The Applicant's response to the Relevant Representations [DL3-026] documents the steps taken by the applicant post submission to contact various departments in that respect.
- 4.15.4 At a maximum of 80m Above Ordnance Datum (AOD) high, there will be a requirement for the flue emission stacks, numbered work 1 (e), to be promulgated and charted for civil aviation purposes. This is achieved through the developer providing, when construction time frames are known, related information to the Defence Geographic Centre, which manages the UK database of tall structures [REP-009]. This is addressed in the draft DCO [DL9-014] by Requirement 20.
- 4.15.5 At the ExA's request Requirement 20 (2) was inserted which requires that the main stack is fitted with aviation warning lighting with a minimum intensity of 25 candela omni directional red light or equivalent infra-red light fitted at the highest practicable point of the structure [HR-018].

#### **CONCLUSION ON MILITARY AVIATION AND DEFENCE INTERESTS**

- 4.15.6 The ExA considers that civil and military aviation interests have been adequately assessed and meet the requirements of EN-1.

#### **4.16 CLIMATE CHANGE MITIGATION AND ADAPTATION**

- 4.16.1 EN-1 states in paragraphs 4.8.1 and 4.8.2:

*'Part 2 of this NPS covers the Government's energy and climate change strategy, including policies for mitigating climate change. This part of the NPS sets out how Applicants and the [Secretary of State] should take the effects of climate change into account when developing and consenting infrastructure. While climate change mitigation is essential to minimise the most dangerous impacts of climate change, previous global greenhouse gas emissions have already committed us to some degree of continued climate change for at least the next 30 years. If new energy infrastructure is not sufficiently resilient against the possible impacts of climate change, it will not be able to satisfy the energy needs as outlined in Part 3 of this NPS.'*

*Climate change is likely to mean that the UK will experience hotter, drier summers and warmer, wetter winters. There is a likelihood of increased flooding, drought, heatwaves and intense rainfall events, as well as rising sea levels. Adaptation is therefore necessary to deal with the potential impacts of these changes that are already happening.'*

- 4.16.2 EN-2 in paragraph 2.3.13 states:

*'Part 2 of EN-1 covers the Government's energy and climate change strategy, including policies for mitigating climate change. Section 4.8 of EN-1 sets out generic considerations that Applicants and the [Secretary of State] should take into account, to help ensure that fossil fuel generating infrastructure is resilient to climate change.'*

- 4.16.3 Climate change was identified as an issue in the initial assessment of Principal Issues [PD-003]. Miss Jenny Perryman also raised concerns on greenhouse gas emissions [REP-016][HR-020].
- 4.16.4 The ExA addressed the adequacy of the information and the assessment provided in the ES [APP-031] in the first round of written questions [PD-005- Questions EIA04-06]. The Applicant's response can be found at [DL3-027].
- 4.16.5 The results of the Applicant's Carbon Assessment [APP-030] show that the operation of a CCGT would lead to a carbon benefit of approximately 67,000 tonnes of CO<sub>2</sub>/annum over the base case i.e. the current operational regime (see paragraphs 4.8.13 to 4.8.14 of this report).
- 4.16.6 The potential effects of climate change, in terms of coastal changes and risk from storm surge have been assessed at Section 10.5.22 to 10.5.28 of the ES [APP-031]. As discussed at Section 12.3.6 of the ES, the air cooled condensers of the new development will mean that cooling water would not be required and total usage of process water for the operational phase will amount to less than approximately 1m<sup>3</sup> per day. The applicant has concluded that the Project will be extremely resilient to any higher temperatures or increased drought as a result of climate change.
- 4.16.7 Flood risk, including the implications of climate change has been explored in more detail within a standalone Flood Risk Assessment (FRA) [APP-026; APP-047]. Climate change projections were incorporated into the FRA within calculations of runoff generated by future rainfall events to ensure that a suitable drainage solution could be developed for the site. The FRA concludes at paragraph 4.2-3 that the potential sources of flooding have been identified and shown to be currently defended against, and allowing for climate change, the relief channel has sufficient capacity to contain the overtopping volume caused by a peak tidal flood.

#### **CONCLUSION ON CLIMATE CHANGE MITIGATION AND ADAPTATION**

- 4.16.8 Given the evidence presented, the ExA considers that climate change mitigation and adaptation issues have been adequately assessed by the Applicant and meet the requirements of EN-1 and EN-2.

#### **4.17 DUST AND OTHER POTENTIAL NUISANCE**

- 4.17.1 Paragraph 4.14.2 of EN-1 states:



*'It is very important that, at the application stage of an energy NSIP, possible sources of nuisance under Section 79(1) of the 1990 Act and how they may be mitigated or limited are considered by the [Secretary of State] so that appropriate requirements can be included in any subsequent order granting development consent. (See Section 5.6 on Dust, odour, artificial light etc. and Section 5.11 on Noise and vibration.)'*

4.17.2 EN-1 paragraph 5.6.7 states:

*'The [Secretary of State] should satisfy itself that:*

*an assessment of the potential for artificial light, dust, odour, smoke, steam and insect infestation to have a detrimental impact on amenity has been carried out; and that all reasonable steps have been taken, and will be taken, to minimise any such detrimental impacts.'*

4.17.3 The applicant submitted a statement of Statutory Nuisance [APP-028]. Odour, smoke, steam and insect infestation were not raised by any IP in the course of the examination as potential impacts.

4.17.4 BCKLWN in their LIR [DL3-033] raised noise as a potential nuisance issue. NCC in their LIR [DL3-003] at paragraph 3.1 raised dust as a potential impact.

#### **Dust**

4.17.5 Potential impacts associated with dust emissions are assessed within in Section 6 of the ES [APP-031]. Dust mitigation measures would be secured in Requirement 9(b) (CEMP) of the draft DCO [DL9-014] as detailed in the Outline CEMP at Section 4.24 [APP-098].

#### **CONCLUSION ON DUST**

4.17.6 The ExA believes that only negligible dust effects are expected with respect to any phase of the operations and in respect of any receptor, because widely used and effective mitigation measures will be deployed through mitigation measures in the draft DCO via Requirement 9 (1)(b) [DL9-014].

#### **Noise and Vibration**

4.17.7 Noise and vibration is addressed in Section 4.24 of this report.

#### **Artificial Light**

4.17.8 BCKLWN raised the question of artificial light in its LIR [DL3-033] at pages 6 and 7. Miss Jenny Perryman also raised concerns [DL5-024].

4.17.9 Artificial light is dealt with in paragraph 8.7.7 of the ES which provides a description of the mitigation measures that would be adopted to

mitigate lighting impacts [APP-031]. Further measures are described in the Outline CEMP [APP-098].

- 4.17.10 The draft DCO [DL9-014] contains Requirements 9 (1)(f) and 19 which addresses the control of artificial light emissions during construction and operation.

### **CONCLUSION ON DUST AND OTHER POTENTIAL NUISANCE**

- 4.17.11 The ExA is satisfied that the potential dust and other nuisance have been considered adequately and appropriately by the Applicant, and that the draft DCO [DL9-014] contains the necessary Requirements to mitigate nuisance:

- Requirements 11, 13 - noise nuisance;
- Requirement 9 (1)(b) – dust; and
- Requirements 9(1)(f), 19 - lighting.

- 4.17.12 Under these Requirements BCKLWN will approve all mitigation and control plans before construction commences.

- 4.17.13 The defence of statutory authority for nuisance under s158 of PA 2008 will be available to the Applicant, subject to Article 8 in the draft DCO [DL9-014] which provides a defence for noise nuisance as a consequence of construction or maintenance of the development.

- 4.17.14 The ExA believes nuisance issues have been assessed adequately and that the mechanisms for the management of potential impacts are robust and sufficient and meet the requirements of EN-1 and EN-2 and BCKLWN Development Management Policy DM15 – Environment, design & amenity.

### **4.18 FLOOD RISK**

- 4.18.1 Section 5.7.9 of EN-1 states:

*'In determining an application for development consent, the [Secretary of State] should be satisfied that where relevant:*

- *the application is supported by an appropriate FRA;*
- *the Sequential Test has been applied as part of site selection;*
- *a sequential approach has been applied at the site level to minimise risk by directing the most vulnerable uses to areas of lowest flood risk;*
- *the proposal is in line with any relevant national and local flood risk management strategy;*
- *priority has been given to the use of sustainable drainage systems (SuDs) (as required in the next paragraph on National Standards); and*
- *in flood risk areas the project is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed over the lifetime of the development.'*

- 4.18.2 The assessment of potential flooding was highlighted in the identification of Principal Issues [PD-003].
- 4.18.3 In the case of the Project, flood risks that have been considered are detailed in Sections 3 and 10 of the ES [APP-031] and also a separate FRA [APP-026; APP-047] has been performed. The Applicant has assessed the project site to be at low risk of flooding.
- 4.18.4 The ExA asked four questions on flood risk in its first round of written questions [PD-005] (EIA34, 36, 38 and 41). The Applicant's and EA's responses can be viewed at [DL3-027] and [DL3-004] respectively.
- 4.18.5 The Applicant has agreed with the EA that the project would be defined as 'general industry' within the flood risk vulnerability criteria, as set out in Table 10-3 of the ES [APP-031] as it would solely serve the Palm Paper mill and would not therefore constitute 'strategic utility infrastructure'. In that respect the Project is classified as a 'Less Vulnerable' use in flood risk terms. The site is in Flood Zone 3A as defined by the EA [APP-047].
- 4.18.6 The EA have not raised any concerns with the Applicant's assessment of flood risk in the SoCG [DL5-027]. The EA have agreed that the ES and FRA have been produced using an appropriate methodology, and are based on an appropriate baseline and that as a result they make an appropriate judgement regarding the likely significant residual impacts in terms of the flood risk relating to the proposed scheme.
- 4.18.7 Requirement 7 of the draft DCO [DL9-014] requires that surface water drainage plans be approved by BCKLWN.

#### **CONCLUSION ON FLOOD RISK**

- 4.18.8 The ExA considers that the examination of flood risks has been addressed adequately, takes full account of the additional risk from climate change (see paragraph 4.16.7 of this report) and meets the requirements of EN-1. The proposal would meet the tests in the NPPF (Section 10) and Planning Policy Guidance (PPG) section on flood risk for development on the selected site and the design of the plant has taken into account the need for flood resilience measures. Therefore, the proposal would be in accordance with Section 5.7 of EN-1 on flood risk and would take into account climate change in accordance with Section 4.8 of the same document.

#### **4.19 HAZARDOUS SUBSTANCES AND SAFETY**

- 4.19.1 Given that there would be no storage of natural gas on the site, the quantity of gas present at any one time would be below the minimum quantity for which hazardous substances consent would be required. Materials used and the quantities stored on site will not trigger the Control of Major Accidents and Hazards (COMAH) requirements [APP-029] (para. 1.3.31 of [APP-031]).

## **4.20 HEALTH**

4.20.1 EN-1 paragraph 4.13.2 states:

*'As described in the relevant Sections of this NPS and in the technology specific NPSs, where the proposed project has an effect on human beings, the ES should assess these effects for each element of the project, identifying any adverse health impacts, and identifying measures to avoid, reduce or compensate for these impacts as appropriate. The impacts of more than one development may affect people simultaneously, so the Applicant and the [Secretary of State] should consider the cumulative impact on health. '*

4.20.2 The assessment of potential health impacts was highlighted in the identification of Principal Issues [PD-003].

4.20.3 The Applicant has addressed the health effects of the Project in Chapter 16 of the ES [APP-031]. This Chapter draws on other technical assessments i.e. Air quality, noise and vibration and contaminated land, contained in other chapters of the ES. In addition, Electro Magnetic Forces (EMF) were also assessed.

4.20.4 The Applicant states at paragraph 6.5.26 of the ES [APP-031] that:

*'As shown, the impact of annual mean emissions of nitrogen dioxide can be screened out as „insignificant“ at the point of maximum impact, assuming a stack height of 80m, and as such at all monitoring locations and at any location within the AQMA.'*

4.20.5 Public Health England (PHE) state in their Relevant Representation [REP-018] that:

*'PHE is generally satisfied with the environmental impact assessment report and supporting documentation as submitted by the proposer. PHE is pleased to note that the applicant has broadly covered all of the issues requested in our previous responses and we appreciate the inclusion within the Environmental Statement of a 'Public Health' section that summarises the relevant information and risk assessment completed for air quality, contaminated land and EMF issues.'*

4.20.6 Miss Jenny Perryman states in her Relevant Representation [REP-016] that she had concerns regarding:

*'....existing poor air quality contributing to higher than national average health problems....'*

4.20.7 BCKLWN's LIR [DL3-033] states on page 4:

*'A Construction Environmental Management plan is proposed. The implementation of these mitigation measures should prevent construction work generating levels of atmospheric dust and emissions which would constitute a risk to health or nuisance to local people or industry.'*

## **CONCLUSION ON HEALTH**

- 4.20.8 The ExA considers that the examination of health risks [Chapter 16 of APP-031] has been addressed adequately and that the requirements of EN-1 are met. Based on the implementation of the proposed mitigation secured in the draft DCO [DL9-014], for the construction, operation and decommissioning of the Project, the ExA considers there is no evidence that suggests that the project will result in adverse public health impacts.

## **4.21 HISTORIC ENVIRONMENT**

- 4.21.1 The effects of the project on historic and archaeological environment, including issues related to the effects of the project on the settings of heritage assets, were highlighted in the initial assessment of Principal Issues [PD-003]. In accordance with paragraph 5.8.8 of EN-1, the Applicant has provided a description of the significance of the heritage assets affected by the Project and the contribution of their setting to that significance in the ES [Chapter 11 of APP-031].
- 4.21.2 Section 12 of the NPPF deals specifically with conserving and enhancing the historic environment, with great weight to be given to the conservation of a heritage asset, with the weight to be attributed proportionate to the importance of the asset.
- 4.21.3 The application site currently comprises areas of rough grassland which have been established as part of the re-vegetation works after completion of the paper mill. The entire application site was part of the paper mill construction site and has been subject to extensive excavation and remediation works ([APP-050] Appendix 15-1; [APP-048]). During the construction of the paper mill no traces of archaeological remains were discovered. No listed buildings or scheduled monuments would be affected directly by the Project. The potential for indirect effects were assessed in Chapter 11 of the ES [APP-031].
- 4.21.4 The ExA in its first round of written questions asked two questions, ARC01-02 [PD-005] relating to the historic environment. NCC [DL3-002] in its response to the ExA's first round written question ARC02 stated that it:

*'... is satisfied with the adequacy of the photomontages etc and considers that they adequately reflect the completed development and its effect on the heritage assets.'*

- 4.21.5 English Heritage in their letter to the Applicant dated 28 November 2014 stated they had no concerns regarding the effects of the project on the settings of heritage assets (Table 5.3, page 85 [APP-031]).

## **CONCLUSIONS ON THE HISTORIC ENVIRONMENT**

- 4.21.6 Policy on the historic environment within EN-1 has been followed by the Applicant. The ExA concludes based on the evidence above that

the overall impact of the project on cultural heritage resources is not significant.

## **4.22 LAND USE**

- 4.22.1 Section 5.10 of EN-1 is relevant here.
- 4.22.2 The CCGT facility itself would be located immediately to the east of the existing Palm Paper mill, in line with a central point in the paper machine [APP-024]. Temporary storage and contractor cabins associated with the construction of the CCGT would be located in a compound to the south-east of the raw material storage building. The building would be accessed using the existing internal site roads which serve the paper mill. The CCGT plant would cover an area of 3,500m<sup>2</sup> within the 42ha Palm Paper site, with the temporary construction compound covering an additional area of around 7,000m<sup>2</sup>.
- 4.22.3 The CCGT would comprise a single building which would be linked to the paper machine via a pipe-bridge. The building would accommodate a footprint of 55m by 33m, with a roof height varying between 15m and 25m across different parts of the building. It would have a single stack 80m in height. The building would be constructed from pre-cast concrete panels, with external sheet metal cladding in a light grey, to match the appearance of the existing paper mill buildings [APP-025].
- 4.22.4 The King's Lynn and West Norfolk Detailed Policies and Sites Plan remains an emerging document, with public consultation on a Preferred Options version undertaken between July and October 2013, with a Draft Submission version released in January 2015<sup>25</sup>. According to the emerging proposal's maps, the Palm Paper facility and the project site lie within the project boundary of King's Lynn but are not covered with any other allocations or area specific policies [APP-024].
- 4.22.5 Draft Policy E1.12-SAD<sup>26</sup> allocates 23ha of land at Saddlebow as a preferred location for employment expansion in King's Lynn to provide for business, industrial and distribution uses. This site lies to the east of the application site.
- 4.22.6 There are two Long Distance Footpaths routed near to the application site:
- (i) The Nar Valley Way lies approximately 1.5km to the east of the project. The Nar Valley Way is a 55km long walk, running from the historic port of King's Lynn to the Museum of Rural Life at Gressenhall, and is contained almost entirely within the

---

<sup>25</sup> King's Lynn & West Norfolk Site Allocations and Development Management Policies Pre-Submission Document (January 2015) and Consultee responses (interactive webpage)

<sup>26</sup> [http://consult.west-norfolk.gov.uk/portal/sadmpd/site\\_allocations\\_and\\_development\\_management\\_policies?Id/](http://consult.west-norfolk.gov.uk/portal/sadmpd/site_allocations_and_development_management_policies?Id/)

watershed of the River Nar. The route follows Public Rights of Way, tracks and minor roads, and also links with other long distance routes; and

- (ii) The Fen Rivers Way footpath, a permissive path used by agreement with the EA, lies approximately 100m west of the site and runs along the high flood bank of the Great Ouse. This long distance path running for nearly 80km between Cambridge and King's Lynn traces the course of rivers that drain across the Fens into the Wash. Entering Norfolk the Fen Rivers Way follows the River Great Ouse all the way to King's Lynn and the Wash. At King's Lynn, the Fen Rivers Way connects with the Nar Valley Way [APP-031].

4.22.7 There is a National Cycle Network route (No. 1) approximately 2km to the north of the application site. The OS Explorer Map (sheet 236) identifies this traffic-free cycle route running along the eastern high flood bank of the River Great Ouse [APP-031].

4.22.8 The application site is located approximately 200m from the confluence of the River Great Ouse and the Flood Relief Channel. The River Great Ouse is an important navigable waterway in the area. It is used by a number of boat clubs. The Flood Relief Channel is a navigable channel from the lock at Denver Sluice to Wiggshall Bridge, approximately 3200m to the south of King's Lynn. It was built as a flood relief channel running parallel to the tidal Great Ouse and opened up to navigation by the building of a lock at Denver in July 2001[APP-031].

4.22.9 The Applicant has concluded that the Project has no implications for green infrastructure in the area which was confirmed by NE in their response to the Applicant's s42 consultation [APP-031 Chapter 5 Table 5.3].

4.22.10 BCKLWN concludes that the application complies with the LDP Policies in respect to land use [DL3-033].

#### **CONCLUSION ON LAND USE**

4.22.11 The ExA concludes that the land use issues have been addressed adequately and meet the requirements of EN-1. The ExA has had no reason to disagree with the BCKLWN conclusion [DL3-024; DL3-033] that the application complies with its policies.

#### **4.23 LANDSCAPE AND VISUAL IMPACTS**

4.23.1 EN-1 paragraphs 5.9.5 to 5.9.7 states:

*'The applicant should carry out a landscape and visual assessment and report it in the ES. (See Section 4.2) A number of guides have been*

*produced to assist in addressing landscape issues<sup>27</sup>. The landscape and visual assessment should include reference to any landscape character assessment and associated studies as a means of assessing landscape impacts relevant to the proposed project. The applicant's assessment should also take account of any relevant policies based on these assessments in local development documents in England and local development plans in Wales.*

*The applicant's assessment should include the effects during construction of the project and the effects of the completed development and its operation on landscape components and landscape character.*

*The assessment should include the visibility and conspicuousness of the project during construction and of the presence and operation of the project and potential impacts on views and visual amenity. This should include light pollution effects, including on local amenity, and nature conservation.'*

- 4.23.2 King's Lynn Civic Society objected<sup>28</sup> to this application on grounds of visual impact at the southern edge of King's Lynn, which they describe as a gateway to the town and Norfolk in their relevant representation [REP-015]:
- 'The 80m flue stack of 4m diameter, although appearing slim in the photomontage provided – will certainly be a new and notable tall structure in this landscape setting.'*
- 4.23.3 The landscape and visual impacts were highlighted in the initial identification of Principal Issues [PD-003].
- 4.23.4 The Applicant has carried out a Landscape and Visual Impact Assessment (LVIA) and reported it in the ES [APP-031] at Chapter 8, as required by paragraph 5.9.5 of EN-1. Eight viewpoints for photomontages were agreed in concert with NCC [DL3-003] [APP-056 to APP-072].
- 4.23.5 Neither, BCKLWN or NCC raised concerns regarding the adequacy of the LVIA in their respective LIRs [DL3-033 and DL3-003] and have confirmed the adequacy of the information provided in Section 8 of the ES [APP-031] in their SoCGs (BCKLWN [DL3-024] and NCC [DL3-025]).
- 4.23.6 An unaccompanied (12 August 2015 [HR-022]) and accompanied (28 April 2015) site visit [HR-017] have been undertaken by the ExA.
- 4.23.7 The ExA asked eleven written questions in its first round of written questions [DLV01- DLV11 of PD-005] in relation to the design layout

---

<sup>27</sup> Landscape Institute and IEMA (2002, 2nd edition) Guidelines for LVIA. GLVIA3 was produced in 2013.

<sup>28</sup> This was the Society's only contribution to the examination.



and visibility of the project. The Applicant's, BCKLWN's and NCC's responses can be viewed at [DL3-027; DL3-034; DL3-002] respectively.

## **LANDSCAPE CHARACTER**

- 4.23.8 NE has mapped England into 159 separate, distinctive landscape character areas. The features that define the landscape of each area are recorded in individual descriptions, which explain what makes one area different from another and shows how that character has arisen and how it is changing. In NE's Landscape Character Map of England, and classified by the Countryside Agency Countryside Character Initiative, the Project lies within the Landscape Character Area 46 "The Fens". The key characteristics of "The Fens" are described in detail at paragraph 8.3.22 and Figure 8.3 [APP-066] of the ES [APP-031].
- 4.23.9 The Project does not lie within an area designated as having any particular landscape sensitivity. The nearest national landscape designation is the Norfolk Coast AONB, approximately 7km to the north of the Site. The Project is located within an area the BCKLWN 2011 Core Strategy (Saved Policy 4/21) defined as being "Built Environment Type D", a "modern industrial" landscape designation within the Borough Council's 1998 Local Plan<sup>29</sup>.
- 4.23.10 NCC in their SoCG [DL3-025] at paragraph 3.6.5 considers the development to be acceptable in landscape character terms. BCKLWN in their SoCG [DL3-024] reaches a similar conclusion at paragraph 2.5.5.

## **CONCLUSION ON LANDSCAPE CHARACTER**

- 4.23.11 Given the evidence presented, the ExA believes that taking these effects as a whole, the effects on the fabric, character and quality of the landscape would be minor adverse as described in the ES paragraphs 8.8.3 and 8.9.5 [APP-031]. Subject to control of the outline landscaping plans, by the relevant planning authority through DCO Requirements 4 and 5 [DL9-014], the Project would assume its place without harm in this setting.

## **VISUAL IMPACT**

- 4.23.12 Visual receptors are those who will potentially see the Project from particular locations or viewpoints. They typically include the users of public footpaths and cycle routes; visitors to tourist attractions; residents; users of recreation and amenity open spaces; users of public roads, railways, navigable waterways; and workers (in their workplace). The sensitivity of visual receptors depends upon the

---

<sup>29</sup> <http://www.west-norfolk.gov.uk/Default.aspx?page=26072>

location of the viewpoint, the activity of the receptors, and their expectations in relation to the view [APP-031].

