The Millbrook Power (Gas Fired Power Station) Order

Statement of Reasons (Revision 1) (Tracked Changes) – Submitted at Deadline 5

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

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PROJECT GLOSSARY

Acronym	Term	Description
Access Road	Access Road	The proposed purpose built access road from Green Lane to the Generating Equipment Site. Also see 'Short Access Road' as defined below in this Glossary.
AGI	Above Ground Installation	The Above Ground Installation incorporates the minimum offtake connection (MOC) facility, which would be owned by NGG, and a Pipeline Inspection Gauge (PIG) Trap Facility (PTF), owned by Millbrook Power Limited. It forms part of the Gas Connection.
amenity	amenity	The preferable features of a location which contribute to its overall character and the enjoyment of residents or visitors.
APFP Regulations	Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009 (as amended)	Sets out the detailed procedures which must be followed for submitting and publicising applications for NSIPs under the Planning Act 2008.
The Applicant	The Applicant	Millbrook Power Limited (MPL), the company responsible for the application for development consent for the Project.
associated development	associated development	Associated development is development which is subordinate to and necessary for the development and effective operation to its design capacity of the NSIP that is the subject of the application. Both the Gas Connection and Electrical Connection are considered as associated development.
Balance of Plant	Balance of Plant	All infrastructure required to support the Gas Turbine Generator within the Generating Equipment Site

		and includes: Stack; external fin-fan cooler(s); control room / office / workshop building; telemetry apparatus; raw/ fire / demineralised water tanks; emergency generator including fuel storage tank; gas pipeline and telemetry cabling; cathodic protection test/transformer rectifier unit; gas receiving station; gatehouse; electrical transformer compound; and maintenance compound.
BBC	Bedford Borough Council	Bedford Borough Council
biodiversity	biodiversity	Abbreviated form of 'biological diversity' referring to variability among living organisms from all sources including, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part.
CBC	Central Bedfordshire Council	Central Bedfordshire Council.
CCGT	Combined Cycle Gas Turbine	Gas plant technology system comprising Gas Turbine(s) fuelled by natural gas, a Heat Recovery Steam Generator(s) utilising heat from the Gas Turbine exhaust gases, and a steam turbine plant with associated condensing system.
CHP	Combined Heat and Power	A cogeneration power station capable of supplying power to the NETS and also heat to local heat users (such as industry or leisure) through a direct connection to waste heat/steam produced as part of the combustion process.
Construction Laydown Area	Construction Laydown Area	The area temporarily required during construction for storing materials and equipment. It is located within the Power Generation Plant Site.
Consultation Report	Consultation Report	A report that provides information required to describe the consultation process undertaken for the

		Project; prepared under section 37 of the PA 2008.
DAS	Design and Access Statement	A report accompanying and supporting a planning application. It provides a framework for applicants to explain how a proposed design is an appropriate response to the site and its setting, and demonstrate that it can be adequately accessed by prospective users. The DAS for the Project is included at Document Reference 10.2.
DCLG	Department for Communities and Local Government	UK Government ministerial department responsible for policy in the fields of planning and building, local government, UK economy, housing, community and society, and public safety and emergencies.
DCO	Development Consent Order	A DCO is made by the SoS pursuant to the Planning Act 2008 (PA 2008) to authorise an NSIP.
DCO Application	Development Consent Order Application	The Application for a DCO made to the SoS under section 37 of the PA 2008 in respect of the Project, required pursuant to section 31 of the PA 2008 because the Project constitutes an NSIP under section 14(1)(a) and section 15 of the PA 2008 by virtue of being an onshore generating station in England and Wales of 50 MW capacity or more.
DECC	Department of Energy and Climate Change	The Department of Energy and Climate Change (now the Department for Business, Energy & Industrial Strategy).
decommissioning	decommissioning	Decommissioning will comprise the removal of all Generating Equipment items and restoration of the Generating Equipment Site to a similar condition compared to before the construction of the Project once operation

		has ceased. This process will take approximately 22 months. It is likely that some underground structures, including the Pipeline part of the Gas Connection will be capped and left in situ to avoid any adverse environmental effects associated with their removal.
Development Plan	Development Plan	The set of documents and plans that sets out the local authority's policies and proposals for the development and use of land in its area, adopted in accordance with the Planning and Compulsory Purchase Act 2004.
Drax	Drax Group PLC.	Drax is one of the UK's largest energy producers and acquired MPL from Watt Power Limited in 2016.
EA	The Environment Agency	The Environment Agency is an executive non-departmental public body, sponsored by the Department for Environment, Food & Rural Affairs, established in 1996 with responsibilities relating to the protection and improvement of the environment.
EIA	Environmental Impact Assessment	The assessment of the likely significant environmental effects of the Project. Undertaken in accordance with the relevant EIA Regulations; for the Project the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 as amended.
EIA Regulations	EIA Regulations	For the Project the relevant EIA regulations are the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 as amended, and this term is used to mean the 2009 (as amended) regulations.
EIA Regulations 2017	EIA Regulations 2017	The Infrastructure Planning (Environmental Impact Assessment) Regulations

