

The Meaford Energy (Gas Fired Power Station) Order

3.2 Explanatory memorandum to Draft Order for the MEC

Planning Act 2008 The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

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MEAFORD ENERGY LIMITED

THE MEAFORD ENERGY (GAS FIRED POWER STATION) ORDER 201*

EXPLANATORY MEMORANDUM

1. INTRODUCTION AND SUMMARY

- 1.1 This Explanatory Memorandum (or Memorandum) has been prepared to explain the purpose and effect of the provisions of the draft Meaford Energy (Gas Fired Power Station) Order 201* (the "**Order**") (document reference 3.1), in accordance with regulation 5(2)(c) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (SI 2009/2264). This document should be read alongside the Order and the various documents submitted in respect of the Application for the Order. Unless defined in this memorandum, all terms have the same meaning as in the Glossary (document reference 9.1).
- 1.2 This Memorandum also seeks to identify and explain departures from the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009 (the "**model provisions**"). Whilst the power for the Secretary of State to designate, and the requirement to have regard to, model provisions have been removed by the Localism Act 2011, the Planning Inspectorate Advice Note 13 (Preparation of a draft order granting development consent and explanatory memorandum, April 2012) notes (at page 4) that the Planning Inspectorate finds it helpful to receive a 'track change' version of the draft development consent order, showing the departures from the model provisions. This explanatory memorandum therefore also notes variations from the model provisions and, where applicable, cites precedent orders for the explanation as to the departure. The 'track change' version of the Order compared to the model provisions can be found at Appendix 1 to this document.
- 1.3 The Order does not include those model provisions which are not relevant or applicable and this Explanatory Memorandum does not provide a further explanation for their omission.

2. PURPOSE OF THE ORDER

- 2.1 Meaford Energy Limited ("**MEL**") (or the "undertaker" as MEL is referred to in the Order) has made an application pursuant to the Planning Act 2008 ("**PA 2008**") to the Secretary of State for a development consent order (the Order) for the construction, operation and maintenance of the Meaford Energy Centre (the Scheme) (referred to in the Order as the "**authorised development**").

2.2 The Meaford Energy Centre comprises an onshore electricity generating station in England with a capacity of more than 50MWe and, therefore, it constitutes a nationally significant infrastructure project ("**NSIP**") under section 15(2) of the PA 2008. Accordingly, the Meaford Energy Centre requires development consent under section 31 of the PA 2008. Development consent may only be granted by order following an application to the Secretary of State under section 37 of the PA 2008.

2.3 The Order would authorise the authorised development described in Schedule 1 to the Order. In summary, development consent is sought under the Order for:

In the County of Staffordshire and the Borough of Stafford:

2.3.1 the **Meaford Energy Centre** comprising:

- (a) a combined cycle gas turbine generating station (the "**Power Station Complex**") (Work No. 1A to Work No. 1E (inclusive) in Schedule 1 to the Order) incorporating one gas turbine building with up to two gas turbines and one steam turbine building with one steam turbine each connected to its own generator with a combined rated electrical output of up to 299 MWe; up to two exhaust gas emission flue Stacks; up to two heat recovery steam generator buildings with up to two heat recovery steam generators; air cooled condenser and balance of plant;
- (b) a gas connection (the "**Gas Connection**") (Work No. 2 in Schedule 1 to the Order) to bring natural gas to the Power Station Complex from the local gas transmission System ("**LTS**") for the supply of fuel. The Gas Connection includes a new above ground installation ("**AGI**") (Work No. 2A) where the connection into the LTS will be made; a part underground gas pipeline and part overground gas pipeline from the AGI to the Power Station Complex (Work No. 2B); and repair works to the northern bridge parapet of canal bridge 101 (Malkin's Bridge) over which the gas pipeline will oversail (Work No. 2B);
- (c) an electrical connection (the "**Electrical Connection**") (Work No. 3 in Schedule 1 to the Order) to export electricity from the Power Station Complex to the existing Barlaston Substation;
- (d) works to alter and upgrade the existing site access (the "**Northern Access Road**") (Work No. 4 in Schedule 1 to the Order) to provide suitable access to the Power Station Complex;
- (e) a temporary construction laydown and car parking area (Work No. 5A in Schedule 1 to the Order) required during construction only;
- (f) a temporary construction laydown and car parking area required during construction and a permanent operational and maintenance laydown area required during operation (Work No. 5B in Schedule 1 to the Order);

- (g) foul, surface water and trade effluent drainage for the Power Station Complex (Work No. 6 in Schedule 1 to the Order) comprising the replacement, maintenance and/or refurbishment of the existing surface water drainage; the construction and maintenance of a 1500 cubic metre surface water retention pond and vortex flow control; drainage for foul, surface water and trade effluent; and a below ground foul water pump station;
- (h) a 10 metre screening vegetation buffer, including tree planting, other boundary treatments and ecological mitigation (Work No. 7 in Schedule 1 to the Order) as part of the embedded mitigation for the Power Station Complex.

2.4 A further, more detailed, description of the various elements of the authorised development is provided in Schedule 1 to the Order (and the corresponding section of this Explanatory Memorandum below) and in Chapter 4 of the Environmental Statement main statement (document reference 6.2) which accompanies this Application.

3. ASSOCIATED DEVELOPMENT

3.1 Pursuant to section 115 of the PA 2008, development consent can be granted for the NSIP and associated development. Associated development is development associated with the NSIP, as set out in section 115 of the PA 2008 and having regard to guidance on associated development issued by the Secretary of State for Communities and Local Government (the "**Guidance**"). The Guidance illustrates the types of development that may qualify as associated development and sets out the defining characteristics of associated development.

3.2 Associated development must not be an aim in itself. In most cases, it is a type normally brought forward with the primary development, and may include measures necessary to mitigate the effects of the primary development or innovative development ideas otherwise fulfilling the principles of the Guidance. It should be proportionate in scale to the primary development.

3.3 The Order does not seek consent for any associated development as all aspects of the authorised development described form an integral part of the NSIP for the following reasons:

3.3.1 **Work No. 1**, the Power Station Complex, is the electricity generating station itself;

3.3.2 **Work No. 2**, the Gas Connection, provides the fuel for the electricity generating station (i.e. the Power Station Complex), without which the generating station would not be able to operate. It would be artificial to suggest that, in this case, the Gas Connection (comprising the AGI, the gas pipeline and necessary works to Canal Bridge 101 required as a result of the gas pipeline oversailing the Canal Bridge) were not part of the project for the construction of a generating station, given that all components of the Gas Connection facilitate the provision of fuel to the generating station;

