



# The Millbrook Power (Gas Fired Power Station) Order

## 10.1 Planning Statement

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

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# 1 Executive Summary

## 1.1 Overview of the Project and the DCO Application

- 1.1.1 The applicant for the Project is Millbrook Power Limited (MPL), a company registered in England (Company Number 8920458) and a wholly owned subsidiary of Drax Group PLC (incorporated in England and Wales with number 05562053), the ultimate holding company for the Drax group of companies.
- 1.1.2 MPL is applying to the Secretary of State (SoS) under the Planning Act 2008 (PA 2008) for powers to construct, operate and maintain an Open Cycle Gas Turbine (OCGT) gas fired peaking power generating station, fuelled by natural gas with a rated electrical output of up to 299 Megawatts (MW).
- 1.1.3 The Project would be located at and in the vicinity of the former clay extraction pit at Rookery South, near Stewartby, Bedfordshire with the approximate centre of the Project Site at grid reference 501373, 240734. The boundary of the Project Site falls within both Central Bedfordshire Council (CBC) and Bedford Borough Council (BBC) areas.
- 1.1.4 The Planning Statement acts as the primary reference document for an explanation of the planning issues pertinent to the Project and a description of how the DCO Application addresses these. It forms part of the suite of documents accompanying the DCO Application submitted in accordance with Section 55 of the Act and Regulation 5 of the APFP Regulations. The DCO Application seeks the making of the Millbrook Power (Gas Fired Power Station) Order, which would confer the powers required.
- 1.1.5 The Order Limits comprise the land required for the Power Generation Plant, the Electrical Connection and the Gas Connection and are as shown on the Works Plans (Document Reference 2.7).
- 1.1.6 As the generation capacity of the Project will exceed 50MWe it is classed as a Nationally Significant Infrastructure Project (NSIP) and therefore Development Consent is required under the Planning Act 2008.
- 1.1.7 Development Consent for a NSIP may only be granted by a Development Consent Order through an application under Section 37 of the PA 2008 to the SoS. The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (the EIA Regulations) require an Environmental Impact Assessment (EIA) to be carried out in respect of development that is classed as EIA development. All development in Schedule 1 of the EIA Regulations (“Schedule 1 development”) requires an EIA. Development in Schedule 2 of the EIA Regulations (“Schedule 2 development”) requires an EIA if it is likely to have significant effects on the environment.
- 1.1.8 The definition of a Schedule 1 development includes thermal generating stations with a heat output of 300 Megawatt Thermal (MWth) or more (Schedule 1 paragraph 2(a)). The thermal output of the Power Generation

Plant will be greater than 300MWth and therefore an EIA will be required under the EIA Regulations.

- 1.1.9 Regulation 5 of the APFP Regulations requires that a series of documents must accompany the DCO Application. This Planning Statement is not a required document pursuant to regulation 5 of the APFP Regulations but has been included as part of the DCO Application by MPL as MPL considers that it will assist in the consideration of the DCO Application by the Planning Inspectorate (PINS), interested parties and the SoS.

## **1.2 Need for and Benefits of the Project**

- 1.2.1 The urgent need for energy generation, including gas fired generating stations and gas fired peaking plants, are set out within NPS EN-1 (paragraph 3.8), the Gas Generation Strategy (DECC, 2012) (paragraph 1.36), and the National Infrastructure Plan (HM Treasury, 2014). In the Annual Energy Statement (AES) (DECC, 2014), DECC reiterated the need to build new power generation infrastructure and acknowledged the need for gas to feature strongly in the energy mix.
- 1.2.2 The Project would contribute materially to the immediate and medium term need for flexible, reliable, peak load power generation and facilitate the transition to a low carbon economy. The chosen technology for a peaking plant would help to 'balance out' the grid at times of peak electricity demand and help to support the grid at times when intermittent renewable sources cannot generate electricity.
- 1.2.3 The construction period is estimated to last 22 months from Q1 2020 to Q4 2022, and is expected to be operational by 2022. The number of construction workers onsite per month ranges from 25 to 122 during the peak construction period.
- 1.2.4 The construction and operation of the Project would benefit the local economy. Chapter 14 of the Environmental Statement (ES) (Document Reference 6.1) deals with the Socio-Economic Impacts of the Project. The Chapter concludes that inter alia the Project will deliver positive socio-economic impacts through positive impacts on the labour market at the construction / decommissioning phases. It is further anticipated that the operation of the Project will have a positive impact on the labour market through the creation of local jobs.
- 1.2.5 Gross Value Added (GVA) is a measure of the value of goods and services produced in an area, industry or sector of an economy. Annual construction GVA per head in the East of England is £69,625. The construction phase will deliver £6.4 million GVA to the wider economy annually, as recorded within Chapter 14 of the ES (Document Reference 6.1).
- 1.2.6 Through assessing local and regional policy (set out and considered within sections 5 and 6 of this Planning Statement), it is evident that there is a significant requirement to create jobs in the Marston Vale area and across Bedford and Central Bedfordshire. The operational phase of the Project

would provide an estimated 10 FTE direct jobs. The net effect, taking account of leakage, displacement and the multiplier effect would be 9.4 additional regional FTE jobs and 5.5 national FTE jobs. Average GVA per utility employee in East of England is £90,071. Assuming Project related employment generated average levels of GVA, the Project's operation would provide approximately £0.85m GVA and £0.5m GVA per annum to the local and national economy respectively.

- 1.2.7 It is further projected that should the construction, decommissioning or operation occur simultaneously with any other projects in the area, that this would enhance local benefits for goods, services and employment, thus resulting in a minor positive cumulative effect.

### **1.3 Planning Assessment**

- 1.3.1 Under the Localism Act 2011 PINS became the agency responsible for operating the planning system for NSIPs and conducting the examination process.

- 1.3.2 The examination is a predominantly written process led either by a single appointed person or a panel, who submit a report with their recommendation to the relevant SoS who will take the final decision as to whether to make a Development Consent Order for the Project and in what terms. The relevant SoS for the Project is the SoS for Business, Energy and Industrial Strategy.

- 1.3.3 Section 104(2) of the PA 2008 provides that in making decisions on Development Consent Order applications, the SoS must have regard to any relevant National Policy Statement and must decide applications in accordance with it unless the adverse impacts of the proposal would outweigh its benefits (or in certain other limited circumstances).

- 1.3.4 As set out in National Policy Statement (NPS) EN-1, "this NPS, when combined with the relevant technology-specific energy NPS, provides the primary basis for decisions by the [SoS]" (paragraph 1.1.1) and that the SoS "should start with a presumption in favour of granting consent to applications for energy NSIPs" (paragraph 4.1.2). The relevant National Policy Statements in the context of the Project are:

- National Policy Statement EN-1 - The Overarching National Policy Statement for Energy;
- National Policy Statement EN-2- National Policy Statement for Fossil Fuel Electricity Generating Infrastructure;
- National Policy Statement EN-4 - National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines; and,
- National Policy Statement EN-5 – National Policy Statement for Electricity Networks Infrastructure.

- 1.3.5 Section 104 of the Planning Act 2008 also requires the SoS to have regard to any Local Impact Report (see section 104(2)(b)) and other matters which the SoS “thinks are both important and relevant to the SoS’s decision”. A range of UK and local policy designations and evidence that may assist the SoS’s decision making is reproduced within sections 5 and 6.
- 1.3.6 The EIA Regulations require an EIA to be carried out for the Project.
- 1.3.7 In accordance with section 4.2 of NPS EN-1, the ES (Document Reference 6.1) considers:
- aspects of the environment likely to be significantly affected by the project, including social and economic effects and how any likely significant negative effects would be avoided or mitigated;
  - likely significant effects, including any significant residual effects taking account of any proposed mitigation measures or any adverse effects of those measures;
  - Distinctions between project stages and mitigation measures at those stages;
  - Information on how the effects of the applicant’s proposal would combine and interact with the effects of other development (including projects for which consent has been sought or granted, as well as those already in existence); and
  - Which elements of the proposals are detailed and which remain to be finalised, and reasons, with maximum extents of plant and site shown and appropriate requirements in the Draft DCO.
- 1.3.8 The EIA findings, set out within the ES (Document Reference 6.1) and referenced in section 6 of this Planning Statement, support the overall conclusion that there are no relevant adverse impacts or disbenefits which hold enough significance to outweigh the substantial weight that must be afforded to the Project’s contribution towards meeting national energy and climate change policies, including meeting the national need for flexible gas generation.
- 1.3.9 Having regard to the requirements of Section 104 of the PA 2008, and in the absence of sufficient indications to the contrary, there is a compelling case in the public interest for the Order to be made in the terms proposed.

## 2 Introduction

### 2.1 Purpose of the Report

2.1.1 This Planning Statement has been produced as part of the suite of documents accompanying Millbrook Power Limited's (MPL) application ("the DCO Application") for a Development Consent Order (DCO) to the SoS for Business, Energy & Industrial Strategy. The DCO Application will be submitted to PINS who will examine it before making a recommendation to the SoS.

2.1.2 The Planning Statement acts as the primary reference document for an explanation of the planning issues pertinent to the Project and a description of how the DCO Application addresses these. A number of other documents in the DCO Application set out design features, mitigation, or other commitments, that address relevant planning issues. Where relevant, the Planning Statement cross-refers to these documents to provide further explanation.

2.1.3 A glossary of defined terms is provided in the Project Glossary (Document Reference 1.4).

2.1.4 The Planning Statement is structured to include:

- An introduction to the Project, including details of the Applicant, the requirement for Development Consent and for other Consents, and the composition of the DCO Application at section 2;
- An explanation of the Project context and site description, including a summary of the planning history at section 3;
- An explanation of the need for the Project at section 4;
- A summary of the planning policy context relevant to the Project, including reference to relevant planning guidance primarily contained with NPS EN-1, EN-2, EN-4 and EN-5, as well as the National Planning Policy Framework (NPPF), National Planning Policy Guidance (NPPG) and relevant local planning policy adopted or being prepared by Central Bedfordshire Council and Bedford Borough Council at section 5;
- An assessment of the Project in respect of relevant NPS guidance, as well as other important and relevant matters, at section 6;
- An assessment of the likely overall disbenefits and benefits of the Project at section 7; and,
- An overall conclusion to the Planning Statement and the acceptability of the DCO Application in accordance with the decision-making framework established in the PA 2008 at section 8.

## 2.2 Project Overview

2.2.1 MPL is applying to the SoS under the PA 2008 for consent to construct, operate and maintain:

- a new Power Generation Plant in the form of an Open Cycle Gas Turbine (OCGT) peaking power generating station, fuelled by natural gas with a rated electrical output of up to 299 MW. This is the output of the generating station as a whole, measured at the terminals of the generating equipment. The Power Generation Plant comprises:
  - generating equipment including one Gas Turbine Generator with one exhaust gas flue stack and Balance of Plant (together referred to as the 'Generating Equipment'), which are located within the 'Generating Equipment Site';
  - a new purpose built access road from Green Lane to the Generating Equipment Site (the 'Access Road' or the 'Short Access Road');
  - a temporary construction compound required during construction only (the 'Laydown Area');
- a new underground gas pipeline connection, approximately 1.8 km in length (the 'Pipeline') to bring natural gas to the Generating Equipment from the National Transmission System (the 'Gas Connection'). The Gas Connection also incorporates an Above Ground Installation (AGI) at the point of connection to the National Transmission System; and
- a new electrical connection to export power from the Generating Equipment to the National Grid Electricity Transmission System (NETS) (the 'Electrical Connection'), comprising an underground double circuit Tee-in. This would require one new tower (which will replace an existing tower and be located in the existing Grendon – Sundon transmission route corridor, thereby resulting in no net additional towers). This option would require two SECs, one located on each side of the existing transmission line, and both circuits would then be connected via underground cables approximately 500 m in length to a new substation (the 'Substation').

2.2.2 The Generating Equipment, Access Road and Laydown Area are together known as the 'Power Generation Plant' and are located within the 'Power Generation Plant Site'. The Power Generation Plant Site is approximately 12.5 ha in area.

2.2.3 The Power Generation Plant, Gas Connection, and Electrical Connection, together with all access requirements are referred to as the 'Project'. The land upon which the Project would be developed, or which would be required in order to facilitate the development of the Project, is referred to as the 'Project Site'.



- 2.2.4 The Project is proposed at and in the vicinity of the former clay extraction pit at Rookery South, near Stewartby, Bedfordshire. The boundary of the Project Site falls within both Central Bedfordshire Council (CBC) and Bedford Borough Council (BBC) areas.
- 2.2.5 A full glossary of defined terms is presented in the Project Glossary (Document Reference 1.4).

## **2.3 The Applicant**

- 2.3.1 The Applicant for the Project is Millbrook Power Limited (MPL), an energy development company (Company Number 8920458) established for the Project. MPL is a wholly owned subsidiary of Drax Group PLC (Drax) (Company number 05562053), the ultimate holding company for the Drax group of companies.
- 2.3.2 MPL's registered office is at Drax Power Station, Drax, Selby, North Yorkshire, United Kingdom, YO8 8PH. The Project is being managed by MPL's project team based in Edinburgh (49 York Place Edinburgh EH1 3JD).
- 2.3.3 Drax acquired MPL from Watt Power Limited (Watt Power) in 2016. Stag Energy Development Company Ltd (Stag Energy) previously provided management services to Watt Power in relation to MPL. Stag Energy continues to provide resources to MPL through a management services agreement. Stag Energy was founded in 2002 and the company draws on a depth of experience within a team that has created and delivered over 10,000 MW of power generation and related infrastructure projects across the globe, of which 2,500 MW has been delivered in the UK.
- 2.3.4 Drax currently has three other power generation projects which have either already been granted consent under or are being brought forward through the PA 2008 process. They are: Progress Power Ltd at Eye Airfield in Suffolk ([www.progresspower.co.uk](http://www.progresspower.co.uk)): Hirwaun Power Ltd at Hirwaun in South Wales ([www.hirwaunpower.co.uk](http://www.hirwaunpower.co.uk)): and Abergelli Power Ltd at Abergelli in South Wales ([www.abergellipower.co.uk](http://www.abergellipower.co.uk)). The first two listed projects were granted Development Consent in July 2015.
- 2.3.5 MPL is committed to the development of assets to support the UK Government's drive to a low carbon economy. MPL recognises the need to balance commercial issues with the environmental benefits and concerns relating to energy projects and believes this balance can be responsibly delivered. The Project would be designed and developed to high quality, safety and environmental standards.
- 2.3.6 MPL is also committed to acting in a socially and environmentally responsible manner. As part of this policy, MPL has sought the views and concerns of the local community during two phases of consultation and has considered the representations made during this process in preparing the DCO Application. Statutory consultation has been carried out in accordance with the requirements of primary and secondary legislation, in particular the PA

2008, the EIA Regulations 2009 and the APFP Regulations, and is recorded within the Consultation Report (Document Reference 5.1).

2.3.7 Further information on the companies referred to above is provided at [www.millbrookpower.co.uk](http://www.millbrookpower.co.uk) or [www.drax.com](http://www.drax.com).

## **2.4 Requirement for Development Consent and for Environmental Impact Assessment**

2.4.1 The generation capacity of the Power Generation Plant will exceed 50MWe and will therefore be classified as an NSIP under Section 15 of the PA 2008. Accordingly, Development Consent will be required in accordance with Section 31 of the PA 2008.

2.4.2 Development Consent for a NSIP may only be granted by a DCO through an application under Section 37 of the PA 2008 to the SoS. Section 37 of the PA 2008 also governs the content of an application for a DCO, including the requirements for the necessary accompanying documents. These requirements are specified in the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (“APFP Regulations”).

2.4.3 The Project falls under the EIA Regulations 2009 regime and not the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations 2017) regime. This is because a scoping opinion was requested from the SoS under the EIA Regulations 2009 before the EIA Regulations 2017 came into effect. This means that, in accordance with the transitional arrangements at Regulation 37 of the EIA Regulations 2017, the EIA Regulations 2009 will continue to apply to the Project.

2.4.4 The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (the EIA Regulations) require an EIA to be carried out in respect of development that is classed as EIA development. All development in Schedule 1 to the EIA Regulations (“Schedule 1 development”) requires EIA. Development in Schedule 2 to the EIA Regulations (“Schedule 2 development”) requires EIA if it is likely to have significant effects on the environment.

2.4.5 The definition of a Schedule 1 development includes thermal generating stations with a heat output of 300MWth or more (Schedule 1 paragraph 2(a)). The thermal output of the Power Generation Plant will be greater than 300MWth and therefore an EIA for the Project will be required under the EIA regulations.

2.4.6 Section 5(2)(a) of the APFP Regulations requires that any Environmental Statement required pursuant to the EIA Regulations, together with any scoping or screening opinions or directions, must accompany the DCO Application.



## 2.5 Composition of the DCO Application

- 2.5.1 The legislative requirements for applications for a Development Consent Order are principally contained in the PA 2008, the APFP Regulations and (in this instance) the EIA Regulations.
- 2.5.2 The DCO Application submitted for the Project complies with the requirements of the PA 2008, the APFP Regulations, the EIA Regulations and applicable SoS and Planning Inspectorate guidance, including in particular Planning Inspectorate Advice Note 7 (Preparation and submission of application documents, February 2016).
- 2.5.3 A full list of all documents to be provided alongside the Draft DCO has been supplied to PINS and is set out within Table 2.1 below.

Table 2.1: List of DCO Application documents

Application Document Reference	Application Document Name	Statutory / Other Requirement for Document
<b>Category 1: Application Form</b>		
1.1	Introduction to the Applicant and Guide to the Application	Reg. 5(2)(q)
1.2	Application Form	S.37(3)(b) and Reg. 5(1)
1.3	Copies of Newspaper Notices	Reg. 5(2)(q) and PINS Advice Note 7
1.4	Project Glossary	Reg. 5(2)(q)
<b>Category 2: Plans / Drawings</b>		
2.1	Site Location Plan	Reg. 5(2)(o)
2.2	Existing Site Layout Plans	Reg. 5(2)(o)
2.3	Indicative Site Layout Plans	Reg. 5(2)(o)
2.4	Indicative Elevation Drawings	Reg. 5(2)(o)
2.5	Land Plans	Reg. 5(2)(i) and Reg. 5(2)(n)
2.6	Works Plans	Reg. 5(2)(j)
2.7	Rights of Way, Streets and Access Plan	Reg. 5(2)(k)
<b>Category 3: Draft Development Consent Order</b>		
3.1	Draft Development Consent Order	Reg. 5(2)(b)
3.2	Explanatory Memorandum	Reg. 5(2)(c)
<b>Category 4: Compulsory Acquisition Information</b>		
4.1	Statement of Reasons	Reg. 5(2)(h)

4.2	Funding Statement	Reg. 5(2)(h)
4.3	Book of Reference	Reg. 5(2)(d) and Reg. 7
<b>Category 5: Reports</b>		
5.1	Consultation Report	S.37(3)(c)
5.2	Consultation Report Appendices	S.37(3)(c)
5.3	NOT USED	
5.4	Flood Risk Assessment	Reg. 5(2)(e)
5.5	Statement of Engagement of Section 79(1) of the Environmental Protection Act 1990	Reg. 5(2)(f)
5.6	Details of Other Consents and Licences	Reg. 5(2)(q) and PINS Advice Note 7
5.7	No Significant Effects Report	Reg.5(2)(g)
<b>Category 6: Environmental Impact Assessment and Habitats Regulations Information</b>		
6.1	Environmental Statement	<p>Reg. 5(2)(a) and Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.</p> <p>Document 6.1 includes within it the following:</p> <p>(i) Assessment of any effects on sites or features of nature conservation (etc), at ES Section 8, Ecology and Nature Conservation, subsection 8.12 (Reg.5(2)(l)); and</p> <p>(ii) Assessment of any effects on sites or features of the historic environment, at ES Section 13, Cultural Heritage and Archaeology, subsection 13.12 (Reg.(5)(2)(m)).</p>
6.2	Environmental Statement Appendices	Reg. 5(2)(a) and Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

		Document 6.2 includes within it the EIA Scoping Report and EIA Scoping Opinion at ES Volume B, Appendix 1.2 (Reg.5(2)(a)).
6.3	Environmental Statement Figures	Reg. 5(2)(a) and Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.  Document 6.3 includes within it:  (i) Plans showing sites or features of nature conservation (etc) at Figure 8.1 (Reg.5(2)(l)); and  (ii) Plans showing sites or features of the historic environment at Figure 13.1 (Reg.5(2)(m)).
6.4	Environmental Statement Non-Technical Summary	Reg. 5(2)(a) and Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.
<b>Category 7: Photographs</b>		
7.1	Photographs and Photomontages	Reg.5(2)(q)
7.2	Plan Identifying Locations of Photographs	Reg. 5(2)(q)
7.3	Index of Photographs	Reg. 5(2)(q)
<b>Category 8: Other Media</b>		
-	NOT USED	-
<b>Category 9: Additional Information for Specific Types of Infrastructure</b>		
9.1	Grid Connection Statement	Reg.5(2)(p) and Reg.6(1)(a)
9.2	Gas Connection Statement	Reg.5(2)(p) and Reg.6(1)(a)
<b>Category 10: Other Documents</b>		
10.1	Planning Statement	Reg. 5(2)(q)
10.2	Design and Access Statement	Reg. 5(2)(q)

10.3	Statement of Proposed Heads of Terms for an Agreement Pursuant to s106 of the TCPA 1990	Reg. 5(2)(q)
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## **2.6 Requirement for other Consents**

2.6.1 Other consents are required in order for the Project to be constructed and subsequently operated. The Details of other consents and licences required and when they will be applied for is contained within the Details of Other Consents and Licences document (Document Reference 5.6). These additional consents and licences are identified below:

### **Electricity Generation Licence**

2.6.2 As required under s.6 of the Electricity Act 1989. This will be required at the operational stage of the Project in relation to generating activities and would be obtained from Ofgem.

### **Planning and Advanced Reservation Capacity Agreement (PARCA)**

2.6.3 This is a commercial agreement with National Grid for the supply of natural gas to the power plant. This would be progressed after the DCO has been made.

### **Bilateral Connection Agreement**

2.6.4 This is a commercial agreement with National Grid to connect the Project to the National Electricity Transmission System. An agreement was signed between MPL and National Grid in February 2015.

### **Building Regulations Approval**

2.6.5 This would be required from CBC/BBC. Applications will be made following making of the DCO if the regulated activities are confirmed to be required within the Order land.

### **Environmental Permit**

2.6.6 As required by the Environmental Permitting (England and Wales) Regulations 2016 as amended, MPL will submit an application for an Environmental Permit, required to operate the Project, to the Environment Agency prior to operation.

### **European Protected Species Licence**

2.6.7 A licence under the Conservation of Habitats and Species Regulations 2010 will be applied for if required, for example if Great Crested Newts are present at the Project Site.

### **Health and Safety Consents**

- 2.6.8 Health and safety related consents are required by the Health and Safety at Work Act 1974 and subsidiary legislation (including the Pressure Systems Safety Regulations 2000). Applications would be made to the Health and Safety Executive (HSE) by the contractor before construction commences where appropriate.

### **Network Exit Agreement**

- 2.6.9 This is a commercial agreement with National Grid as to the technical and operational conditions for the connection point to the National Transmission System. This would be progressed after the DCO has been made, but before the DCO is granted.

### **Ordinary Water Course Consent (OWC)**

- 2.6.10 A consent under the Land Drainage Act 1991, as amended by the Flood and Water Management Act 2010, may be required in relation to works likely to cause an obstruction to flow or restrict storage in connection with existing watercourses which cross the Project Site. Consent would be sought during detailed design of the Project.

### **Authorisation for drainage works in connection with a ditch**

- 2.6.11 Authorisation may be required for the realignment of the drainage ditches at the Power Generation Plant Site. Applications to be made by the contractor before construction commences as appropriate.

### **Permit for transport of abnormal loads**

- 2.6.12 Required for the delivery by road of loads that fall outside standard practice (if required) under the (Authorisation of Special Types) (General) Order 2003 or with authorisation from the SoS under the Road Traffic Act 1988, or the Department for Transport, Highways Agency, Local Highway Authority or the police and bridge owners (if any) as appropriate. Consent would be sought, if required, during detailed design of the Project.

### **Permit to emit CO<sub>2</sub>**

- 2.6.13 The Greenhouse Gas Emissions Trading Scheme Regulations 2005 require any operator that carries out a 'regulated activity' to have a permit. Regulated activities include combustion that uses large amounts of energy or generate large amounts of CO<sub>2</sub>, perfluorocarbons or nitrous oxide (N<sub>2</sub>O) (under Annex 1 of Directive 2009/29/EC) and so will capture the Project unless an exemption applies. The DCO Application will be progressed in parallel with the Environmental Permit application prior to operation.

### **Safety Regulations Compliance – General**

- 2.6.14 Under the Pipelines Safety Regulations 1996 and the Gas Safety (Management) Regulations 1996, an application would be made to the HSE by the contractor before construction commences.

### **Section 61 Consent**

- 2.6.15 Required to control noise on construction sites under the Control of Pollution Act 1974. Application(s) would be made to CBC/BBC, by the contractor before construction commences, if required for the Project Site or parts thereof.

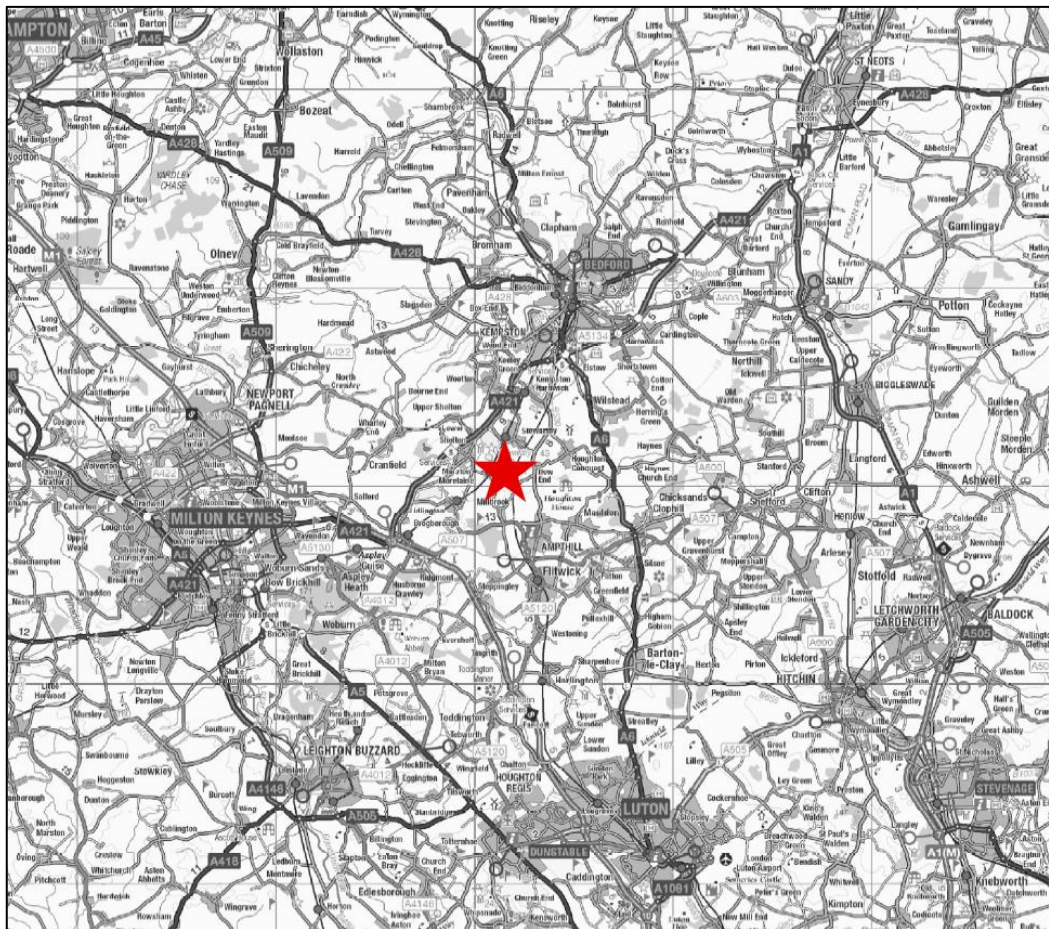
## 3 Project Context and Site Description

### 3.1 The Project

3.1.1 MPL is applying to the SoS under the PA 2008 for consent to construct, operate and maintain an OCGT gas fired peaking power generating station, fuelled by natural gas with a rated electrical output of up to 299 Megawatts (MW), as set out within section 2.2 of this Planning Statement.

3.1.2 The land upon which the Project would be developed, or which would be required in order to facilitate the development of the Project, is referred to as the 'Project Site'. The Project is proposed at and in the vicinity of the former clay extraction pit at Rookery South, near Stewartby, Bedfordshire with the approximate centre of the Project Site at grid reference 501373, 240734. The boundary of the Project Site falls within both Central Bedfordshire Council (CBC) and Bedford Borough Council (BBC) areas. The location of the Project Site is shown in Figure 3.1 (illustrated by red star).

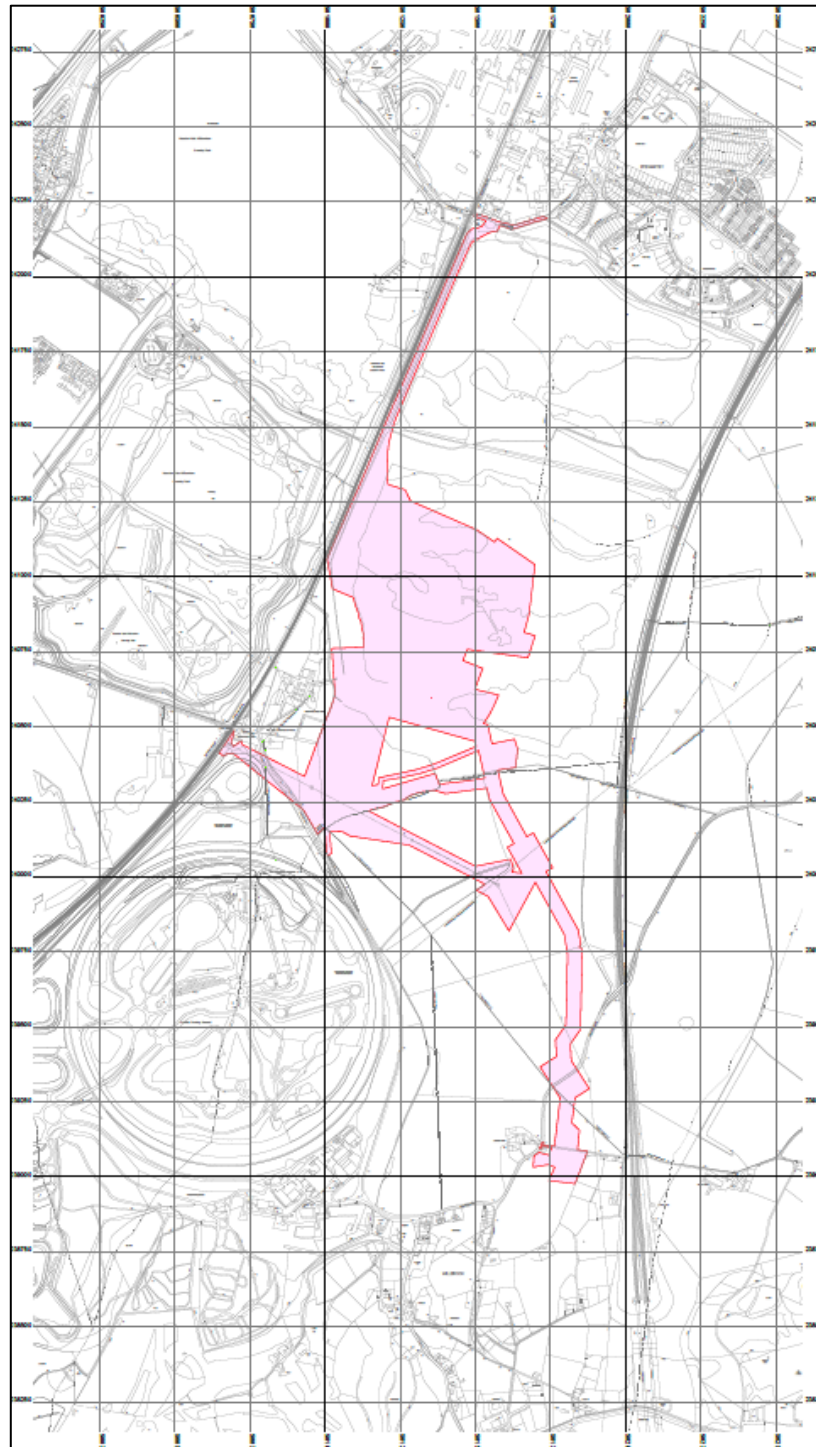
Figure 3-1: Location of the Project Site



3.1.3 Figure 3.2 shows the Order Limits of the DCO Application (outlined and shaded in red).



Figure 3-2: Order Limits of the DCO Application



### **3.2 Description of the Project**

- 3.2.1 The Project and its key elements are described in full below. Additional details can be found in the individual topic Chapters of the ES (Document Reference 6.1) and other DCO Application documents (referred to in Table 2.1).



## Generating Equipment

- 3.2.2 The Generating Equipment would be designed as a peaking plant fired by natural gas. It would have a rated electrical output of up to 299MW.
- 3.2.3 As a peaking plant, the Generating Equipment could run up to a maximum of 2,250 hours in any given year, provided that the 5 year rolling average does not exceed 1,500 hours. For the purposes of the EIA, a worst case yearly maximum of 2,250 running hours has been assessed where appropriate. Peaking plants are required to operate when there is a 'stress event' on the grid. This occurs when there is a surge in demand for electricity associated with a particular event (e.g. where many people across the country might boil a kettle following the end of a popular television programme) or where there is a sudden drop in power being generated from plants which are constantly operational (e.g. a sudden outage). Peaking plants also help to 'balance out' the grid at other times of peak electricity demand and help to support the grid at times when other technologies (e.g. renewable energy sources, such as wind and solar farms) cannot generate electricity due to their intermittent operation and reliance on weather conditions.
- 3.2.4 Given these parameters, it has been determined that a OCGT plant is the preferred and most appropriate technology choice for the Generating Equipment.
- 3.2.5 The DCO Application has been prepared having regard to PINS advice note nine (AN9) – 'Using the Rochdale Envelope' (April 2012, Version 2). AN9 states (at Page 6) that:
- "The Planning Inspectorate understands that in the early stages of preparing a DCO application it may not be possible for a developer to have resolved all the details of a project". And that "The 'Rochdale Envelope' is an acknowledged way of dealing with an application comprising EIA development where details of a project have not been resolved at the time when the application is submitted".*
- 3.2.6 This approach will be flexible enough using the 'Rochdale Envelope' approach to allow the Applicant to achieve an up to 299 MW project by using equipment from a number of manufacturers which will include a Gas Turbine Generator, with a gas flue stack. It is also noted in AN9 (page 10) that an EIA must:
- "...ensure that all the realistic and likely worst case variations of the project have been properly considered and clearly set out in the ES and such that the likely significant impacts have been adequately assessed".*
- 3.2.7 To this end, where flexibility in parameters for the Project has been provided, the Applicant has assessed the realistic worst case.

### Open Cycle Gas Turbine (OCGT)

- 3.2.8 An 'industrial' type gas turbine would be used for the Project. This type of turbine has been selected as it is suited to generating up to 299MW using

only one unit, thereby reducing potential effects of noise, air quality and visual impacts. Additionally, they are suitable for frequent and fast start-ups, flexibility, and high-availability maintenance techniques.

3.2.9 The main equipment in an OCGT is a Gas Turbine Generator, including the following components:

- Gas turbine generator;
- air inlet filter house;
- air inlet duct;
- exhaust diffuser;
- Auxiliaries including:
  - Lube oil system;
  - Air dryers;
  - Fuel gas filter package;
  - Instrument air system;
  - Compressor washing; and
  - A stack with an exhaust silencer would also be part of the OCGT.

3.2.10 On entering the gas turbine, air would be compressed and natural gas injected into the air. The air and natural gas mixture would then burn in the combustion chamber producing hot, high pressure gases. The gas would then expand across the blades of the gas turbine driving the compressor and the electrical generator to produce electricity.

3.2.11 The waste gases and heat produced from this process would be released into the atmosphere via the stack. The stack would contain equipment which would reduce emissions released to the atmosphere, including a silencer.

3.2.12 Further information on why the exhaust gases are emitted to the atmosphere and cannot be recovered is given in Chapter 5 of this ES and in a separate Combined Heat and Power (CHP) statement (Document Reference 6.2).

3.2.13 A stack height sensitivity study (referred to within Chapter 6 of the ES (Document Reference 6.1)) has been undertaken for the Project to determine the minimum stack height for the Gas Turbine Generator required for adequate dispersion of emissions and to meet legislative air quality targets. The height parameters would apply to all technology choices.

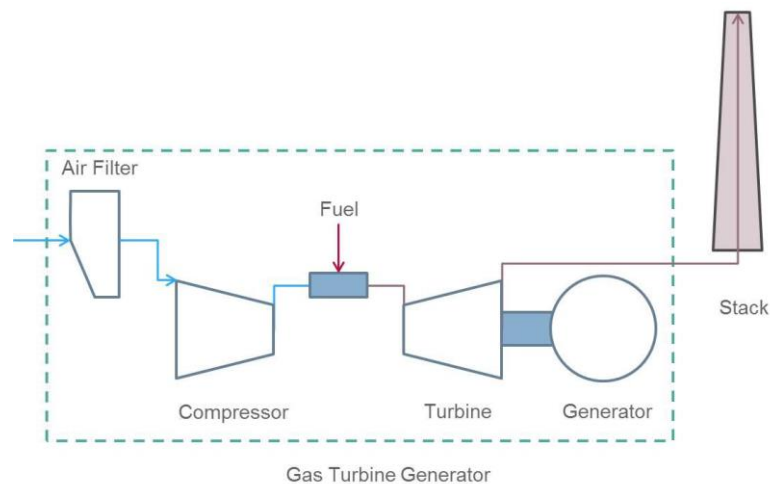
3.2.14 Stack emissions would be continuously recorded to ensure correct and efficient operation of the Generating Equipment. Any significant deviations to

emission limit values specified in the Environmental Permit would be alarmed and corrections carried out on occurrence. Records of performance and deviation would be maintained. Full facilities for interfacing information, control and alarm systems would be installed so that the Generating Equipment can be operated from a central control room via a distributed control system (DCS). In the event of a fault in the Gas Turbine Generator or other major plant items, the Generating Equipment would shut down automatically in a controlled manner.

3.2.15 Processed natural gas sourced from the National Transmission System (NTS) is a clean burning fuel and does not produce the particulate or sulphur emissions associated with burning coal; consequently flue gas cleaning equipment is not required.

3.2.16 Figure 3.3 shows a simple schematic of OCGT operation.

Figure 3-3 Schematic of OCGT Operation



### Other Generating Equipment Plant Items

3.2.17 In addition to the Gas Turbine Generator at the Generating Equipment Site, the following plant and buildings would also be present:

- Raw / Fire Water Tank: The fire water storage tank would be designed to comply with the relevant fire regulations and would be installed together with fire pumps, hose reels, fire hydrants and portable extinguishers;
- Demineralised Water Tank: Required to store demineralised water for the Generating Equipment (used for e.g. blade washing);
- Control Room / office / workshop Building: Required in order to monitor the plant operation and house plant controls;
- Gatehouse: Needed to provide security and maintain a log of site attendance, deliveries etc;

- Electrical Transformer Compound: Required to connect the electrical infrastructure from the Generating Equipment to transformers before export to the Substation which is part of the NETS, via overhead cables;
- Natural Gas Receiving Station: Required to ensure that gas coming from the National Transmission System feeds into the Generating Equipment Site at the right flow and pressure conditions;
- Fin-Fan Coolers to provide cooling to the Generating Equipment;
- Telemetry apparatus including electrical cabinets;
- Emergency Generator: A small diesel fired generator used to start up the plant independently of the NETS; and
- Maintenance Compound: a small area of hard standing for use during maintenance procedures.

3.2.18 The maximum area for the Generating Equipment Site would be in the order of 4 ha.

3.2.19 Table 3.1 provides indicative dimensions for the main plant items located within the Generating Equipment Site.

Table 3.1 Indicative Dimensions of Main Plant Items and Substation

<b><i>Building structure or</i></b>	<b><i>Maximum height (metres above existing site level of approximately 31.5 metres AOD unless otherwise stated)</i></b>	<b><i>Minimum height (metres above existing site level of approximately 31.5 metres AOD unless otherwise stated)</i></b>	<b><i>Maximum length (metres)</i></b>	<b><i>Minimum length (metres)</i></b>	<b><i>Maximum width (metres)</i></b>	<b><i>Minimum width (metres)</i></b>
Gas turbine generator (including gas turbine, generator, air inlet filter house, air inlet duct, exhaust diffuser, and auxiliaries such as lube oil system, air dryers, fuel gas filter package, instrument air system, compressor washing)	27	–	50	–	40	–

<b>Building structure or</b>	<b>Maximum height (metres above existing site level of approximately 31.5 metres AOD unless otherwise stated)</b>	<b>Minimum height (metres above existing site level of approximately 31.5 metres AOD unless otherwise stated)</b>	<b>Maximum length (metres)</b>	<b>Minimum length (metres)</b>	<b>Maximum width (metres)</b>	<b>Minimum width (metres)</b>
Exhaust gas emission flue stack	35	32.5	12	–	12	–
Control room/office/workshop	7	–	45	–	25	–
Emergency Generator	6	–	13	–	5	–
Raw/fire water tank	15	–	15	–	15	–
Demineralised water tank	5	–	5	–	5	–
Gas receiving station (including compression station, emergency generator, Joule-Thompson boilers and other auxiliary control cabinets)	10	–	70	–	50	–
Fin Fan Coolers	10	–	28	–	14	–
Transformer compound (including generator step up transformer, unit and other transformers, overhead line gantry and associated equipment.)	15	–	65	–	60	–
Gatehouse	4.5	–	9	–	8	–
Above Ground Installation	3	–	85	–	35	–
Pipeline inspection gauge facility	3	–	35	–	30	–
Minimum offtake connection	3	–	35	–	35	–

<b>Building structure or</b>	<b>Maximum height (metres above existing site level of approximately 31.5 metres AOD unless otherwise stated)</b>	<b>Minimum height (metres above existing site level of approximately 31.5 metres AOD unless otherwise stated)</b>	<b>Maximum length (metres)</b>	<b>Minimum length (metres)</b>	<b>Maximum width (metres)</b>	<b>Minimum width (metres)</b>
Substation (including the auxiliary building)	14		200		150	
Each Sealing end compound	17	–	45	–	35	–
Transmission tower	49	–	40	–	30	–
Temporary tower or mast	55	–	47	–	32	–

\* Existing site level is approximately 70 m AOD

\*\* Existing site level is approximately 49 m AOD

### Laydown Area

- 3.2.20 A temporary construction compound for the storage of plant and equipment during construction would be provided adjacent to the Generating Equipment Site.

### Access Road

- 3.2.21 An agricultural access track is already in existence at the Project Site, linking Green Lane to Rookery South Pit. The LLRS (described further in section 3.4 of this Planning Statement), includes work to build a new ramp into the Rookery South Pit itself.
- 3.2.22 The Rookery South RRF Project includes provision to upgrade this track further, to a tarmac road suitable for 594 traffic movements a day for the delivery of waste via HGV. Should this road be developed as part of the Rookery South RRF Project prior to the development of this Project, it would be suitable to meet both the needs of the Project and the Rookery South RRF Project. In this instance, there would be a requirement for a short section of new Access Road ('Short Access Road') of up to 1.4 km in length connecting the end of the Rookery South RRF road to the Generating Equipment Site. References to the "Access Road" mean the up to 2.2 km access road referred to below and include the Short Access Road. References to the "Short Access Road" refer only to the approximately 1.4 km length road that MPL would construct in the event that the Covanta scheme commenced ahead of the Project. The Short Access Road would be constructed from tarmac bordered by a concrete kerb. The tarmacked surface would be 6 m wide allowing for two-way traffic. It is bordered on one side by a footway.
- 3.2.23 However, because it is not certain as to when or if the Rookery South RRF Project will be implemented, the Applicant has also included the provision of

a complete Access Road from Green Lane to the Power Generating Site within this Project. If the Rookery South RRF Project is not built before construction commences for the Project then the complete Access Road would be built. This complete 2.2 km long Access Road would be constructed from tarmac bordered by a concrete kerb. The tarmacked surface would be 6 m wide allowing for two-way traffic. It would be bordered in part on one side by a footway where there is no existing footpath.

- 3.2.24 The route of the Access Road from Green Lane would follow the alignment of the access road proposed within the LLRS and Rookery South RRF Project along the existing access track which borders Rookery North Pit. On reaching Rookery South Pit, the Access Road (as would also be the case for the Rookery South RRF Project's access road) would use the access ramp (built to agricultural standard as part of the LLRS) to enter into the pit and cross through the base of the pit until it reaches the Generating Equipment Site.
- 3.2.25 Should the Access Road for the Project be constructed first, it would not prevent the Rookery South RRF Project or other developments from progressing at a later date, although it may mean that the Access Road would be upgraded as part of the other scheme(s). The upgrade of the Access Road would be the responsibility of Covanta in the event that the permission for that scheme is implemented after any DCO for the Project.

### **Gas Connection**

- 3.2.26 The Gas Connection would comprise all the necessary elements to enable gas to be imported to the Generating Equipment at a suitable rate and pressure to produce up to 299 MW, including a new underground pipeline, AGI and gas receiving station.
- 3.2.27 The underground gas pipeline connection (the Pipeline) would be constructed between the AGI (to be installed at the connection point with the National Transmission System) and the Generating Equipment. The Pipeline and AGI are required in order to connect the Generating Equipment to the existing high pressure National Transmission System so as to provide a reliable supply of fuel. The feasibility and route selection studies undertaken for this connection are described in ES (Document Reference 6.1) Chapter 5.

### Route

- 3.2.28 The route of the Gas Connection is approximately 1.82 km in length. It involves no major road crossings, one minor road crossing, one farm track crossing, no major or minor water crossings, two ditch crossings and no in-road mains-laying. It also crosses the National Transmission System feeder 9 gas pipeline and an oil pipeline.
- 3.2.29 The pipeline begins at the AGI which would allow connection into the National Transmission System Feeder 9, east of the Millbrook Proving Ground approximately 1.45 km south of the Generating Equipment Site. The Pipeline

exits the AGI to the north and immediately crosses a farm track which is connected to Lower Farm. The route then continues in a northerly direction for around 25 m before it turns 45° to the west crossing National Transmission System Feeder 9. It continues west for approximately 20 m before turning 45° back to the east. It continues in this northerly direction for approximately 110 m before crossing a PROW.

- 3.2.30 After another 70 m, the route turns 45° to the west before crossing Millbrook Road. The route then turns 45° back to the east for 100 m and then 45° further to the east before crossing under a set of overhead lines. After a further 30 m the route turns 45° to the west and continues due north for approximately 250 m before turning a further 22.5° west and crossing between a gap in the hedgerow of a field boundary. After crossing the hedgerow, the route turns a further 22.5° west and after approximately 300 m crosses beneath an oil pipeline. The route then continues in the same direction for approximately 220 m before turning 11.25 to the east and after 80 m crosses a further PROW and a field drain.
- 3.2.31 The route then continues for a further 100 m before turning 90° west into the Generating Equipment Site.

#### Connection to the National Transmission System

- 3.2.32 Connection of the Pipeline to a National Transmission System feeder will require an AGI to be installed which will include: a Minimum Offtake Connection (MOC) facility, which would be owned by National Grid Gas Plc (NGG), and a Pipeline Inspection Gauge (PIG) Trap Facility (PTF) which would be owned by the Applicant (together, referred to as the AGI).
- 3.2.33 The MOC (approximately 35 x 35 m in area) would contain:
- Remotely operable valve (ROV);
  - Control and instrumentation kiosk; and
  - Electrical supply kiosk.
- 3.2.34 The PTF (approximately 45 x 30 m in area) would contain:
- PIG launching facility;
  - Emergency control valve;
  - Isolation valve;
  - Control and instrumentation kiosk; and
  - Electrical supply kiosk.
- 3.2.35 Termination of the Gas Connection would be at the gas receiving station on the Generating Equipment Site.



- 3.2.36 Two options will be used with regard to access for the Gas Connection. These access options are as follows:
- through the Rookery South Pit, from the Power Generation Plant Site; and
  - from the A421, northwards along the A5141, westwards then southwards for approximately 7km along the B530 (referred to variously along its route as Ampthill Road / Hardwick Road / Bedford Road / Hazelwood Lane) to Millbrook Road.
- 3.2.37 An existing junction off Houghton Lane onto an existing agricultural track will be used to access the AGI.
- 3.2.38 During construction, a temporary laydown area would be required adjacent to the AGI for laydown of plant and equipment.

### **Electrical Connection**

- 3.2.39 The Electrical Connection would comprise all the necessary elements to enable power to be exported from the Generating Equipment to the NETS, such as the new Substation comprising switchgear bays, gantries, emergency power supply, welfare accommodation, battery rooms, control cubicles and internal site roads.
- 3.2.40 A grid connection assessment was undertaken in March 2014 (see Grid Connection Statement (Document Reference 9.1)) in order to define and evaluate the options available for connecting the Generating Equipment to the NETS. This (along with consultations undertaken with NGET) identified that the most suitable point of connection would be a new substation to be located adjacent to the western boundary of the Generating Equipment Site, which would connect into the existing NGET double circuit 400 kV line (forming part of the NETS) which runs from Sundon to Grendon. The 400 kV line is located approximately 320 m southwest of the Generating Equipment Site.
- 3.2.41 Further refinement and discussion with NGET in 2017 have allowed the connection design to be reduced to a single option which is presented in the ES (Document Reference 6.1). This comprises one underground 400kV double circuit tee-in, requiring one new transmission tower, which would replace an existing tower, and be located in the existing Grendon – Sundon transmission route corridor, therefore resulting in no net additional towers. The Electrical Connection would also require two SECs, which will be located on either side of the existing transmission line. Underground cables would be approximately 500 m in length buried in four trenches typically 5 m apart, to a new substation. Three cables would be laid together within each trench to make 12 cables in total.
- 3.2.42 The SECs and replacement tower may cause a permanent obstruction to the LLRS secondary access. If this is the case, a short permanent diversion would be provided.

## Substation

- 3.2.43 A new 400Kv Substation would be located in Rookery South pit, adjacent to the Generating Equipment Site. A substation can either be an air insulated substation (AIS) or a gas insulated substation (GIS). MPL considers that a Substation with AIS technology is appropriate and acceptable in the location (within Rookery South Pit). The Substation would be approximately 200 m x 150 m.
- 3.2.44 Two access route options would be used for construction access for the Electrical Connection. They are shown in ES (Document Reference 6.1) Figure 12.2 and are as follows:
- through the Rookery South Pit, from the area of the Power Generation Plant Site; or
  - from the A421, northwards along the A5141, westwards then southwards for approximately 7 km along the B530 (Ampthill Road / Hardwick Road / Bedford Road / Hazelwood Lane) to Millbrook Road, Houghton Lane and Station Lane. The secondary access into the southern side of Rookery South Pit that is being constructed as part of the LLRS would then be used to access the Electrical Connection.
- 3.2.45 An assessment of both access routes has been undertaken and is presented in the ES (Document Reference 6.1).

## 3.3 Project Stages

- 3.3.1 The ES (Document Reference 6.1) describes the Project Stages in line with NPS EN-1 4.2.3, which are summarised below.

### Pre-Construction

- 3.3.2 An option agreement has been put in place between MPL and the landowner of Rookery Pit such that relevant elements of the LLRS (referred to in section 3.4 below) will be completed prior to the commencement of the development of the Project, which is anticipated to be in 2020). The option agreement ensures that, as a minimum, the following components of the LLRS will be complete prior to construction of the Project commencing:
- the re-profiling of the base of the pit involving the extraction of soils and clays from the permitted extraction area on the southern side with re-grading of the base of the pit to an approximate level of 15 mbgl;
  - implementation of surface water drainage measures and construction of an attenuation pond and pumping station in order to facilitate a managed surface water drainage strategy;
  - a landscape strategy to include planting on the boundary of the Rookery South Pit and the margins of the attenuation pond;

- provision of buttresses to the southern, eastern and northern slopes to ensure the long-term stability of those slopes, and re-grading through excavation;
- provision of a series of permissive footpaths around the perimeter of Rookery North Pit and around the attenuation pond within Rookery South Pit;
- provision of an access ramp into Rookery South Pit from Rookery North Pit which connects to Green Lane, Stewartby via an existing track along the western side of Rookery North Pit. Note that the ramp and existing track are both of an agricultural standard; and
- provision of a further, smaller access track into and out of Rookery South Pit from the south side of the pit connecting with Station Lane, near Millbrook Station.

3.3.3 To facilitate the proposed LLRS works, extraction of clay from a currently un-worked area situated directly to the south of the existing extent of Rookery South Pit will be undertaken. This area covers approximately 25 ha and forms part of the existing minerals extraction consent boundary, but has not historically been subject to excavation works. Deposits won from this area will provide material for use in the restoration, re-profiling and buttressing work to Rookery South Pit together with the implementation of a landscape and ecology strategy, which will integrate with ecological mitigation works and strategic landscape planting in Rookery North Pit.

3.3.4 The LLRS works will be completed prior to the commencement of construction works for the Project, with the possible exception of buttressing and re-profiling to the eastern side of Rookery South Pit, which has no bearing on the Project as it lies outside the boundary of the Project Site.

3.3.5 Once the LLRS works are completed, Rookery South Pit will be approximately 15 m below the surrounding ground level in the vicinity of the Generating Equipment Site, Laydown Area and the Substation.

#### Construction

3.3.6 Construction and commissioning of the Project would take approximately 22 months. The main works associated with the construction phase would be preparation for new foundations, piling (if required), erection of the Generating Equipment, construction of the Access Road, the laying of the Pipeline, the construction of the AGI and erecting the Electrical Connection. No requirements for demolition or remediation have been identified at this stage.

#### Operation

3.3.7 The Generating Equipment, Gas Connection, Electrical Connection and Access Road would be designed to have an operational life of at least 25 years. For the purposes of assessment, a 25 year life has been used as an assumption to allow for decommissioning effects to be assessed, however, it may be that in practice all or part of the Project operates for a longer period

of time than this. Following the end of the operational life of the Generating Equipment, it would be decommissioned.

### Decommissioning

- 3.3.8 Decommissioning would comprise the removal of all Generating Equipment plant items and restoration of the Generating Equipment Site to a similar condition compared to before the commencement of construction. This process would also take approximately 22 months. A requirement has been inserted into the DCO to require the decommissioning of the Generating Equipment site if it ceases to be used for an extended period.
- 3.3.9 It is important to note that elements of both the Electrical Connection and Gas Connection will be owned and operated by National Grid. In accordance with its statutory duties, National Grid may use these assets in the future as part of its wider network. As such, the date of any decommissioning cannot be certain and the 25 years working assumption has been used simply to allow for an assessment of decommissioning effects in the ES. In addition, elements of the Gas Connection and Electrical Connection may be left in situ as this is likely to cause less environmental effects than removal. This would be the case for the Pipeline and underground cables, for example.

## **3.4 Planning History**

- 3.4.1 Prior to the commencement of clay extraction, the area around the Marston Vale largely comprised open agricultural fields; however since the 1960s the area has been subject to clay extraction, primarily for use in the brick industry. Some of these areas have now been restored for amenity use or landfill, whilst others are in the process of being restored, notably through the Low-Level Restoration Scheme (LLRS) at Rookery Pit.

### **Rookery Pit**

#### Low-Level Restoration Scheme (LLRS)

- 3.4.2 In 1980, Bedfordshire County Council granted planning permission at land in the Marston Vale (incorporating Rookery Pit) for 'new brickworks at Stewartby to replace the existing Stewartby Works and the excavation of clay for the new and existing brickworks, and landscaping works' (Planning Permission Ref: 4/1980) (Appendix 1). The planning permission included a condition requiring the site to be restored upon completion of clay extraction by either: i) landfill to the original lower levels; ii) restoration at a lower level, or iii) the creation of lakes.
- 3.4.3 In accordance with The Environment Act 1995 – which established a procedure for reviewing mineral planning permissions and updating planning conditions (a process known as 'ROMP' – Review of Old Mineral Permissions) – a ROMP application for a restoration scheme was initially submitted by O&H Properties at Rookery Pit in 2000 (Ref: BC/CM/2000/8).
- 3.4.4 The ROMP application was linked to a separate planning application, submitted later in 2000, for the infilling of Rookery South Pit to original ground

levels by way of landfill (Ref: 01/00095/CM). The ROMP application was held in abeyance pending the outcome of the landfill restoration application. Following the refusal of the landfill restoration application by the SoS in January 2003, the ROMP application remained undetermined.

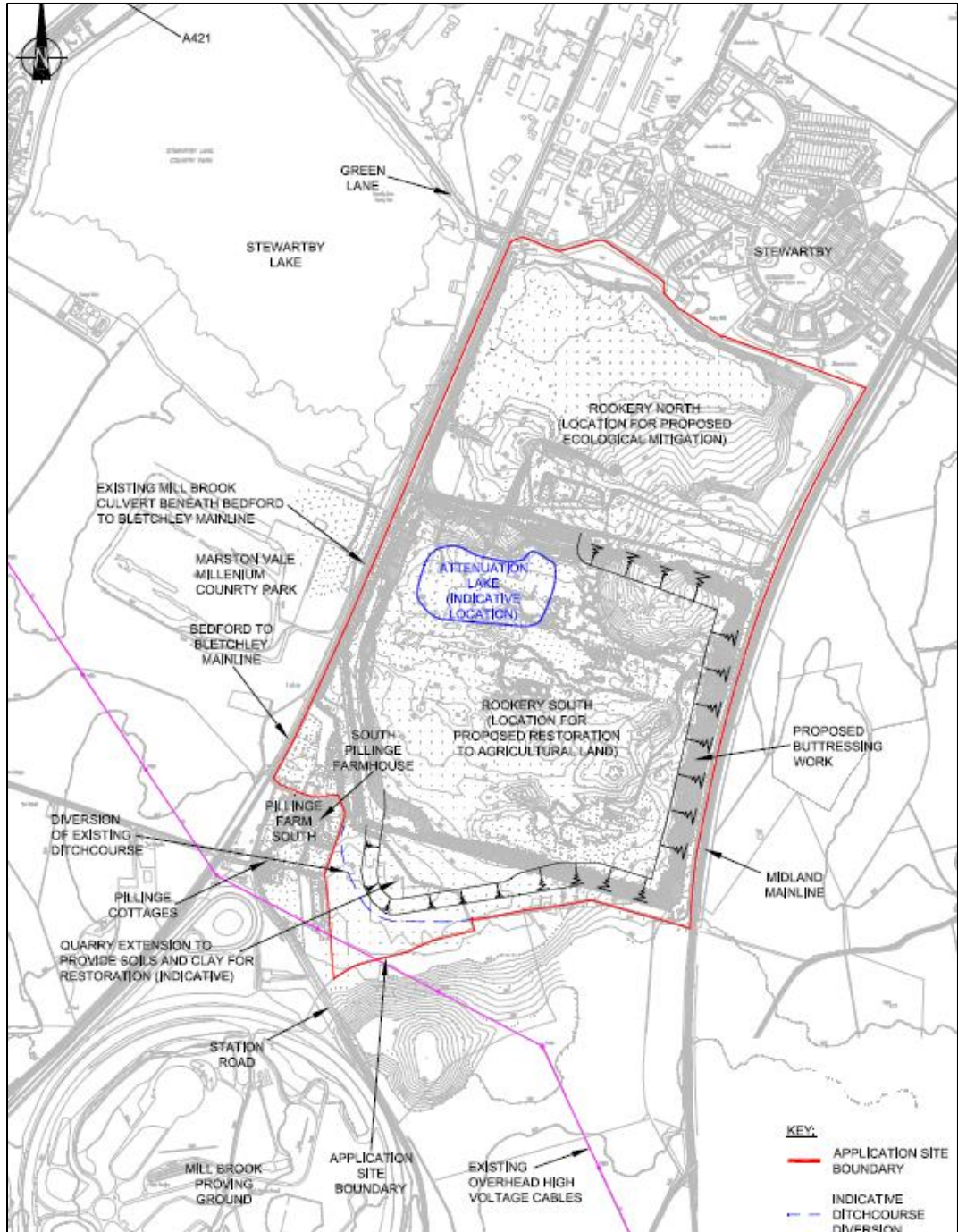
- 3.4.5 The ROMP application remained undetermined until the introduction in July 2008 of The Town and Country Planning (Environmental Impact Assessment) (Minerals Permissions and Amendment) Regulations (England) 2008, which allowed an EIA to be undertaken to inform an undetermined ROMP application.
- 3.4.6 By this stage, the development options for the site had been re-evaluated and the site was being promoted for lower-level restoration. O&H Properties submitted an ES for the proposed low-level restoration scheme (LLRS), together with an updated schedule of planning conditions in 2009. The ROMP application was granted planning permission by Central Bedfordshire Council in December 2010 (Appendix 2).
- 3.4.7 The proposed LLRS seeks to restore former clay workings and enhance the degraded landscape in the Marston Vale, through the restoration of the Rookery South Pit to low intensity agricultural use and measures to enhance biodiversity and the landscape.
- 3.4.8 More specifically, the LLRS works for Rookery South Pit which form part of the baseline for the ES (Document Reference 6.1) comprise:
- The re-profiling of the base of the pit involving the extraction of soils and clays from the permitted extraction area on the southern side with regrading of the base of the pit to an approximate level of 15mbgl;
  - Implementation of surface water drainage measures and construction of an attenuation pond and pumping station in order to facilitate a managed surface water drainage strategy;
  - A landscape strategy to include planting on boundary of the Rookery South Pit and the margins of the attenuation pond;
  - Provision of buttresses to the southern, eastern and northern slopes to ensure the long-term stability of those slopes, and re-grading through excavation;
  - Provision of a series of permissive footpaths around the perimeter of Rookery North Pit and around the attenuation pond within Rookery South Pit;
  - Provision of an access ramp into Rookery South Pit from Rookery North Pit which connects to Green Lane, Stewartby via an existing track along the western side of Rookery North Pit. Note that the ramp and existing track are both of an agricultural standard; and



- Provision of a further, smaller access track into and out of Rookery South Pit from the south side of the pit connecting with Station Lane, near Millbrook Station.