		2017 which came into force on 16 May 2017. Note that, in accordance with the transitional arrangements set by Regulation 37(2)(a) of these regulations, the 2009 Regulations and regime continue to apply to this Project.
Electrical Connection	Electrical Connection	A new electrical connection to export power from the Generating Equipment to the NETS 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 metres in length to the Substation.
Electrical Connection Opportunity Area	Electrical Connection Opportunity Area	The area that was investigated for the location of the Electrical Connection.
emission	emission	A material that is expelled or released to the environment. Usually applied to gaseous or odorous discharges to the atmosphere.
environmental effect	environmental effect	The consequence of an impact on the environment.
environmental impact	environmental impact	A physical or measurable change to the environment.
EP	Environmental Permit	A permit (pursuant to the Environmental Permitting (England and Wales) Regulations 2016) allows the operator of an installation to carry on various activities which may have an impact on the environment and human health and stipulates what restrictions there are to minimise damage to the

		environment and human health. The permit is issued and regulated by the EA.
EPS	European Protected Species	European Protected Species are animals and plants that receive protection under the Conservation of Habitats and Species Regulations 2010, in addition to the Wildlife and Countryside Act 1981 (as amended).
ES	Environmental Statement	A statement that includes such of the information referred to in Part 1 of Schedule 4 of the EIA Regulations as is reasonably required to assess the environmental effects of the Project. It must include at least the information referred to in Part 2 of Schedule 4 of the EIA Regulations. The ES for the Project is included with the DCO submission as Document Reference 6.1.
ExA	Examining Authority	Planning Inspector(s) responsible for conducting the examination of, and recommendation to the SoS as to a decision on, the DCO Application.
Gas Connection	Gas Connection	A new underground gas pipeline connection to bring natural gas to the Generating Equipment from the National Transmission System. This element incorporates an AGI at the point of connection to the National Transmission System.
Gas Turbine Generator	Gas Turbine Generator	One OCGT generator (as proposed in the Power Generation Plant) which utilises the combustion of gas and air to generate hot gases that are routed across turbine blades, which generate rotational forces that turn an electrical generator. The exhaust gases are discharged directly to a single stack without providing heat for a

		secondary steam cycle. The Gas Turbine Generator forms part of the Generating Equipment and is located within the Generating Equipment Site.
Generating Equipment	Generating Equipment	Gas Turbine Generator and Balance of Plant which are located on the Generating Equipment Site.
Generating Equipment Site	Generating Equipment Site	The site where the Generating Equipment is located.
Guidance	Guidance	The Department of Communities and Local Government guidance, 'Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land' (September 2013).
impact	impact	A physical or measurable change to the environment.
km	Kilometre	Measurement of distance (1000 metres).
kV	Kilovolt	Measurement of the amount of electric potential energy equal to 1000 Volts.
land plans	land plans	The plans showing the land which is to be the subject of compulsory acquisition and submitted with the DCO Application. The land plans for the Project are included with the DCO Application at Document Reference 2.5.
LLRS	Low Level Restoration Scheme	The LLRS for Rookery South Pit (assuming no additional proposed developments prior to its completion) aims to restore the pit base to low intensity agricultural land, with a ditch system draining water to a large attenuation pond and pit stabilisation works.
m	Metre	Measurement of length.
mitigation	mitigation	Action proposed to avoid, prevent, reduce and where possible offset adverse effects arising from the whole or specific elements of a development.
mm	Millimetre	Measurement of length.
MOC	Minimum Offtake Connection	A connection that will offtake gas directly from the National

		Transmission System. The MOC forms part of the AGI and therefore the Gas Connection.
MPL	Millbrook Power Limited	MPL is a subsidiary business of Drax. MPL has been established specifically to develop the Project.
MW	Mega Watt	A unit of power equal to one million watts
MWe	Mega Watt electrical	Measurement of electrical power.
NETS	National Grid Electricity Transmission System	A high-voltage electric power transmission network operated by NGET.
NGET	National Grid Electricity Transmission	NGET's principal operations are the ownership and operation of regulated electricity infrastructure networks in the UK including the NETS.
NGG	National Grid Gas	The principal operations of National Grid Gas are the ownership and operation of the National Transmission System.
NOx	nitrous oxides	Gases produced during combustion, including nitric oxide (NO) and nitrogen dioxide (NO2).
NPS	National Policy Statement	Overarching policy designated under the PA 2008 concerning the planning and consenting of NSIPs in England and Wales.
NSIP	Nationally Significant Infrastructure Project	The Power Generation Plant constitutes a Nationally Significant Infrastructure Project (NSIP) by virtue of s.14(1)(a) and s.15 of the Planning Act 2008 (PA 2008) which include within the definition of a NSIP any onshore generating station in England or Wales of 50 MWe capacity or more.
National Transmission System	National Transmission System	The National Transmission System is the high pressure gas network which transports gas from the entry terminals to

		gas distribution networks, or directly to power stations and other large industrial users.
Order	Order	The Millbrook Power (Gas Fired Power Station) Order, being the DCO made by the Secretary of State authorising the Project, a draft of which is submitted with the Application (Document Reference 3.1).
Order Land	Order Land	The land shown pink, blue and yellow on the Land Plans which is within the Order Limits and which is to be the subject of compulsory acquisition.
Order Limits	Order Limits	The limits shown on the Works Plans within which the Project may be carried out.
PA 2008	Planning Act 2008	Legislation which passes responsibility for examining DCO applications for NSIPs to the Planning Inspectorate, who will examine applications and make recommendations for a decision by the relevant Secretary of State (currently the Secretary of State for Business, Energy and Industrial Strategy in the case of energy NSIP applications).
Peaking Plant	Peaking Plant	Peaking Plants are used to provide back up or additional electricity supply to the NETS, for example, at times when there is a stress event on the system.
PEIR	Preliminary Environmental Information Report	The report summarising the preliminary findings of the EIA prepared at the time of the Phase 2 statutory consultation.
Phase 2 statutory consultation	Phase 2 statutory consultation	Second phase of statutory consultation pursuant to s42, s47 and s48 of PA 2008 undertaken in 2017.
PIG	Pipeline Inspection Gauge	A device used to perform various maintenance operations on a pipeline.
PINS	The Planning Inspectorate	The government agency responsible for examining applications for NSIPs.
Pipeline	Pipeline	The new underground gas