- 3.3.3 **Work No. 3**, the Electrical Connection, provides the means of transmitting the generated electricity from the Power Station Complex to the existing local distribution network. Again, it would be artificial to suggest that the Electrical Connection that links the generating station (i.e. the Power Station Complex) to the existing local distribution network electricity sub-station, Barlaston Substation, was not part of the Scheme for the construction of an electricity generating station;
- 3.3.4 **Work No. 4**, the Northern Access Road, provides the necessary access to the generating station (i.e. the Power Station Complex), without which the generating station cannot be constructed, operated or maintained. As such, the Northern Access Road is considered to be an integral part of the project for the construction of a generating station. This also follows the Secretary of State's decision in respect of the Brechfa Forest Wind Farm Order 2013, where the Secretary of State found that the access track was not "associated development" which would require separate planning permission in Wales, but was an integral part of the project, being the "construction of a generating station."
- 3.3.5 **Work No. 5A**, the temporary construction laydown and car parking area, is an essential and integral component of the construction of the whole of the Meaford Energy Centre. As such, the laydown and car parking, and all the development that comprise Work No.5A, are considered to be an integral part of the Scheme for the construction of a generating station;
- 3.3.6 **Work No. 5B**, the temporary construction laydown and car parking area required during construction and a permanent operational and maintenance laydown area required during operation of the Scheme are again an essential and integral component of the construction of the whole of the Meaford Energy Centre. As such, the Laydown Areas and car parking, and all the development that comprise Work No.5B, are considered to be an integral part of the Scheme for the construction of a generating station;
- 3.3.7 **Work No. 6**, the foul, surface water and trade effluent drainage, is necessary for the generating station (i.e. the Power Station Complex), without which the generating station cannot be constructed or operated. As such, the foul, surface water and trade effluent drainage, and all the development that comprise Work No.6, are considered to be an integral part of the Scheme for the construction of a generating station;
- 3.3.8 **Work No. 7**, the 10 metre screening vegetation buffer, forms part of the design of the generating station (i.e. the Power Station Complex). The proximity of the Trent and Mersey Canal Conservation Area to the Power Station Complex has influenced the location of the Power Station Complex, as well as its design- of which the screening buffer forms part. As such, the screening buffer, and all the development that comprise Work No.7, is considered to be an integral part of the Scheme for the construction of a generating station.

4. **ANCILLARY POWERS**

- 4.1 The Order also contains several powers that are ancillary to the authorised development (i.e. provisions not consisting of development).
- 4.2 The main ancillary matter is a power to acquire rights compulsorily or by agreement, in accordance with section 120(4) and 122 of the PA 2008. These rights, including the imposition of restrictions, are required for the authorised development.
- 4.3 The Book of Reference (document reference 4.3) sets out what rights and interests will be affected. The Order and the Book of Reference should be read together with the Statement of Reasons (document reference 4.1), which accompanies the Application and which sets out the justification for the interference with each relevant plot of land. The plots of land are shown on the Land Plan (document reference 2.2).
- 4.4 As the Order seeks to apply and modify statutory provisions, the Order has been drafted as a statutory instrument, in accordance with sections 117 and 120 of the Planning Act 2008.

5. **THE PROVISIONS OF THE ORDER**

- 5.1 The Order consists of 36 operative provisions, each referred to as articles, and 9 Schedules.

5.2 **Part 1 (Preliminary)**

Article 1 (Citation and Commencement)

- 5.2.1 Article 1 sets out the name and commencement date of the Order.

Article 2 (Interpretation)

- 5.2.2 Article 2(1) provides for the interpretation of the rest of the Order, including the Schedules. The definitions used in the model provisions are amended and supplemented to reflect the particular circumstances of the authorised development and changes to the PA 2008 which have been made since it was originally enacted. A number of definitions are added including:

- (a) "date of final commissioning", which has been included to define this term which is used throughout and means the date on which the authorised development commences operation by generating power on a commercial basis;
- (b) "electronic transmission", which has been included as the Order authorises the serving of notices under the Order by electronic transmission;
- (c) "environmental statement", which has been included to define this term which is used throughout;

- (d) "lease", which has been included to define this term which is used in Article 23 (Private rights) and is specific to the authorised development; an option agreement has been entered into in respect of the majority of the Order Land and this term is used to describe the mechanism through which MEL will have the rights to use the majority of the Order Land (see the Statement of Reasons, document reference 4.1);
 - (e) "limits of deviation" to explain the limits of deviation in which the authorised development can be undertaken;
 - (f) "the requirements" which means those requirements which are set out at Schedule 2.
- 5.2.3 Other additions include "access rights of way plans", "address", "apparatus", "footpath", "footway", "highway" and "highway authority".
- 5.2.4 The definition of "maintain" is a model provision definition but has been qualified to make it clear that:
- (a) the undertaker can reconstruct any part of the authorised development, but not the whole;
 - (b) the undertaker can replace any part of the authorised development, but not the whole; and
 - (c) the undertaker may carry out improvement works, but not so as to vary from the description of the authorised development in Schedule 1 to the Order and only to the extent assessed in the environmental statement.
- This definition has precedent in the made North Killingholme (Generating Station) Order 2014.
- 5.2.5 Article 2(2) expands the definition of rights over land, as included in the model provisions, to clarify references to the imposition of restrictions over the Order land.
- 5.2.6 Article 2(3) defines measurements as approximate, in line with the model provisions.
- 5.2.7 Article 2(4) explains how references in the Order to numbered works are to be construed.
- 5.2.8 Article 2(5) clarifies that "includes" is without limitation.
- 5.2.9 Article 2(6) provides that areas given in the Book of Reference (document reference 4.3) are approximate since the Book of Reference is outside the scope of Article 2(3).
- 5.2.10 As there are no ancillary works included in the Order, the authorised development is referred to as such throughout the Order and the concept

within the model provisions of an "authorised project" has not been used in the Order. There are, however, "ancillary matters" as defined in section 120(4) of the PA 2008, including compulsory acquisition powers.

5.3 **Part 2 (Principal Powers)**

Article 3 (Development consent etc. granted by the Order)

- 5.3.1 Article 3(1) grants development consent for the authorised development. Schedule 1 describes the authorised development in detail, split into numbered works, each of which represents a different part of the authorised development.
- 5.3.2 Article 3(2) requires that the works authorised by the Order are situated in the numbered areas shown on the Works Plans (document reference 2.3). This is in order to provide certainty as to what has been consented by the Order.
- 5.3.3 Article 3(3) permits construction within limits of deviation which are also specified on the Works Plans. Requirement 2 provides for maximum parameters for certain key elements of the authorised development. This approach, whilst going beyond the model provisions, reflects a standard approach used in orders made under the Transport and Works Act 1992 and in recent development consent orders, including for example, the Rookery South (Resource Recovery Facility) Order 2011 and is appropriate in the current Order as it serves to precisely define the authorised development by reference to the plans, whilst preserving a sensible amount of flexibility in the implementation of the authorised development to allow for slight variances in ground conditions and choice of appropriate equipment and technology. The Environmental Statement accompanying the Application (document reference 6.2) has assessed the authorised development within the maximum envelope provided by the limits of deviation.

Article 4 (Maintenance of authorised development)

- 5.3.4 This Article sets out the scope within which the undertaker may maintain the authorised development. Article 4(1) closely reflects the terms of the model provisions. Article 4(2) restricts maintenance to works carried out within the Order limits to provide defined parameters within which this power can be exercised. A definition of "maintain" has been included in Article 2 so it is clear what the term involves.
- 5.3.5 The Environmental Statement accompanying the Application (document reference 6.2) has assessed maintenance as defined in the Order.