3.4.9 An indicative scheme plan of the proposed LLRS works is contained in Figure 3.4 below.

Figure 3-4 LLRS Indicative Scheme Plan



3.4.10 As shown in Figures 3.1, 3.2 and 3.4, the LLRS works include Rookery South Pit and therefore cover the Project Site; however, the LLRS works are independent from the Project proposals. As set out in section 3.3 of this

Planning Statement, an option agreement has been put in place between MPL and the landowner of Rookery Pit such that relevant elements of the LLRS will be completed prior to the commencement of the development of the Project (anticipated to be in 2020), with the possible exception of buttressing and re-profiling to the eastern side of the pit. Once the LLRS works are completed, Rookery South Pit will be approximately 15 m below the surrounding ground level in the vicinity of the Generating Equipment Site and Laydown Area.

- 3.4.11 The LLRS has four phases of works involving extraction of clay from a previously unworked area to be used in the pit for the purposes of re-profiling. On completion the pit is intended to have a drainage system installed in accordance with approved details. This system is intended to drain the restored pit into an internal balancing pond.
- 3.4.12 Works to implement the LLRS commenced and are ongoing.
- 3.4.13 The Rookery South RRF project would need to make alterations to the approved LLRS drainage scheme and the Rookery South (Resource Recovery Facility) Order 2011 (the "RRF Order") Order allows this to occur. This Project is also designed to allow amendments to the site drainage scheme in order to facilitate the implementation of that scheme.

#### Rookery South RRF Project

- 3.4.14 The Rookery South RRF Project, promoted by Covanta, was granted development consent pursuant to the Planning Act 2008 by virtue of the RRF Order.
- 3.4.15 The main component of the RRF comprises an Energy-from-Waste (EfW) Facility. The application to the IPC also sought consent for associated developments, including:
  - The post-treatment MRF;
  - The provision of a drainage channel;
  - The extension of the attenuation pond to be constructed in Rookery South Pit by the LLRS;
  - An underground connection to the electricity grid allowing the export and import of electrical power;
  - Works for the creation of an upgraded site access and new junction on Green Lane and at the internal entrance to the Marston Vale Millennium Park;
  - Improvements to Green Lane between its junction with footpath 4 and Stewartby Lake, including footway improvements; and
  - An improvement to the Green Lane level crossing, including the installation of full automatic barriers.

- 3.4.16 The EfW facility is located in Rookery South Pit and MPL has an interest in certain parts of the land that is covered by the RRF DCO, through an option granted to it by the landowner, O&H Properties Limited (O&H). Accordingly, the cumulative impacts of the Project with the Rookery South RRF Project development have been considered in the ES (Document Reference 6.1).
- 3.4.17 Following submission, the Rookery South RRF Project became the focus of legal challenge. Accordingly, the IPC announced their decision that development consent should be granted in October 2011, subject to a Special Parliamentary Procedure to hear the petitions that had been submitted.
- 3.4.18 A Joint Committee Report was published by an appointed Committee on 13<sup>th</sup> February 2013, which concluded that there was no case for Covanta Rookery South Ltd to answer in respect of the petitions of general objection. Subsequently the DCO came into force on 28<sup>th</sup> February 2013. The RRF Order was formally issued on 25<sup>th</sup> March 2013 (Appendix 4) with a signed s106 agreement. Schedule 1 Part 2 (1) of the DCO ('Time limits') sets out a requirement that, "The authorised development may commence no later than the expiration of 5 years beginning with the date that this Order comes into force."
- 3.4.19 FCC Environment Ltd challenged the Order on the grounds that the decision to award compulsory acquisition powers was flawed and that the SoS had failed to consider whether it was necessary to update available environmental information. However, in February 2014, the judicial review was dismissed by a High Court judge.
- 3.4.20 FCC Environment Ltd subsequently challenged the High Court judgement; however, the challenge was dismissed by the Court of Appeal on 5<sup>th</sup> February 2015.
- 3.4.21 MPL confirms that the Project has taken account of the extant consent for the Rookery South RRF Project. The ES (Document Reference 6.1) explains how the Rookery South RRF Project was considered for EIA purposes.
- 3.4.22 The Project Site and the Order limits for the Project Site (the Order limits are defined in the draft Development Consent Order (Document Reference 3.1) as being defined on the Works Plans (Document Reference 2.6)) sit within part of the order limits for the RRF Order. This means that there is the potential for overlap and inconsistent powers between the two DCOs. However, MPL have engaged with Covanta through the development of the Project and have suggested a number of ways in which the two schemes may potentially interact and put forward solutions to any overlap issues that can be delivered through the draft Order for the MPL Project (and the documents that accompany that Order). Therefore, MPL is satisfied that the two projects would be capable of coexisting should both be constructed and operated and positive discussions between the two parties will continue. MPL has prepared a position statement providing further information on this matter which is provided in Appendix 5 of this Statement.



### Landfill and Integrated Waste Management Operations

- 3.4.23 In August 2013, O&H Properties submitted a request for a Scoping Opinion to Central Bedfordshire Council in respect of proposed landfill and integrated waste management operations at Rookery South Pit (ref: CB/13/02695/SCO). The request noted the applicant's intention to submit a full application for a range of integrated waste management facilities, including:
- Non-hazardous landfill;
  - Hazardous waste landfill cell;
  - Construction and Demolition (C&D) Waste Recycling Facility;
  - Soil Treatment Centre;
  - Materials Recovery Facility (MRF);
  - Waste Electrical and Electronic Equipment (WEEE) Recycling;
  - Anaerobic Digestion (AD); and
  - Hazardous Waste Recycling and Bulking
- 3.4.24 The request for a Scoping Opinion included an indicative masterplan of the proposed landfill and integrated waste management site, as shown in Figure 3.5 below. As shown in Figures 3.1 and 3.5, the proposed landfill and integrated waste management development would occupy land at the Project Site.
- 3.4.25 Accordingly, the cumulative impacts of the Project with the proposed landfill and integrated waste management operations development have been considered in the ES (Document Reference 6.1).

Figure 3-5 Indicative Masterplan of O&H Properties' proposed landfill and integrated waste management operations



3.4.26 Central Bedfordshire Council formally issued a Scoping Opinion on 5<sup>th</sup> September 2013 (Ref: CB/13/02695/SCO) (Appendix 3). The Scoping Opinion set out the Council's view that an EIA should consider the following subject areas: geology and ground conditions; landscape and visual impact; air quality and dust; noise and vibration; traffic and transport; ecology; hydrology, hydrogeology and drainage; and cultural heritage and archaeology. It was also advised that an alternative site assessment is

undertaken, and that the cumulative impact of the Covanta development and the proposed development should be considered.

#### MPL EIA Scoping

- 3.4.27 A request for an EIA Scoping Opinion, accompanied by an EIA Scoping Report for the Project, was submitted by MPL to PINS on 19<sup>th</sup> June 2014 under the EIA Regulations.
- 3.4.28 The Scoping Report provided an introduction to the Project, including its need and benefits, the developer, the consenting regime and EIA process. It set out the intended scope and structure of the ES as well as detailed descriptions of the assessments proposed in order to understand the likely significant environmental effects of the Project. The Scoping Report set out MPL's intention to assess the construction, operational and decommissioning phases of the Project.
- 3.4.29 An explanation of the technology, the technical studies and optioneering undertaken to date and indicative dimensions were provided for the Project description (and where options existed, for each option).
- 3.4.30 A Scoping Opinion was received from PINS on 28<sup>th</sup> July 2014, as referred to within the Consultation Report (Document Reference 5.1) and as appended to the ES (Document Reference 6.1).

#### **Surrounding Area**

- 3.4.31 The wider area around the Project Site has been subject to a number of recent development proposals, which provide context for the Project and which are detailed below.

#### The Forest Centre and Millennium Country Park

- 3.4.32 Marston Vale Community Forest submitted an application to Mid-Bedfordshire District Council in June 1997 for the creation of the Marston Vale Millennium Country Park and Forest Centre (Ref: MB/97/00807), located outside of and adjacent to the west of the Project Site boundary. The proposed development comprised the creation of a cycle path and horsetrail around the perimeter of the site, the creation of wetland habitat, a proposed visitor centre (including one wardens' flat) and associated car parking and access. Planning permission was granted by Mid Bedfordshire District Council in November 1997.
- 3.4.33 A planning application was submitted by the Marston Vale Trust in November 2011 for the erection of a wind turbine up to 120.5m in height and ancillary infrastructure in the Country Park (Ref: CB/11/04077/FULL). Planning permission for this application was granted in February 2012 and it has now been constructed.

### The Brogborough Wind Energy Project

3.4.34 In March 2014, FCC Environment Ltd submitted an application to Central Bedfordshire Council for a wind energy development – comprising 6 wind turbines with associated access roads, control buildings and transformers – at Brogborough landfill site, approximately 4km from the Project Site boundary (CB/14/00925/FULL). The application was subsequently refused in July 2014. The reasons for refusal include:

- the impact on the landscape character of the Marston Vale and the Greensand and Clay Ridges;
- the detrimental impact on the visual amenity of nearby properties within Cranfield;
- adverse noise impact on the area where predicted turbine noise is in great excess of existing background noise levels;
- the impact on the historic environment and on a number of designated heritage assets of the highest significance;
- the lack of information required to adequately assess the degree of impact on and conflict with the existing approved restoration scheme for the landfill site and how the identified effects would be mitigated; and,
- the lack of an assessment as to whether the proposed turbines on the eastern boundary of the landfill site would prejudice future development of the strategic waste management site allocation identified for waste recovery uses.

3.4.35 An appeal against the refusal of planning permission was not subsequently submitted within the required 6-month period, and as such the applicant is therefore no longer able to appeal the decision.

### Land at Moreteyne Farm at Wood End in Marston Moretaine

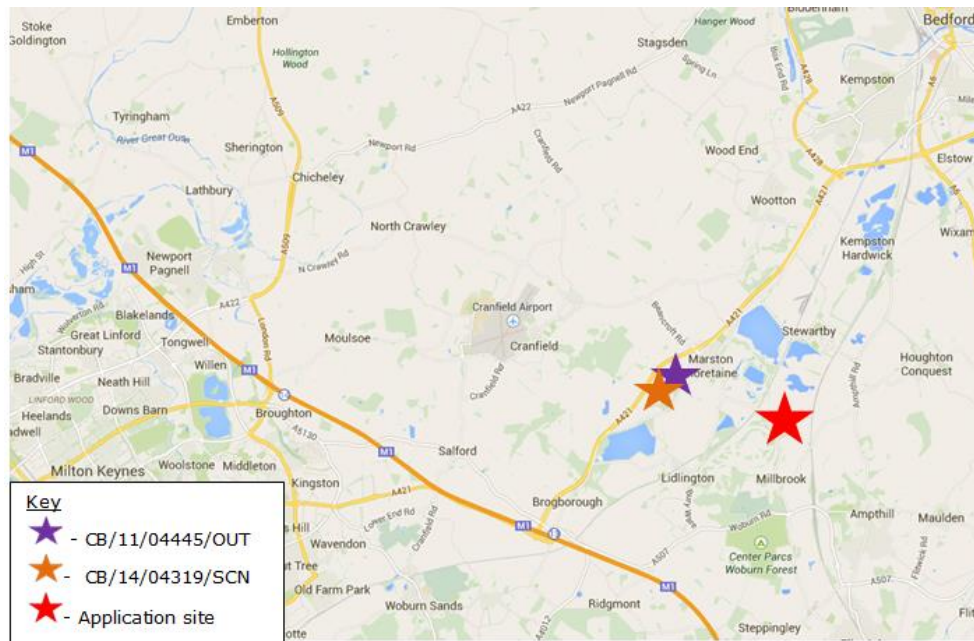
3.4.36 Land at Moreteyne Farm has been allocated for residential development under Policy MA4 of the Central Bedfordshire Site Allocations DPD (2011). This policy allocates land (approximately 1.5km to the west of the Project Site boundary) for a mixed-use phased development, comprising residential development of 125 dwellings, 7ha of employment land for B1, B2 and B8 uses, and land reserved for contingency housing provision of 320 dwellings.

3.4.37 In December 2011, an outline planning application was submitted to Central Bedfordshire Council by Hallam Land Management for a mixed use development comprising up to 125 new dwellings (including affordable housing), employment uses (class B1 and B8), allotments, landscaping, balancing ponds and amenity space (Ref: CB/11/04445/OUT). Planning permission was granted by the Council in September 2013. The location of

the proposed mixed-use development site for which outline permission was granted, in relation to the Project Site, is shown in Figure 3.6 below.

- 3.4.38 A subsequent reserved matters application, pursuant to CB/11/04445/OUT, was submitted by Bovis Homes to the Council in November 2014 for approval of the appearance, landscaping, scale and layout of the residential development.
- 3.4.39 In November 2014, an EIA Screening Opinion was submitted by Hallam Land Management for a mixed use development comprising of housing, a care home and commercial/community units (Ref: CB/14/04319/SCN), at land adjacent to the consented outline application, approximately 1.5km from the Project Site boundary. Central Bedfordshire Council issued a formal Scoping Opinion on 14<sup>th</sup> November 2014 stating that an EIA Screening Opinion was not required. The location of the proposed mixed-use development site for which a Screening Opinion was sought, in relation to the Project Site, is shown in Figure 3.6 below.

Figure 3-6 Location of proposed development at land at Moreteyne Farm in relation to the Project Site



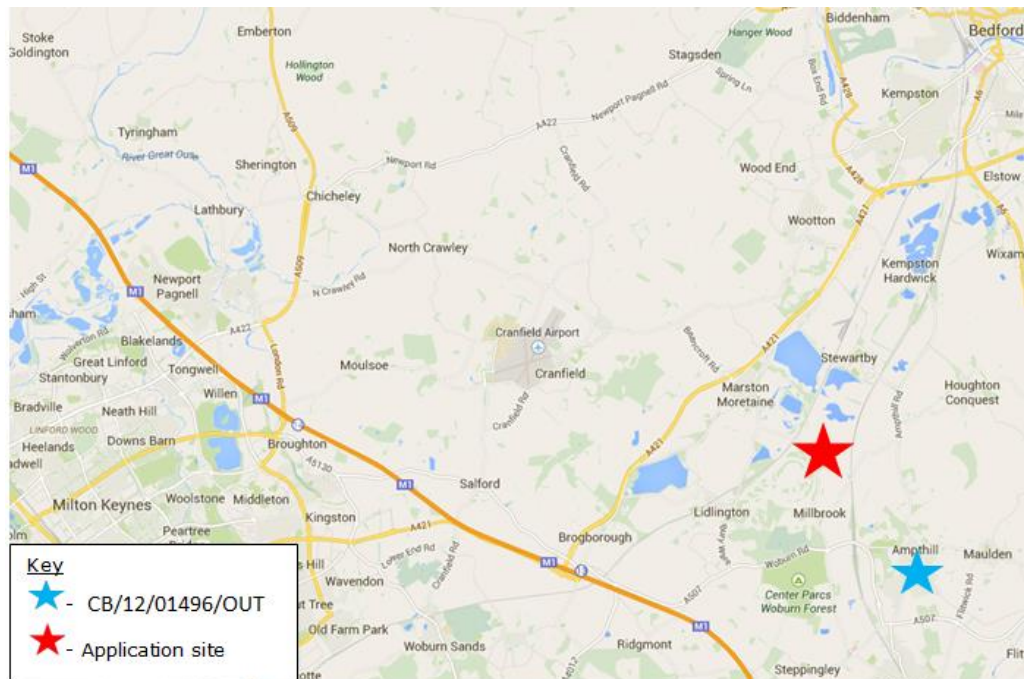
Land at Warren Farm, Flitwick Road, Ampthill

- 3.4.40 Policy HA4 of the Central Bedfordshire Site Allocations Development Plan Document allocates the land west of Abbey Lane, Ampthill (approximately 2.5km to the south-east of the Project Site boundary) (also known as Warren Farm) for residential development of a minimum of 410 dwellings.
- 3.4.41 In April 2012, Connolly Homes and Denison Investments Ltd submitted an outline application for the development of up to 410 dwellings, together with open space, accesses and surface water retention basin (CB/12/01496/OUT). Planning permission was granted in October 2013. The location of the proposed residential development site for which outline



planning permission was granted, in relation to the Project Site, is shown in Figure 3.7 below.

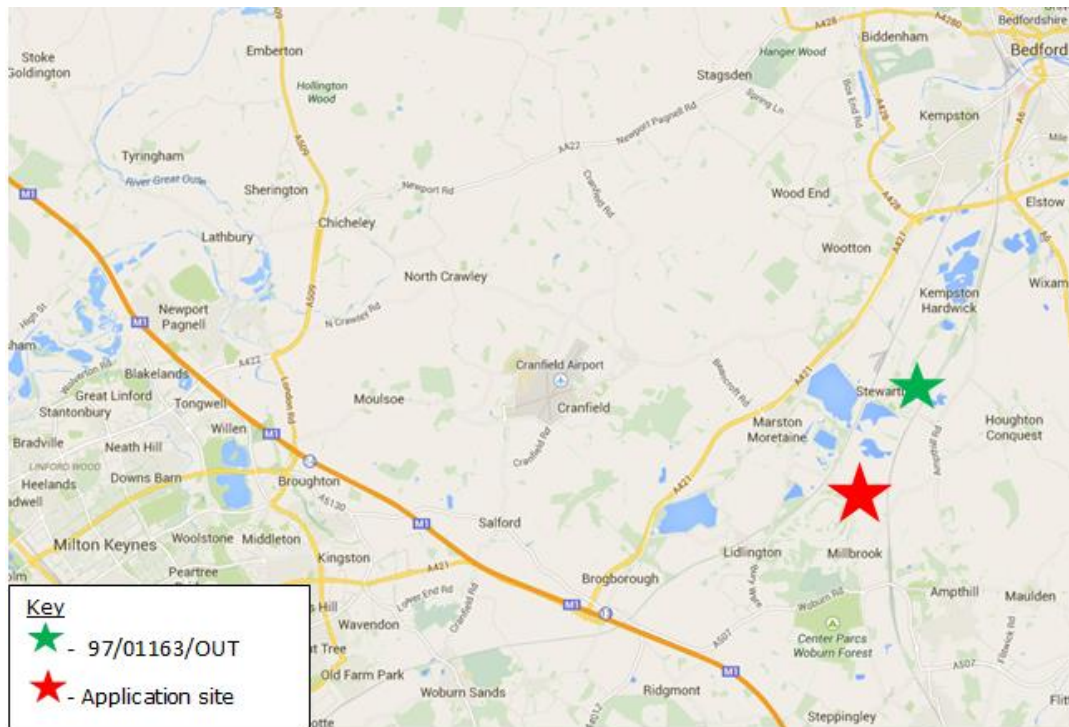
Figure 3-7 Location of proposed development at land at Warren Farm in relation to the Project Site



Land East and West of Broadmead Road, Stewartby

- 3.4.42 In August 1997, O&H Properties Ltd submitted an outline application to Bedford Borough Council for comprehensive redevelopment, including residential, employment, shop, public house, roads and open space, at land east and west of Broadmead Road, Stewartby (Ref: 97/01163/OUT), approximately 1km to the north of the Project Site boundary. Planning permission was formally granted by the Council, with a signed s106 agreement, in August 2009.
- 3.4.43 A subsequent reserved matters application, pursuant to 97/01163/OUT, for phase 1 infrastructure of the consented development, was submitted by O&H Properties Ltd in May 2013. Planning permission was granted in September 2013. The location of the proposed development for which outline planning permission and subsequent reserved matters planning permission was granted, in relation to the Project Site, is shown in Figure 3.8 below.

Figure 3-8 Location of proposed development at land east and west of Broadmead Road in relation to the Project Site

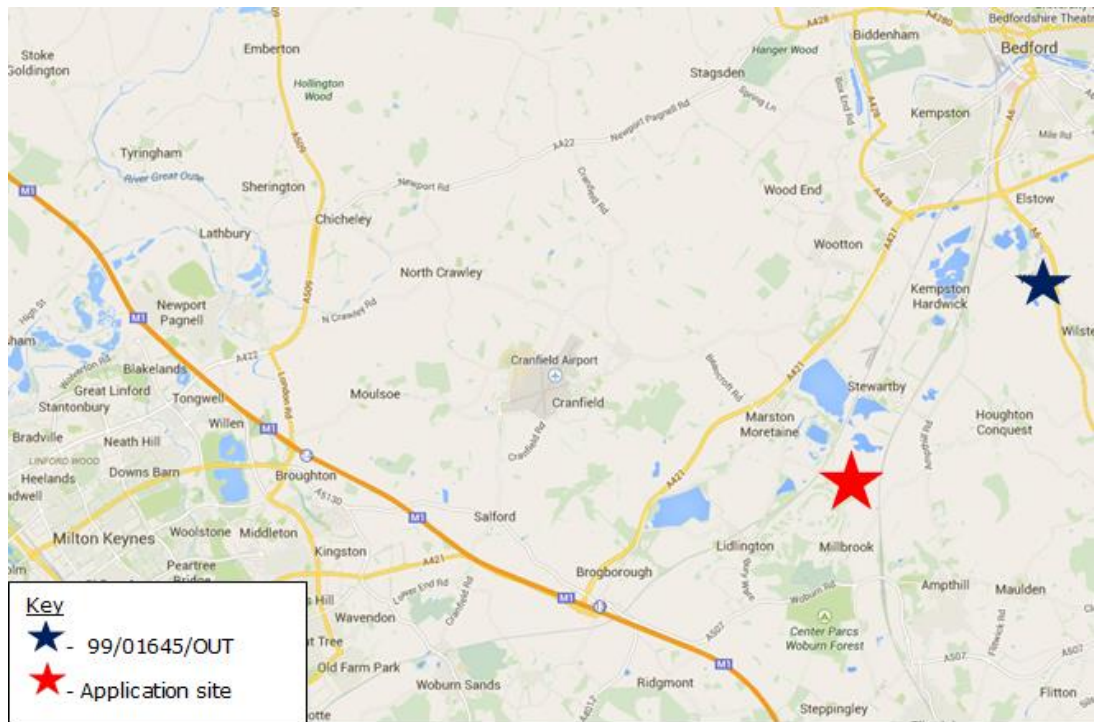


### The new settlement at Wixams

- 3.4.44 Bedfordshire County Council, Mid-Bedfordshire District Council and Bedford Borough Council adopted a Planning and Development Brief in September 1999 for a new settlement at Elstow Storage Depot to accommodate c.10,000 people.
- 3.4.45 It is envisaged that Wixams new settlement will include a town centre and several villages with 4500 homes, employment land, schools, shops, landscaping and recreational space such as sports pitches and allotments and community buildings. The location of Wixams new settlement is 3 miles south of Bedford and approximately 5km to the north-east of the Project Site boundary.
- 3.4.46 In November 1999, Gallagher and RWE Npower submitted a joint venture outline application for built development consisting of building and engineering works for a mixed use development of residential, employment, retail (A1, A2, A3) leisure and community uses, open space and associated uses together with supporting infrastructure (roads, paths, cycleways, pumping stations, electricity substations), public transport, interchange and car parking (Ref: 99/01645/OUT). Planning permission was formally granted by the Council, with a signed s106 agreement, in June 2006. A series of reserved matters applications and applications to discharge planning conditions have subsequently been submitted and approved. The construction of the new settlement is now progressing. The location of the proposed development for which outline planning permission and subsequent reserved matters planning permissions were granted, in relation to the Project Site, is shown in Figure 3.9 below.



Figure 3-9 Location of the proposed development at Wixams in relation to the Project Site



## 4 The Need for the Project

### 4.1 Overview

- 4.1.1 This section sets out why the Project is needed, as a viable proposal to contribute towards greater reliability of electricity supply in the UK. Given that this Planning Statement provides confirmation that, in MPL's view, the adverse impacts of the Project do not outweigh its benefits (see s104(7)), it is important to consider the need for the Project (and the NPS position on need for nationally significant energy projects more generally).
- 4.1.2 When determining an application for a DCO the SoS must have regard to, inter alia, any relevant NPSs designated in respect of that type of infrastructure (s.104 of the 2008 Act). S104(3) makes clear that the SoS must decide an application in accordance with any relevant NPS, except to the extent that particular circumstances apply (including where the SoS is satisfied that the adverse impact of a development would outweigh its benefits).
- 4.1.3 The overarching NPS for Energy is NPS EN-1 which sets out national policy for energy infrastructure and explains the UK-wide need for such infrastructure. NPS EN-2, EN-4 and EN-5 are also relevant NPSs for this Project.

### 4.2 The Need for Flexible Gas Fired Power Station Infrastructure

#### National Policy Statements (NPSs)

- 4.2.1 Section 3 of NPS EN-1 re-affirms the transitional role of new gas generation, confirms that a diverse energy mix is required and that there is a significant need for new energy generation infrastructure to replace capacity that will be lost through the closure of existing large coal plants. Indeed it states that the decision-maker should: "...start with a presumption in favour of granting consent to applications for energy NSIPs" (paragraph 4.1.2).
- 4.2.2 Paragraph 3.1.3 of NPS EN-1 states that the SoS should "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..." Paragraph 3.1.4 of NPS EN-1 states that "The [SoS] 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" [emphasis added].
- 4.2.3 Paragraph 3.3.1 of NPS EN-1 acknowledges that, "Electricity meets a significant proportion of our overall energy needs and our reliance on it is likely to increase..." Paragraph 3.6.1 of NPS EN-1 confirms that gas generation will play an important role in the UK's energy mix, stating that: "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..."

- 4.2.4 Similarly, Paragraph 1.1.1 of NPS EN-2 states "Fossil fuel generating stations play a vital role in providing reliable electricity supplies and a secure and diverse energy mix as the UK makes the transition to a low carbon economy..."
- 4.2.5 NPS EN-1 therefore establishes the general need case for energy NSIPs, including energy produced by gas generation.
- 4.2.6 NPS EN-2 does not repeat or add to the need case set out in NPS EN-1, but provides additional policy criteria and assessment principles relevant to fossil fuel generating stations. Notably, Paragraph 2.2.1 of EN-2 states that: "...the Government does not seek to direct applicants to particular sites for fossil fuel generating stations".

#### **Other Government Policy**

- 4.2.7 The NPSs have been informed by and followed by other government policy and evidence as to the need for viable proposals to contribute towards greater reliability of electricity supply in the UK.
- 4.2.8 To ensure that there is reliability of supply, it is Government policy that the electricity generation mix needs to incorporate a balance of technologies that continuously and reliably produce stable and controllable power and that within this scenario, gas-fuelled electricity generating technologies can play a significant role. In the Annual Energy Statement (AES) (latest version published October 2014), the Department of Energy and Climate Change (DECC) (now BEIS) supported the role of gas in the energy sector and directed the need to build new power generation infrastructure.
- 4.2.9 The AES identifies the need to retain sufficient power generation capacity following the rapid closure of existing capacity, and acknowledges the role of gas in the energy sector. The Statement also sets out the Government's long-term direction for reducing energy demand and safeguarding energy security, by increasing the proportion of energy from renewable and low carbon sources.
- 4.2.10 The 'Electricity Market Reform White Paper – Planning our electric future: a White Paper for secure, affordable and low-carbon electricity' (DECC, 2011) "sets out the Government's commitment to transform the UK's electricity system to ensure that our future electricity supply is secure, low-carbon and affordable" (paragraph 1). A key part of this wide ranging reform is the introduction of a 'Capacity Mechanism' in order "to guarantee future security of electricity supply as a quarter of ageing plant closes during this decade and the proportion of intermittent or less flexible low-carbon generation rises" (paragraph 1.35).
- 4.2.11 The White Paper sets out, at page 24, a vision for the Electricity System following reform, in which it is stated, "The electricity grid has evolved to

accommodate more localised and intermittent sources of generation, as well as being smarter and more responsive.” A significant focus of the White Paper is to decarbonise electricity generation in the long term, although it is acknowledged at paragraph 2.4.23 that, “Whilst we are going to need new, unabated gas in the next few years, we recognise that, in the longer term, it is likely that emissions from gas plant will need to reduce if we are to largely decarbonise the electricity sector and meet our climate change targets.”

- 4.2.12 ‘The Carbon Plan - delivering our low carbon future’ (HM Government, 2011) sets out the Coalition Government’s policies for how the UK will achieve decarbonisation within the framework of its energy policy; making the transition to low carbon economy while maintaining energy security, and minimising costs to customers. Paragraph 2.146 of the Plan recognises that the nature of the electricity network will need to change so that it becomes smarter at balancing demand and supply as generation/supply become more intermittent and demand increases. In light of this the Plan states that on the way to 2050, some flexible fossil fuel plant is likely to be needed to ensure security of supply. Paragraph 2.147 states that “over the next decade, the UK will need to invest in new generation capacity to replace the coal and nuclear power stations that are set to close by the early 2020s in order to maintain our energy security, while meeting our legal commitments to reduce carbon emissions and increase renewable electricity generation.” Paragraph 2.148 goes on to outline that to do this, the coming years will see a continuation of previous trends, which will include more switching from coal to gas-powered generation. Thus the Carbon Plan reinforces the position set out in the White Paper and acknowledges that to meet our energy security needs and make the transition to a low carbon economy, gas will continue to play a valuable role.
- 4.2.13 ‘Electricity System: Assessment of Future Challenges – Annex (DECC, August 2012)’ seeks to fully understand the implications of the challenges posed by moving to an energy mix with a greater proportion of intermittent and less flexible generation and identify means of addressing them. The overall aim is to ensure that the electricity system can facilitate future low carbon generation and expected increases in electricity demand in the most secure and affordable way, with the most efficient use of assets. Again, there is acknowledgement of the continued role for unabated gas fired generating plant. Paragraph 3.8 states that over the next two decades, gas will continue to play a key role in the UK’s energy mix alongside other lower carbon electricity sources. The paragraph goes on to state that new gas generation capacity will be needed to ensure security of supply, and to balance the electricity system as more low carbon technology become available.
- 4.2.14 The ‘Electricity Capacity Assessment’ (Ofgem, June 2014) assesses the risks to the security of Britain’s electricity supply over the winters 2014/15 to 2018/19. The report states that there is expected to be a reduction in electricity supply over the next two winters as a result of a reduction in supplies from conventional generation. There has also been a recent reduction in demand due to: energy efficiency measures; an increase in generation connected to distribution networks; and demand reduction by the industrial and commercial sectors. However, the report finds that the

decrease in demand has been offset by a greater reduction in available electricity supply than previously expected.

- 4.2.15 The 'Gas Generation Strategy' (DECC, December 2012) consolidates the range of government policy as set out above in setting out the important role for gas generation. It is stated that as a reliable, flexible source of electricity it will play a part in any future generation mix, supporting a secure, low-carbon and affordable electricity system. It states that "Gas currently forms an integral part of the UK's generation mix and is a reliable, flexible source of electricity. Using gas as a fuel in our power stations currently provides a significant proportion of our electricity generation (around 40% in 2011)" (Executive Summary). Moreover, it suggests that there could be as much as 26 gigawatts (GW) of new gas generation infrastructure required if the decarbonisation target is set at 200g/CO<sub>2</sub>/kWh. It also indicates that in 2030 we could need more overall gas capacity than we have today, although operating at lower load factors, reflecting the role of 'peaking' plant in backing up intermittent sources of energy generation. "The modelling shows that gas could play a more extensive role, with higher load factors, should the 4th Carbon Budget be revised upwards" (Executive Summary). The strategy also presents scenarios at Table 2B on page 22 which indicate that up to 41 GW of new gas generation capacity will be needed by 2030 to underpin long term electricity supplies and provide back-up to nuclear and wind generation at times of peak demand.
- 4.2.16 The National Infrastructure Plan (HM Treasury, December 2014) provides explicit support for this type of project, stating: "New gas plant is also needed and will be vital in supplying a backup for less flexible renewable generation and ensuring that the system can meet peak electricity demand" (Paragraph 8.4). Paragraph 8.3 adds that, "Large-scale investment in gas and low-carbon electricity generation is vital in order to replace ageing energy infrastructure, maintain secure energy supplies and meet legally-binding environmental targets."
- 4.2.17 The NPPF also establishes a need for low carbon energy sources. Paragraph 97 of the NPPF states that to help increase the use and supply of renewable and low carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. Consequently, local planning authorities should "consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources", and "identify opportunities where development can draw its energy supply from decentralised, renewable or low carbon energy supply systems".
- 4.2.18 In addition, Paragraph 162 of the NPPF states that local planning authorities should take account of the need for strategic infrastructure including nationally significant infrastructure within their areas.
- 4.2.19 In October 2016, The Energy and Climate Change Committee published [\*The energy revolution and future challenges for UK energy and climate change policy — Third Report of Session 2016–17\*](#) (October 2016). The report

reflects on upcoming challenges for UK energy and climate policy. For energy supply it states that “The Government should seek to build investor confidence, to avoid exacerbating difficulties in bringing forward investment in new electricity capacity and new indigenous resources. The Government should also examine the role of the ‘solidarity principle’ in managing potential gas crises, specifically how the UK can continue to participate. If excluded from the ‘solidarity principle’ the UK Government must urgently investigate alternative back-up arrangements to ensure security of supply in the event of a crisis” (Paragraph 111).

### **4.3 Discussion**

- 4.3.1 It can be seen that an array of government policy, both at a local level and UK-wide acknowledges the need for the electricity generation mix to incorporate a balance of technologies that reliably produce stable and controllable power during the transition to a low carbon economy.
- 4.3.2 The role of gas-fuelled electricity generating technologies is acknowledged throughout, with recognition given to the flexibility of gas generation in meeting ‘peak’ loads and enabling the grid to accommodate more intermittent, low carbon sources such as wind generation. This need is UK-wide due to the national electricity system and the wide dispersal of intermittent sources.
- 4.3.3 At present, peaking capacity in the UK is relatively small due to the nature of the electricity generation mix on the National Grid. Although recently there has been a significant increase in the number of proposals for flexible / peaking plant in the UK, a large proportion of these are focussed on small capacity (c 20MWe) liquid fuel fired plants.
- 4.3.4 Moreover, there are thought to be limitations as to the suitability of the existing fleet of older gas fired plants for peak load operation (Electricity Market Reform White Paper – Planning our electric future: a White Paper for secure, affordable and low-carbon electricity’, DECC, 2011). It is recognised at page 28 of the White Paper that “frequent stop/start and fast ramp-up operations do have a significant impact on maintenance costs”. The detailed implementation proposals for the Capacity Mechanism may impose penalties for poor performance that is likely to limit the likely viability of plant with long ramp-up times or prone to unreliability in participating.
- 4.3.5 In conclusion, there is clearly a significant requirement for further gas generation capacity to provide reliable, peaking generation. The development of the Project, a dedicated gas fired peaking plant and electrical and gas connections, would allow for the rapid, reliable and viable provision of reserve capacity to the National Grid, supporting the transition to a low carbon economy by balancing some of the considerable scale of intermittent sources such as wind being developed UK-wide, and playing an important role in meeting the UK’s national energy requirements.



## **5 Planning Policy Context**

### **5.1 Overview**

- 5.1.1 This section sets out the relevant planning policies and guidance relevant to the Project, including reference to relevant planning guidance primarily contained with NPS EN-1, EN-2, EN-4 and EN-5, as well as the National Planning Policy Framework (NPPF), National Planning Policy Guidance (NPPG) and relevant local planning policy adopted or being prepared by Central Bedfordshire Council and Bedford Borough Council.
- 5.1.2 An assessment of the Project, in respect of the relevant planning policies and guidance contained within this section of the Planning Statement, is provided in section 6 of the Planning Statement.

### **5.2 The Planning Act 2008 and the Localism Act 2011**

- 5.2.1 The process for considering proposed NSIPs was established by the Planning Act 2008, as amended by the Localism Act 2011.
- 5.2.2 Under the Localism Act 2011 PINS became the agency responsible for operating the planning process for NSIPs (previously, it had this role whilst also being the decision maker). As the Examining Authority (ExA), PINS conducts certain pre-application and application procedures (such as EIA Scoping consultation and conducting acceptance checks when the DCO Application is submitted) and the examination.
- 5.2.3 The examination is a predominantly written process led either by a single appointed person or a panel, who submit a report with their recommendation on an application to the relevant SoS who will take the final decision as to whether to make a DCO for a proposed project and in what terms. The relevant SoS for the Project is the SoS for Business, Energy & Industrial Strategy.
- 5.2.4 Section 104 of the PA 2008 provides that in making decisions on applications, the SoS must have regard (amongst certain other documents and matters) to any relevant NPS and must decide applications in accordance with such relevant NPS(s) unless the adverse impacts of the proposal would outweigh its benefits (or in certain other limited circumstances). The NPSs relevant to this Application are NPS EN-1, NPS EN-2, NPS EN-4 and NPS EN-5, as set out below in section 5.3.
- 5.2.5 Section 104 of the PA 2008 also requires the SoS to have regard to any Local Impact Report and other matters which the SoS “thinks are both important and relevant to [the SoS’s] decision”. Other national and local planning policy which may be relevant to this Application is set out in sections 5.4 and 5.5 below.



## 5.3 National Policy Statements

5.3.1 The Department for Energy and Climate Change (DECC) published 6 National Policy Statements (NPS) for Energy in 2011:

- Overarching National Policy Statement for Energy (EN-1);
- National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (EN-2);
- National Policy Statement for Renewable Energy Infrastructure (EN-3);
- National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4);
- National Policy Statement for Electricity Networks Infrastructure (EN-5);
- National Policy Statement for Nuclear Power Generation (EN-6)

5.3.2 NPS EN-1 is a relevant NPS for any energy NSIP, along with the relevant technology specific NPS. For the DCO Application this includes NPS EN-2 National Policy Statement for Fossil Fuel Electricity Generating Infrastructure and NPS EN-4 - National Policy Statement for Gas Supply Infrastructure. The majority of NPS EN-5 does not directly relate to the Project, since its electrical infrastructure is to be predominantly underground. However, NPS EN-5 is of relevance in respect of the substation and SECs and so is referred to where relevant in this document.

### Overarching National Policy Statement for Energy (EN-1)

5.3.3 NPS EN-1 sets out the Government's overall policy towards the delivery of major energy infrastructure.

5.3.4 Paragraph 1.1.1 of NPS EN-1 states that 'this NPS, when combined with the relevant technology-specific energy NPS, provides the primary basis for decisions'. The relevant technology-specific energy NPS for this Application are NPS EN-2, EN-4 and EN-5 as set out below. In addition, Paragraph 4.1.5 of NPS EN-1 states that Development Plan Documents or other documents in the Local Development Framework may be both important and relevant considerations to SoS decision-making. Local planning policy for Central Bedfordshire and Bedford Borough relevant to this Application is set out in section 5.4 below.

5.3.5 Section 3 of NPS EN-1 considers the need for new NSIPs, which is set out in section 4 of this Planning Statement.

5.3.6 Paragraph 3.1.3 of NPS EN-1 states that all development consent applications for energy infrastructure should be assessed '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.’ Accordingly, the SoS ‘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’ (paragraph 3.1.4) [emphasis added].

- 5.3.7 Section 3.3 of NPS EN-1 sets out the key reasons why the Government believes there is an ‘urgent need’ for new electricity NSIPs (paragraph 3.3.1), including:
- Meeting energy security and carbon reduction objectives;
  - The need to replace closing electricity generating capacity;
  - The need for more electricity capacity to support an increased supply from renewables; and,
  - Future increases in electricity demand.
- 5.3.8 Furthermore, paragraph 3.7.3 of NPS EN-1 stresses that new electricity network infrastructure projects add to the reliability of the national energy supply and provide crucial national benefits which are shared by all users of the system.
- 5.3.9 Whilst alternatives to the need for new large scale electricity infrastructure have been considered – including: reducing demand; more intelligent use of electricity; and interconnection of electricity systems – the Government believes that these measures will not be sufficient to meet energy and climate change objectives on their own (paragraph 3.3.25 of NPS EN-1).
- 5.3.10 Paragraph 3.6.1 of NPS EN-1 recognises the ‘vital role’ that fossil fuel power stations play in providing electricity supplies, and states that ‘they will continue to play an important role in our energy mix as the UK makes the transition to a low carbon economy.’
- 5.3.11 Section 4 of NPS EN-1 sets out the general assessment principles by which applications relating to energy infrastructure are to be decided. The general assessment principles are considered in the context of the Project in section 6 of this Planning Statement.
- 5.3.12 Paragraph 4.1.2 of NPS EN-1 states that, given the level and urgency of need for energy infrastructure, the SoS ‘should start with a presumption in favour of granting consent to applications for energy NSIPs.’
- 5.3.13 Paragraph 4.1.3 of NPS EN-1 explains that the SoS will weigh up a proposal’s contribution to meeting the need for energy infrastructure, job creation and other long term and wider benefits, against the potential adverse impacts of the proposal in question including ‘any long-term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts.’
- 5.3.14 Paragraph 4.1.4 of NPS EN-1 continues and explains that the SoS should take into account ‘environmental, social and economic benefits and adverse

impacts, at national, regional and local levels' whether identified in the NPSs or elsewhere, including in local impact reports.

- 5.3.15 Paragraph 4.1.5 of NPS EN-1 states that other matters that the SoS may consider both important and relevant to its decision-making could include Development Plan Documents or other documents in the Local Development Framework and explains that, 'in the event of a conflict between these or any other documents and an NPS, the NPS prevails.' The documents included within the Local Development Frameworks for both Central Bedfordshire Council and Bedford Borough Council are referenced in section 5.5.
- 5.3.16 Paragraph 4.1.7 of NPS EN-1 confirms that the SoS will have regard to the guidance in Circular 11/95, as revised, on "The Use of Conditions in Planning Permissions" in agreeing or suggesting requirements in a DCO. Although that circular has in part been superseded by advice contained within NPPG (published in March 2014), the Applicant notes that the general advice remains essentially similar.
- 5.3.17 Paragraph 4.1.8 states that, "The [SoS] may take into account any development consent obligations that an applicant agrees with local authorities."
- 5.3.18 Paragraph 4.1.9 of NPS EN-1 states that viability issues are unlikely to be of relevance to decision making providing that the technical feasibility of the proposal has been properly assessed, but limited exceptions exist and are set out in NPS EN-1 and others.
- 5.3.19 Paragraph 4.2.1 of NPS EN-1 advises that, 'All proposals for projects that are subject to the European Environmental Impact Assessment Directive must be accompanied by an Environmental Statement describing the aspects of the environment likely to be significantly affected by the project.' The Environmental Statement should include an assessment of the likely significant effects of the proposed project on the environment, including direct, indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects at all stages of the project. Paragraph 4.2.3 of NPS EN-1 adds that 'the ES should cover the environmental, social and economic effects arising from pre-construction, construction, operation and decommissioning of the project.' When considering cumulative effects, Paragraph 4.2.5 of NPS EN-1 advises that the ES should provide information on how the effects of the proposal combine and interact with the effects of other development, including projects for which consent is sought or granted, as well as those already in existence.
- 5.3.20 In respect of Habitats and Species Regulations, paragraph 4.3.1 of NPS EN-1 advises applicants to consult with Natural England and to subsequently undertake an Appropriate Assessment if required.
- 5.3.21 Paragraph 4.4.1 of NPS EN-1 notes that, "the relevance or otherwise to the decision-making process of the existence (or alleged existence) of alternatives to the proposed development is in the first instance a matter of law, detailed guidance on which falls outside the scope of this NPS. From a

- policy perspective NPS EN-1 does not contain any general requirement to consider alternatives or to establish whether the proposed project represents the best option.” However, paragraph 4.4.2 of NPS EN-1 states that applicants are obliged to include in their ES, as a matter of fact, information about the main alternatives that have been considered,, including the main reasons for the applicant’s choice, taking into account the environmental, social and economic effects.
- 5.3.22 Paragraph 4.5.1 of NPS EN-1 states that good design for energy infrastructure ‘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 aesthetic as far as possible.’ However, paragraph 4.5.1 also acknowledges that ‘the nature of much energy infrastructure development will often limit the extent to which it can contribute to the enhancement of the quality of the area.’
- 5.3.23 Paragraph 4.5.3 of NPS EN-1 seeks that proposals are “sustainable and, having regard to regulatory and other constraints, are as attractive, durable and adaptable (including taking account of natural hazards such as flooding) as they can be”. Further, Paragraph 4.5.3 states that “Whilst the applicant may not have any or very limited choice in the physical appearance of some energy infrastructure, there may be opportunities for the applicant to demonstrate good design in terms of siting relative to existing landscape character, landform and vegetation.”
- 5.3.24 Paragraph 4.5.4 of NPS EN-1 seeks that applicants “demonstrate in their application documents how the design process was conducted and how the proposed design evolved. Where a number of different designs were considered, applicants should set out the reasons why the favoured choice has been selected”. Further, paragraph 4.5.4 of NPS EN-1 notes that “in considering applications the [SoS] should take into account the ultimate purpose of the infrastructure and bear in mind the operational, safety and security requirements which the design has to satisfy.”
- 5.3.25 Paragraph 4.5.5 of NPS EN-1 states that “applicants are encouraged” to use design review services.
- 5.3.26 Paragraph 4.6.6 of NPS EN-1 states that, ‘Under guidelines issued by DECC (then DTI) in 2006, any application to develop a thermal generating station under Section 36 of the Electricity Act 1989 must either include CHP or contain evidence that the possibilities for CHP have been fully explored to inform the IPC’s consideration of the application.’ Further, paragraph 4.6.7 of NPS EN-1 advises that the opportunities for CHP should be considered from the outset of the site selection process.
- 5.3.27 Section 4.7 of NPS EN-1 explains the considerations to be given to CCS and Carbon Capture and explains that all applications for new combustion plant which are of a generating capacity at or over 300MW and of a type covered by the EU’s Large Combustion Plant Directive (LCPD) should demonstrate that the plant is “Carbon Capture Ready” (CCR).

- 5.3.28 Section 4.8 of EN-1 sets out considerations that applicants and the Examining Authority/SoS should take into account to help ensure that new energy infrastructure is resilient to climate change. Paragraph 4.8.5 of NPS EN-1 advises that applicants ‘must consider the impacts of climate change when planning the location, design, build, operation and, where appropriate, decommissioning of new energy infrastructure.’
- 5.3.29 Paragraph 4.9.1 of NPS EN-1 advises applicants to consult the National Grid and to ensure that there is the necessary infrastructure and capacity within an existing or planned transmission or distribution network to accommodate the electricity generated.
- 5.3.30 Paragraph 4.10.1 of NPS EN-1 advises that ‘Issues relating to discharges or emissions from a proposed project which affect air quality, water quality, land quality and the marine environment, or which include noise and vibration may be subject to separate regulation under the pollution control framework or other consenting and licensing regimes.’
- 5.3.31 Paragraph 4.11.1 of NPS EN-1 advises applicants to consult with the HSE on matters relating to safety which are relevant to the construction, operation and decommissioning of energy infrastructure.
- 5.3.32 Paragraph 4.12.1 of NPS EN-1 explains that all establishments wishing to hold stock of hazardous substances above a threshold will require Hazardous Substances consent, and thus should consult the HSE at the pre-application stage.
- 5.3.33 Section 4.13 of NPS EN-1 advises that energy production has the potential to impact on health and wellbeing (paragraph 4.13.1), through increased traffic, air or water pollution, dust, odour, hazardous waste and substances, noise, exposure to radiation and increases in pests (paragraph 4.13.3). Accordingly, the ES should assess these effects and identify any measures to avoid, reduce or compensate for these impacts as appropriate (paragraph 4.13.2).
- 5.3.34 Paragraph 4.14.2 of NPS EN-1 stresses the importance of considering possible sources of nuisance and how they may be mitigated or limited at the pre-application stage under section 79(1) of the Environmental Protection Act 1990.
- 5.3.35 Paragraph 4.15.2 of NPS EN-1 outlines that ‘Government policy is to ensure that, where possible, proportionate protective security measures are designed into new infrastructure projects at an early stage in the project development.’
- 5.3.36 Part 5 of NPS EN-1 explains the potential impacts of energy infrastructure, in terms of: air quality and emissions; biodiversity and ecological conservation; civil and military aviation and defence interests; coastal change; dust, odour, artificial light, smoke, steam and insect infestation; flood risk; historic environment; landscape and visual; land use including open space, green

infrastructure and Green Belt; noise and vibration; socio-economic; traffic and transport; waste management; and water quality and resources.

5.3.37 Paragraph 5.2.1 of NPS EN-1 advises that the construction, operation and decommissioning of infrastructure development 'can involve emissions to air which could lead to adverse impacts on health, on protected species and habitats, or on the wider countryside.' Paragraph 5.2.7 of NPS EN-1 provides that the applicant should undertake an assessment as part of the ES, describing:

- "any significant air emissions, their mitigation and any residual effects distinguishing between the project stages and taking account of any significant emissions from any road traffic generated by the project;
- the predicted absolute emission levels of the proposed project, after mitigation methods have been applied;
- existing air quality levels and the relative change in air quality from existing levels; and
- any potential eutrophication impacts."

5.3.38 With regard to biodiversity and geological conservation for EIA development, paragraph 5.3.3 of NPS EN-1 advises that the ES 'clearly sets out any effects on internationally, nationally and locally designated sites of ecological or geological conservation importance, on protected species and on habitats and other species identified as being of principal importance for the conservation of biodiversity.' Appropriate mitigation measures should be an integral part of the proposed development and should demonstrate that: activities are confined to the minimum areas required during construction; best practice is followed during construction and operation; habitats are restored after construction works where practicable; and opportunities are taken to enhance or create new habitats (paragraph 5.3.18).

5.3.39 Paragraph 5.4.1 of NPS EN-1 advises that civil and military aviation and defence interests can be affected by new energy development, and as such an assessment of potential effects should be set out within the ES (paragraph 5.4.10). In addition, the MoD, CAA, NATS and any aerodrome likely to be affected by the proposed development should be consulted (paragraph 5.4.11).

5.3.40 Paragraph 5.6.1 of NPS EN-1 states that, 'during the construction, operation and decommissioning of energy infrastructure there is potential for the release of a range of emissions such as odour, dust, steam, smoke, artificial light and infestation of insects.' Accordingly, applicants are required to assess the potential for emissions and the impact on amenity in the ES, in particular: the type, quantity and timing of emissions; aspects giving rise to emissions; locations affected by the emissions; effects of the emissions on identified locations; and measures to be employed in preventing or mitigating emissions (paragraph 5.6.5). Paragraph 5.6.11 advises that mitigation

measures may be provided in respect of engineering, lay-out or administration.

- 5.3.41 Paragraph 5.7.4 of NPS EN-1 states that application for energy projects of 1ha or greater in Flood Zone 1 and all energy projects in Flood Zones 2 and 3 should be accompanied by a Flood Risk Assessment (FRA). Where necessary, paragraph 5.7.18 of NPS EN-1 advises that flood risk should be mitigated by making arrangements to manage surface water and the impact of the natural water cycle on people and property.
- 5.3.42 Paragraph 5.8.1 of NPS EN-1 advises that the construction, operation and decommissioning of energy infrastructure has the potential to result in adverse impacts on the historic environment. Accordingly, the applicant is required to 'provide a description of the significance of the heritage assets affected by the proposed development and the contribution of their setting to that significance' (paragraph 5.8.8).
- 5.3.43 Paragraph 5.9.1 of NPS EN-1 acknowledges that the landscape and visual effects of energy projects will vary according to the type of development, its location and the landscape setting. Paragraphs 5.9.5 – 5.9.7 advise that the applicant should carry out a landscape and visual impact assessment of the effects during construction and operation, including light pollution effects on local amenity and nature conservation. Paragraph 5.9.21 notes that reducing the scale of the project can help to mitigate the landscape and visual impacts, however it is acknowledged that amending the design of proposed energy infrastructure may result in a significant operational constraint and reduction in function.
- 5.3.44 Paragraph 5.10.1 of NPS EN-1 acknowledges that an energy infrastructure project 'will have direct effects on the existing use of the proposed site and may have indirect effects on the use, or planned use, of land in the vicinity for other types of development.' Accordingly, the applicants should consult the local community (paragraph 5.10.6) and the ES should include an assessment of the impact of the proposed development on existing and proposed land uses near the project. Paragraph 5.10.19 notes that there may be little that can be done to mitigate the direct effects of the energy project on the existing use of the proposed site; however, the effects may be minimised through the application of good design principles, including the layout of the project.
- 5.3.45 Paragraph 5.11.1 of NPS EN-1 states that excessive noise can have wide-ranging impacts on the quality of human life, health, and use and enjoyment of areas, as well as on wildlife and biodiversity (paragraph 5.11.2). Where noise impacts arise, paragraph 5.11.4 states that a noise assessment should be provided, to include: a description of the noise generating aspects of the proposal, identification of noise sensitive areas, the characteristics of the existing noise environment, and a prediction of how the noise environment will change. Mitigation measures may include engineering, layout design, or administrative measures (paragraph 5.11.12).



- 5.3.46 Paragraph 5.12.1 of NPS EN-1 states that ‘The construction, operation and decommissioning of energy infrastructure may have socio-economic impacts at local and regional levels.’ Accordingly, an assessment should be undertaken of 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, effects on tourism, the impact of a changing influx of workers during different phases of the project, and cumulative effects. Mitigation measures could include improvements to the visual and environmental experience for visitors and the local community through high quality design (paragraph 5.12.9).
- 5.3.47 Paragraph 5.13.1 of NPS EN-1 notes that ‘The transport of materials, goods and personnel to and from a development during all project phases can have a variety of impacts on the surrounding transport infrastructure and potentially on connecting transport networks.’ The applicant should therefore undertake a transport assessment and consult with the Highways Agency and Highways Authority regarding appropriate mitigation (paragraph 5.13.3).
- 5.3.48 Paragraph 5.14.1 of NPS EN-1 outlines that government policy on hazardous and non-hazardous waste is intended to ‘protect human health and the environment by producing less waste and by using it as a resource wherever possible.’ Paragraph 5.14.6 states that the applicant should set out the arrangements proposed for managing waste and include information on the proposed waste recovery and disposal system.
- 5.3.49 Paragraph 5.15.1 of NPS EN-1 advises that infrastructure development can have adverse effects during the construction, operation and decommissioning phases on the water environment, including groundwater, inland surface water, transitional waters and coastal waters. Accordingly, the applicant should undertake an assessment of ‘the existing status of, and impacts of the proposed project on, water quality, water resources and physical characteristics of the water environment as part of the ES’ (paragraph 5.15.2). Paragraphs 5.15.9 and 5.15.10 advise that the impacts on the water environment and local water resources can be mitigated through careful design.

### **National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (EN-2)**

- 5.3.50 Paragraph 1.1.1 of NPS EN-2 states “Fossil fuel generating stations play a vital role in providing reliable electricity supplies and a secure and diverse energy mix as the UK makes the transition to a low carbon economy...”
- 5.3.51 Paragraph 1.2.1 of NPS EN-2 states that, NPS EN-2, together with NPS EN-1, provides the primary basis for decisions by the SoS on applications for nationally significant fossil fuel electricity generating stations.
- 5.3.52 Part 2 of NPS EN-2 provides additional guidance to Part 4 and Part 5 of EN-1 regarding the assessment of impacts specifically associated with fossil fuel generating stations.

- 5.3.53 Paragraph 2.2.1 of NPS EN-2, "it is for energy companies to decide which applications to bring forward and the government does not seek to direct applicants to particular sites for fossil fuel generating stations."
- 5.3.54 NPS EN-2 notes that "Fossil fuel generating stations have large land footprints and will therefore only be possible where the applicant is able to acquire a suitably-sized site" (NPS EN-2, paragraph 2.2.2). It also notes that "Applicants should locate new fossil fuel generating stations in the vicinity of existing transport routes wherever possible."
- 5.3.55 Section 2.3 of NPS EN-2 states that government policy criteria for fossil fuel generation stations relating to – CHP, CCR, CCS, climate change adaptation, and 'good design' – must be met before consent is given.
- 5.3.56 Section 2.3.13 of NPS EN-2 sets out considerations specifically for fossil fuel generating stations in respect of climate change. NPS EN-2 suggests that as fossil fuel generating stations are likely to be proposed for coastal or estuarine sites, applicants should set out how the proposal would be resilient to: coastal changes and increased risk from storm surge; effects of higher temperatures, including higher temperatures of cooling water; and increased risk of drought leading to a lack of available cooling water.
- 5.3.57 Paragraph 2.3.16 of NPS EN-2 states that, "Applicants should demonstrate good design particularly in respect of landscape and visual amenity ...and in the design of the project to mitigate impacts such as noise and vibration, transport impacts and air emissions."
- 5.3.58 Section 2.4 of NPS EN-2 contains additional policy for assessing the potential impacts of energy infrastructure projects for fossil fuel generating stations, relating to: air emissions; landscape and visual; release of dust by coal-fired generating stations; residue management for coal-fired generating stations; and water quality and resources.
- 5.3.59 Paragraph 2.5.2 of NPS EN-2 acknowledges that CO<sub>2</sub> emissions are a significant adverse impact of fossil fuel generating stations. As such, paragraph 2.5.5 of EN-2 states that an assessment should be carried out at the initial stages of developing proposals, and Paragraph 2.5.8 of EN-2 states that the SoS and EA should be satisfied that the potential adverse impacts of mitigation measures are assessed.
- 5.3.60 Paragraph 2.6.2 of NPS EN-2 advises that the main structures of a fossil fuel generating station – including the turbine and boiler halls, exhaust gas stack, storage facilities, cooling towers, and water processing plant – are large and likely to have an impact on the surrounding landscape and visual amenity. A landscape and visual impact assessment should therefore be included as part of the ES, and consideration should be given to the design of the plant, the materials to be used, and the visual impact of the stack (paragraphs 2.6.3 and 2.6.4). Paragraph 2.6.5 of EN-2 states that mitigation is to minimise impact on visual amenity as far as reasonably practicable; however, the visibility of a fossil fuel generating station should be given limited weight if the

SoS is satisfied that the location is appropriate for the project and that it has been designed sensitively (paragraph 2.6.10).

5.3.61 Paragraph 2.7.1 of NPS EN-2 advises that the sources of noise and vibration from fossil fuel generating stations may include the gas and steam turbines and external noise sources such as externally-sited air-cooled condensers. Paragraph 2.7.2 of EN-2 states that the ES should include a noise assessment, and paragraph 2.7.5 of NPS EN-2 states that mitigation should be achieved through 'good design', including enclosure of plant and machinery in noise-reducing buildings where possible.

5.3.62 Paragraph 2.10.1 of NPS EN-2 advises that water cooling systems for fossil fuel generating stations may have additional impacts on water quality, abstraction and discharge. Where the project is likely to have an effect on water quality and resources, Paragraph 2.10.2 of EN-2 states that an assessment should be undertaken to 'demonstrate that appropriate measures will be put in place to avoid or minimise adverse impacts of abstraction and discharge of cooling water.'

#### **National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4)**

5.3.63 NPS EN-4, together with NPS EN-1, provides the primary basis for decisions by the SoS on applications for gas supply infrastructure and gas and oil pipelines (Paragraph 1.2.1).

5.3.64 Part 2 of NPS EN-4 provides additional guidance to Part 4 and Part 5 of EN-1 regarding the assessment of impacts specific to gas supply infrastructure and oil and gas pipelines.

5.3.65 Sections 2.20 – 2.23 of NPS EN-4 set out additional policy for assessing the potential impacts of gas and oil pipelines, relating to: noise and vibration; biodiversity, landscape and visual; water quality and resources; and soil and geology.

5.3.66 Paragraph 2.20.2 of NPS EN-4 states that there are specific noise and vibration impacts which apply to gas pipelines, including – 'During the pre-construction phase there could be vibration effects from seismic surveys. During construction, tasks may include site clearance, soil movement, ground excavation, tunnelling, trenching, pipe laying and welding, and ground reinstatement. In addition, increased HGV traffic will be generated on local roads for the movement of materials.' The ES should include an assessment of all of the above noise and vibration effects during the pre-construction and construction phases (paragraph 2.20.5).

5.3.67 Paragraph 2.21.1 of NPS EN-4 states that the construction of a pipeline can impact upon 'specific landscape elements within and adjacent to the pipeline route, such as grasslands, field boundaries (hedgerows, hedgebanks, drystone walls, fences), trees, woodlands, and watercourses.' Accordingly, the ES should include an assessment of the biodiversity and landscape and visual effects of the proposed route and of the main alternative routes

considered' (paragraph 2.21.3 of EN4). Where it is not possible to restore the landscape to its original state, Paragraph 2.21.3 of EN-4 also states that 'the applicant should set out measures to avoid, mitigate, or employ other landscape measures to compensate for, any adverse effect on the landscape.'

- 5.3.68 Paragraph 2.22.2 of NPS EN-4 advises that 'constructing pipelines creates corridors of surface clearance and excavation that can potentially affect watercourses, aquifers, water abstraction and discharge points, areas prone to flooding and ecological receptors. As such, an assessment should be provided in the ES where the project is likely to have effects on water resources or water quality, for example through impacts on: 'groundwater recharge or on existing surface water or ground abstraction points; associated ecological receptors', or through: 'siltation or spillages, discharges from maintenance activities or the discharge of disposals such as wastewater or solvents' (paragraphs 2.22.3 and 2.22.4).
- 5.3.69 Paragraph 2.23.1 of NPS EN-4 states that 'it will be important for applicants to understand the soil types and the nature of the underlying strata.' Accordingly, applicants should consult with the relevant statutory consultees at an early stage regarding the potential impact of gas pipelines on soil and geology (paragraph 2.23.4). Paragraph 2.23.2 states that applicants should assess the stability of the ground conditions associated with the pipeline route, including considering the options for installing the pipeline.

#### **National Policy Statement for Electricity Networks Infrastructure (EN-5)**

- 5.3.70 NPS EN-5, together with NPS EN-1, provides the primary basis for decisions by the SoS on applications for electricity networks infrastructure NSIPs (Paragraph 1.2.1) such as overhead lines, and associated development of electrical networks infrastructure (such as substations) for other NSIPs. The Project considered an overhead line as an alternative for the Electrical Connection and includes a substation. Accordingly, the Project has had regard to the provisions of NPS EN-5 as they relate to substations and the consideration of alternative Electrical Connections, as set out below.
- 5.3.71 Part 2 of NPS EN-5 provides additional guidance to Part 4 and Part 5 of EN-1 regarding the assessment of impacts specific to electricity networks infrastructure.
- 5.3.72 In respect of climate change adaptation, paragraph 2.4.1 of NPS EN-5 states that applicants should set out the extent to which the proposed development would be vulnerable and how it would be resilient to: flooding; the effects of wind and storms; higher average temperatures; and earth movement or subsidence. The Project is considered further in this respect at section 6.9 of this Planning Statement.
- 5.3.73 Paragraph 2.5.2 of NPS EN-5 states that, 'proposals for electricity networks infrastructure should demonstrate good design in their approach to mitigating the potential adverse impacts which can be associated with overhead lines',

particularly in respect of: biodiversity and geological conservation; landscape and visual; noise and vibration; and EMFs.

