



**Millbrook  
Power**  
A Drax Group company

## **The Millbrook Power (Gas Fired Power Station) Order**

### **Written Summary of the Applicant's Oral Case put at the Environmental Issue Specific Hearing – Submitted at Deadline 3**

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

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## **WRITTEN SUMMARY OF MILLBROOK POWER LIMITED'S ("THE APPLICANT") ORAL CASE PUT AT THE ENVIRONMENTAL MATTERS ISSUE SPECIFIC HEARING – 1 MAY 2018**

### **1. INTRODUCTORY REMARKS**

1.1 The Issue Specific Hearing ("ISH") regarding Environmental Matters was held at 10:00am on 1 May 2018 at the Forest Centre, Station Road, Marston Moretaine, Bedfordshire, MK43 0PR.

1.2 The ISH took the form of running through items listed in the agenda published by the ExA on 24 April 2018 (the "**Agenda**"). The discussion of environmental matters focused on follow up points which the Examining Authority ("**ExA**") required more information on following the Applicant's Response to the first written questions (the "**Response to First Written Questions**") [REP2-016]. The format of this note follows that of the Agenda and refers to First Written Question ("**FWQ**") numbers where relevant. The Applicant's substantive oral submissions commenced at item 2 of the Agenda, therefore this note does not cover item 1 which was procedural and administrative in nature.

### **2. AGENDA ITEM 2 – INTRODUCTION OF THE PARTICIPATING PARTIES**

2.1 The ExA: - Planning Inspector, Jonathan Green.

2.2 The Applicant:

2.2.1 Speaking on behalf of the Applicant: - Richard Griffiths (Partner at Pinsent Masons LLP).

2.2.2 Present from the Applicant: - David Ball (Drax Power, parent company of the Applicant), Nick Johnson (Stag Energy, project managers for the Applicant), Chris McKerrow (Stag Energy, project managers for the Applicant) and Collette King (Stag Energy, project managers for the Applicant).

2.2.3 The Applicant's consultants and legal advisors:- Claire Brodrick (Pinsent Masons LLP), Matthew Carpenter (Pinsent Masons LLP), Chris Leach (Environmental Assessment technical lead, Peter Brett Associates) and Francesca Rowson (Senior Planner, Peter Brett Associates).

2.2.4 The Applicant's environmental consultants (listed alongside their relevant environmental topic area):

(a) Air Quality - (Graham Harker, Senior Associate, Head of Air Quality, Peter Brett Associates);

(b) Noise and Vibration - (Derek Nash, Managing Director, Acoustics Central);

(c) Ecology - (Elaine Richmond, Director, Peter Brett Associates);

(d) Water Quality and Resources - (Stuart Harwood, Associate, Peter Brett Associates);

(e) Ground Conditions - (Paul Jeffery, Director of Geotechnics, Peter Brett Associates) supported by (Kate Riley, Associate, Peter Brett Associates);

(f) Landscape and Visual Impact - (Natasha Jones, Senior Associate, Head of Landscape, Peter Brett Associates);

- (g) Traffic and Transport - (John Hopkins, Senior Associate, Peter Brett Associates); and
- (h) Cultural Heritage and Archaeology - (Rob Bourn, Managing Director, Orion Heritage).

2.3 The following parties participated in the ISH:

- 2.3.1 Central Bedfordshire Council ("**CBC**"):- Stuart Robinson (Senior Planning Officer).
- 2.3.2 Forest of Marston Vale Trust ("**FoMV**"):- Nick Webb (Chief Executive) and Darren Woodward (Project Officer).

3. **AGENDA ITEM 3 – ISSUES ARISING FROM THE RESPONSE TO THE EXA’S FIRST WRITTEN QUESTIONS (FWQS) [PD-006] ON ENVIRONMENTAL ISSUES**

3.1 **Environmental Topic: Project and site description**

3.2 **FWQ reference: 1.0.2**

3.3 **The ExA** requested further information regarding the proposed contribution to the FoMV including clarity in relation to: (1) the mix of planting to be provided; and (2) the cross over with the planting for the Rookery South Resource Recovery Facility (the "**Covanta Scheme**").