Article 5 (Operation of authorised development)

- 5.3.6 Article 5 permits the operation and use of the generating station comprised in the authorised development and is included under section 140 of the PA 2008. Article 5(2) specifically preserves the need for any other operational

consent that may be needed for the operation of the generating station in addition to the Order.

Article 6 (Benefit of the Order)

- 5.3.7 Article 6(1) makes clear that the Order has the effect solely for the benefit of the undertaker. The "undertaker" is defined in Article 2 as Meaford Energy Limited, as promoter of the authorised development, and anyone who has the benefit of the Order pursuant to Article 7. This provision overrides section 156(1) of the Act (as permitted by section 156(2)) which, if applied, would confer the benefit of the Order on anyone with an interest in the land.
- 5.3.8 Article 6(2)(a) provides that for numbered works 2A(i) and 2A(ii), the benefit of the Order is for the undertaker and National Grid (as National Grid may be best placed to carry out all or part of those works).
- 5.3.9 Article 6(2)(b) provides that for numbered work 3, the benefit of the Order is for the undertaker and WPD (as WPD may be best placed to carry out all or part of those works).
- 5.3.10 A similar approach regarding the benefit of parts of the Order sitting with two undertakers has been taken in Article 7 of the Network Rail (Norton Bridge Area Improvements) Order 2014.

Article 7 (Consent to transfer benefit of the Order)

- 5.3.11 This Article provides for exceptions to Article 6 and allows any or all of the benefit of the provisions of the Order and related statutory rights to be transferred to another person, with the consent of the Secretary of State, subject to exceptions. The Article is based on the model provisions, with the exception of paragraph 4.
- 5.3.12 Under Article 7(4), the consent of the Secretary of State is needed before the undertaker (or National Grid in relation to numbered works 2A(i) and 2A(ii) and WPD in relation to numbered work 3) can transfer the benefit of the Order, but such consent is not required where: (i) the transferee or lessee is the holder of a licence under section 6 of the Electricity Act 1989 or section 7 of the Gas Act 1986; or (ii) where the compensation provisions for the acquisition of rights or interests in land or for effects on land have been discharged or are no longer relevant. The justification for these provisions is that in such cases, the transferee or lessee will either be of a similar financial and regulatory standing to the undertaker so as to protect the provision for compensation for rights or interests in land that are compulsorily acquired pursuant to the Order, or there are no outstanding actual or potential compulsory purchase claims.
- 5.3.13 Article 7(2) has been amended so that it refers to 'transfer, or grant', which is considered to be more accurate than 'agreement'.

Article 8 (Application and modification of legislative provisions)

5.3.14 Section 120(5)(a) of the PA 2008 provides that an Order granting development consent may apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the Order. Article 8 provides that the legislative provisions relating to compensation for compulsory purchase apply, with certain modifications, in respect of a right under the Order by the creation of a new right (or the imposition of a restriction) as they would apply in respect to compensation on the compulsory purchase of land and interests in land. The modifications which apply in these circumstances are set out in Schedule 3.

5.3.15 The article is not included within the model provisions.

Article 9 (Defence to proceedings in respect of statutory nuisance)

5.3.16 Section 158 of the PA 2008 confers statutory authority for the purposes of a defence in statutory nuisance generally. This Article amends the terms of the defence in the case of noise nuisance (other types of nuisance continue to have the general defence afforded by section 158). The defence is available if the noise relates to the construction or maintenance of the authorised development and is in accordance with controls imposed by the local authority under the Control of Pollution Act 1974 or cannot reasonably be avoided.

5.3.17 The Article is based upon the model provision.

5.4 **PART 3 (Streets)**

Article 10 (Power to alter layout, etc. of streets)

5.4.1 Article 10(1) allows the undertaker to alter the layout of a street or carry out any works in the street as are set out in Schedule 4 in the manner specified in Schedule 4.

5.4.2 Article 10(2) allows for the alteration of the layout of any street within the Order limits for the purposes of constructing and maintaining the authorised development, subject to obtaining the consent of the street authority (Article 10(4)) and to the restoration of such streets to the reasonable satisfaction of the street authority (Article 10(3)).

5.4.3 Article 10(5) provides that where the consent from a street authority has been requested pursuant to Article 10(4) then, if the street authority fails to notify its decision within eight weeks, consent is deemed to have been given. This provision is necessary to give full effect to the power to carry out the authorised development as is provided for under section 120(5) of the PA 2008. Similar wording has been used in other made Orders, including the National Grid (North London Reinforcement Project) Order 2014.

Article 11 (Street works)

5.4.4 Article 11 is a model provision intended to permit in certain streets (as specified in Schedule 5) the carrying out of street works for the purposes

of the authorised development. Article 11(3) brings in sections 54 to 106 of the New Roads and Street Works Act 1991 to apply to any street works carried out pursuant to Article 11(1). This provides protection for the street authority for the street in question.

Article 12 (Temporary prohibition or restriction of use of streets)

- 5.4.5 Article 12 is refined from the model provision and provides for the temporary alteration, diversion and prohibition or restriction on the use of streets for the purposes or carrying out the authorised development.
- 5.4.6 As per the model provision, it applies generally, and also applies specifically to certain streets which are set out in Schedule 6 to the Order. Where the street is referred to in Schedule 6, then the undertaker must consult with the street authority before exercising the power and where the general power is being exercised the undertaker must obtain the consent of the street authority. If an application for consent is made to the street authority and no response is received within a period of eight weeks, then consent is deemed to have been given. This provision is considered necessary so that there is no delay to implementation of the authorised development.
- 5.4.7 Article 12(2) confers a power on the undertaker, where the use of a street has been temporarily prohibited or restricted under the power in Article 12, to use such a street as a temporary working site.
- 5.4.8 Article 12(3) makes clear that the undertaker must ensure that provision is made for parking and for services (such as waste collection) to access properties which may be affected by temporary alteration under Article 12.

Article 13 (Traffic Regulation)

- 5.4.9 This Article allows, with the consent of the traffic authority, the undertaker to regulate traffic on roads (defined as a public highway maintained by and at the expense of the traffic authority) to the extent that is necessary for the purposes of or in connection with the construction of the authorised development. The Article is not in the general model provisions but there is precedence for it in the draft National Grid (Hinkley Point C Connection Project) Development Consent Order, which refers to its use in other made orders¹. It is considered necessary to ensure that the authorised development can be constructed without unnecessary delay.
- 5.4.10 As explained earlier, a provision has been added to provide that consent from the traffic authority is deemed to have been given if the authority fails to notify the undertaker of its decision within eight weeks of receipt of the application. This provision is considered necessary so that there is no delay to implementation of the authorised development.

Article 14 (Access to works)

¹ Article 37 of the Network Rail (Hitchin (Cambridge Junction)) Order 2011 and Article 38 of the Network Rail (Norton Bridge Area Improvements Order) 2014.