- 4.23.13 The Project sits within the paper mill site adjacent to existing buildings. The paper mill lies to the north of the Saddlebow Industrial Estate and close to the King's Lynn Power station operated by Centrica. The Applicant as part of its environmental assessment [APP-031] has undertaken a series of photomontages to consider the impact of the Project.
- 4.23.14 Photographs and photomontages showing both the existing view and the anticipated view incorporating the Project are set out in Figure 8-7 to Figure 8-14 of the ES [APP-031].
- 4.23.15 The application site is located within an industrial environment. There are no sensitive visual receptors within the contiguous Paper Mill site. The Project buildings would appear within the context of existing industrial development [HR-017].
- 4.23.16 The site is accessed from the A47 trunk road via High Road directly off the Hardwick roundabout approximately 1km to the north-east of the site. The junction to Poplar Avenue provides access and egress to the HGV and car parking area and through the main gate to the paper mill site.
- 4.23.17 The nearest large settlement is King's Lynn whose town centre lies approximately 2km to the north of the site. At a more local level the closest residential area is South Lynn, which lies approximately 650m to the north east of the site. The nearest residential properties to the west are two farms (The Elms and Merries Farm) approximately 600m and 800m respectively west of the site boundary, beyond the River Great Ouse [DL3-011].
- 4.23.18 The visual impact of the stack emissions from the project has been investigated in Chapter 11 of the ES [APP-031]. The plume would be visible outside the main application site boundary for less than 5% of the daylight hours in each year considered. The Applicant concluded that the impact of the plume is 'insignificant' using the methodology presented in EA guidance note H1 (July 2003) [APP-031].
- 4.23.19 The Applicant's viewpoint analysis concludes that some slight to moderate adverse effects on visual amenity will occur [APP-031]. Views from the south are generally restricted by the existing King's Lynn A Power Station. From viewpoints to the west and the north, the Project is significantly obscured by the existing paper mill buildings. Only the new 80m-stack would be clearly visible. At all other viewpoints the project will be imperceptible, will be significantly screened by foreground vegetation and existing building structures, or will be distant enough that visual impacts will be insignificant.
- 4.23.20 NCC in their SoCG [DL3-025] at paragraph 3.6.5 considers the development to be acceptable in visual impact terms. BCKLWN in their SoCG [DL3-024] reaches a similar conclusion at paragraph 2.5.5.

Miss Jenny Perryman raised concerns regarding the visual impact on the King's Lynn "gateway"[REP-016].

### **CONCLUSION ON VISUAL IMPACT**

- 4.23.21 Based on the evidence presented, the ExA concludes that the Project would have a minor visual impact seen from close to the site. However, the effect would be within an existing and developing industrialised setting. In the ExA's view any harm would be avoided through appropriate mitigation proposals as described in the ES [APP-031] and secured in the draft DCO.
- 4.23.22 Control of these aspects would be the responsibility of BCKLWN through the draft DCO [DL9-014]:
- Requirement 4 (Detailed design);
  - Requirement 5 (Provision of landscaping);
  - Requirement 6 (Implementation and maintenance of landscaping); and
  - Requirement 19 (Control of Artificial Lighting Emissions).

### **OVERALL LANDSCAPE AND VISUAL CONCLUSIONS**

- 4.23.23 The ExA concludes that through Requirements 4, 5, 6 and 19 [DL9-014] related to the control of design and appropriate mitigation, and given the evidence presented, the Project generally accords with policy in EN-1, and with the BCKLWN's development framework policies with respect to design (CS08 – Sustainable Development), and layout and visibility (CS12 - Environmental Assets).

### **4.24 NOISE AND VIBRATION**

- 4.24.1 EN-1 states at paragraph 5.11.9:

*'The [Secretary of State] should not grant development consent unless it is satisfied that the proposals will meet the following aims:*

- *avoid significant adverse impacts on health and quality of life from noise;*
- *mitigate and minimise other adverse impacts on health and quality of life from noise; and*
- *where possible, contribute to improvements to health and quality of life through the effective management and control of noise.'*

- 4.24.2 Noise and vibration issues were considered by the Applicant in Section 7 of the ES [APP-031].
- 4.24.3 BCKLWN addressed noise and vibration issues in its LIR [DL3-033]. BCKLWN are satisfied that the background noise levels provided in the ES are representative of the current noise climate in the area. BCKLWN has pointed out that the ES [APP-031] has, correctly at the time of writing, made reference to and placed reliance on

BS4142:1997. However, this standard has been superseded by BS4142:2014. The new standard has made significant changes to the assessment methodology, specifically in regard to penalties for tonality, impulsivity, intermittency and minimum night time measurement periods.

- 4.24.4 The Applicant has agreed with BCKLWN that the EP application will be accompanied by a revised Noise Assessment which considers the scheme against the latest noise guidance criteria [DL4-005].
- 4.24.5 The noise section of the LIR addresses piling. Requirement 15 of the draft DCO [DL9-014] requires the provision of a Piling Method Statement which will ensure that appropriate noise levels mitigation measures are put in place.
- 4.24.6 BCKLWN in its SoCG [DL3-024] has agreed that noise and vibration impacts during the construction and operation of the development would be negligible (Section 2.8.3) taking into account embedded mitigation in the project design and the measures secured through the draft DCO Requirements [DL9-014]:
- Requirement 9 - CEMP;
  - Requirement 10 - Construction traffic;
  - Requirement 11- Control of noise during construction and maintenance;
  - Requirement 12 - Construction hours;
  - Requirement 13 - Control of noise during operational phase; and
  - Requirement 15 - Piling during construction period.

#### **CONCLUSION ON NOISE AND VIBRATION**

- 4.24.7 Given the evidence presented, the ExA concludes that noise and vibration issues have been addressed adequately and meet the requirements specified in 5.11 of EN-1.

#### **4.25 OTHER MATTERS**

- 4.25.1 On the basis of the information available from the Applicant, and having regard to the Secretary of State's transboundary screening under regulation 24 of the EIA Regulations [PD-009] which concluded that the project is not likely to have a significant effect on the environment in another EEA State, the ExA is of the view that the Project is unlikely to have significant effects on the environment in another EEA State. The ExA is satisfied that with regard to regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010, all transboundary biodiversity matters have been addressed and there are no such matters outstanding that would argue against the Order being confirmed.

## **4.26 POLLUTION CONTROL AND OTHER ENVIRONMENTAL REGULATORY REGIMES**

4.26.1 Section 4.10 of EN-1 notes the need to ensure that the requirements of other consenting regimes are met. Paragraphs 4.10.7 and 4.10.8 state:

*'The [Secretary of State] should be satisfied that development consent can be granted taking full account of environmental impacts. Working in close cooperation with EA and/or the pollution control authority, and other relevant bodies, such as the MMO, Natural England, [Natural Resources Wales], Drainage Boards, and water and sewerage undertakers, the [Secretary of State] should be satisfied, before consenting any potentially polluting developments, that:*

- *the relevant pollution control authority is satisfied that potential releases can be adequately regulated under the pollution control framework; and*
- *the effects of existing sources of pollution in and around the site are not such that the cumulative effects of pollution when the project is added would make that development unacceptable, particularly in relation to statutory environmental quality limits.*

*The [Secretary of State] should not refuse consent on the basis of pollution impacts unless it has good reason to believe that any relevant necessary operational pollution control permits or licences or other consents will not subsequently be granted.'*

4.26.2 A list of consents required under other regulatory regimes, including environmental regulatory regimes, is provided in paragraphs 1.3.9 to 1.3.31 of the ES [APP-031].

4.26.3 An EP application to the EA was made on the 3rd July 2015. The EA confirmed that the application was accepted on 11 August 2015 [DL9-012]. Section 2.2 of the EA's SoCG [DL5-027] states:

*'The existing Palm Paper mill operates under an Environmental Permit which was granted by the Environment Agency in 2009.*

*It is agreed that the proposed CCGT facility would not require a new, separate Environmental Permit, but that instead a variation would be sought to the existing Environmental Permit. Discussions between Palm Paper Ltd and the Environment Agency regarding that Permit variation are ongoing and a formal application to vary the permit will be made at the appropriate time. As noted in the Environment Agency's Relevant Representation (25 March 2015), it is agreed that the EA have no objection to that variation and no major permitting concerns.'*

4.26.4 At the close of the examination the EA had not yet determined the permit application.

## **CONCLUSION ON POLLUTION CONTROL AND OTHER**

## **ENVIRONMENTAL REGULATORY REGIMES**

- 4.26.5 The ExA concludes that there is no evidence presented, that the granting of any necessary licence under other regulatory regimes will be withheld, and that therefore based on EN-1 paragraph 4.10.8, the Secretary of State as decision-maker should have no reason to withhold development consent on these grounds.

## **4.27 SECURITY CONSIDERATIONS**

- 4.27.1 EN-1 4.15 identifies possible issues of national security relating to energy infrastructure. No representations were made in regard to national security considerations during the course of the examination. The ExA does not believe there to be any national security issues associated with this Application.

## **4.28 SOCIO-ECONOMIC IMPACTS**

- 4.28.1 EN-1 paragraph 5.12 states that:

*'Where the project is likely to have socio-economic impacts at local or regional levels, the Applicant should undertake and include in their application an assessment of these impacts as part of the ES (see Section 4.2).*

*5.12.3 This assessment should consider all relevant socio-economic impacts, which may include:*

- *the creation of jobs and training opportunities;*
- *the provision of additional local services and improvements to local infrastructure, including the provision of educational and visitor facilities;*
- *effects on tourism;*
- *the impact of a changing influx of workers during the different construction, operation and decommissioning phases of the energy infrastructure. This could change the local population dynamics and could alter the demand for services and facilities in the settlements nearest to the construction work (including community facilities and physical infrastructure such as energy, water, transport and waste). There could also be effects on social cohesion depending on how populations and service provision change as a result of the development; and*
- *cumulative effects – if development consent were to be granted to for a number of projects within a region and these were developed in a similar timeframe, there could be some short-term negative effects, for example a potential shortage of construction workers to meet the needs of other industries and major projects within the region.*

*5.12.4 Applicants should describe the existing socio-economic conditions in the areas surrounding the project and should also refer to how the development's socio-economic impacts correlate with local planning policies.'*

- 4.28.2 The Applicant addressed socio-economic issues in Section 14 of the ES [APP-031].
- 4.28.3 The ExA identified economic and social impacts as one of the Principal Issues to be examined in relation to this application. The Rule 6 letter [PD-003] stated that these included issues related to:
- The impact on the local economy; and
  - The impact on local services and facilities.
- 4.28.4 The ExA examined this through:
- Consideration of the application documents and, in particular, Section 14 on 'Socio-Economics' in the ES [APP-031]; and
  - Consideration of the LIRs [DL3-003; DL3-033].
- 4.28.5 It should be noted in giving the summary of aspects covered, that there were no representations or evidence presented challenging the Applicant's analysis and conclusions on the socio-economic impacts of this proposal.
- 4.28.6 Following consideration of the LIRs, the ExA concluded that there was no requirement for an ISH devoted to Economic and Social Impacts.
- 4.28.7 The ExA had particular regard to Section 5.12 (Socio-Economic) of EN-1 and, in particular, whether:
- the Applicant has undertaken and included in its application an assessment of the impacts as part of the ES;
  - whether that assessment has considered all relevant socio-economic impacts; and
  - whether mitigation measures are necessary to mitigate any adverse socio-economic impacts of the development.
- 4.28.8 The Applicant has concluded at paragraph 14.7 of the ES [APP-031] that the project:
- *is considered to have a positive impact on the local economy through the provision of short and long term jobs and investment;*
  - *in the context of the overall amount of employment in the area, the number of new permanent jobs created will be small; and*
  - *it is considered that the project when considered either in isolation or in a cumulative context will have a short-term beneficial impact of minor significance.*
- 4.28.9 BCKLWN's LIR [DL3-033] considers that the following positive or neutral effect would arise as a result of the development:
- 'Short term (18 months) job generation during construction of average 20-30 jobs with maximum number of 50 and lowest of 15-20.*

*No impact on deliverability or attractiveness of proposed allocation E1.12*

*3-5 full time employees but recruited from personnel currently operating existing boilers. No net gain.*

*No net export of electricity to grid but Palm Paper plant becomes self-sufficient in terms of energy.*

*The socio-economic impact of the proposal is considered to have a short-term beneficial impact of minor significance, in line with the findings of the ES.'*

4.28.10 NCC's LIR [DL3-003] states at Section 7.3:

*'The applicant has indicated that the above project is estimated at £60 million and that this will result in economic benefits to the local and national economy. During construction there will be on average 25 workers employed, which is likely to take 84 weeks. Once operational the CCGT plant would require 3-5 full time workers and would safeguard the future of the paper mill through reducing energy costs.*

*The above project is considered to be beneficial for the paper mill and would have a demonstrable positive impact on the local economy through employment opportunities both during construction and operation.'*

4.28.11 It has been agreed in BCKLWN's and NCC's SoCGs at Sections 2.4 and 3.2 respectively [DL3-024; DL3-025] that the Project when considered either in isolation or in a cumulative context will have a short-term beneficial impact of minor significance.

#### **CONCLUSIONS ON SOCIAL AND ECONOMIC EFFECTS**

4.28.12 The ExA concludes that the Applicant has had adequate regard to the socio-economic impacts of the proposal and has provided sufficient evidence to support its assertions on the impacts.

4.28.13 The ExA concludes that the proposal will create a range of jobs both in the construction phase and, to a lesser extent, in the operational phase and that these jobs will be created in an area which is currently affected by above national average unemployment.

4.28.14 Given the evidence presented, the ExA concludes that the proposal has adequately addressed the requirements of EN-1 and would not have significant deleterious effects socially or economically. It also has the potential to support economic development in the area in line with the policies of the local authority.

#### **4.29 TRAFFIC AND TRANSPORT**

4.29.1 Section 5.13 of EN-1 is applicable.



- 4.29.2 The Applicant in its assessment of traffic impacts (Section 13 of ES [APP-031]) concluded at Section 13.7 that:
- *the construction of the project would result in a temporary increase in traffic levels on Saddlebow (High) Road and the A47. In accordance with the IEMA Guidelines<sup>30</sup> significance criteria, these increases are considered to be neutral to slight and not significant;*
  - *abnormal loads would be scheduled to occur during off-peak periods, at times to be agreed with the Local Authority and the Police in order to minimise delays to other road users;*
  - *traffic generated during the operation and maintenance of the project would be minimal and would not result in any significant effects; and*
  - *it is concluded that there are no transportation issues preventing this development from taking place.*
- 4.29.3 The ExA identified traffic and transport impacts as one of the Principal Issues to be examined in relation to this application. The Rule 6 letter [PD-003] stated that these included issues relating to the impact of construction traffic.
- 4.29.4 The ExA asked seven questions (TT01-TT07) in its first round of written questions [PD-005] and the Applicant's and NCC's responses can be viewed at [DL3-027;DL3-001] respectively.
- 4.29.5 Traffic and transport issues were raised by a number of IPs in their Relevant Representations. Watlington Parish Council [REP-013], NCC [REP-012] and the Royal Mail<sup>31</sup> [REP-011] all had particular concerns regarding construction traffic impacts. NCC proposed text for Requirement 10 [DL9-014] to address Construction Traffic [REP-012].
- 4.29.6 Requirement 10 secures the submission of a Construction Traffic Management Plan (CTMP) for approval by the relevant planning authority. The provision specifies particular measures that the plan needs to contain. The approved plan must be implemented. NCC confirmed they are content with the wording of this Requirement in Sections 3.3, 3.4 and 3.5 of the SoCG [DL3-025].
- 4.29.7 Following consideration of the Relevant Representations and LIRs, the ExA concluded that there was no requirement for an ISH devoted to Traffic and Transport Impacts.
- 4.29.8 NCC in its SoCG [DL3-025] agreed at Section 3.4, that the Applicant would produce a CTMP to be approved by NCC. This would be secured by Requirement 10 in the draft DCO [DL9-014]. They also agreed (Section 3.5 of [DL3-025]) that Requirements 9 and 10 of the draft

---

<sup>30</sup> Guidelines for Environmental Impact Assessment, March 2004 (IEMA)

<sup>31</sup> Royal Mail withdrew as an IP before the examination ended [REP-027]

DCO supply sufficient control to NCC to manage all transport and highways matters.

### **CONCLUSIONS ON TRAFFIC AND TRANSPORT**

- 4.29.9 The ExA concludes that subject to requirements set out within the draft DCO Requirements 9 and 10 [DL9-014] the Project meets EN-1 policy regarding traffic and transport in all respects.

### **4.30 WASTE MANAGEMENT**

- 4.30.1 Section 5.14 of EN-1 and Section 2.9 of EN-2 is applicable.
- 4.30.2 In the case of the Project, a description of wastes arising has been provided in Section 3.9.11 of the ES [APP-031]. Waste management measures are detailed in Section 4.22 of the Outline CEMP [APP-098] which is secured in Requirement 9 of the draft DCO [DL9-014].
- 4.30.3 All wastes generated as part of the operational phase will be handled and stored under appropriate waste management legislation, and substances handled during operational period would be managed under an appropriate spill response and site-specific environmental management plan [APP-098] and would also be covered by the variation to Palm Paper's EP.
- 4.30.4 There were no representations or evidence presented challenging the Applicant's analysis and conclusions on the waste management impacts of this proposal.

### **CONCLUSION ON WASTE MANAGEMENT**

- 4.30.5 Given the evidence presented, the ExA concludes that the issue of waste management has been addressed adequately and meets the requirements of EN-1 and EN-2.

### **4.31 WATER QUALITY AND RESOURCES**

- 4.31.1 Section 5.15.5 of EN-1 states:
- 'The [Secretary of State] will generally need to give impacts on the water environment more weight where a project would have an adverse effect on the achievement of the environmental objectives established under the Water Framework Directive.'*
- 4.31.2 Following consideration of the Relevant and Written Representations and LIRs, the ExA concluded that there was no requirement for an ISH devoted to Water Quality and Resource Impacts.
- 4.31.3 In the case of the Project, potential impacts on water quality and resources have been assessed in Section 12 of the ES [APP-031]. Mitigation to avoid and reduce potential impacts on water resources is detailed in Section 4.22 of the Outline CEMP [APP-098] which is secured in Requirement 9 of the draft DCO [DL9-014].

4.31.4 The Applicant has concluded at Section 12.7 of the ES [APP-031] that:

- *'the project will have relatively low water requirements during operation as it will employ a closed system whereby water is recycled. Specific water requirements will be dependent on the precise technology employed, however, some water will be required for system top-up and water will also be collected, cleaned and recycled. Air cooled condensers of the new CCGT will also mean that cooling water would not be required. Total usage of process water will amount to less than 1m<sup>3</sup> per day;*
- *all water required will be received from the paper mill's established water supply system which abstracts freshwater from the Flood Relief Channel under an existing abstraction licence, for 22,000m<sup>3</sup> per day. Therefore, no additional water will have to be abstracted from the Flood Relief Channel;*
- *there will be no direct discharges of process water to the Great Ouse without treatment in the established effluent treatment plant of the paper mill. The amount of waste water generated by the plant is assumed to be approximately 1m<sup>3</sup> per day. These discharges will be controlled to limits set by the Environment Agency in the plant's Environment Permit (EPR Permit)<sup>32</sup> under the Environmental Permitting (England and Wales) Regulations 2010; and*
- *the sewage water will be collected in a separate sewer and discharged to the effluent treatment plant.'*

4.31.5 The WFD requires that all inland and coastal waters within defined river basin districts must reach at least 'Good' Status by 2015, and further defines how this should be achieved through the establishment of Environmental Objectives and Ecological Targets for surface waters. As such it is essential that no works are carried out that could result in a reduction of the WFD Status of affected watercourses /water bodies and, if possible, any works along the watercourses /water bodies should aim to improve the WFD Status where possible.

4.31.6 The ExA in their first round of question EIA040 [PD-005] asked the EA to comment on whether aerial emissions from the Project would hinder the return of the River Nar to 'Good' status. They responded as follows [DL3-004]:

- *'they would review the air quality assessment as part of our determination of the application for an environmental permitting and so cannot comment at this stage;*
- *they offered the following guidance:*
  - *their records show no evidence that the existing Palm Paper factory causes any detriment to the River Nar SSSI and it is considered that the proposal for the CCGT will not change this situation.*

---

<sup>32</sup> The Applicants EP application was submitted to the EA on the 3rd July 2015.

- *the current Water Framework Directive (WFD) Ecological Status for the River Nar is Good and it is predicted to be Moderate at the end of cycle 2 (2021). Its current chemical status is good (2013) and continues to be predicted to be good into 2021. The biology is moderate (2013) and is predicted to be moderate in 2021. The biological impact driving the failure is linked to lack of flow, the lack of key indicator species and by Natural England's classification that the SSSI is in unfavourable status. The biology is currently and predicted to be unaffected by chemical impacts.*
- *they do not consider that the NOx and SOx emissions described in Chapter 6 of the ES [APP-031] will hinder the return of the River Nar to "Good Ecological Status and Potential".*

4.31.7 NE responded to the ExA first round question EIA040 as follows [DL3-005]:

*'These emissions will not hinder the return of the River Nar to "Good Ecological Status and Potential", although there may be a wide range of impacts outside of, and not arising from, this application, that may affect the river negatively such as freshwater abstraction. As already explained in Natural England's answer to EIA20 above, the features for which the Nar was notified as an SSSI are not considered to be sensitive to changes in aerial emissions.'*

4.31.8 Articles 10 and 13(g) and Requirements 4, 7, 8 and 15(2) of the draft DCO [DL9-014] put in place mechanisms to manage water quality and resources during design, construction and operation.

#### **CONCLUSION ON WATER QUALITY AND RESOURCES**

4.31.9 The ExA concludes that the water quality and resource issues have been addressed adequately and meet the requirements of EN-1.

## 5 OVERALL FINDINGS AND CONCLUSIONS IN RELATION TO HABITAT REGULATIONS

### 5.0 INTRODUCTION

5.0.1 This Section of the report sets out analysis and findings relevant to HRA.

5.0.2 The application proposal engages the Habitats Directive<sup>33</sup> and Birds Directive<sup>34</sup>, and the HRA process on the basis of its potential to adversely affect a number of European sites and their qualifying features.

5.0.3 The European sites relevant to this process are of the following types:

- SACs designated pursuant to the Habitats Directive;
- SPAs designated pursuant to the Birds Directive; and
- Ramsar Sites<sup>35</sup> designated under the Ramsar Convention on Wetlands of International Importance<sup>36</sup>.

5.0.4 There are four broad stages for HRA (see advice provided in the Planning Inspectorate's Advice Note 10: "Habitat Regulations Assessment relevant to NSIPs", where the process is set out in Figure 1<sup>37</sup>).

(i) **Screening:**

Deciding whether a project or proposal either alone or in combination with other plans or projects gives rise to a likely significant effect (LSE) on a European site (or sites). In determining whether there is an LSE, a precautionary test arising from the Waddenzee judgement should be applied<sup>38</sup>.

(ii) **Appropriate Assessment:**

Assessing whether, in view of the European site's conservation objectives, a project or proposal either alone or in combination with other plans or projects would risk an adverse effect on the integrity of the site. If it is found that it does not, the project or proposal may proceed<sup>39</sup>.

(iii) **Consideration of Additional Requirements and Alternatives:**

Steps that are only taken if a risk of adverse effect on integrity is

---

<sup>33</sup> Council Directive 92/43/EEC of 21 May 1992

<sup>34</sup> Directive 2009/147/EC 30 November 2009

<sup>35</sup> As a matter of policy the Government applies the procedures in the Habitats Regulations to Ramsar sites

<sup>36</sup> Ramsar Convention as amended 1982 and 1987

<sup>37</sup> **Advice note ten: Habitat Regulations Assessment relevant to nationally significant infrastructure projects** (PDF 1 MB) Republished June 2015 Version 6)

<sup>38</sup> European Court of Justice Case C-127/02 (the Waddenzee Judgment) which found "any plan or project not directly connected with or necessary to the management of the site is to be subject to an appropriate assessment of its implications for the site in view of the site's conservation objectives if it cannot be excluded, on the basis of objective information, that it will have a significant effect on that site, either individually or in combination with other plans or projects".

<sup>39</sup> The approach set out in the Waddenzee Judgment also applies to appropriate assessment.

found, under which mitigation of impacts and alternative solutions are reviewed.