3.4 **Richard Griffiths** on behalf of the Applicant confirmed that the 3.7ha quoted in the Applicant's response to FWQ 1.0.2 is the level of planting to be provided should the Covanta Scheme not come forward. The landscape and ecological mitigation and management strategy (the "**LEMMS**") (which will be certified by the Secretary of State under Article 39 of the Draft Millbrook DCO Revision1 [REP2-015]) shows two planting schemes: one showing the planting to be provided with the Covanta Scheme in place and one without. He set out that indications are that the Covanta Scheme will come forward however it is still necessary to have two proposed planting schemes in case the position changes. The extent of planting cross over will depend upon the respective timelines of the Millbrook Project and the Covanta Scheme and it is likely that the Applicant will have more clarity over the timeline for the Covanta Scheme soon.

3.5 **Nick Johnson** on behalf of the Applicant showed the ExA where such planting will be located by reference to the plans.

3.6 **Mr. Griffiths** explained that the mix of planting is secured through Requirement 3 in Schedule 2 of the Draft Millbrook DCO Revision1 [REP2-015]. The LEMMS will be approved in accordance with this requirement and CBC will be able to consult with the FoMV in respect of the mix of planting when giving approval. He explained that the section 106 agreement being agreed between the Applicant and the local authorities included a mechanism through which the amount of planting to satisfy the FoMV policy requirement is calculated. Should the approved LEMMS not provide sufficient planting to meet that requirement, then the section 106 obligation would require the Applicant to "top up" the planting through a financial contribution made to the FoMV.

3.7 **Mr. Griffiths** outlined that discussions over the terms of the draft section 106 agreement are in progress and the Applicant has received some initial comments from both CBC and FoMV which it is considering.

3.8 **Darren Woodward** on behalf of FoMV confirmed that the Applicant's summary was accurate and outlined that there is a need to make sure that the planting which is proposed forms a percentage of the total redline area of the project site. The mix of planting must be in keeping with the current mix.

- 3.9 **FWQ reference: 1.0.5**
- 3.10 Further to the explanation provided in FWQ 1.0.5, the ExA asked the Applicant to explain the situation regarding the Low Level Restoration Scheme (the “LLRS”) in more detail.
- 3.11 **Richard Griffiths** explained that the Applicant submitted two plans to the examination at Deadline 2 in respect of the LLRS as appendices to the Applicant’s Additional Submission on The Current Status of Low Level Restoration Scheme Baseline Works for Millbrook Power [REP2-011]. The first plan (the Rookery Low Level Restoration Schemed Extent of Phase 1 Restoration Platform) shows Phase 1 of the LLRS works. These are the works which have been completed as part of the Covanta Scheme as signed off by CBC. The second plan (the Rookery Low Level Restoration Scheme – Baseline Works for Millbrook Power plan) is the plan which shows all of the works which will need to be completed before the Millbrook Project is carried out. This plan will be certified by the Secretary of State under Article 39 and is secured by Requirement 20 of the Draft Millbrook DCO Revision1 [REP2-015]. The Applicant will not be able to commence works until the LLRS baseline works, as shown on this plan, have been completed to the reasonable satisfaction of CBC.
- 3.12 **Nick Johnson** on behalf of the Applicant took the ExA through the various works within the two plans setting out what has been done to date. This included the attenuation pond, access ramp, re-profiling to create the platform for the Covanta Scheme, drainage channel and pumping station and pipework.
- 3.13 **Mr. Griffiths** explained that the responsibility for the full completion of the LLRS lies with the landowner, O & H Limited and that it is due to be completed by 2025. The maintenance obligations for the LLRS also lie with O & H Limited and there are maintenance obligations relating to drainage pursuant to the condition 9 of the LLRS planning permission. However, the terms of the property transfer with the Applicant mean that the Applicant will have step in rights to carry out maintenance should O & H Limited fail to do so. Such step in rights apply beyond the redline boundary of the project site. The right to enter on to land will benefit the land to be acquired by the Applicant and will therefore also apply to the Applicant’s successors in title. This is a noticeable difference with the simple contract that Covanta is proposing as a way of dealing with the overlap issue of their statutory powers – the contract does not protect Millbrook Power Limited from successors in title or those who could take the benefit of the Rookery Order under the Transfer of the Benefit provisions.
- 3.14 **The ExA** queried how maintenance for drainage will be carried out at the attenuation pond and **Mr. Griffiths** explained that in accordance with Requirement 7 of the Draft Millbrook DCO Revision1 [REP2-015], the Applicant will not be able to commence certain works until the surface and foul water drainage strategy has been submitted to and approved by CBC. This strategy will include elements of how the attenuation pond drainage is carried out and maintained thus compliance will be ensured though the DCO.
- 3.15 It is noted that the Applicant has provided the ExA with the plans submitted with the planning permission for the low level restoration scheme of Rookery South Pit (reference number BC/CM/2000/8) at Deadline 3 and such plans are included as Appendix 1 to the Applicant’s Written Summary of the Second Development Consent Order Issue Specific Hearing, submitted at Deadline 3.
- 3.16 **FWQ reference: 1.0.17**
- 3.17 **The ExA** asked for further information regarding the possibility that the Electrical Connection and the Gas Connection could continue in use after the decommissioning of the Generating Equipment. The ExA asked for further justification for the equipment remaining in situ in the event that the power station is decommissioned.