5.4.11 Article 14 is a modification of the model provision which permits the undertaker to form new or to improve existing means of access in the locations specified in Schedule 4. Other means of access or works can also be provided in other locations reasonably required for the authorised development with the approval of the relevant planning authority in consultation with the highway authority.

Article 15 (Agreements with street authorities)

5.4.12 Article 15 is a model provision which authorises street authorities and the undertaker to enter into agreements relating to the construction of a street or the carrying out of works in the street and the alteration and diversion of the street. In addition to the model provisions, it provides for such agreements to deal with the strengthening, improvement or repair of any streets, which is common in many similar orders.

5.5 Part 4 (Supplemental Powers)

Article 16 (Discharge of water)

5.5.1 Article 16 is a model provision which enables the undertaker to discharge water into any watercourse, public sewer or drain in connection with the construction and maintenance of the authorised development with the approval of the owner of the watercourse, public sewer or drain (such approval not to be unreasonably withheld) and subject to certain other conditions. The reference from the model provisions to section 85 of the Water Resources Act 1991 has been deleted as this section has now been repealed and has been replaced with a reference to the Environmental Permitting (England and Wales) Regulations 2010 instead.

Article 17 (Authority to survey and investigate the land)

5.5.2 Article 17 is a model provision which allows the undertaker to survey and/or investigate land including bringing equipment onto the land and making trial holes. The power is subject to a number of conditions including a requirement for 14 days' notice to be given and is subject to the payment of compensation.

5.5.3 Minor drafting changes have been made, including:

- (a) in paragraph (1), "any land shown within the Order limits" is changed to "any part of the Order land identified in Part 1 of the book of reference" to make it clear that the Article applies not to the whole of the Order land but to those parts which are subject to Article 18 (compulsory acquisition of rights);
- (b) paragraph (1)(b) "on the land" has been added;
- (c) in paragraph (3)(a), "before or after" has been added to show that the proof of authority does not have to precede entry onto the land; and

(d) in paragraph (3)(b) "with them" is changed to "onto the land".

5.6 Part 5 (Powers of Acquisition)

Article 18 (Compulsory acquisition of rights etc.)

- 5.6.1 This Article gives the undertaker power to create and acquire new rights and impose restrictions for the purposes of the authorised development. Paragraph (1) provides that the undertaker may create and acquire new rights and impose the restrictions described in the Book of Reference (document reference 4.3) with the extent of this power being exercised over the land shown on the Land Plan (document reference 2.2). Paragraph (2) provides that where the undertaker needs only to acquire rights over the land or impose a restriction, it shall not be obliged to acquire any greater interest in that land.
- 5.6.2 As mentioned, the Article provides for the creation and acquisition of rights, as well as the imposition of restrictions. This is considered necessary to ensure that it is not possible for anything to be done which would interfere with the authorised development. This approach has been adopted in orders made under the Transport and Works Act 1992 and is considered reasonable and appropriate in the context of the authorised development. The restrictions would apply to two plots of land, GC3 and GC5 on the Land Plan, where the Gas Connection pipeline would be aboveground.
- 5.6.3 Paragraph (3) and Schedule 7 impose modifications to the compulsory purchase and compensation provisions under the compulsory purchase code. They do not affect the entitlement to compensation but generally ensure that the compensation procedure applies to the additional categories of acquisition covered by the Order; the creation of new rights and the imposition of restrictions. Accordingly, the relevant compensation provisions are modified only to the extent necessary to ensure that they apply properly to the acquisition of rights and imposition of restrictions and not to affect the amount of compensation to which landowners would be entitled. This approach has precedent and has been used in other orders.
- 5.6.4 Paragraphs (4) and (5) allow the undertaker to transfer its power to create and acquire rights and to impose restrictions to a statutory undertaker where required for purposes of diverting, replacing or protecting the apparatus of a statutory undertaker, subject to obtaining the consent of the Secretary of State. This part of the Article is intended to reduce delay by requiring statutory undertakers to exercise their own powers.
- 5.6.5 Paragraphs (2) and (4) of the general model provisions has been deleted as the extinguishment of private rights is provided for pursuant to Article 23 (Private Rights).

Article 19 (Application of the Compulsory Purchase (Vesting Declarations) Act 1981)

5.6.6 Article 19 is a model provision that applies the vesting procedures in the Compulsory Purchase (Vesting Declarations) Act 1981 to the exercise of powers of compulsory acquisition pursuant to the Order. It gives the undertaker the option to acquire land via the process set out under the 1981 Act, rather than the notice to treat procedure.

Article 20 (Time limit for exercise of authority to acquire land compulsorily)

5.6.7 Article 20 is a model provision which imposes a time limit of 5 years from the date of the Order being made for the exercise of powers of compulsory acquisition.

Article 21 (Statutory authority to override easements and other rights)

5.6.8 Article 21 provides that, in carrying out or using the authorised development and doing anything else authorised by the Order, the undertaker may, by virtue of section 158 of the PA 2008, interfere with any easement, liberty, privilege, right or advantage annexed to land and affecting other land, including any natural right to support, or breach any restriction as to use of land arising by virtue of contract. It also provides that by virtue of section 152 of the PA 2008, compensation may be payable under section 10 of the Compulsory Purchase Act 1965 for any such interference or breach.

5.6.9 This is not a model provision, but is added to clarify the position with regard to rights burdening land required for the authorised development. It has precedent, for example, in the Rookery South (Resource Recover Facility) Order 2011 (Article 18) and the Hinkley Point C (Nuclear Generating Station) Order 2013 (Article 25).

Article 22 (Acquisition of subsoil or airspace only)

5.6.10 This Article allows the undertaker to acquire rights below the ground or above it. The Article is similar to the model provision except that it has been extended to include airspace as well as subsoil and to relate to rights and restrictions. This is so that the rights required for the authorised development can be acquired with as little impact as possible on the remaining interest of the affected landowners. The acquisition of interests in or rights over airspace is particularly relevant in the context of that part of the Gas Connection pipeline that is aboveground (i.e. on the plots that are subject to Article 18) and has precedent with respects to overhead electric lines - Article 28 of the National Grid (North London Reinforcement Project) Order 2014.

Article 23 (Private rights)

5.6.11 This Article is based on a model provision and has the effect of:

- (a) suspending or extinguishing private rights and restrictive covenants over land in which the undertaker creates and acquires a right or imposes a restriction, whether compulsorily or by agreement, insofar as in either case their continuance would be

inconsistent with the exercise by the undertaker of the rights created and acquired or the burden of the restriction imposed.

- (b) suspending private rights and restrictive covenants over land and which is either leased by the undertaker pursuant to the lease or subject to rights by agreement for the benefit of the undertaker insofar as in either case their continuance would be inconsistent with any activity authorised by the Order. The wording of the model provision has been changed so as to apply to the circumstances of the undertaker; in that the undertaker will have a lease for part of the Order limits and voluntary agreements in place in respect of rights.
- (c) suspending private rights and restrictive covenants over land of which the undertaker takes temporary possession for so long as the undertaker remains in lawful possession of the land and so far as their continuance would be inconsistent with the exercise of the temporary possession of that land.