- (iv) If these steps do not have the effect of removing the risk of adverse effect, then it becomes necessary to establish that the proposal and its acknowledged harm should proceed due to Imperative Reasons of Overriding Public Interest (IROPI) (including the provision of compensatory measures). If IROPI and compensatory measures cannot be established the proposal should not proceed.

- 5.0.5 When assessing a project, it is appropriate to take embedded mitigation that is provided for (see paragraphs 4.8.17-4.8.18 of this report) in the application proposal and (where necessary) secured in the recommended DCO, into account<sup>40</sup>. It is an important part of the HRA process to identify LSEs which arise in combination with other plans or projects<sup>41</sup>.
- 5.0.6 The ExA does not carry out an AA or any subsequent stage of assessment or decision making under HRA. This role is reserved to the Secretary of State as the competent authority. However, the ExA have been mindful throughout the examination process of the need to ensure that the Secretary of State has an adequate basis of information from which to carry out her duties as competent authority, informed by and compliant with the policy set out in EN-1 paragraph 5.3.9.
- 5.0.7 In accordance with the advice provided by Planning Inspectorate Advice Note 10, the ExA has adopted a standardised Planning Inspectorate procedure of drawing together all submitted evidence in respect of the HRA process into a Report on the Implications for European sites (RIES) [PD-017]. The RIES compiles, documents and signposts information provided within the DCO application, and the information submitted throughout the examination by both the Applicant and IPs, up to the date of its release. This RIES is issued to ensure that IPs, including the relevant statutory nature conservation body (SNCB) (NE), is consulted formally on Habitats Regulations matters. This process may be relied on by the Secretary of State for the purposes of Regulation 61(3) of the Habitats Regulations. The RIES was prepared and released on 27 July 2015.

## **5.1 PROJECT LOCATION**

- 5.1.1 The project by PPL is a new gas fired Combined Cycle Gas Turbine 3 (CCGT) plant (Palm Paper Project) with a thermal capacity of 162MW, a nominal gross electrical output of between 51 to 60MWe (for internal use) and an output of 130 tonnes of steam per hour (for internal use) at the Palm Paper Mill, Saddlebow Industrial Estate, King's Lynn,

---

<sup>40</sup> See The Conservation of Habitats and Species Regulations 2010, reg 61 (6)

<sup>41</sup> Advice note ten: Habitat Regulations Assessment relevant to nationally significant infrastructure projects (Republished June 2015 Version 6)

Norfolk (grid reference Easting: 561105; Northing: 318114 [APP-003]). The site location and project red line boundary is shown on the Land Plan and Site Location [APP-005]. The site within which the Project is located is entirely within the administrative boundary of the BCKLWN.

## **5.2 EUROPEAN SITES AND QUALIFYING FEATURES SCREENED INTO THE ASSESSMENT**

- 5.2.1 The applicant's No Significant Effects Report (NSER) [APP-027;APP-045] identified the following UK European sites as being screened into the applicant's HRA:
- (i) The Wash and North Norfolk Coast SAC;
  - (ii) Roydon Common and Dersingham Bog SAC;
  - (iii) Roydon Common Ramsar;
  - (iv) Dersingham Bog Ramsar;
  - (v) The Wash SPA; and
  - (vi) The Wash Ramsar.
- 5.2.2 Paragraph 3.1.4 of the applicant's NSER [APP-027; APP-045] confirms that all SACs, SPAs and Ramsar sites within a 10km radius of the site were screened into the assessment. These six sites are referred to collectively as the European sites. The NSER justifies the use of this radius with reference to EA Horizontal Guidance Note H1 Annex F – Air Emissions (2001) which advises that effects due to air pollution on European sites should be considered within a 10km radius.
- 5.2.3 NE provided confirmation in their response to Question HA-03 of the ExA's first written questions [PD-005] that the relevant sites have been screened into the applicant's assessment [DL3-005]. This is reiterated in the applicant's Statement of Common Ground (SoCG) with NE [DL5-005].
- 5.2.4 During the course of the examination, no IP identified any additional European sites that should have been considered in the applicant's assessment to the ExA. However, Miss Jenny Perryman [DL5-021], commented that some of the qualifying features of The Wash and North Norfolk Coast SAC (*Salicornia* and other annuals colonising mud and sand, Harbour Seal and Otter) had been omitted from earlier versions of the applicant's screening matrices. The revised screening matrix for The Wash and North Norfolk Coast SAC submitted by the applicant for Deadline 5 [DL5-009] included these qualifying features.
- 5.2.5 Parts 1-3 of Miss Jenny Perryman's Deadline 5 submission [DL5-020-22] also provided information on the protection of Harbour Porpoise under the EU Habitats Directive. Harbour Porpoise is not a qualifying feature of any of the six European sites screened into the applicant's assessment. Whilst Harbour Porpoise is a European Protected Species (EPS) under the Habitats Directive, the applicant has not identified any significant effects on EPS (ES paragraph 9.7.1-2, [APP-027;APP-045])

and NE have confirmed their agreement with the applicant's conclusion regarding EPS in NE's SoCG (paragraph 2.2.2, [DL5-005]).

5.2.6 Table 5.1 below lists the features for the six European sites screened into the applicant's assessment. In relation to The Wash SPA listed below, the starred features (\*) form part of the JNCC UK SPA Review 2001. The Natura 2000 data form has not been updated to reflect the results of the SPA Review. The applicant has considered these SPA review features in their NSER [APP-027;APP-045]:

**Table 5.1: Sites Screened into the applicant's NSER**

<b>Name of European Site</b>	<b>Designated Features</b>
<b>The Wash and North Norfolk Coast SAC</b>	Sandbanks which are slightly covered by sea water all the time
	Mudflats and sandflats not covered by seawater at low tide
	Large shallow inlets and bays
	Reefs
	<i>Salicornia</i> and other annuals and colonising mud and sand
	Atlantic salt meadows
	Mediterranean and thermo-Atlantic halophilous scrubs
	Coastal Lagoons
	Harbour Seal
Otter	
<b>Roydon Common and Dersingham Bog SAC</b>	<u>Northern Atlantic wet heaths with <i>Erica tetralix</i></u>
	<u>Depressions on peat substrates of the <i>Rhynchosporion</i></u>
	<u>European dry heaths</u>
<b>Roydon Common Ramsar</b>	Ramsar criterion 1: valley mire-heathland
	Ramsar criterion 3: vegetation communities
<b>Dersingham Bog Ramsar</b>	Ramsar criterion 2: assemblage of invertebrates
<b>The Wash SPA</b>	Whooper swan (Non-breeding)*
	Bewick's swan (Non-breeding)
	Pink-footed goose (Non-breeding)
	Dark-bellied brent goose (Non-breeding)
	Common shelduck (Non-breeding)
	Eurasian wigeon (Non-breeding)
	Gadwall (Non-breeding)
	Northern pintail (Non-breeding)
	Black (common) scoter (Non-breeding)
	Common goldeneye (Non-breeding)
	Eurasian marsh harrier (Breeding)*
	Eurasian oystercatcher (Non-breeding)
	Pied avocet (Non-breeding)*
	Ringed plover (Non-breeding)*
	Golden Plover (Non-breeding)*
	Grey plover (Non-breeding)
	Red knot (Non-breeding)
	Sanderling (Non-breeding)
	Dunlin (Non-breeding)
Black-tailed godwit (Non-breeding)	
Bar-tailed godwit (Non-breeding)	



	Eurasian curlew (Non-breeding)
	Common redshank (Non-breeding)
	Ruddy turnstone (Non-breeding)
	Common tern (Breeding)
	Little tern (Breeding)
	Waterbird assemblage
<b>The Wash Ramsar</b>	Ramsar criterion 1: extensive saltmarshes, major intertidal banks of sand and mud, shallow water and deep channels
	Ramsar criterion 3: inter-relationship between its various components including saltmarshes, intertidal sand and mud flats and the estuarine waters
	Ramsar criterion 5: waterfowl assemblages of international importance
	Ramsar criterion 6: species/populations occurring at levels of international importance

5.2.7 Within their comments on the RIES, NE clarified in respect to The Wash SPA that Dunlin and the Waterbird Assemblage are part of the original SPA citation and not part of the SPA review [DL9-013].

5.2.8 These six sites are referred to collectively as the European sites<sup>42</sup>:

**(i) The Wash and North Norfolk Coast SAC**

The Wash is located approximately 6km north of the project site. It is the largest estuarine system in the UK which is fed by the rivers Witham, Welland, Nene and Great Ouse that drain much of the east Midlands of England. The Wash comprises very extensive saltmarshes, major intertidal banks of sand and mud, shallow waters and deep channels.

**(ii) Roydon Common and Dersingham Bog SAC**

Roydon Common and Dersingham Bog SAC is made up of two sites separated by approximately 4km.

**Roydon Common** is approximately 7.9km from the site and is an area of lowland mixed valley mire surrounded by heathland. It sits on the Cretaceous greensand of west Norfolk, within a broad south-west-facing valley basin. It has a classic sequence of vegetation types associated with valley mires of this type. It is considered to be one of the best examples in Britain. The dry heath of the upper slopes is hydrologically linked with wetter lower slopes, which experience seasonal waterlogging and are colonised by wet heath. This grades into the valley bottom, which is permanently waterlogged, and

---

<sup>42</sup> <http://jncc.defra.gov.uk/page-4>

comprises acid bog and nutrient-poor fen communities, blending into more base-rich fen and carr woodland in the valley bottom.

**Dersingham Bog** is approximately 11.7km from the site and is East Anglia's largest remaining example of pure acid valley mire, and supports extensive bog, wet heath and transition communities over peat. These are sustained via groundwater, fed by springs and seepage from the underlying greensand, which in places has caused the development of iron pans. The mire grades into dry heathland along the greensand scarp slope.

The scarp slope is a former sea cliff, and the bog habitats are a remnant of the transition mires that formerly existed between this former shoreline and the now mostly land-claimed salt marshes around The Wash. In addition to its internationally important plant communities, the site also supports important assemblages of birds and British Red Data Book invertebrates.

General site character as given on the Joint Nature Conservation Committee's (JNCC) website<sup>43</sup> is as follows:

- Inland water bodies (standing water, running water) (0.3%);
- Bogs. Marshes. Water fringed vegetation. Fens (5%);
- Heath. Scrub. Maquis and garrigue. Phygrana (67%);
- Dry grassland. Steppes (1%);
- Improved grassland (1.7%);
- Broad-leaved deciduous woodland (11%);
- Coniferous woodland (7%);
- Mixed woodland (6%); and
- Other land (incl. towns, villages, roads, waste places, mines, industrial sites)(1%).

### **(iii) The Wash SPA**

The Wash is the largest estuarine system in the UK which is fed by the rivers Witham, Welland, Nene and Great Ouse. The Wash comprises very extensive saltmarshes, major intertidal banks of sand and mud, shallow waters and deep channels. The Wash SPA is located approximately 6km north of the study area.

### **(iv) Roydon Common Ramsar**

Roydon Common is an area of lowland mixed valley mire surrounded by heathland. The valley mire is a complex series of plant communities grading from wet acid heath through valley mire to calcareous fen. It is considered to be one of the best examples in Britain.

---

<sup>43</sup> <http://jncc.defra.gov.uk/page-4>

### **(v) Dersingham Bog Ramsar**

Dersingham Bog is East Anglia's largest remaining example of a pure acid valley mire, and supports extensive bog, wet heath and transition communities over peat. These are sustained by groundwater, fed via springs and seepage, from the underlying greensand, which in places has caused the development of iron pans. The mire grades into dry heathland along the greensand scarp slope. The scarp slope is a former sea cliff, and the bog habitats are a remnant of the transition mires that formerly existed between this former shoreline and the now mostly land-claimed saltmarshes around The Wash. In addition to its internationally important plant communities, the site also supports important assemblages of birds and British Red Data Book invertebrates.

### **(vi) The Wash Ramsar**

The Wash is the largest estuarine system in Britain. It is fed by the rivers Witham, Welland, Nene and Great Ouse. There are extensive saltmarshes, intertidal banks of sand and mud, shallow waters and deep channels. It is the most important staging post and over-wintering site for migrant wildfowl and wading birds in eastern England. It supports a valuable commercial fishery for shellfish and is an important nursery area for flatfish. It holds one of the North Sea's largest breeding populations of common seal *Phoca vitulina* and some grey seals *Halichoerus grypus*. The sublittoral area supports a number of different marine communities including colonies of the reef-building polychaete worm *Sabellaria spinulosa*.

## **5.3 HRA IMPLICATIONS OF PROJECT**

- 5.3.1 The applicant's response to HA02-01 of the ExA's second written questions [PD-014] confirmed that the project is not connected with or necessary to the management for nature conservation of any of the European sites considered within the applicant's assessment (paragraph 5.1.3 [DL7-002]). As such it is clear that further consideration of the project by way of a HRA screening is required<sup>44</sup>.
- 5.3.2 No direct disturbance or habitat loss will occur within the identified European sites as part of this project. NE agrees there are no direct impacts on any of the six European sites considered within the Applicant's screening assessment given the distance between the European sites and the development footprint [REP-020][DL1-001][DL3-005][DL5-005][HR-014][HR-016].
- 5.3.3 However, the project could have indirect impacts. Based on the information provided in Section 2 of this report, and within the Applicant's NSER [APP-027; APP-045] and the RIES [PD-017], it is

---

<sup>44</sup> Habitats & Species Regulations 2010 No. 490, Regulation 61(1)(b)

possible to identify the potential indirect impacts that could result from the Project.

- 5.3.4 The potential indirect effects on European sites are described in Section 4.3 of the Applicant's NSER [APP-027; APP-045]. Aerial emissions<sup>45</sup> from the project were the only potential effect identified by the Applicant, which could result in a potential significant effect on a European site (NSER Paragraph 4.3.18 [APP-027; APP-045]). Paragraph 5.1.8 of the Applicant's NSER [APP-027;APP-045] confirmed that all impacts on European sites considered in the assessment for the project alone were screened out as insignificant, including aerial emissions based on the results of the technical air quality assessment (ES Appendices 6.1 and 6.2 [APP-035] and[APP-036]).
- 5.3.5 However, a quantitative aerial emissions in combination assessment with other plans and projects was not provided by the Applicant in their NSER [APP-027;APP-045], based on the Applicant's interpretation of EA guidance (paragraphs 4.3.24-4.3.26) including reference to 'The EU Habitats and Bird Directive Handbook – Appendix 7, Stage 1 and 2 Assessment of new PIR permissions under the Habitats Regulations (2007)' ('the HRA Handbook 2007') which states:
- 'Where the concentration within the emission footprint in any part of the European site(s) is less than 1% of the relevant long-term benchmark (measured as Annual Average) (Environmental Assessment Level - EAL, Critical Level or Critical Load), the emission is not likely to have a significant effect alone or in combination irrespective of the background levels.'*
- 5.3.6 The Applicant's predicted process contributions are outlined in their NSER [APP-027; APP-045] and state that no predicted emissions are anticipated to exceed the 1% Environmental Assessment Level (EAL). On this basis, the Applicant did not provide an in combination assessment within the NSER.
- 5.3.7 NE acknowledged that a quantitative aerial emissions in combination assessment was not conducted, but nevertheless agreed that the applicant's Assessment had been undertaken in accordance with best practice guidance (paragraph 6.2.1 of their Written Representation and in response to Question HA13 of the ExA's first written questions [DL3-005]).
- 5.3.8 In the ExA's first round question HA06 [PD-005], the ExA asked the EA if it was appropriate for the guidance notes designed for environmental permitting to be applied in the context of considering permission for development consent. To which the EA responded [DL3-004]:

---

<sup>45</sup> The RIES also detailed at paragraph 2.9 other potential effects which had been discounted i.e. Disturbance, Direct land take and fragmentation, Damage by habitats used by interest species, Collision risk, Hydrological impacts and Aerial emissions [PD-017].

**'No.'**<sup>46</sup> *The guidance notes designed for environmental permitting are appropriate for applications under the Environmental Permitting Regulations. The guidance notes have not been designed to be applied in the context of considering permission for development.'*

5.3.9 In addition in response to Questions EIA17 and HA05 of the ExA's first written questions [PD-005] the EA confirmed their agreement with the Applicant's approach and that an in combination assessment was not required [DL3-004].

5.3.10 Taking into account the information received up to and including Deadline 3, the ExA concluded that an in combination assessment was required from the Applicant. A Rule 17 Request was issued on 2 April 2015 [PD-006] requesting that the Applicant undertake a quantitative aerial emissions in combination assessment, with other plans and projects. The ExA's Rule 17 Request specified the other plans and projects to be included in the in combination assessment, as identified in the Applicant's ES [APP-031].

5.3.11 The ExA requested that the Applicant undertake a quantitative aerial emissions in combination assessment on:

- (i) Roydon Common and Dersingham Bog SAC;
- (ii) Roydon Common Ramsar; and
- (iii) Dersingham Bog Ramsar.

5.3.12 NE had previously confirmed to the ExA that these sites, along with The Wash and North Norfolk Coast SAC, were the only sites relevant to the HRA and that of these sites, NE confirmed that the designated features of the Wash and North Norfolk Coast SAC are not sensitive to air pollution impacts, which is also true for the supporting habitat for the Wash SPA and the Wash Ramsar [DL3-005].

5.3.13 The ExA's reasoning for requesting the in combination assessment for these sites is set out in the Rule 17 Request [PD-006] and is as follows:

*'The Planning Inspectorate's Advice Note 10 states on page 8:*

*'Some projects may be unlikely to have significant effects on their own but effects in combination with other projects may be significant. The protective measures of the Directive could be seriously undermined if these combinations of projects escaped assessment'.*

*The ExA therefore requests that the Applicant provides a quantitative in combination assessment for the Stage 1 HRA screening because:*

- i. The applicant must provide a report which should include the site(s) that may be affected, together with sufficient information to enable*

---

<sup>46</sup> ExA emphasis

*the Secretary of State, as decision maker, to conclude whether an AA is required, and, if so, to undertake such an assessment;*

*ii. The EA has confirmed that its guidance notes have not been designed to be applied in the context of considering permission for development consent; and*

*iii. The protective measures of the Habitats Directive could be seriously undermined if these combinations of projects escaped assessment.'*

5.3.14 In response to the ExA's Rule 17 Request issued on 2 April 2015 [PD-006], the Applicant provided a quantitative aerial emissions in combination assessment for the six European sites screened into the Applicant's assessment [DL4-007], [DL4-009], [DL4-012] and [DL4-013].

#### **5.4 ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS RESULTING FROM THE PROJECT, ALONE AND IN COMBINATION**

5.4.1 There is agreement between NE and the Applicant on the sites (and the features of those sites) that are likely to be significantly affected by the project (paragraph 3.2 of the SoCG [DL5-005]).

5.4.2 There were no dissenting views from other interested parties.

5.4.3 There was agreement between the Applicant and NE on the baseline evidence (paragraph 3.2 of the SoCG [DL5-005]).

5.4.4 There were no dissenting views from other IPs.

5.4.5 There was agreement between the Applicant and NE on the methodology used for assessing air quality effects (paragraph 3.3.2 of the SoCG [DL5-005]).

5.4.6 There were no dissenting views from other IPs.

5.4.7 The EA in their written response to the ExA's first round questions [DL3-004] indicated they were content with the Applicant's approach but:

*'Our position is that we can only assess the validity of the air-modelling outcomes once we have an Environmental Permit (EP) application and move into the determination phase. This is because (as explained above) we cannot comment on the technical detail at this stage because it would prejudice the EP application if we were to comment on the validity or acceptability of the Air Quality Assessment (including the ecological impact). This means that we have not checked the modelled air quality impacts and until we have done so, cannot agree with their predicted numbers.'*[HR-015]

5.4.8 There are a range of environmental mitigation and monitoring measures included within the proposed design and development to

ensure adverse impacts upon the environment are avoided (in the first instance) or minimised [APP-031][APP-098].

- 5.4.9 Mitigation and monitoring measures proposed by the Applicant [APP-031] and directly relevant to the scope of potential effects described above include:
- Implementation of a CEMP secured via Requirement 9 in the draft DCO [DL9-014];
  - Adherence to all relevant EPs, Best Practice Guidance / Regulations, British Standards, and monitoring in respect of air quality, noise and vibration, and water resources; and
  - Implementation of industry standard methods and procedures to ensure air quality impacts are minimised throughout all phases of the project [APP-031].
- 5.4.10 These measures were accepted by NE [DL5-005] and there were no dissenting views from other IPs.
- 5.4.11 As a result of the screening assessment [APP-027;APP-045], the Applicant concluded that the project is not likely to give rise to significant effects either alone or in combination, on the European sites listed below:
- (i) The Wash and North Norfolk Coast SAC;
  - (ii) Roydon Common and Dersingham Bog SAC;
  - (iii) Roydon Common Ramsar;
  - (iv) Dersingham Bog Ramsar;
  - (v) The Wash SPA; and
  - (vi) The Wash Ramsar.
- 5.4.12 NE confirmed that the designated features of the Wash and North Norfolk Coast SAC are not sensitive to air pollution impacts, which is also true for the supporting habitat for the Wash SPA and the Wash Ramsar [DL3-005]. This was not disputed by any IPs during the examination.
- 5.4.13 The ExA agreed with NE and the Applicant's conclusions that the project is not likely to give rise to significant effects either alone or in combination in relation to the designated features of:
- (i) The Wash and North Norfolk Coast SAC;
  - (ii) The Wash SPA; and
  - (iii) The Wash Ramsar.
- 5.4.14 However, based on the information provided, the ExA reached the view that a likely significant effect could not be discounted (see paragraphs 5.4.22 and 5.4.36 of this report) and that information in respect of aerial emissions (project alone and in combination) needed to be provided by the Applicant in order to inform an AA, if required by the competent authority, for the following European sites:
- (i) Roydon Common and Dersingham Bog SAC;

- (ii) Roydon Common Ramsar; and
- (iii) Dersingham Bog Ramsar.

## **EFFECTS FROM THE PROJECT ALONE**

5.4.15 The EA's Horizontal Guidance Note H1<sup>47</sup> states that:

*'Where the concentration within the emission footprint in any part of the European site(s) is less than 1% of the relevant long-term benchmark (measured as Annual Average) (Environmental Assessment Level - EAL, Critical Level or Critical Load), the emission is not likely to have a significant effect alone or in combination irrespective of the background levels.'*

5.4.16 The highest predicted levels of nitrogen deposition at each habitat listed in Air Pollution Information System (APIS) are presented in Appendix C of the Air Quality Assessment (Appendix 6-1 of the ES [APP-035]). Where no critical load is specified within APIS the process contribution for nitrogen deposition is presented for completeness.

5.4.17 The results show (Table 4.7 [APP-027;APP-045]) that the impact of nitrogen deposition from emissions from the process contribution of the Project is less than 1% of the lower Critical Load for all habitat features within the European sites. As such the Applicant concluded that the impact of emissions can be screened out as 'insignificant'.

5.4.18 The impact of acid deposition from emissions from the process contribution of the Project is less than 1% of the lower Critical Load for all habitat features within the European sites (Table 4.8 [APP-027;APP-045]). As such the Applicant concluded that the impact of emissions can be screened out as 'insignificant'.

5.4.19 NE agreed with the Applicant that the impact of emissions can be screened out as 'insignificant'[DL5-005].

5.4.20 Given the evidence presented, the ExA agrees with NE and the Applicant that the Project alone is not likely to give rise to any significant effects on the following European sites:

- (i) The Wash and North Norfolk Coast SAC;
- (ii) The Wash SPA; and
- (iii) The Wash Ramsar.

5.4.21 However, based on the information provided, the ExA reached the view that a likely significant effect could not be discounted and that information in respect of aerial emissions (project alone and in

---

<sup>47</sup> EA(2007) The EU Habitats and Birds Directive Handbook - Appendix 7, Stage 1 and 2 Assessment of new PIR permissions under the Habitats Regulations



combination) needed to be provided by the Applicant in order to inform an AA, if required by the competent authority, for the following European sites:

- (i) Roydon Common and Dersingham Bog SAC;
- (ii) Roydon Common Ramsar; and
- (iii) Dersingham Bog Ramsar.