		pipeline proposed as part of the Gas Connection.
Power Generation Plant	Power Generation Plant	The Generating Equipment, Access Road and Construction Laydown Area.
Power Generation Plant Site	Power Generation Plant Site	The site in which the Power Generation Plant will be located.
Project	Project	The Power Generation Plant, Gas Connection and Electrical Connection.
Project Site	Project Site	The entire area covered by or required in order to deliver the Project. This includes the Power Generation Plant Site, Electrical Connection Site and Gas Connection Site. The Project Site corresponds to the Order Limits.
PTF	PIG Trap Facility	PIG traps allow PIGs to be inserted into and removed from a pipeline which is to undergo maintenance, testing or commissioning.
receptor	receptor	A component of the natural, created or built environment such as a human being, water, air, a building, or a plant that has the potential to be affected by the Project.
RGE	Reciprocating Gas Engine	An engine that employs the expansion of hot gases to push a piston within a cylinder, converting the linear movement of the piston into the rotating movement of a crankshaft to generate power.
scoping	scoping	An exercise undertaken pursuant to Regulation 8 of the EIA Regulations to determine the topics to be addressed within the ES.
Scoping Report	Scoping Report	The Scoping Report for the Project prepared by the Applicant and dated June 2014.
SEC	Sealing End Compound	Part of the Electrical Connection within which 400 kV power cables are taken underground.
Short Access Road	Short Access Road	The proposed purpose built access road from the Covanta RRF Project to the Generating

		Equipment Site. ~~This will only be built in isolation if the Covanta RRF Project has constructed its access road.~~
SoS	Secretary of State	The decision maker for an NSIP application and head of a Government department.
species	species	A group of organisms that seldom or never interbreed with individuals in other such groups, under natural conditions; most species are made up of subspecies or populations.
SPV	Special Purpose Vehicle	A legal entity created to fulfil specific objectives e.g. developing a power project.
stress event	stress event	A surge in demand for electricity associated with a particular event (e.g. where many people across the country boil kettles 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 i.e. a sudden outage).
Stack	Stack	The structure by which the exhaust gases and waste heat are emitted to the atmosphere. The height of the structure would be between 32.5m-35m and would contain a silencer to reduce noise emissions. The exhaust gases would be subject to emissions control abatement.
Substation	Substation	400 kV Substation comprising: Gantry; site office; welfare accommodation; emergency auxiliary supplies; underground high voltage electrical cables; security infrastructure; site lighting; landscaping; site drainage; waste management infrastructure; internal roadways; car parking and hardstanding.

SUMMARY

1.1 This Statement of Reasons relates to the DCO Application by Millbrook Power Limited ("**MPL**") to the Secretary of State under the PA 2008 for powers to construct, operate and maintain:

1.1.1 the Power Generation Plant, located primarily on land within the former clay pits known as "The Rookery", Marston Vale Bedfordshire;

1.1.2 the Gas Connection; and

1.1.3 the Electrical Connection.

1.2 This Statement explains why it is necessary, proportionate and justifiable for the Development Consent Order ("**DCO**") contained within the DCO Application to include compulsory acquisition powers, and why there is a compelling case in the public interest for MPL to be granted these powers.

1.3 MPL has had regard to the provisions of the PA 2008 and advice and guidance issued in relation to the PA 2008 in promoting its DCO.

1.4 The matters addressed in this Statement are summarised in this section. References to numbered sections or paragraphs are to sections or paragraphs of this Statement.

Powers of Compulsory Acquisition under the Planning Act 2008 (Section 3)

1.5 Section 120 of the PA 2008 provides that an order granting development consent may make provision relating to, or to matters ancillary to, the development for which consent is granted. Schedule 5 to the PA 2008 lists the matters ancillary to the development, which includes the acquisition of land, compulsorily or by agreement, and the creation, suspension or extinguishment of, or interference with, interests in or rights over land, compulsorily or by agreement.

1.6 Section 122 of the PA 2008 provides that an order granting development consent may include provision authorising the compulsory acquisition of land only if the Secretary of State, in respect of the Application, is satisfied that (of relevance to the Project) the land is required for the development to which the DCO relates and the land is required to facilitate or is incidental to that development.

1.7 Further, it is also necessary for the Secretary of State to be satisfied, in relation to the DCO Application, that there is a compelling case in the public interest for the inclusion of powers of compulsory acquisition in the DCO.

Scheme Details (Sections 2 and 4)

1.8 MPL is seeking to develop a gas fired power station, electrical connection and gas connection at The Rookery, near Stewartby in the Marston Vale, Bedfordshire.