5.6.12 The drafting departs from the model provision in that it relates to all rights/restrictions over land, not just rights of way, to ensure that any other rights that may exist cannot prevent the implementation or use of the authorised development. The Article follows the approach in the Rookery South (Resource Recovery Facility) Order 2011 (Article 17) and the M1 Junction 10a (Grade Separation) Order 2013 (Article 21).

5.6.13 Paragraph (4) provides that there is an entitlement for compensation where loss is suffered as a result of the extinguishment or suspension of any private right or restrictive covenant.

5.6.14 In departure from the model provisions, reference to section 138 of the Planning Act 2008 has not been included to reflect the fact that that the Order may provide for the extinguishment of rights or removal of apparatus for the purposes of section 138.

Article 24 (Rights under or over streets)

5.6.15 Article 24 is a model provision which allows the undertaker to enter on and appropriate interests within streets where required for the purposes of the authorised development without being required to acquire that land. Provision is made for the payment of compensation in certain circumstances with slight refinements to the wording of the model provisions.

Article 25 (Temporary use of land for carrying out the authorised development)

5.6.16 Article 25 is in part a general provision model. It allows the land specified in Schedule 9 to be temporarily used by the undertaker for the carrying out of the authorised development prior to any compulsory acquisition under Article 18 taking place. There are clear limits on the length of time that the undertaker can use land in this way, in addition to provisions around giving

14 days' notice and restoration of the land following the temporary works, as well as a provision for the payment of compensation.

- 5.6.17 New wording has also been added to paragraphs (3) and (4) to take into account that undertaker may, pursuant to Article 27(1), temporarily use land that it may, eventually, compulsorily create and acquire rights over.

Article 26 (Statutory undertakers)

- 5.6.18 Article 26 provides for that the undertaker may:

- (a) extinguish or suspend the rights of, remove or reposition the apparatus belonging to statutory undertakers shown on the Land Plan (document reference 2.2) and described in the Book of Reference (4.3); and
- (b) create and acquire rights or impose restrictions over land belonging to statutory undertakers as shown on the Land Plan and described in [Part 1 of](#) the Book of Reference.

- 5.6.19 The model provision has been amended so as to allow for the suspension of rights of a statutory undertaker rather than just extinguishment. Further, the ability to acquire land compulsorily has been removed as this is not proposed in the context of the authorised development. In all cases the powers conferred by this article are subject to the protective provisions within schedule 7 of the Order.

Article 27 (Apparatus and rights of statutory undertakers in streets subject to temporary prohibition or restriction)

- 5.6.20 Article 27 makes provision in respect of the apparatus and rights of statutory undertakers in streets which are temporarily altered or where use is temporarily prohibited or restricted under Articles 10 or Article 12, including provision as to the relocation of apparatus. It is a model provision amended to reflect the Order which does not authorise any permanent stopping-up. Paragraph (2) onwards has been deleted from the model provision to avoid any duplication with the protective provisions contained in Schedule 7 of the Order.

Article 28 (Recovery of costs of new connections)

- 5.6.21 Article 28 provides that statutory undertakers who have to create a new connection following the exercise of powers under Article 26 may recover the costs of such new connections from the undertaker. It is a model provision, with the model provision that referred to the permanent stopping up of streets deleted as this is not relevant in the context of the authorised development.

5.7 Part 6 (Operations)

Article 29 (Felling or lopping of trees)

5.7.1 Article 29 provides that the undertaker may fell or lop or cut back the roots of any tree or shrub within the Order limits to prevent it obstructing or interfering with the construction, maintenance or operation of the authorised development. Compensation is provided for if loss or damage is caused. It is a model provision.

5.7.2 Paragraph (1) has been amended by the deletion of "passengers" which is not relevant to the authorised development.

Article 30 (Application of landlord and tenant law)

5.7.3 Article 30 is a model provision which would override landlord and tenant law so far as it would prejudice the operation of any agreement for leasing the whole of the authorised development or the right to operate the same or any agreement entered into by the undertaker for the construction, maintenance, or operation of the authorised development.

Article 31 (Operational land for the purposes of the 1990 Act)

5.7.4 Article 31 is a model provision which has the effect of ensuring that the land on which the authorised development is constructed is not excluded from being "operational land" under the Town and Country Planning Act 1990 by the effect of section 263 of that Act.

Article 32 (Protective provisions)

5.7.5 Article 32 provides for Schedule 7, which protects the interests of certain statutory undertakers, to have effect.

Article 33 (Certification of plans etc)

5.7.6 Article 33 is a model provision which provides for the submission of the book of reference, plans, environmental statement and documents referred to in the Order to the Secretary of State in order that they may be certified as being true copies.

Article 34 (Service of notices)

5.7.7 Article 34 deals with the service of notices pursuant to the Order. These provisions are based on those appearing in the Transport and Works (Model Provisions for Railways and Tramways) Order 2006.

Article 35 (Procedure in relation to certain approvals etc)

5.7.8 This Article contains additional provisions in respect of any approval, consent or agreement which is required to be given under the Order. It provides that any such approval, consent or agreement by the relevant authority must be given in writing.

5.7.9 It also provides that the procedures set out in Schedule 8 apply to any consent, agreement or refusal which needs to be obtained under the requirements set out in Schedule 2 and any other consents required under

the Order. The Article clarifies the procedure which applies in respect of these additional consents.

Article 36 (Arbitration)

5.7.10 Article 36 (*Arbitration*) is a general arbitration provision which provides that differences under the Order should be settled by arbitration unless another means of resolving a dispute is provided for in the Order. It is a model provision.

5.8 Schedules

Schedule 1 (Authorised development)

5.8.1 Schedule 1 specifies the authorised development:

- (a) *Work Nos. 1A to 1E*: describe the works necessary for the **Power Station Complex** - a combined cycle gas turbine generating station with a rated electrical output of up to 299MWe, incorporating one gas turbine building with up to two gas turbines and one steam turbine building with one steam turbine, each connected to its own generator, up to two exhaust gas emission flue stacks, up to two heat recovery steam generator buildings with up to two heat recovery steam generators, an air cooled condenser, switchgear room, administrative/control building, heat network interface building, 132kV switchyard, up to three transformer compounds with up to three transformers and site infrastructure. The inclusion of the term "rated electrical output" is to ensure compliance with the Carbon Capture Readiness (Electricity Generating Stations) Regulations 2013.
- (b) *Work Nos. 2A and 2B*: describe the works necessary for the **Gas Connection**, an integral gas pipeline connecting the Power Station Complex to the AGI to bring gas to the Power Station Complex from the LTS. In more detail:
 - (i) *Work No. 2A* describes the AGI which comprises a minimum off-take connection compound ("**MOC**") and a pipeline inspection gauge facility ("**PIG**"). The MOC contains the equipment required to safely operate a connection to the LTS. The PIG is a launching/receiving facility which is a compound which houses a connection to a pressure vessel which allows for inline inspection of a stretch of buried pipeline. The launching facility is matched at the other end of the pipeline by a receiving facility.
 - (ii) *Work No. 2B* describes the integral gas pipeline itself which is necessary to bring gas to the Power Station Complex from the LTS. The gas pipeline would commence underground from the AGI (Work No.2A) for approximately 10m in a south-westerly direction to the point where it

crosses over and between the West Coast Mainline railway (Rail Bridge 104) and the Trent and Mersey Canal (Canal Bridge 101 (Malkin's Bridge)). At this point the pipeline will be overground, supported on pre-fabricated concrete plinths save for where it crosses Canal Bridge 101 where the pipeline will oversail. Once over the Canal, approximately 140m from the AGI, the gas pipeline would run underground towards the Power Station Complex, at first south-westerly along a route parallel to the Canal to the Power Station Complex.