5.4.22 This is because tables AC.4 and 5 [APP-035] show that even though the process contribution from the Project alone is less than 1% for both nitrogen and acid deposition, it is contributing to a maximum critical load of up to 116.71% for nitrogen and up to 185.7% for acid deposition at these sites. Applying the criteria in Table 6.16 of the ES [APP-031] the ExA was unable to conclude there would be no likely significant effect.

### **IN COMBINATION EFFECTS**

5.4.23 In the Rule 17 Request issued on 2 April 2015 [PD-006] the ExA asked the Applicant to include the following plans/projects in the in combination assessment:

- CCGT with 80m stack (the project);
- Palm Paper sludge combustor;
- King's Lynn A, B1, B2 power stations<sup>48</sup>; and
- Willows Business Parks Recycling Centre (referred to as 'The Willows Power and Recycling Centre' in the Applicant's ES).

5.4.24 These plans/projects match those considered by the Applicant in the cumulative air quality assessment in the ES (paragraph 6.5.94 [APP-031]). The EA confirmed in their response to question EIA20 in the ExA's first written questions [DL3-004] that they consider the developments assessed in the cumulative air quality impact assessment to be appropriate.

5.4.25 The above plans and projects included in the Applicant's in combination assessment were agreed with NE [DL5-005]. However, in the EIA/HRA ISH held on 30 April 2015 [HR-020], Miss Jenny Perryman queried the plans/projects included in the in combination assessment submitted by the Applicant (Applicant's Written Summary of Case [DL5-004]). The Applicant explained in their Written Summary of the Oral Case that Miss Perryman had raised the point that the EA's website identifies 18 other sites which are operational in the area surrounding the Project and questioned why these were not included in the in combination assessment (paragraph 5.1.1[DL5-004]). Miss Perryman provided information on these sources in her Deadline 5 submission [DL5-023]. The Applicant responded to confirm that the

---

<sup>48</sup> On the 5 February 2009 the Secretary of State in his Section 36 consent for the King's Lynn B, 1.020MW Centrica project, at paragraph 4.2 decided because there were no European sites within 7km of the project site no Appropriate Assessment was required. The Centrica B power station is approximately 0.8km south of the Project site.

monitoring data already takes into account these sources as they are included in the background concentrations (paragraph 5.1.2 of [DL5-004]).

- 5.4.26 The ExA sought clarification from the EA that the Applicant's explanation was correct and that as these additional sites are included in the baseline these plans/projects therefore did not need to be considered in the in combination assessment (Question HA02-03 of the ExA's second written questions [PD-013]). The EA responded to confirm that they would be unable to comment on the validity of the in combination assessment until they have an EP application and move into the determination phase [DL7-015]. The Applicant confirmed in response to Question OCL02-01 of the ExA's second written questions that the EP application was submitted to the EA on 3 July 2015 [DL7-002]. The application was accepted by the EA on the 11 August 2015 [DL9-012]. As at the close of the examination (18 August 2015), the EA has not provided any further comments to the ExA regarding the EP application.
- 5.4.27 The Applicant addressed potential in combination effects within their Deadline 4 and Deadline 7 submissions:
- Overall Context and Summary Document [DL4-007];
  - In combination Air Quality Impacts Memorandum [DL4-009];
  - In combination Effects Table [DL4-012];
  - Further in combination Effects Table [DL4-013]; and
  - Applicant: Ecological assessment of air quality impacts – Addendum to HRA Report (Version 1.0/15-031 dated 01/07/2015) [DL7-007]
- 5.4.28 In the Overall Context and Summary Document the Applicant confirmed that the in combination assessment included the plans/projects requested by the ExA in the Rule 17 Request of 2 April 2015, with the exception of the Willow Business Parks Recycling Centre because this was no longer a live planning application (paragraphs 2.2.8-11 [DL4-007]). The Applicant provided the following documents to evidence this position:
- Letter from the Willows Business Parks applicant to Department for Communities and Local Government (DCLG) (6 January 2015) requesting the planning application to be withdrawn and a letter from NCC to the Willows applicant (5 January 2015) to confirm the contractual agreement between the Council and the applicant had ended [DL4-011]; and
  - Letter from DCLG to the Willows Business Parks Applicant (8 January 2015) to confirm that the application has been withdrawn [DL4-010].
- 5.4.29 The Applicant's screening assessment (NSER [APP-027;APP-045]) and in combination assessment [DL4-007], [DL4-009], [DL4-012] and [DL4-013] concluded that the Project would have no likely significant

effect, either alone or in combination with other projects or plans, on the qualifying features of the European sites listed below:

- (i) The Wash and North Norfolk Coast SAC;
- (ii) Roydon Common and Dersingham Bog SAC;
- (iii) Roydon Common Ramsar;
- (iv) Dersingham Bog Ramsar;
- (v) The Wash SPA; and
- (vi) The Wash Ramsar.

5.4.30 NE confirmed in their comments on the applicant's response to the ExA's Rule 17 Request of 2 April 2015 that:

*'Having considered these documents, NE concurs with the results of the 'in combination' assessment, as quoted in Document 11.3. These results are fully compatible with the stance which has been adopted both by NE and by the Environment Agency; namely that the project will not have a significant effect on any of the Natura or Ramsar sites, either alone or in combination with other nearby industrial sources' [HR-016].*

5.4.31 This position was also reiterated in the Applicant's SoCG with NE [DL5-005].

5.4.32 The EA confirmed in their further comments submitted in lieu of attending the EIA/HRA issue-specific hearing on 30 April 2015 that they were unable to check the validity of the modelled outputs of the in combination assessment until they had seen the EP application [HR-015].

5.4.33 Annex 1 of the RIES [PD-017] records that the Applicant's conclusions in relation to these six European sites and their qualifying features were not disputed by any IPs during the examination, for the project alone and in combination with other plans and projects.

5.4.34 The Applicant's conclusions in relation to in combination effects on the designated features of:

- (i) The Wash and North Norfolk Coast SAC;
- (ii) The Wash SPA; and
- (iii) The Wash Ramsar.

were not disputed by any IPs during the examination.

5.4.35 Given the evidence presented as recorded in Annex 1 of the RIES [PD-017], the ExA agrees with NE and the Applicant that the Project in combination will not give rise to any significant effects on the three European sites listed below:

- (i) The Wash and North Norfolk Coast SAC;
- (ii) The Wash SPA; and
- (iii) The Wash Ramsar.

5.4.36 However, the Applicant's assessment for Roydon Common and Dersingham Bog SAC and Roydon Common Ramsar, shows that the in combination process contribution expressed as % critical load is substantially above the objective/limit value of critical load for both nitrogen deposition and acid deposition (Nitrogen (161.55% and 157.18%) and Sulphur (248.47% and 246.28%) in combination critical load levels (including background) detailed in Doc. Ref. 11.2a & b [DL4-012] and [DL4-013]). Applying the criteria in Table 6.16 of the ES [APP-031] the ExA was unable to conclude that there would be no likely significant effect.

## **5.5 OVERALL CONCLUSIONS ON THE ASSESSMENT OF EFFECTS RESULTING FROM THE PROJECT, ALONE AND IN COMBINATION**

5.5.1 It is for the competent authority, in this case the Secretary of State, to determine whether or not an AA should be carried out before a decision is made on the Project. The ExA therefore requested in its second round question HA2-07 [PD-013] that the Applicant provide a HRA Report which included information to support an AA. This was to assist the ExA in making their recommendations and the Secretary of State to undertake an AA should that be deemed necessary.

5.5.2 Based on the information provided, the ExA reached the view that a likely significant effect could not be discounted and that information in respect to aerial emissions (project alone and in combination) needed to be provided by the Applicant in order to inform an AA, if required by the competent authority, in relation to:

- (i) Roydon Common and Dersingham Bog SAC;
- (ii) Roydon Common Ramsar and
- (iii) Dersingham Bog Ramsar.

5.5.3 The ExA's reasoning for requesting from the Applicant the information to inform an AA for Roydon Common and Dersingham Bog SAC, Roydon Common Ramsar and Dersingham Bog Ramsar, if required by the competent authority, is as follows:

- The Applicant's quantitative alone and in combination assessment identified air quality exceedances at these sites when the effects of the Project alone and in combination, were assessed [APP-035], [DL4-007], [DL4-009], [DL4-012 and [DL4-013]; and
- The EA have stated in response to Question HA-06 (ExA's first written questions [PD-005]), that their guidance notes have not been designed to be applied in the context of considering permission for development consent (EA response to Deadline 3) [Doc. Ref. DL3-004].

5.5.4 Therefore, the ExA requested from the Applicant the necessary information to inform an AA, if required by the competent authority, in relation to the following sites and qualifying features / criteria (Question HA02-07 of the ExA's second written questions [PD-013]):

- (i) Roydon Common and Dersingham Bog SAC;

- i) Northern Atlantic wet heaths with *Erica tetralix*;
- ii) Depressions on peat substrates of the *Rhynchosporion*;
- iii) European dry heaths.
- (ii) Roydon Common Ramsar
  - i) Ramsar Criterion 1: valley mire-heathland;
  - ii) Ramsar Criterion 3: vegetation communities.
- (iii) Dersingham Bog Ramsar
  - i) Ramsar Criterion 2: assemblage of invertebrates.

5.5.5 It remained the view of the Applicant, supported by NE, that the Project will result in no LSE, either alone or in combination with other plans or projects.

5.5.6 The Applicant argued in response to the ExA's second round question HA2-06 [DL7-006] that the case of *Sweetman v An Bord Pleanála* (C-258/11) [2013] is relevant. In this case, the European Court of Justice was asked to provide a preliminary ruling on the interpretation of Article 6(3) of the Habitats Directive. Advocate General Sharpston provided her opinion on the case. After confirming the two stage process (screening and AA), she states in paragraph 47 of her opinion that:

*'It follows that the possibility of there being a significant effect on the site will generate the need for an appropriate assessment for the purposes of Article 6(3).'*

5.5.7 This is restating the position established in the Waddenzee judgement. However, she qualifies this in paragraph 48:

*'The requirement that the effect in question be 'significant' exists in order to lay down a de minimis threshold. Plans or projects that have no appreciable effect on the site are thereby excluded. If all plans or projects capable of having any effect whatsoever on the site were to be caught by Article 6(3), activities on or near the site would risk being impossible by reason of legislative overkill.'*

5.5.8 The Applicant believes this statement confirms that it is reasonable to have a de minimus threshold. The EA guidance sets the de minimus threshold as 1% of the Critical Load [DL7-006].

5.5.9 However, the ExA would point out that the evidential bar to identify a Likely Significant Effect, and so trigger the need for an AA, is very low<sup>49</sup>. At paragraph 49 of "*Sweetman*"<sup>50</sup> it goes on to state:

*'The threshold at the first stage of Article 6(3) is thus a very low one. **It operates merely as a trigger**<sup>51</sup>, in order to determine whether an appropriate assessment must be undertaken of the implications of the*

---

<sup>49</sup> Judgment of the Court (Third Chamber) of 11 April 2013. *Peter Sweetman and Others v An Bord Pleanála*. Case C-258/11

<sup>50</sup> *ibid*

<sup>51</sup> ExA emphasis

*plan or project for the conservation objectives of the site. The purpose of that assessment is that the plan or project in question should be considered thoroughly, on the basis of what the Court has termed 'the best scientific knowledge in the field'.*

- 5.5.10 The Applicant prepared the information to inform an AA [DL7-007][DL7-008]. The Applicant however maintained the position that the Project would not give rise to any LSE that requires the Applicant to consider the need to provide information to support an AA of the Habitats Regulations.
- 5.5.11 In the ExA's view the evidence presented in the examination does not allow the conclusion that there would be no LSE on Roydon Common and Dersingham Bog SAC, Roydon Common Ramsar and Dersingham Bog Ramsar, as a result of the project alone and the combined aerial emissions from the Project and other developments in the vicinity (including background). Therefore the above three sites listed at paragraph 5.5.4 of this report, have been taken forward to Stage 2 of the HRA process (as summarised in the RIES [PD-017]).
- 5.5.12 The ExA has reached this view because:
- (i) Tables AC.4 and 5 [APP-035] show that even though the process contribution from the Project alone is less than 1% for both nitrogen and acid deposition, it is contributing to a maximum critical load of up to 116.71% for nitrogen and up to 185.4% for acid deposition. Applying the criteria in Table 6.16 of the ES [APP-031] the ExA considers the potential for a likely significant effect cannot be discounted;
  - (ii) The Applicant's assessment for Roydon Common and Dersingham Bog SAC and Roydon Common Ramsar, shows that the in combination contribution expressed as % critical load is substantially above the objective/limit value of critical load for both nitrogen deposition and acid deposition<sup>52</sup> (Nitrogen (161.55% and 157.18%) and Sulphur (248.47% and 246.28%) in combination critical load levels (including background) detailed in Doc. Ref. 11.2a & b [DL4-012] and [DL4-013]). Applying the criteria in Table 6.16 of the ES [APP-031] the ExA considers the potential for a likely significant effect cannot be discounted; and
  - (iii) In the ExA's first round question HA06 [PD-005], the ExA asked the EA if it was appropriate for the guidance notes designed for environmental permitting to be applied in the context of considering permission for development consent. To which the EA responded [DL3-004]:

**'No.'**<sup>53</sup> *The guidance notes designed for environmental permitting are appropriate for applications under the Environmental Permitting*

---

<sup>52</sup> The process contribution from the Project alone is less than 1% for both nitrogen and acid deposition,

<sup>53</sup> ExA emphasis

*Regulations. The guidance notes have not been designed to be applied in the context of considering permission for development.'*

- (iv) A project with a potential effect, which is insignificant on its own, is not free from the provisions of the Habitats Regulations until it has been checked in combination with the effects of other projects. Some projects may be unlikely to have significant effects on their own but effects in combination with other projects may be significant. The protective measures of the Directive could be seriously undermined if these combinations of projects escaped assessment [HR-020].

## **5.6 CONSERVATION OBJECTIVES**

- 5.6.1 European site conservation objectives are those referred to in the Habitats Regulations and Article 6(3) of the Habitats Directive 1992. They are relevant for use when either the appropriate nature conservation body or competent authority is required to make an AA under the relevant parts of the legislation.
- 5.6.2 These conservation objectives are set for each designated habitat/species/ bird feature for a SAC and a SPA. Where the objectives are met, the site can be said to demonstrate a high degree of integrity and the site itself makes a full contribution to achieving the aims of the Habitats and Birds Directive for those features.
- 5.6.3 Paragraph 5.5.4 of this report, identifies the qualifying features of the Roydon Common and Dersingham Bog SAC which are relevant to the assessment of effects on integrity of the site. The conservation objectives for the Roydon Common and Dersingham Bog SAC are provided in Section 3.2 of the HRA Addendum [DL7-007].
- 5.6.4 In the EIA/HRA ISH held on 30 April 2015 [HR-020] the ExA sought confirmation from the Applicant as to whether Management Plans were in place for Roydon Common and Dersingham Bog SAC. The Applicant confirms in Section 16 of their cover letter provided for Deadline 5 [DL5-001] that a Roydon Common and Dersingham Bog SAC Site improvement Plan [DL5-015] and a Roydon Common NNR Management Plan [DL5-016] exist. The applicant confirms that the Management Plan is extant and a new plan is due to be published [DL5-001].
- 5.6.5 The ExA in its second round question HA2-04 [PD-013] asked NE to confirm whether the Roydon Common and Dersingham Bog SAC is currently in favourable or unfavourable condition.
- 5.6.6 NE responded [DL7-016] that Roydon Common SSSI, is a component of Roydon Common and Dersingham Bog SAC (the other component SSSI, Dersingham Bog SSSI, lies outside the scope of the air quality assessment due to its distance from the proposal). A SSSI may be divided into a number of units for condition assessment and conservation management purposes, depending on its size and the

interest features that it supports. Condition assessment monitors the extent and condition of the notified features (i.e. habitats and species) present. It also covers the features for which any Natura 2000 site has been designated. Roydon Common SSSI is divided into two units. The smaller unit, which covers 8.7ha, was assessed as being 'unfavourable – declining' when last evaluated in August 2012. The assessment was based on the amount of scrub present and the age structure of the heather. Since then the land has been entered into an agri-environment agreement to assess the scrub cover and facilitate ongoing management. However, the site remains in unfavourable-declining status at present, because approval is required from the Secretary of State (for the Environment Food and Rural Affairs) to allow fencing of common land which would then facilitate livestock grazing and effective scrub control.

- 5.6.7 The larger unit of approximately 183ha was recorded as being in 'unfavourable – recovering' condition as at November 2012. Since then management has progressed well to encourage pioneer mire communities and to create a mosaic of successional stages. Significant areas of scrub have been removed, although the mire communities are still recovering post-scrub removal. There is also an issue that needs to be rectified with ponies, used for grazing and scrub control, trampling some of the mire and bog communities. The site also fails as the dry heath present is fairly uniform in age on site.
- 5.6.8 In summary, the majority of the SAC is in 'unfavourable – recovering' condition due to issues related to scrub encroachment and lack of grazing, although these management issues are being addressed.

## **5.7 FINDINGS IN RELATION TO ADVERSE EFFECTS ON THE INTEGRITY OF EUROPEAN SITES**

- 5.7.1 The ExA considers the potential for an LSE on the features of Roydon Common and Dersingham Bog SAC, Roydon Common Ramsar and Dersingham Bog Ramsar cannot be discounted. This Section summarises how the examination considered the anticipated effects on the integrity of Roydon Common and Dersingham Bog SAC, in the context of its conservation objectives (see paragraphs 5.6.1-5.6.8 of this report) and effects on integrity of Roydon Common Ramsar and Dersingham Bog Ramsar.
- 5.7.2 The integrity matrices for Roydon Common and Dersingham Bog SAC, Roydon Common Ramsar and Dersingham Bog Ramsar in Annex 2 of the RIES [PD-017] and the comments made on them by the Applicant are discussed in paragraphs 5.0.7, 5.2.7, 5.4.33, 5.4.35, 5.5.11 and 5.7.2 of this report. The Applicant considers that generally the RIES represents a fair summary of the implications of the Project on European sites [DL9-002].
- 5.7.3 There is agreement between NE and the Applicant on the sites (and the feature of the European site) that are likely to be significantly affected by the project (Section 3.2 of the SoCG) [DL5-005].



- 5.7.4 There were no dissenting views from other IPs.
- 5.7.5 There was agreement between the Applicant and NE on the baseline evidence (Section 3.2 of the SoCG) [DL5-005].
- 5.7.6 There were no dissenting views from other IPs.
- 5.7.7 There was agreement between the Applicant and NE on the assessment methodology (Section 3.2 of the SoCG) [DL5-005].
- 5.7.8 There were no dissenting views from other IPs.
- 5.7.9 There are a range of environmental mitigation and monitoring measures included within the proposed design and development (see paragraphs 4.8.17-4.7.18 of this report) to ensure adverse impacts upon the environment are avoided (in the first instance) or minimised [APP-031][APP-098].
- 5.7.10 The Applicant concluded that the Project would not adversely affect the integrity of the European sites and features (HRA Addendum [DL7-007]). The HRA Addendum considers the effects on site integrity of the sites/features where the in combination effects of the Project and other proposed/permitted developments exceed 1% of the relevant environmental quality standard (Critical Level or Critical Load), and in addition, where background levels exceed 70% of the standards (Section 1.2 HRA Addendum [DL7-007]). The Applicant provides further explanation for their use of the 1% threshold to determine significance in their response to Question HA02-06 of the ExA's second written questions [DL7-006]. No further information is provided in the HRA Addendum in respect to the effect of the project alone aerial emissions on site integrity. This is because the process contribution from the Project alone emissions are not predicted to exceed 1% of the relevant environmental quality standard (Critical Level or Critical Load) [APP-027; APP-045]).
- 5.7.11 The integrity matrices, which the Applicant was asked to provide information on for the European sites and features, to inform an AA, if required, can be found at Annex 2 of the Applicant's HRA Addendum [DL7-008].
- 5.7.12 The Applicant confirms in their HRA Addendum (Section 4.2 [DL7-007]) that units of Roydon Common in the Roydon Common and Dersingham Bog SAC are in an 'unfavourable condition' and the in combination process contribution of nitrogen deposition would have a negative effect on the recovery of these units (Section 4.3 (Doc. Ref. DL7-007)). However, the Applicant concludes that the:
- in combination process contribution of the project is minimal;
  - it would not have an effect on the site integrity; and
  - it would not hinder the return of the SAC to a favourable conservation status (Section 4.3 [DL7-007]).

5.7.13 The Applicant confirms in their HRA Addendum [DL7-007] that there are likely to be other factors that are exacerbating the extent of the effect of acid deposition on the Roydon Common and Dersingham Bog SAC (Sections 2.3 and 4.3 of the HRA Addendum [DL7-007]). For such reasons, combined with the small magnitude of the impact, the Applicant concludes with 'a sufficient degree of certainty'<sup>54</sup> that the in combination process contribution to acid deposition would not have an effect on site integrity, and would not hinder the return of the SAC to a favourable conservation status (Section 4.3, HRA Addendum [DL7-007]).

5.7.14 In respect to the Roydon Common Ramsar and the Dersingham Bog Ramsar, the Applicant confirms that the qualifying features are equally as sensitive as those making up the Roydon Common and Dersingham Bog SAC and therefore the same conclusions apply (Section 4.3, HRA Addendum [DL7-007]).

5.7.15 In response to Question HA02-04 of the ExA's second written questions [PD-013], NE acknowledges that on-going nitrogen and sulphur deposition at the Roydon Common and Dersingham Bog SAC would delay achievement of the return of the site to a favourable conservation status for the habitats for which it is designated. NE attributes the large exceedances of the critical loads for the deposition of nitrogen and sulphur to being:

*'...almost entirely due to background pollution originating from existing sources. Therefore, the background pollution alone is likely to result in a significant delay to the achieving of favourable conservation status' [DL7-016].*

5.7.16 However, NE advises that [DL7-016]:

*'...Background pollution levels are declining steadily as a result of various measures and initiatives...although it is likely to be many years before the deposition of nitrogen in particular falls below the critical loads for the SAC habitats in question.'*

5.7.17 In this context, when considering the effect of the project on the Roydon Common and Dersingham Bog SAC, NE advise that [DL7-016]:

*'...the nitrogen deposition resulting from the project, in combination with other developments in the area and the existing background pollution, would certainly have a negative effect on the SAC.'*

5.7.18 NE has concluded that:

---

<sup>54</sup> The Applicant in its Deadline 9 submission [DL9-002] confirms that this phrase equates to the Waddenzee "no reasonable scientific doubt".

*'...the additional Process Contribution from the project, even in combination with other developments in the area, would be insignificantly small by comparison to this background pollution. Consequently, any additional effect on the SAC would also be insignificantly small and, in Natural England's opinion, therefore could not be considered to constitute a Likely Significant Effect' (Doc. Ref. DL7-16).*

- 5.7.19 When considering whether the Project would hinder the return of the Roydon Common and Dersingham Bog SAC to favourable conservation status, NE has advised [DL7-016] the ExA that:

*'...the additional contribution from the project, even in combination with other developments in the area, is extremely small by comparison to these existing high background values and, consequently, would result in only a small 'blip' in this downward trend in pollution levels. It is therefore Natural England's professional opinion that this additional delay cannot be considered significant, in the context of a recovery time which is likely to be measured in decades.'*

- 5.7.20 NE have concluded that the project alone and in combination with other plans or projects, would not have a significant effect on the Roydon Common and Dersingham Bog SAC and consequently no adverse effect on site integrity in view of the site's conservation objectives, as the project would not prevent the achievement of favourable conservation status [DL9-013]. NE have also concluded that the Project alone and in combination with other plans and projects would not have a significant effect on the Roydon Common Ramsar and the Dersingham Bog Ramsar and consequently no adverse effect on site integrity [DL9-013].

- 5.7.21 In their response Question HA02-04 of the ExA's second written questions in respect to the HRA conclusions, the EA confirm that they defer to NE as the SNCB [DL7-015].

## **5.8 CONSIDERATION OF ALTERNATIVE SOLUTIONS AND IMPERATIVE REASONS OF OVERRIDING PUBLIC INTEREST (IROPI)**

- 5.8.1 The ExA provided the Applicant with the opportunity to detail its consideration of alternatives and IROPI in its second round of questions (Question HA2-08 [PD-013], in the event that adverse effects on the integrity of Roydon Common and Dersingham Bog SAC, Roydon Common Ramsar and Dersingham Bog Ramsar cannot be excluded by the competent authority. The ExA confirmed that this information was requested without prejudicing the outcome of the competent authority's AA, if required.