1.9 The Power Generation Plant at The Rookery would operate as an Open Cycle Gas Turbine ("**OCGT**") peaking plant designed to provide an electrical output of up to 299 Megawatts ("**MW**"). As a peaking plant, the Power Generation Plant would be required to operate when there is a surge in demand for electricity associated with a particular event or where there is a sudden drop in power being generated from other plants that are designed to be constantly operational (e.g. a sudden outage) (known as a 'stress event'). The Power Generation Plant would also help to 'balance out' 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. The Power Generation Plant would operate for 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.

1.10 The location of the Power Generation Plant is shown on the Power Generation Plant Land Plan (Document Reference 2.5) and the various components that comprise the Power Generation Plant are shown on the Works Plan (Document Reference 2.6).

1.11 The Gas Connection would be a new 1.8 km underground gas pipeline and AGI to bring natural gas to the Power Generation Plant from the existing national transmission system.

1.12 In order to function, the Power Generation Plant requires an electrical connection. The new Electrical Connection includes a new Substation, two underground electrical circuits each up to 500m in length, and two Sealing End Compounds ("**SECs**") to connect the substation to the Generating Equipment and the existing 400 kV network.

1.13 The proposed Power Generation Plant, Gas Connection and Electrical Connection are referred to as the "Project". The Gas Connection and the Electrical Connection are 'associated development' for the purposes of section 115 of the PA 2008.

Location and Description of the Order Land (Section 5)

1.14 The Power Generation Plant would be located on land at The Rookery, near Stewartby, Bedfordshire. The entire Project lies within the administrative boundaries of BBC and CBC, with whom discussions and consultations on a range of matters have been held since 2014 as documented in the Consultation Report (Document Reference 5.1).

1.15 The Order land covers an area of approximately 48 ha and comprises the land required for the Power Generation Plant, the Electrical Connection and the Gas Connection.

1.16 The area required by the Power Generation Plant extends to 12.5 ha of land forming part of The Rookery, Marston Vale, Bedfordshire and is shown coloured pink, blue and yellow on the Power Generation Plant Land Plan (Document Reference 2.5).

1.17 The land required for the Gas Connection is shown coloured pink, blue and yellow on the Gas Connection Land Plan (Document Reference 2.5). The area required by the AGI extends to 0.48 ha of land situated to the east of Lower

Farm and west of Park Farm (the area shown coloured pink on the Gas Connection Land Plan (Document Reference 2.5).

1.18 The Pipeline route has an approximate length of 1.8 km and its direction and width varies to account for natural and man made features along the route, but generally provides for a working width of 50m (the permanent easement width would likely generally be 10m).

1.19 The Electrical Connection covers approximately 19.07 ha and is located next to the Generating Equipment within Rookery South Pit and shown coloured pink, blue and yellow on the Electrical Connection Land Plan (Document Reference 2.5). The underground electrical circuits would consist of cables buried in four trenches approximately 500m in length and typically 5 m apart. Two SECs would also be required to take the cables underground at the point of connection into the existing 400 kV overhead line. Each SEC would cover a maximum area of 0.16 ha.

1.20 MPL is seeking compulsory acquisition powers to secure certain lands, new rights and interests within the Order Limits in order to facilitate the Project:

1.20.1 The land over which compulsory acquisition powers are sought in respect of the **freehold** is shown edged red and shaded **pink** on the Land Plans (Document Reference 2.5). This land is described in more detail in the Book of Reference (Document Reference 4.3). A summary of the status of negotiations, together with the reason for the acquisition, is set out in Table 2, at section 6.6. Article 19 of the DCO is relied upon in respect of this land;

1.20.2 The land over which only **new rights (including restrictive covenants)** are being compulsorily sought is shown edged red and shaded **blue** on the Land Plans (Document Reference 2.5). This land is described in more detail in the Book of Reference (Document Reference 4.3). A summary of the status of negotiations, together with the reason for the acquisition, is set out in Table 2, at section 6.6. Article 22 of the DCO is relied upon in respect of these rights;

1.20.3 The land over which **temporary use** only is sought, pursuant to Articles 28 and 29 of the DCO, is shown (for completeness and ease of understanding) edged red and shaded **yellow** on the Land Plans (Document Reference 2.5). This land is described in more detail in the Book of Reference (Document Reference 4.3). A summary of the status of negotiations, together with the reason for the temporary use, is set out in Table 2, at section 6.6. No compulsory acquisition of rights is sought over this land.

1.21 Where MPL is seeking either land or new rights over land, then temporary use of such land pursuant to Articles 28 and 29 is also sought. The reason for seeking temporary use powers over this land is that it allows the Applicant to enter on to land for particular purposes (including site preparation works) in advance of any vesting of the relevant land/rights. It should be noted that there

are other Articles within the DCO that allow the Applicant to enter onto or otherwise affect land (see paragraph 6.6).

1.22 Pursuant to Article 23 of the DCO:

1.22.1 all private rights over land subject to compulsory acquisition under the DCO are to be extinguished;

1.22.2 all private rights over land subject to the compulsory acquisition of rights under the DCO are to be suspended and unenforceable or, where so notified by MPL, extinguished in so far as in either case their continuance would be inconsistent with the exercise of that right;

1.22.3 all private rights over land of which MPL takes temporary possession under the DCO are to be suspended and unenforceable for so long as MPL remains in possession of the land and so far as their continuance would be inconsistent with the exercise of the temporary possession of that land.