- (c) *Work No. 3:* describes the **Electrical Connection**. The electrical connection is a 132kV underground electricity connection of up to 200 metres in length from the Power Station Complex to the existing local distribution network electricity sub-station, Barlaston Substation, for the import and export of electricity comprising three underground high voltage electrical cables and associated telemetry and electrical protection auxiliary cabling.
- (d) *Work No. 4:* describes the necessary works to the existing access known as the Northern Access Road to allow a construction and operational access to the Power Station Complex to be delivered, without which the generating station cannot be constructed, operated or maintained. The works comprise alteration of the site access off the east side of Meaford Road and resurfacing, widening and infilling of the Northern Access Road, together with lighting infrastructure and drainage.
- (e) *Work No. 5A:* describes the construction laydown and car parking area that will include fencing, lighting infrastructure, weighbridge and staff welfare cabins.
- (f) *Work No. 5B:* describes a second temporary construction laydown and car parking area that will include fencing, lighting infrastructure, plant and staff welfare facilities. This area is then converted into a permanent operational and maintenance laydown area that will include hardstanding, landscaping and ecological mitigation, lighting infrastructure and fencing.
- (g) *Work No. 6:* describes the works for the foul, surface water and trade effluent drainage for the Power Station Complex, which includes the replacement, maintenance or refurbishment of the existing surface water drainage comprising underground pipework, access chambers and outfall to the River Trent, the construction and maintenance of a 1500m³ surface water retention pond and vortex flow control to limit the discharge rate into the River Trent, foul, surface water and trade effluent drainage and a foul water pump house.
- (h) *Work No. 7:* describes the 10 metre screening vegetation buffer, including tree planting, other boundary treatments and ecological

mitigation which is part of the embedded mitigation for the Power Station Complex.

- 5.8.2 Section 3 above explains why all of the numbered works identified in Schedule 1 form an integral part of the NSIP and, as such, the Order does not seek consent for any associated development.

Schedule 2 (Requirements)

- 5.8.3 Schedule 2 sets out the requirements which apply to the carrying out and operation of the authorised development under the Order. They broadly follow those set out in the model provisions, where relevant. The requirements secure the mitigation set out in the Environmental Statement (document reference 6.2).

- 5.8.4 Requirement 1 (Interpretation): Provides for the interpretation of words and phrases used in Schedule 2. Of note is the definition of "commence", which is defined as being the beginning of the carrying out of any material operation (as defined in section 56(4) of the PA 2008) excluding "permitted preliminary works." Requirement 1 defines "permitted preliminary works" as intrusive ground investigation works that are required to be carried out pursuant to requirement 6. The definition of "commence" follows the precedent set in Article 2(1) of the North Killingholme (Generating Station) Order 2014, although the works that are excluded from triggering commencement are narrower in the Order than in the North Killingholme (Generating Station) Order 2014.

- 5.8.5 Requirement 2 (Time limits): Is taken from the model provisions and requires that the authorised development is commenced within five years of the date that the Order is made.

- 5.8.6 Requirement 3 (Detailed Design):

- (a) Requirement 3(1) sets out a list of plans (Table 1) in accordance with which the authorised development must be carried out. The requirement also notes that any documents approved pursuant to the requirements themselves will need to be complied with. This is more robust wording than that used in the model provisions but carries the model provision principle through. Requirement 19(1) makes it clear that the plans identified in Table 1 cannot be amended under requirement 19.
- (b) Requirement 3(2) prescribes the maximum dimensions of certain key elements of numbered work 1 (Table 2, where the maximum height is given above an existing site level of approximately 99 metres AOD) and numbered work 3 (Table 3, where, given the natural gradient of the terrain along the Gas Connection route, the maximum height is given above the existing site level which changes along the route).

- (c) Requirement 3(3) applies the design objectives as set out in the design objectives statement and ensures that relevant numbered works are designed substantially in accordance with these design objectives. As is usual at this stage of a major project, the design and build contractor for the authorised development has not been appointed. Accordingly, there has to be recognition that whilst the Application can set the principles within which the authorised development is to be carried out, there must be an allowance for the future design and build contractor to move slightly outside those principles at the detailed design stage. For this reason, the words "substantially in accordance with" have been utilised. It is noted that these words are stronger than phrases used in made orders, such as "in general accordance with" (see the North Killingholme (Generating Station) Order 2014).
- (d) Requirement 3(4) requires, in respect of numbered works 1, 2 and 4, details of the siting, design, external appearance, dimensions and floor levels of all permanent buildings and structures and the colour, materials, and surface finish of the pipeline and all permanent buildings and structures to be submitted to and approved by the relevant planning authority prior to work commencing on that numbered work. The relevant planning authority will consult with the National Trust regarding the external appearance and the colour of all permanent buildings and structures.

5.8.7 Requirement 4 (Provision implementation and maintenance of landscaping):

- (a) Requirement 4(1) secures the landscaping proposals set out in the Environmental Statement (document reference 6.2) through the submission of a landscaping scheme (containing certain specified details in relation to hard and soft landscaping) for the approval of the relevant planning authority. The landscaping scheme must be substantially in accordance with the illustrative landscaping plan (document reference 2.7.2) as well as the illustrative cross sections drawing submitted on 22 October 2015. See paragraph 5.8.6(c) above for justification for the words "substantially in accordance with-".
- (b) Requirements 4(2), 4(3) and 4(4) secure the implementation and maintenance of landscaping and requires all landscaping works to be carried out in accordance with the landscaping scheme approved by the relevant planning authority. Requirement 4(5) ensures that the landscaping works will be managed and maintained throughout the life of the MEC. It is anticipated that the final landscaping scheme will clearly set out both minimum and maximum heights for vegetation, where appropriate.