- 5.3.74 Paragraph 2.7.1 of NPS EN-5 advises that there is the potential for large birds to collide with overhead power lines, particularly in poor visibility. Accordingly, the EIA should consider whether the proposed line will cause problems at any point along its length, in particular regarding feeding and hunting grounds, migration corridors and breeding grounds (paragraph 2.7.2). Suitable mitigation measures may include: careful siting of the line; making lines more visible; or reducing electrocution risks through the design of crossarms and insulators (paragraphs 2.7.4 – 2.7.6).
- 5.3.75 Paragraphs 2.8.4 – 2.8.6 of NPS EN-5 state that applicants should follow guidance set out in the Holford Rules when considering the approach to the routing of new overhead lines. Paragraph 2.8.4 also states that applicants should offer ‘constructive proposals for additional mitigation of the proposed overhead lines’, and consider the ‘potential costs and benefits of other feasible means of connection or reinforcement’ where the proposed overhead line is likely to have a significant visual impact.
- 5.3.76 Paragraph 2.8.8 of NPS EN-5 acknowledges that, whilst the development of overhead lines will often be appropriate for meeting the need for new electricity lines of 132kV and above, there are cases where overhead lines are not appropriate. This paragraph adds, “Where there are serious concerns about the potential adverse landscape and visual effects of a proposed overhead line, the IPC will have to balance these against other relevant factors, including the need for the proposed infrastructure, the availability and cost of alternative sites and routes and methods of installation (including undergrounding).”
- 5.3.77 Paragraph 2.8.9 of NPS EN-5 notes, “The impacts and costs of both overhead and underground options vary considerably between individual projects (both in absolute and relative terms). Therefore, each project should be assessed individually on the basis of its specific circumstances and taking account of the fact that Government has not laid down any general rule about when an overhead line should be considered unacceptable.”
- 5.3.78 Paragraph 2.10.1 of NPS EN-5 advises that ‘power frequency Electric and Magnetic Fields (EMFs) arise from generation, transmission, distribution and use of electricity and will occur around power lines and electric cables. Paragraph 2.10.15 of EN-5 states that in order to mitigate for EMFs, the applicant should consider: height, position, insulation and protection measures; optimal phasing of high voltage overhead power lines where possible and practicable; and any new Government advice.

## **5.5 Other National Planning Policy**

- 5.5.1 Section 104(2)(d) of the PA 2008 states that in determining Applications, the SoS should have regard to any other matters which are considered to be 'both important and relevant to the [SoS's] decision.'
- 5.5.2 Other national planning policy (in addition to the various high level energy policy documents referred to above) which is considered to be important and relevant to the DCO Application is contained within the National Planning Policy Framework (NPPF) (adopted in 2012) and National Planning Practice Guidance (NPPG) are summarised below.

### **National Planning Policy Framework (NPPF)**

- 5.5.3 The NPPF was adopted in March 2012 to replace previous planning policy statements and guidance, with one consolidated national planning statement. It sets out the Government's planning policies for England and how these are expected to be applied.
- 5.5.4 The NPPF does not contain specific policies for NSIPs. Instead, Paragraph 3 of the NPPF states that NSIPs "are determined in accordance with the decision-making framework set out in the Planning Act 2008 and relevant national policy statements for major infrastructure, as well as any other matters that are considered both important and relevant (which may include the National Planning Policy Framework)."
- 5.5.5 The DCO Application is therefore to be determined primarily in accordance with NPS EN-1, NPS EN-2, NPS EN-4 and NPS EN-5. However, the NPPF does contain some general planning guidance which may be considered to be 'both important and relevant' to the determination of the DCO Application.
- 5.5.6 Paragraph 14 of the NPPF sets out a 'presumption in favour of sustainable development', such that development that is sustainable is approved without delay. Sustainable development incorporates: an economic role, which includes identifying and coordinating the provision of infrastructure; a social role, which includes meeting the community's needs; and an environmental role, which includes protecting and enhancing the environment and adapting to a low carbon economy (paragraph 7). Further, Paragraph 56 of the NPPF states that 'good design is a key aspect of sustainable development' and is 'indivisible from good planning.'

- 5.5.8 Paragraph 17 of the NPPF sets out 12 core planning principles, which include:
- Proactively driving and supporting economic development to deliver amongst other things the infrastructure that the country needs;
  - Always seeking to secure high quality design;
  - Taking account of the different roles and character of different areas;
  - Supporting the transition to a low carbon future;
  - Contributing to conserving and enhancing the natural environment; and
  - Encouraging the effective use of land by reusing land that has been previously developed.
- 5.5.9 Paragraph 18 of the NPPF explains that the Government is committed to securing economic growth and to meeting the challenge of a low carbon future.
- 5.5.10 Paragraph 66 of the NPPF states that proposals in which an applicant has worked closely with those directly affected by their views should be considered favourably.
- 5.5.11 Paragraph 93 of the NPPF acknowledges that planning plays a key role in supporting the delivery of low carbon energy and therefore achieving the economic, social and environmental dimensions of sustainable development. Paragraph 97 of the NPPF advises that, in order to increase the use and supply of low carbon energy, there should be a positive strategy to promoting energy from renewable and low carbon sources, whilst ensuring that adverse impacts are addressed satisfactorily.
- 5.5.12 Paragraph 109 of the NPPF states that ‘the planning system should contribute to and enhance the natural and local environment’ by:
- protecting and enhancing valued landscapes, geological conservation interests and soils;
  - recognising the wider benefits of ecosystem services;
  - minimising impacts on biodiversity and providing net gains in biodiversity where possible;
  - preventing new development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and
  - remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.



- 5.5.13 Paragraph 121 of the NPPF advises that a site should be suitable, taking into account ground conditions and land instability, pollution and proposed mitigation.
- 5.5.14 Paragraph 123 of the NPPF advises that planning decisions should seek to avoid noise from giving rise to significant adverse impacts on health and quality of life, and to mitigate any adverse impacts where necessary.

### **National Planning Practice Guidance (NPPG)**

- 5.5.15 On 6<sup>th</sup> March 2014, the Government published new online planning practice guidance to replace previous guidance documents and support the application of the NPPF. Sections of the NPPG are updated on a rolling basis. The NPPG resource provides planning guidance in respect of a number of topics, including: air quality, design, flood risk and coastal change, natural environment, noise, renewable and low carbon energy, and water supply, wastewater and water quality. Relevant NPPG guidance, correct as at the end of September 2017, is set out below.
- 5.5.16 Paragraph 001 of guidance relating to air quality advises that air quality, odour and dust can be a planning concern because of the effect on biodiversity and local amenity. Accordingly, assessments could include a description of baseline conditions, the assessment methods to be adopted and acceptable mitigation measures (paragraph 007). The impacts of air quality could be mitigated through the design and layout of development, the use of green infrastructure, and controlling dust and emissions from construction, operation and demolition (paragraph 008).
- 5.5.17 Paragraph 001 of guidance relating to design highlights that good quality design is an integral part of sustainable development – “Good design responds in a practical and creative way to both the function and identity of a place. It puts land, water, drainage, energy, community, economic, infrastructure and other such resources to the best possible use – over the long as well as the short term.”
- 5.5.18 Paragraph 029 of guidance relating to flood risk and coastal change advises developers and applicants to consider flood risk to and from the development site as early as possible, and to follow the broad approach of assessing, avoiding, managing and mitigating flood risk. Paragraph 030 states that a site-specific FRA should be carried out to demonstrate “how flood risk will be managed now and over the development’s lifetime, taking climate change into account, and with regard to the vulnerability of its users.”
- 5.5.19 Paragraph 016 of guidance relating to the natural environment states that the potential impacts on biodiversity should inform all stages of development. Biodiversity enhancement should seek to include habitat restoration, re-creation and expansion (paragraph 017).
- 5.5.20 Paragraph 001 of guidance relating to noise states that “noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic

environment.” Paragraph 008 advises that there are four broad types of mitigation: engineering, layout, using planning conditions/obligations and mitigating.

- 5.5.21 Paragraph 001 of guidance relating to renewable and low carbon energy acknowledges that increasing the amount of energy from low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses.
- 5.5.22 Paragraph 016 of guidance relating to water supply, wastewater and water quality states that a detailed assessment will be required where it is likely that a proposal will have a significant adverse impact on water quality. The assessment should form part of an Environmental Statement.

## **5.6 Local Planning Policy**

- 5.6.1 Prior to April 2009, the Project Site fell within Mid-Bedfordshire District Council, South Bedfordshire District Council and Bedford Borough Council. However, as part of the structural changes to local government in England, effected on 1 April 2009, new unitary authorities were created on existing borough boundaries, and in parts of the country which previously operated a ‘two-tier’ system of counties and districts.
- 5.6.2 As a result of these changes, Mid Bedfordshire District Council and South Bedfordshire Council were combined to form Central Bedfordshire (a unitary authority). Bedford Borough Council also became a unitary authority on its existing boundaries.
- 5.6.3 Thus, the Project Site now falls within the jurisdiction of the unitary authorities of Central Bedfordshire Council and Bedford Borough Council. However, several of the planning documents from the previous districts were saved and therefore remain relevant to the Project Site and proposals. As such, adopted local planning policy is contained within the following documents:

### ***The Development Plan***

#### *Central Bedfordshire Council*

- Central Bedfordshire Core Strategy and Development Management Policies (adopted 2009); and
- Central Bedfordshire Site Allocations DPD (adopted 2011);

#### *Bedford Borough Council*

- Bedford Borough Local Plan 2002 (adopted 2002) (Saved Policies);
- Bedford Core Strategy and Rural Issues Plan (adopted 2008); and
- Bedford Allocations and Designations Local Plan (adopted 2013);

*Mid-Bedfordshire Council (now dissolved)*

- Mid-Bedfordshire Local Plan (adopted 2005) (Saved Policies);

*Joint Waste Authority (Bedford Borough, Central Bedfordshire and Luton Borough Councils)*

- Bedfordshire and Luton Minerals and Waste Local Plan (2005); and,
- Bedford Borough, Central Bedfordshire and Luton Borough Council – Minerals and Waste Local Plan: Strategic Sites and Policies (adopted 2014);

***Other Material Considerations***

5.6.4 Central Bedfordshire Council and Bedford Borough Council are in the process of preparing new development plan documents for their respective local authorities. The draft versions of the development plans are material considerations to the determination of the proposed development.

5.6.5 Further, a number of Supplementary Planning Documents (SPDs) and guidance notes have been adopted in order to supplement and add further details to support the implementation of adopted planning policies. Additional planning guidance of potential relevance to the Project is contained within the following documents.

5.6.6 The material considerations to each respective local authority are listed below.

*Central Bedfordshire Council*

- Central Bedfordshire Local Plan 2015-2035 (Draft Plan – July 2017)
- Central Bedfordshire Planning Obligations SPD (North) (2009); and,
- Central Bedfordshire Design Guide (2014);
- Central Bedfordshire Sustainable Drainage Guide (2015); and
- Landscape Character Assessment (2015)

*Bedford Borough Council*

- Bedford Borough Local Plan 2032 (Draft Strategy 2017)
- Pollution SPD (2008); and,
- Bedford Borough Planning Obligations SPD (2013).

*Combined*

- Forest of Marston Vale Plan (2000)

5.6.7 Local planning policies and guidance contained within the above documents and of relevance to the Project is set out in more detail below.

**Central Bedfordshire Council**

**Central Bedfordshire Local Development Framework (North) – Proposals Maps (2011)**

5.6.8 The adopted Proposals Maps form part of the Local Development Framework (LDF) for Central Bedfordshire (North), which also comprises Central Bedfordshire Core Strategy and Development Management Policies (2009) and Central Bedfordshire Site Allocations DPD (2011).

5.6.9 The Project Site is included on ‘Side A’ and in part on ‘Inset 39: Millbrook Proving Ground’ of the adopted Proposal Maps, as shown in Figures 5.2 and 5.3 below, alongside the Key (Figure 5.4).

Figure 5-1: Extract of ‘Side A’ of Central Bedfordshire LDF (North) Proposals Maps

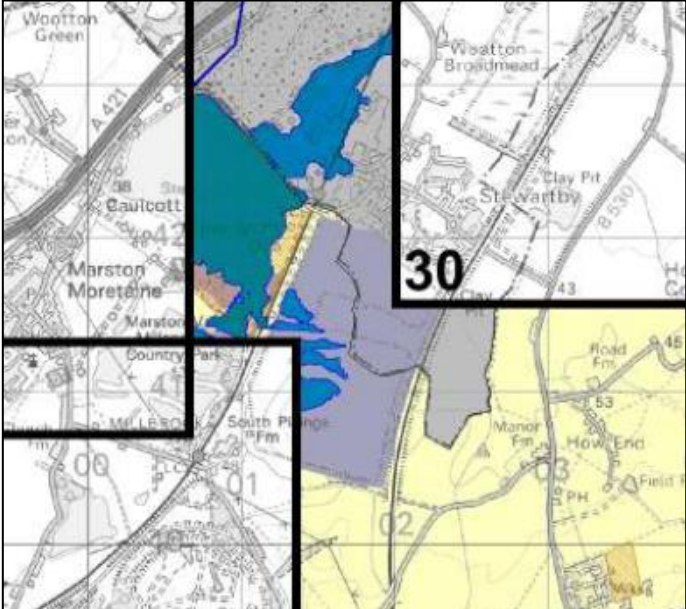


Figure 5-2: Extract of 'Inset 39: Millbrook proving Ground' of Central Bedfordshire LDF (North) Proposals Maps

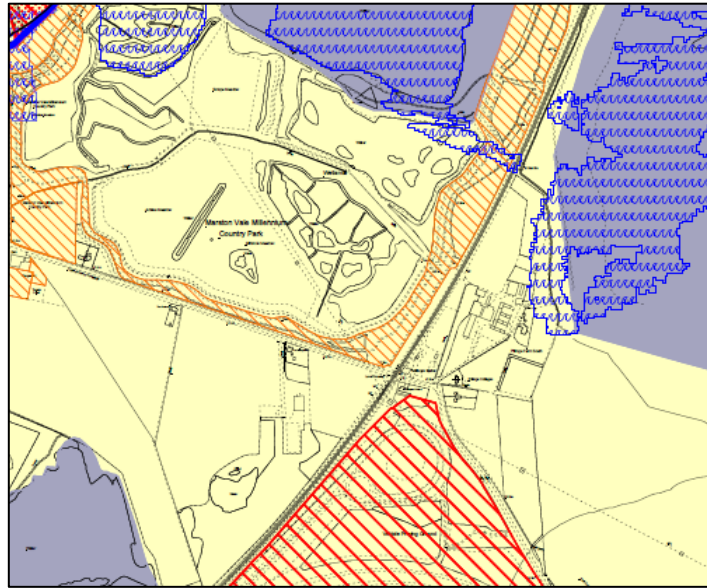


Figure 5-3: Key to Central Bedfordshire LDF (North) Proposals Maps

KEY		Local Development Framework (North) Proposal Map Published April 2011	
	District Boundary		
	Area Outside Central Bedfordshire Council North Area		
	Inset Boundary		
CS1	South East Milton Keynes SDA Development Framework		
CS3/DM17	Open Space, Sports and Recreation (PPG17 Study) <small>Style may vary - area, line or point depending on type. Refer to study for clarification of individual sites.</small>		
CS12/DM7	Town Centre		
CS13	Floodplain (Floodplain on Side A&B is solid blue) <small>Source: Indicative Floodplain maps 2008 as published by the Environment Agency. Probability of Flooding 0.1 - 1.0%. www.environment-agency.gov.uk</small>		
CS15/DM13	Conservation Area		
CS15/DM13	Historic Parks and Gardens <small>Source: English Heritage. www.english-heritage.org.uk</small>		
CS15	Scheduled Ancient Monument <small>Source: English Heritage. www.english-heritage.org.uk</small>		
CS16/DM14	Chilterns AONB		
CS16/DM14	Forest of Marston Vale		
CS17	Bedford and Milton Keynes Waterway (Proposed)		
CS18/DM15	CWS/LNR <small>Source: LNR - Natural England. www.naturalengland.org.uk CWS - Biodiversity and Recording Monitoring Centre</small>		
CS18/DM15	SSSI/NNR <small>Source: Natural England. www.naturalengland.org.uk</small>		
CS18	Local Geological Sites (Previously RIGS Regionally Important Geological/Geomorphological Sites) <small>Source: Biodiversity and Recording Monitoring Centre</small>		
DM4	Settlement Envelope		
DM5a	Important Open Space		
DM6	Green Belt Infill Only Boundary		
E1	Key Employment Site		
EA	Employment Allocation		
HA	Housing Allocation		
MA	Mixed Use Allocation		
	Contingency Allocation		
	Recreational Allocation		
TC1	Biggleswade Masterplan Study Area		
TC2	Town Centre - Flitwick		
<b>Saved Local Plan Policies</b>			
CS21	Important Countryside Gap		
EMP4	Employment Allocation		
EMP12	Cranfield Airfield		
H08	Housing Allocation		
TCS	Town Centre Opportunity site		
<b>National Policy</b>			
	Green Belt		
NOTE: Where several constraints are on top of one another styles may vary to that in the KEY. Disclaimer: Central Bedfordshire Council cannot be held responsible for the misinterpretation of any information. Information from external sources was correct at time of publishing but may be subject to change therefore we advise you to contact them directly.			

5.6.10 As illustrated on the adopted Proposals Maps, the Project Site is subject to the following designations and planning policy considerations:

- Forest of Marston Vale – Policies CS16 and DM14 of Central Bedfordshire Core Strategy and Development Management Policies;
- CWS – Policy CS18 of Central Bedfordshire Core Strategy and Development Management Policies;

- Floodplain – Policy CS13.

5.6.11 Reference to relevant planning policy considerations, relating to the designations of the Project Site on the Proposals Maps, is contained below.

**Central Bedfordshire Core Strategy and Development Management Policies (2009)**

5.6.12 The Central Bedfordshire Core Strategy and Development Management Policies document was adopted in November 2009 as part of the LDF for Central Bedfordshire (North). This document is the key Development Plan Document (DPD) for the northern part of the district and provides the long-term vision and direction for future development in this area over the period 2001-2026.

5.6.13 The Project Site is located on the edge of the Northern Marston Vale Strategic Area, as identified on the Core Strategy Key Diagram. The Spatial Vision for the Core Strategy states that the Northern Marston Vale will ‘continue to be a growth location where development will help to bring about environmental regeneration, support the urban renaissance of Bedford and make the Vale a more attractive place to live, do business and enjoy leisure time’ (page 16).

5.6.14 Further, Policy CS1 states that sites within Northern Marston Vale will be identified and developed for new homes, jobs and key infrastructure, with a particular focus on delivery at Wixams (north-east of the Project Site) and Marston Moretaine (west of the Project Site). Wixams and Marston Moretaine are identified for housing provision of c.1000 dwellings and c.0-100 dwellings respectively in Policy CS5.

5.6.15 Policy CS9 states that the Council will plan for a minimum target of 17,000 net additional jobs in the district over the period 2001-2026. This target will be supported through the provision of 10-20ha of new employment land within Northern Marston Vale, in accordance with Policy CS10.

5.6.16 The Project Site is located within the floodplain as illustrated on the Central Bedfordshire LDF (North) Proposals Map, where Core Strategy Policy CS13 applies. Policy CS13 states that the Council will seek to minimise the risk of flooding and manage residual risks, as well as securing new development which incorporates measures to take account of climate change. Policy CS13 also states that energy generating proposals with low carbon impact will be considered positively.

5.6.17 Policy CS14 states that the Council will require development to be of the highest quality by, inter alia, respecting local context and the varied character and local distinctiveness of Mid Bedfordshire.

5.6.18 The Project Site is located within the Forest of Marston Vale as illustrated on the LDF North Proposals Map, where Core Strategy Policy CS16 applies. Policy CS16 states that the Council will:

- Conserve and enhance the varied countryside character and local distinctiveness;
- Resist development where it will have an adverse effect on important landscape features or highly sensitive landscapes;
- Require development to enhance landscapes of lesser quality;
- Continue to support the creation of the Forest of Marston Vale;
- Conserve woodlands including ancient and semi natural woodland, hedgerows and veteran trees; and
- Promote an increase in tree cover outside of the Forest of Marston Vale, where it would not threaten other valuable habitats.

5.6.19 Policy CS17 states that the Council will:

- Seek a net gain in green infrastructure through the protection and enhancement of assets and the provision of new green spaces;
- Take forward priority areas for the provision of new green infrastructure in the Forest of Marston Vale; and
- Require new development to contribute towards the delivery of new green infrastructure and the management of a linked network of new and enhanced open spaces and corridors.

5.6.20 The Project Site is part-located within a County Wildlife Site (CWS) as illustrated on the Central Bedfordshire LDF (North) Proposals Map, where Core Strategy Policy CS18 applies. Policy CS18 states that the Council will support the designation, management and protection of biodiversity and geology, including locally important CWS's. Development that would fragment or prejudice the biodiversity network will not be permitted.

5.6.21 Policy DM3 requires that all proposals for new development will, inter alia:

- Be appropriate in scale and design to their setting;
- Respect local distinctiveness through design and use of materials;
- Use energy efficiently;
- Comply with the current guidance on noise, waste management, vibration, odour, water, light and airborne pollution; and
- Incorporate appropriate access and linkages.

5.6.22 The Project Site is located within the Forest of Marston Vale as illustrated on the LDF North Proposals Map, where Core Strategy Policy DM14 applies. Policy DM14 states that the Council will ensure that the impact of proposed development on the landscape will be assessed. Proposals for development



within the Northern Marston Vale and the Forest of Marston Vale will be required to provide landscape enhancement on or adjacent to the development site or contribute towards landscape enhancement in these areas. Trees, woodland and hedgerows in the district will be protected by requiring developers to retain and protect such features in close proximity to building works. Further, tree planting or contributions towards planting for the purposes of enhancing the landscape will be sought from new developments.

- 5.6.23 Policy DM15 states that the Council will ensure that advice is sought from relevant national and local organisations where proposed development is considered to have an impact on wildlife. For developments where there is a need to protect or enhance biodiversity, developers will be required to carry out such work and/or make contributions to secure longer term benefits for wildlife.

### **Central Bedfordshire Site Allocations DPD (2011)**

- 5.6.24 The Central Bedfordshire Site Allocations DPD was adopted in April 2011. The document identifies sites and policies to help deliver the spatial vision, objectives and policies of the Core Strategy and Development Management Policies DPD.
- 5.6.25 Policy E1 states that the Council will safeguard a number of Key Employment Sites within the district, including Millbrook Proving Ground (approximately 400m to the south of the Project Site).
- 5.6.26 Policy MA4 allocates land at Moreteyne Farm in Marston Moretaine (approximately 1.5km to the west of the Project Site) for a mixed-use phased development, comprising residential development of 125 dwellings, 7ha of employment land for B1, B2 and B8 uses, and land reserved for contingency housing provision of 320 dwellings.
- 5.6.27 Policy HA5 allocates land north of Church Street, Ampthill (approximately 2km to the south-east of the Project Site) for residential development of 38 dwellings and a public car park.
- 5.6.28 Policy HA4 allocates land west of Abbey Lane, Ampthill (approximately 2.5km to the south-east of the Project Site) for residential development of a minimum of 410 dwellings.

### **Bedford Borough Council**

#### **Bedford Borough Local Plan (2002) (Saved Policies)**

- 5.6.29 The Bedford Borough Local Plan was adopted in October 2002. The Local Plan set out a wide range of policies and proposals to guide development in the Borough in the period up to 2006.
- 5.6.30 Following its expiry, a number of Local Plan policies were 'saved' for continued use in development control. Some 'saved' Local Plan policies have subsequently been deleted following the adoption of the Core Strategy

and Rural Issues Plan in 2008, the Town Centre Area Action Plan in 2008 and the Allocations and Designations Local Plan in 2013; however, a number of 'saved' Local Plan policies remain in force and are applicable to the DCO Application.

- 5.6.31 As illustrated on the adopted Policies Map, the site is part-located within a designated County Wildlife Site and to the south-east of a designated Local Geological Site. Saved Local Plan Policy NE3 states that development will not be permitted that may directly or indirectly destroy or adversely affect a County Wildlife Site or Regionally Important Geological Site.
- 5.6.32 Saved Policy NE4 states that the Borough Council will seek to protect and retain trees and hedges which are considered to be of amenity, landscape or wildlife significance.
- 5.6.33 Saved Policy NE8 states that where development would result in the loss of habitats or features, a replacement asset of a comparable or enhanced nature conservation value will be required. Similarly, saved Policy NE9 seeks to control development which may have an impact on the nature conservation of a site, and saved Policy NE10 states that development will be expected to contribute to nature conservation.
- 5.6.34 Saved Policy NE12 seeks to ensure that development proposals make early provision for adequate and appropriate landscaping. In addition, saved Policy NE13 advises that adequate provision should be made for the retention, protection, management and maintenance of landscape features.
- 5.6.35 Saved Policy NE24 seeks to ensure that development proposals do not adversely affect the quality or quantity of water resources or their amenity or nature conservation value.
- 5.6.36 Saved Policy H11 allocates land north of Fields Road, Wootton (approximately 4km to the north of the Site) for mixed development including approximately 450 dwellings.
- 5.6.37 Saved Policy H12 allocates land south of Fields Road, Wootton (approximately 3.5km to the north of the Site) for approximately 340 dwellings.
- 5.6.38 Saved Policy H13 allocates land at Rousbury Road, Stewartby (approximately 1.5km to the north of the Site) for residential development of approximately 330 dwellings.
- 5.6.39 Saved Policy H14 allocates the Elstow Storage Depot (approximately 4km to the north-east of the Site) for mixed-use development, including approximately 375 dwellings.
- 5.6.40 Saved Policy T4 seeks to ensure the provision of landscape screening appropriate to the scale of proposed roads and the preservation of existing trees.

- 5.6.41 Saved Policy LR10 states that the Borough Council will, inter alia: safeguard existing footpath/bridleway links; and seek opportunities to enhance existing footpath, bridleway and cycle networks in conjunction with new development from the urban area into the countryside and the Forest of Marston Vale.
- 5.6.42 Saved Policy BE9 states that the Borough Council will seek to protect the character and appearance of designed conservation areas through the careful control of development. The policy states that proposals which fail to preserve or enhance their character will not be permitted.
- 5.6.43 Saved Policy BE11 states that the Borough Council will ensure that all new development likely to affect the setting of conservation areas, preserves or enhances its character or appearance. Applications will be assessed according to the following criteria: design (scale, form, density & materials), traffic generation, visual impact (streetscape, roofscape, skyline & open space) and potential economic regeneration benefits.
- 5.6.44 The ES (Chapter 6.1) identifies there are no designated heritage assets located within the Power Generation Plant Site however there are two Grade I and four Grade II\* listed buildings within the wider study area. Saved Policy BE21 states that the Borough Council will seek to preserve and enhance the setting of listed buildings through controlling the design of new development, use of adjacent land and preservation of trees and landscape features in the vicinity of listed buildings.
- 5.6.45 The ES (Chapter 6.1) identifies there are no scheduled monuments located within the Power Generation Plant Site however there is one scheduled monument (Ampthill Castle) located in the vicinity of the site. Saved Policy BE23 states that proposals which would have an adverse effect on scheduled ancient monuments and other important archaeological assets and their settings will not be permitted except where adverse impacts can be mitigated while keeping the asset physically preserved in situ.
- 5.6.46 Saved Policy BE24 states that the Borough Council will have regard to the need to protect, enhance and preserve sites of archaeological interest and their settings when considering planning applications. The policy goes on to state that planning permission will be refused where an adequate assessment has not been undertaken to evaluate the archaeological aspects of proposals.
- 5.6.47 Saved Policy BE29 Design states that the Borough Council expects all new development to be designed to the highest standards and the Council will promote good design by means of design guides, good design principles and other appropriate measures that it will publicise.
- 5.6.48 Saved Policy BE30 states that the Borough Council will have full regard to all material considerations when determining applications for new development and particular; visual impact; design quality of building and public spaces; traffic generation and potential for sustainable non-car modes; health and safety issues; generation of waste; adequacy of existing infrastructure; and

any adverse impacts on neighbours, the surrounding community, the natural environment and built heritage.

- 5.6.49 Saved Policy BE38 states that the Borough Council will not grant planning permission unless sufficient provision has been made for landscaping (on-site or off-site) which results in an environmental / landscape benefit. The Borough Council may also negotiate commuted sums to secure the management and maintenance of landscaped areas where appropriate.

### **Bedford Core Strategy and Rural Issues Plan (2008)**

- 5.6.50 The Bedford Borough Core Strategy and Rural Issues Plan was adopted in 2008. The Plan sets out the long term vision and spatial strategy for Bedford Borough to 2021. The following key policies are relevant to the Project.

- 5.6.51 Policy CP2 sets out a number of sustainable development principles which seek to ensure that, inter alia: resources and infrastructure are used efficiently; biodiversity is protected and resources are conserved; and climate change is properly addressed.

- 5.6.52 Policy CP10 states that ‘a minimum of 16,000 net additional jobs will be provided in the borough by 2021’, and Policy CP11 states that up to 75ha of additional employment land will be provided in the period 2001-2021.

- 5.6.53 Policy CP21 advises that all new development should, inter alia, be of the highest design quality, fully consider the wider context and address sustainable design principles.

- 5.6.54 Policy CP24 states that ‘The Marston Vale will be the focus for landscape enhancement and restoration and the council will continue to support the Forest of Marston Vale.’ New development should protect and where appropriate enhance the quality and character of the landscape.

- 5.6.55 Policy CP25 states that the biodiversity and geodiversity of the borough will be protected and where appropriate enhanced. Appropriate mitigation and/or compensation will be required where harm to biodiversity and/or geodiversity is likely to be a result of development.

- 5.6.56 In regards to climate change and pollution, Policy CP26 advises that the Council will require development to, inter alia:

- Minimise the emission of pollutants into the wider environment;
- Have regard to the cumulative impacts of development proposals on air quality;
- Minimise the consumption and use of energy;
- Utilise sustainable construction techniques;
- Incorporate facilities to minimise the use of water and waste; and

- Limit any adverse effects on water quality, reduce water consumption and minimise the risk of flooding.

### **Bedford Allocations and Designations Local Plan (2013)**

- 5.6.57 The Bedford Borough Allocations and Designations Local Plan was adopted in 2013. The Plan allocates sites to meet the Borough's future development needs and designates areas of land where specific policies will apply.
- 5.6.58 The Local Plan does not allocate any land within close proximity of the Site for new development; however Policy AD13 allocates the Marston Vale Innovation Park Phase 2 at Wootton (approximately 3km to the north of the Site) for a mix of classes B1(a)(b)(c) and B2 uses.

### **Draft Bedford Borough Local Plan 2035**

- 5.6.59 Bedford Borough Council is currently preparing a new Local Plan that will guide new development within the Borough up to 2035. The new Local Plan will allocate the amount and location of new development across the Borough and contain planning policies to manage the delivery of new development.
- 5.6.60 An initial 'Call for Sites' and Issues and Options consultation was undertaken in early 2014, and a further 'Call for Sites' was undertaken in late 2015. A Consultation Paper was published in April 2017 and consultation ran from 24<sup>th</sup> April to 9<sup>th</sup> June 2017. Further consultation is anticipated in early 2018, followed by submission of the Draft Local Plan in late 2018 and adoption in 2019. Upon adoption, the Local Plan 2035 will replace the adopted Core Strategy and Rural Issues Plan as the key DPD for the Borough.

### **Mid-Bedfordshire Council**

#### **Mid-Bedfordshire Local Plan (2005) (Saved Policies)**

- 5.6.61 The Mid-Bedfordshire Local Plan: First Review was adopted in December 2005. The Local Plan set out a wide range of policies and proposals to guide development within the former Mid-Bedfordshire district. The majority of the Local Plan policies have now been superseded by the Central Bedfordshire Core Strategy and Development Management Policies document (adopted in 2009), however some policies have not been superseded and continue to be part of the development plan.
- 5.6.62 Saved Local Plan Policy HO8 (1) allocates land east of Lidlington (approximately 2km to the west of the Project Site) for residential development of approximately 60 dwellings.
- 5.6.63 Saved Local Plan Policy HO8 (2) allocates land at Stewartby (to the north of the Project Site) for residential development of approximately 50 dwellings.
- 5.6.64 Saved Local Plan Policy HO8 (2A) allocates land at High Street, Houghton Conquest (approximately 2.5km to the east of the Project Site) for residential development of approximately 24 dwellings.

- 5.6.65 Saved Local Plan Policy HO8 (3A) allocated land at Woburn Road, Marston Moretaine (approximately 1.5km to the east of the Project Site) for residential development of approximately 100 dwellings.
- 5.6.66 Saved Local Plan Policy HO8 (5) allocates land adjacent to Swaffield Close, Ampthill (approximately 3km to the south-east of the Project Site) for residential development of approximately 50 dwellings.

**Joint Waste Authority (Bedford Borough Council, Central Bedfordshire and Luton Borough Councils)**

**Bedfordshire and Luton Minerals and Waste Local Plan (2005)**

- 5.6.67 The Bedfordshire and Luton Minerals and Waste Local Plan was adopted in 2005 and covers Bedford Borough, Central Bedfordshire and Luton Borough Councils. The majority of the minerals and waste policies contained in the Local Plan have now been superseded by the Bedford Borough, Central Bedfordshire and Luton Borough Council Minerals and Waste Local Plan: Strategic Sites and Policies (2014). However, some policies have not been superseded and continue to be part of the development plan.
- 5.6.68 Policy W4 states that an overall reduction in the amount of waste generation in the region will be actively encouraged.
- 5.6.69 Policy W5 requires that, where developments are likely to generate significant volumes of waste, a waste audit is undertaken which demonstrates that waste is minimised as far as possible and managed appropriately.
- 5.6.70 Policy W22 states that proposed waste management sites will be protected as far as practicable from development that may conflict or prejudice their waste management use.

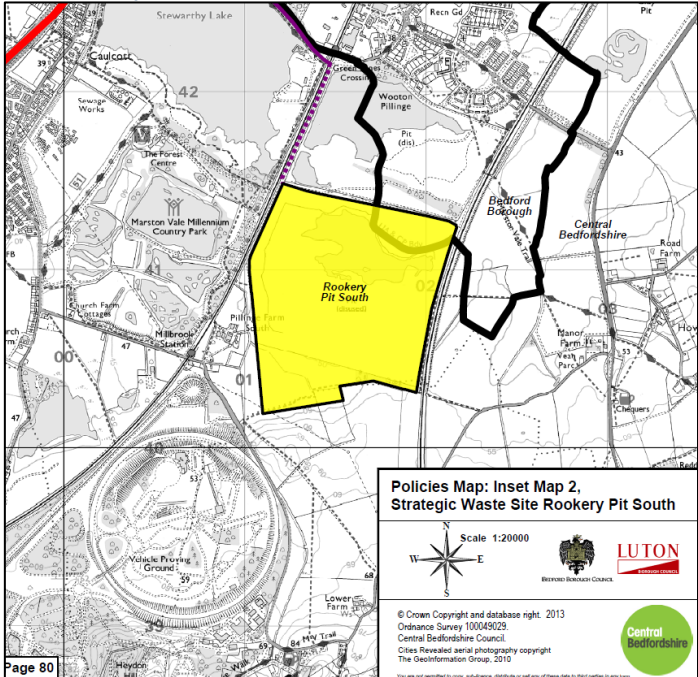
**Bedford Borough, Central Bedfordshire and Luton Borough Council – Minerals and Waste Local Plan: Strategic Sites and Policies (2014)**

- 5.6.71 The Minerals and Waste Local Plan: Strategic Sites and Policies (MWLP:SSP) was adopted by Bedford Borough, Central Bedfordshire and Luton Borough Councils on 30<sup>th</sup> January 2014. The MWLP:SSP forms part of the Minerals and Waste Local Development Framework for the three Councils which also includes the Managing Waste in New Developments SPD (adopted in 2006), Minerals and Waste Development Scheme, Monitoring Report, Statement of Community Involvement (adopted in 2006) and Policies Map.
- 5.6.72 The General and Environmental Policies Local Development Document (LDD), which was anticipated for adoption in 2015/16, was also expected to form part of the MWLP:SSP. However instead of adopting this document, the saved minerals and waste policies will be replaced by new policy in the main Development Plan Documents being produced by the three authorities.



- 5.6.73 The MWLP:SSP sets out a series of strategic objectives for waste and minerals over the period 2013-2028, together with strategic allocations for mineral extraction and waste management development and strategic policies to guide the ongoing supply of minerals and development of waste management facilities.
  
- 5.6.74 The MWLP:SSP sets out a presumption in favour of sustainable development when considering development proposals, at Policy MWSP1, reflective of that contained in the NPPF. Accordingly, Bedford Borough, Central Bedfordshire and Luton Borough Council will work proactively to find solutions which mean that proposals can be approved wherever possible, to secure development that improves the economic, social and environmental conditions in the Plan area. Policy MWSP1 further states that planning applications that accord with the MWLP:SSP and subsequent Local Development Documents will be approved without delay.
  
- 5.6.75 The MWLP:SSP addresses the provision of additional waste management capacity in a number of ways, including through various forms of recovery operations, in order to support the move towards a materials reusing economy. As part of the Spatial Strategy for Waste, Policy WSP2 allocates four sites for waste recovery uses, at Elstow North, Land at Former Brogborough landfill, Rookery South Pit, and Land at Thorn Turn. The site at Rookery South Pit (107ha), located predominantly within Central Bedfordshire Council and partly within Bedford Borough Council, is allocated for non-landfill waste management recovery operations and non-hazardous landfill, with opportunities for pre-treatment recovery operations prior to landfill.
  
- 5.6.76 Figure 5.1 shows an extract of the MWLP:SSP Policies Map, Inset 2, illustrating the extent of Rookery South Pit (shaded in yellow) allocated by Policy WSP2 for waste recovery uses.

Figure 5-4: Extract of MWLP:SSP Policies Map Inset 2





- 5.6.77 Policy MWSP2 requires that waste management and restoration proposals take account of climate change through measures to reduce greenhouse gas emissions and to adapt to future climate changes. The supporting text to Policy MWSP2 acknowledges that all waste management developments have the scope to contribute to mitigating climate change (paragraph 4.15). Paragraph 4.16 of the MWLP:SSP states that applications should set out how waste management developments will make use of renewable, decentralised, and low carbon energy.
- 5.6.78 Paragraph 5.16 of the MWLP:SSP notes that a DCO was issued in March 2013 for “the development [by Covanta Energy Ltd] of a Resource Recovery Facility on land at Rookery South Pit.”

## **5.7 Other Material Considerations**

### **Central Bedfordshire Council**

#### **Central Bedfordshire Local Plan 2015-2035 (Draft Plan – 2017)**

- 5.7.1 The above Draft Local Plan was issued for consultation in July 2017 and will become, once adopted, the main planning policy document for Central Bedfordshire. It will set out the vision, strategic objectives and spatial strategy for the area up to 2035, together with detailed policies to help determine planning applications.
- 5.7.2 The Draft Local Plan includes detailed and strategic policies for Central Bedfordshire and the Forest of Marston Vale. Policies of relevance to the Project include:
- Policy SP1: Growth Strategy
  - Policy SP2: National Planning Policy Framework – Presumption in Favour of Sustainable Development
  - Policy T1: Identifying Connectivity, Accessibility and Impacts on the Transport Network
  - Policy T2: Mitigation of Transport Impacts on the Network
  - Policy T3: Highway Safety and Design
  - Policy EE2: Enhancing Biodiversity
  - Policy EE4: Trees, Woodlands and Hedgerows
  - Policy EE9: Forest of Marston Vale
  - Policy CC1; Climate Change and Sustainability
  - Policy CC3: Flood Risk Management
  - Policy CC5: Sustainable Drainage

- Policy CC6: Water Quality
- Policy CC7: Pollution
- Policy HQ6: High Quality Development
- Policy DC1: Development in the Countryside

- 5.7.3 The Central Bedfordshire Local Plan will be the key strategic planning document for Central Bedfordshire and will guide the delivery of new infrastructure. Once adopted the plan will replace the North Core Strategy and Development Management Policies Document (2009) and the majority of the remaining policies within the South Bedfordshire Local Plan (2004), the Mid Bedfordshire Local Plan (2005) and the remaining saved policies of the Bedfordshire and Luton Minerals and Waste Local Plan (2005) so far as they affect Central Bedfordshire.
- 5.7.4 The Draft Local Plan (July 2017) includes broad policies for steering and shaping development, and other more detailed policies for determining planning applications, it does not at this stage include allocation policies for specific sites. These will feature in the next draft of the plan in spring 2018 known as the pre-submission plan.
- 5.7.5 Once adopted, the Local Plan will be accompanied by the Policies Maps which provide a spatial representation of the Local Plan policies. The Policies Map has not yet been published with the Draft Local Plan.
- 5.7.6 The Draft Policies relevant to the Project are detailed below:
- 5.7.1 Draft Policy SP1 sets out the Growth Strategy for Central Bedfordshire in the period 2011-2031, which includes the delivery of 31,000 new homes and 27,000 new jobs.
- 5.7.2 Draft Policy SP2 states that development proposals will be considered in accordance with the presumption in favour of sustainable development set out within the NPPF.
- 5.7.3 Draft Policy T1 states that development will be required to evidence that there is sufficient capacity in the transport network to accommodate the increase in demand to travel as a result of the development.
- 5.7.4 Draft Policy T2 states that development will be required to evidence that sufficient mitigation measures are in place to alleviate any pressures that are demonstrated to occur.
- 5.7.5 Draft Policy T3 states that proposals for new development must not have a detrimental effect on highway safety, patterns of movement and the access needs of all people. It states that development will be permitted where, inter alia, the proposal does not impede the free flow of traffic on the existing network or create hazards to that traffic and other road users.

- 5.7.6 Draft Policy EE4 seeks to protect existing trees, woodland and hedgerows. It states that existing hedgerows and trees should be integrated within developments, unless demonstrably inappropriate. Further, it states that any removal of trees or hedgerows to accommodate development must be justified, and should be replaced within the development site.
- 5.7.7 Draft Policy EE9 states that the Council will continue to support the creation of the Forest of Marston Vale. It required developments for new buildings within the Forest of Marston Vale to demonstrate how they will deliver 30% tree cover across their development site, through a combination of retaining and protecting existing trees and planting of new trees.
- 5.7.8 Draft Policy CC1 states that the Council will require that any new development minimises the vulnerability of the development and its surroundings to climate change. It lists the means through which new development will be required to incorporate measures that minimise and mitigate their impact on the environment.
- 5.7.9 Draft Policy CC3 states that development will be supported where inter alia, it located is in areas at lowest risk of flooding, A sequential approach to site layout is applied; a site-specific FRA has been undertaken following the criteria within this policy and the NPPF and mitigation measures maximise water efficiency and contribute to a net gain in water quality, biodiversity, landscape character and green infrastructure.
- 5.7.10 Draft Policy CC5 states that all new development must, inter alia, demonstrate that the discharge of surface water obeys the priority order, demonstrate that surface water runoff is managed as close to its source as possible, and demonstrate that demonstrate that the run-off from all hard surfaces shall receive an appropriate level of treatment to minimise the risk of pollution.
- 5.7.11 Draft Policy CC6 requires all new developments to demonstrate that, inter alia, it has no adverse impact on the quality of waterbodies and groundwater, or will prevent future attainment of good status, and that development contributes positively to the water environment and its ecology and does not adversely affect surface and ground water quality.
- 5.7.12 Draft Policy CC7 states that development proposals which are likely to cause pollution or are likely to be exposed to potential unacceptable levels of pollution or land instability will only be permitted where it can be demonstrated that measures can be implemented to minimise impacts to a satisfactory level which protects health, environmental quality and amenity.
- 5.7.13 Draft Policy HQ6 states that the Council will ensure that all developments are of the highest possible quality and respond positively to their context. It states that all development proposals should ensure that, inter alia, a clear distinction between public and private space using clear boundaries. proposals are complimentary to the existing natural environment, there is not an unacceptable adverse impact upon nearby existing or permitted uses, including impacts on amenity, privacy, noise or air quality; resources are used

efficiently and energy and water efficiency is maximised; and any lighting associated with the development does not have a detrimental impact on the surrounding areas.

- 5.7.14 Draft Policy DC1 states that outside Settlement Envelopes the Council will work to maintain and enhance the intrinsic character and beauty of the countryside and only particular types of new development will be permitted.

#### **Central Bedfordshire Planning Obligations SPD (North) (2009)**

- 5.7.15 The Central Bedfordshire Planning Obligations SPD (North) (2009) sets out proposals for negotiating and securing planning obligations associated with new development in Central Bedfordshire; however the approach contained within the Planning Obligations SPD (North) towards securing planning obligations is now no longer in use.

- 5.7.16 Central Bedfordshire Council is currently preparing a revised Planning Obligations Strategy for the whole of Central Bedfordshire which will sit alongside the CIL Charging Schedule. However, Central Bedfordshire Council are currently reviewing the charging schedule following the withdrawal of the Development Strategy in November 2015, and there is no agreed timescale for future work at this stage. due for adoption later in 2015. Prior to adoption of the revised Planning Obligations Strategy, planning obligations will be determined on a case-by-case basis.

#### **Central Bedfordshire Design Guide (2014)**

- 5.7.17 The Central Bedfordshire Design Guide (2014) was adopted on 18th March 2014 as technical guidance for development management purposes. The Design Guide sets out the key principles and standards to ensure the delivery of high quality design in Central Bedfordshire. The document comprises one core chapter, entitled 'Placemaking in Central Bedfordshire', and nine accompanying themed supplements, including a chapter entitled 'Green Infrastructure, Climate Change Adaptation and Sustainable Buildings'.

#### **Central Bedfordshire Sustainable Drainage Guide (2015)**

- 5.7.18 The Central Bedfordshire Sustainable Drainage Guide provides technical guidance on the application of SuDS within Central Bedfordshire. It has been created to be a comprehensive resource for SuDS reference and policy development for decision makers and designers, developers and partner organisations to support the application of SUDS in a range of contexts across Central Bedfordshire.

#### **Central Bedfordshire Landscape Character Assessment (2015)**

- 5.7.19 The Central Bedfordshire Landscape Character Assessment is a revision of the previous LCAs for the county of Bedfordshire covering the former Mid Beds and South Beds districts following unitary reorganisation. The LCA of Central Bedfordshire provides a comprehensive landscape evidence base to help underpin planning and management decisions in the Unitary Authority. The assessment presents a characterisation of the whole Unitary Authority

through 10 landscape types, and each landscape type is subdivided into component landscape character areas.

### **Bedford Borough Council**

#### **Bedford Borough Climate Change and Pollution SPD (2008)**

- 5.7.20 The Bedford Borough Climate Change and Pollution SPD (2008) was adopted in December 2008 in order to give detailed guidance on the implementation of Policy CP26 of the Council's Core Strategy and Rural Issues Plan, which concerns climate change and pollution. The document seeks to promote a more sustainable approach to energy use, and provide practical advice on, inter alia, how to reduce carbon emissions, conserve water, minimise waste and minimise pollution.

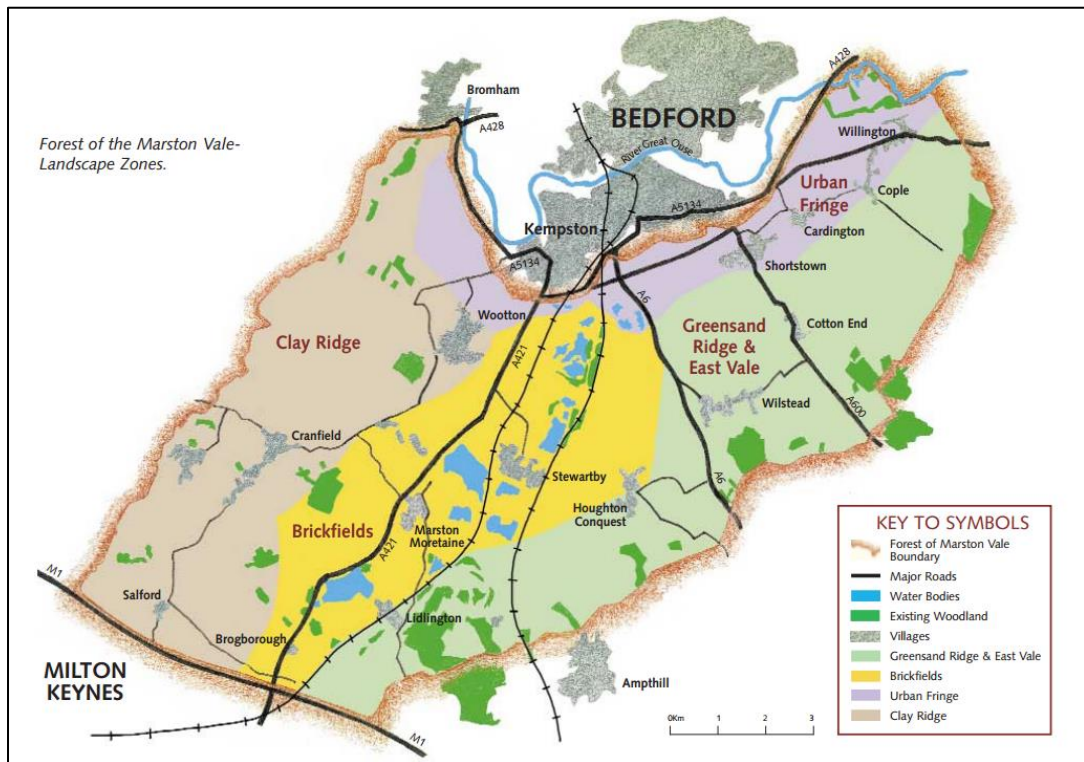
#### **Bedford Borough Planning Obligations SPD (2013)**

- 5.7.21 The Bedford Borough Planning Obligations SPD (2013) was adopted in July 2013. The SPD explains the Council's policies and procedures for securing developer contributions through planning conditions and obligations in S106 Agreements, as well as providing evidence and guidance to developers about the types of contributions that will be sought.

#### **Forest of Marston Vale Plan (FoMVP)**

- 5.7.22 The Project Site is located within the Forest of Marston Vale and therefore the Forest of Marston Vale Plan (FoMVP) provides planning guidance of relevance to the Project. The FoMVP was published as non-statutory planning guidance by Marston Vale Trust in 2000, in order to guide the creation of the Forest of Marston Vale as a Community Forest. The FoMVP is a tool to achieve Forest objectives and support countryside enhancement policies, and the plan provides that it shall be a material consideration in the local authority's determination of planning applications for development within the Forest boundary. The publication of the Plan followed the designation of the Forest of Marston Vale as a Community Forest through the Forests for the Community programme, which aimed to achieve major environmental improvements around towns and cities.
- 5.7.23 The Project Site is located within the Brickfields Landscape Zone of the Forest of Marston Vale (FoMVP pg.15), as illustrated in Figure 5.5.
- 5.7.24 The FoMVP identifies the site as located within the Brickfields Landscape Zone (Page 15). According to the Plan, the area is dominated by clay pits and their varying after-uses, transport infrastructure and expanding village settlements. This area is identified as a core area of the Vale where there is a need to secure a higher level of new planting than elsewhere in the community forest (Page 16).

Figure 5-5: Forest of Marston Vale Landscape Zones (Extract from FoMVP)



- 5.7.25 The FoMVP notes that the Brickfields Landscape Zone “is the core area of the Vale where there is a need to secure a higher level of new planting than elsewhere in the Community Forest”, in order to offer landscape, wildlife, recreation and amenity benefits (page 16). Proposals for the Brickfields Landscape Zone include: “The Team will work with landowners to secure a higher proportion of woodland planting in this area than the more agriculturally productive land to either side of the Vale. All land types will need to be targeted to deliver the level of planting needed and landscape impacts of project work will need to be assessed from both the Vale floor and elevated positions on the ridges” (page 17).
- 5.7.26 The FoMVP also provides further guidance in respect of woodland creation and tree planting. Page 21 of the FoMVP notes that, “Tree planting is the core objective of the Community Forest with the new woodland providing a setting for a wide range of other activities. Significant areas of tree planting will be secured towards the 30% target, with the core Brickfields and urban fringe zones being targeted for the highest proportion of tree planting. Reduced tree cover will be sought on the land to the east and west.” Furthermore, in this regard, the FoMVP continues, that, “Opportunities offered through the restoration of landfill and derelict sites and planning agreements offer the greatest future prospects for large scale woodland creation” (page 21).

5.7.28 The FoMVP states that woodland creation and tree planting will be achieved through a number of means, including:

- “implementing an annual programme of tree planting towards realising the long-term aim of 30% woodland cover in the Vale over a 40 year period. Joint working with landowners and organisations such as the Woodland Trust, local authorities and Forestry Commission will be promoted;”
- “promoting well designed new woodlands, as a resource, to deliver a wide range of landscape, economic, social and environmental benefits. Particular emphasis will be placed on securing larger woodlands (>20 ha) and those that meet defragmentation, urban fringe and access objectives in accordance with the England Forestry Strategy and DETR targets;”
- “encouraging and supporting landowners to ensure that all new woodlands are successfully established and well maintained, and developing new services to assist with this, where appropriate;”
- “working with planning authorities to ensure that developments provide opportunities to secure large scale new woodland creation in appropriate areas;”
- “working with site owners and planning authorities to ensure that restoration schemes for derelict land and landfill sites meet Forest landscape, wildlife and recreation objectives;”
- “seeking opportunities to secure land for woodland creation. This could be through acquisition, leasing, management partnerships or other suitable mechanisms.”

5.7.29 The FoMVP also notes that, “As part of creating the varied and well-wooded countryside of the Community Forest, the creation and management of a range of habitats other than woodland, such as farmland, grassland, and wetland, is important” (page 24). Accordingly, page 26 of the FoMVP states that non-woodland habitats will be managed and created through a number of means, including:

- securing opportunities to maximise the ecological potential of the Marston Vale. This work will be done in conjunction with organisations such as the Wildlife Trust and English Nature and is to be guided by Biodiversity Action Plans where possible;
- using the Countryside Stewardship Scheme or other means to secure new hedgerow planting and enhanced management. Networks of well-managed farmland and roadside hedges that link other habitats will be developed or strengthened;



- increasing and conserving areas of ecologically valuable grassland within the Community Forest, in partnership with the appropriate site owners and managers;
- promoting the appropriate management and increasing the amount of wetland habitats throughout the Marston Vale, including watercourses, ponds, lakes and any marsh areas.
- working with the Wildlife Trust, Bedfordshire County Council, English Nature and other partners to ensure that any rare habitats and species are conserved and their status enhanced. Sites of Special Scientific Interest and County Wildlife Sites will be particularly important in this area of work.

## 6 Assessment

### 6.1 Introduction

- 6.1.1 Section 104 of the PA 2008 provides that in making decisions on applications, the SoS must have regard (amongst certain other documents and matters) to any relevant NPS and must decide applications in accordance with such relevant NPS(s) unless the adverse impacts of the proposal would outweigh its benefits (or in certain other limited circumstances).
- 6.1.2 Section 104 of the PA 2008 also requires the SoS to have regard to any Local Impact Report and other matters which the SoS “thinks are both important and relevant to [the SoS’s] decision”.
- 6.1.3 This section of the Planning Statement provides an assessment of the Project in regard to relevant NPS guidance contained within NPS EN-1, NPS EN-2, NPS EN-4 and NPS EN-5, as well as other matters which are considered to be both “important and relevant” (Section 104, PA 2008).

### 6.2 National Policy Statements

- 6.2.1 NPS EN-1 is a relevant NPS for any energy NSIP, along with the relevant technology specific NPS. For the DCO Application this includes NPS EN-2 National Policy Statement for Fossil Fuel Electricity Generating Infrastructure and NPS EN-4 - National Policy Statement for Gas Supply Infrastructure. The majority of EN-5 does not apply to the Project, since its electrical infrastructure is to be predominantly underground. However NPS EN-5 is of relevance in respect of the substation and SECs and so is referred to where relevant in this document.
- 6.2.2 Section 6.2 of this Planning Statement provides an assessment of the Project in regard to relevant NPS guidance contained within NPS EN-1, NPS EN-2, NPS EN-4 and NPS EN-5.

#### **Overarching National Policy Statement for Energy (EN-1)**

##### General Approach

- 6.2.3 NPS EN-1 sets out the Government’s overall policy towards the delivery of major energy infrastructure.
- 6.2.4 Paragraph 1.1.1 of NPS EN-1 states that ‘this NPS, when combined with the relevant technology-specific energy NPS, provides the primary basis for decisions’. The relevant technology-specific energy NPS for this Application are NPS EN-2, EN-4 and EN-5 as set out below.
- 6.2.5 Paragraph 4.1.5 of NPS EN-1 states that Development Plan Documents or other documents in the Local Development Framework may be both important and relevant considerations to SoS decision-making. The provisions of documents from the Local Development Framework for both Central Bedfordshire and Bedford Borough which are both ‘important and

relevant' to the DCO Application are set out and considered with reference to the Project in section 6.3 below.

#### The need for new nationally significant infrastructure projects

- 6.2.6 Paragraph 3.1.3 of NPS EN-1 states that all development consent applications for energy infrastructure should be assessed '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.' Accordingly, the SoS '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' (paragraph 3.1.4) [emphasis added]. Section 3.3 of NPS EN-1 sets out the key reasons why the Government believes there is an 'urgent need' for new electricity NSIPs (paragraph 3.3.1), including:
- Meeting energy security and carbon reduction objectives;
  - The need to replace closing electricity generating capacity;
  - The need for more electricity capacity to support an increased supply from renewables; and
  - Future increases in electricity demand.
- 6.2.7 The need for the Project, in the context of paragraph 3.1.3 and paragraph 3.3.1 of NPS EN-1 is set out further in section 4 of this Planning Statement.
- 6.2.8 In the context of paragraph 3.1.3 and paragraph 3.3.1 of NPS EN-1, as explained throughout this Planning Statement, the development of the Project would allow for the rapid, reliable and viable provision of reserve capacity to the National Grid, supporting the transition to a low carbon economy by balancing some of the considerable scale of intermittent sources such as wind being developed UK-wide, and playing an important role in meeting the UK's national energy requirements. As such, the SoS should give substantial weight to the contribution of the Project to meeting the identified need for energy infrastructure, in accordance with paragraph 3.1.4 of NPS EN-1.
- 6.2.9 Paragraph 3.7.3 of NPS EN-1 stresses that new electricity network infrastructure projects add to the reliability of the national energy supply and provide crucial national benefits which are shared by all users of the system.
- 6.2.10 The Project would add to the reliability of the energy supply and provide significant benefits in accordance with the provisions of paragraph 3.7.3 of NPS EN-1. The Generating Equipment would operate as a 'peaking plant', designed to operate when there is a surge in demand for electricity or when there is a sudden drop in power being generated from power stations which are constantly in operation. It will also support intermittent forms of renewable energy which are weather dependent (e.g. wind and solar).

- 6.2.11 Paragraph 3.3.25 of NPS EN-1 states that, whilst alternatives to the need for new large scale electricity infrastructure have been considered – including: reducing demand; more intelligent use of electricity; and interconnection of electricity systems – the Government believes that these measures will not be sufficient to meet energy and climate change objectives on their own. Further to this, paragraph 3.6.1 of NPS EN-1 recognises the ‘vital role’ that fossil fuel power stations play in providing electricity supplies, and states that ‘they will continue to play an important role in our energy mix as the UK makes the transition to a low carbon economy.’
- 6.2.12 MPL acknowledges the need for new large energy infrastructure identified in paragraph 3.3.25 of NPS EN-1 and the ‘vital role’ that fossil fuel power stations play in providing energy supplies as set out in paragraph 3.6.1 of NPS EN-1. As explained throughout this Planning Statement, the development of the Project would allow for the rapid, reliable and viable provision of reserve capacity to the National Grid, supporting the transition to a low carbon economy by balancing some of the considerable scale of intermittent sources such as wind being developed UK-wide, and playing an important role in meeting the UK’s national energy requirements.

#### Assessment Principles

- 6.2.13 Paragraph 4.1.2 of NPS EN-1 states that, given the level and urgency of need for energy infrastructure, the SoS ‘should start with a presumption in favour of granting consent to applications for energy NSIPs.’
- 6.2.14 The Project is classified as an NSIP under Section 15 of the PA 2008, as explained at section 2.4 of this Planning Statement, and the urgent need for the Project is explained at section 4 of this Planning Statement. As such, in accordance with paragraph 4.1.2 of NPS EN-1, there should be a presumption in favour of granting consent for the Project.
- 6.2.15 Paragraph 4.1.3 of NPS EN-1 explains that the SoS will weigh up a proposal’s contribution to meeting the need for energy infrastructure, job creation and other long term and wider benefits, against the potential adverse impacts of the proposal in question including ‘any long-term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts.’
- 6.2.16 As explained at section 7.3 of this Planning Statement, the Project will provide a number of benefits and will contribute to the urgent need for energy generation, as identified throughout NPS EN-1, the Gas Generation Strategy (DECC, 2012), and the National Infrastructure Plan (HM Treasury, 2014). The Project would contribute materially to the immediate and medium term needs for flexible, reliable, peak load power generation and facilitate the transition to a low carbon economy. The chosen technology for a peaking plant would help to ‘balance out’ the grid at times of peak electricity demand and help to support the grid at times when intermittent renewable sources cannot generate electricity. Furthermore, as set out at Chapter 14 of the ES (Document Reference 6.1), the Project will deliver positive impacts through employment creation in construction, operation and decommissioning

stages; and supply chain linkages for goods and services and workers spending in the local economy. The potential adverse impacts of the Project are explained at section 7.2 of this Planning Statement. The likely impacts have been minimised wherever possible, and other effects avoided through appropriate specification, siting and design.