- 3.18 **Richard Griffiths** referred the ExA to National Grid's response to FWQs 1.0.17 and 1.0.18 [REP2-029] in which it put forward its case for the equipment being allowed to remain in situ arguing that a requirement for decommissioning of the equipment would be: "*unreasonable, impossible to enforce, unjustifiable and inconsistent with National Planning Policy*". He set out that the removal of National Grid's equipment would compose of two elements: the Electrical Connection and the Gas Connection:
- 3.18.1 In respect of the Electrical Connection, this includes the replacement of a tower which forms part of the existing 400kV network. If the transmission tower had to be removed then it will cause a problem for the existing network. National Grid has a statutory duty to connect other customers in the most economical manner and decommissioning of these elements of the project would not achieve this. The sealing end compounds will also form part of the network.
- 3.18.2 In respect of the AGI which forms part of the Gas Connection, this consists of two elements. The MOC will be owned by National Grid and connected to other infrastructure and the Applicant has no control over this. The Applicant cannot, therefore, be responsible for decommissioning of this element of the project.
- 3.19 **Mr. Griffiths** added that it is highly unlikely that National Grid would accept a requirement imposed on it obliging it to produce a decommissioning strategy. It would be unreasonable to require the Applicant to decommission apparatus that it does not own or control. **Mr. Griffiths** distinguished the Millbrook Project from the Progress Power Project (where decommissioning obligations were imposed to mitigate the impact on historic hedgerows). Each case has to be looked at individually and there are no heritage reasons in this case for requiring the Electrical and Gas Connections to be decommissioned. CBC has not expressed concerns regarding the non inclusion of a decommissioning strategy for the National Grid infrastructure as evidenced by the statement of common ground (SOCG) between CBC and the Applicant submitted at Deadline 2 [REP2 – 039].
- 3.20 **Environmental Topic: EIA Methodology**
- 3.21 **FWQ reference: 1.1.1**
- 3.22 **Richard Griffiths** brought the Environment Agency's (the "**EA's**") response to the ExA's FWQs [REP2-033] to the attention of the ExA. He outlined that the EA had been very clear regarding the proposed operating hours for the Generating Equipment (as a maximum of 2,250 hours in any one year subject to a five year rolling average of 1,500 hours) confirming that the approach is appropriate and that it will be reflected in the likely Environmental Permitting Regulations Permit (the "**EP**") conditions which will be imposed. **Mr. Griffiths** set out that as the requirements in the Millbrook DCO should not duplicate other regimes, the Applicant proposes to amend requirement 17 of Schedule 2 in Revision 2 of the DCO which will be submitted at Deadline 3. The Applicant will discuss such amendments with the EA and will provide an explanation in the schedule of changes which will be submitted with Revision 2.
- 3.23 **Chris Leach** on behalf of the Applicant provided an update on the application for the EP: the consultation process has now closed and is with the EA to progress. In the SoCG with the EA (at paragraph 5.90), it has indicated that it would like to "twin track" the DCO application and the EP application.
- 3.24 **The ExA** raised a concern regarding the proposed amendment of Requirement 17 raising the possibility that the EP could be subsequently amended. **Mr. Griffiths** explained that the hours approach is assessed in the environmental statement which will be a certified document under Article 39 of the Millbrook DCO thus the hours assessment would be brought within the remit of the statutory instrument and the development would be authorised based on the 2,250 hours approach. He stated that

Requirement 17 would be amended in order to avoid potential conflict between the EP and the Order. He contrasted this with the position in the Progress Power (Gas Fired Power Station) Order 2015 in which the hours requirement is not flexible and as the EP has not yet been granted meaning that there could conceivably be a situation where the EP and the DCO conflict.