5.8.8 Requirement 5 (Construction and Environment Management Plan):

- (a) Requirement 5 is not a model provision, although it does incorporate several separate provisions. The requirement secures the submission for approval by the relevant planning authority of a construction environment management plan ("**CEMP**"). The CEMP must be substantially in accordance with the draft CEMP set out in Appendix 17.1 to volume 4 of the Environmental Statement (document reference 6.4). See paragraph 5.8.6(c) above for justification for the words "substantially in accordance with."
- (b) The Requirement specifies particular measures that the final CEMP must contain.
- (c) All construction works are required to be undertaken in accordance with the approved CEMP.
- (d) As it is likely that there will be different contractors for different numbered works, Requirement 5(3) allows the undertaker to submit a CEMP for each of the numbered works individually. However, given the definition of "numbered work 1", "numbered work 2" and "numbered work 5" in Article 2(4), a CEMP cannot be produced for a numbered work comprising a combination of numbers and letters, for example a single CEMP could not be produced for numbered work 1A and another CEMP produced for numbered work 1B etc. rather a CEMP would need to be submitted for numbered work 1 (namely numbered work 1A to numbered work 1E inclusive).

5.8.9 Requirement 6 (Ground Investigation):

- (a) Requirement 6(1) requires that numbered work 1 may not be commenced until an intrusive ground investigation has been undertaken.
- (b) Requirement 6(2) requires a geo-environmental interpretative report identifying the extent of contamination of any land and a proposed remediation strategy, if required, to be submitted to the relevant planning authority for approval prior to any remediation commencing.
- (c) Requirement 6(3) requires that if, during any works, contamination is encountered which has not previously been identified under sub-paragraph (1) then the additional contamination must be fully assessed and an appropriate remediation scheme submitted to and approved by the relevant planning authority.
- (d) Requirement 6(4) also requires a closure report to be submitted (demonstrating the completion and effectiveness of any remediation works) and approved in writing by the relevant planning authority.

- (e) Requirement 6(5) requires any remediation strategy approved under sub-paragraph (2) and any remediation scheme approved under sub-paragraph (3) must be implemented in accordance with the approved details.

5.8.10 Requirement 7 (Piling): This Requirement requires that no piling may be commenced until a piling strategy has been submitted to and approved by the relevant planning authority, such strategy must include a piling risk assessment to identify the piling techniques to be used by the authorised development. The authorised development must be carried out in accordance with the approved piling strategy. This Requirement has precedent in the North Killingholme (Generating Station) Order 2014 (Requirement 25).

5.8.11 Requirement 8 (Fencing and other means of enclosure):

- (a) Requirements 8(1) and 8(2) secure the submission of details to the relevant planning authority for approval for all proposed means of enclosure relating to the authorised development. Once approved, the details are to be implemented.
- (b) As it is likely that there will be different contractors for different numbered works, Requirement 8(3) allows the undertaker to submit the details for each of numbered work 1E, numbered work 2A, numbered work 2B, numbered work 5A and numbered work 5B individually (being the numbered works that include fencing and other means of enclosure).

5.8.12 Requirement 9 (Habitat management plan):

- (a) Requirement 9 is based on a model provision. Requirement 9(1) secures the submission of a written habitat management plan to the relevant planning authority for approval prior to commencement of the authorised development. The plan is to reflect the ecological mitigation and enhancement measures contained in the Environmental Statement (document reference 6.2). The undertaker must carry out the approved habitat management plan in accordance with the approved implementation timetable (Requirement 9(2)).
- (b) As it is likely that there will be different contractors for different numbered works, Requirement 9(3) allows the undertaker to submit a habitat management plan for each of numbered work 1E, numbered work 5B, numbered work 6 and numbered work 7 individually (being the numbered works that include habitat management).

5.8.13 Requirement 10 (Construction traffic):

- (a) Requirement 10 is based on a model provision and requires a construction traffic management plan ("**CTMP**") to be submitted to

and approved by the relevant planning authority (in consultation with the highway authority). The CTMP must be substantially in accordance with the draft construction traffic management plan contained in appendix 7.11 to volume 4 of the Environmental Statement (document reference 6.2). See paragraph 5.8.6(c) above for justification for the words "substantially in accordance with." The Requirement specifies particular measures that the CTMP must contain. The CTMP must be implemented as approved (Requirement 10(2)).

- (b) The construction of the Power Station Complex will require abnormal indivisible loads to be transported into and out of the site. As it may be more appropriate for these loads to arrive at the site outside the construction hours in Requirement 12, the CTMP must include details of when 24 access may be required and the arrangements that the undertaker would need to go through with the relevant planning authority and highway authority. In addition, there may be other construction activities that need to be carried out outside the core construction hours in Requirement 12, for example the pouring of the concrete slab. In these circumstances, the CTMP would deal with the arrangements for 24 access, whilst the undertaker would need to get express approval from the relevant planning authority to work outside the core hours in Requirement 12.
- (c) As it is likely that there will be different contractors for different numbered works, Requirement 10(3) allows the undertaker to submit a CTMP for each of the numbered works individually. However, given the definition of "numbered work 1", "numbered work 2" and "numbered work 5" in Article 2(4), a CTMP cannot be produced for a numbered work comprising a combination of numbers and letters, for example a single CTMP could not be produced for numbered work 1A and another CTMP produced for numbered work 1B etc. rather a CTMP would need to be submitted for numbered work 1 (namely numbered work 1A to numbered work 1E inclusive).

5.8.14 Requirement 11 (Travel plan during operational phase): This Requirement requires the submission to and approval by the relevant planning authority of a written operational travel plan prior to the date of final commissioning. The operational travel plan submitted for approval must include objectives and targets and measures and initiatives to promote sustainable travel. The operational travel plan must be carried out as approved.

5.8.15 Requirement 12 (Construction hours): This Requirement is based on a model provision and specifies the days on which and hours within which (provision for start up and shut down is made) construction works can take place. The requirement does not prevent the undertaker from undertaking these works outside the specified core hours, but this can only be done with the prior, written approval of the relevant planning authority.

5.8.16 Requirement 13 (Foul and surface water drainage): This Requirement requires that numbered work 1 must not commence until written details of the foul and surface water drainage system and sustainable drainage systems for the operation of the authorised development has been submitted to and approved by the relevant planning authority. The Requirement secures that the authorised development must be constructed in accordance with the approved foul and surface water drainage strategy.

5.8.17 Requirement 14 (Artificial Lighting):

- (a) This Requirement is based on a model provision and requires the submission of written details for the control of artificial light emissions during maintenance and operation of the authorised development for the approval of the relevant planning authority prior to the date of final commissioning. The artificial lighting must be implemented in accordance with the approved details (Requirement 14(2)).
- (b) As it is likely that there will be different contractors for different numbered works, Requirement 14(3) allows the undertaker to submit details for the control of artificial light emissions for each of numbered work 1E, numbered work 5A, numbered work 5B and individually (being the numbered works that include lighting).
- (c) Requirements 14(4) and (5) reflect the requirements of the Ministry of Defence and relate to the fitting (if reasonably required) of infra-red light at the highest practicable point of the stack(s) prior to the date of final commissioning, as well as the reporting of certain information to the Defence Geographic Centre.