1.23 Article 20 of the DCO is based on Section 237 of the Town and Country Planning Act 1990 and gives MPL the authority to carry out or use the authorised development and do anything else authorised by the DCO notwithstanding that it involves the interference with an interest or right (meaning any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land including any natural right to support) or a breach of a restrictive covenant. In this case, the interest, right or restrictive covenant would be overridden.

1.24 Part 3 of the Book of Reference identifies those plots where rights may be suspended or extinguished under Article 23 and where interests, rights and restrictive covenants may need to be overridden under Article 20.

1.25 Article 30 gives MPL the authority to acquire land and rights from Statutory Undertakers, and to extinguish or suspend their rights, and to remove or reposition their apparatus, subject to the provisions of Schedule 10 which contains protective provisions for their benefit.

1.26 The Project will also interfere with the following publically adopted highways (MPL is in active discussions with the Highways Authority in this regard):

1.26.1 Green Lane from which a new ~~access road~~junction is to be constructed ~~to serve the Project~~ which will connect to the existing access road constructed pursuant to numbered work 5A of the Rookery South (Resource Recovery Facility) Order 2011. A new access road will connect the existing access road to the Project;

1.26.2 Station Lane which will be temporarily closed from time to time, for short periods, during the construction of the Electrical Connection;

1.26.3 Houghton Lane affected by the upgrading of an existing agricultural track which has a junction onto Houghton Lane and the subsurface below the road will be affected by the construction of the Pipeline (part of the Gas Connection). The Pipeline will be constructed in this location using a drilling technique, leaving the highway itself unaffected.

1.27 MPL is relying on Articles 8, 9, 10, 11, 12, 14 and 27 of the DCO in order to enter onto streets and to lay and maintain apparatus in them, to construct means of access and to create temporary prohibitions and restrictions of the use of streets to carry out works. Where no compulsory acquisition of rights is required on, under or over streets, then the street is not shaded on the Land Plans (i.e. it remains white) as the aforementioned Articles will be relied upon.

1.28 Any interference with rights restrictions etc. over the Order Land arising from the exercise of any Articles in the DCO which provide statutory access and/or use of land within the Order Limits are captured in Part 3 of the Book of Reference.

Need for the Compulsory Acquisition of Land and Rights (Section 6)

1.29 MPL has completed an option agreement for that part of the Order Limits on which the Power Generation Plant is to be constructed together with part of the Electrical Connection and part of the Gas Connection.

1.30 However, MPL is including this land within the Order Land in order to ensure that land assembly and title to it can be secured with certainty. In addition, there may be unknown rights, restrictions, easements or servitudes affecting that land which also need to be overridden, removed and/or extinguished in order to facilitate the construction and operation of the Project without hindrance.

1.31 MPL has been seeking to acquire the remaining land, temporary use of land and new rights (shown edged red and shaded pink, yellow and blue respectively on the Power Generation Plant, Gas Connection and Electrical Connection Land Plans (Document Reference 2.5) by private treaty, in order to ensure implementation of the Project. However, it has not yet been possible to acquire all of the land, the temporary use of land and the rights required by private treaty. In addition, MPL requires certain rights and restrictions to be suspended, overridden or extinguished within the Order Land so as to ensure there are no impediments to the construction, operation and maintenance of the Project.

1.32 Plot 4_PGP is required to access the Power Generation Plant. MPL seeks a right of access of no more than 15 metres in width during construction and the right to construct, use and maintain a permanent access road of no more than 10 metres in width (including any verges). The ~~intention is for the~~ access road ~~to~~will connect into ~~any~~ the existing access road that ~~may~~ has been constructed by the undertaker pursuant to numbered work 5A of the Rookery South (Resource Recovery Facility) Order 2011. Plot 5_PGP is also required to access the Power Generation Plant and follows the route of the existing access road that has been constructed by the undertaker pursuant to numbered work 5A of the Rookery South (Resource Recovery Facility) Order 2011. Plot 5_PGP also includes sufficient land to enable MPL to carry out

works to create a new junction with Green Lane (which has not yet been completed pursuant to the Rookery South (Resource Recovery Facility) Order 2011) and to install services and erect fencing adjacent to the existing access road~~ The size of plot 4_PGP reflects the limits of deviation on the Works Plan (Document Reference 2.6) for Work No. 2 which has been designed to reflect the limits of deviation shown on the works plan for the Rookery South (Resource Recovery Facility) Order 2011~~.

1.33 Plots 6_EC and 9_EC are required for the Electrical Connection. MPL is seeking powers to acquire part of the land for the SECs and seeking new rights over the remaining land, to facilitate the construction, operation and maintenance of the Electrical Connection. A maximum of 0.16 ha of land is permanently required for each SEC (Work No. 6(a)). The exact position of the SECs is not yet known as final design and layout of the facility has not yet been undertaken. The final design, layout and micro siting will be subject to detailed engineering assessments. It is standard practice for major infrastructure projects that the full range of investigations and surveys is not carried out until the detailed design stage. These plots therefore include a degree of flexibility to accommodate the siting of the SECs, subject to detailed design, and to allow for mitigation, including landscaping and planting, in order to mitigate certain environmental effects around the boundaries of this facility. Detailed design of the Electrical Connection would be undertaken by NGET following the grant of any consent for the Project. MPL will only compulsorily acquire the minimum amount of land necessary to construct, use and maintain the SECs. New rights may be acquired and restrictions imposed over the remainder of plots 6_EC and 9_EC to facilitate the Electrical Connection and the provision and maintenance of the proposed landscaping and planting.