3.25 **Environmental Topic: Alternatives**

3.26 **FWQ reference 1.2.3**

3.27 **The ExA** requested further information from the Applicant regarding the Sealing End Compound (SEC) and the options available.

3.28 **Nick Johnson** on behalf of the Applicant provided an explanation setting out that there are two potential options for the SEC. Option one involves a single circuit turn in and would require only one SEC. The SEC required would be approximately two times the size of one of the SECs for the second option. The size and thickness of the cable for this option (due to the need to carry the load of the entire circuits) would result in higher costs for the Applicant. The second option (which has been selected) would involve two SECs but the cabling required would only need to be rated to carry the export capacity of the Project and would therefore be considerably more cost efficient to produce. He confirmed that the environmental impacts for the two options were similar and **Richard Griffiths** added that the total land requirement would be the same for the two options thus compulsory acquisition considerations did not have a bearing on the decision.

3.29 **Environmental Topic: Air quality**

3.30 **The ExA** set out that the Applicant's responses to the FWQs regarding Air Quality had been helpful. However the responses raised a query regarding the comparison with the Covanta Scheme and the statement at paragraph 1.1.98 of the Response to First Written Questions that "*there is a significant difference in stack heights between the two facilities; and therefore, the pattern of dispersion of the emissions will be significantly different*". The ExA asked how the height of the stack and velocity of emissions affected the dispersion of the emissions.

3.31 **Graham Harker** on behalf of the Applicant explained that both the height of the stack and the velocity of emissions in combination determine how emissions disperse in to the atmosphere (other factors are also taken in to account such as momentum and temperature). He explained that for the Covanta Scheme the area over which emissions are dispersed will be larger as there will be more pollutants to deal with (hence the stack height of 105m as stated in the Covanta EP). **Mr. Harker** confirmed that inversion conditions had been taken into account within the meteorological data included in the modelling and set out that the net impact of the Applicant's scheme and the Covanta Scheme is a very small combined impact

3.32 **Richard Griffiths** added that SoCGs had been agreed and signed with CBC, BBC and the EA confirming that the assessment, methodology and baseline used by the Applicant in respect of air quality are appropriate.

3.33 **Environmental Topic: Noise and vibration**

3.34 **The ExA** queried the various methods of noise assessment in the environmental statement and how these are combined for the joint impact of the Millbrook Project and the Covanta Scheme.

3.35 **Derek Nash** on behalf of the Applicant explained the assessment methodology. He explained that in understanding the cumulative impact of industrial noise sources on sensitive receptors, there are two ways this could be approached:

- 3.35.1 The first approach is to literally sum the noise levels from the two projects. **Mr. Nash** explained that he is of the opinion that this can reasonably be considered a worst-case approach, as it assumes that all the noise from the other development is included as part of our assessment. This is the approach that has been adopted by the Applicant in the environmental statement, and the conclusion from it was that the overall noise levels were below the LOAEL, and therefore not considered to be indicative of a significant adverse impact.
- 3.35.2 The second approach is to follow the guidance set out in BS 4142, which directs the user to carry out the numerical assessment of the sources first, then consider whether there are contextual factors that would change the conclusions of the numerical assessment. In this case, the numerical assessment of items calculated that the noise levels were below the background sound level and therefore indicative of low impact significance. The next step is then to consider the context into which our sources are placed, and whether this has any bearing on the conclusions of the numerical assessment. In this case a continuously operating mechanical natured source is to be introduced into the noise climate. **Mr. Nash** set out that he is of the opinion that this fact likely mitigates the impact of our noise sources, as were the Applicant's sources to be the only ones introduced to an otherwise rural noise climate the result would likely be more noticeable, and therefore more likely to give rise to an adverse impact.
- 3.36 **Mr. Nash** set out that in summary, using either of the two approaches outlined above concludes that the cumulative impact of the Applicant's development and the Covanta Scheme is expected to give rise to noise levels below the LOAEL, and as such not considered to be indicative of a significant adverse impact.
- 3.37 **Mr. Nash** also provided clarity in relation to the different acoustic indices and time periods used in the various assessments. He explained that different acoustic indices and time periods are set out in the guidance documents for the various assessments undertaken. For example, to carry out assessments using methodology set out in BS 5228 (construction noise) it is necessary to work with LAeq,10hr, whereas for BS 4142 (mechanical / industrial operational noise) it is necessary to work with LA90 levels with a time duration of 1hr during the day, and 15 minutes during the night. The acoustic indices are purely selected to accord with the guidance document being used as the basis for the assessment.
- 3.38 **Requirement 13**
- 3.39 **The ExA** queried the wording of the new Requirement 13 included in Schedule 2 of the Draft Millbrook DCO Revision1 [REP2-015] for the control of noise during construction following concerns raised by CBC. The ExA expressed a concern over whether a limit should be added for construction noise.
- 3.40 It was subsequently agreed at the Development Consent Order Issue Specific Hearing held on 3 May 2018 that the Order would be amended in Revision 2 at Deadline 3 in order to refer to the establishment of noise limits in accordance with BS 5228: 2009 (see the Applicant's Written Summary of the Second Development Consent Order Issue Specific Hearing, submitted at Deadline 3 at point 10 of the table in paragraph 5).
- 3.41 **Environmental Topic: Ecology**
- 3.42 **FWQ reference: 1.5.1**
- 3.43 **The ExA** asked for an update regarding the extension of the European Protected Species (EPS) licence in place which authorises the translocation of great crested newts (GCNs) from Rookery South to mitigation areas in Rookery North Pit, querying whether the provisions of the licence will transfer to the Applicant on the land transfer or whether

a new licence will be required. The licence is currently in the name of O &H Limited, the landowner.

- 3.44 **Richard Griffiths** highlighted the signed SoCG between the Applicant and Natural England [REP2-40] which contains a statement at paragraph 5.5.7 that: *“The parties agree that the Applicant will abide by the terms and conditions of the Great Crested Newt (GCN) Licence (Reference: 2014-1762-EPS-MIT-1) issued by Natural England and any subsequent licence revisions”*. This statement refers to the licence granted to O & H Limited.
- 3.45 **Mr. Griffiths** explained that should the Millbrook Project be granted consent then the Applicant will exercise its option over the land within the next 12 months and O & H Limited will be obliged to continue to comply with the terms of the licence until that point. Once things move forward with the Millbrook Project and before the authorised development commences, the Applicant will be required to discharge requirement 10 of the Millbrook DCO for approval of the construction environment management plan (CEMP). Revision 1 of the CEMP which was submitted to the examination at Deadline 2 [REP2-003] contains provision at paragraph 3.6.6 requiring further management measures and survey work in respect of GCNs. The CEMP provides that given that construction is due to commence six years after the 2014 great crested newt surveys were completed; updated surveys may be required to confirm the management and/or mitigation measures. Once the land transfer occurs then additional surveys will be carried out and the Applicant will either have to apply for a new licence or it may be the case dependent on the outcome of the surveys that the existing license may suffice.
- 3.46 **Elaine Richmond** on behalf of the Applicant explained that the existing licence in favour of O & H Limited refers to the LLRS and to the translocation of GCNs. The assumption is that the GCNs will have been successfully removed from the site thus the chance of dealing with GCNs is slim. Notwithstanding this, in the event that there are GCNs which remain, then the CEMP and the method statement which are in place would deal with any further translocation required.
- 3.47 **The ExA** asked who is responsible for the GCN fencing and **Mr. Griffiths** outlined that the responsibility is currently with O & H limited and in the future, if the Applicant acquires the land, then it will become responsible for the fencing. **Ms. Richmond** explained that the functionality of the fence is to stop the GCNs from moving back on to the site but they are unlikely to come back anyway as the clay layer that will be left after the LLRS works are completed will not provide a suitable habitat for GCNs. She outlined that surveys will be carried out before consent is granted and then there will be secondary surveys to check licence conditions. The CEMP applies to all areas where construction will be taking place.
- 3.48 **Environmental Topic: Water quality and resources**
- 3.49 **The ExA** raised a query in relation to the Habitats Regulations and the impact of the recent European Court of Justice Judgement in the case of *People over Wind and Sweetman v Coilte Teoranta (C-323/17)*. The Habitats Regulations Assessment: No Significant Effects Report (NSER) [APP-032] concluded that there were no pathways for adverse effects in water bodies connected to European Site however there are measures outlined in table 4 of NSER secured in the CEMP to avoid the risk of pollutants entering the groundwater. In light of the above the ExA wished for clarity as to whether anything further needed to be considered by the Applicant.
- 3.50 **Richard Griffiths** explained that the Applicant would liaise with its water quality expert and would respond in writing for Deadline 3. The Applicant has now considered the position and responds as follows:
- 3.51 The NSER does not rely on the implementation of any mitigation measures to conclude no likely significant effects on European sites. Although Table 4 ‘Consideration of Effects in the Screening Assessment’ references mitigation measures (e.g. the