5.8.18 Requirement 15 (Emergency Access):

- (a) Under the extant planning permission (reference 10/13609/EXT) for the MBP (Appendix 2 to this memorandum), condition 16 of that permission requires the existing closed access which is located between line N-O on the access rights of way plan (document reference 2.4) to remain closed unless otherwise agreed in writing with the relevant planning authority.
- (b) This Requirement 15 provides that the undertaker cannot use the existing closed access unless and until an emergency strategy has been submitted to and approved by the relevant planning authority, the strategy to include details of how the access is to be secured at all times and how and when the access may be opened in the event of an emergency. The undertaker's intention would be to submit this strategy jointly under the Order and under condition 16 of the extant planning permission so as to receive the relevant planning authority's approval under planning permission 10/13609/EXT as well as the Order. The undertaker will be

discussing this arrangement with the relevant planning authority when agreeing statements of common ground.

- 5.8.19 Requirement 16 (Bridge plinths): This Requirement confirms that:
- (a) no bridge plinths for the Gas Connection pipeline are to be installed on Canal Bridge 101 (Malkin's Bridge);
 - (b) the crown of the pipeline over Canal Bridge 101 must not protrude above the repaired parapet by more than 150mm; and
 - (c) prior to these works commencing, a method statement detailing the extent and nature of the repairs must be submitted to and approved by the relevant planning authority.
- 5.8.20 Requirement 17 (Highway works): This Requirement applies in relation to any highway work in a street for which the highway authority is the street authority. Prior to the carrying out of any such highway work authorised under Article 4 (maintenance of the authorised development), Article 10 (power to alter layout, etc. of any streets) or Article 11 (street works), the undertaker must submit all necessary technical specifications required for that work for the prior approval of the highway authority. The highway work must be carried out in accordance with the approved technical specification. Requirement 17 has been added following a request from the Relevant Planning Authorities.
- 5.8.21 Requirement 18 (Local economic benefit): This Requirement secures the benefits of the authorised development in respect of socio-economics. The Requirement requires the undertaker to submit to the relevant planning authority for approval prior to commencement of any part of the authorised development, a scheme for the promotion of the local economic benefits arising from the authorised development.
- 5.8.22 Requirement 19 (Amendments to approved details): This Requirement is based on a model provision and allows the relevant planning authority to approve amendments to details or plans submitted pursuant to the Requirements. The Requirement does not permit amendments being made to the plans identified in Table 1 (Requirement 3(1)) but does permit amendments to the parameters set out in Tables 2 and 3 (Requirement 3(2)). This is to allow flexibility in the approval of details submitted pursuant to the Requirements, provided that the proposed amendment is unlikely to give rise to any materially new or materially different environmental effects in comparison with the authorised development.
- 5.8.23 Requirement 20 (Combined heat and power): As the Power Station Complex will be CHP ready, this Requirement requires the undertaker to review potential opportunities for the use of heat from the authorised development prior to the date of final commissioning (i.e. prior to the date on which the authorised development commences operation by generating power on a commercial basis). The undertaker is then required to provide for on-going monitoring and exploration of potential opportunities to use

heat from the authorised development (Requirements 20(1) and (2)). In the event that viable opportunities for the re-use of heat are identified, then the undertaker must submit for approval a scheme for the provision of the necessary plant and pipework to the boundary of numbered work 1 (being the Power Station Complex) and to then install the plant and pipework up to the boundary of numbered work in accordance with the agreed details (Requirement 20(3)). This Requirement is based on a Requirement in the North Killingholme (Generating Station) Order 2014 (Requirement 28).

- 5.8.24 Requirement 21 (Decommissioning Strategy): This Requirement details that within 24 months of the Order land ceasing to be used for the purposes of electricity generation, a scheme for the demolition and removal of numbered work 1 must be submitted to the relevant planning authority for approval. Demolition and removal of numbered work 1 must be implemented in accordance with the approved scheme. Paragraph (3) of this Requirement specifies that on the one year anniversary of the Order land ceasing to be used for the purposes of the electricity generation, the undertaker must notify the relevant planning authority of the same.
- 5.8.25 Requirement 22 (Requirements for written approval, etc.): This Requirement provides that any approval or agreement of the relevant planning authority or any other party must be provided in writing.

Schedule 3 (Modification of compensation and compulsory purchase enactments for creation of new rights)

- 5.8.26 Schedule 3 modifies existing compensation legislation including the Land Compensation Act 1973 and the Compulsory Purchase Act 1965.

Schedule 4 (Streets subject to permanent alteration of layout)

- 5.8.27 Schedule 4 sets out the streets to be permanently altered.

Schedule 5 (Streets subject to street works)

- 5.8.28 Schedule 5 sets out the streets that would be subject to street works (including reference to the relevant plan, the location and the specific street).

Schedule 6 (Temporary prohibition or restriction of the use of streets)

- 5.8.29 Schedule 6 sets out the streets that will be subject to a temporary prohibition or restriction on the use of that street (including reference to the relevant plan, the location and the extent of the temporary prohibition or restriction on use).

Schedule 7 (Protective provisions)

5.8.30 Schedule 7 provides protective provisions, which are currently in draft form, in respect of:

- (a) Part 1: National Grid – these draft protective provisions are being discussed with National Grid (see paragraph 10.3.5 of the Statement of Reasons, document reference 4.1);
- (b) Part 2: protects electricity licence holders, gas transporters and sewerage undertakers (such as Western Power Distribution but not National Grid which is protected by Part 1) (see paragraph 10.3.6 of the Statement of Reasons, document reference 4.1);
- (c) Part 3: Network Rail - these draft protective provisions are being discussed with Network Rail (see paragraph 10.3.2 of the Statement of Reasons, document reference 4.1);
- (d) Part 4: Canal and River Trust – these draft protective provisions are being discussed with the Canal and River Trust (see paragraph 10.3.3 of the Statement of Reasons, document reference 4.1);
- (e) Part 5: protects the operators of electronic communications code networks (such as KCOM Group Plc and Colt Telecom (see paragraphs 10.3.7 to 10.3.9 of the Statement of Reasons, document reference 4.1);
- (f) Part 6: protects SP Manweb's access to its apparatus, as requested by SP Manweb (see paragraph 10.3.4 of the Statement of Reasons, document reference 4.1);
- (g) Part 7: following discussions with British Telecommunications Ltd these protective provisions have been drafted and are being discussed with BT.

Schedule 8 (Procedure for discharge of requirements)

5.8.31 Schedule 8 provides a clear procedure for the discharge of requirements by the relevant planning authority. It sets out clear time limits for decisions to be made within (the deemed consent provision has been agreed with the relevant planning authority) and makes provision for appeals to be made in the event of a refusal of an application in relation to a requirement or any other provision of the Order.

Schedule 9 (Land of which temporary possession may be taken)

5.8.32 Schedule 9 sets out the land temporary possession of which may be taken pursuant to Article 25. It also makes clear the purpose for which such temporary possession may be taken.

APPENDIX 1

MARK-UP OF THE PROPOSED ORDER AGAINST THE MODEL PROVISIONS

APPENDIX 2

Planning permission reference 10/13609/EXT