- 5.8.2 The Applicant provided their response in [DL7-002] for concluding, that if applicable:

(i) there are no alternative solutions;

- (ii) IROPI would apply;
- (iii) however, no compensatory measures have been identified as there are not any which would be considered to be necessary, appropriate or proportionate in this case.

5.8.3 The Applicant has prepared a NSER [APP-027; APP-045] which concludes that the Project will not result in a likely significant effect on any European sites alone or in combination and this conclusion is supported by NE (see Section 3.2 of the NE SoCG) [DL5-005]. In response to the ExA's second round questions (Question HA2-06 and 07 [PD-013], the Applicant has also prepared the information necessary to inform an AA in the event the Secretary of State considers there was potential for a likely significant effect. The HRA Report concludes there will not be an adverse effect on the Roydon Common and Dersingham Bog SAC, Roydon Common Ramsar and the Dersingham Bog Ramsar alone or in combination and this conclusion is, again, supported by NE (see response to question HA2-04 [DL7-016] and [DL9-013]).

5.8.4 The Applicant's position, supported by NE, is that regulation 62 of the Habitats Regulations is not engaged. As such, it is not necessary or appropriate to conclude on the three tests identified in paragraph 5.8.2 of this report.

5.8.5 However, the Applicant, in the interests of maintaining a proactive stance to the examination, has provided a response regarding alternatives and IROPI as follows:

(i) Alternative solutions

The purpose of the proposed CCGT is to increase Palm Paper's energy efficiency and self-reliance, by allowing the company to generate its electricity and steam requirements on site. A CCGT is the only realistic technology able to address that need and as such there are no alternative solutions, including a do-nothing scenario, which would have the ability to deliver the required outputs whilst creating the same or lower environmental impacts as the proposed CCGT. There are not considered to be any alternatives in this case to the use of CCGT technology (see paragraphs 4.8.13 - 4.8.17 [DL7-002]).

There are not considered to be any alternative solutions in terms of the design or location of the proposed CCGT which would ensure the plant fulfils the required operational requirements but then also generates a lower environmental impact (see paragraphs 4.8.13 - 4.8.17 [DL7-002]).

There are not considered to be any alternative designs which would reduce environmental impact overall whilst still generating the same required outputs as the proposed facility (see paragraphs 4.8.19 - 4.8.21 [DL7-002]).

(ii) Imperative reasons of overriding public interest(IROPI)

The proposed CCGT plant would allow the Applicant to become more self-reliant in energy terms and therefore more resilient to changing political and energy markets, and would therefore contribute to helping safeguard the position of an important local employer within King's Lynn.

The Applicant considers the project will make a tangible contribution towards two strategic targets established by central government:

- i) A competitive economy and a low carbon future and its contribution towards reducing carbon emission targets; and
- ii) improving the resilience of local jobs;

provided in this case as Imperative Reasons of Overriding Public Interest, particularly where the applicant considers there to be no LSE on European sites (see paragraphs 4.8.22 - 4.8.31 [DL7-002]).

(iii) Compensatory measures

The Applicant believes that CCGT technology is widely recognised as the most efficient process for the paper making process through the use of combined heat and power which is able to generate both electricity and steam. The Applicant considers that the project will not result in LSE on European sites and the DCO application does not identify any compensatory measures as there are not any which would be considered to be necessary, appropriate or proportionate in this case [DL7-002].

## **5.9 CONCLUSIONS**

5.9.1 The Applicant has undertaken an extensive, precautionary and rigorous HRA evaluation in its application documentation and has supported this by undertaking the additional work requested of it during the examination. The Applicant has also engaged effectively and taken careful account of extensive advice from the Statutory Nature Conservation Body i.e. NE, which has substantially assisted the examination process.

5.9.2 The potential for adverse effects on site integrity arising from the application proposal on six European sites has been tested. This has led to undisputed conclusions that the application proposal will not lead to LSE, alone or in combination on the following three European sites:

- (i) The Wash and North Norfolk Coast SAC;
- (ii) The Wash SPA; and
- (iii) The Wash Ramsar.

5.9.3 However, based on the information provided during the examination, the ExA reached the view that a likely significant effect could not be discounted and that information in respect of aerial emissions needed to be provided by the Applicant in order to inform an AA, if required by the competent authority, in relation to the following European sites:

- (i) Roydon Common and Dersingham Bog SAC;
- (ii) Roydon Common Ramsar and
- (iii) Dersingham Bog Ramsar.

5.9.4 The ExA, through the review of representations, two rounds of questions and a hearing in respect of HRA matters, found that there will be no adverse effect on integrity of the European sites, either from the Project alone or in combination with other plans and projects.

5.9.5 The ExA believes that the conservation objectives for the Roydon Common and Dersingham Bog SAC will not be significantly affected by the project:

- (i) Because NE do not consider that the nitrogen or acid deposition from the Project, either alone or in combination would hinder the return of Roydon Common and Dersingham Bog SAC to favourable conservation status because the predicted contribution is so minute that it would not have any appreciable effect on the SAC or its return to favourable conservation status; and
- (ii) Because of the embedded mitigation measures secured by Requirement 9 in the draft DCO [DL9-014].

5.9.6 The ExA believes there is sufficient evidence to conclude that the Project alone and in combination would not have an adverse effect on the integrity of Roydon Common and Dersingham Bog SAC, Roydon Common Ramsar and Dersingham Bog Ramsar.

## **6 THE EXA CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT**

### **6.0 INTRODUCTION**

6.0.1 In determining the application in accordance with s104 of the PA 2008 (as amended), the Secretary of State must have regard to any relevant NPS, LIRs, prescribed matters and other matters considered to be relevant to the decision. The ExA's overall conclusion on the case for development consent for the project is based on an assessment of these matters, including the strong levels of agreement between most IPs and the limited level of objection.

6.0.2 The need for proposals of this nature is set out in Government policy in EN-1.

### **6.1 CONCLUSIONS**

6.1.1 The ExA has set out the reasons on each of the matters in Section 4 and 5. In summary, the ExA conclusions on the main issues are that it is satisfied that:

- (i) The project would not have any unacceptable effects in terms of air quality, subject to consent being granted for an EP, for which no impediment appears to exist.
- (ii) The project is a CHP plant, as required by EN-1, which would also be considered and reviewed under the EP.
- (iii) The ExA believes that through Requirements 4, 5, 6 and 19 [DL9-014] related to the control of design and appropriate mitigation, and given the evidence presented, the Project generally accords with policy in EN-1, and with the BCKLWN development framework policies with respect to design (CS08 – Sustainable Development), and layout and visibility (CS12 - Environmental Assets).
- (iv) The project would not have an unacceptable adverse impact on existing transport networks including traffic routing and management, highway safety and the environmental impact of traffic.
- (v) The ExA considers that the examination of flood risk has been addressed adequately, takes full account of the additional risk from climate change (see paragraph 4.16.6 of this report) and meets the requirements of EN-1. The proposal would meet the tests in the NPPF (Section 10) and PPG section on flood risk for development on the selected site, and the design of the plant has taken into account the need for flood resilience measures. Therefore the proposal would be in accordance with Section 5.7 of EN-1 on flood risk and would take into account climate change in accordance with Section 4.8 of the same document.
- (vi) The project would not give rise to significant adverse noise, disturbance and vibration. Requirements 9, 10, 11, 12, 13 and 15 would control effects during the construction and operation respectively [DL9-014].

- (vii) The ExA believes there is sufficient evidence to conclude that the Project alone and in combination would not have an adverse effect on the integrity of Roydon Common and Dersingham Bog SAC, Roydon Common Ramsar and Dersingham Bog Ramsar.
- (viii) The project would have a positive socio-economic effect; and
- (ix) It would be in accordance generally with development plan policies for land use in the local area.

6.1.2 The ExA concludes that whilst there are adverse effects of the project in terms of ecology, landscape and visual impact, the recommended draft DCO (Appendix D) contains sufficient measures to mitigate those effects. It is concluded, therefore, that the benefits of this proposal would outweigh its effects.



## **7 DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS**

### **7.0 INTRODUCTION**

- 7.0.1 A draft DCO [APP-020] and Explanatory Memorandum (EM) [APP-021] were submitted with the application for development consent. The EM describes the purpose and form of the draft DCO and each of its articles and schedules. The applicant stated that the draft DCO is based on the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009, although these are no longer in force.
- 7.0.2 During the examination, four further drafts of the DCO [DL3-030; DL5-018; DL7-010; DL9-014] were submitted by the applicant incorporating progressive changes arising from the ExA's written questions, points made by IPs, and from the proceedings at the DCO hearing held on 29 April 2015 [HR-018]. The ExA asked thirty one (31) questions on the DCO in its rounds of written questions [PD-005] [PD-013] and the Applicant's responses can be viewed at [DL3-027] and [DL7-002].
- 7.0.3 All versions of the DCO were subject to comment and revisions were made to address changes sought by IPs in their written or oral representations. Comments were also provided in response to the ExA's written questions on drafting or seeking justification for the powers sought in the DCO or in response to questions raised at the DCO hearing [HR-018].
- 7.0.4 The draft DCO constitutes the consent sought for the project. It sets out the authority to be given to the Applicant, including:
- The obligations that the applicant is prepared to accept to facilitate the development;
  - The further approvals that are required before particular works can commence; and
  - The requirements (corresponding to planning conditions) to be met when implementing the consent.
- 7.0.5 S120(5)(a) of the PA 2008 provides that a DCO may apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the DCO. If the Order includes such provision, s117(4) requires that it must be in the form of a statutory instrument. The ExA confirms that the DCO is in the form of a statutory instrument.
- 7.0.6 Version 5 [DL9-014] and a tracked copy [DL9-016] showing changes from the application version 1 [APP-020] were submitted on the 18 August 2015 as the final version of the applicant's draft DCO [DL9-014].
- 7.0.7 The ExA has used Version 5 to inform this report.

- 7.0.8 The ExA has prepared a version of the draft DCO, which it recommends to the Secretary of State (Appendix D). All of the suggested changes were considered in the Examination.
- 7.0.9 Much of the draft DCO was not the subject of objection. Some proposed alterations are made for the purposes of clarification, for the correction of minor errors, or to reflect changes proposed elsewhere in the draft DCO. Those aspects of the draft DCO which are contentious or to which substantial alterations are proposed are considered in the following paragraphs.
- 7.0.10 Articles 1 and 2 of the Order contain provisions relating to citation/commencement and interpretation.
- 7.0.11 Articles 3 to 14 of the Order contain provisions for and relating to the authorised development, and miscellaneous and general provisions.
- 7.0.12 The Schedules contain details of the works to be authorised by the Order and the requirements to which the development and operation of the project will be subject [DL9-014].
- 7.0.13 Where the ExA does not mention particular provisions, requirements or schedules, then the Secretary of State can be clear that the ExA is satisfied that the measures proposed are appropriate. Unless otherwise stated, the ExA comments below relate to the applicant's final draft DCO [DL9-014] as carried forward into the ExA's recommended DCO (Appendix D).

## **7.1 ARTICLES**

- 7.1.1 The principal powers sought in the DCO are for the construction, operation and maintenance of the Works described in Schedule 1 of the draft DCO.
- 7.1.2 The numbering of articles reflects that of the Applicant's final draft DCO, Version 5 [DL9-014].

### **ARTICLE 2 - INCLUSION OF COMMENCE**

- 7.1.3 In some decisions on other DCO Applications<sup>55</sup>, the Secretary of State has removed definitions of commence as they could permit a range of site preparation works such as demolition or de-vegetation to take place before the LPA has approved details of measures to protect the environment such as the finalised CEMP.
- 7.1.4 The ExA in its first round of questions (DCO-014 [PD-005]) asked the Applicant if they believed it is appropriate to retain the definition in the draft DCO [APP-020].

---

<sup>55</sup> See para 44 of Secretary of State decision - <http://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR050001/3.%20Post%20Decision%20Information/Decision/Secretary%20of%20State's%20decision%20letter%20and%20statement%20of%20reasons.pdf>

7.1.5 The Applicant agreed that the definition can be removed and this change has been reflected in the revised version of the draft DCO [DL3-030]. The ExA recommended draft DCO shows this alteration (Appendix D).

## **ARTICLE 2 - INTERPRETATION OF MAINTAIN**

7.1.6 The ExA queried the definition of 'maintain' in its first round of questions ([PD-005] question DCO-007), which was very wide including the power to alter, remove, decommission, and demolish. This could permit works to take place which are not detailed in the order and which are outside those assessed within the ES [APP-031].

7.1.7 Article 5 explains that the power of 'maintenance' does not constitute the grant of development consent for any works other than those authorised by Article 3 but it does not limit the power of maintenance to works assessed in the ES as is advised in the Planning Inspectorate DCO Drafting Advice Note (Advice Note 15)<sup>56</sup>.

7.1.8 The applicant responded that the definition of 'maintain' has been changed with the revised definition taken from the Model Provisions 2009 [DL3-027]:

*"maintain" and any of its derivatives include to inspect repair, adjust, alter, remove, reconstruct or replace the authorised project and any derivative of "maintain" shall be construed accordingly.'*

7.1.9 Accordingly the new definition did not include reference to decommission, demolish. The applicant's response to Question EIA08 sets out in full where the activities relating to the maintenance of the plant have been addressed within the ES [DL3-027]. The ExA accepts that it is clear from these sections in the ES [APP-031] that the types of maintenance activities anticipated (and hence assessed) are appropriately described by the current definition of 'maintain'.

7.1.10 The Applicant subsequently redefined maintain as including, to the extent assessed in the ES to maintain, inspect, repair and adjust [DL7-010]. This is different to the approach used in the model provisions but the Applicant believes it provides for greater clarity elsewhere in the Order in relation to the powers of the undertaker. The definition in the Applicants final DCO read:

*"maintain" includes, to the extent assessed in the environmental statement, to **maintain**<sup>57</sup>, inspect, repair and adjust the authorised project and any derivative of "maintain" shall be construed accordingly;'*

---

<sup>56</sup> **Advice note fifteen: Drafting Development Consent Orders** Published October 2014 Version 1

<sup>57</sup> ExA emphasis

7.1.11 However, the ExA does not consider it is appropriate to seek to define a word by using the word itself i.e. maintain, and has therefore removed it. The ExA agrees that the changes have clarified intentions and powers. Its recommended draft DCO shows these alterations (Appendix D).

**ARTICLE 3 - DEVELOPMENT CONSENT ETC GRANTED BY THE ORDER**

7.1.12 No issues were raised with respect to Article 3 during the course of the examination.

**ARTICLE 4 - PROCEDURE IN RELATION TO CERTAIN APPROVALS ETC. UNDER REQUIREMENTS**

7.1.13 This is a new provision. It is drafted in relation to the further approvals required by the requirements contained in Schedule 2 of the Order. The article seeks to replicate the procedure for the discharge of planning conditions contained in s78 of the Town and Country Planning Act 1990 as amended (the 1990 Act), with particular reference to the ability of the undertaker to appeal against either the refusal or non-determination of any such application for approval. The Applicant believes this mechanism is appropriate to deal with the situation where the undertaker is of the view that the approval has been refused unreasonably or that approval has been delayed. The Applicant believes it is appropriate to use such a mechanism as only one LPA i.e. BCKLWN, would have a role in approving, monitoring and enforcing the requirements set out in Schedule 2.

7.1.14 The ExA in its second round question DCO2-02 [PD-013] pointed out that the Applicant is applying provisions of the The 1990 Act to the discharge of requirements as if they were conditions of planning permission. The Applicant needs to ensure that they do not oust the EIA Regulations by s4(1)(2), which imports and orders rules or regulations that apply to consents for discharge of planning permissions. The ExA advised that this could be achieved by inserting wording to prevent this such as:

*'...insofar as those provisions are not inconsistent with the Infrastructure Planning (Environmental Impact Assessment Regulations) 2009 and any orders, rules or regulations made under the 2008 Act.'* (Hornsea One DCO)<sup>58</sup>.

7.1.15 Article 4 was amended as suggested [DL7-010]. BCKLWN did not raise any objection to this in the examination. The ExA agrees that the changes have clarified intentions and powers. Its recommended draft DCO shows these alterations (Appendix D).

---

<sup>58</sup> <http://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010033/3.%20Post%20Decision%20Information/Development%20Consent%20Order/Hornsea%20Project%20One%20Offshore%20Wind%20Farm%20Order%202014%20as%20made.pdf>

## **ARTICLE 5 - MAINTENANCE OF AUTHORISED DEVELOPMENT**

- 7.1.16 This provides for the maintenance of the authorised development within the Order limits.

## **ARTICLE 6 - OPERATION OF GENERATING STATION**

- 7.1.17 This authorises specifically the undertaker PPL and its subsidiary Palm Power Limited to operate the authorised development in accordance with the provisions of this Order or an agreement made under this Order.

- 7.1.18 No issues were raised with respect to Articles 5 and 6 during the course of the examination.

## **ARTICLE 7 - CONSENT TO TRANSFER BENEFIT OF THE ORDER**

### **ARTICLE 8 - DEFENCE TO PROCEEDINGS IN RESPECT OF STATUTORY NUISANCE**

- 7.1.19 No issues were raised with respect to Articles 7 and 8 during the course of the examination.

## **ARTICLE 9 - ACCESS TO WORKS**

- 7.1.20 No issues were raised with respect to Article 9 during the course of the examination.

## **ARTICLE 10 - DISCHARGE OF WATER**

- 7.1.21 The EA raised no concerns regarding this article and stated in their Relevant Representation [REP-019]:

*'Pollution prevention: We have no concerns with respect to pollution prevention. We are satisfied that sufficient pollution control measures have been identified by the applicant and will be implemented for this project. Our written statement will include best practice advice to the applicant on prevention of pollution to the water environment.'*

## **ARTICLE 11 - APPLICATION OF LANDLORD AND TENANT LAW**

### **ARTICLE 12 - OPERATIONAL LAND FOR PURPOSES OF THE 1990 ACT**

- 7.1.22 No issues were raised with respect to Articles 10, 11 and 12 during the course of the examination.

## **ARTICLE 13 - CERTIFICATION OF PLANS ETC**

- 7.1.23 The first draft of the DCO [APP-020] limited certification to:

- the land plan and site location plan;
- the site layout and works plan;
- the existing site layout plan;

- the design and access statement;
- the ES;
- the outline construction environmental management plan;
- the conceptual surface water drainage system ; and
- the outline landscaping plan.

7.1.24 The Applicant's final draft DCO [DL9-014] now includes the certification of:

- the land plan and site location plan [APP-005];
- the site layout and works plan [APP-006];
- the existing site layout plan [APP-009];
- the design and access statement [APP-025];
- the ES [APP-031];
- the outline CEMP [APP-098];
- the conceptual surface water drainage system [APP-011];
- the outline landscaping plan [APP-019]; and
- the maximum parameters of works [DL3-009].

7.1.25 The ExA agrees that the changes have clarified intentions and powers. Its recommended draft DCO shows these alterations (Appendix D).

#### **ARTICLE 14 - ARBITRATION**

7.1.26 No issues were raised with respect to Article 14 during the course of the examination.

#### **AUTHORITY TO SURVEY AND INVESTIGATE THE LAND**

7.1.27 The necessity for this Article 11 [APP-020] was queried by the ExA in its first round of written questions [PD-005]. The Applicant accepted the article is not required.

7.1.28 The ExA's recommended draft DCO shows this alteration (Appendix D).

#### **7.2 DESCRIPTION OF WORKS**

7.2.1 The development which would be authorised by the DCO is described in Schedule 1, Part 1 of the Order. The NSIP<sup>59</sup> and associated development is identified as numbered Works 1. It is described as a combined cycle plant fuelled by gas with a thermal input of up to 162MW with a nominal gross electrical output of between 51 and 60MWe and an output of up to 130 tonnes of heat (steam) per hour.

7.2.2 A further, more detailed, description of the various elements of the authorised development is provided in Schedule 1 of the Order and in Section 3 of the ES [APP-031].

---

<sup>59</sup> As defined in s14 and s15 of the PA2008

- 7.2.3 The ExA in its first round questions [PD-005, Question DCO-010] and at the DCO hearing [HR-018] queried Schedule 1, Work No. 1 in the Applicant's draft DCO [APP-020]. A generating station will only be an NSIP if its capacity is more than 50MW. The capacity is described in the Applicant's draft DCO as up to 60MWe [APP-020]. A strict interpretation of this wording would permit the construction of a CCGT which did not necessarily produce 50MW of electricity and thus was not an NSIP. In order to ensure that cannot happen, the ExA suggested securing it in the DCO by inserting a minimum capacity which is at least 51MW.
- 7.2.4 This change has been reflected in the revised version of the draft DCO submitted by the Applicant [DL3-030].
- 7.2.5 The ExA in its first round questions [PD-005, Question DCO-011] and at the DCO hearing [HR-018] queried Schedule 1 in the Applicant's draft DCO [APP-020] and the EM [APP-021], on whether Work No. 2<sup>60</sup> is considered to be an integral part of the NSIP or associated development.
- 7.2.6 The Applicant responded that Work No. 2 will not be part of the CCGT when commissioned and is therefore not integral to it. As such it has been placed within the Associated Development section in the revised version of the draft DCO submitted to the ExA by Deadline 5 [DL5-018]. The ExA agrees that these elements can be classed as associated development because there is a direct relationship between the NSIP and the associated development which will support the operation and construction of the NSIP. The associated development is not an aim in itself and is proportionate to the nature and scale of the NSIP<sup>61</sup>.
- 7.2.7 Part 2 of Schedule 1 specifies the building heights (above adjacent ground level) of the various elements of the authorised development.
- 7.2.8 In the event that the DCO is made, the following plans and documents would require certification in accord with Article 13:
- the land plan and site location plan [APP-005];
  - the site layout and works [APP-006];
  - the existing site layout plan [APP-009];
  - the design and access statement [APP-025];
  - the ES [APP-031];
  - the outline CEMP [APP-098];
  - the conceptual surface water drainage system [APP-011];
  - the outline landscaping plan [APP-019]; and
  - the maximum parameters of works [DL3-009].

---

<sup>60</sup> Now removed (Appendix D)

<sup>61</sup> [Planning Act 2008: associated development applications for major infrastructure projects](#) (Published by Department for Communities and Local Government April 2013)

### **7.3 PROTECTIVE PROVISIONS**

- 7.3.1 The DCO does not contain any protective provisions.
- 7.3.2 Anglian Water has pointed out in its Relevant Representation [REP-010] that as a consequence of the Private Sewer Transfer Regulations 2010 there may be as yet unmapped private sewers that are currently being added to the infrastructure network for Anglian Water.
- 7.3.3 The exact location of these previously privately owned assets is not known. Anglian Water would require agreement to a notification provision from the Applicant in the event that any such assets are identified during the course of the development [DL3-027].
- 7.3.4 The Applicant's view was that as a result of the significant earthworks during construction of the paper mill there is considered to be a very low likelihood that any sewage pipeline within the boundary of the development may have been overlooked [HR-018].
- 7.3.5 The Applicant agreed that in order to provide a further safeguard, Requirement 9(1)(m) (CEMP) in the Draft DCO [DL9-014] makes provision for a further survey and for Anglian Water to be notified should any such infrastructure be found during the course of construction. The ExA's recommended draft DCO shows this alteration (Appendix D).
- 7.3.6 Anglian Water made no further representation during the course of the examination. In consideration of this the ExA is satisfied that the DCO adequately protects Anglian Waters interests and no protective provisions are required.

### **7.4 REQUIREMENTS**

- 7.4.1 Schedule 2 sets out the requirements that the undertaker must meet in relation to the construction and operation of the authorised development. These requirements take a similar form to planning conditions. The requirements follow the general form of those in the model provisions but have been revised and added to where particular issues affecting the authorised project justify an amendment to those provisions [APP-021].
- 7.4.2 Key requirements set out in Schedule 2 of the draft DCO, and those which were found to be contentious in the Examination, are described in the following paragraphs. An explanation of modifications to those set out in the applicant's first draft DCO, either agreed by the applicant or suggested by the ExA, are given.
- 7.4.3 The numbering of requirements reflects that of the applicant's final draft DCO, Version 5 [DL9-014].