implementation of a CEMP for the Project), at no point is implementation of the CEMP relied upon, or necessary, to ensure that there are no likely significant effects.

3.52 Table 4 clearly sets out:

3.53 *“There are no excavation requirements within the Chilterns Beechwoods SAC, or the Upper Nene Valley Gravel Pits SPA and Ramsar Sites. All excavation works that are required are confined within the Project Site. There are therefore no conceivable effect pathways due to excavations as a result of the Project”.*

3.54 Additionally, given the distance from the Project site, no disturbance to key species as a result of noise and vibration are anticipated, even in the absence of any mitigation. Table 4 further goes on to conclude that *“No effects have been identified on the Chilterns Beechwoods SAC, or the Upper Nene Valley Gravel Pits SPA and Ramsar Sites as a result of the Project, so there is no requirement for specific avoidance or mitigation measures”.*

3.55 **Environmental Topic: Ground conditions**

3.56 **Richard Griffiths** stated that a SoCG had been agreed with the EA and that additional wording had been added to Requirement 8 in Schedule 2 of the Draft Millbrook DCO Revision1 [REP2-015] in respect of groundwater baseline monitoring assessment.

3.57 **Environmental Topic: Landscape and visual impact (LVIA)**

3.58 The ExA confirmed that there were no follow up questions at this stage in respect of LVIA however it was agreed that **Natasha Jones**, the Applicant's LVIA expert, would attend the site visits on 10 May 2018 and any follow up questions would be put to the Applicant in writing.

3.59 **Environmental Topic: Traffic and Transport**

3.60 **The ExA** raised a question regarding Marston Moretaine Parish Council's relevant representation [RR-019] in which it made comments in relation to traffic routing.

3.61 **Richard Griffiths** reiterated the Applicant's position as presented in its Response to Relevant Representations [REP2-014] at paragraph 20.1.18 in which it as outlined that: *“The Applicant has considered the potential of routeing construction traffic solely via Marsh Leys interchange rather than via that and Beancroft Road roundabout as part of the construction routeing assessment in the Transport Assessment [APP-046]. Should the relevant highways authorities (Bedford Borough Council and Highways England) agree that this is a more suitable route for construction vehicles the Applicant would be prepared to use this route preferentially for the majority of construction movements. The Applicant is currently in discussions with the relevant highways authorities on this point”.* He reported that there had been no update from the conversations with the highways authorities however agreement would be pursued in this respect. In light of the issues raised at the hearing, the Applicant has amended requirement 11 of Schedule 2 of the draft DCO (Revision 2) submitted for Deadline 3 to make it clear that the relevant planning authorities should consult with Marston Moretaine Parish Council prior to approving the construction traffic management plan.

3.62 **Network Rail**

3.63 **Richard Griffiths** set out that discussions were ongoing with Network Rail and efforts were being made to resolve outstanding issues as soon as possible with a proposed meeting planned in the coming weeks. The email exchange between the Applicant and Network Rail which is included as appendix B to the Applicant's Response to Relevant Representations [REP2-014] shows some of the correspondence between the parties. Network Rail had previously signed off on the Applicant's approach but has subsequently gone back on this position.