1.34 MPL considers the inclusion of 6_EC and 9_EC as land to be acquired to be reasonably necessary and that the compelling case test is met in the circumstances of the case.

1.35 Plots 1_GC, 7_GC, 8_GC, 9_GC and 10_GC are required for the Pipeline forming part of the Gas Connection. The Pipeline route has an approximate length of 1.8 km and its direction and width varies to account for natural and man made features along the route, but generally provides for a working width of 50m. The permanent easement width would likely generally be 10m. The micro siting for the Pipeline will be subject to detailed engineering assessments. MPL will only compulsorily acquire rights and impose restrictions over the minimum amount of land necessary to construct, use and maintain the Pipeline.

1.36 In the absence of powers of compulsory acquisition, the Order Land may not be assembled, uncertainty will continue to prevail and MPL considers that its objectives and Government policy objectives would not be achieved.

1.37 MPL's justification for seeking compulsory acquisition powers, in accordance with the provisions of the PA 2008, is to secure land, the temporary use of land, the new rights (including restrictive covenants) and other interests required to enable MPL to construct, operate and maintain the Project within a reasonable commercial timeframe. The inclusion of powers of compulsory acquisition in the DCO is sought in order to ensure that this can be achieved. The land and rights together with the land required for temporary use is no

more than that is required to facilitate the Project, its construction and future maintenance.

1.38 There is an element of overlap between the authorised development in the Rookery South (Resource Recovery Facility) Order 2011 (promoted by Covanta Rookery South Limited) and the Project. However, there is no overlap between the generating station and waste recovery facility (Work Nos. 1 and 2 in the Rookery South (Resource Recovery Facility) Order 2011 and the Generating Equipment and Substation (Work Nos. 1A, 1B, 1C, 1D and 5) (for further details see Appendix 5 of the Planning Statement (Document Reference 10.1).

1.39 MPL and Covanta Rookery South Limited are currently discussing the terms of protective provisions and/or an interface agreement that will enable the works permitted by the Rookery South (Resource Recovery Facility) Order 2011 and the DCO to be carried concurrently or simultaneously without prohibiting or causing any adverse impacts to the other project.

1.40 MPL has included protective provisions in the DCO for the benefit of Covanta Rookery South Limited.

1.41 MPL also proposes to amend the Rookery South (Resource Recovery Facility) Order 2011 to include protective provisions for the benefit of the MPL. These provisions are required to ensure that there is no impediment to the construction or operation of the works permitted by the DCO.

Alternatives to Compulsory Acquisition (Section 6.7)

1.42 As part of a detailed feasibility assessment, MPL looked at a range of sites around the UK to support power generation plants of the Project's nature. This search for potential power generation plant sites across the UK was focused on areas that were capable of meeting MPL's strategic project development criteria.

1.43 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.

1.44 From an environmental perspective, the site must have due regard to close sensitive receptors, the current make up of the surrounding area, previous site uses and land quality and proximity to sensitive ecological habitats.

1.45 Based on these factors, the Project Site was considered suitable for the siting of the Power Generation Plant:

1.45.1 Close proximity to the NTS;

1.45.2 Close Proximity to a suitable electrical connection (400kV overhead line);

1.45.3 The Generating Equipment Site is within previously developed land, lying below ground level;

1.45.4 It is within an area identified as being potentially suitable for energy infrastructure;

1.45.5 It has a well-developed road network for access to the Project Site;

1.45.6 There is adequate space to develop the Power Generation Plant and integral infrastructure;

1.45.7 It avoids environmentally sensitive areas.

Justification for the Use of Powers of Compulsory Acquisition (Section 7)

1.46 The urgent need for energy generation, including gas fired generating stations and unabated gas and peaking plants, are 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.

1.47 Besides this considerable public benefit, there would be other benefits of the Project. These include economic benefit to the local area through the creation of up to 150 jobs during the 22 month construction period and up to 10 full time equivalent permanent jobs during operation as well as other contracts (e.g. maintenance) which would be offered locally where possible. Local biodiversity may be improved by the implementation of ecological enhancement measures.

1.48 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.

1.49 The Project is in line with the relevant 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 connection, safety, health, nuisance and security have been given due consideration as demonstrated in the ES (Document Reference 6.1) and its appendices (Document Reference 6.2), the DAS (Document Reference 10.2), the Planning Statement (Document Reference 10.1) and the Grid Connection Statements (Document Reference 9.1 and 9.2). The ES has also assessed all relevant likely significant environmental effects and has proposed appropriate mitigation where feasible. These measures are 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).

1.50 As such, it is considered that there are no relevant matters that give rise to adverse impacts sufficient to outweigh the identified benefits of the Project.

1.51 In conclusion and in line with the factors set out in Section 104 of the PA 2008 Act there is a compelling case in the public interest for the Order to be made in the terms proposed and in the absence of sufficient indications to the contrary.

Special Considerations (Section 8)

Statutory Undertakers Land/Apparatus

1.52 There are various assets belonging to Statutory Undertakers that lie within the Order Land, namely Anglian Water Services Limited, National Grid Electricity Transmission plc, National Grid Gas plc, Eastern Power Networks plc and CLH Pipeline System (CLH-PS) Ltd.