#### **REQUIREMENT 1 - TIME LIMITS**

#### **REQUIREMENT 2 - COMMENCEMENT OF AUTHORISED**



## **DEVELOPMENT**

### **REQUIREMENT 3 - COMMENCEMENT AND COMPLETION OF COMMISSIONING**

- 7.4.4 No issues were raised with respect to Requirements 1, 2 and 3 during the course of the examination.

### **REQUIREMENT 4 - DETAILED DESIGN**

- 7.4.5 The ExA requested (first round question DCO-016 [PD-005]) that the Applicant amend this requirement to include a table showing the maximum parameters of height, length and width (H, L, W) of all the numbered works as assessed within the ES [APP-031].
- 7.4.6 A table showing the maximum parameters of all the numbered works is provided [DL3-009] and is referenced in the list of plans at Requirement 4 of the DCO. It is also listed in Article 13 i.e. Doc. 2-18, of the Applicants draft DCO [DL5-018] as a document that will require certification by the Secretary of State.

### **REQUIREMENT 5 - PROVISION OF LANDSCAPING**

- 7.4.7 This requirement requires approval of details of the landscaping scheme of the authorised development by the relevant planning authority.
- 7.4.8 The ExA requested in first round question (DCO-017 [PD-005]) that this should refer to the outline landscaping plan [APP-019] as the document is listed in Article 13. The ExA agrees that the changes have clarified intentions and powers. Its recommended draft DCO shows these alterations (Appendix D).

### **REQUIREMENT 6 - IMPLEMENTATION AND MAINTENANCE OF LANDSCAPING**

### **REQUIREMENT 7 - SURFACE WATER DRAINAGE**

### **REQUIREMENT 8 - CONTAMINATED LAND AND GROUNDWATER**

- 7.4.9 No issues were raised with respect to Requirements 6, 7 and 8 during the course of the examination.

### **REQUIREMENT 9 - CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN (CEMP)**

- 7.4.10 Requirement 9 provides that the authorised development shall not be commenced until approval by the relevant planning authority of a CEMP. The CEMP has been included to reflect best practice. The use of a single integrated CEMP means that individual subject specific requirements are not required in the DCO. The CEMP (which must contain a number of specific matters listed in the requirement) will reflect the outline CEMP provided as [APP-098]).

- 7.4.11 In response to the ExA's first round question (DCO-019 [PD-005]), the Applicant confirmed that the CEMP adequately secures all the necessary mitigation identified within the ES in Table 17.1 [APP-031]. The Outline CEMP has been developed to provide the management framework needed for the planning and implementation of construction activities in accordance with environmental commitments identified in the ES and in legislative requirements. It aims at reducing the risk of adverse impacts of construction activities on sensitive environmental resources and to minimise disturbance to local residents. This includes ensuring that the mitigation measures described in the ES are implemented, to ensure continued monitoring of the construction phase and to ensure the involvement of IPs in a meaningful way. The Schedule of Mitigation [DL3-028] specifically identifies the various impacts which need to be mitigated and identifies how those are addressed within the CEMP. This table will be part of the final CEMP (as Appendix 7) submitted to and be approved in writing by the BCKLWN.

#### **REQUIREMENT 10 - CONSTRUCTION TRAFFIC**

- 7.4.12 Requirement 10 provides that the authorised development shall not be commenced until approval by the relevant planning authority of a construction route plan and notices are to be erected specifying agreed routes for construction traffic.
- 7.4.13 NCC confirmed at Section 3.4 of its SoCG [DL3-025] that the DCO Requirements 9 and 10 adequately address all their traffic concerns.

#### **REQUIREMENT 11 - CONTROL OF NOISE DURING CONSTRUCTION AND MAINTENANCE**

#### **REQUIREMENT 12 - CONSTRUCTION HOURS**

#### **REQUIREMENT 13 - CONTROL OF NOISE DURING OPERATIONAL PHASE**

- 7.4.14 No issues were raised with respect to Requirements 11, 12 and 13 during the course of the examination.

#### **REQUIREMENT 14 - EUROPEAN PROTECTED SPECIES**

- 7.4.15 Requirement 14 provides that if the authorised development is not commenced within two years after the date of the ES, the authorised development shall not be commenced until a survey has been carried out to establish whether there are any European protected species present, or likely to be affected by the works. If so the requirement provides that the relevant part of the works shall not commence until a scheme for protection and mitigation has been approved by the relevant planning authority and NE [HR-018].
- 7.4.16 At Section 2.4.1 of NE's SoCG [DL5-005] it states:

*'The parties agree that Requirement 15<sup>62</sup> of the draft DCO makes appropriate provision to ensure the continued protection of European protected species should any be discovered at a later date.'*

#### **REQUIREMENT 15 - PILING DURING CONSTRUCTION PERIOD**

#### **REQUIREMENT 16 - RESTORATION OF LAND USED TEMPORARILY FOR CONSTRUCTION**

#### **REQUIREMENT 17 - REQUIREMENT FOR WRITTEN APPROVAL**

7.4.17 No issues were raised with respect to Requirements 15, 16 and 17 during the course of the examination.

7.4.18

#### **REQUIREMENT 18 - AMENDMENTS TO APPROVED DETAILS**

7.4.19 Requirement 18 provides that any details approved pursuant to any requirement shall be taken to include any amended details which are subsequently approved.

7.4.20 The ExA in its first round question (DCO-024 [PD-005]) queried whether the Applicant was intending to refer to the LPA instead of the Secretary of State. The Applicant agreed the ExA is correct in that Requirement 18 should refer to the LPA and the draft DCO has been amended accordingly [DL7-010]. BCKLWN did not raise any objection to this in the examination. The ExA's recommended draft DCO shows this alteration (Appendix D).

7.4.21 The approach taken by Requirement 18 is considered an appropriate method of allowing the LPA sufficient flexibility to address those matters which the DCO requires the authority to consider and approve. Requirement 4 of the DCO requires the development to be carried in accordance with a number of approved plans and the ES [APP-031], which provides an overall framework which would place an appropriate overall control on any flexibility provided to the LPA by Requirement 18.

#### **REQUIREMENT 19 - CONTROL OF ARTIFICIAL LIGHT EMISSIONS**

7.4.22 Requirement 19 provides that the authorised development shall not commence until approval by the relevant planning authority of a scheme for the management and mitigation of artificial light emissions.

7.4.23 No issues were raised with respect to Requirement 19 during the course of the examination.

---

<sup>62</sup> Requirement 14 in ExA's recommended DCO (Appendix D)

## **REQUIREMENT 20 - AIR SAFETY**

- 7.4.24 Requirement 20 provides for notification to be given to the Ministry of Defence – Defence Geographic Centre including details as to the precise location of the development; the proposed commencement date; the height of the tallest structure and the maximum height of any construction equipment. The Requirement also requires the fitting of aviation warning lighting to the main stack and notification of completion of the construction.
- 7.4.25 This requirement was requested by the ExA to address concerns raised by the CAA [REP-009]. Its recommended draft DCO shows these alterations (Appendix D).

## **7.5 OTHER LEGAL AGREEMENTS/RELATED DOCUMENTS**

- 7.5.1 BCKLWN in their LIR [DL3-033] alluded to:
- 'Mitigation for Air Quality impacts (either dealt with via requirement or as s106 agreement requiring payment for monitoring of NO2 via diffusion tube).'*
- 7.5.2 The applicant explained their view that a contribution towards air quality monitoring was not reasonable or appropriate, for the following reason [HR-018] [DL5-002]. All emissions from the plant will be monitored and assessed by the EA, under their remit in terms of Environmental Permitting. That process will ensure that emissions are monitored and controlled at source. Remote monitoring would be assessing general levels of pollution, not the contribution specific to the proposed project.
- 7.5.3 BCKLWN did not raise any objection to this in the examination.
- 7.5.4 The issue of a guaranteed percentage of local construction workers to be secured via a s106 agreement was discussed in detail within the DCO [HR-018] and the Environmental Matters Hearing [HR-020].
- 7.5.5 The applicant explained that paragraph 4.5.5 of the ES [APP-031] 'anticipates' approximately 30% of the construction workforce being local and stated that anticipates is considered accurate in terms of a level of commitment. The level of 30% has been taken from experience regarding the construction of the main paper mill, given there are expected to be similarities in terms of workforce requirements.
- 7.5.6 However the applicant does not envisage that this is something which would be secured via an obligation. To do so would suggest that the applicant is able to guarantee the delivery of that level of the workforce being local, which given the amount of variables involved in contracting a workforce is not possible. The applicant recognised that as such the ExA is likely to give this matter less weight.
- 7.5.7 BCKLWN did not raise any objection to this in the examination.

7.5.8 The ExA believes that the above planning obligations are not necessary to make the development acceptable in planning terms.

## **7.6 CONCLUSION**

7.6.1 In view of all of the above points, the ExA concludes that the ExA recommended DCO is appropriate in relation to the proposal. The ExA recommends that, should consent be given, the Order is made in the form set out in Appendix D.

## **8 SUMMARY OF FINDINGS AND CONCLUSIONS**

- 8.0.1 The ExA considers that the application is in line with, and supports, the Government's policy objectives for energy as set out in EN-1 and EN-2.
- 8.0.2 The ExA considers that this project contributes to meeting the need for energy capacity and, in doing so, will bring benefits to the area in terms of economic activity.
- 8.0.3 The ExA considers that the application fulfils the relevant legal requirements including the UK Government's relevant international obligations.
- 8.0.4 The ExA has also had regard to the LIRs submitted by the BCKLWN and NCC.
- 8.0.5 In the ExA's view the evidence presented in the examination does not allow the conclusion that there would be no LSE on Roydon Common and Dersingham Bog SAC as a result of the Project's individual and the combined aerial emissions with other developments in the vicinity. Therefore, the Secretary of State, as the competent authority, will need to carry out an AA. Taking into account the Applicant's initial assessment, other material provided during the Examination and the proposed mitigation measures secured through the DCO, the ExA accepts the Applicant's and NE's conclusion that the project would not put the UK in breach of the Habitats Directive and that there would be no significant adverse effect on the integrity of the European sites identified.
- 8.0.6 The ExA concludes that whilst there are adverse effects of the scheme in terms of ecology and landscape and visual impact, the recommended draft DCO (Appendix D) contains sufficient measures to mitigate those effects. It is concluded, therefore, that the benefits of this proposal would outweigh its effects.
- 8.0.7 The ExA concludes that the project as applied for conforms to, and supports, national and local planning policy.

### **8.1 RECOMMENDATION**

- 8.1.1 For all of the above reasons and in the light of the ExA findings and conclusions on important and relevant matters set out in the report, the ExA under the Planning Act 2008 (as amended), recommends that the Secretary of State should make the Order in the form attached.

Page intentionally left blank

## APPENDIX A: EXAMINATION LIBRARY

The following list of documents has been used during the course of the Examination. The documents are grouped together by examination deadline.

Each document has been given an identification number (i.e. APP-001), and all documents are available to view on the Planning Inspectorate's National Infrastructure Planning website at the Palm Paper 3 CCGT Power station Kings Lynn project page:

<http://infrastructure.planninginspectorate.gov.uk/projects/eastern/palm-paper-3-ccgt-power-station-kings-lynn/>

Document reference definitions:

APP - Application documents

REP - Representations

PD - Project documents

DL - Deadline Documents

HR - Hearing, site visit and Preliminary Meeting documents

Doc Ref	Doc Name
Original Application Documents	
APP-001	<a href="#"><u>1.1 Covering letter</u></a>
APP-002	<a href="#"><u>1.2 Overall Summary</u></a>
APP-003	<a href="#"><u>1.3 Application Form</u></a>
APP-004	<a href="#"><u>1.4 Newspaper Notices</u></a>
APP-005	<a href="#"><u>2.1 Land Plan and Site Location</u></a>
APP-006	<a href="#"><u>2.2 Site Layout and Works Plan</u></a>
APP-007	<a href="#"><u>2.3 Photographs of site and area</u></a>
APP-008	<a href="#"><u>2.4 Land Use Plan</u></a>
APP-009	<a href="#"><u>2.5 Existing Site Layout</u></a>
APP-010	<a href="#"><u>2.6 Statutory Designated Sites within 10km</u></a>
APP-011	<a href="#"><u>2.7 Surface Water Drainage System</u></a>
APP-012	<a href="#"><u>2.8 Indicative Elevations and simplified layout</u></a>
APP-013	<a href="#"><u>2.9 Indicative Internal Layout Plan 0-00 6-10</u></a>



<b>Doc Ref</b>	<b>Doc Name</b>
APP-014	<u>2.10 Indicative Internal Layout Plan 8-88 and Top View</u>
APP-015	<u>2.11 Indicative Plan Section A-A and B-B</u>
APP-016	<u>2.12 Lighting Scheme</u>
APP-017	<u>2.13 Indicative Gas Connection Plan</u>
APP-018	<u>2.14 Historic Environment Assessment - Location Statement</u>
APP-019	<u>2.15 Outline Landscaping Plan</u>
APP-020	<u>3.1 Draft DCO (version 1)</u>
APP-021	<u>3.2 Explanatory Memorandum</u>
APP-022	<u>4.1 Consultation Report - Appendices</u>
APP-023	<u>4.1 Consultation Report</u>
APP-024	<u>4.2 Planning Statement</u>
APP-025	<u>4.3 Design and Access Statement</u>
APP-026	<u>4.4 Flood Risk Assessment - Location Statement</u>
APP-027	<u>4.5 Habitats Regulations Assessment – No Significant Effects Report (NSER)</u>
APP-028	<u>4.6 Statement of Statutory Nuisances</u>
APP-029	<u>4.7 Gas Connection Statement</u>
APP-030	<u>4.8 Carbon Assessment</u>
<b>Environmental Statement</b>	
APP-031	<u>5.1 - Environmental Statement</u>
APP-032	<u>5.1 Appendix 3-1 Construction Phasing Programme</u>
APP-033	<u>5.1 Appendix 5-1 Scoping Report</u>
APP-034	<u>5.1 Appendix 5-2 Scoping Opinion</u>
APP-035	<u>5.1 Appendix 6-1 Air Quality Assessment</u>
APP-036	<u>5.1 Appendix 6-2 Air Quality Assessment Addendum</u>

<b>Doc Ref</b>	<b>Doc Name</b>
APP-037	<u>5.1 Appendix 7-1 Noise assessment</u>
APP-038	<u>5.1 Appendix 7-2 Noise Monitoring Programme 2010</u>
APP-039	<u>5.1 Appendix 7-3 Acoustic terminology</u>
APP-040	<u>5.1 Appendix 8-1 Key characteristics of National Landscape Character</u>
APP-041	<u>5.1 Appendix 9-1 Great Crested Newt Survey</u>
APP-042	<u>5.1 Appendix 9-2 Nesting Birds in CWS</u>
APP-043	<u>5.1 Appendix 9-3 Article on CWS by J. Lines NWT</u>
APP-044	<u>5.1 Appendix 9-4 Conservation objectives</u>
APP-045	<u>5.1 Appendix 9-5 Habitats Regulations Report</u>
APP-046	<u>5.1 Appendix 9-6 GCN survey 2007</u>
APP-047	<u>5.1 Appendix 10-1 Flood Risk Assessment</u>
APP-048	<u>5.1 Appendix 11-1 Archaeological Desk Based Assessment 2007</u>
APP-049	<u>5.1 Appendix 13-1 Accident analysis and accident data</u>
APP-050	<u>5.1 Appendix 15-1 Contamination Review</u>
APP-051	<u>5.1 Appendix 15-2 Soil gas assessment</u>
APP-052	<u>5.1 Appendix 15-3 Land Contamination Report</u>
APP-053	<u>5.1 Figure 3-1 Major processes and flows</u>
APP-054	<u>5.1 Figure 7-1 Location NSL incl. Ambient Noise Levels</u>
APP-055	<u>5.1 Figure 8-1 Areas of Important Landscape Quality</u>
APP-056	<u>5.1 Figure 8-10 Viewpoint 4 High Road</u>
APP-057	<u>5.1 Figure 8-11 Viewpoint 5 White House Farm</u>
APP-058	<u>5.1 Figure 8-12 Viewpoint 6 Low Road</u>
APP-059	<u>5.1 Figure 8-13 Viewpoint 7 King's Lynn South Quay</u>
APP-060	<u>5.1 Figure 8-14 Viewpoint 8 AONB North Wootton</u>

<b>Doc Ref</b>	<b>Doc Name</b>
APP-061	<u>5.1 Figure 8-15 Viewpoint 2 Pullover Farm Cumulative</u>
APP-062	<u>5.1 Figure 8-16 Viewpoint 4 High Road Cumulative</u>
APP-063	<u>5.1 Figure 8-17 Viewpoint 5 White House Farm Cumulative</u>
APP-064	<u>5.1 Figure 8-18 Viewpoint 6 Low Road Cumulative</u>
APP-065	<u>5.1 Figure 8-2 Landscape Context and Local Landscape Character Areas</u>
APP-066	<u>5.1 Figure 8-3 National Landscape Character Plan</u>
APP-067	<u>5.1 Figure 8-4 Regional Landscape Character Areas</u>
APP-068	<u>5.1 Figure 8-5 Location of Norfolk Coast AONB</u>
APP-069	<u>5.1 Figure 8-6 Locations of Viewpoints 1-7</u>
APP-070	<u>5.1 Figure 8-7 Viewpoint 1 River Great Ouse</u>
APP-071	<u>5.1 Figure 8-8 Viewpoint 2 Pullover Farm</u>
APP-072	<u>5.1 Figure 8-9 Viewpoint 3 Bridge over Great Ouse</u>
APP-073	<u>5.1 Figure 9-1 Statutory Designated Ecologically Sensitive Sites within 10km</u>
APP-074	<u>5.1 Figure 9-2 Locally and Nationally designated sites within 2km</u>
APP-075	<u>5.1 Figure 9-3 Extended Phase 1 Habitat Survey</u>
APP-076	<u>5.1 Figure 10-1 Site Location Plan and Historic Flood Events</u>
APP-077	<u>5.1 Figure 10-2 Local Watercourses</u>
APP-078	<u>5.1 Figure 10-3 Historical Mapping 1886</u>
APP-079	<u>5.1 Figure 10-4 Historical Mapping 1966</u>
APP-080	<u>5.1 Figure 10-5 EA Indicative Floodplain Mapping</u>
APP-081	<u>5.1 Figure 11-1 Designated Historic Sites within 3km</u>
APP-082	<u>5.1 Figure 11-2 View from Church of St Peter</u>
APP-083	<u>5.1 Figure 11-3 View from Church of St Mary</u>

<b>Doc Ref</b>	<b>Doc Name</b>
APP-084	<u>5.1 Figure 11-4 View from Friars</u>
APP-085	<u>5.1 Figure 11-5 View from South Gate</u>
APP-086	<u>5.1 Figure 11-6 View from AONB near South Wootton</u>
APP-087	<u>5.1 Figure 12-1 Surface Water in the North West Norfolk CAMS</u>
APP-088	<u>5.1 Figure 13-1 Location Plan Norfolk Context</u>
APP-089	<u>5.1 Figure 13-2 Location Context Local</u>
APP-090	<u>5.1 Figure 13-3 Traffic Count Points</u>
APP-091	<u>5.1 Figure 14-1 Socio-economic site context</u>
APP-092	<u>5.2 - NTS Non-Technical Summary</u>
APP-093	<u>5.2 Figure NTS 1 Site Location</u>
APP-094	<u>5.2 Figure NTS 2 Proposed Site Layout</u>
APP-095	<u>5.2 Figure NTS 3 Construction Phasing Programme</u>
APP-096	<u>5.2 Figure NTS 4 Viewpoint 4</u>
APP-097	<u>5.2 Figure NTS 5 Statutory Designated Sites within 10km</u>
APP-098	<u>6.1 Outline CEMP</u>
Project Documents	
Procedural Decisions (and other letters sent by the Planning Inspectorate)	
PD-001	<u>Palm Paper Acceptance Decision Letter</u>
PD-002	<u>Palm Paper Section 55 Checklist</u>
PD-015	<u>Section 51 advice issued on 21 October 2014</u>
PD-003	<u>Rule 6 Letter</u>
PD-004	<u>Rule 8 letter</u>
PD-005	<u>ExA's First Round of Written Questions</u>
PD-006	<u>Rule 17 Letter – 2 April 2015</u>

<b>Doc Ref</b>	<b>Doc Name</b>
PD-007	<u>Rule 17 letter – 8 May 2015</u>
PD-013	<u>ExA's Second Round of Written Questions</u>
PD-014	<u>Rule 17 and Rule 8(3) Letter – 1 July 2015</u>
PD-016	<u>RIES Notification Letter</u>
PD-017	<u>Report on the Implications for European Sites (RIES)</u>
PD-018	<u>Notification of Completion of ExA Examination</u>
<b>Certificates</b>	
PD-008	<u>Palm Paper Ltd - Certificates of Compliance</u>
<b>Adequacy of Consultation Representations</b>	
REP-001	<u>Adequacy of Consultation response from Borough Council of King's Lynn and West Norfolk</u>
REP-002	<u>Adequacy of Consultation response from Breckland Council</u>
REP-003	<u>Adequacy of Consultation response from East Cambridgeshire District Council</u>
REP-004	<u>Adequacy of Consultation response from Fenland District Council</u>
REP-005	<u>Adequacy of Consultation response from Norfolk County Council</u>
REP-006	<u>Adequacy of Consultation response from North Norfolk District Council</u>
REP-007	<u>Adequacy of Consultation response from South Holland District Council</u>
REP-008	<u>Adequacy of Consultation response from Suffolk County Council</u>
<b>Relevant Representations</b>	
REP-009	<u>Civil Aviation Authority</u>
REP-010	<u>Anglian Water</u>
REP-011	<u>Royal Mail Group Limited</u>
REP-012	<u>Norfolk County Council</u>

<b>Doc Ref</b>	<b>Doc Name</b>
REP-013	<u>Watlington Parish Council</u>
REP-014	<u>East Cambridgeshire District Council</u>
REP-015	<u>King's Lynn Civic Society</u>
REP-016	<u>Miss Jenny Perryman</u>
REP-017	<u>Centrica Plc</u>
REP-018	<u>Public Health England</u>
REP-019	<u>Environment Agency</u>
REP-020	<u>Natural England</u>
Correspondence prior to Examination period	
REP-021	<u>English Heritage - Response to Rule 6 Letter</u>
REP-022	<u>Highways Agency - Response to Rule 6 Letter</u>
REP-023	<u>NATs - Response to Rule 6 Letter</u>
REP-024	<u>GTC - Response to Rule 6 Letter</u>
REP-025	<u>Equality and Human Rights Commission - Response to Rule 6 Letter</u>
REP-026	<u>Palm Paper Ltd - Response to Section 51 advice issued by the Planning Inspectorate on 21 October 2014</u>
Correspondence during Examination period	
REP-027	<u>Royal Mail - Email withdrawing objections</u>
Deadline 1 - 11 March 2015 Comments on the Applicant's letter dated 9 February 2015	
DL1-001	<u>Natural England</u>
DL1-002	<u>Environment Agency</u>
DL1-003	<u>GTC Pipelines Limited and associated companies</u>
Deadline 2 - 18 March 2015 Responses to comments received at Deadline 1	