- 6.2.17 Paragraph 4.1.4 of NPS EN-1 explains that the SoS should take into account ‘environmental, social and economic benefits and adverse impacts, at national, regional and local levels’ whether identified in the NPSs or elsewhere, including in local impact reports.
- 6.2.18 In accordance with the provisions of paragraph 4.1.4 of NPS EN-1, an EIA has been undertaken to consider the likely impacts of the Project in respect of air quality; noise and vibration; ecology; water quality and resources; geology, ground conditions and hydrogeology; landscape and visual impacts assessment; traffic, transport and access; archaeology and cultural heritage; socio-economics; waste; health; and EMF. The findings of the EIA are presented in the ES (Document Reference 6.1).
- 6.2.19 Paragraph 4.1.5 of NPS EN-1 states that other matters that the SoS may consider both important and relevant to its decision-making could include Development Plan Documents or other documents in the Local Development Framework and explains that, ‘in the event of a conflict between these or any other documents and an NPS, the NPS prevails.’ The Project has sought to consider the provisions of the Local Development Frameworks for both Central Bedfordshire Council and Bedford Borough Council. Matters which are both important and relevant from the Local Development Frameworks are set out and considered in the context of the Project at section 6.3 of this Planning Statement.
- 6.2.20 Paragraph 4.1.7 of NPS EN-1 confirms that the SoS will have regard to the guidance in Circular 11/95, as revised, on “The Use of Conditions in Planning Permissions” in agreeing or suggesting requirements in a DCO. Paragraph 4.1.8 states that, “The [SoS] may take into account any development consent obligations that an applicant agrees with local authorities.” Paragraph 4.1.9 of NPS EN-1 states that viability issues are unlikely to be of relevance to decision making providing that the technical feasibility of the proposal has been properly assessed, but limited exceptions exist and are set out in NPS EN-1 and others.
- 6.2.21 In respect of paragraph 4.1.7 of NPS EN-1, although Circular 11/95 has in part been superseded by advice contained within NPPG, the Applicant notes that the general advice remains essentially similar. MPL has had regard to this guidance in the preparation of the Statement of Proposed Heads of Terms for an Agreement Pursuant to s106 of the TCPA 1990 (Document Reference 10.3) which should be taken into account in accordance with paragraph 4.1.8 of NPS EN-1.

## Environmental Statement

- 6.2.22 Paragraph 4.2.1 of NPS EN-1 advises that, '[a]ll proposals for projects that are subject to the European Environmental Impact Assessment Directive must be accompanied by an Environmental Statement describing the aspects of the environment likely to be significantly affected by the project.' Further, paragraph 4.2.1 of NPS EN-1 states that the Environmental Statement should include an assessment of the likely significant effects of the proposed project on the environment, including direct, indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects at all stages of the project.
- 6.2.23 In accordance with paragraph 4.2.1 of NPS EN-1, an ES (Document Reference 6.1) has been prepared and accompanies the DCO Application. The ES (Document Reference 6.1) includes an assessment of all likely significant effects at all stages of the Project, in respect of air quality; noise and vibration; ecology; water quality and resources; geology, ground conditions and hydrogeology; landscape and visual impacts; traffic, transport and access; archaeology and cultural heritage; and socio-economics.
- 6.2.24 Paragraph 4.2.3 of NPS EN-1 adds that 'the ES should cover the environmental, social and economic effects arising from pre-construction, construction, operation and decommissioning of the project.'
- 6.2.25 In accordance with paragraph 4.2.3 of NPS EN-1, the ES (Document Reference 6.1) contains an assessment of all likely environmental, social and economic effects at all stages of the Project, in respect of air quality; noise and vibration; ecology; water quality and resources; geology, ground conditions and hydrogeology; landscape and visual impacts; traffic, transport and access; archaeology and cultural heritage; and socio-economics.
- 6.2.26 Paragraph 4.2.5 of NPS EN-1 advises that the ES should provide information on how the effects of the proposal combine and interact with the effects of other development, including projects for which consent is sought or granted, as well as those already in existence.
- 6.2.27 In accordance with paragraph 4.2.5 of NPS EN-1, the ES (Document Reference 6.1) contains information on the cumulative effects of the Project in combination with the effects of other development, including projects for which consent has been sought or granted, as well as those already in existence, in respect of air quality; noise and vibration; ecology; water quality and resources; geology, ground conditions and hydrogeology; landscape and visual impacts; traffic, transport and access; archaeology and cultural heritage; and socio-economics.

## Habitats and Species Regulations

- 6.2.28 In respect of Habitats and Species Regulations, paragraph 4.3.1 of NPS EN-1 advises applicants to consult with Natural England and to subsequently undertake an Appropriate Assessment if required.

6.2.29 MPL consulted Natural England during EIA Scoping, consultation meetings and two phases of statutory Section 42 consultation, as recorded within the Consultation Report (Document Reference 5.1) and ES (Document Reference 6.1), with regards to the potential ecological impacts of the Project and the potential need for a HRA Screening Assessment. Natural England advised that it was unnecessary to undertake a HRA Screening Assessment given the distance (27km) from the Project Site to the nearest Natura 2000 site. Notwithstanding this, a No Significant Effects Report (Document Reference 5.7) has been prepared and forms part of this Application. The No Significant Effects Report (Document Reference 5.7) concludes that the Project will not result in any significant adverse effects on the nearest European site, Chiltern Beechwoods SAC, either alone or in combination with other plans or projects.

#### Alternatives

6.2.30 Paragraph 4.4.1 of NPS EN-1 notes that, “the relevance or otherwise to the decision-making process of the existence (or alleged existence) of alternatives to the proposed development is in the first instance a matter of law, detailed guidance on which falls outside the scope of this NPS. 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.” However, paragraph 4.4.2 of NPS EN-1 states that applicants are obliged to include, as a matter of fact, information about the main alternatives that have been considered within the ES, including the main reasons for the applicant’s choice, taking into account the environmental, social and economic effects.

6.2.31 In accordance with paragraph 4.4.2 of NPS EN-1, Chapter 5 of the ES (Document Reference 6.1) provides details regarding the alternatives that have been considered as part of the Project, as summarised below, in respect of:

- Alternative development sites;
- Alternative technologies for electricity generation;
- Alternative layouts for the Gas Connection Route Corridor; and
- Alternative options for Electrical Connection.

6.2.32 The Project alternatives have been assessed in detail by MPL and have been subject to consultation with key stakeholders and the local community during the two phases of non-statutory and statutory consultation, as recorded within the Consultation Report (Document Reference 5.1).

#### *Alternative Development Sites*

6.2.33 In deciding upon the location of the Project Site, MPL undertook a detailed feasibility assessment having regard to a number of technical, environmental, and economic factors in accordance with NPS EN-1. The key factors



considered necessary in selecting a suitable site for a project such as this one were broadly fourfold; technical, environmental, economic, and in line with local planning policy.

- 6.2.34 As part of a detailed feasibility assessment, the Applicant looked at a range of sites around the UK to support power generation plants of this nature. This search for potential power generation plant sites across the UK was focused on areas that were capable of meeting the Applicant's strategic project development criteria, which included:
- Acceptable proximity to the national gas transmission system & the national electricity transmission system or local distribution networks;
  - Located within areas that are net importers of electricity; and
  - Located within areas of compatible land use designation/s.
- 6.2.35 In terms of technical constraints, the size of the site (i.e. large enough to support a power generation plant of up to 299 MW and integral infrastructure) and the proximity of a site to appropriate gas and electrical connection points were both key considerations.
- 6.2.36 From an environmental perspective, the site must have due regard to close sensitive receptors such as residential properties or sites of ecological importance (to avoid unacceptable impacts arising in respect of, amongst other considerations, noise and visual disturbance), the current nature of the surrounding area (to limit impacts on the landscape character of the area), previous site uses and land quality (to avoid sterilisation of the best and most versatile agricultural land or mineral assets) and proximity to sensitive ecological habitats.
- 6.2.37 Based on these factors, the Project Site was considered suitable for the following reasons:
- Close proximity to the gas National Transmission System;
  - Close proximity to a suitable electrical connection (400 kV overhead line);
  - The Generating Equipment Site is within previously developed land, lying below ground level (which is of use in screening the development);
  - It is within an area identified as being potentially suitable for energy infrastructure;
  - It has a well-developed road network for access to the Generating Equipment Site;
  - The Project Site is outside of areas at risk of flooding;

- There is adequate space to develop the Power Generation Plant and integral infrastructure; and
- The Project Site is located in an area of net electricity import, and therefore there is demand for this type of development.

*Alternative technologies for electricity generation*

- 6.2.38 The following technology options have been considered for the Power Generation Plant: OCGT plant, Combined Cycle Gas Turbine (CCGT) plant, and Reciprocating Gas Engines (RGE) plant.
- 6.2.39 The operation of OCGT plant is described in the ES (Document Reference 6.1) section 3.2. CCGT plant consist of the same plant items as OCGT, although they also utilise a heat recovery steam generator (HRSG) which uses the waste heat from the exhaust gases to produce steam which is used to power a steam turbine. RGE plant are similar in operation to a large internal combustion engine, with a crankshaft driven by pistons.
- 6.2.40 OCGT is considered to be the most suitable technology choice for generating up to 299 MW as a peaking plant at the Project Site based on the following environmental, technical and feasibility considerations:
- Visual Impact: OCGT plants require shorter stack(s) compared to CCGT plant and therefore are less visually intrusive in views from the surrounding environment;
  - Water Resources: Since no cooling is required for the condensing of steam, the cooling requirements of OCGT plants are significantly lower than, for example, CCGT plants. The auxiliary cooling requirements (for lubrication oil, etc.) would be met via dry air cooling through the use of fin-fan coolers or Air Cooled Condensers (ACC). The water requirement of a OCGT plant is therefore significantly lower than for CCGT plants;
  - Noise and Available Space: noise levels from a OCGT plant would typically be lower than for an RGE plant. A larger number of RGE units would be required at the Generating Equipment Site to generate up to 299 MW. Spatially this may not be possible;
  - Financial: based on the anticipated electricity market, it is essential that the Power Generation Plant of the size proposed would be particularly cost effective, as it would be called upon to operate flexibly to balance out the National Grid and meet changing demands of customers; and
  - Start-up times: OCGT plants are able to start up and shut down much quicker than similar sized CCGT plants and are, therefore, better suited to meeting variable demand.

### *Gas Connection*

- 6.2.41 The Project Scoping Report described a Gas Connection ‘Opportunity Area’, to the south and east of the Generating Equipment Site, somewhere in which a new underground gas pipeline and AGI would be developed. Following publication of the Scoping Report, further studies refined this Opportunity Area such that there were two remaining Gas Connection Route Corridor Options presented in the 2014 PEIR and formally consulted upon in June 2014 as part of the Phase 1 Statutory Consultation. A preferred gas connection route and AGI location were also presented within the more southerly Route Corridor Option at that consultation stage.
- 6.2.42 As a result of further refinement, studies and feedback received from the Phase 1 Statutory Consultation process, a spatially refined Gas Connection Route Corridor has been brought forward as the selected Gas Connection Option to be used in the design of the Project. The Gas Connection Route Corridor was chosen as the most suitable route because it is the most direct and shortest connection between the National Transmission System and the Generating Equipment Site, avoiding obstructions such as roads, other high pressure gas pipelines, railways, large changes in elevation, water bodies and protected sites as much as possible. It is therefore less expensive and damaging to agricultural land. An alternative AGI location to that suggested in the 2014 PEIR has been selected following consultation with the land owner, who was concerned about sterilisation of prime agricultural land.

### *Electrical Connection*

- 6.2.43 The Project's Scoping Report described an Electrical Connection Opportunity Area to the south of the Generating Equipment Site, somewhere in which the Electrical Connection would be developed. Following publication of the Scoping Report, further studies were undertaken to refine the available options.
- 6.2.44 Studies undertaken up to Phase 1 Statutory Consultation and feedback received during the Phase 1 Statutory Consultation determined that the most suitable location for the Substation was within Rookery South Pit, adjacent to the Generating Equipment Site. The main reasons for siting the substation in this location are as follows:
- lower visual impact - the Substation would be located entirely within Rookery South Pit, which will be approximately 15m below ground once the LLRS works are complete. The maximum height of the tallest structures within the substation would be 17.5 m, meaning they would be substantially screened by the pit. If the substation were to be developed outside of the Rookery South Pit, it would need to be sited to the south on higher lying agricultural land. In this location, the substation would be substantially more visually intrusive, particularly if viewed from the south and east.
  - reduced effect on agricultural land – as stated above, should the substation be located outside of the Rookery South Pit, it would be

developed on agricultural land. This would not only take more greenfield land over and above the three net additional towers, but could also impact on drainage runoff rates as agricultural land would be replaced by hardstanding.

- reduced effect on previously undisturbed ground – previously undeveloped land outside of the Generating Equipment Site is known to have the potential to support buried archaeology. Therefore, avoiding this area and instead using land in Rookery South Pit which has previously been disturbed, removes a potential impact on the archaeology and cultural heritage of the area.

- 6.2.45 The 2014 PEIR confirmed that the proposed substation would then connect to the existing 400 kV double circuit Grendon - Sundon 400 kV line, operated by NGET. The line is situated approximately 320 m southwest of the Generating Equipment Site.
- 6.2.46 With respect to the connection between the Substation to the NETS, a number of options have been considered and ruled out, for technical or financial reasons.
- 6.2.47 The 2014 PEIR also confirmed that for environmental assessment purposes, a worst case scenario of up to two 400 kV double circuit overhead line circuits with up to seven new transmission towers was considered. It was also explained that one of the proposed towers would replace an existing tower. Consultees were invited to comment on the proposed worst case connection scenario.
- 6.2.48 MPL explained in the 2014 PEIR (Chapter 5) that further liaison with NGET would take place regarding the indicative design of the [then] proposed connection prior to making a final decision which would be taken forward to the DCO Application.
- 6.2.49 Following the conclusion of the Phase 1 Statutory Consultation in 2014 subsequent engagement and technical assessment concluded that there were four potentially viable electrical connection options, including two overhead line and two underground cable options. These options are summarised in detail in the PEIR (Chapter 5).
- 6.2.50 The Phase 1 Statutory Consultation generated a number of responses expressing concerns over the potential impacts of new pylons on the landscape and visual amenity, and in particular the potential for adverse effects on Ampthill Park. During its evaluation of responses, MPL recognised that consultees had expressed a strong preference for the development of an underground cable connection option. These views were taken on board by MPL and a presumption in favour of developing a wholly or partially underground cable option was adopted by the Project team. This was considered to represent more limited potential for significant adverse landscape and visual impacts than an overhead line option.

- 6.2.51 As a result, two options were provided in respect of electrical connection, as detailed in section 3.4 of the PEIR.
- 6.2.52 Following further consultation with National Grid regarding the preferred choice of Electrical Connection from the MPL site to the 400kV National Electricity Transmission line to the south, it was concluded that Electrical Connection option 2 is less suitable than option 1. As a result, Electrical Connection option 1, comprising a double circuit tee-in and two SECs which will be located on either side of the existing transmission line.

Criteria for “good design“ for energy infrastructure

- 6.2.53 Paragraph 4.5.1 of NPS EN-1 states that good design for energy infrastructure ‘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 aesthetic as far as possible.’ However, paragraph 4.5.1 of NPS EN-1 also acknowledges that ‘the nature of much energy infrastructure development will often limit the extent to which it can contribute to the enhancement of the quality of the area.’
- 6.2.54 In accordance with paragraph 4.5.1 of NPS EN-1, MPL has sought to adopt good design principles from the outset of the Project such that the development is sensitive to its setting and is of a good aesthetic as possible. As illustrated in the Design and Access Statement (Document Reference 10.2), the form, scale, massing and landscaping has been designed so that the Power Generation Plant blends in with its surroundings minimising visual intrusion from key viewpoints.
- 6.2.55 Paragraph 4.5.3 of NPS EN-1 seeks that proposals are “sustainable and, having regard to regulatory and other constraints, are as attractive, durable and adaptable (including taking account of natural hazards such as flooding) as they can be”. Further, Paragraph 4.5.3 of NPS EN-1 states that “Whilst the applicant may not have any or very limited choice in the physical appearance of some energy infrastructure, there may be opportunities for the applicant to demonstrate good design in terms of siting relative to existing landscape character, landform and vegetation.”
- 6.2.56 In accordance with paragraph 4.5.3 of NPS EN-1, and as set out in the Design and Access Statement (Document Reference 10.2), as far as is reasonably practical, the Power Generation Plant will use materials which can be disposed of sustainably (e.g. easily re-usable or recyclable) when the plant has reached the end of its life but primarily have been selected for their durability and safety across at least a 25-year lifespan. The technology chosen has an inherently low requirement for process water. As set out within the Outline Landscaping Plans (Document Reference 2.9), the design of landscape planting will enhance the area’s biodiversity through the retention of existing woodland; the planting of belts of trees to increase the amount of woodland in the area; the reinstatement of planting where possible and appropriate; and careful management of soils during construction works to

facilitate plant growth, to be implemented as part of the Construction Environmental Management Plan (CEMP).

- 6.2.57 Paragraph 4.5.4 of NPS EN-1 seeks that applicants “demonstrate in their application documents how the design process was conducted and how the proposed design evolved. Where a number of different designs were considered, applicants should set out the reasons why the favoured choice has been selected”. Further, paragraph 4.5.4 of NPS EN-1 notes that “in considering applications the [SoS] should take into account the ultimate purpose of the infrastructure and bear in mind the operational, safety and security requirements which the design has to satisfy.”
- 6.2.58 In accordance with paragraph 4.5.4 of NPS EN-1, the design evolution is explained in the Design and Access Statement (Document Reference 10.2) and also the Consultation Report (Document Reference 5.1) which explains carefully each stage of the Project, the nature of consultation exercises, the responses received and which influenced the design.
- 6.2.59 In accordance with paragraph 4.5.4 of NPS EN-1, the main operational, safety and security requirements are set out in the ES (Document Reference 6.1) which describes the requirements for sufficient space between certain installations (particularly the gas receiving installation and the banking compound), safety fencing, security perimeter and a gatehouse. The work packages are designed to achieve an appropriate balance between the likely operational requirements (and thus a deliverable energy generation project) and minimising visual effects. The Design Principles (part of the Design and Access Statement (Document Reference 10.2, Appendix 2)) will also assist in achieving this balance. The design has also sought to use the site layout in the most efficient way, by locating plant items in close proximity to connections (e.g. gas and electrical infrastructure) and by locating the Power Generation Plant so that it benefits from the maximum screening effects of other existing developments and natural site topography.
- 6.2.60 Paragraph 4.5.5 of NPS EN-1 states that “applicants are encouraged” to use design review services.
- 6.2.61 In accordance with paragraph 4.5.5 of NPS EN-1, the applicant has and will continue to liaise with the local authority in agreeing detailed designs prior to construction such as on detailed matters as to planting, signage and materials through the various requirements attached to the draft DCO (Document Reference 3.1, Schedule 2) and in compliance with the Design Principles (part of the Design and Access Statement (Document Reference 10.2, Appendix 2)).

#### Consideration of Combined Heat and Power (CHP)

- 6.2.62 Paragraph 4.6.6 of NPS EN-1 states that, ‘Under guidelines issued by DECC (then DTI) in 2006, any application to develop a thermal generating station under Section 36 of the Electricity Act 1989 must either include CHP or contain evidence that the possibilities for CHP have been fully explored to inform the IPC’s consideration of the application.’ Further, paragraph 4.6.7

of NPS EN-1 advises that the opportunities for CHP should be considered from the outset of the site selection process.

- 6.2.63 In accordance with paragraphs 4.6.6 and 4.6.7 of NPS EN-1, MPL has given due consideration to the potential inclusion of CHP alongside other Project alternatives from the outset of the Project, as set out in Chapter 5 of the ES (Document Reference 6.1).
- 6.2.64 Efficient CHP plants are usually designed to meet the known heat demands of a suitable process. This is in direct contrast to the operation of a OCGT peaking plant, which is designed to operate intermittently and unpredictably which is not suitable for CHP where the requirements are for a constant supply of heat. In addition, as OCGT plant do not have any associated HRSG / steam turbine plant, the provision of steam from an OCGT plant would not be possible without the provision of additional steam raising plant / equipment, which would require more equipment to be constructed and a larger overall land take. As such, as explained in the ES (Document Reference 6.1) it is considered that there are prohibitive barriers to the application of CHP at the Project Site and therefore CHP is not included within the Project.

#### Carbon Capture and Storage (CCS) and Carbon Capture Readiness (CCR)

- 6.2.65 Section 4.7 of NPS EN-1 explains the considerations to be given to CCS and Carbon Capture and explains that all applications for new combustion plant which are of a generating capacity at or over 300MW and of a type covered by the EU's Large Combustion Plant Directive (LCPD) should demonstrate that the plant is "Carbon Capture Ready" (CCR).
- 6.2.66 The Project would not meet or exceed the threshold of 300MW and so is therefore not required to demonstrate Carbon Capture Readiness on the basis of section 4.7 of NPS-EN1.

#### Climate change adaptation

- 6.2.67 Section 4.8 of EN-1 sets out considerations that applicants and the Examining Authority/SoS should take into account to help ensure that new energy infrastructure is resilient to climate change. Paragraph 4.8.5 of NPS EN-1 advises that applicants 'must consider the impacts of climate change when planning the location, design, build, operation and, where appropriate, decommissioning of new energy infrastructure.'
- 6.2.68 In accordance with paragraph 4.8.5 of NPS EN-1, MPL has considered the impacts of climate change in the design of the Project from the outset, as explained in the Design and Access Statement (Document Reference 10.2). MPL has undertaken detailed assessment work to consider the potential impacts of climate change for the Project, in accordance with paragraph 4.8.5 of NPS EN-1. A number of Project alternatives have been assessed by MPL, taking into account a range of environmental factors, as set out with Chapter 5 of the ES (Document Reference 6.1). The ES (Document Reference 6.1) contains a number of technical Chapters (including Chapters relating to air



quality, ecology, water quality and resources, and geology and ground conditions), which include consideration of the potential impacts of climate change and set out appropriate mitigation measures where necessary. In addition, a FRA (Document Reference 5.4) has also been prepared to consider the potential impact of flooding on the Project.

#### Grid connection

- 6.2.69 Paragraph 4.9.1 of NPS EN-1 advises applicants to consult the National Grid and to ensure that there is the necessary infrastructure and capacity within an existing or planned transmission or distribution network to accommodate the electricity generated.
- 6.2.70 In accordance with paragraph 4.9.1 of NPS EN-1, as part of the statutory phase of consultation, and as recorded within the Consultation Report (Document Reference 5.1), National Grid was consulted on the DCO Application in October/November 2014 (Phase 1 Consultation) and again in May-July 2017 (Phase 2 Consultation). In order to define and evaluate the options available for connecting the Generating Equipment to the NETS, a grid connection assessment was undertaken in March 2014 (see Grid Connection Statement (Document Reference 9.1)). This assessment (along with consultations undertaken with NG) identified that the most suitable point of connection would be a new substation to be located adjacent to the western boundary of the Generating Equipment Site, which would connect into the existing NG double circuit 400 kV line (forming part of the NETS) which runs from Sundon to Grendon. The 400 kV line is located approximately 320 m southwest of the Generating Equipment Site (see Grid Connection Statement (Document Reference 9.1)).

#### Pollution control and other environmental regulatory regimes

- 6.2.71 Paragraph 4.10.1 of NPS EN-1 advises that 'Issues relating to discharges or emissions from a proposed project which affect air quality, water quality, land quality and the marine environment, or which include noise and vibration may be subject to separate regulation under the pollution control framework or other consenting and licensing regimes.'
- 6.2.72 In accordance with paragraph 4.10.1 of NPS EN-1, MPL acknowledges that some issues may be subject to separate regulatory regimes, and has prepared a Details of Other Consents and Licences document (Document Reference 5.6) which set out details of the other consents and licences required and when they will be applied for. The required additional consents and licences are set out in more detail in the Details of Other Consents and Licences Required document (Document Reference 5.6).

#### Safety

- 6.2.73 Paragraph 4.11.1 of NPS EN-1 advises applicants to consult with the HSE on matters relating to safety which are relevant to the construction, operation and decommissioning of energy infrastructure.

- 6.2.74 In accordance with paragraph 4.11.1 of NPS EN-1, MPL consulted the HSE during statutory Section 42 consultation in October/November 2014 and again in May-July 2017, as set out in the Consultation Report (Document Reference 5.1). The HSE advised that the Project Site falls within the consultation zones of three major accident hazard pipelines – the 7 Feeder Old Warden/Slapton MAHP, the 9 Feeder Huntingdon/Whitwell MAHP, and the 36 Feeder Willington/Steppingley MAHP. The Project Site lies outside of consultation zones for hazardous installations and does not impinge on the separation distances of any explosives licensed site.

#### Hazardous Substances

- 6.2.75 Paragraph 4.12.1 of NPS EN-1 explains that all establishments wishing to hold stock of hazardous substances above a threshold will require Hazardous Substances consent, and thus should consult the HSE at the pre-application stage.
- 6.2.76 In accordance with paragraph 4.12.1 of NPS EN-1, MPL consulted the HSE during statutory Section 42 consultation in October/November 2014 and again in May-July 2017, as set out in the Consultation Report (Document Reference 5.1). As set out in Chapter 3 of the ES (Document Reference 6.1), embedded mitigation measures include spill response procedures and correct handling of any hazardous substances; however as set out in Chapter 10 of the ES (Document Reference 6.1), it is not anticipated that the operation of the Project will require the use of any potentially hazardous substances. As set out in the Chapter 15 of the ES (Document Reference 6.1), only small quantities of potentially hazardous waste will be stored on the Project Site at any time, comprising e.g. lubricating oils for continued maintenance of the Generating Equipment and any such substances will be held in secured containers to prevent contaminant migration. Closed storage facilities or suitable dampening techniques will be utilised within the Project where emissions of dust etc. from waste are possible. Accordingly, it is not anticipated that Hazardous Substances Consent will be required; however, an application would be made at the appropriate time if required.

#### Health

- 6.2.77 Paragraphs 4.13.1 and 4.13.3 of NPS EN-1 advise that energy production has the potential to impact on health and wellbeing, through increased traffic, air or water pollution, dust, odour, hazardous waste and substances, noise, exposure to radiation and increases in pests. Where the Project does have an effect on human beings, paragraph 4.13.2 of NPS EN-1 requires that the ES (Document Reference 6.1) assesses these effects for each element of the project, and identifies measures to avoid, reduce or compensate for these impacts.
- 6.2.78 As set out in Chapter 15 of the ES (Document Reference 6.1), it is considered that the potential for likely significant effects of the Project on human health relate primarily to exposure to excessive levels of noise, pollutants released during construction or operation of the Project (to the air, water or land) as well as effects relating to EMFs. As such, in accordance with paragraph

4.13.2 of NPS EN-1, an assessment of the impacts of the Project in this respect has been undertaken as part of the EIA and appropriate measures have been set out to address these impacts as appropriate.

- 6.2.79 As set out in Chapter 15 of the ES (Document Reference 6.1), noise at the Project Site during construction and decommissioning could arise from e.g. excavation for foundations, delivery of plant, and excavation for laying the Gas Connection; however this will only be a temporary source of noise. The significance of the overall effect of construction and decommissioning noise is predicted to be neutral following the implementation of embedded mitigation measures, including: an appropriately placed acoustic screen, implementation of a CEMP, and use of appropriately maintained plant and equipment during construction and decommissioning. During operation, as set out in Chapter 15 of the ES (Document Reference 6.1), noise could occur from the rotating components of the Generating Equipment and there may be limited noise from the Access Road, although the likely impact of this on human health will not be significant when compared to the existing traffic noise. There will also be small amounts of noise generated by the AGI, however this noise is rarely perceptible except when in very close proximity to the AGI.
- 6.2.80 The main potential effects on human health resulting from construction and decommissioning of the Project on air quality, as set out in Chapter 15 of the ES (Document Reference 6.1) are from dust generated from construction activities; however, it is considered unlikely that levels of atmospheric dust would be generated which would constitute a health hazard or nuisance to local people, in the vicinity of the Project Site. Potential air quality impacts would be minimised through implementation of a CEMP, which would incorporate appropriate dust mitigation measures such as damping down or covering of stock piles and excavations during dry and windy weather (see Chapter 15 of the ES (Document Reference 6.1)).
- 6.2.81 As set out in Chapter 15 of the ES (Document Reference 6.1), with regards to the impacts of pollution and contamination on human health during construction and decommissioning, the main potential impacts are from the disturbance of any existing contamination and the creation of pollution incidents (e.g. spillages). However, mitigation measures such as working within best practice guidelines and adhering to a detailed CEMP will be employed to prevent any contamination or pollution incidents impacting on ground conditions. This will include having an appropriate spill response plan, correct re-fuelling of vehicles and plant on hardstanding and the correct storage of potentially hazardous substances in bunded storage tanks. Further, as set out in Chapter 15 of the ES (Document Reference 6.1), during operation of the Project, there is the potential for the contamination of surface water within the Project Site, however such impacts would be controlled by embedded mitigation measures implicit within the Project comprising best practice measures required to ensure legislative compliance, contained within an operational environmental management plan secured through the EP.

- 6.2.82 A full EMF report has been prepared for the Project and is included as Appendix 15.1 to the ES (Document Reference 6.1) to consider the potential impacts of EMF generated from high voltage electrical equipment. The EMF report (Appendix 15.1 of the ES (Document Reference 6.1)) concludes that it is likely that the EMF field strength for the Project would be minimal given that the Electrical Connection (either option 1 or option 2) would be an underground cable. Any above ground elements would have a similar EMF field strength to that which is already present associated with the existing 400 kV Sundon to Grendon overhead line.

#### Common law nuisance and statutory nuisance

- 6.2.83 Section 4.14 of NPS EN-1 provides guidance in respect of common law nuisance and statutory nuisance. Paragraph 4.14.2 of NPS EN-1 stresses the importance of considering possible sources of nuisance and how they may be mitigated or limited at the pre-application stage under section 79(1) of the Environmental Protection Act 1990.
- 6.2.84 In accordance with paragraph 4.14.2 of NPS EN-1, possible sources of nuisance have been considered, with mitigation identified where relevant, in the Statement of Engagement of Section 79(1) of the Environmental Protection Act 1990 (Document Reference 5.5). The Statement of Engagement of Section 79(1) of the Environmental Protection Act 1990 (Document Reference 5.5) explains the condition of the site, and findings as to potential air quality impacts, noise levels, artificial lighting and health effects generated by the Project during both construction and operation, and concludes that with the identified mitigation in place the building and operation of the Project is unlikely to give rise to nuisance.

#### Security considerations

- 6.2.85 Paragraph 4.15.2 of NPS EN-1 outlines that 'Government policy is to ensure that, where possible, proportionate protective security measures are designed into new infrastructure projects at an early stage in the project development.'
- 6.2.86 In accordance with paragraph 4.15.2 of NPS EN-1, MPL has considered appropriate security measures from the early stages of the Project. As set out within Chapter 3 of the ES (Document Reference 6.1) and detailed within the Design and Access Statement (Document Reference 10.2), a Gatehouse would be developed at the Generating Equipment Site to provide security and maintain a log of site attendance and deliveries. It is also proposed that lighting columns will be erected around the perimeter of the Generating Equipment in order to provide security lighting and lighting for safe working in dark conditions. The lighting columns will be approximately 8m in height and regularly spaced around the perimeter of the Generating Equipment Site.
- 6.2.87 During construction of the electrical connection, a temporary security fence with locked gates for main and emergency exits would be installed around the SECs and Substation. A security cabin would be established to provide accommodation for full time security personnel for the duration of the works.

The above security measures would be implanted as part of the CEMP. As detailed within the Consultation Report (Document Reference 5.1), no statutory Section 42 consultation responses were received raising relevant security concerns.

### Generic Impacts

- 6.2.88 Part 5 of NPS EN-1 explains the potential impacts of energy infrastructure, in terms of: air quality and emissions; biodiversity and ecological conservation; civil and military aviation and defence interests; coastal change; dust, odour, artificial light, smoke, steam and insect infestation; flood risk; historic environment; landscape and visual; land use including open space, green infrastructure and Green Belt; noise and vibration; socio-economic; traffic and transport; waste management; and water quality and resources.

### Air quality and emissions

- 6.2.89 Paragraph 5.2.1 of NPS EN-1 advises that the construction, operation and decommissioning of infrastructure development ‘can involve emissions to air which could lead to adverse impacts on health, on protected species and habitats, or on the wider countryside.’ Paragraph 5.2.7 of NPS EN-1 provides that the applicant should undertake an assessment as part of the ES, describing:

- “any significant air emissions, their mitigation and any residual effects distinguishing between the project stages and taking account of any significant emissions from any road traffic generated by the project;
- the predicted absolute emission levels of the proposed project, after mitigation methods have been applied;
- existing air quality levels and the relative change in air quality from existing levels; and
- any potential eutrophication impacts.”

- 6.2.90 In accordance with paragraphs 5.2.1 and 5.2.7 of NPS EN-1, an assessment of the likely impacts, in respect of air quality and emissions, has been undertaken in the EIA and findings, including appropriate mitigation measures where relevant, are presented in Chapter 6 of the ES (Document Number 6.1). The assessment included consideration of the closest residential dwelling to the Power Generation Plant Site at South Pillinge Farm, located approximately 130 m to the west of the Project Site.

- 6.2.91 The main potential effects resulting from construction and decommissioning of the Project on air quality are from dust and particulate matter generated from construction activities, as detailed within Chapter 6 of the ES (Document Reference 6.1). Despite this, it is considered unlikely that levels of dust or particulate matter would be generated which would constitute a health hazard or nuisance to human or ecological receptors in the vicinity of the Project Site. Impacts would be minimised through implementation of a CEMP, (an outline

of which is provided in Appendix 3.2 of the ES (Document Reference 6.2)) which would incorporate appropriate dust mitigation measures such as damping down or covering of stock piles and excavations during dry and windy weather.

- 6.2.92 The main potential effects arising from operation of the Project in respect of air quality are associated with the stack emissions arising as a result of the combustion of natural gas in the Generating Equipment (see Chapter 6 of the ES (Document Reference 6.1)). However, modern gas fired power plant are inherently clean and produce far fewer emissions than other fossil fuel power plants (e.g. coal) when compared on an energy output basis. Emissions of NO<sub>x</sub> are strictly limited under national and international guidelines such as the Industrial Emissions Directive (IED). Operation of the Generating Equipment will also be regulated by the Environment Agency under an Environmental Permit, which will limit emissions in line with national guidelines (as referenced at section 2.6 of this Planning Statement, and in the Details of Other Consents and Licences document (Document Reference 5.6)). It is concluded that there will be no likely significant effects during operation of the Generating Equipment on human or ecological receptors (see Chapter 6 of the ES (Document Reference 6.1)).
- 6.2.93 As explained in Chapter 6 of the ES (Document Reference 6.1), the construction, decommissioning and operation of the Project could occur simultaneously with other projects in the vicinity of the Project Site; however, most of the proposed developments are greater than 5km from the Project Site and outside of the study area for this topic within which potentially significant effects could occur. As such it is considered that no cumulative effects are likely to arise in relation to these projects in respect of air quality. It is considered, in Chapter 6 of the ES (Document Reference 6.1) that, based on professional judgement, with the implementation of the embedded mitigation described in the ES (Document Reference 6.1) along with the embedded mitigation in the Rookery South RRF Project, no likely significant cumulative effects will arise as between the Project and the Rookery South RRF Project.
- 6.2.94 With regard to biodiversity and geological conservation, paragraph 5.3.3 of NPS EN-1 advises that the Applicant should ensure that the ES 'clearly sets out any effects on internationally, nationally and locally designated sites of ecological or geological conservation importance, on protected species and on habitats and other species identified as being of principal importance for the conservation of biodiversity.'

#### Biodiversity and geological conservation

- 6.2.95 In accordance with paragraph 5.3.3 of NPS EN-1, an assessment of the likely effects on internationally, nationally and locally designated sites of ecological or geological conservation importance, on protected species, and on habitats and other species of principal importance has been undertaken in the EIA, and the findings are presented in Chapters 8 (Biodiversity) and 10 (Geology and Ground Conditions) of the ES (Document Reference 6.1).

- 6.2.96 In respect of biodiversity, as explained in Chapter 8 of the ES (Document Reference 6.1), the potential effects on ecological receptors during the construction and decommissioning phases are likely to be from indirect noise, vibration and lighting, as well as direct disturbance of habitats or indirect impacts from pollution (e.g. silt entering watercourses). The impacts could lead to effects on habitats and species within and adjacent to the Project Site. However, work is and has been carried out (as part of the LLRS scheme) to translocate certain ecological species, (for example, Great Crested Newts, the translocation of which is now understood to have been completed) from the Project Site so that by the time the Project starts construction, the Power Generation Plant Site will be of negligible ecological value. Furthermore, the areas where the Gas and Electrical Connection would be located have been found to be of limited ecological value due to intensive agricultural practices on the land.
- 6.2.97 Further, as set out in Chapter 8 of the ES (Document Reference 6.1), during operation, the main potential effects on ecological receptors are likely to result from stack emissions impacting on sensitive ecological sites. An increase in nitrogen deposition above the critical load can cause a change in plant communities. An increase in acid deposition above the critical load can cause a decrease in soil base saturation and may cause toxicity to plants. However, air quality modelling (see section 3.3 and Chapter 6 of the ES (Document Reference 6.1)) has shown that setting the stack height at between 32.5 and 35 m will not result in any impacts to sensitive ecological sites. Therefore, no likely significant effects are predicted from operation of the Project on ecological receptors on the basis that the stack height will be 32.5-35m in height.
- 6.2.98 As explained in Chapter 8 of the ES (Document Reference 6.1), the construction, decommissioning and operation of the Project could occur simultaneously with other projects in the vicinity of the Project Site; however, most of the proposed developments are greater than 5km from the Project Site and outside of the study area for this topic within which potentially significant effects could occur. The only projects which are considered relevant to the cumulative effects assessment for ecology are the proposed Integrated Waste Management Facilities proposed at Rookery South Pit and the Rookery South RRF Project at Rookery South Pit. The proposed Integrated Waste Management Facilities development is at an early stage and should it go ahead, it will have to consider the Project to ensure that no significant cumulative impacts will arise between it and the Project. The ES for the Rookery South RRF Project concluded that there were no likely significant effects arising from construction, operation or decommissioning of the project on ecology. It is considered, as set out in Chapter 8 of the ES (Document Reference 6.1) that, based on professional judgement, with the implementation of mitigation described in the ES (Document Reference 6.1) along with mitigation in the Rookery South RRF Project, no likely significant cumulative effects will arise as between the Project, the Rookery South RRF Project and other developments.
- 6.2.99 In respect of geology and ground conditions, in accordance with paragraph 5.3.3 of NPS EN-1, Chapter 10 of the ES (Document Reference 6.1) states



that, during construction of the Power Generation Plant, the main potential impacts on ground conditions will be from: disturbance of any existing contamination and the creation of pollution pathways; unstable slopes associated with deep excavations or cuttings; uplift from high groundwater levels; and creation of pollution incidents from e.g. spillages.

- 6.2.100 As set out in Chapter 10 of the ES (Document Reference 6.1), the construction, decommissioning and operation of the Project could occur simultaneously with other projects in the vicinity of the Project Site; however, most of the proposed developments are greater than 5km from the Project Site and outside of the study area for this topic within which potentially significant effects could occur.
- 6.2.101 The only projects which are considered relevant to the cumulative effects assessment for ground conditions are the proposed Integrated Waste Management Facilities proposed at Rookery South Pit and the Rookery South RRF Project at Rookery South Pit. The proposed Integrated Waste Management Facilities development is at an early stage and should it go ahead, it will have to consider the Project to ensure that no significant cumulative impacts will arise between it and the Project. The ES for the Rookery South RRF Project concluded that there were no likely significant effects arising from construction, operation or decommissioning of the project on ground conditions. It is considered, as set out in Chapter 10 of the ES (Document Reference 6.1) that, based on professional judgement, with the implementation of mitigation described in the ES (Document Reference 6.1) along with mitigation in the Rookery South RRF Project, no likely significant cumulative effects will arise as between the Project, the Rookery South RRF Project and other developments.
- 6.2.102 Paragraph 5.3.18 of NPS EN-1 states that appropriate mitigation measures in respect of biodiversity and geodiversity should be an integral part of the proposed development and should demonstrate that: activities are confined to the minimum areas required during construction; best practice is followed during construction and operation; habitats are restored after construction works where practicable; and opportunities are taken to enhance or create new habitats.
- 6.2.103 In respect of biodiversity, in accordance with paragraph 5.3.18 of NPS EN-1, mitigation measures would be put in place to further limit potential impacts to ecology, including the careful timing of vegetation removal and maintaining an appropriate buffer around sensitive ecological sites during construction works. Compensatory planting and ponds would also be created as part of the landscaping mitigation strategy for the Project (see Appendix 11.3 of the ES (Document Reference 6.2)). Therefore, as set out in Chapter 8 of the ES (Document Reference 6.1), no likely significant effects are predicted as a result of construction or decommissioning of the Project in respect of biodiversity.
- 6.2.104 In respect of geology and ground conditions, in accordance with paragraph 5.3.18 of NPS EN-1, mitigation measures such as working within best practice guidelines and adhering to a detailed CEMP will be employed to

prevent any contamination or pollution incidents impacting on ground conditions. This will include having an appropriate spill response plan, correct re-fuelling of vehicles and plant on hardstanding and the correct storage of potentially hazardous substances in bunded storage tanks, thus there will be no significant effects. Furthermore given the historical extraction of clay undertaken in the Power Generation Plant Site there is no important geology (e.g. designated geological sites or minerals) or soils (e.g. fertile agricultural land) underlying the Power Generation Plant Site which could be affected or lost during construction.

#### Civil and military aviation and defence interests

- 6.2.105 Paragraph 5.4.1 of NPS EN-1 advises that civil and military aviation and defence interests can be affected by new energy development, and as such paragraph 5.4.10 of NPS EN-1 states that an assessment of potential effects should be set out within the ES. Paragraph 5.4.11 of NPS EN-1 states that, in addition, the MoD, CAA, NATS and any aerodrome likely to be affected by the proposed development should be consulted.
- 6.2.106 In accordance with paragraph 5.4.11 of NPS EN-1, the MoD, CAA and NATS were all consulted during statutory section 42 consultation, as detailed in the Consultation Report (Document Reference 5.1). The MoD, NATS and the CAA raised no objection to the proposed development (see Consultation Report (Document Reference 5.1)).

#### Dust, odour, artificial light, smoke, steam and insect infestation

- 6.2.107 Paragraph 5.6.1 of NPS EN-1 states that, 'during the construction, operation and decommissioning of energy infrastructure there is potential for the release of a range of emissions such as odour, dust, steam, smoke, artificial light and infestation of insects.' As such, paragraph 5.6.5 of NPS EN-1 states that applicants are required to assess the potential for emissions and the impact on amenity, in particular in terms of the type, quantity and timing of emissions; aspects giving rise to emissions; locations affected by the emissions; effects of the emissions on identified locations; and measures to be employed in preventing or mitigating emissions.
- 6.2.108 In accordance with paragraph 5.6.1 of NPS EN-1, a full assessment has been undertaken of the potential emissions resulting from the construction, operation and decommissioning of the Power Generation Plant, electrical connection and gas connection and is recorded in Chapter 6 of the ES (Document Reference 6.1), together with appropriate mitigation measures. A Statement of Engagement of Section 79(1) of the Environmental Protection Act 1990 (Document Reference 5.5) has also been prepared – fulfilling regulation 5(2)(f) of the AFFP Regulations – to assess the condition of the site, potential air quality impacts, noise levels, artificial lighting and health effects generated by the Project throughout its various stages.
- 6.2.109 Chapter 6 of the ES (Document Reference 6.1) states that the main potential effects resulting from construction and decommissioning of the Project on air quality are from dust and particulate matter generated from construction

activities; however it is considered unlikely that levels of dust or particulate matter would be generated which would constitute a health hazard or nuisance to human or ecological receptors in the vicinity of the Project Site.

- 6.2.110 Paragraph 5.6.11 of NPS EN-1 advises that mitigation measures relating to emissions may be provided in respect of engineering, lay-out or administration.
- 6.2.111 Chapter 6 of the ES (Document Reference 6.1) states that any potential impacts would be minimised through implementation of a CEMP, (an outline of which is provided in Appendix 3.2 of the ES (Document Reference 6.2)) which would incorporate appropriate dust mitigation measures such as damping down or covering of stock piles and excavations during dry and windy weather.

#### Flood risk

- 6.2.112 Paragraph 5.7.4 of NPS EN-1 states that application for energy projects of 1ha or greater in Flood Zone 1 and all energy projects in Flood Zones 2 and 3 should be accompanied by a FRA.
- 6.2.113 The Project Site is greater than 1ha and therefore an FRA (Document Reference 5.4) has been undertaken and is submitted as part of the DCO Application.
- 6.2.114 Where necessary, paragraph 5.7.18 of NPS EN-1 advises that flood risk should be mitigated by making arrangements to manage surface water and the impact of the natural water cycle on people and property.
- 6.2.115 In respect of paragraph 5.7.18 of NPS EN-1, the FRA (Document Reference 5.4) has found that there are not likely to be any significant impacts resulting from the construction, operation and decommissioning of the Power Generation Plant, electrical connection and gas connection with regards to flooding.

#### Historic environment

- 6.2.116 Paragraph 5.8.1 of NPS EN-1 advises that the construction, operation and decommissioning of energy infrastructure has the potential to result in adverse impacts on the historic environment. Accordingly, paragraph 5.8.8 of NPS EN-1 states that the applicant is required to 'provide a description of the significance of the heritage assets affected by the proposed development and the contribution of their setting to that significance'.
- 6.2.117 In accordance with paragraph 5.8.1 of NPS EN-1, a full assessment has been undertaken in the EIA of the potential impacts of the Project on the historic environment, and the findings are presented in Chapter 13 of the ES (Document Reference 6.1).
- 6.2.118 Chapter 13 of the ES (Document Reference 6.1) sets out that, given that the Power Generation Plant Site is within formerly developed land which is subject to ongoing construction works as part of the LLRS, it is likely that any

archaeology would have already been removed. Therefore, this preliminary assessment has concluded that there will be no physical direct impacts on any heritage assets. The majority of the construction works will not be visible outside of Rookery South Pit and therefore will have no impacts on the setting of any heritage assets. The Access Road will have no potential impacts on designated heritage assets.

- 6.2.119 Further, Chapter 13 of the ES (Document Reference 6.1) states that during operation, the introduction of the stack associated with the Generating Equipment have the potential to have minor adverse effects on surrounding cultural heritage assets such as listed buildings. There is also the potential for inter-visibility between the stack of the Generating Equipment, the SECs associated with the Electrical Connection and the AGI of the Gas Connection and up to five Scheduled Monuments. However, in all cases effects are anticipated to be no more than minor and are not significant.
- 6.2.120 Chapter 13 of the ES (Document Reference 6.1) notes that the construction, decommissioning and operation of the Project could occur simultaneously with other projects in the vicinity of the Project Site; however, most of the proposed developments are greater than 5km from the Project Site and outside of the study area for this topic within which potentially significant effects could occur.
- 6.2.121 The only projects which are considered relevant to the cumulative effects assessment for archaeology and cultural heritage are the proposed Integrated Waste Management Facilities proposed at Rookery South Pit and the Rookery South RRF Project at Rookery South Pit. The proposed Integrated Waste Management Facilities development is at an early stage and should it go ahead, it will have to consider the Project to ensure that no significant cumulative impacts will arise between it and the Project. The ES for the Rookery South RRF Project concluded that there were no likely significant effects arising from construction, operation or decommissioning of the project on archaeology and cultural heritage. It is considered, as part of Chapter 13 of the ES (Document Reference 6.1) that, based on professional judgement, with the implementation of mitigation described in the ES (Document Reference 6.1) along with mitigation in the Rookery South RRF Project, no likely significant cumulative effects will arise as between the Project, the Rookery South RRF Project and other developments.

#### Landscape and visual

- 6.2.122 Paragraph 5.9.1 of NPS EN-1 acknowledges that the landscape and visual effects of energy projects will vary according to the type of development, its location and the landscape setting. Paragraphs 5.9.5 – 5.9.7 of NPS EN-1 also advise that the applicant should carry out a landscape and visual impact assessment of the effects during construction and operation, including light pollution effects on local amenity and nature conservation.
- 6.2.123 In accordance with the provisions of paragraphs 5.9.5 – 5.9.7 of NPS EN-1, an assessment of the likely landscape and visual impacts of the Project has

been undertaken and the findings are presented in Chapter 11 of the ES (Document Reference 6.1).

- 6.2.124 Chapter 11 of the ES (Document Reference 6.1) states that the main potential sources of landscape and visual impact during construction of the Project are: earthworks, site clearance works, removal of vegetation (in the case of the Gas Connection and Electrical Connection), presence of construction traffic, construction of the Electrical Connection temporary diversion and presence of construction site lighting. During operation, effects on landscape and visual amenity will result from the introduction of permanent structures, particularly the stack of the Generating Equipment which will be the largest structure on the Project Site
- 6.2.125 Paragraph 5.9.21 of NPS EN-1 notes that reducing the scale of the project can help to mitigate the landscape and visual impacts, however it is acknowledged that amending the design of proposed energy infrastructure may result in a significant operational constraint and reduction in function.
- 6.2.126 In respect of paragraph 5.9.21 of NPS EN-1, the design of the proposed energy infrastructure has not significantly altered due to operational and functional requirements. However, it is noted in Chapter 11 of the ES (Document Reference 6.1) that, given the limited construction period (22 months) and the relatively modest construction operations, the construction effects are considered to be not significant from the majority of locations. Furthermore, during operation the Project will be largely screened from views by the fact that a large proportion is sited within the Rookery South Pit (meaning that only 17.5-20 m of the stack will be visible above the edge of the pit). The Project will also be viewed in the context of other industrial development such as large towers of the former London Brick Works, the existing Sundon to Grendon overhead line and towers and the wind turbine at the Millennium Country Park. Views of the stack of the Generating Equipment will be clearly visible in some views from the south and south east, particularly along the Greensands Ridge and from footpath 14 (see Chapter 11 of the ES (Document Reference 6.1)).

#### Land use including open space, green infrastructure and Green Belt

- 6.2.127 Paragraph 5.10.1 of NPS EN-1 acknowledges that an energy infrastructure project 'will have direct effects on the existing use of the proposed site and may have indirect effects on the use, or planned use, of land in the vicinity for other types of development.' Accordingly, the applicants should consult the local community (paragraph 5.10.6) and the ES should include an assessment of the impact of the proposed development on existing and proposed land uses near the project. Paragraph 5.10.19 notes that there may be little that can be done to mitigate the direct effects of the energy project on the existing use of the proposed site; however, the effects may be minimised through the application of good design principles, including the layout of the project.
- 6.2.128 In respect of paragraph 5.10.1 of NPS EN-1 and in accordance with paragraph 5.10.6 of NPS EN-1, MPL has undertaken extensive pre-

application consultation over two phases with statutory consultees, key stakeholders (including CBC, BBC, local councillors and local MPs) and the local community via a structured consultation programme, as recorded within the Consultation Report (Document Reference 5.1). Further, in accordance with paragraph 5.10.6 of NPS EN-1, an assessment of the potential impact of the Project on existing and proposed land uses around the Project Site has been undertaken as part of the cumulative assessment within each technical section of the EIA (air quality; noise and vibration; ecology; water quality and resources; geology, ground conditions and hydrogeology; landscape and visual impacts; traffic, transport and access; archaeology and cultural heritage; and socio-economics), following consultation with CCS, and is recorded within the ES (Document Reference 6.1).

- 6.2.129 In respect of the existing use of the site: the Project Site is partially located within The Rookery, which comprises two former clay pits (Rookery North and Rookery South) separated by an east-west spine of unexcavated clay covering an area of some 210 ha. The Rookery is the subject of an ongoing LLRS being undertaken by the landowner pursuant to a separate planning consent (application ref. BC/CM/2000/8) in order to restore the former clay workings (i.e. below pre-excavation ground levels) to low-intensity agricultural land, with measures included in the restoration to enhance biodiversity and landscape. This restoration work is taking place independently of the Project, and furthermore an option agreement has been put in place between MPL and the landowner of Rookery Pit such that relevant elements of the LLRS will be completed prior to the commencement of the development of the Project (anticipated to be in 2020). Accordingly, the Project will not prejudice or have any direct adverse effects on the existing use of the Project Site for low-level restoration to low-intensity agricultural land.
- 6.2.130 Paragraph 5.10.19 of NPS EN-1 notes that there may be little that can be done to mitigate the direct effects of the energy project on the existing use of the proposed site; however, the effects may be minimised through the application of good design principles, including the layout of the project.
- 6.2.131 In accordance with the provisions of paragraph 5.10.19 of NPS EN-1, MPL has sought to adopt good design principles as part of the Project, including its layout. As set out in the Design and Access Statement (Document Reference 10.2), the form, scale, massing and landscaping has been designed so that the Power Generation Plant blends in with its surroundings minimising visual intrusion from key viewpoints.
- 6.2.132 In accordance with paragraph 5.10.6 of NPS EN-1, MPL has had regard to the proposed use of the Project Site. As set out within section 3.4 of this Planning Statement, part of the Project Site is occupied by the Rookery South RRF Project, for which a DCO was formally issued on 25th March 2013 (Appendix 4). MPL confirms that the Project has taken account of the extant Consent for the Rookery South RRF Project. The ES (Document Reference 6.1) explains how the Rookery South RRF Project was considered for EIA purposes.

- 6.2.133 The Project Site and the Order limits for the Project Site (the Order limits are defined in the draft Development Consent Order (Document Reference 3.1) as being defined on the Works Plans (Document Reference 2.6)) sit within part of the order limits for the RRF Order. This means that there is the potential for overlap and inconsistent powers between the two DCOs. However, MPL have engaged with Covanta through the development of the Project and have suggested a number of ways in which the two schemes may potentially interact and put forward solutions to any overlap issues that can be delivered through the draft Order for the MPL Project (and the documents that accompany that Order). Therefore MPL is satisfied that the two projects would be capable of coexisting should both be constructed and operated and positive discussions between the two parties will continue. MPL has prepared a position statement providing further information on this matter which is provided in Appendix 5 of this Statement.
- 6.2.134 Proposals for future development at the Project Site are also established within land-use allocations contained within local planning policy. Section 6.3 of this Planning Statement considers the Project in respect of the provisions of local planning policy which are considered to be both important and relevant.

#### Noise and vibration

- 6.2.135 Paragraph 5.11.1 of NPS EN-1 states that excessive noise can have wide-ranging impacts on the quality of human life, health, and use and enjoyment of areas, as well as on wildlife and biodiversity (paragraph 5.11.2). Where noise impacts arise, paragraph 5.11.4 of NPS EN-1 states that a noise assessment should be provided, to include: a description of the noise generating aspects of the proposal, identification of noise sensitive areas, the characteristics of the existing noise environment, and a prediction of how the noise environment will change.
- 6.2.136 In accordance with paragraph 5.11.4 of NPS EN-1, an assessment of the likely noise and vibration impacts associated with the Project has been undertaken in the EIA and the findings are presented in Chapter 6 of the ES (Document Reference 6.1). A Statement of Engagement of Section 79(1) of the Environmental Protection Act 1990 (Document Reference 5.5) has also been prepared – fulfilling regulation 5(2)(f) of the AFFP Regulations – to assess the condition of the site, potential air quality impacts, noise levels, artificial lighting and health effects generated by the Project.
- 6.2.137 Chapter 6 of the ES (Document Reference 6.1) states that the construction and decommissioning activity inevitably leads to some degree of noise disturbance at locations in close proximity to these activities. Noise at the Project Site during construction and decommissioning could arise from e.g. excavation for foundations, delivery of plant, and excavation of the trenches to lay the Gas Connection and Electrical Connection. This will however be a temporary source of noise. Based on a conservative, worst case assessment, where numerous large plant items are operating simultaneously across the Project Site, the significance of the overall effect of construction and decommissioning noise from the Project is predicted to be slight adverse and



therefore not significant following the implementation of embedded mitigation. Further, Chapter 6 of the ES (Document Reference 6.1) states that, during operation, noise could occur from the rotating components of the Generating Equipment and there may be limited noise from the Access Road, although the likely impact of this on human health will not be significant when compared to the existing traffic noise. There will also be small amounts of noise generated by the AGI, however this noise is rarely perceptible except when in very close proximity to the AGI.

- 6.2.138 Paragraph 5.11.12 of NPS EN-1 states that mitigation measures relating to noise and vibration may include engineering, layout design, or administrative measures (paragraph 5.11.12).
- 6.2.139 In respect of paragraph 5.11.12 of NPS EN-1, embedded mitigation measures in respect of noise and vibration, as set out in Chapter 3 of the ES (Document Reference 6.1) include: an appropriately placed acoustic screen, implementation of a CEMP, and inherent best practice design incorporating acoustic enclosures.

#### Socio-economic

- 6.2.140 Paragraph 5.12.1 of NPS EN-1 states that '[t]he construction, operation and decommissioning of energy infrastructure may have socio-economic impacts at local and regional levels', and therefore an assessment should be undertaken of 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, effects on tourism, the impact of a changing influx of workers during different phases of the project, and cumulative effects.
- 6.2.141 In accordance with the paragraph 5.12.1 of NPS EN-1, a socio-economic assessment has been undertaken as part of the EIA and is set out within Chapter 14 of the ES (Document Reference 6.1). The socio-economic assessment identifies the likely significance of effects on the local, regional and national economy from the construction, operation and decommissioning of the Power Generation Plant, Gas Connection and Electrical Connection. The assessment shows that the project will deliver positive socio-economic impacts through: employment creation; supply chain linkages for goods and services; and workers spending in the local economy, when assessed for the Project as a whole (see Chapter 14 of the ES (Document Reference 6.1)).
- 6.2.142 Paragraph 5.12.9 of NPS EN-1 states that mitigation measures relating to socio-economic measures could include improvements to the visual and environmental experience for visitors and the local community through high quality design.
- 6.2.143 Chapter 14 of the ES (Document Reference 6.1) states that there are not anticipated to be any significant impacts on tourism and community infrastructure as a result of the Project. However, as set out in the Design and Access Statement (Document Reference 10.2), MPL has sought to adopt good design principles as part of the Project.

## Traffic and transport

- 6.2.144 Paragraph 5.13.1 of NPS EN-1 notes that ‘The transport of materials, goods and personnel to and from a development during all project phases can have a variety of impacts on the surrounding transport infrastructure and potentially on connecting transport networks.’ Paragraph 5.13.3 of NPS EN-1 states that the applicant should therefore undertake a transport assessment and consult with the Highways Agency (Highways England) and Highways Authority regarding appropriate mitigation.
- 6.2.145 In accordance with paragraph 5.13.1 and paragraph 5.13.3 of NPS EN-1, an assessment of the likely significant transport-related effects arising from the construction, operation and decommissioning of the Project has been undertaken and is recorded within Chapter 12 of the ES (Document Reference 6.1). MPL has consulted the Highways Agency and Highways Authority as part of statutory consultation on the Project, as set out in the Consultation Report (Document Reference 5.1).
- 6.2.146 Chapter 12 of the ES (Document Reference 6.1) states that the effects of the Project on traffic and transport during construction are predicted to be neutral and therefore there are no likely significant effects, taking into account mitigation measures, the temporary nature of the construction phase, and the relatively few numbers of abnormal loads anticipated. Operational phase movements of the Project are below a level at which changes will be perceived and therefore normal operation of the Project is not anticipated to have any likely significant effects on the local road network.
- 6.2.147 The embedded mitigation measures, as proposed in Chapter 3 of the ES (Document Reference 6.1), state that a Construction Access Strategy will be developed to manage the construction phase movements. This will consist of a series of measures including:
- An Outline CEMP to reduce the transport impacts of the construction traffic servicing the Site, and the movements associated with construction waste;
  - a Route Management Plan to direct HGVs away from the sensitive local transport network;
  - a traffic management scheme at the Green Lane / Proposed Site Access to control queuing and to ensure no blocking of the railway develops;
  - the Construction Vehicle Parking Strategy to control the vehicle generation and minimise impact on the surrounding area;
  - a footpath management plan to ensure any footpath route affected by the works are protected, and that the pedestrians may use them safely; and

- an Abnormal Load Delivery strategy to manage the delivery to site of the major items of plant and apparatus that are indivisible.

6.2.148 During the operation phase, as set out in Chapter 14 of the ES (Document Reference 6.1), mitigation comprises a Travel Plan that has been created specifically targeting employees to decrease the number of vehicles accessing the Project. This is contained in Appendix 12.2 of the ES (Document Reference 6.1). A range of non-car Initiatives will be implemented to encourage the use of alternative modes of travel to the private car.

6.2.149 As explained in Chapter 14 of the ES (Document Reference 6.1), the construction, decommissioning and operation of the Project could occur simultaneously with other projects in the vicinity of the Project Site; however, most of the proposed developments are greater than 5km from the Project Site and outside of the study area for this topic within which potentially significant effects could occur. The only projects which are considered relevant to the cumulative effects assessment for traffic and transport are the proposed Integrated Waste Management Facilities proposed at Rookery South Pit and the Rookery South RRF Project at Rookery South Pit. The proposed Integrated Waste Management Facilities development is at an early stage and should it go ahead, it will have to consider the Project to ensure that no significant cumulative impacts will arise between it and the Project. The ES for the Rookery South RRF Project concluded that there were no likely significant effects arising from construction, operation or decommissioning of the project on traffic and transport. It is considered, as set out in Chapter 14 of the ES (Document Reference 6.1) that, based on professional judgement, with the implementation of mitigation described in the ES (Document Reference 6.1) along with mitigation in the Rookery South RRF Project, no likely significant effects will occur.

#### Waste management

6.2.150 Paragraph 5.14.1 of NPS EN-1 outlines that government policy on hazardous and non-hazardous waste is intended to 'protect human health and the environment by producing less waste and by using it as a resource wherever possible.' Paragraph 5.14.6 of NPS EN-1 states that the applicant should set out the arrangements proposed for managing waste and include information on the proposed waste recovery and disposal system.

6.2.151 In accordance with paragraphs 5.14.1 and 5.14.6 of NPS EN-1, and as set out in Chapter 15 of the ES (Document Reference 6.1), MPL will produce a CEMP and seek to apply the waste hierarchy – consisting of (in order of preference): prevention; re-use; recycling; other recovery (e.g. energy recovery); and disposal – during all phases of the Project as part of their waste prevention and management policy. Measures will include, amongst others, the stockpiling of excavated spoil and testing for Waste Acceptance Criteria, to determine whether it can be re-used on- or off-site, and the testing and removal, as appropriate, of any water from de-watering activities which will be handled by a suitably licensed waste contractor (see Chapter 15 of the ES (Document Reference 6.1)).