1.53 MPL is currently in active discussions with Anglian Water Services Limited, National Grid Electricity Transmission plc, National Grid Gas plc, Eastern Power Networks plc and CLH Pipeline System (CLH-PS) Ltd regarding asset protection agreements and/or any Protective Provisions that they may wish to see included in the DCO.

Other consents

1.54 Other consents are required in order for the Project to be constructed and subsequently operate. The document 'Details of Other Consents and Licences' (Document Reference 5.6) sets out the additional consents required and when they will be applied for.

Human Rights (Section 9)

1.55 The DCO has the potential to infringe the human rights of persons who own property or have rights in the land proposed to be acquired pursuant to the DCO.

1.56 MPL considers that there would be very significant public benefit arising from the making of the DCO for the Project. That benefit can only be realised if the DCO includes compulsory acquisition powers.

1.57 MPL considers that there is a compelling case in the public interest for the exercise of such powers of compulsory acquisition. MPL considers that it would, therefore, be appropriate and proportionate for the Secretary of State to make the DCO, including the grant of compulsory acquisition powers.

Further Information (Section 10)

1.58 Owners and occupiers of property affected by the Application who wish to negotiate a sale or discuss matters of compensation should contact Susannah Crawford of MPL (Tel - 0131 550 3380, email - scrawford@stagenergy.com).

1.59 Provision is made by statute with regard to compensation for the compulsory acquisition of land and the depreciation value of properties. Helpful information is given in the series of booklets published by DCLG entitled "Compulsory Purchase and Compensation". Copies of these booklets are obtainable, free of charge, from: https://www.gov.uk/government/collections/compulsory-purchase-system-guidance.

2. INTRODUCTION

2.1 This Statement of Reasons relates to an application by MPL to the Secretary of State under the PA 2008 for powers to construct, operate and maintain an to 299 MW gas fired peaking power generation plant.

2.2 The Project would comprise:

2.2.1 a new Power Generation Plant in the form of an 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:

(a) 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**';

(b) works to an existing access road and construction of a new~~a new purpose built~~ access road from Green Lane to the Generating Equipment Site (the '**Access Road**' ~~or~~ and the '**Short Access Road**');

(c) a temporary construction compound required during construction only (the '**Laydown Area'**);

2.2.2 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 AGI at the point of connection to the National Transmission System; and

2.2.3 a new electrical connection to export power from the Generating Equipment to the 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). The Electrical Connection also comprises of 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**').

2.3 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.

2.4 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**'. The Project Site is approximately 48 ha in area.

2.5 This Statement has been produced pursuant to Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the "**APFP Regulations**") and the Department of Communities and Local Government guidance, 'Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land' (September 2013) (the "**Guidance**").

2.6 The Project, comprising an electricity generating plant with an average gross electrical output in excess of 50 MWe, falls within the definition of a "nationally significant infrastructure project" under section 15(2) of the PA 2008. It is, therefore, necessary for MPL to apply to the Secretary of State for development consent to construct, operate and maintain the Project under Section 31 of PA 2008.

2.7 This Statement forms part of the suite of documents accompanying the DCO Application submitted in accordance with Section 55 of the PA 2008 and Regulation 5 of the APFP Regulations. The DCO Application seeks the making of the proposed Millbrook Power (Gas Fired Power Station) Order 201*, which would confer the powers required.

2.8 This Statement is one of a number of documents required to support the DCO Application submitted to the Secretary of State and should be read together with those documents. This Statement explains why it is necessary to acquire land, acquire and/or create rights and impose restrictions in, on and over land, to override, suspend or extinguish rights in, on and over land and to temporarily use land for the purposes of the Project, if necessary by compulsion.

2.9 The Application is necessary so that MPL has the requisite powers to construct, operate and maintain the Project which is a nationally significant infrastructure project for which there is a pressing national need. The Project itself has been the subject of an extensive consultation exercise. It is in line with national and local policy in respect of planning and energy generation. MPL has contracts in place to acquire a substantial part of the land required for the Project. A contract has been signed to acquire the land where the Power Generation Plant will be located and for part of the Gas Connection and the Electrical Connection (see the Power Generation Plant Land Plan, the Electrical Connection Land Plan and Gas Connection Land Plan, Document Reference 2.5). Negotiations with regard to the purchase of land, the acquisition of and/or creation of easement rights and any other rights (including restrictive covenants) and interests required for the remaining Gas Connection and for the Electrical Connection are in progress (the land affected by these negotiations are shown on the Gas Connection Land Plan and the Electrical Connection Land Plan, both in Document Reference 2.5). Table 2 in Section 6 sets out the current negotiation status.

2.10 Although negotiations for the purchase of land, rights and interests are ongoing in respect of the remaining land and new rights required for the Power Generation Plant, Gas Connection and Electrical Connection, it is necessary for MPL to seek compulsory acquisition powers to secure such land, rights and interests and to ensure that any third party interests or encumbrances affecting such land, rights and interests are acquired, overridden or extinguished pursuant to the DCO, thereby ensuring that the Project can be

constructed, operated and maintained in accordance with the powers sought under the DCO.

2.11 As referred to above, MPL has secured a contract to acquire the land where the Power Generation Plant will be located and for part of the Gas Connection and Electrical Connection. MPL is including this land within the Order Land in order to ensure that land assembly and title to the land required for the Project can be secured with certainty. MPL is also seeking to ensure that certain easements and other private rights identified as affecting the land are overridden, suspended or extinguished so as to facilitate the construction and operation of the Project without hindrance (see the Book of Reference (Document Reference 4.3)). In addition, there may be unknown rights, restrictions, easements or servitudes affecting that land which also need to be overridden, removed and/or extinguished in order to facilitate the construction and operation of the Project without hindrance.