<b>Doc Ref</b>	<b>Doc Name</b>
DL2-001	<u>Palm Paper Ltd</u>
Deadline 3 – 23 March 2015 LIRs, SoCG, Responses to ExA’s first written Questions, Written Representations, etc	
DL3-001	<u>Norfolk County Council - Response to ExA's First Written Questions - Transport Matters</u>
DL3-002	<u>Norfolk County Council - Response to ExA's First Written Questions - Landscape and Environment Matters</u>
DL3-003	<u>Norfolk County Council - Local Impact Report</u>
DL3-004	<u>Environment Agency - Written Representation and Response to ExA's First Written Questions</u>
DL3-005	<u>Natural England - Written Representation and Response to ExA's First Written Questions</u>
DL3-006	<u>Palm Paper Ltd - Document 9.1 Covering Letter and Document List</u>
DL3-007	<u>Palm Paper Ltd - Document 2.16 - Map showing underground utilities</u>
DL3-008	<u>Palm Paper Ltd - Document 2.17 - Indicative Layout of Site Facilities</u>
DL3-009	<u>Palm Paper Ltd - Document 2.18 - Maximum Parameters of Works</u>
DL3-010	<u>Palm Paper Ltd - Appendix 1 of Doc 4.1. Minutes of meeting with Borough Council of King's Lynn and West Norfolk</u>
DL3-011	<u>Palm Paper Ltd - ES Figure 1-1 - Location of Sensitive Residential Receptors</u>
DL3-012	<u>Palm Paper Ltd - ES Appendix 1-1 - EIA Abbreviations</u>
DL3-013	<u>Palm Paper Ltd - ES Figure 8-19 - Landscape and Visual Assessment - Visibility</u>
DL3-014	<u>Palm Paper Ltd - ES Figure 8-20- Viewpoint 6 with Transmission Power Lines</u>
DL3-015	<u>Palm Paper Ltd - ES Figure 8-21 - Night time view of Viewpoint 3</u>
DL3-016	<u>Palm Paper Ltd - ES Figure 8-22 - Night time view of Viewpoint 4</u>
DL3-017	<u>Palm Paper Ltd - ES Figure 8-23 - Night time view with warning lights - Viewpoint 3</u>

<b>Doc Ref</b>	<b>Doc Name</b>
DL3-018	<u>Palm Paper Ltd - ES Figure 8-24 - Night time view with warning lights - Viewpoint 4</u>
DL3-019	<u>Palm Paper Ltd - ES Appendix 8-2 - Visual Assessment Viewpoint 6 with power lines</u>
DL3-020	<u>Palm Paper Ltd - ES Appendix 9-7 - Avian Response to Road Construction Noise with emphasis on Golden Cheeked Warbler</u>
DL3-021	<u>Palm Paper Ltd - ES Appendix 13-2 - Indicative Cumulative Traffic Model Diagram 1</u>
DL3-022	<u>Palm Paper Ltd - ES Appendix 13-2 - Indicative Cumulative Traffic Model Diagram 2</u>
DL3-023	<u>Palm Paper Ltd - Document 6.2 - Description of Commissioning Activities</u>
DL3-024	<u>Palm Paper Ltd - Document 8.1 - Statement of Common Ground with Borough Council of King's Lynn and West Norfolk</u>
DL3-025	<u>Palm Paper Ltd - Document 8.2 - Statement of Common Ground with Norfolk County Council</u>
DL3-026	<u>Palm Paper Ltd - Document 9.2 - Response to Relevant Representations</u>
DL3-027	<u>Palm Paper Ltd - Document 9.3 - Responses to the ExA's First Written Questions</u>
DL3-028	<u>Palm Paper Ltd - Document 9.4 - Schedule of Mitigation</u>
DL3-029	<u>Palm Paper Ltd - Document 9.5 - Screening Matrices</u>
DL3-030	<u>Palm Paper Ltd - Document 3.1 - Draft Development Consent Order (DCO) March 2015 (version 2)</u>
DL3-031	<u>Palm Paper Ltd - Document 3.2 - Explanatory Memorandum explaining DCO</u>
DL3-032	<u>Borough Council of King's Lynn and West Norfolk - Draft Local Impact Report</u>
DL3-033	<u>Borough Council of King's Lynn and West Norfolk - Final Local Impact Report. Late Submission</u>
DL3-034	<u>Borough Council of King's Lynn and West Norfolk - Response to ExA's First Written Questions. Late Submission</u>



<b>Doc Ref</b>	<b>Doc Name</b>
Deadline 4 – 20 April 2015 Comments on LIR, comments on Responses to ExA’s First Questions, Comments on Written Representations, etc	
DL4-001	<u>Palm Paper Ltd - Cover Letter and Document List</u>
DL4-002	<u>Palm Paper Ltd - Draft Statement of Common Ground with Natural England</u>
DL4-003	<u>Palm Paper Ltd - Draft Statement of Common Ground with the Environment Agency</u>
DL4-004	<u>Palm Paper Ltd - Comments on Responses to First Written Questions</u>
DL4-005	<u>Palm Paper Ltd - Comments on Local Impact Reports</u>
DL4-006	<u>Palm Paper Ltd - Revised screening matrices</u>
DL4-007	<u>Palm Paper Ltd - Overall summary and context document. Submitted in response to Rule 17 request</u>
DL4-008	<u>Palm Paper Ltd - AQTAG Position Statement. Submitted in response to Rule 17 request</u>
DL4-009	<u>Palm Paper Ltd - Air quality impacts memorandum. Submitted in response to Rule 17 request</u>
DL4-010	<u>Palm Paper Ltd - Letter from DCLG to Willows applicant. Submitted in response to Rule 17 request</u>
DL4-011	<u>Palm Paper Ltd - Letter from Willows applicant to DCLG. Submitted in response to Rule 17 request</u>
DL4-012	<u>Palm Paper Ltd - In combination effects table. Submitted in response to Rule 17 request</u>
DL4-013	<u>Palm Paper Ltd - Further in combination effects table. Late submission in response to Rule 17 request</u>
DL4-014	<u>GTC</u>
Deadline 5 – 18 May 2015 Applicant’s revised draft DCO, updated SoCGs, written summaries of oral cases put at hearings, etc	
DL5-001	<u>Palm Paper Ltd - Covering Letter and Document List</u>
DL5-002	<u>Palm Paper Ltd - Written Summary of Oral case at the Issue Specific Hearing relating to the DCO</u>

<b>Doc Ref</b>	<b>Doc Name</b>
DL5-003	<u>Palm Paper Ltd - Written Summary of Oral case at the Open Floor Hearing</u>
DL5-004	<u>Palm Paper Ltd - Written Summary of Oral case at the Issue Specific Hearing relating to EIA/HRA</u>
DL5-005	<u>Palm Paper Ltd - SoCG with Natural England</u>
DL5-006	<u>Palm Paper Ltd - Air Quality Planning Guidance</u>
DL5-007	<u>Palm Paper Ltd - Fichtner Review of Air Quality Guidance</u>
DL5-008	<u>Palm Paper Ltd - Fichtner Note -Temperature Inversion and Best Case Scenario</u>
DL5-009	<u>Palm Paper Ltd - Screening Matrices</u>
DL5-010	<u>Palm Paper Ltd - King's Lynn B – ES Chapter 4 – Air Quality</u>
DL5-011	<u>Palm Paper Ltd - King's Lynn B – ES Chapter 10 - Ecology</u>
DL5-012	<u>Palm Paper Ltd - King's Lynn B Section 36 Consent</u>
DL5-013	<u>Palm Paper Ltd - King's Lynn B Secretary of State Decision Letter</u>
DL5-014	<u>Palm Paper Ltd - Palm Paper Mill Natural England Consultation Response</u>
DL5-015	<u>Palm Paper Ltd - Site Improvement Plan</u>
DL5-016	<u>Palm Paper Ltd - Roydon Common Management Plan</u>
DL5-017	<u>Palm Paper Ltd - Draft Piling Method Statement</u>
DL5-018	<u>Palm Paper Ltd - Draft Development Consent Order (version 3) – Clean version</u>
DL5-019	<u>Palm Paper Ltd - Draft Development Consent Order (version 3) – Comparison version</u>
DL5-020	<u>Jenny Perryman - Part 1 of submission</u>
DL5-021	<u>Jenny Perryman - Part 2 of submission</u>
DL5-022	<u>Jenny Perryman - Part 3 of submission</u>
DL5-023	<u>Jenny Perryman - Part 4 of submission</u>

<b>Doc Ref</b>	<b>Doc Name</b>
DL5-024	<u>Jenny Perryman - Part 5 of submission</u>
DL5-025	<u>Jenny Perryman - Part 6 of submission</u>
DL5-026	<u>GTC</u>
DL5-027	<u>Palm Paper Ltd - SoCG with Environment Agency (agreed late submission)</u>
<b>Deadline 6 – 8 June 2015</b> Comments on applicant's revised draft DCO, any further information requested by the ExA for this deadline	
DL6-001	<u>Palm Paper Ltd - Comments on Miss Perryman's submissions</u>
DL6-002	<u>Palm Paper Ltd - Updated list of documents</u>
DL6-003	<u>Highways England</u>
<b>Deadline 7 – 6 July 2015</b> Responses to ExA's Second Written Questions	
DL7-001	<u>Palm Paper Ltd - 14.1 Covering Letter</u>
DL7-002	<u>Palm Paper Ltd - 14.2 Response to ExA's Second Written Questions</u>
DL7-003	<u>Palm Paper Ltd - 14.3 Bloxham Appeal Decision</u>
DL7-004	<u>Palm Paper Ltd - 14.4 Adderbury Appeal Decision</u>
DL7-005	<u>Palm Paper Ltd - 14.5 Oxfordshire County Council v Secretary of State (3 February 2015)</u>
DL7-006	<u>Palm Paper Ltd - 14.6 Response to HA02-06</u>
DL7-007	<u>Palm Paper Ltd - 14.7 Ecological assessment of air quality impacts</u>
DL7-008	<u>Palm Paper Ltd - 14.8 Integrity Matrices</u>
DL7-009	<u>Palm Paper Ltd - 2.18 Maximum parameters of works</u>
DL7-010	<u>Palm Paper Ltd - 3.1 Draft Development Consent Order (version 4) (19 June) Clean version</u>
DL7-011	<u>Palm Paper Ltd - 3.1 Draft Development Consent Order (version 4) (19 June) Tracked version</u>

<b>Doc Ref</b>	<b>Doc Name</b>
DL7-012	<u>Palm Paper Ltd - 3.2 Explanatory Memorandum (16 June) Clean version</u>
DL7-013	<u>Palm Paper Ltd - 3.2 Explanatory Memorandum (16 June) Tracked version</u>
DL7-014	<u>Palm Paper Ltd - 3.3 DCO Tracked changes from Original version</u>
DL7-015	<u>Environment Agency - Response to ExA's Second Written Questions</u>
DL7-016	<u>Natural England - Response to ExA's Second Written Questions</u>
DL7-017	<u>GTC</u>
Deadline 8 – 20 July 2015 Comments on responses to ExA's Second Written Questions, Responses to ExA's Third Written Questions	
DL8-001	<u>Palm Paper Ltd - 15.1 Covering Letter and Document List</u>
DL8-002	<u>Palm Paper Ltd - 15.2 Response to ExA's Third Written Questions</u>
DL8-003	<u>Palm Paper Ltd - 15.3 Notes to the company financial statements</u>
DL8-004	<u>Palm Paper Ltd - 15.4 Site layout 2012</u>
DL8-005	<u>Palm Paper Ltd - 15.5 Site layout 2014</u>
DL8-006	<u>Palm Paper Ltd - 15.6 CCGT Ground Plans</u>
DL8-007	<u>Palm Paper Ltd - 3.2 Explanatory Memorandum (20 July) Clean version</u>
DL8-008	<u>Palm Paper Ltd - 3.2 Explanatory Memorandum (20 July) Marked up version</u>
DL8-009	<u>GTC</u>
Deadline 9 – 10 August 2015 Comments on the ExA's RIES, any further information requested	
DL9-001	<u>Palm Paper Ltd - 16.1 Covering Letter and Document List</u>
DL9-002	<u>Palm Paper Ltd - 16.2 Response to written questions in ExA's RIES</u>
DL9-003	<u>Palm Paper Ltd - 16.3 M. Ruddock &amp; D.P. Whitfield (2007): A report from Natural Research (Projects) Ltd to Scottish Natural Heritage (Part 1)</u>

<b>Doc Ref</b>	<b>Doc Name</b>
DL9-004	<u>Palm Paper Ltd - 16.3 M. Ruddock &amp; D.P. Whitfield (2007): A report from Natural Research (Projects) Ltd to Scottish Natural Heritage (Part 2)</u>
DL9-005	<u>Palm Paper Ltd - 16.4 Dwyer, Ross G. (2010): Ecological and anthropogenic constraints on waterbirds of the Forth Estuary</u>
DL9-006	<u>Palm Paper Ltd - 16.5 Hockin, D. et al. (1992): Examination of the Effects of Disturbance on Birds with Reference to its Importance in Ecological Assessments</u>
DL9-007	<u>Palm Paper Ltd - 16.6 Gill, J. et al. (1996): A method to quantify the effects of human disturbance on animal populations</u>
DL9-008	<u>Palm Paper Ltd - 16.7 Goss-Custard, J.D. et al. (2006): Critical thresholds of disturbance by people and raptors in foraging wading birds</u>
DL9-009	<u>Palm Paper Ltd - 16.8 Brett, J.R. (2012): Disturbance to Wading birds Charadriiformes on their winter feeding grounds: Factors affecting behavioural response</u>
DL9-010	<u>Palm Paper Ltd - 16.9 Borgmann, K.L. (2012): A Review of Human Disturbance Impacts on Waterbirds</u>
DL9-011	<u>Environment Agency - Comments on the ExA's RIES</u>
DL9-012	<u>Environment Agency - Update on the Environmental Permit Application</u>
DL9-013	<u>Natural England - Comments on the ExA's RIES</u>
DL9-014	<u>Palm Paper Ltd - 3.1A Draft Development Consent Order. Submitted late for Deadline 9 of 10 August 2015 and accepted as a late submission by the ExA</u>
DL9-015	<u>Palm Paper Ltd - 3.1B Draft Development Consent Order. Submitted late for Deadline 9 of 10 August 2015 and accepted as a late submission by the ExA</u>
DL9-016	<u>Palm Paper Ltd - 3.3 Comparison Draft DCO (August 2015) to the original version. Submitted late for Deadline 9 of 10 August 2015 and accepted as a late submission by the ExA</u>
DL9-017	<u>Palm Paper Ltd - Final list of Documents. Submitted late for Deadline 9 of 10 August 2015 and accepted as a late submission by the ExA</u>
<b>Hearing, Site Visit and Preliminary Meeting Documents</b>	

<b>Doc Ref</b>	<b>Doc Name</b>
Preliminary Meeting – 18 February 2015	
HR-001	<u>Agenda for the Preliminary Meeting - Updated agenda for the Preliminary Meeting</u>
HR-002	<u>Preliminary Meeting Audio</u>
HR-003	<u>Preliminary Meeting Note</u>
Hearings and Site Visit – Week commencing 27 April 2015	
HR-004	<u>Notification of Accompanied Site Visit and Hearings</u>
HR-005	<u>Palm Paper Ltd - Rule 13 Notice of Open Floor and Issue Specific Hearings</u>
HR-006	<u>Agenda for Open Floor Hearing on 29 April 2015</u>
HR-007	<u>Agenda for the Issue Specific Hearing relating to the DCO on 29 April 2015</u>
HR-008	<u>Agenda for Issue Specific Hearing relating to environmental matters (including EIA and HRA) on 30 April 2015</u>
HR-009	<u>Environment Agency - Comments in lieu of attending the issue specific hearing of 30 April 2015</u>
HR-010	<u>Environment Agency - Document 1 submitted in addition to comments in lieu of attending the issue specific hearing of 30 April 2015</u>
HR-011	<u>Environment Agency - Document 2 submitted in addition to comments in lieu of attending the issue specific hearing of 30 April 2015</u>
HR-012	<u>Environment Agency - Document 3 submitted in addition to comments in lieu of attending the issue specific hearing of 30 April 2015</u>
HR-013	<u>Environment Agency - Document 4 submitted in addition to comments in lieu of attending the issue specific hearing of 30 April 2015</u>
HR-014	<u>Natural England - Comments in lieu of attending the issue specific hearing of 30 April 2015</u>
HR-015	<u>Environment Agency - Further comments in lieu of attending the Issue Specific Hearing on 30 April 2015</u>

<b>Doc Ref</b>	<b>Doc Name</b>
HR-016	<u>Natural England - Response to the Rule 17 letter (dated 2 April 2015) submitted for the Issue Specific Hearing on 30 April 2015</u>
HR-017	<u>Accompanied Site Visit Itinerary - Itinerary for the ASV on 28 April 2015</u>
HR-018	<u>Audio Recording of the Issue Specific Hearing relating to the DCO held on 29 April 2015</u>
HR-019	<u>Audio Recording of the Open Floor Hearing held on 29 April 2015</u>
HR-020	<u>Audio Recording of the Issue Specific Hearing relating to environmental matters held on 30 April 2015</u>
HR-021	<u>Action Points from hearings 29-30 April 2015</u>
<b>Unaccompanied Site Visit 12 August 2015</b>	
HR-022	<u>ExA's Record of Unaccompanied Inspection of Sites</u>
<b>Transboundary Documents</b>	
PD-009	<u>Transboundary Screening Matrix Palm Paper</u>
PD-010	<u>Late scoping consultation responses</u>
PD-011	<u>Scoping Opinion</u>
PD-012	<u>Scoping Report</u>

## APPENDIX B: EVENTS IN THE EXAMINATION

The table below lists the main 'events' occurring during the Examination and the main procedural decisions taken by the Examining Authority.

DATE	EXAMINATION EVENT
<b>18 February 2015</b>	Preliminary Meeting
<b>25 February 2015</b>	Issue by the ExA of the Rule 8 letter including: <ul style="list-style-type: none"> <li>• Examination timetable</li> <li>• The ExA's first written questions</li> </ul>
<b>11 March 2015</b>	Deadline 1: Deadline for receipt of comments on the Applicant's letter dated 9 February 2015
<b>18 March 2015</b>	Deadline 2: Responses to comments received at Deadline 1
<b>23 March 2015</b>	Deadline 3: <p><b>Deadline for receipt of:</b></p> <ul style="list-style-type: none"> <li>• Local Impact Reports (LIRs) from the Borough Council of King's Lynn and West Norfolk, and any other relevant local authorities</li> <li>• Statements of Common Ground (SoCG) requested by the ExA</li> <li>• Responses to the ExA's first written questions</li> <li>• Comments on relevant representations (RRs)</li> <li>• Summaries of all RR's exceeding 1500 words</li> <li>• Written representations (WRs) by all interested parties</li> <li>• Summaries of all WRs exceeding 1500 words</li> <li>• Comments on any submissions received prior to the preliminary meeting</li> <li>• Schedule of mitigation</li> <li>• Submissions from interested parties recommending locations or items for the itinerary for the accompanied site visit</li> <li>• Any further information requested by the ExA for this deadline</li> </ul> <p><b>Notifications:</b></p> <ul style="list-style-type: none"> <li>• Notification by interested parties of wish to be heard at an open floor hearing</li> <li>• Notification by interested parties of their intention to attend the accompanied site visit(s)</li> <li>• Notification by statutory parties of wish to be</li> </ul>



	considered an interested party
<b>2 April 2015</b>	Issue by the ExA of:  Rule 17 Request for the provision of a quantitative in combination assessment for the Stage1 HRA screening assessment, a cumulative aerial emissions assessment and revised screening matrices
<b>20 April 2015</b>	Deadline 4:  Deadline for receipt by the ExA of: <ul style="list-style-type: none"> <li>• Comments on LIR</li> <li>• Comments on responses to the ExA's first written questions</li> <li>• Responses to comments on RRs</li> <li>• Comments on WRs</li> <li>• Responses to comments on any submissions received prior to the preliminary meeting</li> <li>• Any revised draft DCO from applicant</li> <li>• Revised matrices provided by the applicant requested by the ExA for this deadline (Annex G of Rule 6 letter dated 15 January 2015)</li> <li>• Any further information requested by the ExA for this deadline</li> </ul>
<b>28 April 2015</b>	Accompanied site visit
<b>29 April 2015</b>	Issue specific hearing on draft Development Consent Order (DCO)
<b>29 April 2015</b>	Open floor hearing
<b>30 April 2015</b>	Issue specific hearing on HRA and in-combination issues
<b>8 May 2015</b>	Issue by the ExA of:  Rule 17 Request for the additional information within Stage 1 HRA screening assessment (screening matrices)
<b>18 May 2015</b>	Deadline 5:  Deadline for receipt of: <ul style="list-style-type: none"> <li>• Applicant's revised draft DCO</li> <li>• Updated SoCG</li> <li>• Any information requested by the ExA at the hearings</li> <li>• Written summaries of oral cases put at hearings</li> <li>• Any further information requested by the ExA for</li> </ul>

	this deadline
<b>8 June 2015</b>	<p>Deadline 6:</p> <p>Deadline for receipt of:</p> <ul style="list-style-type: none"> <li>• Comments on applicant's revised draft DCO</li> <li>• Any further information requested by the ExA for this deadline</li> </ul>
<b>15 June 2015</b>	Issue by the ExA of second written questions
<b>1 July 2015</b>	Issue by the ExA of Rule 17 Request 'Third written questions'
<b>6 July 2015</b>	<p>Deadline 7:</p> <p>Deadline for receipt of:</p> <ul style="list-style-type: none"> <li>• Responses to the ExA's second written questions</li> <li>• Any further information requested by the ExA for this deadline</li> </ul>
<b>20 July 2015</b>	<p>Deadline 8:</p> <p>Deadline for receipt of:</p> <ul style="list-style-type: none"> <li>• Comments on responses to the ExA's second written questions</li> <li>• Responses to the ExA's third written questions</li> <li>• Any further information requested by the ExA for this deadline</li> </ul>
<b>27 July 2015</b>	Issue by the ExA of Report on Implications for European Sites (RIES)
<b>10 August 2015</b>	<p>Deadline 9:</p> <ul style="list-style-type: none"> <li>• Deadline for receipt of:</li> <li>• Comments on the ExA's RIES</li> <li>• Comments on responses to the ExA's third written questions</li> <li>• Any further information requested by the ExA for this deadline</li> </ul>
<b>18 August 2015</b>	Close of Examination



## **APPENDIX C: LIST OF ABBREVIATIONS**

AA – Appropriate Assessment  
The Ambient Air Quality Directive - Directive 2008/50/EC of 21 May 2008 on ambient air quality and cleaner air for Europe  
AOD – Above Ordnance Datum  
AONB – Area of Outstanding Natural Beauty  
APFP - Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009  
APIS - Air Pollution Information System  
AQS Regulations 2010 - The Air Quality Standards Regulations 2010  
ASV – Accompanied Site Visit  
BAP - Biodiversity Action Plan  
BCKLWN – Borough Council of King’s Lynn and West Norfolk  
CBD - United Nations Environment Programme Convention on Biological Diversity 1992  
CCA – Civil Aviation Authority  
CCGT - Combined Cycle Gas Turbine  
CEMP – Construction Environmental Management Plan  
CHP – Combined Heat and Power  
COMAH – Control of Major Accidents and Hazards  
CO2 – Carbon Dioxide  
CTMP – Construction Traffic Management Plan  
CWS – County Wildlife Site  
DAS – Design and Access Statement  
DBA – Design and Build Agreement  
DCLG – Department for Communities and Local Government  
DCO – Development Consent Order  
EA – Environment Agency  
EAL – Environmental Assessment Level  
EEA – European Economic Area  
EIA – Environment Impact Assessment  
EIA Regulations - Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended)  
EM – Explanatory Memorandum  
EMF- Electro Magnetic Forces  
EN-1 - Overarching National Policy Statement for Energy  
EN-2 - National Policy Statement for Fossil Fuel Electricity Generating Infrastructure  
EP - Environmental Permit  
EPR - Infrastructure Planning (Examination Procedure) Rules 2010  
EPS - European Protected Species  
ES – Environmental Statement  
ExA - Examining Authority  
FRA – Flood Risk Assessment  
HGV – Heavy Goods Vehicle  
HRA – Habitats Regulation Assessment  
The Habitats Regulations – Conservation of Species Regulations 2010 (as amended)  
IED - Industrial Emissions Directive

---

IP – Interested Party  
IPC - Infrastructure Planning Commission  
IPPC - Integrated Pollution Prevention and Control  
ISH – Issue Specific Hearing  
IROPI - Imperative Reasons of Overriding Public Interest  
JNCC - Joint Nature Conservation Committee  
LCPD - Large Combustion Plant Directive  
LIR – Local Impact Report  
LNR - Local Nature Reserve  
LPA – Local Planning Authority  
LSE – Likely Significant Effects  
LVIA - Landscape and Visual Impact Assessment  
MOC – Minimum Offtake Connection  
MW – Megawatt  
MWe – Megawatt electric  
NCC - Norfolk County Council  
NE - Natural England  
NERC - Natural Environment and Rural Communities Act  
NETS – National Electricity Transmission System  
NGG – National Grid Gas  
NNR - National Nature Reserve  
NPPF – National Planning Policy Framework  
NPS – National Policy Statement  
NSER – No Significant Effects Report  
NSIP – Nationally Significant Infrastructure Project  
NTS – National Transmission System  
PA 2008 – Planning Act 2008  
PHE – Public Health England  
PINS- Planning Inspectorate  
PM – Preliminary Meeting  
PPA - Planning Performance Agreement  
PPG – Planning Policy Guidance  
PPL – Palm Paper Limited  
PPS – Planning Policy Statements  
RBMP - River Basin Management Plan  
RIES – Report on the Implications for European Sites  
SAC – Special Areas of Conservation  
SNCB - Statutory Nature Conservation Body  
SoCG – Statement of Common Ground  
SPA – Special Protection Area  
SSSI – Sites of Special Scientific Interest  
The 1990 Act – The Town and Planning Act 1990 (as amended)  
USV - Unaccompanied Site Visit  
WFD - Water Framework Directive

## **APPENDIX D: RECOMMENDED DEVELOPMENT CONSENT ORDER**

**2015 No.**

**INFRASTRUCTURE PLANNING**

**THE PALM PAPER 3 CCGT ORDER 201X**

*Made* - - - - 201X  
*Coming into force* - - 201X

**CONTENTS**

1. Citation and commencement
2. Interpretation
3. Development consent etc. granted by the Order
4. Procedure in relation to certain approvals etc. under requirements
5. Maintenance of authorised project
6. Operation of generating station
7. Consent to transfer benefit of Order
8. Defence to proceedings in respect of statutory nuisance
9. Access to works
10. Discharge of Water
11. Application of landlord and tenant law
12. Operational land for purposes of the 1990 Act
13. Certification of plans, etc.
14. Arbitration

---

**SCHEDULES**

- SCHEDULE 1 — Authorised Development  
    PART 1 — Authorised Development  
    PART 2 — Building Heights  
SCHEDULE 2 — Requirements

An application has been made in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009<sup>a</sup> for an order granting development consent.