- 3.64 **John Hopkins** on behalf of the Applicant confirmed that there are no Network Rail assets within the Applicant's redline. He set out that the majority of the discussions with Network Rail to date have been regarding the impacts on the Green Lane level crossing. The Applicant carried out surveys in relation to traffic in 2014 and in 2017 and has assessed effects of the Millbrook Project on traffic and transport both independently and in combination with the Covanta Scheme.
- 3.65 It seems to the Applicant that some of Network Rail's concerns regarding the level crossing actually relate to the Covanta Scheme which will be generating much greater traffic impacts than the Millbrook Project in operation. The Millbrook Project impacts have been managed through the Applicant's construction traffic management measures included in the Transport Assessment (TA) at Volume L of the environmental statement appendixes [APP-046] and a safe system will be put in place. **Mr Hopkins** explained the plans included in the TA. The system to control traffic during construction will be manually operated and ensure that traffic does not back up over the level crossing. The system was tabled with the highways authorities and with the asset protection managers and level crossing safety officers of Network Rail and agreement was obtained in 2015 and again in 2017. However as stated above, Network Rail has subsequently changed its position.
- 3.66 **Richard Griffiths** added that the Covanta Scheme has commenced construction and no mitigation works have been put in place at the level crossing and such measures will not be commenced until 2019. This indicates that the Covanta Scheme mitigation measures relating to the level crossing are for operation and it is noted that the Millbrook Project will not have such movements during operation. The Applicant does not, therefore, consider that the Millbrook Project requires any further mitigation beyond the construction traffic management plan. However, the Applicant has amended requirement 11 of Schedule 2 of the draft DCO (Revision 2) submitted for Deadline 3 to make it clear that the relevant planning authorities should consult with Network Rail prior to approving the construction traffic management plan and included a specific reference to the Green Lane level crossing.
- 3.67 In response to a question from the **ExA** relating to concerns raised by Network Rail relating to vehicle lights on the Access Road, **Mr Griffiths** explained that the Applicant understood that the Access Road was due to be completed by the end of June 2018 and that these concerns may be resolved once the Access Road has been constructed. However, the Applicant has amended requirement 6 of Schedule 2 of the draft DCO (Revision 2) submitted for Deadline 3 to make it clear that CBC should consult with Network Rail; prior to approving the fencing for numbered work 2A to address these concerns.
- 3.68 **Environmental Topic: Historic environment**
- 3.69 The ExA enquired about any outstanding issues which remain with Historic England.
- 3.70 **Richard Griffiths** stated that the wording for a SoCG has been agreed with Historic England and signing is expected imminently. The wording of the SoCG contains a statement in which Historic England agrees with the Applicant's assessment of the level of harm in the environmental statement and that any harm is less than substantial and therefore not significant. The ExA was referred to Appendix C of the Response to Relevant Representations [REP2-014] which set out the supplementary illustrative information provided to Historic England.
- 3.71 A SoCG has now been signed between the Applicant and Historic England and will be submitted at Deadline 3.
4. **AGENDA ITEM 4 – UPDATE ON STATEMENTS OF COMMON GROUND**
- 4.1 **Richard Griffiths** provided an update on SoCGs. SoCGs have been agreed with the following parties and submitted to PINs:

- 4.1.1 Natural England;
  - 4.1.2 Central Bedfordshire Council;
  - 4.1.3 Bedford Borough Council;
  - 4.1.4 National Grid Gas plc;
  - 4.1.5 National Grid Electricity Transmission plc;
  - 4.1.6 Highways England; and
  - 4.1.7 Environment Agency;
- 4.2 As set out above at paragraph 3.70, at the time of the hearing the SoCG with Historic England was agreed in principle but had not yet been signed. The SoCG has now been signed and will be submitted at Deadline 3.
5. **AGENDA ITEM 5 – UPDATE ON S.106 AGREEMENT**
- 5.1 **Richard Griffiths** on behalf of the Applicant stated that negotiations over the s.106 agreement are progressing between the Applicant, the Forest of Marston Vale Trust and the local authorities. The agreement would be finalised as soon as possible but not in time for Deadline 3.
6. **AGENDA ITEM 6 - NEXT STEPS AND ANY OTHER BUSINESS**
- 6.1 **Richard Griffiths** confirmed that the Applicant would submit a written version of its comments at the ISH (this summary note). The ExA suggested that further environmental hearings would not be likely to be required however the dates should remain reserved until further notice.