- 6.2.152 Further, as set out in Chapter 15 of the ES (Document Reference 6.1), the CEMP will ensure that all construction waste will be dealt with in a manner that complies with relevant legislation and (upon leaving the Project Site) waste will be treated and disposed of by suitably licensed contractors. Where hazardous waste is transported from the Project Site, it will be handled in accordance with relevant regulations, and, where necessary, be transported in sealed tankers.
- 6.2.153 During operation a feature of the Gas Turbine Generator technology to be incorporated in the Project is that waste generated should be minimal and will be restricted to the following (see Chapter 15 of the ES (Document Reference 6.1)):
- General office wastes;
  - Used air intake filters (typically replaced annually);
  - Used ion exchange resins or used membranes (typically replaced every 5 to 10 years);
  - Separated oil / sludge from oil / water separators; and
  - Used oil, chemicals or chemical containers.
- 6.2.154 Based on the above, Chapter 15 of the ES (Document Reference 6.1) concludes that that the Project will result in no likely significant effects with respect to waste.

#### Water quality and resources

- 6.2.155 Paragraph 5.15.1 of NPS EN-1 advises that infrastructure development can have adverse effects during the construction, operation and decommissioning phases on the water environment, including groundwater, inland surface water, transitional waters and coastal waters. Accordingly, paragraph 5.15.2 of NPS EN-1 states that the applicant should undertake an assessment of 'the existing status of, and impacts of the proposed project on, water quality, water resources and physical characteristics of the water environment as part of the ES'.
- 6.2.156 In accordance with paragraph 5.15.1 of NPS EN-1, an assessment of the likely effects on water quality and resources associated with the proposed development has been undertaken in the EIA and the findings are presented in Chapter 9 of the ES (Document Reference 6.1).
- 6.2.157 As set out in Chapter 9 of the ES (Document Reference 6.1), the main potential impacts that may result from construction and decommissioning of the Project are contaminated material entering a surface water body or for the Generating Equipment Site to become inundated with flood water. However, there are not anticipated to be any effects on the water bodies identified as best practice working methods and mitigation will be employed. These mitigation measures include having appropriate spill response plans

in place, the refuelling of vehicles away from watercourses and the siting of stockpiles and materials away from watercourses and will all be contained within the CEMP. In order to minimise adverse effects best practice would be employed during construction of the Gas Connection to protect the water environment, in accordance with guidelines published by the Environment Agency and Internal Drainage Board. It is predicted that following the implementation of embedded mitigation and best practice construction methods referred to above, any effects on water quality and resources will be negligible (see Chapter 9 of the ES (Document Reference 6.1)).

- 6.2.158 During operation, as set out in Chapter 9 of the ES (Document Reference 6.1), the Power Generation Plant Site would be equipped with a surface water drainage system (which would tie into the drainage system developed as part of the LLRS and a sewerage system which would feed to a septic tank, with waste tankered off site. The surface water drainage system would remove any potentially polluted runoff through the use of oil interceptors and silt traps, prior to discharge into an attenuation pond created as part of the LLRS. The Project will lead to an increase in the amount of runoff from within the Power Generation Plant Site boundary due to the increase in hardstanding. However, part of the LLRS works to Rookery Pit mean that any excess surface water (e.g. from a large storm event) will be effectively managed through the construction of a new surface water drainage system, which will discharge to an attenuation pond, therefore posing no risk to the Project Site from flooding. In this regard, Chapter 9 of the ES (Document Reference 6.1) predicts that there will be no likely significant effects on water quality and resources during operation of the Project.
- 6.2.159 Paragraph 5.15.9 of NPS EN-1 states that "the risk of impacts on the water environment can be reduced through careful design to facilitate adherence to good pollution control practice". Further, Paragraph 5.15.10 of NPS EN-1 states that "the impact on local water resources can be minimised through planning and design for the efficient use of water, including water and recycling".
- 6.2.160 In accordance with paragraphs 5.15.9 and 5.15.10 of NPS EN-1, the design of the Power Generation Plant, Electrical Connection and Gas Connection has been subject to detailed consideration and assessment in order to minimise the impact on water quality and resources, as explained in the Design and Access Statement (Document Reference 10.2) and as considered in Chapter 9 of the ES (Document Reference 6.1).
- 6.2.161 Chapter 3 of the ES (Document Reference 6.1) sets out that, during construction, a series of embedded design mitigation measures will be implemented in respect of water resources. The CEMP will include best practice working methods, including: siting stockpiles away from watercourses; refuelling on areas of hardstanding only away from watercourses and surface drains; and installing construction site drainage. In addition, all oil and chemical storage tanks and areas where drums are stored will be surrounded by an impermeable bund and located away from watercourses. Any surface water contaminated by hydrocarbons will be passed through oil/grit interceptors prior to discharge.

6.2.162 During operation, as set out in Chapter 3 of the ES (Document Reference 6.1), the EA will set limits on the quality of water that is discharged from the Project Site under the Environmental Permit. Any surface water contaminated by hydrocarbons will be passed through oil/grit interceptors prior to discharge. Operational site drainage will be appropriately designed to meet the needs of the Project. Following the implementation of embedded mitigation measures (set out within Chapter 3 of the ES (Document Reference 6.1), it is concluded in Chapter 9 of the ES (Document Reference 6.1) that impacts associated with the construction, operation and decommissioning phases are not significant.

## **National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (EN-2)**

### Introduction

6.2.163 Paragraph 1.1.1 of NPS EN-2 states “Fossil fuel generating stations play a vital role in providing reliable electricity supplies and a secure and diverse energy mix as the UK makes the transition to a low carbon economy...” MPL acknowledges the ‘vital role’ of fossil fuel generating stations identified in paragraph 1.1.1 of NPS EN-2, as discussed further in section 4 of this Planning Statement. The Project will contribute materially towards the need for a diverse energy mix and the transition to a low carbon economy as required by NPS EN-2.

6.2.164 Paragraph 1.2.1 of NPS EN-2 states that, NPS EN-2, together with NPS EN-1, provides the primary basis for decisions by the SoS on applications for nationally significant fossil fuel electricity generating stations. Accordingly, the Project has had regard to the provisions of NPS EN-2, as set out below.

### Factors influencing site selection by developers

6.2.165 Part 2 of NPS EN-2 provides additional guidance to Part 4 and Part 5 of EN-1 regarding the assessment of impacts specifically associated with fossil fuel generating stations. Paragraph 2.2.1 of NPS EN-2, “it is for energy companies to decide which applications to bring forward and the government does not seek to direct applicants to particular sites for fossil fuel generating stations.” Paragraph 2.2.2 of NPS EN-2 notes that “Fossil fuel generating stations have large land footprints and will therefore only be possible where the applicant is able to acquire a suitably-sized site”. It also notes that “Applicants should locate new fossil fuel generating stations in the vicinity of existing transport routes wherever possible.”

6.2.166 In respect of paragraphs 2.2.1 and 2.2.2 of NPS EN-2, in deciding upon the location of the Project Site, WPL undertook a detailed feasibility assessment<sup>1</sup> having regard to a number of technical, environmental, and economic factors, as explained in Chapter 5 of the ES (Document Reference 6.1). As part of the detailed feasibility assessment, WPL looked at a range of sites around the UK to support power generation plants of this nature. This search for

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<sup>1</sup> WPL undertook a detailed feasibility assessment in 2010 prior to the formation of MPL

potential power generation plant sites across the UK was focused on areas that were capable of meeting the Applicant's strategic project development criteria:

- Acceptable proximity to the national gas transmission system & the national electricity transmission system or local distribution networks;
- Located within areas that are net importers of electricity; and
- Located within areas of compatible land use designation/s.

6.2.167 In terms of technical constraints, the size of the site (i.e. large enough to support a power generation plant of up to 299 MW and integral infrastructure) and the proximity of a site to appropriate gas and electrical connection points were both key considerations.

6.2.168 From an environmental perspective, the site must have due regard to close sensitive receptors such as residential properties or sites of ecological importance (to avoid unacceptable impacts from noise and visual disturbance), the current nature of the surrounding area (to limit impacts on the landscape character of the area), previous site uses and land quality (to avoid sterilisation of the best and most versatile agricultural land or mineral assets) and proximity to sensitive ecological habitats.

6.2.169 Based on these factors, the Project Site was considered suitable for the following reasons (see Chapter 5 of the ES (Document Reference 6.1)):

- Close proximity to the gas National Transmission System;
- Close proximity to a suitable electrical connection (400 kV overhead line) (see section 6.10 below);
- The Generating Equipment Site is within previously developed land, lying below ground level (which is of use in screening the development) (see section 6.26 below);
- It is within an area identified as being potentially suitable for energy infrastructure;
- It has a well-developed road network for access to the Generating Equipment Site (see section 6.28 below);
- The Project Site is outside of areas at risk of flooding (see section 6.24 below);
- There is adequate space to develop the Power Generation Plant and integral infrastructure; and
- The Project Site is located in an area of net electricity import, and therefore there is demand for this type of development.



### Government policy criteria for fossil fuel generating stations

- 6.2.170 Section 2.3 of NPS EN-2 states that government policy criteria for fossil fuel generation stations relating to – CHP, CCR, CCS, climate change adaptation, and ‘good design’ – must be met before consent is given.
- 6.2.171 In accordance with the requirements of section 2.3 of NPS EN-2, MPL has considered government policy criteria relating to CHP, CCR, CCS and climate change adaptation, as summarised below and explained throughout this Planning Statement and the ES (Document Reference 6.1).
- 6.2.172 In respect of CHP, and as explained in Chapter 5 of the ES (Document Reference 6.1) efficient CHP plants are usually designed to meet the known heat demands of a suitable process. This is in direct contrast to the operation of a OCGT peaking plant, which is designed to operate intermittently and unpredictably which is not suitable for CHP where the requirements are for a constant supply of heat. In addition, as OCGT plant do not have any associated HRSG / steam turbine plant, the provision of steam from an OCGT plant would not be possible without the provision of additional steam raising plant / equipment, which would require more equipment to be constructed and a larger overall land take. As such, it is considered, in Chapter 5 of the ES (Document Reference 6.1) that, following full exploration of possibilities for CHP in accordance with paragraph 4.6.6 of NPS EN-1, there are prohibitive barriers to the application of CHP at the Project Site and therefore CHP is not included within the Project.
- 6.2.173 In respect of CCR, the Project would not meet or exceed the threshold of 300MW and so is therefore not required to demonstrate Carbon Capture Readiness on the basis of section 4.7 of NPS-EN1.
- 6.2.174 In respect of climate change adaptation, MPL has undertaken detailed assessment work to consider the potential impacts of climate change for the Project, in accordance with NPS EN-1 and NPS EN-2. A number of Project alternatives have been assessed by MPL, taking into account a range of environmental factors, as set out with Chapter 5 of the ES (Document Reference 6.1). The ES (Document Reference 6.1) contains a number of technical Chapters (including Chapters relating to air quality, ecology, water quality and resources, and geology and ground conditions), which include consideration of the potential impacts of climate change and set out appropriate mitigation measures where necessary. In addition, a FRA (Document Reference 5.4) has also been prepared to consider the potential impact of flooding on the Project.
- 6.2.175 Section 2.3.13 of NPS EN-2 sets out considerations specifically for fossil fuel generating stations in respect of climate change. Section 2.13.2 of NPS EN-2 suggests that as fossil fuel generating stations are likely to be proposed for coastal or estuarine sites, applicants should set out how the proposal would be resilient to: coastal changes and increased risk from storm surge; effects of higher temperatures, including higher temperatures of cooling water; and increased risk of drought leading to a lack of available cooling water.

- 6.2.176 In respect of section 2.13.3 of NPS EN-2, the Project is not located in a coastal region or in close proximity to any tidal rivers and therefore consideration of coastal changes, higher temperatures and drought is not required in accordance with NPS EN-2. Similarly, the Project does not require a supply of cooling water other than that in the proposed tank on site due to the proposed OCGT technology.
- 6.2.177 Paragraph 2.3.16 of NPS EN-2 states that, “Applicants should demonstrate good design particularly in respect of landscape and visual amenity ...and in the design of the project to mitigate impacts such as noise and vibration, transport impacts and air emissions.”
- 6.2.178 In accordance with paragraph 2.3.16 of NPS EN-2, MPL has sought to adopt good design principles as part of the Project and in respect of landscape and visual amenity as explained within the Design and Access Statement (Document Reference 10.2). The form, scale, massing and landscaping has been designed so that the Power Generation Plant blends in with its surroundings minimising visual intrusion from key viewpoints, this includes a reduction in the amount of stacks proposed as part of the Project.
- 6.2.179 An assessment of likely impacts of the Project in respect of noise and vibration, transport impacts and air emissions has been undertaken as part of the EIA and the findings, including appropriate mitigation measures, are presented in Chapters 6, 7 and 12 of the ES (Document Reference 6.1).

#### Impacts of fossil fuel generating stations

- 6.2.180 Section 2.4 of NPS EN-2 contains additional policy for assessing the potential impacts of energy infrastructure projects for fossil fuel generating stations, relating to: air emissions; landscape and visual; release of dust by coal-fired generating stations; residue management for coal-fired generating stations; and water quality and resources.
- 6.2.181 In accordance with the provisions of section 2.4 of NPS EN-2, an assessment of the likely impacts of the Project in respect of air quality, emissions, landscape and visual impacts, and water quality and resources has been undertaken as part of the EIA and the findings, including appropriate mitigation measures, are presented in Chapters 6, 9, 11 and 15 of the ES (Document Reference 6.1).

#### Air quality and emissions

- 6.2.182 Paragraph 2.5.2 of NPS EN-2 acknowledges that CO<sub>2</sub> emissions are a significant adverse impact of fossil fuel generating stations. As such, paragraph 2.5.5 of EN-2 states that an assessment should be carried out at the initial stages of developing proposals, and Paragraph 2.5.8 of EN-2 states that the SoS and EA should be satisfied that the potential adverse impacts of mitigation measures are assessed.
- 6.2.183 In accordance with paragraphs 2.5.5 of NPS EN-2, an assessment of the likely impacts, in respect of air quality and emissions, has been undertaken

in the EIA and findings are presented in Chapter 6 of the ES (Document Reference 6.1). The assessment included consideration of the closest residential dwelling to the Power Generation Plant Site at South Pillinge Farm, located approximately 130 m to the west of the Project Site.

- 6.2.184 Chapter 6 of the ES (Document Reference 6.1) states that during the construction / decommissioning phase of the Power Generation Plant, the main potential air quality effects are dust deposition and therefore elevated PM10 concentrations. During the construction / decommissioning of the Gas Connection and Electrical Connection, the risk of dust emissions is considered to be low (see Chapter 6 of the ES (Document Reference 6.1)).
- 6.2.185 In order to limit dust during construction, embedded design mitigation measures would be incorporated, as set out within Chapter 3 of the ES (Document Reference 6.1). These best practice measures, to be produced and implemented as part of the CEMP, would include wheel washing, damping down of stockpiles during dry and windy conditions, and sheeting materials to prevent dust migration.
- 6.2.186 During the operational phase of the Power Generation Plant, there will be an insignificant effect in terms of: maximum predicted ground level concentrations; predicted annual mean oxides of nitrogen concentrations; predicted nitrogen deposition rates; and road traffic. All acid deposition impacts are insignificant except for Rookery Clay Pit CWS (see Chapter 6 of the ES (Document Reference 6.1)).
- 6.2.187 Emissions to air during the operational phase of the Gas Connection will potentially include infrequent emissions of natural gas; however these are expected to be minimal and limited to infrequent venting of gas from the AGI under abnormal, maintenance or emergency conditions. There is a very limited scope for potential impacts on air quality relating to the operation of the Electrical Connection with only minor infrequent emissions associated with road vehicles used for maintenance of the connection. The Project has been designed from the outset to comply with legislative limits for the emissions of pollutants, particularly NO<sub>x</sub> (see Chapter 6 of the ES (Document Reference 6.1)).

#### Landscape and visual

- 6.2.188 Paragraph 2.6.2 of NPS EN-2 advises that the main structures of a fossil fuel generating station – including the turbine and boiler halls, exhaust gas stack, storage facilities, cooling towers, and water processing plant – are large and likely to have an impact on the surrounding landscape and visual amenity. A landscape and visual impact assessment should therefore be included as part of the ES, and consideration should be given to the design of the plant, the materials to be used, and the visual impact of the stack (paragraphs 2.6.3 and 2.6.4 of NPS EN-2).
- 6.2.189 In accordance with paragraph 2.6.2 of NPS EN-2, an assessment of the likely landscape and visual impact associated with the proposed development has

been undertaken in the EIA and the findings are presented in Chapter 11 of the ES (Document Number 6.1).

- 6.2.190 Chapter 11 of the ES (Document Reference 6.1) states that the main works associated with the construction / decommissioning phases of the Power Generation Plant would be excavation and site levelling for new foundations and, potential piling (if required) and craning the Gas Turbine Generator units into position. Construction of the Gas Connection (particularly the AGI) and the Electrical Connection would have similar impacts, although they would be of a more limited extent. It is considered that adverse temporary landscape and visual effects have the potential to arise, however, the construction phase is of a limited duration (22 months) and the potential impacts will not all occur simultaneously (as stated in Chapter 11 of the ES (Document Reference 6.1)).
- 6.2.191 During the operation of the Power Generation Plant, Chapter 11 of the ES (Document Reference 6.1) states that significant effects are likely, due to the Generating Equipment and up to 35m high stack. The stack is likely to be visible from certain locations in and around the Project Site (i.e. from the south and south-east of the Project Site). However, the majority of views of the Power Generation Plant Site will be seen in the context of the existing wind turbine at the Millennium Country Park, and surrounding structures. In addition, the Project Site is approximately 15m below ground level, effectively ensuring that the stack is only part visible above ground level. The Power Generation Plant is also very well screened by intermediate hedges and belts of woodland.
- 6.2.192 As set out in Chapter 11 of the ES (Document Reference 6.1), during operation the majority of the Gas Connection (the pipeline) will be buried underground, and the typical design of the AGI would incorporate screen planting on all sides. Given the significant distance of the AGI from residential properties, there are not considered to be any impacts arising from visual amenity as a result of operation of the Gas Connection.
- 6.2.193 As set out in Chapter 11 of the ES (Document Reference 6.1), the Electrical Connection will be buried underground during operation and therefore there will not be any significant adverse effects on landscape or visual amenity. Whilst the undergrounding of the Electrical Connection would require one new tower, this would replace an existing tower and would be located in the existing Grendon – Sundon transmission route corridor, thereby resulting in no net additional towers and therefore no additional landscape and visual impacts.
- 6.2.194 Paragraph 2.6.5 of EN-2 states that mitigation is to minimise impact on visual amenity as far as reasonably practicable; however, paragraph 2.6.10 of NPS EN-2 states that the visibility of a fossil fuel generating station should be given limited weight if the SoS is satisfied that the location is appropriate for the project and that it has been designed sensitively.
- 6.2.195 As explained in the Design and Access Statement (Document Reference 10.2) and Chapter 11 of the ES (Document Reference 6.1), the Project has

been designed sensitively by virtue of its appropriate siting within Rookery South Pit (which is approximately 15 m below ground level), and by surrounding vegetation, thereby limiting the landscape and visual impact to views from the south and south east of the Project Site, along higher ground.

- 6.2.196 The construction period is of a limited duration (approximately 22 months), and therefore significant mitigation to limit landscape and visual impacts during this phase is not anticipated (see Chapter 11 of the ES (Document Reference 6.1)). However, a number of measures will be applied through a CEMP (secured by way of a requirement in Schedule 2 to the DCO (Document Reference 3.1)), including: limiting land/vegetation clearance; best practice temporary protection of vegetation; temporary storage of soils; appropriate layout of construction areas; restricting construction site lighting; maintenance of compounds; erection of hoardings; removal of temporary structures when appropriate; reinstatement of agricultural land; replacement of trees and hedgerows; and screening of the AGI.
- 6.2.197 During operation, as set out in Chapter 11 of the ES (Document Reference 6.1), embedded good design mitigation measures and additional planting in some areas across the Project Site will be incorporated in order to blend the Power Generation Plant into the landscape as much as possible.

#### Noise and vibration

- 6.2.198 Paragraph 2.7.1 of NPS EN-2 advises that the sources of noise and vibration from fossil fuel generating stations may include the gas and steam turbines and external noise sources such as externally-sited air-cooled condensers. Paragraph 2.7.2 of EN-2 states that the ES should include a noise assessment.
- 6.2.199 In accordance with paragraph 2.7.1 of NPS EN-2, an assessment of the likely noise and vibration impacts associated with the Project has been undertaken in the EIA and the findings are presented in Chapter 7 of the ES (Document Reference 6.1).
- 6.2.200 Chapter 7 of the ES (Document Reference 6.1) states that construction and decommissioning activity inevitably leads to some degree of noise disturbance at locations in close proximity to these activities. Noise at the Project Site during construction and decommissioning could arise from e.g. excavation for foundations, delivery of plant, and excavation of the trenches to lay the Gas Connection and Electrical Connection. This will however be a temporary source of noise. Based on a conservative, worst case assessment, where numerous large plant items are operating simultaneously across the Project Site, Chapter 7 of the ES (Document Reference 6.1) states that the significance of the overall effect of construction and decommissioning noise from the Project is predicted to be slight adverse and therefore not significant following the implementation of embedded mitigation. During operation, noise could occur from the rotating components of the Generating Equipment and there may be limited noise from the Access Road, although the likely impact of this on human health will not be significant when compared to the existing traffic noise. There will also be small amounts of noise generated by

the AGI, however this noise is rarely perceptible except when in very close proximity to the AGI (see Chapter 7 of the ES (Document Reference 6.1)).

- 6.2.201 Paragraph 2.7.5 of EN-2 states that mitigation should be achieved through 'good design', including enclosure of plant and machinery in noise-reducing buildings where possible.
- 6.2.202 In accordance with paragraph 2.7.5 of NPS EN-2, the design of the Power Generation Plant, Electrical Connection and Gas Connection has been subject to detailed consideration and assessment in order to minimise the noise and vibration impact, as set out further within the Design and Access Statement (Document Reference 10.2). Embedded mitigation measures in respect of noise and vibration, as set out at Chapter 3 of the ES (Document Reference 6.1) include: an appropriately placed acoustic screen, implementation of a CEMP, and inherent best practice design incorporating acoustic enclosures. All construction activities relating to the Power Generation Plant, Gas Connection and Electrical Connection would be carried out in accordance with the recommendations of BS 5228, along with embedded mitigation measures. The CEMP would incorporate best practice working methods.

#### Water quality and resources

- 6.2.203 Paragraph 2.10.1 of NPS EN-2 advises that water cooling systems for fossil fuel generating stations may have additional impacts on water quality, abstraction and discharge. Where the project is likely to have an effect on water quality and resources, Paragraph 2.10.2 of EN-2 states that an assessment should be undertaken to 'demonstrate that appropriate measures will be put in place to avoid or minimise adverse impacts of abstraction and discharge of cooling water.'
- 6.2.204 In accordance with paragraph 2.10.2 of NPS EN-2 an assessment of the likely effects on water quality and resources associated with the proposed development has been undertaken in the EIA and the findings are presented in Chapter 9 of the ES (Document Reference 6.1).
- 6.2.205 As set out in Chapter 9 of the ES (Document Reference 6.1), the main potential impacts that may result from construction and decommissioning of the Project are contaminated material entering a surface water body or for the Generating Equipment Site to become inundated with flood water. However, there are not anticipated to be any effects on the water bodies identified as best practice working methods and mitigation will be employed.
- 6.2.206 These mitigation measures include having appropriate spill response plans in place, the refuelling of vehicles away from watercourses and the siting of stockpiles and materials away from watercourses and will all be contained within the CEMP. In order to minimise adverse effects best practice would be employed during construction of the Gas Connection to protect the water environment, in accordance with guidelines published by the Environment Agency and Internal Drainage Board. It is predicted that, as set out in Chapter 9 of the ES (Document Reference 6.1), that following the implementation of

embedded mitigation and best practice construction methods referred to above, any effects on water quality and resources will be negligible.

## **National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4)**

### Introduction

- 6.2.207 Paragraph 1.2.1 of NPS EN-4, together with NPS EN-1, provides the primary basis for decisions by the SoS on applications for gas supply infrastructure and gas and oil pipelines. Accordingly, the Project has had regard to the provisions of NPS EN-4, as set out below.
- 6.2.208 Part 2 of NPS EN-4 provides additional guidance to Part 4 and Part 5 of EN-1 regarding the assessment of impacts specific to gas supply infrastructure and oil and gas pipelines.

### Gas and Oil Pipelines Impacts

- 6.2.209 Sections 2.20 – 2.23 of NPS EN-4 set out additional policy for assessing the potential impacts of gas and oil pipelines, relating to: noise and vibration; biodiversity, landscape and visual; water quality and resources; and soil and geology.
- 6.2.210 In accordance with the provisions of sections 2.20 – 2.23 of NPS EN-4, an assessment of the likely impacts in respect of noise and vibration, biodiversity, landscape and visual impacts, water quality and resources, and ground conditions, has been undertaken as part of the EIA and the findings are presented in Chapters 7 – 11 of the ES (Document Reference 6.1).

### Gas and Oil Pipelines Impacts: Noise and Vibration

- 6.2.211 Paragraph 2.20.2 of NPS EN-4 states that there are specific noise and vibration impacts which apply to gas pipelines, including – ‘During the pre-construction phase there could be vibration effects from seismic surveys. During construction, tasks may include site clearance, soil movement, ground excavation, tunnelling, trenching, pipe laying and welding, and ground reinstatement. In addition, increased HGV traffic will be generated on local roads for the movement of materials.’ Paragraph 2.20.5 of NPS EN-4 states that the ES should include an assessment of all of the above noise and vibration effects during the pre-construction and construction phases.
- 6.2.212 In accordance with paragraph 2.20.5 of NPS EN-1, an assessment of the likely impacts of the Project in respect of noise and vibration, during construction, operation and decommissioning, has been undertaken as part of the EIA and the findings are presented in the ES (Document Reference 6.1). In respect of paragraph 2.20.2 of NPS EN-4, Chapter 7 of the ES (Document Reference 6.1) states that noise at the Project Site during construction could arise from excavation of the trenches to lay the Gas Connection. This will however be a temporary source of noise. Based on a conservative, worst case assessment, where numerous large plant items are operating simultaneously across the Project Site, the significance of the

overall effect of construction noise from the Project is predicted to be slight adverse for the Gas Connection and therefore not significant (see Chapter 7 of the ES (Document Reference 6.1)).

#### Gas and Oil Pipelines Impacts: Biodiversity, Landscape and Visual

- 6.2.213 Paragraph 2.21.1 of NPS EN-4 states that the construction of a pipeline can impact upon ‘specific landscape elements within and adjacent to the pipeline route, such as grasslands, field boundaries (hedgerows, hedgebanks, drystone walls, fences), trees, woodlands, and watercourses.’ Accordingly, the ES should include an assessment of the biodiversity and landscape and visual effects of the proposed route and of the main alternative routes considered’ (paragraph 2.21.3 of NPS EN-4). Where it is not possible to restore the landscape to its original state, paragraph 2.21.3 of EN-4 also states that ‘the applicant should set out measures to avoid, mitigate, or employ other landscape measures to compensate for, any adverse effect on the landscape.’
- 6.2.214 In accordance with the provisions of paragraph 2.21.3 of NPS EN-4, an assessment of the likely landscape and visual impacts and biodiversity impacts has been undertaken as part of the EIA and the findings are presented in Chapters 11 and 8 of the ES (Document Reference 6.1).
- 6.2.215 Chapter 11 of the ES (Document Reference 6.1) states that the main potential sources of landscape and visual impact during construction of the Project are: earthworks, site clearance works, removal of vegetation (in the case of the Gas Connection and Electrical Connection), presence of construction traffic, construction of the Electrical Connection temporary diversion and presence of construction site lighting. During operation, effects on landscape and visual amenity will result from the introduction of permanent structures, particularly the stack of the Generating Equipment which will be the tallest structure on the Project Site.
- 6.2.216 However, it is noted in Chapter 11 of the ES (Document Reference 6.1) that, given the limited construction period (22 months) and the relatively modest construction operations, the construction effects are considered to be not significant from the majority of locations. Furthermore, during operation the Project will be largely screened from views by the fact that a large proportion is sited within the Rookery South Pit (meaning that only 17.5-20 m of the stack will be visible above the edge of the pit). The Project will also be viewed in the context of other industrial development such as large towers of the former London Brick Works, the existing Sundon to Grendon overhead line and towers and the wind turbine at the Millennium Country Park. Views of the stack will be clearly visible in some views from the south and south east, particularly along the Greensands Ridge and from footpath 14 (see Chapter 11 of the ES (Document Reference 6.1)).
- 6.2.217 Further, as set out within the Outline Landscaping Plans (Document Reference 2.9), the design of landscape planting will enhance the area’s biodiversity through the retention of existing woodland; the planting of belts of trees to increase the amount of woodland in the area; the reinstatement of



planting where possible and appropriate; and careful management of soils during construction works to facilitate plant growth, to be implemented as part of the CEMP.

- 6.2.218 In respect of biodiversity, and in accordance with paragraph 2.21.3 of NPS EN-4, an assessment of the likely effects of the Project on site of ecological importance, protected species and habitats has been undertaken as part of the EIA and the findings are contained within Chapter 8 of the ES (Document Reference 6.1). The ES (Document Reference 6.1) states that no likely significant effects are anticipated on ecological receptors as a result of the construction, operation or decommissioning of the Project.

#### Gas and Oil Pipelines Impacts: Water Quality and Resources

- 6.2.219 Paragraph 2.22.2 of NPS EN-4 advises that 'constructing pipelines creates corridors of surface clearance and excavation that can potentially affect watercourses, aquifers, water abstraction and discharge points, areas prone to flooding and ecological receptors. As such, an assessment should be provided in the ES where the project is likely to have effects on water resources or water quality, for example through impacts on: 'groundwater recharge or on existing surface water or ground abstraction points; associated ecological receptors', or through: 'siltation or spillages, discharges from maintenance activities or the discharge of disposals such as wastewater or solvents' (NPS EN-4 paragraphs 2.22.3 and 2.22.4).
- 6.2.220 In accordance with paragraph 2.22.2 of NPS EN-4, an assessment of the likely impacts of the Project in respect of water quality and resources has been undertaken in the EIA and the findings are presented in Chapter 9 of the ES (Document Reference 6.1).
- 6.2.221 As set out in Chapter 9 of the ES (Document Reference 6.1), the main potential impacts that may result from construction and decommissioning of the Project are contaminated material entering a surface water body or for the Generating Equipment Site to become inundated with flood water. However, there are not anticipated to be any effects on the water bodies identified as best practice working methods and mitigation will be employed. These mitigation measures include having appropriate spill response plans in place, the refuelling of vehicles away from watercourses and the siting of stockpiles and materials away from watercourses and will all be contained within the CEMP. In order to minimise adverse effects best practice would be employed during construction of the Gas Connection to protect the water environment, in accordance with guidelines published by the Environment Agency and Internal Drainage Board. It is predicted that following the implementation of embedded mitigation and best practice construction methods referred to above, any effects on water quality and resources will be negligible (see Chapter 9 of the ES (Document Reference 6.1)).
- 6.2.222 During operation, as set out in Chapter 9 of the ES (Document Reference 6.1), the Power Generation Plant Site would be equipped with a surface water drainage system (which would tie into the drainage system developed as part of the LLRS and a sewerage system which would feed to a septic tank, with

waste tankered off site. The surface water drainage system would remove any potentially polluted runoff through the use of oil interceptors and silt traps, prior to discharge into an attenuation pond created as part of the LLRS. The Project will lead to an increase in the amount of runoff from within the Power Generation Plant Site boundary due to the increase in hardstanding. However, part of the LLRS works to Rookery Pit mean that any excess surface water (e.g. from a large storm event) will be effectively managed through the construction of a new surface water drainage system, which will discharge to an attenuation pond, therefore posing no risk to the Project Site from flooding. In this regard, Chapter 9 of the ES (Document Reference 6.1) predicts that there will be no likely significant effects on water quality and resources during operation of the Project.

#### Gas and Oil Pipelines Impacts: Soil and Geology

- 6.2.223 Paragraph 2.23.1 of NPS EN-4 states that ‘it will be important for applicants to understand the soil types and the nature of the underlying strata.’ Accordingly, applicants should consult with the relevant statutory consultees at an early stage regarding the potential impact of gas pipelines on soil and geology (paragraph 2.23.4). Paragraph 2.23.2 states that applicants should assess the stability of the ground conditions associated with the pipeline route, including considering the options for installing the pipeline.
- 6.2.224 MPL has consulted relevant statutory consultees regarding the potential impact of the Project on ground conditions from an early stage as recorded in the Consultation Report (Document Reference 5.1.0) in accordance with paragraph 2.23.1 of NPS EN-4. An assessment of the potential impact of the Project on ground conditions has been undertaken as part of the EIA and is set out in Chapter 10 of the ES (Document Reference 6.1) in accordance with paragraph 2.23.2 of NPS EN-4.

#### **National Policy Statement for Electricity Networks Infrastructure (EN-5)**

##### Introduction

- 6.2.225 NPS EN-5, together with NPS EN-1, provides the primary basis for decisions by the SoS on applications for electricity networks infrastructure NSIPs (NPS EN-5 Paragraph 1.2.1) such as overhead lines, and associated development of electrical networks infrastructure (such as substations) for other NSIPs. The Project considered an overhead line as an alternative for the Electrical Connection, and includes an electrical substation. Accordingly, the Project has had regard to the provisions of NPS EN-5 as they relate to substations and the consideration of alternative Electrical Connections, as set out below.
- 6.2.226 Part 2 of NPS EN-5 provides additional guidance to Part 4 and Part 5 of EN-1 regarding the assessment of impacts specific to electricity networks infrastructure.

### Climate change adaptation

- 6.2.227 In respect of climate change adaptation, paragraph 2.4.1 of NPS EN-5 states that applicants should set out the extent to which the proposed development would be vulnerable and how it would be resilient to: flooding; the effects of wind and storms; higher average temperatures; and earth movement or subsidence.
- 6.2.228 In accordance with paragraph 2.4.1 of NPS EN-5, MPL has undertaken detailed assessment work to consider the potential impacts of climate change for the Project. A number of Project alternatives have been assessed by MPL, taking into account a range of environmental factors, as set out with Chapter 5 of the ES (Document Reference 6.1). The ES (Document Reference 6.1) contains a number of technical Chapters (including Chapters relating to air quality, ecology, water quality and resources, and geology and ground conditions), which include consideration of the potential impacts of climate change and set out appropriate mitigation measures where necessary. In addition, a FRA (Document Reference 5.4) has also been prepared to consider the potential impact of flooding on the Project. The Project is not located in a coastal region or in close proximity to any tidal rivers and therefore consideration of coastal changes, higher temperatures and drought is not required in accordance with NPS EN-2. Similarly, the Project does not require a supply of cooling water other than that in the proposed tank on site due to the proposed OCGT technology.

### Consideration of good design / Landscape and visual

- 6.2.229 Paragraph 2.5.2 of NPS EN-5 states that, 'proposals for electricity networks infrastructure should demonstrate good design in their approach to mitigating the potential adverse impacts which can be associated with overhead lines', particularly in respect of: biodiversity and geological conservation; landscape and visual; noise and vibration; and EMFs. Paragraphs 2.8.4 – 2.8.6 of NPS EN-5 state that applicants should follow guidance set out in the Holford Rules when considering the approach to the routeing of new overhead lines. NPS EN-5 paragraph 2.8.4 also states that applicants should offer 'constructive proposals for additional mitigation of the proposed overhead lines', and consider the 'potential costs and benefits of other feasible means of connection or reinforcement' where the proposed overhead line is likely to have a significant visual impact.
- 6.2.230 Paragraph 2.8.8 of NPS EN-5 acknowledges that, whilst the development of overhead lines will often be appropriate for meeting the need for new electricity lines of 132kV and above, there are cases where overhead lines are not appropriate. This paragraph adds, "Where there are serious concerns about the potential adverse landscape and visual effects of a proposed overhead line, the [SoS] will have to balance these against other relevant factors, including the need for the proposed infrastructure, the availability and cost of alternative sites and routes and methods of installation (including undergrounding)."

- 6.2.231 Paragraph 2.8.9 of NPS EN-5 notes, “The impacts and costs of both overhead and underground options vary considerably between individual projects (both in absolute and relative terms). Therefore, each project should be assessed individually on the basis of its specific circumstances and taking account of the fact that Government has not laid down any general rule about when an overhead line should be considered unacceptable.”
- 6.2.232 In respect of section 2.8 of NPS EN-5, MPL has undertaken detailed consideration of the proposed Electrical Connection having regard to the provisions of NPS EN-5 guidance. The Scoping Report for the Project described an Electrical Connection opportunity area to the south of the Generating Equipment Site, in which the Electrical Connection would be developed. Following publication of the Scoping Report, further studies were undertaken to refine the available options.
- 6.2.233 Based on these studies, it has been determined that the most suitable location for the substation is likely to be next to the Generating Equipment Site within Rookery South Pit. However, a number of options still existed on the best way to connect the substation to the existing NETS. These included the use of an overhead line connection requiring up to 6 additional pylons.
- 6.2.234 As set out within Chapter 5 of the ES (Document Reference 6.1) and the Consultation Report (Document Reference 5.1), statutory consultation generated a number of responses expressing concerns over the potential impacts of new pylons on the landscape and visual amenity, and in particular the potential for adverse effects on Ampthill Park. During its evaluation of responses, the Applicant recognised that consultees had expressed a strong preference for the development of an underground cable connection option.
- 6.2.235 These views were taken on board by MPL and a presumption in favour of developing a wholly or partially underground cable option was adopted by the project team. This was considered to represent more limited potential for significant adverse landscape and visual impacts than an overhead line option.
- 6.2.236 Following further consultation with National Grid regarding the preferred choice of Electrical Connection from the MPL site to the 400kV National Electricity Transmission line to the south, it was concluded that Electrical Connection option 2 is less suitable than option 1. As a result, Electrical Connection option 1, comprising a double circuit tee-in and two SECs which will be located on either side of the existing transmission line.

#### Electric and Magnetic Fields (EMFs)

- 6.2.237 Paragraph 2.10.1 of NPS EN-5 advises that ‘power frequency Electric and Magnetic Fields (EMFs) arise from generation, transmission, distribution and use of electricity and will occur around power lines and electric cables. Paragraph 2.10.15 of EN-5 states that in order to mitigate for EMFs, the applicant should consider: height, position, insulation and protection measures; optimal phasing of high voltage overhead power lines where possible and practicable; and any new Government advice.

6.2.238 In accordance with the provisions of paragraph 2.10.1 and 2.10.15 of NPS EN-5, MPL has had regard to the potential impacts of the Project in respect of EMF. A full EMF report has been prepared for the Project and is included as Appendix 15.1 to the ES (Document Reference 6.1) to consider the potential impacts of EMF generated from high voltage electrical equipment. The EMF report (Appendix 15.1 of the ES (Document Reference 6.1)) concludes that it is likely that the EMF field strength for the Project would be minimal given that the Electrical Connection would be an underground cable. Any above ground elements would have a similar EMF field strength to that which is already present associated with the existing 400 kV Sundon to Grendon overhead line.

### **6.3 Other Important and Relevant Matters**

6.3.1 Section 6.3 of this Planning Statement provides an assessment of the Project in regard to other matters which are considered to be both “important and relevant” (Section 104, PA 2008), which comprises the National Planning Policy Framework (NPPF), National Planning Policy Guidance (NPPG) and relevant local planning policy adopted or being prepared by Central Bedfordshire Council and Bedford Borough Council.

#### **Other National Planning Policy**

##### NPPF

6.3.2 The NPPF does not contain specific policies for NSIPs. Instead, Paragraph 3 of the NPPF states that NSIPs “are determined in accordance with the decision-making framework set out in the PA 2008 and relevant national policy statements for major infrastructure, as well as any other matters that are considered both important and relevant (which may include the National Planning Policy Framework).” The DCO Application is therefore to be determined primarily in accordance with NPS EN-1, NPS EN-2, NPS EN-4 and NPS EN-5.

6.3.3 However, the NPPF does contain some general planning guidance which may be considered to be “both important and relevant” (section 104, PA 2008) to the determination of the DCO Application.

6.3.4 Paragraph 14 of the NPPF sets out a ‘presumption in favour of sustainable development’, such that development that is sustainable is approved without delay. Sustainable development incorporates: an economic role, which includes identifying and coordinating the provision of infrastructure; a social role, which includes meeting the community’s needs; and an environmental role, which includes protecting and enhancing the environment and adapting to a low carbon economy (paragraph 7). Further, Paragraph 56 of the NPPF states that ‘good design is a key aspect of sustainable development’ and is ‘indivisible from good planning.’

6.3.5 As set out within the Design and Access Statement (Document Reference 10.2) and the ES (Document Reference 6.1), the Project has been designed in accordance with good design principles. The Project is considered to

constitute sustainable development, by virtue of its contribution to a low-carbon future and its contribution to the local and national economy, and should therefore be considered favourably in accordance with the provisions of paragraph 14 of the NPPF.

6.3.6 Paragraph 17 of the NPPF sets out 12 core planning principles, which include:

- Proactively driving and supporting economic development to deliver amongst other things the infrastructure that the country needs;
- Always seeking to secure high quality design;
- Taking account of the different roles and character of different areas;
- Supporting the transition to a low carbon future;
- Contributing to conserving and enhancing the natural environment; and
- Encouraging the effective use of land by reusing land that has been previously developed.

6.3.7 Paragraph 18 of the NPPF explains that the Government is committed to securing economic growth and to meeting the challenge of a low carbon future.

6.3.8 In accordance with paragraph 18 of the NPPF, the Project will support national economic growth and the drive towards a low-carbon future, as demonstrated in the ES (Document Reference 6.1) and this Planning Statement.

6.3.9 The Project will have slight positive effects on the socio-economic status of the area during construction through both employment creation and capital expenditure and worker spending in the local economy, as set out in Chapter 14 of the ES (Document Reference 6.1). It is anticipated that up to 122 construction workers would be required at the Project Site during peak periods at any one time. Project construction would support up to nine permanent full time equivalent construction jobs. Further, Chapter 14 of the ES (Document Reference 6.1) states that construction, decommissioning and operation of the Project could occur simultaneously with other projects in the vicinity of the Project Site.

6.3.10 Drax are seeking to develop flexible gas fired generation assets to support the UK Government's drive to a low carbon economy. The Project would contribute materially to the immediate and medium term need for flexible, reliable, peak load power generation and facilitate the transition to a low carbon economy.

- 6.3.11 Paragraph 66 of the NPPF states that proposals in which an applicant has worked closely with those directly affected by their views should be considered favourably.
- 6.3.12 In accordance with the provisions of paragraph 66 of the NPPF, and as set out within the Consultation Report (Document Reference 5.1) MPL has invested considerable time and resources during the pre-application phase of the Project in order to encourage meaningful involvement by the local community, those interested in the Project Site, Local Authorities and other prescribed consultees. Consequently, the Project has developed in a consultative and iterative manner, during successive stages of development.
- 6.3.13 Paragraph 93 of the NPPF acknowledges that planning plays a key role in supporting the delivery of low carbon energy and therefore achieving the economic, social and environmental dimensions of sustainable development. Paragraph 97 of the NPPF advises that, in order to increase the use and supply of low carbon energy, there should be a positive strategy to promoting energy from renewable and low carbon sources, whilst ensuring that adverse impacts are addressed satisfactorily.
- 6.3.14 The Project seeks to develop low carbon energy infrastructure and should therefore be considered positively in accordance with the provisions of paragraphs 93 and 97 of the NPPF. The likely adverse impacts of the Project have been assessed as part of the EIA and addressed with appropriate mitigation where necessary, as presented in the ES (Document Reference 6.1).
- 6.3.15 Paragraph 109 of the NPPF states that ‘the planning system should contribute to and enhance the natural and local environment’ by:
- protecting and enhancing valued landscapes, geological conservation interests and soils;
  - recognising the wider benefits of ecosystem services;
  - minimising impacts on biodiversity and providing net gains in biodiversity where possible;
  - preventing new development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and
  - remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.
- 6.3.16 In accordance with the provisions of paragraph 109 of the NPPF, the Project has been designed to contribute to and enhance the natural and local environment. As set out within the Outline Landscaping Plans (Document Reference 2.9), the design of landscape planting will enhance the area’s biodiversity through the retention of existing woodland; the planting of belts of trees to increase the amount of woodland in the area; the reinstatement of

planting where possible and appropriate; and careful management of soils during construction works to facilitate plant growth, to be implemented as part of the CEMP.

- 6.3.17 Paragraph 121 of the NPPF advises that a site should be suitable, taking into account ground conditions and land instability, pollution and proposed mitigation.
- 6.3.18 In accordance with the provisions of paragraph 121 of the NPPF, in deciding upon the location of the Project Site, WPL undertook a detailed feasibility assessment having regard to a number of technical, environmental, and economic factors, as set out in Chapter 5 of the ES (Document Reference 6.1).
- 6.3.19 Paragraph 123 of the NPPF advises that planning decisions should seek to avoid noise from giving rise to significant adverse impacts on health and quality of life, and to mitigate any adverse impacts where necessary.
- 6.3.20 In accordance with the provisions of paragraph 123 of the NPPF, MPL has sought to avoid significant adverse noise impacts through the design of the Project and appropriate mitigation measures. An assessment of the likely effects of the Project in respect of noise has been undertaken as part of the EIA and the findings are presented in the ES (Document Reference 6.1). The noise assessment states that no likely significant effects are anticipated from noise as a result of the construction, operation or decommissioning of the Project.

#### NPPG

- 6.3.21 The NPPG resource provides planning guidance in respect of a number of topics, including: air quality, design, flood risk and coastal change, natural environment, noise, renewable and low carbon energy, and water supply, wastewater and water quality. Relevant NPPG guidance, correct as at February 2015, is set out below.
- 6.3.22 Paragraph 001 of guidance relating to air quality advises that air quality, odour and dust can be a planning concern because of the effect on biodiversity and local amenity. Accordingly, assessments could include a description of baseline conditions, the assessment methods to be adopted and acceptable mitigation measures (paragraph 007). The impacts of air quality could be mitigated through the design and layout of development, the use of green infrastructure, and controlling dust and emissions from construction, operation and demolition (paragraph 008).
- 6.3.23 In accordance with the above NPPG guidance, a full assessment has been undertaken of the potential emissions resulting from the construction, operation and decommissioning of the Power Generation Plant, electrical connection and gas connection and is recorded in Chapter 6 of the ES (Document Reference 6.1), together with appropriate mitigation measures. The assessment included consideration of the closest residential dwelling to the Power Generation Plant Site at South Pillinge Farm, located



approximately 130 m to the west of the Project Site. A Statement of Engagement of Section 79(1) of the Environmental Protection Act 1990 (Document Reference 5.5) has also been prepared – fulfilling regulation 5(2)(f) of the AAFP Regulations – to assess the condition of the site, potential air quality impacts, noise levels, artificial lighting and health effects generated by the Project throughout its various stages.

- 6.3.24 Chapter 6 of the ES (Document Reference 6.1) states that the main potential effects resulting from construction and decommissioning of the Project on air quality are from dust and particulate matter generated from construction activities; however it is considered unlikely that levels of dust or particulate matter would be generated which would constitute a health hazard or nuisance to human or ecological receptors in the vicinity of the Project Site, including South Pilling Farm. Chapter 6 of the ES (Document Reference 6.1) states that any potential impacts would be minimised through implementation of a CEMP, (an outline of which is provided in Appendix 3.2 of the ES (Document Reference 6.2)) which would incorporate appropriate dust mitigation measures such as damping down or covering of stock piles and excavations during dry and windy weather.
- 6.3.25 Paragraph 001 of guidance relating to design highlights that good quality design is an integral part of sustainable development – “Good design responds in a practical and creative way to both the function and identity of a place. It puts land, water, drainage, energy, community, economic, infrastructure and other such resources to the best possible use – over the long as well as the short term.”
- 6.3.26 In accordance with the provisions of this NPPG guidance, MPL has sought to adopt good design principles as part of the Project. The form, scale, massing and landscaping has been designed so that the Power Generation Plant blends in with its surroundings minimising visual intrusion from key viewpoints.
- 6.3.27 As far as is reasonably practical, the Power Generation Plant will use materials which can be disposed of sustainably (e.g. easily re-usable or recyclable) when the plant has reached the end of its life but primarily have been selected for their durability and safety across at least a 25-year lifespan. The technology chosen has an inherently low requirement for process water. As set out within the Outline Landscaping Plans (Document Reference 2.9), the design of landscape planting will enhance the area’s biodiversity through the retention of existing woodland; the planting of belts of trees to increase the amount of woodland in the area; the reinstatement of planting where possible and appropriate; and careful management of soils during construction works to facilitate plant growth, to be implemented as part of the CEMP.
- 6.3.28 The design evolution is explained in the Design and Access Statement (Document Reference 10.2) and also the Consultation Report (Document Reference 5.1) which explains carefully each stage of the Project, the nature of consultation exercises, the responses received and which influenced the design.

- 6.3.29 Paragraph 029 of guidance relating to flood risk and coastal change advises developers and applicants to consider flood risk to and from the development site as early as possible, and to follow the broad approach of assessing, avoiding, managing and mitigating flood risk. Paragraph 030 states that a site-specific FRA should be carried out to demonstrate “how flood risk will be managed now and over the development’s lifetime, taking climate change into account, and with regard to the vulnerability of its users.”
- 6.3.30 In accordance with the above NPPG guidance, MPL has considered the potential impacts of the Project in respect of flood risk. An FRA (Document Reference 5.4) has been prepared and is submitted as part of the DCO Application. The FRA (Document Reference 5.4) has found that there are not likely to be any significant impacts resulting from the construction, operation and decommissioning of the Power Generation Plant, electrical connection and gas connection with regards to flooding. The Project is not located in a coastal region or in close proximity to any tidal rivers and therefore consideration of coastal changes, higher temperatures and drought is not considered to be required.
- 6.3.31 Paragraph 016 of guidance relating to the natural environment states that the potential impacts on biodiversity should inform all stages of development. Biodiversity enhancement should seek to include habitat restoration, re-creation and expansion (paragraph 017).
- 6.3.32 In accordance with the above NPPG guidance, an assessment of the likely effects of the Project on site of ecological importance, protected species and habitats has been undertaken as part of the EIA and the findings are contained within Chapter 8 of the ES (Document Reference 6.1). The ES (Document Reference 6.1) states that no likely significant effects are anticipated on ecological receptors as a result of the construction, operation or decommissioning of the Project.
- 6.3.33 Paragraph 001 of guidance relating to noise states that “noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment.” Paragraph 008 advises that there are four broad types of mitigation: engineering, layout, using planning conditions/obligations and mitigating.
- 6.3.34 In accordance with the provisions of the above NPPG guidance, MPL has considered the likely impacts of the Project in respect of noise as part of the EIA, and the findings are presented in the ES (Document Reference 6.1). The assessment finds that no likely significant effects are anticipated from noise as a result of the construction, operation or decommissioning of the Project. Further, no cumulative effects are likely to arise in relation to the Project and other projects in respect of noise and vibration during construction, decommissioning or operation.
- 6.3.35 Paragraph 016 of guidance relating to water supply, wastewater and water quality states that a detailed assessment will be required where it is likely that

a proposal will have a significant adverse impact on water quality. The assessment should form part of an Environmental Statement.

- 6.3.36 In accordance with the provisions of the above NPPG guidance, an assessment of the likely effects on water quality and resources associated with the proposed development has been undertaken in the EIA and the findings are presented in Chapter 9 of the ES (Document Reference 6.1). The assessment finds that no likely significant effects are anticipated on water quality and resources or from flooding as a result of the construction, operation or decommissioning of the Project. Furthermore, it is considered that, as explained in Chapter 9 of the ES (Document Reference 6.1), with the implementation of embedded mitigation, no likely significant cumulative effects will arise between the Project and the other developments.

### **Local Planning Policy**

- 6.3.37 Section 104(2)(d) of the PA 2008 states that, in determining applications, the SoS should have regard to any other matters which are considered to be “both important and relevant to the [SoS’s] decision.” The Project Site falls within the jurisdiction of both Central Bedfordshire Council and Bedford Borough Council, and therefore other local planning policy which is considered to be important and relevant to the DCO Application is contained within the following documents (listed chronologically):

#### *Bedford Borough Council and Central Bedfordshire Council (combined)*

- Bedfordshire and Luton Minerals and Waste Local Plan (2005); and,
- Bedford Borough, Central Bedfordshire and Luton Borough Council – Minerals and Waste Local Plan: Strategic Sites and Policies (MWLP:SSP) (adopted 2014);

#### *Central Bedfordshire Council*

- Central Bedfordshire Core Strategy and Development Management Policies (adopted 2009);

#### *Bedford Borough Council*

- Bedford Borough Local Plan 2002 (adopted 2002) (Saved Policies);
- Bedford Core Strategy and Rural Issues Plan (adopted 2008);

#### *Supplementary Local Planning Policy*

- Forest of Marston Vale Plan (FoMVP)

#### *Emerging Planning Policy*

- Central Bedfordshire Local Plan 2015-2035 (Draft Plan – 2017)

Bedfordshire and Luton Minerals and Waste Local Plan (2005) and, Bedford Borough, Central Bedfordshire and Luton Borough Council – Minerals and Waste Local Plan: Strategic Sites and Policies (MWLP:SSP) (2014)

- 6.3.38 As part of the Spatial Strategy for Waste, Policy WSP2 of the MWLP:SSP allocates four sites for waste recovery uses, at Elstow North, Land at Former Brogborough landfill, Rookery South Pit, and Land at Thorn Turn. The site at Rookery South Pit (107ha), which includes the Project Site, is allocated for non-landfill waste management recovery operations and non-hazardous landfill, with opportunities for pre-treatment recovery operations prior to landfill.
- 6.3.39 Policy W22 of the Bedfordshire and Luton Minerals and Waste Local Plan (2005) states that proposed waste management sites will be protected as far as practicable from development that may conflict or prejudice their waste management use.
- 6.3.40 It is acknowledged that the Project Site is allocated for proposed waste management uses by Policy WSP2 of the MWLP:SSP, and thus the Project would therefore conflict with Policy WSP2 of the MWLP:SSP and Policy W22 of the Bedfordshire and Luton Minerals and Waste Local Plan.
- 6.3.41 However, the Project Site is only partially located within Rookery South Pit, and that Rookery South Pit is allocated as one of four identified waste management sites, and therefore is not to be solely depended upon as a strategic waste management site. Furthermore, the urgent need for electricity generation, including gas fired generating stations and unabated flexible gas and peaking plants, is provided in a range of national government guidance, national planning policy as well as local planning policy (as set out within section 4 of this report), including NPS EN-1, the Gas Generation Strategy (DECC, 2012) and the National Infrastructure Plan (HM Treasury, 2014). It is also acknowledged that, by virtue of this allocation, the principle of the development of the Project Site is considered acceptable.
- 6.3.42 Section 104 of the PA 2008 provides that in making decisions on applications, the SoS must decide applications in accordance with relevant NPS(s) unless the adverse impacts of the proposal would outweigh its benefits (or in certain other limited circumstances). Furthermore, paragraph 3.1.3 of NPS EN-1 states that all development consent applications for energy infrastructure should be assessed '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.' Accordingly, the SoS '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' (paragraph 3.1.4) [emphasis added].
- 6.3.43 Whilst the Project conflicts with the provisions of Policy WSP2 of the MWLP:SSP and Policy W22 of the Bedfordshire and Luton Minerals and Waste Local Plan; given the need to determine NSIPs primarily in accordance with relevant NPSs, and the substantial weight that should be

applied to energy infrastructure applications set out in NPS EN-1, the Project should be weighed favourably in balance of the DCO Application.

Central Bedfordshire Core Strategy and Development Management Policies (adopted 2009)

- 6.3.44 The Project Site is located on the edge of the Northern Marston Vale Strategic Area, as identified on the Central Bedfordshire Core Strategy and Development Management Policies Key Diagram. The Spatial Vision for the Core Strategy states that the Northern Marston Vale will ‘continue to be a growth location where development will help to bring about environmental regeneration, support the urban renaissance of Bedford and make the Vale a more attractive place to live, do business and enjoy leisure time’ (page 16). Further, Policy CS1 of the Core Strategy and Development Management Policies document states that sites within Northern Marston Vale will be identified and developed for new homes, jobs and key infrastructure.
- 6.3.45 As set out in Chapter 14 of the ES (Document Reference 6.1), there are likely to be minor beneficial effects from investment and job creation at all stages of the Project, and therefore the Project will contribute to the status of the Northern Marston Vale as a growth location as set out in Policy CS1 of the Core Strategy and Development Management Policies document.
- 6.3.46 Policy CS9 of the Central Bedfordshire Core Strategy and Development Management Policies (2009) states that the Council will plan for a minimum target of 17,000 net additional jobs in the district over the period 2001-2026. This target will be supported through the provision of 10–20 ha of new employment land within Northern Marston Vale, as required by Policy CS10.
- 6.3.47 The Project will contribute to the provisions of Policy CS9 of the Central Bedfordshire Core Strategy and Development Management Policies (2009), as explained in Chapter 14 of the ES (Document Reference 6.1). The Project will have slight positive effects on the socio-economic status of the area during construction through both employment creation and capital expenditure and worker spending in the local economy, as set out in Chapter 14 of the ES (Document Reference 6.1). It is anticipated that up to 122 construction workers would be required at the Project Site during peak periods at any one time. Project construction would support up to nine permanent full time equivalent construction jobs. Further, Chapter 14 of the ES (Document Reference 6.1) states that construction, decommissioning and operation of the Project could occur simultaneously with other projects in the vicinity of the Project Site.
- 6.3.48 The Project Site is located within the floodplain as illustrated on the Central Bedfordshire LDF (North) Proposals Map, where Core Strategy Policy CS13 applies. Policy CS13 states that the Council will seek to minimise the risk of flooding and manage residual risks, as well as securing new development which incorporates measures to take account of climate change. Policy CS13 also states that energy generating proposals with low carbon impact will be considered positively.

- 6.3.49 In respect of Policy CS13, an FRA (Document Reference 5.4) has been undertaken and is submitted as part of the DCO Application. The FRA (Document Reference 5.4) has found that there are not likely to be any significant impacts resulting from the construction, operation and decommissioning of the Power Generation Plant, electrical connection and gas connection with regards to flooding.
- 6.3.50 Policy CS14 states that the Council will require development to be of the highest quality by, inter alia, respecting local context and the varied character and local distinctiveness of Mid Bedfordshire.
- 6.3.51 In accordance with the provisions of Policy CS14, MPL has sought to adopt good design principles from the outset of the Project such that the development is sensitive to its setting and is of a good aesthetic as possible. As illustrated in the Design and Access Statement (Document Reference 10.2), the form, scale, massing and landscaping has been designed so that the Power Generation Plant blends in with its surroundings minimising visual intrusion from key viewpoints. Furthermore, significant areas of planting are proposed within the Project Site.
- 6.3.52 Notwithstanding this, as set out within Chapter 11 of the ES (Document Reference 6.1), the Project has the potential to affect the landscape and people's views and visual amenity due to the processes involved in construction (e.g. ground clearance, use of large plant) and operation from the introduction of new large structures into the landscape (e.g. the stack of the Generating Equipment and SECs associated with the Electrical Connection). In this respect, the Project has the potential to conflict with the provisions of Policy CS14, in regards to the impact of the Project on the local character. However, the Project will be largely screened from views by the fact that a large proportion is sited within the Rookery South Pit (meaning that only 17.5 - 20 m of the stack will be visible above the edge of the pit), and the Project will also be viewed in the context of other industrial development such as large towers of the former London Brick Works, the existing Sundon to Grendon overhead line and towers and the wind turbine at the Millennium Country Park.
- 6.3.53 The Project Site is located within the Forest of Marston Vale as illustrated on the LDF North Proposals Map, where Core Strategy Policy CS16 applies. Policy CS16 states that the Council will:
- Conserve and enhance the varied countryside character and local distinctiveness;
  - Resist development where it will have an adverse effect on important landscape features or highly sensitive landscapes;
  - Require development to enhance landscapes of lesser quality;
  - Continue to support the creation of the Forest of Marston Vale;

- Conserve woodlands including ancient and semi natural woodland, hedgerows and veteran trees; and
- Promote an increase in tree cover outside of the Forest of Marston Vale, where it would not threaten other valuable habitats.

6.3.54 Further, Core Strategy Policy CS17 states that the Council will:

- Seek a net gain in green infrastructure through the protection and enhancement of assets and the provision of new green spaces;
- Take forward priority areas for the provision of new green infrastructure in the Forest of Marston Vale; and
- Require new development to contribute towards the delivery of new green infrastructure and the management of a linked network of new and enhanced open spaces and corridors.

6.3.55 The Project Site is part-located within a County Wildlife Site (CWS) as illustrated on the Central Bedfordshire LDF (North) Proposals Map, where Core Strategy Policy CS18 applies. Policy CS18 states that the Council will support the designation, management and protection of biodiversity and geology, including locally important CWS's. Development that would fragment or prejudice the biodiversity network will not be permitted.

6.3.56 In respect of Policy CS18 of the Core Strategy, an assessment of the likely effects of the Project on site of ecological importance, protected species and habitats has been undertaken as part of the EIA and the findings are contained within Chapter 8 of the ES (Document Reference 6.1). The ES (Document Reference 6.1) states that no likely significant effects are anticipated on ecological receptors as a result of the construction, operation or decommissioning of the Project. In this regard, the Project respects the designation of the Project Site as a County Wildlife Site.

6.3.57 Policy DM3 requires that all proposals for new development will, inter alia, be appropriate in scale and design to their setting, and respect local distinctiveness through design and use of materials.

6.3.58 In accordance with the provisions of Policy DM3, MPL has sought to adopt good design principles from the outset of the Project such that the development is sensitive to its setting and is of a good aesthetic as possible. As illustrated in the Design and Access Statement (Document Reference 10.2), the indicative form, scale, massing and landscaping has been designed so that the Power Generation Plant blends in with its surroundings, minimising visual intrusion from key viewpoints.