The application was examined by an Examining Authority under Part 6 of the Planning Act 2008 (“the 2008 Act”).

The Examining Authority has considered the application and the relevant representations made in relation to it and not withdrawn, and has reported its recommendation to the Secretary of State as decision-maker under section 74(2)(b) of the 2008 Act.

The Secretary of State, having considered the report and recommendation of the Examining Authority has decided to grant development consent and, under sections 114, 115 and 116 of the 2008 Act, makes the following Order:

### **Citation and commencement**

1. This Order may be cited as The Palm Paper 3 CCGT (Generating Station) Order 201X and comes into force on [ ] 201X.

### **Interpretation**

2.—(1) In this Order—

“the 1990 Act” means the Town and Country Planning Act 1990;

“the 2008 Act” means the Planning Act 2008;

“authorised development” means the development and associated development described in Schedule 1 and any other development authorised by this Order, which is development within the meaning of section 32 of the 2008 Act;

“building” includes any structure or erection or any part of a building, structure or erection;

“CEMP” means the construction and environmental management plan relating to the construction of the authorised development to be submitted and approved pursuant to requirement 9;

“commissioning” means the process of assuring that all systems and components of the authorised development are installed, tested, and operable in accordance with the design and operational requirements of the undertaker;

“construction traffic management plan” means a plan for the control and management of construction traffic to be submitted to and agreed by the relevant planning authority prior to the commencement of the authorised development pursuant to requirement 10;

“design and access statement” means the document with that title submitted with the application for the Order;

“environmental statement” means the environmental statement certified by the Secretary of State in accordance with article 13;

“highway” and “highway authority” have the same meaning as in the Highways Act 1980;

“land plan and site location plan” means the plan certified as the land plan and site location plan by the Secretary of State for the purposes of this Order;

“maintain” includes, to the extent assessed in the environmental statement, inspect, repair and adjust the authorised project and any derivative of “maintain” shall be construed accordingly;

“Order limits” means the limits shown on the land plan and site location plan and the site layout and works plan within which the authorised development may be carried out;

---

a S.I. 2009/2264



“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981<sup>a</sup>;

“planning drawings” means the drawings set out in requirement 4 in Schedule 2;

“relevant planning authority” means the Borough Council of King’s Lynn and West Norfolk;

“requirements” means those matters set out in Schedule 2 (requirements) to this Order;

“statutory undertaker” means any person falling within section 127(8) of the 2008 Act;

“scheduled works” means the numbered works specified in Schedule 1 to this Order, or any part of them;

“site” means that part of the land within Order limits shown on Document 2-1 and titled “Land plan and site location plan”;

“site layout and works plan” means the plan certified as the site layout and works plan by the Secretary of State for the purposes of this Order (drawing number [Doc. Ref. 2.2]).

“undertaker” means –

- (i) Palm Paper Limited (company number 00813701, registered at Saddlebow Industrial Estate, Poplar Avenue, Kings Lynn, Norfolk, PE34 3AL); and
- (ii) Palm Power Limited (company number 07899303, registered at Wey Court West Union Road, Farnham, Surrey, GU9 7PT);

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the air-space above its surface.

(3) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development shall be taken to be measured along that work.

(4) The expression “includes” will be construed without limitation.

(5) References to any statutory body shall include that body’s successor bodies having jurisdiction over the authorised development.

### **Development consent etc. granted by the Order**

3.—(1) Subject to the provisions of this Order and to the requirements in Schedule 2 (Requirements) attached to this Order the undertaker is granted—

- (a) development consent for the authorised development to be carried out within the Order limits; and
- (b) consent for the ancillary works to be carried out within the Order limits.

(2) The main stack comprised in Work No. 1 and shown on the planning drawings must not be constructed lower than 80 metres above adjacent ground level.

### **Procedure in relation to certain approvals etc. under requirements**

4.—(1) Where an application is made to a relevant planning authority for any consent, agreement or approval required by a requirement, the following provisions apply, so far as they relate to a consent, agreement or approval of a local planning authority, as if the requirement was a condition imposed on the grant of planning permission—

- (a) sections 78 and 79 of the 1990 Act (right of appeal in relation to planning decisions);

---

<sup>a</sup> 1981 c.67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). There are other amendments to the 1981 Act which are not relevant to this Order.

- (b) any orders, rules or regulations which make provision in relation to a consent, agreement or approval of a local planning authority required by a condition imposed on the grant of planning permission, in so far as those provisions are not inconsistent with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009<sup>a</sup>

(2) For the purposes of paragraph (1), a provision relates to a consent, agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission in so far as it makes provision in relation to an application for such a consent, agreement or approval, or the grant or refusal of such an application, or a failure to give notice of a decision on such an application.

### **Maintenance of authorised project**

5.—(1) The undertaker may at any time maintain the authorised project, except to the extent that this Order or an agreement made under this Order, provides otherwise, and for the avoidance of doubt the power of maintenance provided by this article does not constitute the grant of development consent for any development not authorised by article 3.

### **Operation of generating station**

6.—(1) The undertaker is authorised to operate the generating station comprised in the authorised development.

(2) This article does not relieve the undertaker of any requirement to obtain any permit or licence under any other legislation that may be required to authorise the operation of a generating station.

### **Consent to transfer benefit of Order**

7.—(1) The undertaker may, with the consent of the Secretary of State—

- (a) transfer to another person (the “transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; or
- (b) grant to another person (the “lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (3), include references to the transferee or lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) will be subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

### **Defence to proceedings in respect of statutory nuisance**

8.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990<sup>b</sup> (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within Paragraphs (c), (d), (e), (fb), (g), (ga) and (h) of section 79(1) of that Act no order will be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
  - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent

---

<sup>a</sup> S.I. 2009/2263, as amended by S.I. 20011/2741, S.I. 2012/635, and S.I. 2012/787.

<sup>b</sup> 1990 c.43. There are amendments to this Act which are not relevant to this Order.

given under section 61 (prior consent for work on construction site) or 65 (noise exceeding registered level), of the Control of Pollution Act 1974<sup>a</sup>; or

(ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or

(b) the defendant shows that the nuisance—

(i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised development and that the nuisance is attributable to the use of the authorised development which is being used in accordance with a scheme of monitoring and attenuation of noise agreed with the relevant planning authority as described in requirement 13; or

(ii) is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), shall not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

### **Access to works**

9.—(1) The undertaker may, for the purposes of the authorised development, with the approval of the relevant planning authority, form and lay out such means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

### **Discharge of Water**

10.—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker pursuant to paragraph (1) shall be determined as if it were a dispute under section 106 of the Water Industry Act 1991<sup>b</sup> (right to communicate with public sewers).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs, and such consent may be given subject to such terms and conditions as that person may reasonably impose, but may not be unreasonably withheld.

(4) The undertaker must not make any opening into any public sewer or drain except—

(a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval may not be unreasonably withheld; and

(b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

---

a 1974 c.40. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990, c.25. There are other amendments to the 1974 Act which are not relevant to this Order.

b 1991 c.56. Section 106 was amended by sections 36(2) and 99 of the Water Act 2003 (c.37). There are other amendments to this section which are not relevant to this Order.

b S.I. 2010/675. Regulation 12 replaced section 85 of the Water Resources Act 1991 (c.56) which was repealed by Schedule 28 paragraph 1 to the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675).

(6) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2010<sup>b</sup>(requirement for an environmental permit).

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to the Environment Agency, an internal drainage board, a local authority or a sewerage undertaker; and
- (b) other expressions, excluding watercourse, except those otherwise defined in this Order, used both in this article and in the Environmental Permitting (England and Wales) Regulations 2010 have the same meaning as in those Regulations.

### **Application of landlord and tenant law**

11.—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it, so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person’s use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants shall prejudice the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law shall apply in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

### **Operational land for purposes of the 1990 Act**

12.—(1) Development consent granted by this Order shall be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).

### **Certification of plans, etc.**

13.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the land plan and site location plan (Document Reference No 2.1 dated August 2014)
- (b) the site layout and works plan (Document Reference No 2.2 dated August 2014);
- (c) the existing site layout plan (Document Reference No 2.5 dated August 2014);
- (d) the design and access statement (Document Reference No 4.3 dated September 2014);
- (e) the environmental statement (Document Reference No 5.1 dated 19<sup>th</sup> August 2014);
- (f) the outline construction environmental management plan (Document Reference No 6.1 dated 19<sup>th</sup> August 2014);

- (g) the conceptual surface water drainage system (Document Reference No 2.7 dated 19<sup>th</sup> August 2014); and
- (h) the outline landscaping plan (Document Reference No 2.15 dated August 2014)
- (i) the maximum parameters of works (Document 2.18 dated August 2014)

for certification that they are true copies of the plans or documents referred to in this Order.

(2) A plan or document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

**Arbitration**

14.—(1) Any difference under provision of this Order, unless otherwise provided for, shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

Address  
Date

*Name*  
Parliamentary Under Secretary of State  
Department

# SCHEDULES

## SCHEDULE 1

### Authorised Development

#### PART 1

#### Authorised Development

##### **In King's Lynn, Norfolk**

1.—(1) A nationally significant infrastructure project comprising a generating station as defined in sections 14(1)(a) and 15 of the 2008 Act and associated development comprising:

*Work No. 1* A combined cycle plant fuelled by gas with a thermal input of up to 162MW, a nominal gross electrical output of between 51 and 60 MWe and an output of up to 130 tonnes of heat (steam) per hour including—

- (a) one gas turbine within a turbine hall;
- (b) one steam turbine within a turbine hall;
- (c) two electricity generators and two transformers within a compound;
- (d) a heat recovery steam generator;
- (e) a main stack for discharge of flue gas;
- (f) 4-8 banks of hybrid cooling towers;
- (g) condenser equipment and auxiliary cooling equipment;
- (h) a demineralised water treatment facility;
- (i) a gas insulated switchgear;
- (j) a pipe bridge including pipes and cables for electricity, steam, condensate, and raw water, connecting the CCGT building with the paper machine building; and
- (k) control room and laboratory

and in connection with such works and to the extent that they do not otherwise form part of any such work, further associated development whether or not shown on the plan referred to in the requirements including—

- (a) surface water management systems;
- (b) lighting columns and lighting;
- (c) temporary construction site offices;
- (d) surfaced area on site for the parking of construction vehicles plant and machinery;
- (e) open and covered storage of construction materials and equipment;
- (f) workshops for assembly and testing of equipment

which are within the scope of the environmental impact assessment recorded in the environmental statement.

## PART 2

### Building Heights

(1)	(2)
<i>Building</i>	<i>Height (metres) above adjacent ground level (not less than 5.00m AOD)</i>
Turbine hall	14.80
Heat recovery steam generator hall	24.95
Main stack	80.00
Hybrid cooling tower platform	16.00
Stair tower	22.30
Condensers	17.00
Pipe bridge	17.20

## SCHEDULE 2

### Requirements

#### CONTENTS

1. Time limits
2. Commencement of authorised development
3. Commencement and completion of commissioning
4. Detailed design
5. Provision of landscaping
6. Implementation and maintenance of landscaping
7. Surface water drainage
8. Contaminated land and groundwater
9. CEMP
10. Construction traffic
11. Control of noise during construction and maintenance
12. Construction hours
13. Control of noise during operational phase
14. European protected species
15. Piling during construction period
16. Restoration of land used temporarily for construction
17. Requirement for written approval
18. Amendments to approved details
19. Control of artificial light emissions
20. Air Safety



### **Time limits**

1. The authorised development must not be commenced after the expiration of five (5) years beginning with the date of this Order.

### **Commencement of authorised development**

2. Notice of commencement of the authorised development must be given to the relevant planning authority within seven (7) days from the date that the authorised development is commenced.

### **Commencement and completion of commissioning**

3.—(1) Notice of the commencement of commissioning must be given to the relevant planning authority within seven (7) days from the date that commissioning is commenced.

(2) Notice of the completion of commissioning must be given to the relevant planning authority within seven (7) days from the date that commissioning is completed.

### **Detailed design**

4. The authorised development must be carried out in accordance with the approved plans submitted with the application as follows:

Document 2.1	Land plan and site location plan
Document 2.2	Site layout and works plan
Document 2.5	Existing site layout
Document 2.7	Conceptual surface water drainage system
Document 2.18	Maximum parameters of works
Document 2.15	Outline landscaping plan
Document 5.1	Environmental Statement

### **Provision of landscaping**

5.—(1) No authorised development shall commence until a written landscaping scheme has been submitted to and approved by the relevant planning authority. The landscaping scheme shall reflect the proposals set out in the outline landscaping plan and shall include details of all proposed hard and soft landscaping works, including—

- (a) location, number, species, size and planting density of any proposed planting;
- (b) cultivation, importing of materials and other operations to ensure plant establishment;
- (c) proposed finished ground levels;
- (d) hard surfacing materials;
- (e) vehicular and pedestrian access, parking and circulation areas;
- (f) minor structures, such as refuse or other storage units, signs and lighting;
- (g) implementation timetables for all landscaping works.

### **Implementation and maintenance of landscaping**

6.—(1) All landscaping works must be carried out in accordance with the landscaping scheme approved under requirement 5 and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.

(2) The landscaping works must be carried out in accordance with implementation timetables approved under requirement 5.

(3) Any tree or shrub planted as part of an approved landscaping scheme that, within a period of five years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless otherwise approved by the relevant planning authority.

### **Surface water drainage**

7.—(1) No authorised development shall commence until written details of the surface and foul water drainage system (including means of pollution control) have, after consultation with the sewerage and drainage authority, been submitted to and approved by the relevant planning authority.

(2) The surface and foul water drainage system must be constructed and implemented in accordance with the approved details.

### **Contaminated land and groundwater**

8.—(1) No authorised development shall commence until a written scheme to deal with the contamination of any land, including groundwater, within the Order limits which is likely to cause significant harm to persons or pollution of controlled waters or the environment has, after consultation with the Environment Agency, been submitted to and approved by the relevant planning authority.

(2) The scheme shall include an investigation and assessment report, prepared by a specialist consultant approved by the relevant planning authority, to identify the extent of any contamination and the remedial measures to be taken to render the land fit for its intended purpose, together with a management plan which sets out long-term measures with respect to any contaminants remaining on the site.

(3) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the relevant planning authority) shall be carried out until the undertaker has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

### **CEMP**

9.—(1) No part of the authorised development is to commence, including any preparatory earthworks or site levelling but excluding archaeological soil movement and ecological mitigation works, until a Construction Environmental Management Plan (“CEMP”) drafted in accordance with the principles set out in the environmental statement and the outline CEMP, has been submitted to and approved in writing by the relevant planning authority. The CEMP must include—

- (a) details of the methods to control noise and vibration arising from construction activities. These measures must include—
  - (i) proposals for monitoring of construction noise;
  - (ii) proposals for the introduction of mitigation measures or alternative working practices where the measurements exceed acceptable limits;
- (b) details of the methods to be used to control dust and other emissions from the site;
- (c) details of all temporary fencing, temporary buildings, compound areas and parking areas including arrangements for their removal following completion of construction;
- (d) details of areas to be used for the storage of plant and construction materials and waste;
- (e) details of the facilities to be provided for the storage of fuel, oil and other chemicals, including measures to prevent pollution;
- (f) details of temporary lighting arrangements;

- (g) measures to ensure that construction vehicles do not deposit mud on the public highway;
- (h) a scheme for the routing of construction heavy goods vehicles accessing the site;
- (i) a scheme making provision for any abnormal wear and tear arising from heavy goods construction vehicles to the highway between the proposal site and the A47;
- (j) details of mitigation measures to protect biodiversity interests within the site during the construction phases;
- (k) advisory signage at public access points advising of possible hazards including the potential for sudden noise;
- (l) details of the methods to be used to perform a ground gas risk assessment; and
- (m) details of a survey to establish whether any as yet unmapped private sewers are present on the development site.

### **Construction traffic**

**10.—**(1) No stage of the authorised development is to commence until a construction traffic management plan, including details of the following—

- (a) the preferred route to be used by construction traffic;
- (b) the steps to be taken to advise all drivers of vehicles visiting the authorised development of the approved construction routes and of the measures to monitor compliance;
- (c) condition survey in relation to the junction High Road/Poplar Avenue;
- (d) “before” and “after” joint road condition surveys in relation to each phase of construction;
- (e) strategic route signing; and
- (f) signing at access points;
- (g) has been, after consultation with the highway authority, submitted to and approved by the relevant planning authority in relation to that stage.

(2) Notices shall be erected and maintained throughout the period of construction at every construction site exit, indicating to drivers the route agreed by the relevant planning authority for traffic entering and leaving the site.

### **Control of noise during construction and maintenance**

**11.—**(1) No part of the authorised development shall commence until a written scheme for noise management during construction and maintenance has been submitted to and approved by the relevant planning authority.

(2) The scheme shall set out the particulars of—

- (a) the works, and the method by which they are to be carried out;
- (b) the noise attenuation measures to be taken to minimise noise resulting from the works, including any noise limits; and
- (c) a scheme for monitoring the noise during the works to ensure compliance with the noise limits and the effectiveness of the attenuation measures.

(3) The approved noise management scheme must be implemented before and maintained during construction and maintenance of the authorised development.

(4) The construction and maintenance works must be undertaken in accordance with the approved noise management scheme.

### **Construction hours**

**12.—**(1) Subject to sub-paragraph (2) construction and demolition works (which for the purposes of this requirement exclude archaeological investigations, landscaping works and any non-intrusive internal fit-out works but include start up and shut down and deliveries) must not take place other than between 07:00 and 19:00 hours on weekdays and 07:00 and 16:00 hours on

Saturdays, excluding public holidays, unless otherwise agreed in writing by the relevant planning authority. Outside the above periods the following working is permitted—

- (a) emergency works; and
- (b) works which do not cause noise that is audible at the boundary of the Order limits.

(2) Regardless of paragraph (1) no piling operations are to take place after 18:00 hours unless otherwise agreed by the relevant planning authority.

(3) Any emergency works carried out under paragraph (1)(a) must be notified to the relevant planning authority within 72 hours of their commencement.

(4) Construction work, for the purpose of this requirement, shall not include the arrival or departure of personnel on the site, on-site briefings or meetings, the use of welfare facilities and non-intrusive activities such as electrical installation and internal fit out works.

### **Control of noise during operational phase**

**13.**—(1) No authorised development shall commence operation until a written scheme for noise management including monitoring and attenuation for the use of the authorised project has been submitted to and approved by the relevant planning authority.

(2) The noise management scheme must be implemented as approved and maintained for the duration of use of the authorised project.

### **European protected species**

**14.**—(1) If commencement of the authorised development occurs after two years from the date of the environmental statement then the authorised development must not be commenced until the potential for habitats within the application boundary to have changed sufficiently to make them suitable for European protected species has been assessed by the undertaker and the outcome of that assessment approved in writing by the relevant planning authority and Natural England. If the relevant habitats are assessed to be suitable for European protected species, then further survey work must be carried out to establish whether European protected species are now present on any of the land affected, or likely to be affected, by the authorised development.

(2) Where a European protected species is shown to be present, no authorised development must be begun until, after consultation with the relevant planning authority, Natural England and the Secretary of State for the Environment, Food and Rural Affairs, a scheme of protection and mitigation measures has been submitted to and approved by the relevant planning authority and the authorised development must be carried out in accordance with the approved scheme.

(3) “European protected species” has the same meaning as in regulations 40 and 44 of the Conservation (Natural Habitats, &c.) Regulations 2010.<sup>a</sup>

### **Piling during construction period**

**15.**—(1) No piling activities may be commenced until a piling method statement (which may form part of the CEMP), has been submitted to and approved by the relevant planning authority. The piling method statement must conform with the provisions set out in chapter 7 ‘noise’ and 4 ‘piling activities’ of the environmental statement, and shall include details of mitigation to be employed to ensure that the noise from piling activities does not exceed 55dB(A)LA Max at the locations of the agreed measurement points during the months of March to August inclusive.

(2) The piling method statement will demonstrate that piling activities will not have a resultant unacceptable impact on groundwater.

(3) Piling shall be carried out in accordance with the provisions of the approved piling method statement.

---

<sup>a</sup> SI 2010/490

### **Restoration of land used temporarily for construction**

16.—(1) Any land within the Order limits which is used temporarily for construction must be reinstated to its former condition, or such condition as the relevant planning authority may approve, within six (6) months of completion of authorised development.

### **Requirement for written approval**

17.—(1) Where under any of the above requirements the approval or agreement of the relevant planning authority or another person is required, that approval or agreement must be given in writing.

### **Amendments to approved details**

18.—(1) With respect to any requirement which requires the authorised development to be carried out in accordance with the details approved by the relevant planning authority, the approved details shall be taken to include any amendments that may subsequently be approved in writing by the relevant planning authority, provided that such approval is not given except where it has been demonstrated to the satisfaction of the relevant planning authority that the subject matter of the approval sought is unlikely to give rise to any new or materially different environmental effects from those assessed in the environmental statement.

### **Control of artificial light emissions**

19.—(1) No part of the authorised development shall commence until a written scheme for the management and mitigation of artificial light emissions has been submitted to and approved by the relevant planning authority.

(2) The approved scheme for the management and mitigation of artificial light emissions must be implemented before and maintained during the construction, operation and decommissioning of the authorised development.

### **Air Safety**

20.—(1) No part of the authorised development shall commence until the undertaker has notified the Ministry of Defence – Defence Geographic Centre in relation to the authorised development of—

- (a) the precise location of the authorised development with grid coordinates;
- (b) the proposed date of commencement of construction;
- (c) the height above ground level in metres of the tallest structure;
- (d) the maximum extension height in metres of any construction equipment.

(2) The undertaker must ensure that the main stack is fitted with aviation warning lighting with a minimum intensity of 25 candela omni directional red light or equivalent infra-red light fitted at the highest practicable point of the structure.

(3) Within 28 days of completion of the construction of the authorised development the undertaker must notify the Ministry of Defence – Defence Geographic Centre of the date of such completion of construction.