6.3.59 Notwithstanding this, as set out within Chapter 11 of the ES (Document Reference 6.1), the Project has the potential to affect the landscape and people's views and visual amenity due to the processes involved in construction (e.g. ground clearance, use of large plant) and operation from the introduction of new large structures into the landscape (e.g. the stack of

the Generating Equipment and SECs associated with the Electrical Connection). In this respect, the Project has the potential to conflict with the provisions of Policy DM3, in regards to the impact of the scale of the Project on the local setting. However, the Project will be largely screened from views by the fact that a large proportion is sited within the Rookery South Pit (meaning that only 17.5-20 m of the stack will be visible above the edge of the pit), and the Project will also be viewed in the context of other industrial development such as large towers of the former London Brick Works, the existing Sundon to Grendon overhead line and towers and the wind turbine at the Millennium Country Park.

- 6.3.60 The Project Site is located within the Forest of Marston Vale as illustrated on the LDF North Proposals Map, where Core Strategy Policy DM14 applies. Policy DM14 states that the Council will ensure that the impact of proposed development on the landscape will be assessed. Proposals for development within the Northern Marston Vale and the Forest of Marston Vale will be required to provide landscape enhancement on or adjacent to the development site or contribute towards landscape enhancement in these areas. Trees, woodland and hedgerows in the district will be protected by requiring developers to retain and protect such features in close proximity to building works. Furthermore, tree planting or contributions towards planting for the purposes of enhancing the landscape will be sought from new developments.
- 6.3.61 MPL has had regard to the provisions of relevant planning guidance set out above, relating to the Forest of Marston Vale, in the design of the Project, and accordingly has considered opportunities for landscape enhancement across the Project Site, as detailed with the ES (Document Reference 6.1) and Design and Access Statement (Document Reference 10.2). MPL acknowledges CBC's target of achieving 30% woodland cover in the Forest area by 2030, but notes that there is not a requirement for developers to provide a specific proportion of land towards this target. Notwithstanding this, MPL are proposing a significant area of planting within the Project Site, in line with the above target.

Bedford Borough Local Plan 2002 (adopted 2002) (Saved Policies)

- 6.3.62 Saved Bedford Borough Local Plan (2002) Policy NE3 states that development will not be permitted that may directly or indirectly destroy or adversely affect a County Wildlife Site or Regionally Important Geological Site.
- 6.3.63 In respect of saved Policy NE3 of the Bedford Borough Local Plan, an assessment of the likely effects of the Project on site of ecological importance, protected species and habitats has been undertaken as part of the EIA and the findings are contained within Chapter 8 of the ES (Document Reference 6.1). The ES (Document Reference 6.1) states that no likely significant effects are anticipated on ecological receptors as a result of the construction, operation or decommissioning of the Project. In this regard, the Project respects the designation of the Project Site as a County Wildlife Site.



Bedford Core Strategy and Rural Issues Plan (adopted 2008)

- 6.3.64 Policy CP10 of the Bedford Core Strategy and Rural Issues Plan (2008) states that ‘a minimum of 16,000 net additional jobs will be provided in the borough by 2021’, and Policy CP11 states that up to 75ha of additional employment land will be provided in the period 2001-2021.
- 6.3.65 The Project will contribute to the provisions of Policy CP10 of the Bedford Core Strategy and Rural Issues Plan (2008), as explained in Chapter 14 of the ES (Document Reference 6.1). The Project will have slight positive effects on the socio-economic status of the area during construction through both employment creation and capital expenditure and worker spending in the local economy, as set out in Chapter 14 of the ES (Document Reference 6.1). It is anticipated that up to 122 construction workers would be required at the Project Site during peak periods at any one time. Project construction would support up to nine permanent full time equivalent construction jobs. Further, Chapter 14 of the ES (Document Reference 6.1) states that construction, decommissioning and operation of the Project could occur simultaneously with other projects in the vicinity of the Project Site.
- 6.3.66 Policy CP21 advises that all new development should, inter alia, be of the highest design quality, fully consider the wider context and address sustainable design principles. Policy CP24 states that ‘The Marston Vale will be the focus for landscape enhancement and restoration and the council will continue to support the Forest of Marston Vale.’ New development should protect and where appropriate enhance the quality and character of the landscape.
- 6.3.67 In accordance with the provisions of Policy CP21 and CP24, MPL has sought to adopt good design principles from the outset of the Project such that the development is sensitive to its setting. As illustrated in the Design and Access Statement (Document Reference 10.2), the indicative form, scale, massing and landscaping has been designed so that the Power Generation Plant blends in with its surroundings minimising visual intrusion from key viewpoints.
- 6.3.68 Notwithstanding this, as set out within Chapter 11 of the ES (Document Reference 6.1), the Project has the potential to affect the landscape and people’s views and visual amenity due to the processes involved in construction (e.g. ground clearance, use of large plant) and operation from the introduction of new large structures into the landscape (e.g. the stack of the Generating Equipment and SECs associated with the Electrical Connection). In this respect, the Project has the potential to conflict with the provisions of Policies CP21 and CP24, in regards to the impact of the Project on the quality and character of the landscape. However, the Project will be largely screened from views by the fact that a large proportion is sited within the Rookery South Pit (meaning that only 17.5-20 m of the stack will be visible above the edge of the pit), and the Project will also be viewed in the context of other industrial development such as large towers of the former London Brick Works, the existing Sundon to Grendon overhead line and towers and the wind turbine at the Millennium Country Park.

## Forest of Marston Vale Plan (FoMVP)

- 6.3.69 The Project Site is located within the Forest of Marston Vale and therefore the FoMVP provides planning guidance of relevance to the Project. The FoMVP was published as non-statutory planning guidance by Marston Vale Trust in 2000, in order to guide the creation of the Forest of Marston Vale as a Community Forest.
- 6.3.70 The Project Site is located within the Brickfields Landscape Zone of the Forest of Marston Vale. The FoMVP notes that the Brickfields Landscape Zone “is the core area is the core area of the Vale where there is a need to secure a higher level of new planting than elsewhere in the Community Forest”, in order to offer landscape, wildlife, recreation and amenity benefits (page 16). Proposals for the Brickfields Landscape Zone include: “The Team will work with landowners to secure a higher proportion of woodland planting in this area than the more agriculturally productive land to either side of the Vale. All land types will need to be targeted to deliver the level of planting needed and landscape impacts of project work will need to be assessed from both the Vale floor and elevated positions on the ridges” (page 17).
- 6.3.71 The FoMVP also provides further guidance in respect of woodland creation and tree planting. Page 21 of the FoMVP notes that, “Tree planting is the core objective of the Community Forest with the new woodland providing a setting for a wide range of other activities. Significant areas of tree planting will be secured towards the 30% target, with the core Brickfields and urban fringe zones being targeted for the highest proportion of tree planting. Reduced tree cover will be sought on the land to the east and west.” Furthermore, in this regard, the FoMVP continues, that, “Opportunities offered through the restoration of landfill and derelict sites and planning agreements offer the greatest future prospects for large scale woodland creation” (page 21)
- 6.3.72 The FoMVP states that woodland creation and tree planting will be achieved through a number of means, including:
- “implementing an annual programme of tree planting towards realising the long-term aim of 30% woodland cover in the Vale over a 40 year period. Joint working with landowners and organisations such as the Woodland Trust, local authorities and Forestry Commission will be promoted;”
  - “promoting well designed new woodlands, as a resource, to deliver a wide range of landscape, economic, social and environmental benefits. Particular emphasis will be placed on securing larger woodlands (>20 ha) and those that meet defragmentation, urban fringe and access objectives in accordance with the England Forestry Strategy and DETR targets;”
  - “encouraging and supporting landowners to ensure that all new woodlands are successfully established and well maintained, and developing new services to assist with this, where appropriate;”

- “working with planning authorities to ensure that developments provide opportunities to secure large scale new woodland creation in appropriate areas;”
- “working with site owners and planning authorities to ensure that restoration schemes for derelict land and landfill sites meet Forest landscape, wildlife and recreation objectives;”
- “seeking opportunities to secure land for woodland creation. This could be through acquisition, leasing, management partnerships or other suitable mechanisms.”

6.3.73 The FoMVP also notes that, “As part of creating the varied and well-wooded countryside of the Community Forest, the creation and management of a range of habitats other than woodland, such as farmland, grassland, and wetland, is important” (page 24). Accordingly, page 26 of the FoMVP states that non-woodland habitats will be managed and created through a number of means, including:

- securing opportunities to maximise the ecological potential of the Marston Vale. This work will be done in conjunction with organisations such as the Wildlife Trust and English Nature and is to be guided by Biodiversity Action Plans where possible;
- using the Countryside Stewardship Scheme or other means to secure new hedgerow planting and enhanced management. Networks of well-managed farmland and roadside hedges that link other habitats will be developed or strengthened;
- increasing and conserving areas of ecologically valuable grassland within the Community Forest, in partnership with the appropriate site owners and managers;
- promoting the appropriate management and increasing the amount of wetland habitats throughout the Marston Vale, including watercourses, ponds, lakes and any marsh areas.
- working with the Wildlife Trust, Bedfordshire County Council, English Nature and other partners to ensure that any rare habitats and species are conserved and their status enhanced. Sites of Special Scientific Interest and County Wildlife Sites will be particularly important in this area of work.

6.3.74 MPL has had regard to the provisions of relevant planning guidance set out above, relating to the Forest of Marston Vale, in the design of the Project, and accordingly has considered opportunities for landscape enhancement across the Project Site, as detailed with the ES (Document Reference 6.1) and Design and Access Statement (Document Reference 10.2). MPL acknowledges CBC’s target of achieving 30% woodland cover in the Forest area by 2030, but notes that there is not a requirement for developers to provide a specific proportion of land towards this target. Notwithstanding this,

MPL are proposing a significant area of planting within the Project Site, in line with the above target.

#### Central Bedfordshire Local Plan 2015-2035 (Draft Plan – 2017)

6.3.75 MPL has had regard to the Central Bedfordshire Draft Local Plan during the assessment of the Project. However, it is noted that the Draft Local Plan is still at the early stages of development and has yet to go through Examination in Public. The weight which can be attributed to the draft policies set out in this document is therefore limited at this stage.

6.3.76 Notwithstanding the above, there are no clear conflicts with the draft policies set out in the Draft Local Plan.

### **6.4 Interpretation of Planning Assessment**

6.4.1 Section 104 of the PA 2008 provides that in making decisions on applications, the SoS must have regard (amongst certain other documents and matters) to any relevant NPS and must decide applications in accordance with such relevant NPS(s) unless the adverse impacts of the proposal would outweigh its benefits (or in certain other limited circumstances).

6.4.2 Section 104 of the PA 2008 also requires the SoS to have regard to any Local Impact Report and other matters which the SoS “thinks are both important and relevant to [the SoS’s] decision”.

6.4.3 As demonstrated above in section 6 of this Planning Statement, the Project complies with all provisions of relevant NPS guidance contained within NPS EN-1, NPS EN-2, NPS EN-4 and NPS EN-5. The Project therefore needs to be balanced against whether any adverse impacts of the proposal would outweigh its benefits. As explained above and in the ES (Document Reference 6.1), some adverse impacts may occur as a result of the Project, however likely impacts have been minimised wherever possible through appropriate specification, siting and design. As such, no adverse residual impacts are anticipated as a result of the Project.

6.4.4 It is acknowledged that the Project Site is allocated in the Development Plan (Policy W22 of the Bedfordshire and Luton Minerals and Waste Local Plan (2005)) for waste management use, and therefore the Project will to some extent conflict with the proposed allocated use. However, it is acknowledged that the Project Site is only partially located within Rookery South Pit, and that Rookery South Pit is allocated as one of four identified waste management sites, and therefore is not to be solely depended upon as a strategic waste management site. It is also acknowledged that, by virtue of this allocation, the principle of the development of the Project Site is considered acceptable.

6.4.5 However, as the Project is an NSIP for energy infrastructure, the Project should be considered primarily in accordance with NPS guidance. Furthermore, paragraph 3.1.3 of NPS EN-1 states that all development consent applications for energy infrastructure should be assessed ‘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.'

- 6.4.6 In light of the Project's compliance with all relevant NPS guidance and the identified urgent need for energy infrastructure set out within NPS EN-1, the planning balance should be weighed in favour of the DCO Application. In this respect, paragraph 3.1.4 of NPS EN-1 states that the SoS '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'.

## 7 Likely Benefits and Disbenefits

### 7.1 Introduction

7.1.1 Section 104(3) of the PA 2008 provides that "[t]he [Secretary of State] must decide the application in accordance with any relevant national policy statement, except to the extent that one or more of subsections (4) to (8) applies." Section 104(7) of the PA 2008 provides that: "[t]his subsection applies if the [Secretary of State] is satisfied that the adverse impact of the proposed development would outweigh its benefits".

7.1.2 Section 6 of this Planning Statement explained the extent to which the Project complies with the relevant NPSs as well as other matters which the SoS may consider to be both important and relevant to his or her decision on the Project. In accordance with section 104(7) of the PA 2008, this section considers and weighs up the potential adverse impacts and the likely benefits of the Project.

### 7.2 Potential Adverse Impacts

7.2.1 NPS EN-1 and EN-2 identify that fossil fuel generating stations are expected to have adverse impacts in relation to: air quality and emissions, biodiversity and geological conservation, flood risk, the historic environment, landscape and visual amenity, land use/land take, noise and vibration, socio-economics, traffic and transport, waste, and water quality and resources.

7.2.2 Some of these adverse impacts may occur as a result of this Project, as set out in the ES (Document Reference 6.1) and summarised below:

- Based on a conservative, worst case assessment, where numerous large plant items are operating simultaneously across the Project Site, the significance of the overall effect of construction and decommissioning noise from the Project is predicted to be slight adverse for the Electrical Connection and slight adverse for the Gas Connection (see Chapter 7 of the ES (Document Reference 6.1));
- The Project has the potential to affect the landscape and people's views and visual amenity due to the processes involved in construction (e.g. ground clearance, use of large plant) and operation from the introduction of new large structures into the landscape (e.g. the stack of the Generating Equipment and SECs associated with the Electrical Connection) (see Chapter 11 of the ES (Document Reference 6.1)); and
- During operation, the introduction of the stack associated with the Generating Equipment has the potential to have minor adverse effects on surrounding cultural heritage assets such as listed buildings (see Chapter 13 of the ES (Document Reference 6.1)).

- 7.2.3 However, the likely impacts have been minimised wherever possible, and other effects avoided through appropriate specification, siting and design.
- 7.2.4 The overall effect of construction and decommissioning noise from the Project will not be significant following the implementation of embedded mitigation measures, including an appropriately placed acoustic screen, adoption of a CEMP and inherent best practice plant design incorporating acoustic enclosures (see Chapter 7 of the ES (Document Reference 6.1)). The impact of the Project on land used for the SECs and AGI will not be significant following the implementation of best working methods, limiting working width and reinstating the route with topsoil (see Chapter 10 of the ES (Document Reference 6.1)).
- 7.2.5 Landscape planting, as set out within the Landscape and Ecology Mitigation and Management Strategy (LEMMS) (Appendix 11.3 of the ES, Document Reference 6.2) will be implemented in order to mitigate the impact of the Project on landscape and visual amenity and the setting of designated heritage assets and to assist in meeting CBC and FoMVP targets. Furthermore, as explained in Chapter 11 of the ES (Document Reference 6.1), the Project will be largely screened from views by the fact that a large proportion is sited within the Rookery South Pit (meaning that only 17.5-20 m of the stack will be visible above the edge of the pit), and the Project will also be viewed in the context of other industrial development such as large towers of the former London Brick Works, the existing Sundon to Grendon overhead line and towers and the wind turbine at the Millennium Country Park.
- 7.2.6 No mitigation measures are proposed in relation to the impact of the stack on the settings of designated heritage assets, as the stack will form part of a landscape that already contains a number of significant tall industrial structures. The height of the stack will appear to be significantly lower than these structures and will not be out of keeping with the existing setting of the designated heritage assets (see Chapter 13 of the ES (Document Reference 6.1)).
- 7.2.7 The Project Site is allocated for proposed waste management uses by Policy WSP2 of the MWLP:SSP, and thus the Project would therefore conflict with Policy WSP2 of the MWLP:SSP and Policy W22 of the Bedfordshire and Luton Minerals and Waste Local Plan, and potentially prejudice the use of the site for allocated waste management uses. However, the Project Site is only partially located within Rookery South Pit, and that Rookery South Pit is allocated as one of four identified waste management sites, and therefore is not to be solely depended upon as a strategic waste management site.
- 7.2.8 Whilst some adverse impacts are likely, they are largely of a nature that are inherently likely for fossil fuel generating stations, and as such anticipated in policy (particularly NPS EN-2) and have been anticipated by the Applicant and assessed throughout the pre-application process and extensive consultation processes. This has allowed appropriate siting, specification and design to provide appropriate mitigation and ensure that the impacts are not significant. Conflict with Policy WSP2 of the MWLP:SSP should be weighed

against national policy contained within NPS EN-1 and the urgent need identified for energy infrastructure

### **7.3 Likely Benefits**

- 7.3.1 Balanced against the potential adverse impacts outlined above, there are important benefits that need to be weighed appropriately.
- 7.3.2 Considerable weight needs to be attributed to the urgent need for energy generation, including gas fired generating stations and gas fired peaking plants, are provided in NPS EN-1, the Gas Generation Strategy (DECC, 2012), and the National Infrastructure Plan (HM Treasury, 2014).
- 7.3.3 The construction period is estimated to last 22 months from Q1 2020 to Q4 2022, and is expected to be operational by 2022. The Project would, therefore, contribute materially to the immediate and medium term needs for flexible, reliable, peak load power generation and facilitate the transition to a low carbon economy.
- 7.3.4 The chosen technology for a peaking plant would help to 'balance out' the grid at times of peak electricity demand and help to support the grid at times when intermittent renewable sources cannot generate electricity.
- 7.3.5 Besides this considerable public benefit, there would be benefits to the site and its locality. The construction and operation of the Project would benefit the local economy. The Project will deliver positive impacts through employment creation in construction, operation and decommissioning stages; and supply chain linkages for goods and services and workers spending in the local economy.
- 7.3.6 The number of construction workers onsite ranges from 25 to 122 at any given time during the peak construction period.
- 7.3.7 GVA is a measure of the value of goods and services produced in an area, industry or sector of an economy. Annual construction GVA per head in the East of England is £69,625. The construction phase will deliver £6.4 million GVA to the wider economy annually, as recorded within Chapter 14 of the ES (Document Reference 6.1).
- 7.3.8 The operational phase of the Project would provide up to 10 FTE direct jobs. The net effect, taking account of leakage, displacement and the multiplier effect would be 9.4 additional regional FTE jobs and 5.5 national FTE jobs. Average GVA per utility employee in East of England is £90,071. Assuming Project related employment generated average levels of GVA, the Project's operation would provide approximately £0.85m GVA and £0.5m GVA per annum to the local and national economy respectively.

### **7.4 Summary**

- 7.4.1 Paragraph 4.1.3 of NPS EN-1 explains that the SoS will weigh up a proposal's contribution to meeting the need for energy infrastructure, job creation and other long term and wider benefits, against the potential adverse



impacts of the proposal in question including ‘any long-term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts.’

- 7.4.2 In respect of paragraph 4.1.3 of NPS EN-1, the potential adverse impacts and the likely benefits of the Project are set out above at sections 7.2 and 7.3 of this Planning Statement.
- 7.4.3 The Project is likely to result in adverse impacts in respect of construction and decommissioning noise, land-take for the SECs and the AGI, and effects on landscape and visual amenity and surrounding cultural heritage assets (see ES (Document Reference 6.1)). However, the implementation of embedded mitigation measures such as the adoption of a CEMP, inherent best practice plant design, best working methods and landscape planting will ensure that any adverse impacts are not significant (see ES (Document Reference 6.1)).
- 7.4.4 The Project would conflict with the allocation of the site in Policy WSP2 of the MWLP:SSP for waste management uses; however, in accordance with section 104 of the PA 2008 and NPS EN-1, this should be weighed against national policy contained within NPS EN-1 and the urgent need identified for energy infrastructure, in particular paragraph 3.1.4 of NPS EN-1 which states the SoS ‘should give substantial weight to the contribution which projects would make towards satisfying [the urgent need for energy infrastructure] this need when considering applications for development consent under the Planning Act 2008’. Furthermore, it is acknowledged that the principle of development at the Project Site is effectively considered acceptable by virtue of this allocation, and it is noted that Rookery South Pit is one of four identified waste management sites within the MWLP:SSP, and therefore is not to be solely depended upon as a strategic waste management site.
- 7.4.5 There are a number of benefits associated with the Project, including the material contribution of the Project towards the urgent need for flexible, reliable, peak load power generation and supporting the transition to a low carbon economy. Furthermore, the Project will deliver positive impacts through employment creation in construction, operation and decommissioning stages; and supply chain linkages for goods and services and workers spending in the local economy. The operational phase of the Project would provide an estimated 10 FTE direct jobs. The net effect, taking account of leakage, displacement and the multiplier effect would be 9.4 additional regional FTE jobs and 5.5 national FTE jobs. Average GVA per utility employee in East of England is £90,071. Assuming Project related employment generated average levels of GVA, the Project’s operation would provide approximately £0.85m GVA and £0.5m GVA per annum to the local and national economy respectively.
- 7.4.6 Paragraph 3.1.3 of NPS EN-1 states that all development consent applications for energy infrastructure should be assessed ‘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.’ Accordingly, the SoS ‘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' (paragraph 3.1.4, NPS EN-1).

- 7.4.7 Given the need for energy infrastructure as identified in paragraphs 3.1.3 and 3.1.4 of NPS EN-1, it is considered that the Project would contribute materially towards meeting the national need for energy infrastructure.

## 8 Conclusions

### 8.1 Summary

- 8.1.1 The urgent need for electricity generation, including gas fired generating stations and unabated flexible gas and peaking plants, is provided in NPS EN-1, the Gas Generation Strategy (DECC, 2012) and the National Infrastructure Plan (HM Treasury, 2014). The Project would contribute materially to meeting this need.
- 8.1.2 Due regard has been paid to all relevant and important considerations. These include the findings of community and statutory consultation processes which, as documented in the Consultation Report (Document Reference 5.1), have influenced considerations as to the design and siting of the Project. Local economic development and environmental policy designations have been considered in the design, siting and mitigation proposals within the Project.
- 8.1.3 The Project will achieve the relevant objectives of the applicable National Policy Statements, being NPS EN-1, NPS EN-2, NPS EN-4 and NPS EN-5. Considerations as to siting, Habitats and Species Regulations, alternatives, good design, consideration of Combined Heat and Power, grid and gas connections, safety, health, nuisance and security, amongst other matters, have been given due regard as demonstrated in the ES (Document Reference 6.1) and its appendices (Document Reference 6.2), the Design and Access Statement and its appended Design Principles Statement (Document Reference 10.2), this Planning Statement (Document Reference 10.1), the Grid Connection Statement (Document Reference 9.1) and the Gas Connection Statement (Document Reference 9.2). The ES (Document Reference 6.1) has also assessed all relevant likely significant environmental effects and has proposed appropriate mitigation wherever feasible. This is to be secured through compliance with various submitted documents and further approvals such as under the proposed requirements attached to the draft DCO (see Schedule 2 to the draft DCO, Document Reference 3.1).
- 8.1.4 It is considered that, on balance, the likely benefits of the Project significantly outweigh any potential adverse impacts of the Project. These benefits include (amongst others), the local and regional economic benefits, and the considerable public benefit to meeting the national need for flexible electricity generation.
- 8.1.5 The development of the Project, a dedicated gas fired peaking plant and electrical and gas connections, would allow for the rapid, reliable and viable provision of reserve capacity to the National Grid, supporting the transition to a low carbon economy by balancing some of the considerable scale of intermittent sources such as wind being developed UK-wide, and playing an important role in meeting the UK's national energy requirements. The Project would therefore deliver significant national benefits.

- 8.1.6 In this respect, the Project should be considered in light of paragraph 3.1.4 of NPS EN-1, which states that, “[t]he [SoS] should give substantial weight to the contribution which projects would make towards satisfying [the urgent need for energy infrastructure] when considering applications for development consent under the Planning Act 2008”.
- 8.1.7 The Applicant has maintained dialogue throughout the pre-application period with local authorities, political representatives and other consultees and regulators, and will continue to do so at all relevant stages prior to the operation of the Project, if the Order is made.
- 8.1.8 There are considered to be no likely significant effects in respect of sites designated under the Habitats Directive as set out in the No Significant Effects Report (Document Reference 5.7), nor species protected thereunder as set out in the ES (Document Reference 6.1, Chapter 8).
- 8.1.9 Paragraph 4.1.2 of NPS EN-1 confirms a presumption in favour of granting consent to applications for energy NSIPs. That presumption applies unless any more specific and relevant policies set out in the relevant NPSs clearly indicate that consent should be refused. It is the Applicant’s view that there are no other policy reasons why consent should be withheld. The Applicant does not consider that there are any other important or relevant considerations including the relevant National Planning Policy Framework (NPPF) or local development plan policies which require an alternative position to be taken.
- 8.1.10 It is our conclusion that, having regard to the requirements of section 104 of the PA 2008 there is a compelling case in the public interest for the Order to be made in the terms proposed.

**Appendix 1      Land in the Marston Vale  
(Incorporating Rookery Pit) – 1980  
Planning Permission (Ref: 4/1980)**



\*9780/1-5, 79/52 and 53A, 8974/1A, 8742, 25/55A, 79/1/1, 79/1/2, 79/1/5, 79/1/6(i) - (iv), and 79/72

TOWN AND COUNTRY PLANNING ACTS	PLANNING PERMISSION NO: 4/1980
TOWN AND COUNTRY PLANNING GENERAL DEVELOPMENT ORDERS	
BEDFORDSHIRE COUNTY COUNCIL	APPLICATION NOS: B/79/699 and MB/79/1028
	DEPOSITED PLAN NOS: 79/68, 79/75, 9500/2 <sup>*cont+ above</sup>
TO The Estates Manager	
OF London Brick Company Limited, Estate Office, Stewartby,	
The BEDFORDSHIRE COUNTY COUNCIL, the County Planning Authority under the Town and Country Planning Acts,	Bedford MK43 9LZ
in pursuance of the said Planning Authority's powers under the aforementioned Acts and Orders DO HEREBY, on the	
application of London Brick Company Limited	
of London Brick House, 12 York Gate, Regents Park, London NW1 4QL.	
dated 13th August 1979 (as amended)	
(hereinafter called 'the applicant(s)') grant permission for development as set out hereunder and otherwise in accordance with the applications and plans submitted.	

PARTICULARS OF DEVELOPMENT HEREBY PERMITTED

Land affected and map reference	Particulars of Development
<p>Land <del>situate</del> in the Marston Valley situate partly in the Borough of North Bedfordshire and partly in the Mid Bedfordshire District in the County of Bedfordshire which said land is more particularly delineated by a red edging on plan <del>in the Borough District of No. 79/68 in the County of Bedfordshire which said land is more particularly delineated on the plans</del> submitted by the applicant(s) and deposited with the Borough <del>District</del> Councils.</p> <p><del>OS Map</del> <span style="margin-left: 200px;"><del>OS edition.</del></span>  <del>Parcel No.</del></p>	<p>New brickworks at Stewartby to replace existing Stewartby Works and the excavation of clay for the new and existing brickworks, and landscaping works.</p>

Conditions of permission and reasons for conditions

- (a) Permission is granted in respect of phase 1 of the proposed brickworks but excluding details of the kilns and the detailed plans, sections and elevations of this phase of the buildings included in the new brickworks submitted with the applications subject to the following conditions :-
1. In respect of the buildings shown on drawing numbers 79/52, 79/53A, 9780/1, 9780/2 and 9780/4 of the applications, revised plans, sections and elevations shall be submitted for the approval of the County Planning Authority.
  2. No goods, waste or other materials may be deposited or stored in the open outside the buildings on the site, except on any areas designated for such purposes on a plan or layout to be submitted to and approved by the County Planning Authority.

See Continuation Sheet

SIGNED	[Redacted Signature]
	County Secret.
DATE decision issued	7th July 1980



2.

3. Details of the surface water drainage of the site shall be agreed in writing by the County Planning Authority prior to the commencement of the development.
4. All planting included in the landscaping scheme for the new works (plan nos.79/1/2 and 79/68) shall be carried out to the satisfaction of the County Planning Authority within the period specified in the scheme. Thereafter the trees and shrubs shall be adequately maintained for a period of five years from the date of planting and any which die during this period shall be replaced and maintained until satisfactorily established.
5. The new vehicular access shall enter the public highway at the highway boundary at such level as shall be set by the County Planning Authority and as regards its siting, construction, layout and subsequent maintenance shall be to the approval of the County Planning Authority. Any necessary gradient shall be constructed on the applicant's land entirely outside future highway limits.
6. The proposed access shall not be used until the applicant has fulfilled the County Planning Authority's requirements as to the layout and means of construction of the vehicular crossing.
7. Noise from operations carried out on the site shall not exceed levels (as measured along the boundaries of the site) to be agreed in accordance with a scheme for the control of noise arising from the site. Such a scheme shall be agreed in writing by the County Planning Authority prior to the commencement of the development.
8. Application for the approval of matters referred to in conditions numbers 1, 2, 3, 5 and 7 shall be made not later than 6 months from the date of this permission.
9. Before construction commences on that part of the kilns and plant to be incorporated in phase 1 of the proposed brickworks there shall be submitted to, and approved by, the County Planning Authority plans sections and drawings showing their layout and detailed engineering construction, the kilns being so designed as to be capable of removing the pollutants (sulphur dioxide and fluoride) and odours given off in the brick firing processes.

(b) permission is granted in respect of phase 2 of the proposed brickworks, but excluding details of the kilns and the detailed plans, sections and elevations of the proposed brickworks submitted with the applications, subject to the following conditions:-

1. Before the development is commenced the approval of the County Planning Authority shall be obtained in respect of the following matters:-

- (a) The layout of the site including the disposition of roads and buildings, and access arrangements to the site and buildings.
- (b) The surface water drainage of the site.
- (c) Plans and elevations of all buildings and other structures.
- (d) The colour and type of facing materials to be used for all external walls and roofs.
- (e) A landscaping scheme for the site.

2. All planting included in the landscaping scheme for the new works (Condition 1(e)) shall be carried out to the satisfaction of the County Planning Authority within the period specified in the scheme. Thereafter the trees and shrubs shall be adequately maintained for a period of five years from the date of planting and any which die during this period shall be replaced and maintained until satisfactorily established.

3. Before construction commences on that part of the kilns and plant (shown on Drawing Nos. 9780/3 and 9780/5) comprised in the proposed new brickworks there shall be submitted for the approval of the County Planning Authority plans, sections and drawings showing their layout and detailed engineering construction. The kilns shall be tunnel kilns so designed as to be capable of incinerating the organic components of the gases given off in the brick firing processes. This last requirement shall cease to be binding if within 6 months prior to the submission of such plans, drawings and sections the Health and Safety Executive or such other governmental body as may in future discharge their statutory responsibilities have certified in writing that after the conduct of a research programme by the applicants in accordance with the requirements of the planning agreement dated 10th April 1980 between the Bedfordshire County Council and the applicants, the use of such kilns would not at the date of the Certificate constitute the best practicable means of eliminating or minimising the odours which derive from the said organic components.



4. No goods, waste or other materials may be deposited or stored in the open outside the buildings on the site, except on any areas designated for such purposes on a plan or layout to be submitted to and approved by the County Planning Authority.

5. Noise from operations carried out on the site shall not exceed levels (as measured along the boundaries of the site) to be agreed in accordance with a scheme for the control of noise arising from the site. Such a scheme shall be agreed in writing by the County Planning Authority prior to the commencement of the development.

6. Application for the approval of matters referred to in conditions numbers 1, 3 and 4 shall be made not later than 10 years from the date of this permission.

(c) permission is granted in respect of the associated minerals landscaping proposals subject to the following conditions:-

1. Planning permission shall only extend to the application as amended by letters dated 29th October 1979 and 7th December 1979.

2. Excavations shall be confined to the hatched areas only on the attached plan.

3. No excavations shall take place within 30 metres of the railway boundary of the London-Bedford line (20 metres of the Bletchley-Bedford line), and no materials shall be deposited or building erected in the intervening strip without the written approval of the County Planning Authority.

4. No excavations shall take place within 30 metres of any highway boundary.

5. The sides of any excavation adjacent to the railway shall be worked to a slope not steeper than one vertical to two horizontal through the overburden (callow) and not steeper than one vertical to one horizontal through the brick clay. A bench of 4 metres width shall be provided between the toe of the overburden and the top of the slope of the brick clay.

6. No excavations or ancillary operations may be carried out except in accordance with a scheme(s) in respect of each working area. The scheme(s) shall be submitted to the County Planning Authority for approval and thereafter strictly adhered to. In the case of those excavations being worked at the date of this permission (or commenced within twelve months of that date), the scheme shall be submitted for approval not later than 12 months from the date of this permission, and pending the approval of such a scheme the planning conditions annexed to any planning permission in force on the date of this permission shall be deemed to be such a scheme.

The submitted scheme shall include provision for:-

- (a) the working of the pit in phases of approximately 5 years duration;
- (b) the order, direction, method and depth of working, and the slope of the sides of the excavations;
- (c) The separate removal and storage of topsoil and overburden for use in the restoration and landscaping of the applicant's brick pits in the Marston Valley, unless otherwise agreed in writing by the County Planning Authority.
- (d) the natural and artificial drainage of the land;
- (e) the diversion of water courses, footpaths and bridleways;
- (f) the location, height and profile of the screen banks;
- (g) the location of the main haul roads, conveyors, etc.;
- (h) details of the trees and hedgerows to be removed.

7. No trees or hedgerows situated within the application site shall be lopped, topped or felled except in accordance with the agreed scheme submitted under condition 6 above or as may be agreed in writing by the County Planning Authority.

8. Restoration of the site(s) shall take place in accordance with a scheme or schemes to be agreed with the County Planning Authority and shall relate to the working phases referred to in condition 6(a) above. The scheme(s) shall make provision for 2 stages of restoration, Stage 1 (temporary or immediate) and Stage 2 (final or ultimate) in accordance with the following requirements:-

Stage 1 (Temporary or immediate) restoration

- (a) That in respect of those excavations that have been exhausted of mineral, or are being worked at the date of this permission, a scheme shall be submitted to the County Planning Authority for approval within 18 months of the date of this permission. The scheme shall be carried out and subsequently completed within the period specified in the scheme and shall include provision for the general landscaping, and where practicable the levelling of the quarry floor or the flooding of the excavation.

- (b) That in respect of those areas unworked at the date of this permission (excepting where excavation commences within 2 years of that date) the Scheme of short term restoration shall be submitted to the County Planning Authority for approval not later than 12 months prior to the commencement of excavations.

Where excavation commences within 2 years of the date of the permission the scheme of short term restoration shall be submitted to the County Planning Authority for approval prior to the commencement of excavations, which pending formal approval, shall be carried out in accordance with the submitted scheme.

The short term restoration schemes shall include provision for:-

- (i) the battering of the sides to a slope not steeper than one vertical to two horizontal using overburden from the excavations, and the levelling of the quarry floor;
  - (ii) the arrangement for storage, spreading and treatment of topsoils and overburden and/or flooding of the excavations;
  - (iii) the natural or artificial drainage of the site;
  - (iv) the detailed phasing of the operation.
- (c) Completion of short term restoration of any phase referred to in condition 6 shall be carried out within the period specified in the approved scheme.

Stage 2 (final or ultimate) restoration

- (d) Within 2 years of the date of this permission an overall master scheme for the proposed ultimate restoration of all clay workings covered by this permission shall be submitted to the County Planning Authority for approval. Such scheme shall take into account the requirements and proposals of the Minerals Subject Plan and shall include provision for:-
- (i) the backfilling of the excavations dependent upon the availability of suitable filling materials, or the permanent flooding of the pits, or details for restoration at a reduced level;
  - (ii) the proposed after-use of the restored areas;

- (iii) landscaping proposals;
  - (iv) the natural or artificial drainage of the site;
  - (v) any proposed access to the site, and, where appropriate the re-instatement of public footpaths;
  - (vi) the phasing of these operations.
- (e) Insofar as its provisions have not by then been carried out and so certified by the County Planning Authority the scheme required by paragraph (d) above, shall be reviewed and submitted to the County Planning Authority for approval not less than once every 5 years from the date of approval, and within 18 months of a request by the County Planning Authority following an unforeseen change in circumstances, having particular regard to:-
- (i) the availability of suitable filling materials;
  - (ii) the then current provisions and any proposed changes to the County Structure Plan and Minerals Subject Plan;
  - (iii) further areas of land that may have received planning permission for clay extraction.

9. Landscaping of pit margins and stand-off areas shall be carried out in accordance with the proposals incorporated in the application (plan nos. 79/68 and 79/1/1), and within nine months of the date of this permission a detailed landscaping scheme in respect of these areas shall be submitted to the County Planning Authority for approval. This scheme shall include details of the species and number of trees to be planted, and the proposed phasing and programming of such planting. Once approved all landscaping shall be carried out in accordance with the scheme or such revisions as may be agreed in writing by the County Planning Authority from time to time.

- (a) All trees and shrubs planted in accordance with the landscaping or restoration schemes (referred to in conditions 8 and 9) shall be adequately maintained for a period of 5 years to the satisfaction of the County Planning Authority, and any which die during that period shall be replaced and maintained until satisfactorily established.



(b) Where land is to be restored for agricultural use, the contouring drainage and initial cultivation must be sufficient to achieve and maintain the best practical agricultural use for a period of not less than five years.

10. The location of any new vehicular access to each pit and the layout, design and materials to be used in the construction of such access shall be as approved in writing by the County Planning Authority. Such access shall not be used for the purposes of the development hereby permitted until its construction has been completed to the satisfaction of the County Planning Authority.

11. All vehicles, plant and machinery on the excavation area shall be used with efficient silencers and no vehicles, plant or machinery shall be used except in accordance with a scheme for the control of noise arising from operations authorised or required under this permission which has first been submitted to and agreed with the County Planning Authority.

12. No cranes or equipment shall operate immediately adjacent to the railway so as to endanger rail traffic and they shall not swing or work over any part of the railway land.

13. Within one year of the cessation of mineral extraction in any pit all plant, machinery and foundations shall be removed from the excavation area.

14. Notice shall be given to the County Planning Authority of the date when the topsoil shall have been removed from the excavation area whereupon the County Planning Authority may within seven days of receipt of such notice specify in writing to the developer a period (not exceeding four months) from the date of the notice. During such a specified period the overburden and minerals in such area shall not be disturbed except by persons authorised by the County Planning Authority who shall be permitted to inspect and excavate the same for the sole purpose of recording any features of historic or archaeological importance.

15. Notwithstanding the provisions of the Town and Country Planning General Development Order 1977, planning permission shall be obtained under Part III of the Town and Country Planning Act 1971 for the erection of any fixed plant or machinery not including belt conveyors, or for the erection of any buildings.

16. Access to the workings shall be allowed to persons authorised by the County Planning Authority during normal working hours.

17. The development hereby permitted shall be begun not later than 5 years from the date of this permission.

DEMOLITION AREAS

18. The buildings and structures referred to in the written statement forming part of the application shall be demolished and the sites cleared in accordance with the specifications and programme set out on page No. 14 of the said statement.

19. A detailed scheme for the treatment and afteruse of each of the demolition sites referred to in condition 18 above, shall be submitted to the County Planning Authority for approval prior to the scheduled date of the demolition. Such schemes shall include provisions for the short or long term afteruse of the site for the purposes of agriculture, forestry or amenity tree-planting.

PROVISION FOR DETERMINATION OF SCHEMES

20. In default of agreement, within 3 months of the date of submission of any scheme or programme submitted in accordance with these conditions, the scheme or programme in question may be referred, either by the applicant or the County Planning Authority, to and determined by the Secretary of State.

ACCESS TO A.6 TRUNK ROAD

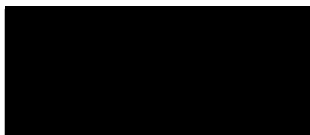
21. With respect to the permitted mineral working at Elstow, lying between the A.6 Trunk Road and the main Bedford-London Railway Line:

- (a) before the commencement of mineral extraction, the access shall be improved in accordance with the Section 52 Agreement between Redland Roadstone Ltd, London Brick Company Ltd and the Bedfordshire County Council, dated 26th June 1978;
- (b) provision shall be made on site to prevent the wheels of vehicles leaving the site depositing soil and debris on the trunk road carriageway.

THE REASONS FOR THE COUNCIL'S DECISION TO GRANT PERMISSION SUBJECT TO COMPLIANCE WITH THE CONDITIONS HEREINBEFORE SPECIFIED ARE :-

- (a)
- 1 & 2. To enable the County Planning Authority to exercise control over the layout and appearance of the site.
  3. To secure the satisfactory drainage of the site.
  4. To enhance the appearance of the proposed development.
  - 5 & 6. To minimise danger, obstruction and inconvenience to users of the highway and of the site.
  7. To protect local amenity.
  8. To prevent the accumulation of unimplemented planning permissions.
  9. To improve the environment of the Marston Vale and to eliminate any possible harm to humans, animals and crops.
- (b)
1. To enable the County Planning Authority to exercise control over the layout and appearance of the site. To secure the satisfactory drainage of the site. To enhance the appearance of the proposed development.
  2. To enhance the appearance of the proposed development.
  3. To improve the environment of the Marston Vale and to eliminate any possible harm to humans, animals and crops.
  4. To enable the County Planning Authority to exercise control over the layout and appearance of the site.
  5. To protect local amenity.
  6. To prevent the accumulation of unimplemented planning permissions.
- (c)
1. To avoid confusion.
  - 2 & 3. To define the working area, and to ensure the maintenance of boundaries.

- (c) 4. To protect the highway.
5. To define the working area and to protect the railway.
- 6, 8 & 13. To ensure a satisfactory method of working and to provide for the eventual restoration of the site.
- 7, 9 & 11. To protect local amenity.
10. To minimise danger, obstruction and inconvenience to users of the highway and of the site.
12. To ensure the safety of rail traffic and property.
14. To enable the recording of crop marks or hitherto hidden archaeological features before destruction.
15. To enable the County Planning Authority to exercise control over any new development.
16. To enable the County Planning Authority to carry out inspections.
17. To prevent the accumulation of unimplemented planning permissions.
18. To enhance local amenity.
19. To provide for the restoration and after-use of the site.
20. To provide for the determination of schemes in default of agreement.
21. By direction of the Secretary of State to ensure that this proposal shall have the minimum adverse effect on the safety and free flow of traffic on the trunk road.

Signed .....  .....

County Secretary

Dated ..... 7<sup>th</sup> July 1980 .....



**Appendix 2 Low-Level Restoration Scheme  
(LLRS) ROMP Planning Permission  
(Ref: BC/CM/2000/8)**

## Development Management

Central Bedfordshire Council  
Priory House, Monks Walk  
Chicksands, Shefford  
Bedfordshire SG17 5TQ  
www.centralbedfordshire.gov.uk



Graham Jenkins,  
White Young Green,  
5th Floor, Longcross Court,  
47 Newport Road,  
Cardiff  
CF24 0AD

**Contact** Susan Marsh  
**Reply** Minerals and Waste Team  
**Direct Dial** 0300 300 6032  
**Email** MWApplications@centralbedfordshire.gov.uk  
**Date** 09 December 2010

**Town and Country Planning Act 1990  
Town and Country Planning (Development Management Procedure) (England)  
Order 2010**

### NOTICE OF GRANT OF PLANNING PERMISSION

**Application Number:** BC/CM/2000/8  
**Application Site:** Rookery Pit, Stewartby, Bedfordshire  
**Proposed Development:** Application under The Environment Act 1995 for the periodic review of conditions for a minerals permission O&H Q7 Ltd.  
**Applicant:** Graham Jenkins, White Young Green  
**Agent:**  
**Submitted Plan Numbers (to which this decision relates):**

- Figure 3.1 (Rev. K) Rookery Low Level Scheme – Completed scheme dated 21/11/08
- Figure 3.2 (Rev. C) Rookery Low Level Scheme – Extent of Phase 1 restoration Platform dated 3/3/09
- Figure 3.3 (Rev. C) Rookery Low Level Scheme - Extent of Phase 2 restoration Platform dated 25/3/09
- Figure 3.4 (Rev. D) Rookery Low Level Scheme – Extent of Phases 3 and 4 Restoration Platform dated 3/3/09

The Council as the Local Planning Authority hereby gives notice of its decision to **GRANT PERMISSION** for the development specified above and shown on the submitted plans, subject to the following conditions:

## **Permission Area**

1. The permission shall extend to the area shown edged in red on figure no. 1.2 'Indicative Scheme Plan and Surroundings' dated May 2009.

*Reason: to define the permission.*

## **Working Programme**

### **Development Scheme**

2. The clay extraction, restoration scheme and associated works shall be carried out in accordance with the following details and plans:

Figure 3.1 (Rev. K) Rookery Low Level Scheme – Completed scheme dated 21/11/08

Figure 3.2 (Rev. C) Rookery Low Level Scheme – Extent of Phase 1 restoration Platform dated 3/3/09

Figure 3.3 (Rev. C) Rookery Low Level Scheme - Extent of Phase 2 restoration Platform dated 25/3/09

Figure 3.4 (Rev. D) Rookery Low Level Scheme – Extent of Phases 3 and 4 Restoration Platform dated 3/3/09

or as may otherwise be agreed in writing with the Mineral Planning Authority.

The Mineral Planning Authority shall be informed of the commencement of clay extraction and each phase of restoration within 7 days of such commencement.

*Reason: In the interests of clarity and to ensure the beneficial restoration of the former clay working in accordance with policy GE2 of the Bedfordshire and Luton Minerals and Waste Local Plan.*

3. No clay extraction, bank stabilisation operations or restoration works, including habitat creation within Rookery Pit North and South, shall be started until a detailed scheme setting out the phasing and timetable of the proposed works has been submitted to the Mineral Planning Authority and approved in writing.

The development shall be implemented in accordance with the approved scheme

*Reason: To enable the MPA to adequately control the development and to ensure that all aspects of the proposals are taken into account*

4. The extraction of clay from currently undisturbed areas within the overall permitted area shall be confined to the 'southern permitted extraction area', within the area defined on the phased development plan figures 3.1-3.4 inclusive unless otherwise agreed in writing with the Mineral Planning Authority.

*Reason: In the interests of clarity and to accord with the permission*

5. The new southern edge of the clay extraction area shall be created with a side slope formed at 1(V):3.5(H), which shall be graded down to a base level to tie in to the proposed finished levels in the base of the existing Rookery South pit, as illustrated on figure 3.1 (Rev K).

*Reason: To ensure the stability of the slope and to enable the beneficial restoration of the of the former clay working in accordance with policies GE2 and GE 26 of the Bedfordshire and Luton Minerals and Waste Local Plan*

6. The existing margins of Rookery South pit which are to be subject to buttressing works shall be cleared of topsoil, organic matter, and previously failed deposits prior to the commencement of the buttressing works. Buttresses shall then be formed from clay material, which shall be compacted in layers from the toe to the slope of the crest. Buttressing shall be at least 1m in thickness (measured normal to the slope), with the crest of the slope positioned to provide a minimum 5m (horizontal) width. The buttresses shall be constructed to create a slope angle of 1(V):3.5(H).

*Reason: To ensure the future stability of the sides of the pit and to enable the beneficial restoration of the site and to accord with policies GE20 and GE26 of the Bedfordshire and Luton Minerals and Waste Local Plan*

7. Prior to the commencement of any slope stabilisation works further bathymetric and topographic surveys shall be undertaken within the area of slope instability in the north western area of Rookery North, as defined on figure 3.1(Rev. K). The timetabling of both the surveys and the slope stabilization works shall be set out in the phasing and timetabling scheme required to be approved under condition 3. In the event of the assessment indicating that local re-grading works / slope stability measures are required at this location, then a scheme detailing the nature of the stability works shall be submitted for the written approval of the Mineral Planning Authority prior to the implementation of these works. The works shall be undertaken in complete accordance with the approved scheme.

*Reason: To ensure the future stability of the slopes within the site and to enable the beneficial restoration of the site and to accord with policies GE20 and GE26 of the Bedfordshire and Luton Minerals and Waste Local Plan*

### **Ground and Surface Water Drainage and Protection**

8. The re-profiled base of Rookery South pit shall be provided with new drainage ditches directed to a water attenuation pond, as illustrated on figure 3.1 (rev. K). The timescale for these works shall be set out in the phasing and timetabling scheme to be submitted in accordance with condition 3.

*Reason: To ensure that the site is adequately drained and to enable its beneficial restoration and to accord with policies GE20 and GE26 of the Bedfordshire and Luton Minerals and Waste Local Plan*

9. Clay extraction shall not commence in the southern permitted extraction area shown on approved plan no. 3.2C, or as set out in the scheme approved in accordance with condition 3, until a detailed surface water drainage scheme based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, drawing upon the Flood Risk Assessment produced as Appendix F.1 to the Environmental Statement (May 2009) shall be submitted to the Mineral Planning Authority and approved in writing.

The scheme shall include:

- for gravity outfall from the two lakes in Rookery North to the water attenuation pond in Rookery South pit,
- the installation of temporary cut off ditches directed to settlement sumps or the water attenuation ponds and designed to minimise the silt load which might be incorporated into the off-site discharge.
- Details of how the scheme shall be maintained and managed after completion for the lifetime of the development
- Full details of the hydraulic model (methodology, parameters, model files etc) used to assess the flood risk associated with Mill brook to be submitted to the Environment Agency for auditing.
- Details of the slope drainage of the eastern sidewall adjacent to the Midland Main Line.
- Details of any lagoons to be constructed as a means of storm water disposal or storage within 10 metres of the railway boundary

The scheme shall be implemented in accordance with the approved details unless otherwise agreed in writing with the Mineral Planning Authority.

*Reason: To ensure that the site is adequately drained and to enable its beneficial restoration and to accord with policies GE19, GE20 and GE26 of the Bedfordshire and Luton Minerals and Waste Local Plan*

### **Railway Drainage**

10. No works shall take place that will increase the flow rates into any culvert that passes beneath the railway unless details of the proposed works have been submitted to the Mineral Planning Authority and approved in writing. The works shall be constructed in accordance with the approved details.

*Reason: In order to prevent flows or run-off affecting the railway, to maintain the integrity of the existing drainage systems and to prevent flooding of railway infrastructure and land, ensure that storm or surface water shall not be discharged onto or towards Network Rail property there shall be no reduction in the effectiveness of any drain or watercourse belonging to Network Rail and to accord with policies GE20 and GE26 of the Bedfordshire and Luton Minerals and Waste Local Plan.*

## **Land Quality and Contamination**

11. The final soil quality testing results of the Soils Resource Strategy as proposed by the PBA Environmental Statement dated May 2009 shall be submitted, electronically where possible, to the Mineral Planning Authority.

*Reason: to protect groundwater and to accord with policy GE17 of the Bedfordshire and Luton Minerals and Waste Local Plan*

12. If, during development evidence of land contamination not previously identified is found to be present, then no further development in the area where the contamination is identified (unless otherwise agreed in writing with the Mineral Planning Authority) shall be carried out until an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Mineral Planning Authority.

The works shall be carried out in accordance with the approved details.

*Reason: to protect groundwater and to accord with policy GE17 of the Bedfordshire and Luton Minerals and Waste Local Plan.*

13. No works shall be undertaken within the area of historical landfill within Rookery North Pit and defined on plan nos. PSC1 and 2 until such time as a scheme to ensure the stability of the existing landfill has been submitted to and approved in writing by the Mineral Planning Authority.

The scheme shall be implemented in accordance with the approved details.

*Reason: There is visual evidence of the instability of the clay pit walls and the low level restoration scheme is required to address the stability of the pit walls and to accord with policy GE26 of the Bedfordshire and Luton Minerals and Waste Local Plan.*

## **Ground and Surface Water Protection**

14. Any facilities for the storage of oils, fuels or chemicals on the site shall be sited on impervious bases and surrounded by impervious bund walls or in proprietary double skinned tanks. The volume of the banded compound shall be at least equivalent to the capacity of the tank(s) + 10%. All filling points, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any water course, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.

*Reason: To prevent pollution of the ground and surface water and to accord with policies GE17 of the Bedfordshire and Luton Minerals and Waste Local Plan*

## Hours of Operation

15. All operations on site including the starting up of machinery and vehicles and on-site maintenance shall be carried out only between the hours of

0700 to 1900 Monday to Friday, and

0700 to 1300 on Saturday.

No such operations shall be carried out on Sundays, Bank Holidays or Public Holidays.

*Reason: To protect the amenity of local residents and users of the land in the surrounding area and to accord with policy GE18 of the Bedfordshire and Luton Minerals and Waste Local Plan*

16. Operations for the formation and removal of the noise attenuation mounds shall only be carried out between the hours of:

08.00 to 18.00 Mondays to Friday.

No such operations shall be carried out on Saturdays, Sundays, Bank Holidays or Public Holidays

*Reason: To protect the amenity of local residents and users of the land in the surrounding area and to accord with policy GE18 of the Bedfordshire and Luton Minerals and Waste Local Plan*

## Soil Resources

17. Topsoil and subsoil shall be separately stripped from the defined limits of the southern extraction area, as illustrated on figures 3.1(rev.K) and 3.2.(rev.C) and shall be separately stored in accordance with a scheme to be submitted to and approved in writing by the Mineral Planning Authority prior to the commencement of any soil stripping operations.

*Reason: To prevent the loss of soil and minimise damage to soil structure during storage and to accord with policies GE6 and GE26 of the Bedfordshire and Luton Minerals and Waste Local Plan*

18. All topsoil, subsoil, overburden and other soil making material shall be retained on site as identified on figure no.1.1 dated May 2009 and none shall be sold off or removed.

*Reason: To prevent the loss of soil and minimise damage to soil structure and to facilitate the beneficial restoration of the site in accordance with policies GE6 and GE26 of the Bedfordshire and Luton Minerals and Waste Local Plan*

19. With the exception of the soils required for the construction of noise attenuation bunds, temporary stockpiles of topsoil shall not exceed 3m in height, and stockpiles of subsoil shall not exceed 4m in height. All temporary stockpiles shall be located below original ground level on the base of Rookery South pit in accordance with the scheme approved in accordance with condition 17 any soil mounds which are to be in-situ for a period of over 3 months shall be seeded with grass and shall be maintained, weed free, whilst the bunding is in place.

*Reason: To prevent the loss of soil and minimise damage to soil structure during storage and to prevent soil erosion and to facilitate the beneficial restoration of the site in accordance with policies GE6 and GE26 of the Bedfordshire and Luton Minerals and Waste Local Plan.*

20. Soil shall only be handled when it is dry and friable, and in accordance with the MAFF (2000) Good Practice Guide for Handling Soils.

*Reason: To prevent the loss of soil and minimise damage to soil structure and to facilitate the beneficial restoration of the site in accordance with policies GE6 and GE26 of the Bedfordshire and Luton Minerals and Waste Local Plan.*

21. Within 18 months of commencement of extraction within the southern permitted extraction area, a scheme setting out proposals for the creation of 'soil forming material' which can be used as part of the restoration works shall be submitted to the Mineral Planning Authority for approval in writing. The scheme shall include proposals for blending low grade site won clays or other fine material with locally sourced organic compost and other ameliorants to create a soil resource sufficient to address the soil restoration resource deficit identified in the Environmental Statement soils material audit. The scheme shall be implemented in accordance with the approved details and no material shall be brought on to the site without the written approval of the Mineral Planning Authority.

*Reason: To facilitate the beneficial restoration of the site in accordance with policies GE6 and GE26 of the Bedfordshire and Luton Minerals and Waste Local Plan*

22. The Rookery site shall be profiled to the final contours illustrated on figure 3.1(rev. K) unless otherwise agreed in writing with the Mineral Planning Authority.

*Reason; To prevent the loss of soil and minimise damage to soil structure during storage in accordance with policies GE6 and GE26 of the Bedfordshire and Luton Minerals and Waste Local Plan*

### **Environmental Protection**

23. No removal of scrub or trees shall take place in the bird nesting season from March to August (inclusive), unless a survey by a suitably qualified ecologist, which shall be submitted to the Mineral Planning Authority, provides no evidence that nesting birds are present.

*Reason: to ensure breeding birds are not disturbed by removal of Habitat and to accord with policy GE13 of the Bedfordshire and Luton Minerals and Waste Local Plan*

### **Landscaping and Restoration**

24. The site shall be restored in accordance with the restoration strategy set out on Figure 8.7A dated 19<sup>th</sup> May 2010, (as amended by letter dated 21<sup>st</sup> May 2010), and the details set out in Appendix D.1 of the Environmental Statement, unless otherwise approved in writing with the Mineral Planning Authority.

*Reason: In the interests of visual amenity and wildlife conservation and to accord with policies GE12 and GE26 of the Bedfordshire and Luton Minerals and Waste Local Plan*



25. No site works shall commence until a detailed plan, based on the Restoration Strategy Plan no. 8.7A, and illustrating the woodland, scrub habitat and trees which are to be retained as part of the extraction and restoration scheme has been submitted in and approved in writing by the Mineral Planning Authority. Details of the measures to be undertaken for the protection of woodland, trees, scrubs and hedgerows identified as being retained during extraction and restoration operations shall be submitted to and approved in writing by the Mineral Planning Authority. Such means of protection shall include measures to prevent disturbance to soils levels within the root spread and protective fencing and nothing shall be stored or placed in the areas so protected. The measures shall be implemented in accordance with the approved details.

*Reason: In the interests of visual amenity and wildlife conservation and to accord with policies GE12 and GE26 of the Bedfordshire and Luton Minerals and Waste Local Plan*

26. Unless otherwise approved in writing by the Mineral Planning Authority, the landscape planting proposals for the restored site, which are set out in the Environmental Statement Appendix D.1, and shown on Plan 8.7A, shall be implemented in the first available planting season following completion of the restoration works within the respective restored areas. Thereafter, all trees, shrubs and hedgerows, and seeded areas, shall be maintained for the duration of the extraction and remaining restoration works, and the aftercare period. Any trees or shrubs which die or are damaged during this period shall be replaced in the next planting season with others of a similar size and species.

*Reason: In the interests of visual amenity and to ensure the beneficial restoration of the site and to protect groundwater and to accord with policy GE17 of the Bedfordshire and Luton Minerals and Waste Local Plan*

27. Prior to the commencement of clay extraction a scheme for the aftercare and management of the restored agricultural land shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall draw on the outline strategy set out in the Environmental Statement Appendix D.1, and the advice set out in Annex 5 of MPG7, and shall:

- a. specify the aftercare management steps to be taken and the period during which they are to be taken;
- b. include for a review of the operation of the field drainage system;
- c. make provision for an annual aftercare progress meeting;
- d. commit to the submission of a detailed annual programme, in accordance with Annex 5 of MPG7, not later than one month prior to the annual aftercare meeting; and
- e. include a Bio-diversity Action Plan for the agricultural land in Rookery South pit.

The implementation of the aftercare and management scheme, and Bio-diversity Action Plan shall be carried out progressively in accordance with the approved details, and be completed within 5 years of the completion of restoration in the final phase.

The scheme shall be implemented in accordance with the approved details unless otherwise agreed in writing with the Mineral Planning Authority.

*Reason: To ensure the beneficial restoration of the land for agricultural purposes and to accord with policies GE26 and GE27 of the Bedfordshire and Luton Minerals and Waste Local Plan*

**Noise**

28. Prior to the commencement of clay extraction within the southern permitted extraction area, noise attenuation bunds shall be constructed to protect the dwellings at Pillinge Farm and Pillinge Farm Cottages, using soils stripped from the permitted southern extraction area. Details of the exact position and height of the bunds shall be submitted to the Mineral Planning Authority and approved in writing prior to their construction. The bunds shall remain in place for the duration of clay extraction operations, and during restoration works within phases 1 and 2.

*Reason: To protect the amenity of local residents and users of the surrounding land from the effects of any noise arising from the development and to accord with policy GE18 of the Bedfordshire and Luton Minerals and Waste Local Plan*

29. For temporary operations, including soil stripping and bund formation and removal, the free field noise level attributable to work at the site, measured at the nearest point of the defined properties set out in Schedule 1 below, shall not exceed 70 dBL<sub>Aeq 1hr</sub>. Measurements taken to verify compliance shall have regard to the effect of extraneous noise and shall be corrected for such effects. Temporary operations shall not exceed a total of 8 weeks in a calendar year for work close to any individual noise sensitive property.

*Reason: To protect the amenity of local residents and users of the surrounding land from the effects of any noise arising from the development in accordance with policy GE18 of the Bedfordshire and Luton Minerals and Waste Local Plan*

30. Except for temporary operations, the free field equivalent continuous noise level L<sub>Aeq 1 hr</sub>, attributable to clay extraction, restoration and related operations at the site, shall not exceed the relevant criteria limit specified in Schedule 1 at each nominated dwelling, for the periods specified.

Schedule 1: Noise Criteria Limits

Location	Normal Operations 0700 -1900 Criterion L <sub>Aeq</sub>	Temporary Operations 0800 – 1800 Criterion L <sub>Aeq</sub>
Pillinge Farm	55	70
Pillinge Farm Cottages	55	70
Dwellings north of Rookery North	55	70

*Reason: To protect the amenity of local residents and users of the surrounding land from the effects of any noise arising from the development in accordance with policy GE18 of the Bedfordshire and Luton Minerals and Waste Local Plan*

## Noise Monitoring Scheme

31. Prior to the commencement of clay extraction or buttressing works as set out in the phasing/ timetabling scheme approved under condition 3, a scheme for monitoring noise levels arising from the site at the 3 locations identified in condition 30 shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall provide for:

- (i) Attended measurements by a competent person of Laeq 5 minute noise levels arising from the 1 hour at each of the three monitoring locations identified in the Environmental statement. Measurements to be taken at 3 monthly intervals or such other frequency as may be agreed in writing with the Mineral Planning Authority for the first two years of operation;
- (ii) Details of equipment proposed to be used for monitoring;
- (iii) Monitoring during typical working hours with the main items of plant and machinery in operation;
- (iv) The logging of all weather conditions, approximate wind speed and direction and both on and off site events occurring during measurements including 'phased out' extraneous noise events;
- (v) Monitoring results to be forwarded to the MPA within one month of monitoring
- (vi) The identification of any additional noise attenuation measures which may be required to ensure compliance with the criteria limits specified in Schedule 1
- (vii) The recording of any noise complaints and the action taken

The scheme shall be implemented in accordance with the approved details.

*Reason: To enable the effects of the development to be adequately monitored during the course of the operations in accordance with policy GE18 of the Bedfordshire and Luton Minerals and Waste Local Plan.*

32. The details of reversing warning devices to be fitted to mobile plant and vehicles on site shall be submitted to and approved in writing by the Mineral Planning Authority prior to the commencement of any operations on site.

*Reason: To protect the amenities of the locality from the effects of any noise arising from the development to accord with policy GE18 of the Bedfordshire and Luton Minerals and Waste Local Plan.*

33. The haul route access points to the site shall be restricted to the positions shown on figure 3.1 (rev K).

*Reason: To limit the disturbance caused by vehicular traffic in accordance with policy GE18 of the Bedfordshire and Luton Minerals and Waste Local Plan.*

## Pump station noise

34. All external plant, machinery and equipment installed or operated in connection with the pumping station thereby approved shall be enclosed, operated and/or attenuated that the rating level of noise arising from such plant shall not exceed the level of 5dBA below the existing background level when measured or calculated according to BS4142:1997 at the boundary of any existing neighbouring residential dwelling.

*Reason: To protect the amenity of nearby residential properties and users of the surrounding land from the effects of noise arising from the development in accordance with policy GE18 of the Bedfordshire and Luton Minerals and Waste Local Plan*

### **Air Quality**

35. No works shall take place on the site until a dust management plan, containing details of monitoring and dust control methods has been submitted to and approved in writing by the Mineral Planning Authority.

Measures taken to minimize dust emissions from the operation shall include:

- soils and overburden shall not be handled during extreme dry conditions, unless the working areas are dampened down with water bowsers;
- site haul roads shall be dampened down as appropriate using a water bowser;
- speed restrictions shall be imposed on internal haul roads to minimise the generation of dust; and
- the site access onto Green Lane shall be periodically swept or dampened down to prevent mud being carried onto the public highway.

The results of the dust monitoring shall be submitted to the MPA within 14 days of the end of each monitoring period.

The plan shall be implemented in accordance with the approved details.

*Reason: To protect the amenities of the locality from the effects of any dust arising from the development in accordance with policy GE18 of the Bedfordshire and Luton Minerals and Waste Local Plan.*

### **Archaeology**

36. Prior to the commencement of development a Scheme of Archaeological Resource Management shall be submitted to and approved in writing by the Mineral Planning Authority.

The scheme shall be implemented in accordance with the approved details.

*Reason: To protect the archaeological interests of the area in accordance with policy GE14 of the Bedfordshire and Luton Minerals and Waste Local Plan.*

### **Site Environmental Management Plan**

37. A Site Environmental Management Plan shall be prepared and maintained at the site office to inform the site contactor of the key details and measures set out in the Environmental Statement, and wider operational controls associated with the construction operation. The Site Environmental Management Plan shall pay particular regard to controls imposed by other conditions, and to the following additional matters :

- i) working programme
- ii) land quality, drainage and contamination
- iii) hours of operation
- iv) soil resources
- vi) landscaping and restoration

- vii) noise
- viii) dust and air quality
- x) archaeology
- xi) site environmental management plan

Reason: *To ensure the beneficial restoration of the land for agricultural purposes and to accord with policies GE26 and GE27 of the Bedfordshire and Luton Minerals and Waste Local Plan*

### **Annual Environmental Management Plan**

38. An Annual Environmental Report shall be submitted to the Mineral Planning Authority by 31 March each year for the previous period from 1 January to 31 December. The report shall contain the following:

- (i) A statement of operations over the past year, to include progress on mineral extraction and restoration, and a summary of monitoring of noise, dust, groundwater and traffic movements.
- (ii) Identification of any problems caused by the operations and action taken to address these.
- (iii) A statement of future planned operations over the next year.
- (iv) Identification of any potential problems which could be caused by future operations and the action to be taken to address these.

Reason: *To ensure the beneficial restoration of the land for agricultural purposes and to limit the disturbance caused to local amenity in accordance with policies GE18, GE26 and GE27 of the Bedfordshire and Luton Minerals and Waste Local Plan*

### **Working Near The Railway requirements**

#### **Extractive Operations**

39. No operations shall take place within a lateral distance of 30 metres from the Midland Main line, on the eastern side of the pit, and 20 metres of the Bedford Branch on the western side of the pit. Outside these distances no excavation shall take place that will encroach upon the plan drawn at 1 vertical to 2 horizontal, downwards, from the edge of these berms through the callow overburden material with a four metres wide bench being provided at the top of the brick clay. A one vertical slope shall be maintained through the brick clay.

No overburden shall be tipped or any buildings erected on the berms between the edge of the excavation and the railway boundary

Reason: *To ensure the stability of the railway structure*

## **Fencing**

40. Prior to the establishment of any additional footpaths, permissive or dedicated, a fence shall be provided adjacent to the existing railway boundaries to separate the restored site from the railway. Details of the proposed fence shall be submitted to and approved in writing by the Mineral Planning Authority and shall be constructed in accordance with the approved details.

*Reason: In the interests of public safety.*

## **INFORMATIVES**

### **Network Rail Requirements**

#### **Drainage**

There must be no interference to any existing Network Rail drainage rights.

#### **Plant and Machinery**

In order to maintain the safety of railway operations cranes and jibbed machines used in connection with works shall be so positioned that the jib or any suspended load does not swing over railway infrastructure or within 3 metres of the nearest rail if the boundary is closer than 3 metres.

In order to maintain the safety of railway operations all cranes, machinery and constructional plant shall be positioned and used to prevent the accidental entry onto railway property of such plant, or loads attached thereto, in the event of failure.

#### **Tree Planting**

Deciduous trees and pines should not be planted close to the operational railway. The list of tree species to be planted includes *Fraxinus excelsior* (Ash) which have heavy leaf fall; it would be preferable if such trees were not planted close to the railway as shedding of leaves can cause operational difficulties.

#### **Land Drainage Act**

Erection of flow control structures or any culverting of a watercourse requires the prior written approval of the Environment Agency under section 23 of the Land Drainage Act 1991 or section 109 of the Water Resources Act 1991. The Environment Agency resists culverting on nature conservation and other grounds and consent for such works will not normally be granted.

#### **Great Crested Newts**

Legally protected species, including Great Crested Newts which are fully protected under *The Conservation of Habitats and Species Regulations 2010*, have been confirmed within the application site. The legislation protecting species is explained in Part IV and Annex A of *ODPM Circular 06/2005 Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System*.

The Ecological Mitigation Strategy submitted as part of the application identifies that a European Protected Species licence for Great Crested Newts will be required. It should be noted that the granting of planning permission does not absolve the applicant from complying with the legislation identified above, including obtaining and complying with the terms and conditions of the required licence.

### **Pumping from lake in Rookery South Pit to Stewartby**

The rate of off site pumping shall be regulated by the existing Discharge Consent License (reference PRCNF/14024) or any variation thereof.

### **106 Agreement**

A Legal Agreement dated December 2010, made pursuant to Section 106 of the Town and Country Planning Act 1990 and Section 59(3) of the Highways Act 1980, attaches to this permission.

### **NOTES TO APPLICANT**

**Where conditions include the phrase “*Except as may otherwise / Unless otherwise approved in writing by the Local Planning Authority...*”, this is to allow for temporary exceptions to be approved in special circumstances or for minor amendments to be made.**

### **Reasons for Granting:**

The remaining works relate mainly to the restoration of the site. There is an area of clay in the south west corner of Rookery South Pit that remains to be extracted but this will be used to stabilise the slopes surrounding both the north and south pits and, in particular, where the railway line forms the boundary of the site. Material would, therefore, be used on site and not be transported off site for use elsewhere.

Rookery North Pit would be allowed to naturally regenerate although some landscaping and ecological mitigation works are proposed. Almost half the area is lake and opportunity will be taken to introduce aquatic marginal planting as well as other planting at the southern end of the site.

In Rookery South a more varied approach to restoration is proposed. The floor of the pit would be graded to a flat surface to be used for agricultural purposes. Again regarding of the slopes would take place and additional tree planting is proposed on the slopes and in the south western part of the pit to add to the tree cover in the area in accordance with the objectives of the Marston Vale Forest objectives. This accords with policy CS16 of the CBCS which supports the creation of the Forest of Marston Vale and also recognizes the need to regenerate damaged landscapes through woodland creation to achieve 30% woodland cover by increasing woodland cover where it would not threaten other habitats.

It is considered that the proposed restoration accords with policy MWLP GE2 which requires such restoration schemes to contribute to the improvement of the Vale and to make significant environmental improvements.

Rookery South Pit has been put forward in the Preferred Options DPD for non hazardous waste landfill and for the location of waste facilities. The flat base of the site proposed would enable these activities to take place if approved through the development plan process. If not, then all of the land would be available for farming. If the landfill took place – and there are now very few sites potentially available in the Bedfordshire area for this – the south eastern part would be used for this purpose. The land could then be restored to grassland or other restoration compatible with the approved restoration of the remainder of the pit. Agriculture was probably the predominant land use before extraction.

Before works take place in Rookery South it will be necessary to relocate the Great Crested Newts to Rookery North or to an alternate location. There have been ongoing discussions between the applicant and Natural England on this and other species and agreement has been reached on the mitigation measures required. An alternative site has been identified so that the newts would either be relocated to Rookery North Pit or to the alternative site.

A Section 106 Agreement is proposed that would ensure the management of the pits in the longer term for nature conservation purposes.

The landscape officer has expressed concern that the opportunity has not been taken to provide a restoration that accords with the scale of the site or that allows for the natural regeneration of the land to provide an extension to the Millenium Park or to meet the objectives of the Marston Vale Forest. The view was also expressed that agriculture was an alien use in this area. This view has been echoed by the Wildlife Trust who say that the north and south pits have different but complementary ecology and many species of local and national interest. However, the landscape officer has now accepted that a significant part of the land will be restored for nature conservation purposes and with the additional tree planting proposed in Rookery South this is acceptable in landscape terms and accords with the Marston Vale Forest strategy.

It is considered that the proposals for Rookery North and South pits provide a good mix of restoration with all of Rookery North being retained for nature conservation purposes and to effectively extend the area used for this purpose eastwards from the Forest Centre. Without active pumping the area will flood but measures would be put in place for long term management for at least 20 years and that would include pumping to maintain water levels.

An aftercare scheme would also be required and the submission of this is conditioned. This would accord with policy GE27 which requires a scheme for aftercare for sites to be restored to agriculture, forestry or amenity use.

In order to ensure that the site is restored within a short a timescale as possible to the desired restoration scheme it is proposed to require all the works on site to be completed within 10 years of the date of the decision notice rather than the longer end date which legislation imposes on ROMP application of February 2042. This would be done through the 106 agreement.

Overall it is considered that the proposals accord with the relevant development plan policies relating to species and habitat protection and biodiversity and landscape now that additional



tree planting is proposed and a long term management plan agreed (GE9, GE10, GE12 and GE13 of the MWLP and CS16 and CS18 of the CBCS).

**Highways and traffic considerations** - The proposed restoration is unlikely to require the importation of material unless it is required to form a soil like material for restoration. It is, therefore considered that the volume of traffic on Green Lane would not be significant. The proposal therefore accords with policy GE23 of the MWLP which requires the suitability and capacity of access routes to be taken into account.

**Rights of Way** - The restoration proposals for the pits include provision for both definitive and permissive rights of way within the site. It will be possible to provide many of these paths at an early stage of the restoration especially those along the eastern boundary of the site and in Rookery North. Those in Rookery South, including that around the attenuation lake, may be provided at a later stage because of the ongoing works in this area including the extraction of clay and the slope attenuation works. There are likely to be health and safety issues if these paths are required to be made available at the same time as those in Rookery North.

There will be a footpath along the length of the eastern side of the site, parallel to the railway, which will link FP7 and FP65 and enable a circular walk to take place.

The rights of way to be provided around the edge of Rookery North Pit and within the site would be provided within one year of the date of the permission and will become definitive paths after a five year period. However, the path to be provided around the attenuation lake will remain a permissive path - to remain for a least a 20 year period.

A Section 106 Agreement would make provision for these paths, the specification, dedication of any definitive rights of way and minimum length of time permissive paths would be available.

Although it was initially hoped that further linkages could be provided particularly in Rookery South the Rights of Way officer is satisfied with the rights of way that are being provided as part of the restoration.

There is potential for the rights of way at the Millenium Park to be extended as a result of the restoration at this site although this has not been explored at this stage. It is considered that the extent of the footpaths to be provided and reinstated through the restoration of this site accord with policy GE21 of the MWLP which requires reinstatement of rights of way and the enhancement of public access through the provision of additional paths.

**Archaeology** - The Council's Archaeologist considers that the initial request by English Heritage that a field evaluation should be undertaken of the undisturbed clay area prior to determination has been overtaken by events and further discussion. PPS5, which superseded PPG16, requires significant heritage assets to be identified and the impact of the proposal on those assets to be assessed. It is considered that the applicants have conformed with this requirement and that the condition proposed to be applied which requires the submission of a Scheme of Archaeological Resource Management is sufficient to address any archaeological issues relating to the site.

**Noise, Dust and Disturbance** - With most sites subject to mineral extraction there are issues associated with the potential for dust generation caused by the operations and the vehicles and machinery associated with it and for noise to cause disturbance. This is an area where there is limited development but Pillings Farm to the south east has been identified as a potentially sensitive receptor. In order to address any potential issues conditions are proposed that require the submission and approval of a dust management scheme and also a noise monitoring scheme prior to the commencement of development. It is envisaged that any dust or noise concerns can be effectively addressed through these schemes and accords with policy GE18 of the MWLP which requires disturbance to be reduced as far as practicable.

## **Conclusions**

The proposed restoration accords with policies for mineral extraction and the aspirations of the East of England Plan and The Bedfordshire and Luton Minerals and Waste Local Plan. Any concerns raised by statutory or technical consultees have been addressed including those relating to the extent of tree planting in Rookery South pit.

The restoration scheme will provide a substantial area devoted to nature conservation but will also facilitate access to the countryside by the re-establishment of footpaths and provision of new ones. The provision of these paths, including the timescale and specifications, and future long term management of the site will be addressed through the Section 106 agreement. These are considered to be positive measures to improve access and to actively manage the land for nature conservation purposes in the longer term.



**Trevor Saunders**  
**Assistant Director of Planning**

Date of Issue: 09 December 2010

**DEVELOPMENT MANAGEMENT PROCEDURE ORDER 2010**  
**PART 2**  
**TOWN AND COUNTRY PLANNING ACT 1990**

**Notification to be sent to an applicant when a local planning authority refuse planning permission or grant it subject to conditions**

**Appeals to the Secretary of State**

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990. Please note, only the applicant possesses the right of appeal.
  
- If an enforcement notice is served relating to the same or substantially the same land and development as your application and you want to appeal against your local planning authority's decision on your application, then you must do so within:  
  
28 days of the date of the service of the enforcement notice, or within 6 months (12 weeks in the case of a householder appeal) of the date of this notice, whichever period expires earlier.
  
- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice. **(NB** If this is a decision to refuse planning permission for a householder application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
  
- Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at [www.planningportal.gov.uk/pcs](http://www.planningportal.gov.uk/pcs).
  
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
  
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
  
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

**Purchase Notices**

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
  
- In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

**Appendix 3 O&H Properties Landfill and  
Integrated Waste Management  
Operations – Scoping Opinion (Ref:  
CB/13/02695/SCO**

# Development Management

Central Bedfordshire Council  
Priory House, Monks Walk  
Chicksands, Shefford  
Bedfordshire SG17 5TQ  
www.centralbedfordshire.gov.uk



Mr G Jenkins  
SLR Consulting Ltd  
Fulmar House  
Beignon Close

Ocean Way  
Cardiff CF24 5HF

PLEASE ASK FOR: Susan Marsh

DIRECT DIAL/EXT: 0300 300 6032

EMAIL:

MWApplications@centralbedfordshire.gov.uk

DATE: 05 September 2013

YOUR REF:

Dear Mr Jenkins

**TOWN & COUNTRY PLANNING ACT 1990  
TOWN & COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT)  
(ENGLAND & WALES) REGULATIONS 2011  
SCOPING OPINION UNDER PART 13 OF THE REGULATIONS IN RESPECT OF:**

**Reference: CB/13/02695/SCO  
Location: Rookery Pit Marston Moretaine, Bedfordshire,  
Proposed Request for scoping opinion for Landfill and Integrated Waste  
Development: Management Operations**

I refer to your letter received on 5th August 2013 formally requesting a Scoping Opinion with regard to the above development at Rookery Pit south. The site is identified on Plan nos. 14081/05 - Figure 1 and 28344001A.

This Scoping Opinion is made on behalf of Central Bedfordshire Council. However, a scoping opinion will also be made on behalf of Bedford Borough because, whilst the bulk of the site lies in Central Bedfordshire, the north western part of the pit is in Bedford Borough. Part of Green Lane which would act as the access into the site from the C94/A421 is also largely within Bedford Borough Council area. Officers from both authorities and others have been consulted in order to make the Scoping Opinion.

The information provided indicates that it is intended to landfill hazardous waste as well as non hazardous residual waste at the site. This falls under Section 9 of Schedule 1 of the EIA Regulations 2011 whilst the landfill of non hazardous waste, exceeding 100 tonnes/day, falls under Section 10 of Schedule 1 of the EIA Regulations 2011. Additionally, Schedule 2 Section 11(c) identifies 'Installations for the disposal of waste' if the site area exceeds 0.5ha. The development proposed is clearly EIA development.

The site (Rookery Pit south) is identified in Policy WCP2 (renamed WSP2) in the emerging Minerals and Waste Local Plan: Strategic Sites and Policies as a Strategic Site for both non hazardous waste landfill and for waste recovery. This Local Plan, whilst not adopted, has reached an advanced stage of preparation. The hearings into the soundness of the Plan have been completed and it is anticipated the Inspector will be reporting on the soundness of the Plan in the next week or so after which the Joint Authorities will be seeking formal authority to adopt the Plan it is anticipated by the

end of November 2013.

There are other policies in the emerging Local Plan that relate to specific types of waste management use, such as Anaerobic Digestion, as which it will be appropriate to refer to when compiling the Environmental Assessment. However, there are saved policies within the Minerals and Waste Local Plan which will still be relevant even when the new Local Plan is adopted. These saved policies relate to general and environmental matters.

The Scoping Opinion has a section on Planning Policy (section 7). This sets out relevant policy relating specifically to minerals and waste. It is suggested that the policies set out in this section are reviewed when the Minerals and Waste Local Plan : Strategic Sites and Policies (MWLPSSP) is adopted as some of the policies in the Minerals and Waste Local Plan will have been superseded by those in the new MWLPSSP. Also the numbering of the policies in this new plan is likely to have changed.

It is noted that in submitting this request for a scoping opinion it is assumed that the Covanta Resource Recovery Facility may still be developed and, indeed this has the benefit of a Development Consent Order issued in March 2013 which allows 5 years for the commencement of the development of that facility. Even if this facility is not developed in its current form it is possible that a further application could be made for a similar type of development. In the MPA's view this development needs to be taken into account when considering the impact of the additional development now proposed in Rookery Pit south.

## **Matters to be addressed in the Environmental Statement**

### **Geology and Ground Conditions**

The MPA agrees that that whilst there was a detailed assessment of the ground conditions, geology and hydrogeology in the low level restoration scheme previously approved from Rookery Pit south, supplemented by additional ground investigation works and geotechnical studies, that further information is required focusing on the landfill elements and the engineering design of the landfill cells in the Environmental Statement.

The MPA draws your attention to the comments made by the Environment Agency.

### **Landscape and Visual Impact**

The MPA draws your attention to the comments of the Council's landscape officer, Marston Moretaine Parish Council, Cllr Sue Clark, the Rights of Way Officer, the Marston Vale Trust and Network Rail on landscape and visual issues.

In particular it is considered that it is likely to be necessary to extend the study beyond the 5km proposed in the scoping opinion. This is to take into account the views from the Greensand Ridge, the location of significant heritage assets on that ridge and overlooking the Vale and the likely catchment for vehicular travel to and from the site. The extent of forest cover within the site and landscaping between and within the proposed waste management uses also needs to be considered as well as the tree and shrub planting already approved around the edge of the pit as part of the low level restoration scheme.

## **Air Quality and Dust**

The MPA notes that an assessment of the current baseline and assessment methodology will be agreed with the local authority based on the methodology set out in the Scoping Opinion. In the MPAs view the Environmental Impact Assessment should also include odour due to the nature of some of the uses proposed. It should be noted that there was no consultation response from the Council's Environmental Health Officer and further issues may be raised when the local authority is consulted on the assessment methodology.

In Central Bedfordshire sensitive receptors should include new housing in the area (such as that proposed on Marston Park), footpath users, users of the Forest Centre and Stewartby Lake, and residents whose houses front the C94 between Green Lane and the Little Chef roundabout. It may also be appropriate to include part, if not all of Marston Moretaine within the area to be assessed.

The MPA draws your attention to the comments made by Marston Moretaine Parish Council and Cllr Sue Clark in respect to these matters.

## **Noise and Vibration**

The MPA notes that the noise assessment methodology will be agreed with the local authority. The Environmental Health Officer did not respond to this consultation and it is possible that further issues may be raised when the local authority is consulted on the assessment methodology.

In Central Bedfordshire sensitive receptors should include new housing in the area (such as that proposed at Marston Park), footpath users, users of the Forest Centre and Stewartby Lake, and residents whose houses front the C94 between Green Lane and the Little Chef roundabout. It may also be appropriate to include part, if not all of Marston Moretaine within the area to be assessed.

The MPA draws your attention to the comments made by Marston Moretaine Parish Council and Cllr Sue Clark in respect to these matters.

## **Traffic and Transport**

The MPA draws your attention to the comments made by the Highways DC Officer, the Highways Agency, Network Rail and Marston Moretaine Parish Council.

The MPA notes that no information has been provided on numbers of HGV movements generated by the various waste management facilities and landfill proposed; on the likely sources of waste or the hours of operation. On this basis it is difficult to provide any detailed comments with respect to traffic. However, I can confirm that a Transport Assessment will be required in support of any application. Detailed information will be required in respect to the level and nature of traffic movements generated by both the landfill activities and also the waste recovery uses. Details will also be required of where it is intended to source waste and markets for the processed waste so that the primary routes can be identified and consideration given as to whether there are catchment area issues. A Travel Plan will also be required.

The Scoping Opinion report states on page 18 that there are no sensitive receptors on Green Lane. Whilst this was the case the situation has now changed.

Marston Moretaine Parish Council has raised concerns about the new Kimberley College not being mentioned as a sensitive receptor (Bedford Borough). This is located in the former Hanson office

building on Green Lane and all traffic to and from Rookery Pit south will need to pass the college. This will be a satellite site to Wootton Upper School and there will be a regular shuttle bus between these sites. Kimberley College is expected to receive students via car, rail and on foot. These comments are echoed by Cllr Sue Clark and by Houghton Conquest Parish Council.

Kimberley College is opening in September 2013 and needs to be treated as a sensitive receptor in the Environmental Impact Assessment. It is also considered that the traffic to/from the Millbrook Proving Ground, Stewartby Watersports, new housing developments using Green Lane and Centre Parcs are taken into account in the Transport Assessment.

The impact of the additional traffic on the level crossing will need to be assessed as all traffic going into and out of the site will need to cross this.

### **Ecology**

The MPA considers that it is at least 2-5 years since the survey work was undertaken for the ecological assessment for either the low level restoration or for the Covanta proposal and, therefore, the survey information will need to be updated. An assessment is also required of the impact of the current proposals on the ecology of the area and what additional mitigation may be required.

The consultation response from Natural England is awaited and will be forwarded when it is available.

### **Hydrology, Hydrogeology and Drainage**

The MPA considers that even though the lower level restoration included details of drainage the Environmental Impact Assessment will be required to include this as the proposed landfill will bring significant changes to the topography of the site, together with potential pollution issues, and the extent of built development and hard surfacing. Also there will be the need to ensure that the landfill, which could include hazardous waste, and the various waste management uses can be adequately drained and do not have an adverse impact on any of the nearby waste bodies and streams.

The MPA draws your attention to the comments received from the Environment Agency, Marston Moretaine Parish Council and Cllr Sue Clark in respect to this matter.

### **Cultural Heritage and Archaeology**

The EIA Scoping Report states that Cultural Heritage was "...comprehensively addressed via the EIA undertaken in support of the ROMP low level restoration scheme..." It goes on to say that although Cultural Heritage will be dealt with in the EIA it is not proposed to undertake any detailed reassessment of this topic.

The MPA is of the view that, given the nature of the proposed development, it would be acceptable to base the EIA chapter on Cultural Heritage on the information and assessment undertaken for the ROMP application EIA. However, the baseline information will need to be reviewed and updated to take into account new information acquired since the ROMP application, including the results of the archaeological investigation that identified the Roman settlement in the south west corner of the site.

Paragraph 6.9 of the EIA Scoping Report says that the ROMP EIA did not identify any Scheduled Monuments within 2km of the site. Whilst this is the case there are three designated heritage assets (Houghton House, Ampthill House and Ampthill Park) that are more than 2km away from the site but in whose setting Rookery Pit lies. The EIA will need to consider the setting of these designated heritage assets and the impact the proposed development will have on their setting. This cannot just be dealt with as a landscape issue, while the setting of a heritage asset has a substantial visual



element it has specific historic environment facets which need to be considered in the context of the historic environment and individual heritage assets. English Heritage have published guidance on the setting of heritage assets, this should be used when assessing the impact on the relevant sites.

The national planning policy context on the historic environment has changed since the EIA for the ROMP application was compiled with the issue of the National Planning Policy Framework in March 2012 and, therefore, this will need to be reviewed.

The MPA draws your attention to the comments made by the Council's Archaeologist and English Heritage as well as those of Marston Moretaine Parish Council and Cllr Sue Clark.

Notwithstanding the fact that the low level restoration previously approved for Rookery Pit south was accompanied by an Environmental Statement it is considered that, given the extent and nature of the development now proposed, that the Environmental Impact Assessment should fully address all the subject areas set out above. Whilst there may have been studies of some subject areas for either or both the low level restoration scheme or for the Covanta Resource Recovery Facility whilst these may form a basis for any assessment it is considered that they will be required to be updated and considered in the context of the development currently proposed.

It is the MPA's view that all the following subject areas should be included and fully assessed in the within the Environmental Impact Assessment:

- Geology and Ground Conditions
- Landscape and Visual Impact
- Air Quality and dust
- Noise and vibration
- Traffic and transport
- Ecology
- Hydrology, Hydrogeology and Drainage
- Cultural Heritage and Archaeology

It will also be necessary to consider the **cumulative impact** of both the Covanta development and that currently proposed on the surrounding area.

An **alternative site assessment** will also need to be undertaken and the reasons given for the selection of this site.

A number of other points in respect to the submission received require attention:

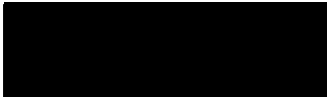
- Paragraph 4.2 refers to the site being 'despoiled land'. Former mineral sites are generally considered 'greenfield' sites as it is acknowledged that they are limited period uses and the sites are restored.
- In paragraph 5.2 it is stated that some matters have been addressed comprehensively in the EIA/ES relating to other applications at the site. Whilst this may be the case it is considered that there could be a significant difference in impact from a low level restoration scheme to one which includes landfill and a large number of waste management uses on a permanent or long term basis at the site, the coverage of the site and the visual effect of some of the waste management uses proposed. Such matters as the water environment, cultural heritage and ecology should still be addressed and are covered in the subsequent sections.
- For some of the waste management uses proposed there is no indication given of the likely

annual throughput. For example construction and demolition waste.

- For some proposed uses there is an annual throughput given which, on the face of it, seems unlikely. For example a notional input rate of 80,000 tonnes per annum is given for hazardous waste landfill. It would be helpful to be given some justification for the throughputs anticipated as this does seem to be on the high side.
- No indication is given for likely vehicular movements associated with the different waste management uses or the area from which it is anticipated that these wastes would be sourced.

If any additional consultation responses are received following the issue of this letter these will be forwarded on to you.

Yours sincerely



Mrs Susan Marsh B.Sc DIPTP MRTPI  
Principal Minerals & Waste Planning Officer

## **Appendix 4    Covanta RRF Project – DCO**

2013 No. 680

**INFRASTRUCTURE PLANNING, ENGLAND**

**The Rookery South (Resource  
Recovery Facility) Order 2011**

<i>Made</i> - - - -	<i>22nd November 2011</i>
<i>Laid before Parliament</i> -	<i>29th November 2011</i>
<i>Coming into force</i> - -	<i>28th February 2013</i>



2013 No. 680

**INFRASTRUCTURE PLANNING, ENGLAND**

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SCHEDULE 7	—	PROTECTION OF NETWORK RAIL INFRASTRUCTURE LIMITED

An application has been made to the Infrastructure Planning Commission in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(a) for an Order granting development consent;

The application was examined by a Panel appointed by the Chair of the Infrastructure Planning Commission pursuant to Chapter 4 of Part 6 of the Planning Act 2008(b) (“the 2008 Act”);

The Panel, having considered the representations made and not withdrawn and the application with the documents that accompanied the application, in accordance with section 104 of the 2008 Act has determined to make an Order giving effect to the proposals comprised in the application with modifications which in its opinion do not make any substantial change in the proposals;

The Panel has sent a draft of the Order to the Secretary of State in accordance with subsection (2) of section 121 of the 2008 Act and the Secretary of State has not given a direction under subsection (3) of that section;

The Order authorises the compulsory acquisition of land which is the property of local authorities and of land which has been acquired by statutory undertakers for the purposes of their undertaking, representations have been made by the local authorities and statutory undertakers concerned about the application for the Order before the completion of the examination of the application, and the representations have not been withdrawn;

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(a) S.I. 2009/2264.

(b) 2008 c.29.

The Order will not come into force until it has been laid before Parliament and has been brought into operation in accordance with the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965(a);

Accordingly, in exercise of the powers conferred by sections 114, 115 and 120 of the 2008 Act, the Infrastructure Planning Commission makes the following Order:

### Citation and commencement

1. This Order may be cited as the Rookery South (Resource Recovery Facility) Order 2011.

### Interpretation

#### 2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(b);

“the 1965 Act” means the Compulsory Purchase Act 1965(c);

“the 1980 Act” means the Highways Act 1980(d);

“the 1990 Act” means the Town and Country Planning Act 1990(e);

“the 1991 Act” means the New Roads and Street Works Act 1991(f);

“the 2008 Act” means the Planning Act 2008;

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

“the book of reference” means the book of reference certified by the decision-maker as the book of reference for the purposes of this Order;

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

“carriageway” has the same meaning as in the 1980 Act;

- 
- (a) 1945 (9 & 10 Geo.6 c.18) and 1965 c.43.
- (b) 1961 c.33. Section 2(2) was amended by section 193 of, and paragraph 5 of Schedule 33 to, the Local Government, Planning and Land Act 1980 (c.65). There are other amendments to the 1961 Act which are not relevant to this Order.
- (c) 1965 c.56. Section 3 was amended by section 70 of, and paragraph 3 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). Section 4 was amended by section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c.71). Section 5 was amended by sections 67 and 80 of, and Part 2 of Schedule 10 to, the Planning and Compensation Act 1991 (c.34). Subsection (1) of section 11 and sections 3, 31 and 32 were amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c.67) and by section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No. 1). Section 12 was amended by section 56(2) of, and Part 1 to Schedule 9 to, the Courts Act 1981 (c.23). Section 13 was amended by section 139 of the Tribunals Courts and Enforcement Act 2007 (c.15). Section 20 was amended by section 70 of, and paragraph 14 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). Sections 9, 25 and 29 were amended by the Statute Law (Repeals) Act 1973 (c.39) and by section 14 of, and paragraph 12(2) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No. 1). There are other amendments to the 1965 Act which are not relevant to this Order.
- (d) 1980 c.66. Section 1(1) was amended by section 21(2) of the New Roads and Street Works Act 1991 (c.22), sections 1(2), 1(3) and 1(4) were amended by section 8 of, and paragraph (1) of Schedule 4 to, the Local Government Act 1985 (c.51); section 1(2A) was inserted, and section 1(3) was amended, by section 22(1) of, and paragraph 1 of Schedule 7 to, the Local Government (Wales) Act 1994 (c.19). Section 36(2) was amended by section 4(1) of, and paragraphs 47(a) and (b) of Schedule 2 to, the Housing (consequential Provisions) Act 1985 (c.71), by S.I. 2006/1177, by section 4 of, and paragraph 45(3) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11), by section 64(1) (2) and (3) of the Transport and Works Act (c.42) and by section 57 of, and paragraph 5 of Part 1 of Schedule 6 to, the Countryside and Rights of Way Act 2000 (c.37); section 36(A) was inserted by section 64(4) of the Transport and Works Act 1992 and was amended by S.I. 2006/1177; section 36(6) was amended by section 8 of, and paragraph 7 of Schedule 4 to, the Local Government Act 1985 (c.51); and section 36(7) was inserted by section 22(1) of, and paragraph 4 of Schedule 7 to, the Local Government (Wales) Act 1994 (c.19). Section 329 was amended by section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c.29) and by section 190(3) of, and Part 1 of Schedule 27 to, the Water Act 1989 (c.15). There are other amendments to the 1980 Act which are not relevant to this Order.
- (e) 1990 c.8. Section 206(1) was amended by section 192(8) of, and paragraphs 7 and 11 of Schedule 8 to, the Planning Act 2008 (c.29) (date in force to be appointed see section 241(3), (4)(a), (c) of the 2008 Act). There are other amendments to the 1990 Act which are not relevant to this Order.
- (f) 1991 c.22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c.26). Sections 79(4), 80(4) and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18).

“the code of construction practice” means the code of construction practice certified by the decision-maker as the code of practice for the purposes of this Order;

“commence” means begin to carry out any material operation (as defined in section 56(4) of the 1990 Act) forming part of the authorised development other than operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, or the temporary display of site notices or advertisements and “commencement” is to be construed accordingly;

“compulsory acquisition notice” means a notice served in accordance with section 134 of the 2008 Act;

“the decision-maker” has the same meaning as in section 103 of the 2008 Act;

“the design and access statement” means the design and access statement certified by the decision-maker as the design and access statement for the purposes of this Order;

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

“the land plans” means the plans certified as the land plans by the decision-maker for the purposes of this Order;

“limits of deviation” means the limits of deviation for the scheduled works comprised in the authorised development shown on the works plans;

“local highway authority” has the same meaning as in section 329(1) of the 1990 Act;

“maintain” includes maintain, inspect, repair, adjust, alter, remove, clear, refurbish, reconstruct, decommission, demolish, replace and improve and “maintenance” is to be construed accordingly;

“the Order land” means the land shown on the land plans which is within the Order limits and described in the book of reference;

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

“the Order limits plan” means the plan certified as the Order limits plan by the decision-maker for the purposes of this Order;

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(a);

“the relevant planning authority” means Central Bedfordshire Council in relation to land in its area and Bedford Borough Council in relation to land in its area, and “the relevant planning authorities” means both of them;

“requirement” means a requirement set out in Part 2 of Schedule 1;

“the rights of way plan” means the plan certified as the rights of way plan by the decision-maker for the purposes of this Order;

“the scheduled works” means the works specified in Part 1 of Schedule 1, or any part of them as the same may be varied pursuant to article 3;

“the sections” means the sections certified as the sections by the decision-maker for the purposes of this Order;

“statutory undertaker” means any person falling within section 127(8), 128(5) or 129(2) of the 2008 Act;

“street” means a street within the meaning of section 48 of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

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(a) 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.



“the tribunal” means the Lands Chamber of the Upper Tribunal;

“the undertaker” means, in relation to any provision of this Order, Covanta Rookery South Limited and any other person who has the benefit of that provision in accordance with article 7 or section 156 of the 2008 Act;

“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 and also includes the water body or water bodies contained in Rookery North Pit, Stewartby; and

“the works plans” means the plans certified as the works plans by the decision-maker for the purposes of this Order.

(2) References in this Order to a numbered Work are references to the Work so numbered in Part 1 of Schedule 1.

(3) 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.

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

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

3.—(1) Subject to the provisions of this Order and to the requirements the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

(2) The authorised development may be constructed in the lines or situations shown on the works plans and, subject to the provisions of the requirements, in accordance with the drawings specified in the requirements.

(3) The works comprised in the authorised development may be constructed within the limits of deviation.

(4) In constructing or maintaining the scheduled works, the undertaker may—

- (a) deviate laterally from the lines or situations shown on the works plans within the limits of deviation; and
- (b) deviate vertically from the levels shown for those works on the sections to any such extent downwards as may be necessary, convenient or expedient provided that the stack shall not be lower in height than 135.25 metres above ordnance datum.

(5) Nothing in this Order or the Town and Country Planning (General Permitted Development) (England and Wales) Order 1995(a) in its application to the authorised development permits—

- (a) development contrary to any condition imposed by any planning permission granted or deemed to be granted under Part III of the 1990 Act or any requirement otherwise than where expressly authorised by either Order;
- (b) any part of Work No. 1 (other than the stack comprised in that work) to exceed the height of the building shown on the plans listed in requirement 6.

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

4.—(1) Where an application is made to the relevant planning authorities or either of them 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 required by a condition imposed on a grant of planning permission, 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);

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(a) S.I. 1995/418.

- (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.

(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.

(3) For the purposes of the application of section 262 of the 1990 Act (meaning of "statutory undertaker") to appeals pursuant this article, the undertaker is deemed to be a holder of a licence under section 6 of the Electricity Act 1989(a).

#### **Maintenance of authorised development**

5.—(1) Subject to the other terms of this Order, including the requirements, the undertaker may maintain the authorised development, except to the extent that an agreement made under this Order provides otherwise.

(2) Subject to paragraph (3) and the requirements, the power to maintain the authorised development includes the power to carry out and maintain such of the following as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction or operation of the authorised development, namely—

- (a) works to alter the position of apparatus below ground level, including mains, sewers, drains and cables including below ground structures associated with that apparatus within the Order limits;
- (b) works of decommissioning and demolition.

(3) This article only authorises the carrying out of maintenance of works within the Order limits.

#### **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 or any other obligation under any other legislation that may be required to authorise the operation of a generating station.

#### **Benefit of the Order**

7.—(1) Except as provided for by this article, section 156(1) of the 2008 Act applies to the grant of development consent by this Order.

(2) The undertaker may—

- (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 in writing between the undertaker and the transferee; or
- (b) grant to another person (the "lessee") for a period agreed in writing 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.

(3) Where an agreement has been made in accordance with paragraph (2) references in this Order to the undertaker, except in paragraph (4), include references to the transferee or lessee.

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(a) 1989 c.29.

(4) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (2) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(5) The consent of the Secretary of State, being the Secretary of State who would be responsible for determining an application for development consent with the subject matter of this Order, is required for the exercise of the powers of paragraph (2) except where—

- (a) the transferee or lessee is—
  - (i) a statutory undertaker;
  - (ii) a principal council, a joint authority or a joint waste authority in England as defined in the Local Government Act 1972(a);
  - (iii) an authority designated under the Waste Regulation and Disposal (Authorities) Order 1985(b); or
  - (iv) a person having security over any part of the undertaking of the undertaker in respect of Work No. 1 in relation to contractual arrangements relating to a contract between the undertaker and a person referred to in sub-paragraphs (i) to (iii);
- (b) the time limits for claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—
  - (i) no such claims have been made;
  - (ii) any such claim has been made and has been compromised or withdrawn;
  - (iii) compensation has been paid in final settlement of any such claim;
  - (iv) payment of compensation into court in lieu of settlement of any such claim has taken place; or
  - (v) it has been determined by a tribunal or court of competent jurisdiction in respect of any such claim that no compensation shall be payable; or
- (c) the transfer or lease relates to any part of the authorised development except Work No. 1.

(6) The provisions of articles 9 to 12, 14 to 25 and 30 have effect only for the benefit of Covanta Rookery South Limited and a person who is a transferee or lessee as referred to in paragraph (2) and is also—

- (a) the transferee or lessee of the land occupied by Work No. 1;
- (b) in respect of Works No. 6A to 6H, a person who holds a licence under section 6(1) of the Electricity Act 1989, or who is not required to hold such a licence by virtue of an exemption order under section 5 of that Act;
- (c) in respect of articles 15 and 18, the transferee or lessee of the land occupied by Work No. 2; or
- (d) in respect of functions under article 10 relating to a street, a street authority.

(7) Where a person who is the transferee or lessee as referred to in paragraph (2)—

- (a) is liable to pay compensation by virtue of any provision of this Order; and
- (b) fails to discharge that liability,

the liability is enforceable against the undertaker in respect of Work No. 1.

#### **Guarantees in respect of payment of compensation**

8.—(1) The authorised development must not be commenced and the undertaker must not begin to exercise the powers of articles 17 to 27 of this Order unless either a guarantee in respect of the liabilities of the undertaker to pay compensation under this Order or an alternative form of security for that purpose is in place which has been approved by the relevant planning authorities.

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(a) 1972 c.70.  
(b) S.I. 1985/1884.

(2) A guarantee given in respect of any liability of the undertaker to pay compensation under this Order is to be treated as enforceable against the guarantor by any person to whom such compensation is payable.

### **Defence to proceedings in respect of statutory nuisance**

9.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(a) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or nuisance) no order may 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 given under section 61 (prior consent for work on construction site) or 65 (noise exceeding registered level), of the Control of Pollution Act 1974(b); 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 Central Bedfordshire Council as described in requirement 19; or
  - (ii) is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) of the Control of Pollution Act 1974 (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) and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded) do 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.

### **Street works**

10.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 2 as is within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street;
- (c) place apparatus in the street;
- (d) maintain apparatus in the street or change its position; and
- (e) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b), (c) and (d).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

---

(a) 1990 c.43. There are amendments to this Act which are not relevant to this Order.

(b) 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.

(3) The provisions of sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph (1).

(4) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

#### **Public rights of way**

**11.—(1)** With effect from the date upon which authorised development is first commenced the section of each public right of way specified in columns (1) and (2) of Part 1 of Schedule 3 and shown on the rights of way plan is extinguished to the extent specified in column (3) of that Part of that Schedule.

(2) With effect from the date of satisfaction by the local highway authority that a public right of way specified in columns (1) and (2) of Part 2 of Schedule 3 has been improved to the standard defined in the implementation plan, the public right of way in question is deemed to have the status specified in column (3) of that Part of that Schedule.

(3) In this article “implementation plan” means the written plan agreed between the undertaker and the local highway authority for the improvement of the public right of way in question.

#### **Temporary stopping up of streets**

**12.—(1)** The undertaker, during and for the purposes of carrying out the authorised development, may temporarily stop up, alter or divert any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (2), prevent all persons from passing along the street.

(2) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.

(3) Without prejudice to the generality of paragraph (1), the undertaker may temporarily stop up, alter or divert the street specified in columns (1) and (2) of Schedule 4 to the extent specified, by reference to the letters and numbers shown on the works plan, in column (3) of that Schedule.

(4) The undertaker must not temporarily stop up, alter or divert—

- (a) the street specified as mentioned in paragraph (3) without first consulting the local highway authority; and
- (b) any other street without the consent of the local highway authority which may attach reasonable conditions to any consent.

(5) Any person who suffers loss by the suspension of any private rights of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

#### **Access to works**

**13.** The undertaker may, for the purposes of carrying out the authorised development—

- (a) form and lay out means of access, or improve existing means of access, in the location specified in columns (1) and (2) of Schedule 5; and
- (b) with the approval of the relevant planning authority after consultation with the highway authority, form and lay out such other 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.

#### **Agreements with street authorities**

**14.—(1)** A street authority and the undertaker may enter into agreements with respect to—

- (a) any stopping up, alterations or diversion of a street authorised by this Order; or

- (b) the carrying out in the street of any of the works referred to in article 10(1).
- (2) Such an agreement may, without prejudice to the generality of paragraph (1)—
  - (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
  - (b) include an agreement between the undertaker and street authority specifying a reasonable time for the completion of the works; and
  - (c) contain such terms as to payment and otherwise as the parties consider appropriate.

#### **Discharge of water**

15.—(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) is to be determined as if it were a dispute under section 106 of the Water Industry Act 1991(a) (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 must 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 must 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.

(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) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters is prohibited by Regulation 38 of the Environmental Permitting Regulations (England and Wales) 2010(b) (offences of polluting water).

- (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, used both in this article and in the Water Resources Act 1991 have the same meaning as in that Act.

(9) This article has effect in relation to watercourses or drains that are created or to be created as part of any restoration scheme applicable to Rookery South Pit and authorised by a review of old minerals permissions pursuant to section 96 of the Environment Act 1995(c) reference number BC/CM/2000/08.

#### **Authority to survey and investigate the land**

16.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

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(a) 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.  
 (c) 1995 c.25.

- (a) survey or investigate the land;
  - (b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
  - (c) without prejudice to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and
  - (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.
- (2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days' notice has been served on every owner and occupier of the land.
- (3) Any person entering land under this article on behalf of the undertaker—
- (a) must, if so required on entering the land, produce written evidence of their authority to do so; and
  - (b) may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.
- (4) No trial holes must be made under this article—
- (a) in land located within the highway boundary without the consent of the highway authority; or
  - (b) in a private street without the consent of the street authority,
- but such consent must not be unreasonably withheld.
- (5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

#### **Compulsory acquisition of land**

- 17.—(1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised development or to facilitate it, or as is incidental to it.
- (2) As from the date on which a compulsory acquisition notice under section 134(3) of the 2008 Act is served or the date on which the Order land, or any part of it, is vested in the undertaker, whichever is the later, that land or that part of it which is vested (as the case may be) is discharged from all rights, trusts and incidents to which it was previously subject.
- (3) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.
- (4) This article is subject to article 25.

#### **Power to override easements and other rights**

- 18.—(1) Any authorised activity which takes place on land within the Order limits (whether the activity is undertaken by the undertaker, by its successor pursuant to a transfer or lease under article 7 of this Order, by any person deriving title under them or by any of their servants or agents) is authorised by this Order for the purposes of this article if it is authorised by the Order apart from this article and done in accordance with the terms of this Order, notwithstanding that it involves—
- (a) an interference with an interest or right to which this article applies; or
  - (b) a breach of a restriction as to the user of land arising by virtue of a contract.
- (2) In this article “authorised activity” means—
- (a) the erection, construction or carrying out, or maintenance of any building or work on land;



- (b) the erection, construction, or maintenance of anything in, on, over or under land; or
- (c) the use of any land.

(3) The interests and rights to which this article applies are any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by the virtue of a contract having that effect.

(4) Where any interest or right to which this article applies is interfered with or any restriction breached by any authorised activity in accordance with the terms of this article the interest or right is extinguished, abrogated or discharged at the time that the interference or breach in respect of the authorised activity in question commences.

(5) In respect of any interference, breach, extinguishment, abrogation or discharge in pursuance of this article, compensation—

- (a) is payable under section 7 or 10 of the 1965 Act; and
- (b) is to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections where—
  - (i) the compensation is to be estimated in connection with a purchase under that Act; or
  - (ii) the injury arises from the execution of works on or use of land acquired under that Act.

(6) Nothing in this article is to be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in paragraph (1).

(7) This article does not apply in respect of any agreement, restriction, obligation or other provision contained in a deed made pursuant to section 106 of the 1990 Act or section 278 of the 1980 Act.

#### **Time limit for exercise of authority to acquire land compulsorily**

19.—(1) After the end of the period of 5 years beginning on the day on which this Order is made—

- (a) no notice to treat may be served under Part 1 of the 1965 Act; and
- (b) no declarations may be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981(a) as applied by article 21.

(2) The authority conferred by article 25 ceases at the end of the period referred to in paragraph (1), save that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period if the land was entered and possession was taken before the end of that period.

#### **Compulsory acquisition of rights**

20.—(1) The undertaker may acquire compulsorily the existing rights and create and acquire compulsorily the new rights described in the book of reference and shown on the land plans.

(2) As from the date on which a compulsory acquisition notice is served or the date on which a new right is vested in the undertaker, whichever is the later, the land over which any new right is

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(a) 1981 c.66. Sections 2(3), 6(2) and 11(6) were amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11). Section 15 was amended by sections 56 and 321(1) of, and Schedules 8 and 16 to, the Housing and Regeneration Act 2008 (c.17). Paragraph 1 of Schedule 2 was amended by section 76 of, and Part 2 of Schedule 9 to, the Housing Act 1988 (c.50); section 161(4) of, and Schedule 19 to, the Leasehold Reform, Housing and Urban Development Act 1993 (c.28); and sections 56 and 321(1) of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 3 of Schedule 2 was amended by section 76 of, and Schedule 9 to, the Housing Act 1988 and section 56 of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 2 of Schedule 3 was repealed by section 277 of, and Schedule 9 to, the Inheritance Tax Act 1984 (c.51). There are other amendments to the 1981 Act which are not relevant to this Order.



acquired is discharged from all rights trusts and incidents to which it was previously subject so far as their continuance would be inconsistent with the exercise of that new right.

(3) Subject to section 8 of the 1965 Act as substituted by article 23, where the undertaker acquires an existing right over land under paragraph (1), the undertaker is not required to acquire a greater interest in that land.

(4) Any person who suffers loss as a result of the extinguishment or suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part I of the 1961 Act.

### **Application of the Compulsory Purchase (Vesting Declarations) Act 1981**

21.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981 applies as if this Order were a compulsory purchase order.

(2) The Compulsory Purchase (Vesting Declarations) Act 1981, as so applied, has effect with the following modifications.

(3) In section 3 (preliminary notices), for subsection (1) there is substituted—

“(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order, the acquiring authority shall include the particulars specified in subsection (3) in a notice which is—

- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and
- (b) published in a local newspaper circulating in the area in which the land is situated.”.

(4) In that section, in subsection (2), for “(1)(b)” there is substituted “(1)” and after “given” there is inserted “and published”.

(5) In that section for subsections (5) and (6) there is substituted—

“(5) For the purposes of this section, a person has a relevant interest in land if—

- (a) that person is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion; or
- (b) that person holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.

(6) In section 5 (earliest date for execution of declaration)—

- (a) in subsection (1), after “publication” there is inserted “in a local newspaper circulating in the area in which the land is situated”; and
- (b) subsection (2) is omitted.

(7) In section 7 (constructive notice to treat), in subsection (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” are omitted.

(8) References to the 1965 Act in the Compulsory Purchase (Vesting Declarations) Act 1981 are to be construed as references to that Act as applied by section 125 of the 2008 Act (application of compulsory acquisition provisions) to the compulsory acquisition of land under this Order.

### **Acquisition of subsoil only**

22.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of the land referred to in paragraph (1) of article 17 as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of land under paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

(3) Paragraph (2) does not prevent article 23 from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

(4) Nothing in this article requires the undertaker to acquire any estate, right or interest in any adopted highway.

#### **Acquisition of part of certain properties**

**23.—**(1) This article applies instead of section 8(1) of the 1965 Act (other provisions as to divided land) (as applied by section 125 of the 2008 Act) where—

- (a) a notice to treat is served on a person (“the owner”) under the 1965 Act (as so applied) in respect of land forming only part of a house, building or manufactory or of land consisting of a house with a park or garden (“the land subject to the notice to treat”); and
- (b) a copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on the undertaker a counter-notice objecting to the sale of the land subject to the notice to treat which states that the owner is willing and able to sell the whole (“the land subject to the counter-notice”).

(3) If no such counter-notice is served within that period, the owner is required to sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question whether the owner may be required to sell only the land subject to the notice to treat is, unless the undertaker agrees to take the land subject to the counter-notice, to be referred to the tribunal.

(5) If on such a reference the tribunal determines that the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the owner is required to sell the land subject to the notice to treat.

(6) If on such a reference the tribunal determines that only part of the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the notice to treat is deemed to be a notice to treat for that part.

(7) If on such a reference the tribunal determines that—

- (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but
- (b) the material detriment is confined to a part of the land subject to the counter-notice,

the notice to treat is deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the undertaker is authorised to acquire compulsorily under this Order.

(8) If the undertaker agrees to take the land subject to the counter-notice, or if the tribunal determines that—

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and
- (b) the material detriment is not confined to a part of the land subject to the counter-notice,

the notice to treat is deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the undertaker is authorised to acquire compulsorily under this Order.

(9) Where, by reason of a determination by the tribunal under this article, a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and, in that event, must pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.

(10) Where the owner is required under this article to sell only part of a house, building or manufactory or of land consisting of a house with a park or garden, the undertaker must pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.

### **Rights under or over streets**

24.—(1) The undertaker may enter upon and appropriate so much of the subsoil of, or air space over, any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or air-space for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part I of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 of the 1991 Act (sharing cost of necessary measures) applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

### **Temporary use of land for carrying out the authorised development**

25.—(1) The undertaker may, in connection with the carrying out of the authorised development—

- (a) enter on and take temporary possession of the land specified in columns (1) and (2) of Schedule 6 for the purpose specified in relation to that land in column (3) of that Schedule;
- (b) remove any buildings and vegetation from that land; and
- (c) construct temporary or permanent works (including the provision of means of access) and buildings on that land.

(2) Not less than 14 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(3) The undertaker may not, without the agreement of the owners of the land, remain in possession of any land under this article after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (2) of Schedule 6 unless and to the extent that it is authorised to do so by the acquisition of rights over land or the creation of new rights over land pursuant to article 20 of this Order.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to replace a building removed under this article.

(5) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of any power conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(7) Nothing in this article affects any liability to pay compensation under section 10(2) of the 1965 Act (further provisions as to compensation for injurious affection) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(8) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1) except that the undertaker is not precluded from—

(a) acquiring new rights over any part of that land under article 20; or

(b) acquiring any part of the subsoil (or rights in the subsoil) of that land under article 22.

(9) Where the undertaker takes possession of land under this article, the undertaker cannot be required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act.

#### **Temporary use of land for maintaining authorised development**

26.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

(a) enter on and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised development; and

(b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

(a) any house or garden belonging to a house; or

(b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of compensation, is to be determined under Part 1 of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 10(2) of the 1965 Act (further provisions as to compensation for injurious affection) or under any other

enactment in respect of loss or damage arising from the maintenance of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the undertaker takes possession of land under this article, the undertaker cannot be required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act.

(11) In this article “the maintenance period”, in relation to any part of the authorised development, means the period of 5 years beginning with the date on which that part of the authorised development is first opened for use.

### **Statutory undertakers**

27. The undertaker may—

- (a) acquire compulsorily the land belonging to statutory undertakers shown on the land plans within the Order limits and described in the book of reference;
- (b) extinguish the rights of and remove or reposition apparatus belonging to statutory undertakers in, on or over land shown on the land plans and described in the book of reference; and
- (c) acquire compulsorily the new rights over land belonging to statutory undertakers shown on the land plans and described in the book of reference.

### **Railway undertakings**

28.—(1) Subject to the following provisions of this article, the undertaker may not under article 10 break up or open a street where the street, not being a highway maintainable at public expense (within the meaning of the 1980 Act)—

- (a) is under the control or management of, or is maintainable by, railway undertakers; or
- (b) forms part of a level crossing belonging to any such undertakers or to any other person,

except with the consent of the undertakers or, as the case may be, of the person to whom the level crossing belongs.

(2) Paragraph (1) does not apply to the carrying out under this Order of emergency works, within the meaning of Part 3 of the 1991 Act.

(3) A consent given for the purpose of paragraph (1) may be made subject to such reasonable conditions as may be specified by the person giving it but must not be unreasonably withheld or delayed.

### **Application of landlord and tenant law**

29.—(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 prejudices the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law applies 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**

30. Development consent granted by this Order is to 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).

**Felling or lopping of trees**

31.—(1) The undertaker may fell or lop any tree or shrub near any part of the authorised development, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 of the 1961 Act.

**Certification of plans etc.**

32.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the decision-maker copies of—

- (a) the book of reference;
- (b) the code of construction practice;
- (c) the design and access statement;
- (d) the land plans including plan number 3052/SK013 showing areas of land subject to restrictive covenants;
- (e) the Residual Waste Acceptance Scheme dated 8 July 2011;
- (f) the rights of way plan;
- (g) the works plans;
- (h) the sections;
- (i) the Order limits plan;
- (j) the travel plan within the meaning of requirement 39(1),

for certification that they are true copies of the plans or documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

**Protection of Network Rail Infrastructure Limited**

33. Schedule 7 has effect.

**Arbitration**

34. Any difference under any provision of this Order, unless otherwise provided for, is to 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 decision-maker.

Signed by authority of the Infrastructure Planning Commission

*Paul Hudson, Andrew Phillipson and Emrys Parry*  
Members of the Panel  
Infrastructure Planning Commission

22nd November 2011

## SCHEDULE 1

Article 2

### AUTHORISED DEVELOPMENT AND REQUIREMENTS

#### PART 1

#### AUTHORISED DEVELOPMENT

##### **In Central Bedfordshire**

A nationally significant infrastructure project as defined in sections 14(1)(a) and 15 of the 2008 Act comprising:

*Work No. 1* An electricity generating station with a nominal gross electrical output capacity of 65 MWe fuelled by waste and including—

- (a) three waste processing streams each comprising a reciprocating grate, furnace, boiler and associated air pollution control system;
- (b) transformer compound;
- (c) an administration building;
- (d) a tipping hall;
- (e) refuse bunkering;
- (f) a flue gas treatment facility;
- (g) flues or stack;
- (h) turbines and turbine hall;
- (i) air cooled condensers;
- (j) a facility to enable steam pass-outs and/or hot water pass-outs; and
- (k) a visitor centre/education facility; and

associated development within the meaning of section 115(2) of the Act comprising—

*Work No. 2* A post-combustion materials recovery facility for the purpose of treating incinerator bottom ash produced by the electricity generating station comprised in Work No. 1 and including—

- (a) a screened ash/aggregate yard;
- (b) buildings housing apparatus and necessary plant for separation of co-mingled metals from incinerator bottom ash and grading of such ash;
- (c) a separation lagoon;
- (d) an administration building;
- (e) a weigh bridge; and
- (f) a foul water pump house;

*Work No. 3* A drainage channel to be constructed on an east - west alignment linking with a drainage channel to be constructed pursuant to a review of old minerals permissions bearing statutory reference number BC/CM/2000/08;

*Work No. 4* An extension to the attenuation pond to be constructed pursuant to a review of old minerals permissions bearing statutory reference number BC/CM/2000/08;



**In the Borough of Bedford and in Central Bedfordshire**

*Work No. 5A* A new access road commencing at the north-east corner of Work No. 2 and running in a Northerly direction to a new junction with Green Lane, Stewartby;

*Work No. 5B* A new access road commencing at the north-west corner of Work No. 1 and running in a Northerly direction to a junction with Work No. 5A;

*Work No. 6A* A grid connection consisting of one or more cables laid in a trench commencing at a point on the Northern side of Work No. 1 and running in a Northerly direction to the vicinity of the new junction with Green Lane created as part of Work No. 5A;

*Work No. 6B* A grid connection consisting of one or more cables laid beneath the Marston Vale Railway Line and connecting with Works No. 6A and 6C;

*Work No. 6C* A grid connection consisting of one or more cables connecting Work No. 6B to Work No. 6D at a point on Green Lane in the vicinity of the existing access to Stewartby Water Sports Club;

*Work No. 6D* A grid connection consisting of one or more cables laid in a trench on Green Lane Stewartby and connecting Work No. 6C to Works No. 6E and 6G at a point at the junction of Green Lane and Copart Access Road, Marston Moretaine;

*Work No. 6E* A grid connection consisting of one or more cables laid in a trench from the junction of Green Lane and the Copart Access Road, Marston Moretaine to the junction of the Copart Access Road and the C94;

*Work No. 6F* A grid connection laid consisting of one or more cables connecting Work No. 6E to the proposed Marston Grid Substation west of the A421 Trunk Road in Marston Moretaine;

*Work No. 6G* A grid connection consisting of one or more cables laid in a trench from the junction of Green Lane and the Copart Access Road, Marston Moretaine to the existing Marston Road Primary Substation;

*Work No. 6H* A grid connection consisting of one or more cables laid in a trench from the junction of Works No. 6F and 6E to the existing Marston Road Primary Substation;

*Work No. 7A* A work for the improvement of the entrance to the Marston Vale Millennium Country Park to the West of the Green Lane Level Crossing;

*Work No. 7B* A work for the creation of new site access works, including new footways to the East of Green Lane Level Crossing;

*Work No. 7C* A work comprising a footway and cycleway link crossing the new access road comprised in Work No. 5A and linking Green Lane and the circular path passing around Rookery North Pit to be constructed pursuant to a review of old minerals permissions bearing statutory reference number BC/CM/2000/08;

*Work No. 8A* An improvement to Green Lane comprising the improvement of the carriageway and footway including the provision of facilities for cyclists West of Green Lane Level Crossing;

*Work No. 8B* An improvement to Green Lane comprising the improvement of the carriageway and footway including the provision of facilities for cyclists East of Green Lane Level Crossing; and

*Work No. 9* An improvement to Green Lane Level Crossing including a widening of the carriageway, alterations to footways and the installation of full barriers and associated improvements to Green Lane, Stewartby;

and in connection with such works and to the extent that they do not otherwise form part of any such work, further associated development shown on the plans referred to in the requirements including—

- (a) weighbridges and security gatchouses;

- (b) internal site roads and vehicle parking facilities;
- (c) workshops and stores;
- (d) bunds, embankments, swales, landscaping and boundary treatments;
- (e) pipes for steam pass outs and/or hot water pass outs within the Order limits;
- (f) habitat creation;
- (g) the provision of footpaths, cycleways and footpath linkages;
- (h) water supply works, foul drainage provision, surface water management systems and culverting; and
- (i) whether or not shown on the plans referred to in the requirements, the demolition of all or part of the redundant conveyor structure within the Order limits.

## PART 2 REQUIREMENTS

### Interpretation

In this Part of this Schedule—

“the approved development plans” mean the plans submitted with the application on 4 August 2010 or later and listed at requirement 6;

“by-products” includes incinerator bottom ash aggregate and ferrous and non-ferrous metal compounds;

“commercially operate” means operate the authorised development for commercial processing of waste and production of electricity for transmission to the national electricity grid following completion of hot commissioning and “commercial operation” and “commercially operated” shall be construed accordingly;

“heavy goods vehicle” means—

- (a) a heavy goods vehicle of 7.5 tonnes gross vehicle weight or more; and
- (b) any other vehicle designed for the transport of waste including refuse collection vehicles;

“low level restoration scheme” means the scheme for the restoration of Rookery North and Rookery South Pits which has been developed as a part of the review of old minerals permissions application which was submitted to Bedford Borough Council and Central Bedfordshire Council on 5 June 2009 and bears statutory reference number BC/CM/2000/08.

### Time limits

1. The authorised development may commence no later than the expiration of 5 years beginning with the date that this Order comes into force.

### Type of waste to be treated

2. The waste permitted to be incinerated in Work No. 1 must be limited to waste categorised as residual municipal waste and residual commercial and industrial waste and materials derived therefrom.

### Commencement

3. Notice of commencement of the authorised development must be given to the relevant planning authorities within 7 days beginning with the date that the authorised development is commenced.

### **Incineration, operation, etc.**

#### **4. Notice of commencement of—**

- (a) incineration at the authorised development, and
- (b) commercial operation of the authorised development,

must be given to the relevant planning authorities within 7 days beginning with the date that incineration commences and the authorised development is first commercially operated respectively.

### **Detailed design approval**

5. Except where the authorised development is carried out in accordance with the plans listed in requirement 6, no authorised development may commence until details of the layout, scale and external appearance of Works No. 1, 2, 5A, 5B, 7A, 7B and 9 comprised in the authorised development so far as they do not accord with the approved development plans have been submitted to and approved by the relevant planning authorities. The authorised development must be carried out in accordance with the approved details.

6.—(1) The authorised development must be carried out in accordance with the approved development plans bearing references 2.1 to 2.4 and 2.11 to 2.35 and strategies listed in this requirement (unless otherwise approved in writing by the relevant planning authorities and the altered development accords with the principles of the design and access statement and falls within the Order limits)—

Application Site Plan/the Order limits plan (drawing number: 2807LO/Order/007) (application document reference 2.1)

Works Plan: Key Plan (drawing number 2807LO/Order/001) (application document reference 2.2)

Works Plan: 1 of 2 (drawing number 2807LO/Order/001.1) (application document reference 2.3)

Works Plan: 2 of 2 (drawing number 2807LO/Order/001.2) (application document reference 2.4)

The rights of way plan (drawing number: 3052LO/SK010) (application document reference 2.11 Rev A)

EfW Facility South Elevation (drawing number: B3250-P1100) (application document reference 2.12)

EfW Facility North Elevation (drawing number: B3250-P1101) (application document reference 2.13)

EfW Facility East Elevation (drawing number: B3250-P1103) (application document reference 2.14)

EfW Facility West Elevation (drawing number: B3250-P1103) (application document reference 2.15)

EfW Facility East Sectional Elevation (drawing number: B3250-P1104) (application document reference 2.16)

EfW Facility West Sectional Elevation (drawing number: B3250-P1105) (application document reference 2.17)

Secondary Buildings Elevations - MRF (drawing number: B3250-P1106) (application document reference 2.18)

RRF Tertiary Buildings Elevations (drawing number: B3250-P1107) (application document reference 2.19)

RRF North and South Elevations (drawing number: B3250-P1300) (application document reference 2.20)

RRF East and West Elevations (drawing number: B3250-P1301) (application document reference 2.21)

RRF Site Section (drawing number: B3250-P1302) (application document reference 2.22)

RRF Boundary Details (drawing number: B3250-P1310) (application document reference 2.23)

RRF Elevation & Section Key Plan (drawing number: B3250-P1320) (application document reference 2.24)

RRF Roof Plan (drawing number: B3250-P1330) (application document reference 2.25)

Proposed access road existing footpath width at level crossing (drawing number: 210010\_18) (application document reference 2.26)

Proposed access road with proposed 2.5m, footpath at level crossing (drawing number: 210010\_20) (application document reference 2.27)

Proposed access to The Rookery Resource Facility Proposed cross section (drawing number: 210010\_19) (application document reference 2.28)

Level Crossing (drawing number: RX\_DR\_GL\_LC\_03) (application document reference 2.29)

Lighting Layout & Strategy Operational Area (drawing number: 9V3657-7003) (application document reference 2.30)

Landscape Strategy & Key Plan (drawing number: 2807LO/PA002RevB) (application document reference 2.31B)

Operational Area Masterplan and Green Lane Country Park & RRF Entrance (drawing number: 2807LO/PA/007) (application document reference 2.32)

Planting Strategy - Wider Site (drawing number: 2807LO/PA/004\_RevB) (application document reference 2.33B)

Planting Strategy: Operations Area and Indicative Scheme Layout for Green Lane Country Park & RRF Entrance (drawing number: 2807LO/PA/005RevA) (application document reference 2.34A)

Trees to be removed/retained (drawing number: 2897LO/PA/008) (application document reference 2.35)

Surface Water Drainage Strategy (drawing number 21780/076/002 Rev B)

Foul Water Drainage Strategy (drawing numbers 21780/077/001 Rev C and 21780/077/002 Rev D).

(2) Where any alternative details are approved pursuant to this requirement and requirements 5 or 30, those details are to be deemed to be substituted for the corresponding approved details set out in this requirement.

### **BREEAM Rating**

7.—(1) No part of the authorised development may commence until—

- (a) a pre-construction stage consultation with the Building Research Establishment (BRE) (in accordance with the BRE's requirements for such consultation) has been carried out; and
- (b) proposals identifying the range of options to achieve the BRE Environmental Assessment Methodology (BREEAM) rating specified in the consultation response, which must in any event (and in the absence of a consultation response) be of no less a standard than "good" have been submitted to and approved in writing by Central Bedfordshire Council.

(2) The authorised development must be carried out in accordance with the details approved pursuant to requirement 7(1). Any variation of the BREEAM rating must be agreed with BRE and submitted to Central Bedfordshire Council for approval in writing.

### **Provision of landscaping**

8.—(1) No part of the authorised development may commence until a detailed landscaping scheme and associated working programme (which accords with the landscape strategy submitted with the application) has been submitted to and approved in writing by the relevant planning authorities.

(2) The landscaping scheme must include details of—

- (a) the location, number, species, size and planting density of proposed planting;
- (b) the retention of existing vegetation along the route of Work No. 5A specified in that scheme;
- (c) a planting design in the vicinity of the attenuation pond and site access proposals within the Order land;
- (d) any importation of materials and other operations to ensure plant establishment;
- (e) proposed finished ground levels;
- (f) planting and hard landscaping within the operational areas of the authorised development and the vehicular and pedestrian access, parking and circulation areas;
- (g) the green wall and brown roofs to be constructed as part of the authorised development, including the method of construction, plant types, sizing and spacing, and the measures proposed for maintenance of those walls and roofs;
- (h) minor structures such as signage, refuse or other units, and furniture;
- (i) signage and cycle parking facilities at the site access on Green Lane;
- (j) proposed and existing functional services above and below ground, including power and communications cables and pipelines, manholes and supports;
- (k) the specified standard to which the works will be undertaken; and
- (l) a timetable for the implementation of all hard and soft landscaping works.

### **Implementation and maintenance of landscaping**

9.—(1) All landscaping works must be carried out in accordance with the detailed landscaping scheme approved under requirement 8 and to the specified standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.

(2) Any tree or shrub planted as part of the detailed landscaping scheme approved under requirement 8 that, within a period of 5 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.

(3) The green wall that is part of the landscaping scheme approved under requirement 8(1) must be maintained in accordance with the approved landscaping scheme following its installation for the duration of the period of commercial operation of the authorised development.

### **Highway accesses**

10.—(1) The highway works comprised in Works No. 8A and 8B to Green Lane, including the two pedestrian crossings and the footway running parallel to and south of Green Lane and the first 10 metres chainage of the access road comprised in Work No. 5A from its junction with Green Lane (including the pedestrian crossing that forms part of the junction in those Works), must be completed prior to the commencement of Works No. 1 and 2.

(2) The access road comprised in Work No. 5A (including the pedestrian crossing that forms part of the junction in those Works) must be constructed to base course for a minimum distance of 100 metres chainage from the section of the access road that has been completed in accordance with requirement 10(1) prior to the commencement of Works No. 1 and 2. The access road must

be laid out in accordance with the approved access plans. The remainder of the route of the access road must be surfaced with crushed stone or other temporary materials appropriate for the purposes of constructing the authorised development.

(3) The works comprised in Works No. 5A and 5B must be substantially completed to the standard specified in the Design Manual for Roads and Bridges and in accordance with the approved access plans (application document references 2.26 and 2.28) set out in requirement 6(1) as certified by an appropriate certifying professional prior to incineration of waste in Work No. 1.

(4) The commencement of Work No. 1 must not take place until a scheme to provide wheel cleaning facilities for heavy goods vehicles and provision for road cleaning in relation to construction of the authorised development has been submitted to and approved in writing by Central Bedfordshire Council. The scheme must include details of the measures and location for the wheel cleaning facilities and details of how cleaning of the highway will be secured so as to remove mud and other debris that may be carried on to it from the authorised development.

#### **Fencing and other means of site perimeter enclosure**

11.—(1) No part of the authorised development may commence until details of all proposed permanent fences, walls or other means of enclosure according with boundary details shown on drawing B3250-P1310 (application document reference no. 2.23) including the acoustic fence adjacent to the ramp serving the tipping hall comprised in Work No. 1 have been submitted to and approved in writing by Central Bedfordshire Council.

(2) All construction sites must remain securely fenced at all times during construction of the authorised development.

(3) All temporary fencing must be removed on completion of the authorised development.

(4) All perimeter fences, walls or other means of site perimeter enclosure for the authorised development approved in accordance with paragraph (1) must be completed prior to commencement of commercial operation in accordance with the approved details.

#### **Surface and foul water drainage**

12.—(1) Except where the authorised development is constructed in accordance with the approved drainage strategies, details of the surface and foul water drainage system (including means of pollution control and information demonstrating compliance with the best practice for sustainable drainage schemes) must be submitted to and approved in writing by Central Bedfordshire Council. Unless otherwise agreed in writing by Central Bedfordshire Council, such details must accord with the principles of the drainage strategy submitted with the application, making provision for the construction of Work No. 3, and must be implemented in accordance with the approved details.

(2) The drainage strategy must provide that all drains provided as part of the authorised development must, where necessary and appropriate, contain trap gullies or interceptors.

#### **Land stability**

13.—(1) No part of the authorised development may commence until a written scheme to deal with land stability has been submitted to and approved in writing by Central Bedfordshire Council.

(2) The scheme must include an investigation and assessment report, prepared by a specialist consultant approved by Central Bedfordshire Council, to identify the extent of any land stability matters, and the remedial measures to be taken to render the land fit for its intended purpose.

(3) Land stabilisation must be carried out in accordance with the approved scheme unless otherwise agreed in writing by Central Bedfordshire Council.

#### **Contamination and groundwater**

14.—(1) No part of the authorised development may commence until a scheme to deal with the contamination of any land, including groundwater, which is likely to cause significant harm to



persons or pollution of controlled waters or the environment has been submitted to and approved in writing by Central Bedfordshire Council.

(2) The scheme must include an investigation and assessment report, prepared by a specialist consultant approved by Central Bedfordshire Council, 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) Remediation must be carried out in accordance with the approved scheme unless otherwise agreed in writing by Central Bedfordshire Council.

### Archaeology

15.—(1) No part of the authorised development may commence until a written scheme of archaeological investigation has been submitted to and approved in writing by the relevant planning authorities.

(2) The archaeological investigation must be carried out in accordance with the approved scheme unless otherwise agreed in writing by the relevant planning authorities.

### Code of construction practice

16. All construction works must be undertaken in accordance with the code of construction practice unless otherwise agreed in writing by the relevant planning authorities.

### Control of noise during construction and operational phase

17. During construction the daytime free field noise level as a result of the construction of the authorised development at any residential location must not exceed 55 dB LAeq, 1 hour unless otherwise agreed in writing by Central Bedfordshire Council.

18.—(1) Except in case of an emergency, or with the prior written agreement of Central Bedfordshire Council, the Rating Level as defined in BS4142:1997 of the noise emitted from the operation of the authorised development must not exceed the free field noise levels listed in the following table—

<i>Location</i>	<i>Daytime (0700-2300) dB L<sub>Aeq</sub> 1 hour</i>	<i>Night-time (2300-0700) dB L<sub>Aeq</sub> 5 minutes</i>
Stewartby Way, Stewartby	35	35
South Pillinge Farm	39	35
Pillinge Farm Cottages	35	35

(2) Compliance with these limits must be demonstrated by noise measurements at locations closer to the Order limits selected to allow measurement of noise from the authorised development to be made without significant influence of noise from other sources. Noise levels must be calculated for these locations in accordance with the propagation methodology in ISO 9613 and agreed with the relevant planning authorities.

19.—(1) No part of the authorised development may commence until a written scheme providing for the monitoring of noise generated during the construction and operation of the authorised development has been submitted to and approved in writing by Central Bedfordshire Council.

(2) The scheme must specify the locations at which noise will be monitored and the method of noise measurement (which must be in accord with BS 4142, an equivalent successor standard or other agreed noise measurement methodology appropriate to the circumstances).

(3) The scheme must be implemented to establish baseline noise conditions.

(4) This monitoring programme must be subject to periodic reviews to establish the frequency of noise monitoring and the need for continued monitoring.

(5) Throughout the operational lifetime of the development the monitoring programme must be reviewed following any change in plant, equipment or working practices likely to affect noise conditions and any such change shall be notified in writing to Central Bedfordshire Council; or following a written request by Central Bedfordshire Council in relation to a noise related complaint.

(6) Such review must be submitted to Central Bedfordshire Council for its written approval within 4 weeks of the notification or request.

**20.—**(1) In any case where the noise levels specified in requirement 18 or otherwise agreed in writing for monitoring locations is exceeded because of an emergency, the undertaker must notify Central Bedfordshire Council in writing of the nature of the emergency within 2 working days, the reasons for exceeding the noise limit and its expected duration.

(2) If the period of excess noise is expected to last for more than 24 hours then the undertaker must inform any community liaison panel or any other consultative body established as a result of the authorised development, the relevant planning authorities and adjoining occupiers or land users.

(3) Notification of the excess, the reasons for it and its expected duration must also be posted on the undertaker's internet web site.

**21.** Except in an emergency, the undertaker must give at least three working days' written notice to Central Bedfordshire Council of any proposed operation of emergency pressure valves or similar equipment. Where steam purging is to take place, the undertaker must give 3 working days' prior written notice to local residents and businesses by informing any community liaison panel or any other consultative body established in respect of the authorised development as well as the relevant planning authorities. Notification of the incident, the reasons for it and its expected duration must also be posted on the undertaker's internet web site.

**22.** So far as reasonably practicable, steam purging may only take place between the hours of 0900-1700 Mondays-Saturdays and not on any Sunday or Bank Holiday.

**23.—**(1) Prior to the commencement of construction for the building envelope to contain Work No. 1 an acoustic design report must be submitted to and approved in writing by Central Bedfordshire Council.

(2) The report must detail—

- (a) the noise control measures that are proposed to be included in the design of the building envelope;
- (b) acoustic barriers;
- (c) predicted sound power levels and noise emissions from the air cooled condensers; and
- (d) acoustic attenuation measures for internal plant and equipment.

(3) The measures must be installed in accord with the approved scheme prior to commencement of operation of the authorised development and retained and maintained afterwards in accordance with the manufacturers' specifications unless Central Bedfordshire Council gives its written consent to any variation.

(4) The acoustic design report must demonstrate compliance with requirements 18 and 19.

#### **Construction hours**

**24.** Construction work (which for the purpose of this requirement does not include non-intrusive activities such as electrical installation and internal fit out works) may not take place other than between 0700 and 1900 hours on weekdays and 0700 and 1300 hours on Saturdays, excluding public holidays, unless otherwise agreed in writing by Central Bedfordshire Council.



### **Combined Heat and Power**

25. A facility must be provided and maintained within Work No. 1 to enable steam pass-outs and/or hot water pass-outs and reserve space for the provision of water pressurisation, heating and pumping systems for off-site users of process or space heating and its later connection to such systems.

### **Delivery hours and traffic management**

26.—(1) No heavy goods vehicle transporting municipal waste or commercial and industrial waste may enter or leave the authorised development at any time on a Sunday, Christmas Day, New Year's Day or Easter Day (unless otherwise approved in writing by Central Bedfordshire Council).

(2) No heavy goods vehicle transporting municipal waste or commercial and industrial waste may enter or leave Work No. 1 except on Monday to Saturday between the hours of 0700 to 2300.

(3) No heavy goods vehicle transporting by-products may enter or leave Work No. 2 except on the following days and prescribed times—

(a) Monday to Friday between the hours of 0700 to 1800;

(b) Saturday between the hours of 0700 to 1400.

(4) No heavy goods vehicle may enter or leave the lorry park except between the hours of 0700 to 2300 on Monday to Saturday.

(5) This requirement applies except where such a movement as it describes is—

(a) an abnormal load;

(b) associated with an emergency; or

(c) carried out with the written approval of Central Bedfordshire Council.

### **CCTV**

27.—(1) No part of the authorised development may commence until a scheme for the installation of a CCTV camera (or cameras) to monitor the entrance to the site from Green Lane has been submitted to and approved in writing by Central Bedfordshire Council. The scheme must include details of—

(a) the column(s) and camera(s) to be used;

(b) the viewing area covered;

(c) the capability for remote access viewing; and

(d) the ability to record live footage.

(2) The approved CCTV scheme must be installed prior to commencement of incineration of waste in Work No. 1 and must be operated afterwards in accordance with the approved scheme unless otherwise agreed in writing by Central Bedfordshire Council.

### **Loads to be covered**

28. All heavy goods vehicles carrying bulk materials or waste into and out of the site of the authorised development during the construction, operational and decommissioning phases of development must be covered unless the load is otherwise enclosed, except when required to inspect incoming loads of waste.

### **Restoration**

29.—(1) On the 32nd anniversary of the commencement of operation of the authorised development or on the cessation of the commercial operation of the development, whichever is earlier, the applicant must inform Central Bedfordshire Council as to whether it intends to

maintain the authorised development in its then current state, refurbish it or demolish the facility and restore the land.

(2) In the event that it is intended to refurbish the authorised development details of external changes must be submitted to Central Bedfordshire Council for approval in writing. Any such refurbishment must be implemented in accordance with the approved details.

(3) In the event that it is not intended to maintain the authorised development (whether by carrying out changes authorised under requirement 29(2) or otherwise) the authorised development must be removed.

(4) Prior to any demolition of the authorised development demolition details must be submitted to Central Bedfordshire Council for approval in writing.

(5) The details must include—

- (a) the structures and buildings to be demolished or retained;
- (b) the phasing of demolition and means of removal of demolition materials; and
- (c) the proposed condition of the land following restoration (including whether the land will be in the condition authorised by the Low Level Restoration Scheme approved under statutory reference BC/CM/2000/08) or an alternative scheme approved by Central Bedfordshire Council depending upon the condition of the land).

(6) The demolition must be carried out in accordance with the approved details following cessation of commercial operation of the authorised development unless otherwise agreed in writing by Central Bedfordshire Council.

#### **Amendments to approved details**

30. With respect to any requirement which requires the authorised development to be carried out in accordance with details approved by the relevant planning authorities or either of them, the approved details are to be taken to include any amendments that may subsequently be approved in writing by the relevant planning authorities or either of them as the case may be.

#### **Low level restoration scheme**

31. No part of the authorised development may commence until the works comprising phase 1 of the low level restoration scheme, which has been authorised by Bedford Borough Council and Central Bedfordshire Council as a part of the review of old minerals permission with reference number BC/CM/2000/08, have been carried out so as to provide an engineered site for the authorised development.

#### **Incinerator bottom ash processing and storage**

32. No incinerator bottom ash or other combustion residues produced at any other generating station may be accepted at or processed in Work No. 2 of the authorised development.

33. No by-products stored at Work No. 2 comprised in the authorised development may exceed 10 metres in height from the surface of the yard comprised in Work No. 2.

34.—(1) Work No. 2 must not be commercially operated until a written scheme for the management and mitigation of dust emissions has been submitted to and approved in writing by Central Bedfordshire Council.

(2) The approved scheme for the management and mitigation of dust emissions must be implemented and maintained for the duration of the operation of the authorised development.

#### **Lighting strategy**

35.—(1) No part of the authorised development may commence until a detailed lighting strategy (which accords with the approved lighting strategy listed in requirement 6(1) and described in the

design and access statement) has been submitted to and approved in writing by Central Bedfordshire Council.

(2) The approved lighting strategy must be implemented in accordance with the approved details prior to the commencement of incineration of waste in Work No. 1 of the authorised development and must be maintained afterwards for the duration of commercial operation of the authorised development.

(3) Where construction of Work No. 2 has not been completed prior to the incineration of waste in Work No. 1 the relevant elements of the approved lighting strategy relating to Work No. 2 must be implemented in accordance with the approved details prior to commercial operation of Work No. 2 and must be maintained afterwards for the duration of the operation of the authorised development.

#### **Connection to the national grid**

36.—(1) No incineration of waste in Work No. 1 may take place, apart from during commissioning, until a grid connection comprised in Works No. 6A, 6B, 6C, 6D, 6E, 6F, 6G and 6H has been installed and is capable of transmitting electricity generated by Work No. 1.

(2) No waste may then be incinerated in Work No. 1 unless electricity is being generated by Work No. 1 except during periods of maintenance, inspection or repair or at the direction of the holder of a licence under section 6(1)(b) or (c) of the Electricity Act 1989 who is entitled to give such direction in relation to transmission of electricity from Work No. 1 to the national grid.

#### **Visibility requirements at Green Lane/C94 junction**

37.—(1) No part of the authorised development may commence until a scheme which overcomes the substandard visibility splay to the left on exit at the junction of Green Lane with the C94 has been submitted to and approved in writing by Bedford Borough Council and implemented on site in accordance with the approved details.

(2) Visibility requirements at either the existing junction or any new or realigned junction must accord with the requirements set out in the Design Manual for Roads and Bridges.

#### **Vehicle movements**

38.—(1) The total number of heavy goods vehicles importing or exporting waste, incinerator bottom ash aggregate or flue gas treatment residues to and from the authorised development must not exceed 594 movements per day.

(2) Records of such vehicle movements must be kept by the undertaker and provided to Central Bedfordshire Council every 6 months.

(3) The records must specify the following—

- (a) number of vehicles both entering and leaving the authorised development; and
- (b) time and date of vehicles both entering and leaving the authorised development.

#### **Travel plan**

39.—(1) The authorised development may not be commercially operated except in accordance with the travel plan which, prior to the approval of the travel plan referred to in requirement 39(2), means the travel plan submitted with the application together with the addendum headed “Interim Travel Plan SoCG Appendix” unless otherwise agreed in writing by the relevant planning authorities.

(2) A full travel plan must be submitted to the relevant planning authorities for approval in writing prior to the expiration of 6 months from the date on which the authorised development is first commercially operated. Following such approval that travel plan must be implemented in accordance with the approved details.

(3) A review of the travel plan must be carried out on each anniversary of the date of commencement of commercial operation of the authorised development and an annual travel plan report including any revisions to the travel plan deemed necessary as a result of the review must be submitted to the relevant planning authorities for written approval. Following approval of the revisions to the travel plan by the relevant planning authorities the authorised development must be operated in accordance with the revised travel plan.

#### **Ecological management scheme**

40.—(1) No part of the authorised development may commence until a written ecological management scheme has been submitted to and approved in writing by the relevant planning authorities.

(2) The ecological management scheme must include details of—

- (a) the protection of species covered by wildlife legislation, including great crested newts and reptiles, from activities associated with the authorised development;
- (b) measures to sustain favourable conditions for stoneworts and invertebrate communities;
- (c) the control of quality and quantity of water released from the authorised development to the drainage channels and attenuation pond in Rookery South Pit;
- (d) the rotational management of water bodies and other wetland habitats within Rookery Pits;
- (e) the management of woodland and scrub planting to maximise the habitat mosaic so as to complement woodland objectives in the wider area;
- (f) how the lighting strategy referred to at requirement 35 avoids or minimises the use and effect of lighting;
- (g) a strategy for ecological management of vegetated surfaces to include brown roofs associated with the Work No. 1;
- (h) a programme for implementation of the proposed measures;
- (i) details of ongoing maintenance; and
- (j) an annual reporting protocol.

(3) The approved ecological management scheme must be implemented and maintained during commercial operation of the authorised development unless otherwise agreed in writing by the relevant planning authorities.

#### **Residual Waste Acceptance Scheme**

41.—(1) Incineration of waste in Work No. 1 must not take place except in accordance with the Residual Waste Acceptance Scheme dated 8 July 2011.

(2) On a date no later than the anniversary of the commencement of incineration of waste in Work No. 1 in each year, a written report in respect of a review of the effectiveness of the scheme must be submitted to Central Bedfordshire Council for approval in writing together with proposals for such revised, additional or substituted measures as appear to be necessary.

(3) Following approval of the alterations to the scheme by Central Bedfordshire Council incineration of waste in Work No. 1 must take place in accordance with the altered scheme.

(4) The purpose of altering the scheme is to ensure that the scheme continues to address changes in waste management, and that Work No. 1 is used only for the incineration of residual waste.

## SCHEDULE 2

Article 10

### STREETS SUBJECT TO STREET WORKS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to street works</i>
Bedford Borough and Central Bedfordshire	Green Lane, Stewartby between a point at its junction with Footpath 4 to the south of Stewartby and its junction with the existing C94
Central Bedfordshire	Green Lane Level Crossing, Stewartby The Copart Access Road, Marston Moretaine from its junction with Green Lane, Marston Moretaine to its junction with the C94 The C94 within the Order limits Footpath 72 from its junction with Green Lane or west of Green Lane Level Crossing and its junction with the Copart Access Road, Marston Mortaine

## SCHEDULE 3

Article 11

### PUBLIC RIGHTS OF WAY

#### PART 1

#### PUBLIC RIGHTS OF WAY EXTINGUISHED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Right of way extinguished</i>	<i>(3)</i> <i>Extent to which extinguished</i>
Central Bedfordshire	Footpath No. 4 west of Rookery South Pit Footpath No. 17 East of the western boundary of the Marston Vale railway line All footpaths, bridleways and other rights of way affecting the area of the Rookery shown shaded grey on the rights of way plan	Existing footpath between points X1 and X2 Existing footpath between points X3 and X4 Within the area shaded grey on the rights of way plans

**PART 2**  
**RIGHTS OF WAY CREATED OR IMPROVED**

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Existing or new right</i>	<i>(3)</i> <i>New status</i>
Central Bedfordshire	A new combined footpath and cycleway between points N1 and N2	Footpath with cycle rights
	A new combined footpath and cycleway between points N3 and N4	Footpath with cycle rights
	A new combined footpath and cycleway between points N5 and N6	Footpath with cycle rights
	Footpath 72 to be upgraded to include cycle rights between points I1 and I2	Footpath with cycle rights
Bedford Borough	Footpath to be upgraded to include cycle rights between points I8 and I9	Footpath with cycle rights
Bedford Borough and Central Bedfordshire	Footpath to be upgraded to include cycle rights between points I3 and, thence by a circular route via points I4-I7 to Point I3	Footpath with cycle rights

**SCHEDULE 4**  
**STREETS TO BE TEMPORARILY STOPPED UP**

Article 12

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be temporarily stopped up</i>	<i>(3)</i> <i>Extent of temporary stopping up</i>
Bedford Borough and Central Bedfordshire	The Copart Access Road, Marston Moretaine	Within the Order limits

**SCHEDULE 5**  
**ACCESS TO WORKS**

Article 13

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Description of access</i>
Bedford Borough	An improved access to Green Lane Stewartby at or near to point A

**SCHEDULE 6**  
**LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN**

Article 25

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on land plan</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>
Central Bedfordshire	52, 72, 73, 74, 75, 76, 77	Carrying out and maintaining landscaping, tree planting and ecological improvements
Bedford Borough and Central Bedfordshire	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 29/1, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63	Installation, retention and maintenance of electricity transmission line and the improvement of highways and public rights of way

**SCHEDULE 7**  
**PROTECTION OF NETWORK RAIL INFRASTRUCTURE LIMITED**

Article 33

1. The following provisions of this Schedule shall have effect unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 15, any other person on whom rights or obligations are conferred by that paragraph.

2. In this Schedule—

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“the engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of his powers under section 8 of the Railways Act 1993;

“Network Rail” means Network Rail Infrastructure Limited and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

“railway property” means any railway belonging to Network Rail Infrastructure Limited and—

- (a) any station, land, works, apparatus and equipment belonging to Network Rail Infrastructure Limited or connected with any such railway; and
- (b) any easement or other property interest held or used by Network Rail Infrastructure Limited for the purposes of such railway or works, apparatus or equipment; and

“specified work” means so much of any of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property.

3.—(1) Where under this Schedule Network Rail is required to give its consent, agreement or approval in respect of any matter, that consent, agreement or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail shall—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development pursuant to this Order.

4.—(1) The undertaker shall not exercise the powers conferred by articles 16, 17, 18, 20 or 25 or the powers conferred by section 11(3) of the 1965 Act (powers of entry) in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker shall not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker shall not exercise the powers conferred by sections 271 or 272 of the 1990 Act (extinguishment of rights of statutory undertakers and electronic code communications operators: preliminary notices), or article 27, in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker shall not under the powers of this Order acquire or use or acquire new rights over any railway property except with the consent of Network Rail.

(5) Prior to commencement of construction of the authorised project the undertaker and Network Rail shall, having regard to the undertaker’s timetable for development, agree in writing a programme for the implementation of any works approved by Network Rail to the railway crossing of the Bletchley Bedford railway line at Green Lane, Stewartby, Bedford and the undertaker will thereafter comply with the provisions of the programme.



(6) Where Network Rail is asked to give its consent or agreement pursuant to this paragraph, such consent or agreement shall not be unreasonably withheld but may be given subject to reasonable conditions.

5.—(1) The undertaker shall before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work shall not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) shall not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated disapproval of those plans and the grounds of disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer shall be deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail shall construct it with all reasonable dispatch on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes shall be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works shall be carried out at the expense of the undertaker in either case with all reasonable dispatch and the undertaker shall not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to his reasonable satisfaction.

6.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 5(4) shall, when commenced, be constructed—

- (a) with all reasonable dispatch in accordance with the plans approved or deemed to have been approved or settled under paragraph 5;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker shall, notwithstanding any such approval, make good such damage and shall pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Schedule shall impose any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants,

contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

7. The undertaker shall—

- (a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and
- (b) supply the engineer with all such information as the engineer may reasonably require with regard to a specified work or the method of constructing it.

8. Network Rail shall at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Schedule during their construction and shall supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

9.—(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction of a specified work, or during a period of 24 months after the completion of that work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker reasonable notice of its intention to carry out such alterations or additions (which shall be specified in the notice), the undertaker shall pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail shall assume construction of that part of the specified work and the undertaker shall, notwithstanding any such approval of a specified work under paragraph 5(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.

(3) The engineer shall, in respect of the capitalised sums referred to in this paragraph and paragraph 10(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving shall be set off against any sum payable by the undertaker to Network Rail under this paragraph.

10. The undertaker shall repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 5(3) or in constructing any protective works under the provisions of paragraph 5(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;
- (c) in respect of the employment or procurement of the services of any inspectors, signalmen, watchmen and other persons whom it shall be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
- (d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of the

construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and

- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

**11.—(1) In this paragraph—**

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; and

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph shall apply to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 5(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker shall in the design and construction of the authorised development take all measures necessary to prevent EMI and shall establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

**(4) In order to facilitate the undertaker’s compliance with sub-paragraph (3)—**

- (a) the undertaker shall consult with Network Rail as early as reasonably practicable to identify all Network Rail’s apparatus which may be at risk of EMI, and thereafter shall continue to consult with Network Rail (both before and after formal submission of plans under paragraph 5(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;
- (b) Network Rail shall make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail’s apparatus identified pursuant to sub-paragraph (a); and
- (c) Network Rail shall allow the undertaker reasonable facilities for the inspection of Network Rail’s apparatus identified pursuant to sub-paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail’s apparatus, Network Rail shall not withhold its consent unreasonably to modifications of Network Rail’s apparatus, but the means of prevention and the method of their execution shall be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 5(1) shall have effect subject to this sub-paragraph.

(6) If at any time prior to the commencement of commercial operation of the authorised development and notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing or commissioning of the authorised development causes EMI then the undertaker shall immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker’s apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail’s apparatus.

**(7) In the event of EMI having occurred—**

- (a) the undertaker shall afford reasonable facilities to Network Rail for access to the undertaker’s apparatus in the investigation of such EMI;
- (b) Network Rail shall afford reasonable facilities to the undertaker for access to Network Rail’s apparatus in the investigation of such EMI; and

(c) Network Rail shall make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6)—

(a) Network Rail shall allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;

(b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs shall be carried out and completed by the undertaker in accordance with paragraph 6.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 15(1) shall apply to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 10(a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.

(11) In relation to any dispute arising under this paragraph the reference in article 34 to an arbitrator to be agreed shall be read as a reference to an arbitrator being a member of the Institution of Electrical Engineers to be agreed.

12. If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker shall, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

13. The undertaker shall not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it shall have first consulted Network Rail and it shall comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

14. Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work shall, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

15.—(1) The undertaker shall pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Schedule which may be occasioned to or reasonably incurred by Network Rail—

(a) by reason of the construction or maintenance of a specified work or the failure thereof; or

(b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work,

and the undertaker shall indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission: and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under his supervision shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) Network Rail shall give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of such a claim or demand shall be made without the prior consent of the undertaker.

(3) The sums payable by the undertaker under sub-paragraph (1) shall include a sum equivalent to the relevant costs.

(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail shall promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs shall, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).

(6) In this paragraph—

“the relevant costs” means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any restriction of the use of Network Rail’s railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in sub-paragraph (1); and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

16. Network Rail shall, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Schedule (including the amount of the relevant costs mentioned in paragraph 15) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Schedule (including any claim relating to those relevant costs).

17. In the assessment of any sums payable to Network Rail under this Schedule there shall not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Schedule or increasing the sums so payable.

18. The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the works and land plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

19. Nothing in this Order, or in any enactment incorporated with or applied by this Order, shall prejudice or affect the operation of Part I of the Railways Act 1993.

20. The undertaker shall give written notice to Network Rail where any application is proposed to be made by the undertaker for the decision-maker’s consent under article 7 of this Order and any such notice shall be given no later than 28 days before any such application is made and shall describe or give (as appropriate)—

- (a) the nature of the application to be made;
- (b) the extent of the geographical area to which the application relates; and
- (c) the name and address of the person acting for the decision-maker to whom the application is to be made.

21. The undertaker shall no later than 28 days from the date that the plans submitted to and certified by the decision-maker in accordance with article 32, provide a set of those plans to Network Rail in the form of a computer disc with read only memory.

#### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order grants development consent for, and authorises Covanta Rookery South Limited to construct, operate and maintain, an electricity generating station at Rookery South Pit, near Stewartby, Bedfordshire together with all necessary and associated development. For the purposes of the development that it authorises Covanta Rookery South Limited is authorised by the Order compulsorily or by agreement to purchase land and rights in land and to use land, as well as to override easements and other rights. The Order also authorises the making of alterations to the highway network, provides a defence in proceedings in respect of statutory nuisance and to discharge water. The Order imposes requirements in connection with the development for which it grants development consent.

A copy of the plans and book of reference referred to in this Order and certified in accordance with article 32 of this Order may be inspected free of charge at the offices of Central Bedfordshire Council at Monks Walk, Chicksands, Shefford, Bedfordshire SG17 5TQ and Bedford Borough Council at Borough Hall, Cauldwell Street, Bedford MK42 9AP.

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## **Appendix 5    MPL Covanta Position Statement**

# **MILLBROOK POWER PROJECT AND THE ROOKERY SOUTH RESOURCE RECOVERY FACILITY DEVELOPMENT CONSENT ORDER (DCO)**

## **1. Overview**

- 1.1 Millbrook Power Limited ("MPL") is promoting a gas fired power station of up to 299MW along with associated development of electrical and gas connections in Rookery South Pit in Bedfordshire (the "MPL Project"). Consent for the MPL Project is being sought by means of a Development Consent Order (DCO), a draft of which has been submitted with the DCO Application (the "draft MPL DCO").
- 1.2 Covanta Rookery South Limited ("Covanta") has successfully promoted a Resource Recovery Facility ("the RRF Project") also in Rookery South Pit which was granted development consent pursuant to the Planning Act 2008 by virtue of the Rookery South (Resource Recovery Facility) Order 2011 (the "RRF DCO").
- 1.3 The MPL Order limits (as defined in the draft MPL DCO (Document Reference 3.1) by reference to the Works Plans (Document Reference 2.6)) are shown coloured green, blue and blue and hatched black on the plan appended at Annex 2 and sit within part of the RRF DCO Order limits (shown edged red on the plan appended at Annex 2). This means that there is an overlap between the two DCOs.
- 1.4 This document seeks to describe the areas of overlap and explains how MPL proposes to use the draft MPL DCO to ensure that both schemes can be delivered without causing any adverse impacts to the other scheme.

## **2. Status Report**

- 2.1 The status of the RRF Project, as of the date of this note, is that it has not formally commenced and that pre-commencement RRF DCO Requirements are in the process of being discharged. Requirement 1 of the RRF DCO states that "the authorised development may commence no later than the expiration of 5 years beginning with the date that this Order comes into force". Covanta must therefore trigger 'commencement' by 28 February 2018, unless an extension to the time limit secured in the RRF DCO is granted. As of the date of this note, no application has been made relating to securing an extension to the time limit.
- 2.2 It should also be noted that, as of the date of this note, no application to make a material or non-material amendment to the RRF DCO has been submitted to the Secretary of State via the Planning Inspectorate.

- 2.3 MPL has engaged with Covanta through the course of developing the MPL Project. There have been a number of meetings between MPL and Covanta where MPL has presented solutions which can be delivered through the draft MPL DCO (and the documents that accompany the draft MPL DCO), or included in an interface agreement, in order to allow both projects to successfully co-exist.
- 2.4 MPL consulted publicly on the MPL Project in May-June and October-November 2014. On 10 November 2014, Covanta submitted a written representation in response to the statutory consultation (a copy of the letter is appended at Annex 1). On 10 March 2015, Covanta submitted a letter to the Planning Inspectorate stating that Covanta is “*committed to working with MPL to finalise the management arrangements between the two Projects*” (a copy of the letter is appended at Annex 1). MPL undertook a second round of statutory consultation during May–July 2017. Covanta did not formally respond to the second round of statutory consultation. MPL understands that Covanta is still committed to finalising the management arrangements between the two Projects as set out in its letter dated 10 March 2015.
- 2.5 MPL continues to engage with Covanta. It is acknowledged that this liaison will continue once the Application has been submitted and throughout the Examination process in order to reach agreement on the proposed final drafting of the draft MPL DCO and/or an interface agreement.

### 3. **Option Agreements**

- 3.1 MPL entered into an Option Agreement (dated 14 July 2014) with the freehold owner of Rookery South Pit, O&H Q7 Limited ("O&H") (the "MPL Option Agreement"). The MPL Option Agreement provides MPL with the ability to acquire the freehold and the necessary rights for part of the Project Site (including the Generating Equipment Site and Substation).
- 3.2 A provision is contained within the MPL Option Agreement that MPL will not exercise any powers of compulsory acquisition to acquire land or rights from O&H.
- 3.3 Covanta has entered into an Option Agreement with O&H relating to land on which consent has been granted to build out the RRF Project (the "Covanta Option Agreement"). It is understood that the Covanta Option Agreement provides for the RRF Project to be built in a specific location. However, the RRF DCO has Limits of Deviation (LoD) which extend beyond the land within the Covanta Option Agreement and would therefore allow greater flexibility as to the location of certain elements of the RRF Project than is permitted under the Covanta Option Agreement. These LoD (shown with a dashed blue line on the plan appended at Annex 2) are set out on the works plans for the RRF Project and are defined in the RRF DCO.

- 3.4 The MPL Option Agreement and the Covanta Option Agreement do not overlap except for the access road leading from Rookery South Pit alongside Rookery North Pit to the principal entrance at Green Lane which is intended as a joint access road into Rookery South Pit for all users of the Pit.
- 3.5 MPL considers that its proposed solution to areas of interaction between the two Orders (given that MPL understands there are virtually no areas of interaction between the two Option Agreements) reflects the terms of the option agreements that both parties have entered into with O&H.

4. **Potential Interaction**

- 4.1 There are key areas of potential interaction between the RRF Project and the MPL Project and these can be broken down into four broad areas: works packages; Rights of Way; temporary use and other statutory powers; and proposed mitigation and enhancement measures. These are explained further below.
- 4.2 The RRF DCO contains wide powers of compulsory acquisition which have a potential interaction with the Project Site. MPL understands that Covanta has sought to exercise these powers of compulsory acquisition in respect of specific interests within part of the Project Site.

5. **Works Packages**

**Overview**

- 5.1 The work package elements of both projects are listed below.

<b>The RRF DCO works packages</b>
Electricity Generating Station (1)
Post combustion MRF (2)
Drainage Channel (3)
Extension to Attenuation pond (4)
New access to Junction and Green Lane (5A)
New Access to 5A (5B)
Grid Connection (6A)
Grid Connection (6B)
New access works including Footways to East of Green Lane Crossing (7B)
Footway and cycle way linking Green Lane to circular walk around Rookery North (7C)
Improvements to Green lane (8B)

<b>The draft MPL DCO work packages</b>
The Generating Equipment (1A)
Balance of Plant (1B)
Switchyard / banking compound (1C)
Site infrastructure (1D)

Access Road (Option 2A)
Access Road (Option 2B)
Above Ground Installation (3A)
Site Vehicular Access to AGI (3B)
Gas Pipeline (4A)
Gas Connection Construction Compound and Laydown (4B)
Substation (5)
Electrical Connection (6)
Temporary 400KV Diversion (7)
Construction Laydown Area (8)

- 5.2 It is worth noting that MPL has provided for two Access Road Options as, in the event that Covanta implements the RRF Project ahead of the MPL Project, MPL would simply use the access road constructed for the RRF Project and construct a further short section of Access Road (the ‘Short Access Road’) into the Project Site. If MPL implemented its scheme first, then MPL would build the Access Road from the junction of Green Lane to the Power Generation Plant Site and, as and when the RRF Project came forward, Covanta would simply upgrade the relevant parts of that road in accordance with the requirements of the RRF DCO. This is an example of how MPL has designed the MPL Project to successfully co-exist with the RRF Project.
- 5.3 The RRF DCO provides consent for the RRF Project to be constructed within LoD as set out on the RRF DCO works plans. Comparing the RRF DCO LoD against the proposals for the MPL Project, Works 1 and 2 of the former (the main Electricity Generating Station and post combustion MRF area respectively) (shown edged purple on the plan appended at Annex 2) and the Generating Equipment and Substation (shown coloured blue and hatched black on the plan appended at Annex 2) are located in separate areas and will not overlap. As such, there is no inconsistency between the key works packages for both projects.

### **Overlaps between MPL and RRF DCOs**

- 5.4 The plan appended at Annex 2 indicates that there is an element of physical overlap between the MPL Project Access Road (shown coloured green) and the RRF Project LoD for numbered works 1, 2, 3, 4, 5A, 6A, 7B, 7C and 8B (shown with a dashed blue line).

### **MPL Access Road**

- 5.5 MPL, in designing its indicative Access Road (see Document Reference 2.3), has sought to follow the location of the right of way that it has been granted by virtue of the MPL Option Agreement. MPL understands that the same right of way has been granted for the RRF Project. As such, were MPL to construct the Access Road ahead of the RRF Project (i.e. Option 2A), MPL’s works would be constructed to dovetail with proposed RRF site access. In the event that the RRF was implemented

first, the RRF Project would be able to ensure that its access road did not cut across its proposals for numbered works 1, 2, 3, 4, 5A, 6A, 7B, 7C and 8B and MPL would simply have to have regard to where these works are located in constructing its Option 2B short road into the Project Site. This is explored further below but the key point to note is that whilst there is overlap between MPL's Access Road and the RRF LoD, the Access Road can be located to enable co-existence between the two projects.

- 5.6 In relation to the overlap between MPL's Access Road and a number of the RRF works packages, MPL has incorporated two options for the Access Road in the draft MPL DCO. MPL has ensured that its LoD for Options 2A and 2B within which it can construct its Access Road align with the RRF access road LoD within Rookery South Pit. This means that if the RRF Project wishes to make full use of its access road LoD, there will be room for them to do so, as MPL's Access Road can move accordingly within that section of the Pit. The Works Plans (Document Reference 2.6) and the Land Plans (Document Reference 2.5) illustrate this solution.

#### **MPL Construction Laydown Area**

- 5.7 There was an overlap between part of MPL's proposed construction laydown area as shown during statutory consultation in October/November 2014 (numbered work 8) and the RRF Project's LoD. In order to resolve this, MPL has reduced its Order limits to remove this potential overlap (see the Works Plans (Document Reference 2.6) and the plan appended at Annex 2).

#### **Proposed Solutions to the DCO overlaps**

- 5.8 To support the delivery of Options 2A and 2B as described above, MPL has obtained the necessary land rights by agreement with O&H. However, MPL is also including provision for compulsory acquisition of such rights over a 10m strip (15m during construction) to ensure that there is no impediment to the delivery of the MPL Project.
- 5.9 To recognise the interaction between the RRF Project and the MPL Project, MPL has included a suggested set of protective provisions for the benefit of Covanta in Part 6 of Schedule 10 of MPL's draft DCO (Document Reference 3.1). One of the limbs of these protective provisions requires that MPL consults with Covanta prior to submitting the final design for the Access Road (either Option 2A or 2B) to the relevant planning authority for approval. This way, whichever Option is implemented by MPL, Covanta will have the opportunity to engage with MPL as it develops its final design and alignment of the Access Road.
- 5.10 The second element to MPL's solution is to use its DCO to modify the RRF DCO (pursuant to s120 of the Planning Act 2008). The modification is contained within Schedule 11 of the draft MPL DCO (Document Reference 3.1) and includes an amendment to article 33 of

the RRF DCO to also refer to MPL (in addition to Network Rail) and the inclusion in Schedule 7 of the RRF DCO of a Part 2, which contains protective provisions for MPL to govern the interaction between MPL and the RRF Project.

5.11 In the same way that the RRF DCO contains protective provisions for statutory undertaker Network Rail, MPL proposes the inclusion of similar provisions to protect MPL as a prospective statutory undertaker. These protective provisions would broadly do the following:

5.11.1 Ensure that MPL's access to the Project Site is maintained and that MPL is not prevented from constructing or using the Access Road;

5.11.2 Ensure that the statutory powers set out in the RRF DCO cannot be used in the context of the Project unless otherwise agreed with MPL;

5.11.3 Require cooperation between MPL and Covanta and their contractors in order to ensure that access is provided to both projects during construction and operation and that the parties work together to discuss construction programming and works where required; and

5.11.4 Provide that Covanta would not be in breach of any planning condition or requirement if, in the event that the authorised development were commenced, the MPL protective provisions prevented Covanta from complying with such condition or requirement.

5.12 In addition, it is proposed that protective provisions in favour of MPL would ensure that both the powers to extinguish private rights and powers of temporary possession for maintenance conferred by the RRF DCO could not be exercised in respect of land on which the Project is permitted unless agreed with MPL. This is to ensure that it is clear on the face of the draft MPL DCO and the RRF DCO that any overlap between the two projects has been satisfactorily addressed, and further to provide certainty that the MPL works will not be compromised in the event that the powers conferred by the RRF DCO.

5.13 The use of the draft MPL DCO to modify the RRF DCO ensures that in the event that the MPL Project is not consented then the RRF DCO would not be modified unnecessarily. Further detail is set out in the Explanatory Memorandum (Document Reference 3.2).

## 6. **Rights of Way**

6.1 The RRF DCO provides for the extinguishment and creation/upgrade of a number of Rights of Way. At present, the MPL Project Access Road (numbered work 2A) overlays a proposed upgrade of a cycleway that Covanta has committed to deliver as part of the RRF Project.



- 6.2 In addition, the location of the MPL Access Road (Option 2A) and short Access Road (Option 2B), the Generating Equipment (numbered works 1A to 1D), the Substation (numbered work 5), part of the Gas and Electrical Connections (numbered works 4A and 6 respectively) and the construction laydown area (numbered work 8) lie within an area within which Rights of Way can be extinguished pursuant to the RRF DCO.
- 6.3 MPL has proposed that the protective provisions referred to above regulate the overlap of Rights of Way extinguishment powers.
- 6.4 In relation to the upgrade of the cycleway referred to above, MPL has drafted its Land Plans (Document Reference 2.5) in order to take a permanent right of access only over the access road itself (whether constructed by the RRF Project or MPL). MPL will only seek temporary use powers over the land where the cycle way is proposed to be upgraded by the RRF Project. This solution means that if MPL constructs first, the route of the cycle way shown on the RRF DCO Rights of Way Plan is protected. Equally, if the RRF Project constructs first, this aligns the access rights that MPL is seeking to secure with the location of the cycleway in order to avoid overlap.

## **7. Temporary Use and Other Statutory Powers**

- 7.1 There are various statutory powers within the RRF DCO (including temporary use powers) which interact with the MPL Order limits. These include: article 10 (street works); article 11 (public Rights of Way); article 12 (temporary stopping up of streets); article 13 (access to works); article 15 (discharge of water); article 16 (authority to survey and investigate the land); article 24 (rights under or over streets); article 25 (temporary use of land for carrying out the authorised development); article 26 (temporary use of land for maintaining authorised development); and article 31 (felling or lopping of trees).
- 7.2 MPL proposes to use the protective provisions referred to above to regulate any overlap of temporary use or other statutory powers with the MPL Order limits. MPL notes that the interaction between the MPL Order limits and Covanta's statutory powers relate only to areas where the RRF Project is not proposing to construct its works packages (save for the overlaps referred to at paragraph 5.4 above).

## **8. Proposed Mitigation and Enhancement Measures**

- 8.1 As part of its Environmental Impact Assessment, MPL has cumulatively assessed its likely significant environmental effects together with those of other projects, including the RRF Project. Where necessary, mitigation and enhancement measures have been proposed or designed with cumulative effects with the RRF Project in mind.

### **Landscaping**

- 8.2 The RRF DCO requires that prior to commencement of the RRF Project, Phase 1 of the low level restoration scheme ("LLRS") that is required pursuant to a Review of Old Minerals Permissions (ROMP) consent has to be completed (see requirement 31 of the RRF DCO). Certain planting is required as part of Phase 1 of this scheme.
- 8.3 In addition, requirement 8 of the RRF DCO entails the submission by Covanta of a landscaping scheme prior to commencement (various landscaping plans are also referred to in requirement 6). Certain areas within which LLRS and RRF Project planting are proposed to overlap with certain MPL Project numbered works including the Access Road (numbered works 2A and 2B); the Gas Pipeline (numbered work 4A); and the Electrical Connection (numbered work 6 and 7)).
- 8.4 MPL has therefore considered the effect of any necessary removal of LLRS and/or RRF mitigation planting (based on the indicative plans that are available) and has set out the likely significant environmental effects of this. To the extent that replacement planting is required in order to mitigate any cumulative effects (which supposes that the RRF Project is implemented first), this is being delivered within the MPL Order limits.
- 8.5 In the event that the MPL Project commences prior to the RRF Project, then MPL would place restrictions in relation to the MPL Pipeline and Cables that would prevent certain planting on top of these assets (see the Book of Reference (Document Reference 4.3)). MPL has therefore proposed that the protective provisions which benefit Covanta include a provision that, in the event that the MPL Project is implemented before the RRF Project, MPL must consult with Covanta to discuss any areas of planting that may be required in order to mitigate the effects of both schemes considered together. As such, MPL does not consider that any overlap of mitigation measures should be an issue of concern.

### **Ecology**

- 8.6 The Landscape and Ecology Mitigation and Management Strategy (Appendix 11.3 of Document Reference 6.2) developed for the MPL Project has taken into consideration landscape and ecology mitigation and management proposals set out by the RRF Project to ensure both projects can deliver ecological and landscape enhancements.
- 8.7 However, during construction of the MPL Project, there may be a need to protect and avoid damage to new habitats created by the RRF Project, that are within the red line boundary should the RRF project be constructed ahead of the MPL Project. If required, measures to protect such new habitats would be included in the Landscape and Ecology Mitigation and Management Strategy (Appendix 11.3 of Document Reference 6.2).
- 8.8 Areas for the RRF Project sensitive lighting scheme during construction are within the MPL Order limits. Sensitive lighting is also proposed for MPL scheme. There will therefore be a need to adopt the same

measures/ lighting in any overlap areas. This will be written into outline lighting strategy for the MPL Project.

## **Noise**

- 8.9 A construction noise limit at South Pillinge Farm and Pillinge Cottages has been set in the RRF DCO as 55 dB LAeq,1h. If both the RRF Project and the MPL Project were constructed at the same time, there are likely to be cumulative noise impacts at South Pillinge Farm and Pillinge Cottages. However, the noise assessment set out in Chapter 7 of the ES for the MPL Project (Document Reference 6.1) has concluded that any cumulative construction noise impacts will be low and therefore not significant.
- 8.10 There is also potential for cumulative noise impacts to occur during operation of both the RRF Project and the MPL Project at South Pillinge Farm. Requirements to regulate and monitor noise are set out in both the RRF DCO and the draft MPL DCO. The noise assessment set out in ES for the MPL Project (Document Reference 6.1) has concluded that any cumulative operational noise impacts will be low and therefore not significant

## **9. Protective Provisions for the Benefit of Covanta**

- 9.1 As noted above, MPL has included within the draft MPL DCO (Document Reference 3.1) protective provisions for the benefit of Covanta. In addition to the two provisions referred to above (consultation regarding location of the Access Road in the event that MPL implements first; and consultation regarding the location of landscape planting in the event that MPL implements first), the protective provisions for the RRF Project also state that:

9.1.1 MPL must consult with Covanta before exercising any power to temporarily stop up any street or carry out any street works located within the RRF DCO LoD; and

9.1.2 MPL must co-operate with Covanta with a view to ensuring the co-ordination of construction programming and the carrying out of works and that access for Covanta to the RRF Project is maintained.

## **10. Conclusions**

- 10.1 MPL is actively engaging with Covanta and O&H to discuss the areas of interaction and the proposed solutions outlined above that will allow both the MPL Project and the RRF Project to successfully co-exist.
- 10.2 Given the needs case that is set out in the relevant National Policy Statements that apply to both projects, MPL considers that it is vital that both projects should be capable of implementation, with neither project adversely affecting the other.

- 10.3 MPL will continue to work with Covanta on the matters referred to above following submission of its Application and throughout the Examination of its Application.

**ANNEX 1**

**LETTERS FROM COVANTA DATED 10 NOVEMBER 2014  
AND 10 MARCH 2015**

**Tom J. Koltis**  
Director

**Covanta Energy Limited**  
c/o Covanta Holding Corporation  
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Mr. Paul Wormald  
Director of Planning for Waste and Energy  
Peter Brett Associates LLP  
16 Brewhouse Yard, Clerkenwell  
London EC1V 4LJ, England

10 November 2014

**Re: Response to Millbrook Power Limited statutory consultation**

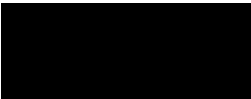
Dear Paul:

Covanta Energy Limited is in receipt of the letter and the related documentation that you sent to us in connection with your proposed gas fired power plant at Rookery South. We greatly appreciate your sending us this material and are very hopeful that both of our projects can co-exist at the Rookery South location. However, to better allow us to understand how the proposed Millbrook Power project affects consented energy-from-waste project, we would be grateful if you could generate and provide us with a copy of a site plan which overlays the current Millbrook Power project with the Covanta energy-from-waste project.

We would also be happy to discuss and agree ahead of time protection provisions to assist you in submitting your planning application. Obviously, we will need to document the relationship between your project and Covanta, and our position is reserved accordingly. This letter - and any assistance - is on a without prejudice basis for the time being, and I very much look forward to working with you in this regard.

Please do not hesitate to contact me at the details listed above should you have any questions.

Kind regards,

  
Tom Koltis  
Director



**Tom J. Koltis**  
Director

**Covanta Energy Limited**  
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*BY EMAIL AND POST*

Tom Carpen  
Infrastructure Planning Lead  
The Planning Inspectorate  
Temple Quay House  
Temple Quay  
Bristol  
BS1 6PN

10 March 2015

Dear Mr. Carpen

**MILLBROOK POWER PROJECT AND THE ROOKERY SOUTH (RESOURCE RECOVERY FACILITY) ORDER 2011**

I refer to Millbrook Power Limited's ("MPL") application for development consent to authorise the Millbrook Power Project (the "Millbrook Project").

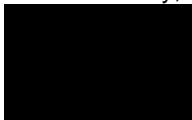
As you may be aware, the Millbrook Project affects development authorised by the Rookery South (Resource Recovery Facility) Order 2011 ("Rookery South Order"), which was sought and obtained by Covanta Energy Limited ("Covanta"). The Rookery South Order came into force on 28 February 2013.

Since writing to MPL on 14 November 2014 in response to statutory consultation carried out by MPL under section 42 of the Planning Act 2008, Covanta and MPL have met recently to discuss the interface between the two Projects.

Covanta is committed to working with MPL to finalise the management arrangements between the two Projects.

Accordingly, this letter is sent without prejudice to Covanta's position generally and, in particular, its ability to make relevant representations or written representations in relation to the Millbrook Project in due course.

Yours sincerely,



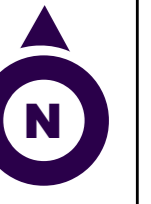
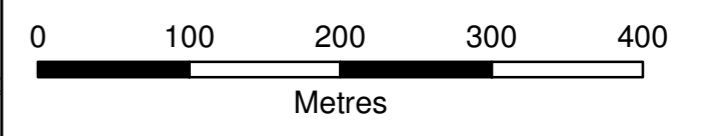
Director

**ANNEX 2**

**PLAN DETAILING THE OVERLAP BETWEEN THE MPL PROJECT  
AND THE RRF PROJECT**






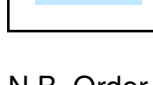


# Millbrook Gas Fired Generating Station Order 201\*

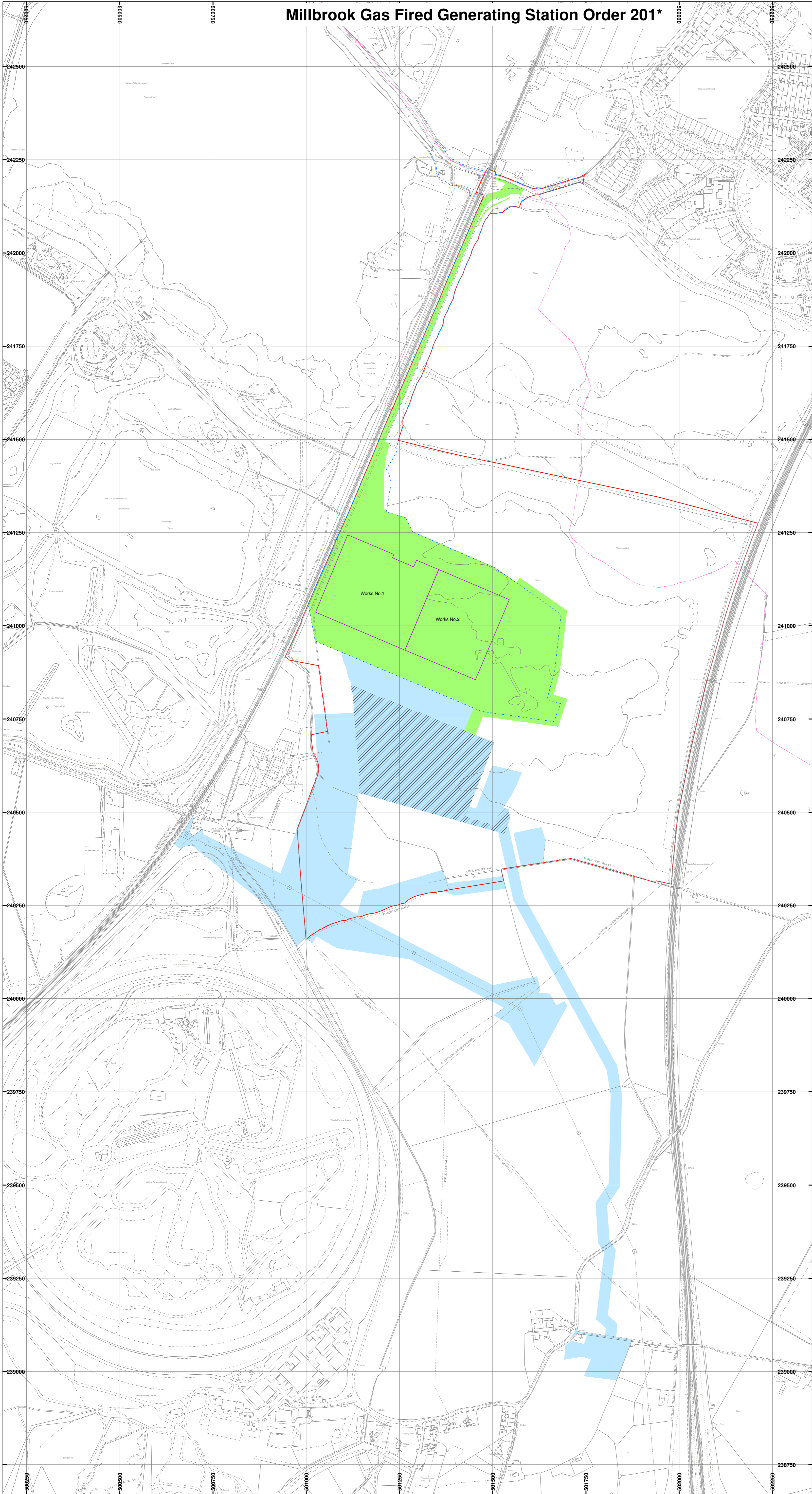


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## Legend

-  Works Package for Covanta DCO
-  LOD for Covanta DCO
-  Order Limits for Covanta DCO
-  Work No. 2 for MPL DCO
-  Work No's. 1 & 5 for MPL DCO
-  Other works for MPL DCO

N.B. Order limits boundary for Covanta DCO taken from drawing 2807LO/Order002 dated 30/7/2010



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Title:  
**Covanta Order Limits Plan**

Scale: 1:5000 @A1 Date: 02 October 2017

Dwg no: **J0008128-404** Revision **B**

Drawn by:	Checked by:	Approved by:
IM	ML	MD