2.12 MPL considers that there is a compelling case in the public interest, in accordance with section 122 of PA 2008, for the making of the DCO and the inclusion of powers of compulsory acquisition to enable the Project to be constructed, operated and maintained.

3. POWERS OF COMPULSORY ACQUISITION UNDER THE PLANNING ACT 2008

3.1 Powers

3.1.1 Section 120 of the PA 2008 provides that an order granting development consent may make provision relating to, or to matters ancillary to, the development for which consent is granted. Schedule 5 to the PA 2008 lists the matters ancillary to the development. These include:

(a) the acquisition of land, compulsorily or by agreement (paragraph 1);

(b) the creation, suspension or extinguishment of, or interference with, interests in or rights over land, compulsorily or by agreement (paragraph 2);

(c) the abrogation or modification of agreements relating to land (paragraph 3); and

(d) the payment of compensation (paragraph 36).

3.1.2 Section 122 of the PA 2008 provides that an order granting development consent may include provision authorising the compulsory acquisition of land only if the Secretary of State, in respect of the application, is satisfied that:

(a) the land is required for the development to which the DCO relates;

(b) the land is required to facilitate or is incidental to that development; or

(c) the land is replacement land for commons, open spaces, etc.[1]

3.1.3 Further, it is also necessary for the Secretary of State to be satisfied, in relation to the DCO Application, that there is a compelling case in the public interest for the land to be acquired compulsorily. This is required by section 122(3) of the PA 2008.

3.2 Powers of compulsory acquisition in the DCO for the Project

3.2.1 Under environmental impact assessment legislation applicable to the Project, there is no general requirement to consider alternatives, only a requirement to outline the main alternatives studied by the applicant and an indication of the main reason for the applicant's choice. Furthermore, National Policy Statement EN-1 ("**NPS EN-1**") advises at paragraph 4.4.1 that "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, NPS EN-1 makes it clear at paragraph 4.4.3 that where there is a policy or legal requirement to consider alternatives the applicant should describe the alternatives considered in compliance with these requirements.

3.2.2 As explained in Sections 6 and 7 of this Statement, MPL has given careful consideration to the suitability of the Order Limits for the Project. The DAS (Document Reference 10.2) considers the alternatives in the design of the Project and the ES (Document Reference 6.1) sets out the main alternatives studied by MPL. Alternatives are also further discussed in Section 6.7 below.

3.2.3 Having finalised the location for the Project, MPL completed an option agreement with O&H Q7 Limited ("**O&H**") for that part of the Order Limits on which the Power Generation Plant, part of the Electrical Connection and part of the Gas Connection is to be located within land owned by O&H (Plots 1-PGP, 1A-PGP, 1B_PGP, 2_PGP, 3_PGP, 4_PGP, 5_PGP, 5A_PGP, 6_PGP, 7_PGP, 4_EC (part), 5_EC, 6_EC, 7_EC, 8_EC, 9_EC, 10_EC, 11_EC, 12_EC, 13_EC, 1_GC, 1A_GC, 1B_GC, 2_GC, 3_GC, 4_GC, 5_GC, 6_GC).

3.2.4 However, MPL is seeking compulsory acquisition powers to secure this land or new rights (including restrictive covenants) over it, to ensure that land assembly and title to all of the Order Land can be secured with certainty. In addition, there may be unknown rights, restrictions, easements or servitudes affecting that land which also need to be overridden, removed and/or extinguished in order to facilitate the construction and operation of the Project without hindrance.

3.2.5 In addition, MPL requires the remaining land, legal interests and rights (including restrictive covenants) as shown on the Land Plans to construct and operate the Project, particularly the Gas Connection and the Electrical Connection (see the Gas Connection Land Plan

[1] The provision referred to in this sub-paragraph is not relevant in respect of the Project.

and the Electrical Connection Land Plan, both in Document Reference 2.5), in a reasonable timeframe to enable the Project to be constructed and contribute to the need for energy supply.

3.2.6 Whilst land, rights and interests will be secured by agreement wherever possible, and negotiations continue with all identified owners, it is essential that compulsory acquisition powers are available to MPL to enable the Project to be constructed at the earliest opportunity.

3.2.7 Powers are also sought to enable the use of the Order Limits for the purposes of the Project and to ensure that any, for example, rights, restrictions, easements or servitudes are over-ridden, suspended and/or extinguished.

4. SCHEME DETAILS

4.1 MPL is seeking to develop a gas fired power station with an electrical connection and a gas connection at land at The Rookery, Marston Vale Bedfordshire. MPL is the SPV which has been set up to develop the Project and MPL is a wholly owned subsidiary of Drax Group plc.

4.2 It is intended that the Power Generation Plant would operate within the framework established by government under the Capacity Market. This is a key part of the government's Electricity Market Reform and seeks to ensure that the UK has enough reliable electricity capacity to meet current and future electricity demand. Operation under the Capacity Market is subject to bidding into a competitive auction and it would be necessary for a DCO to be made in order to participate in this auction. Accordingly the design of the scheme and the terms of the DCO have paid regard to the need for a competitive bid. However, participating in, or being successful in, the Capacity Market is not a pre-requisite for MPL to construct and operate the Project.

4.3 The main elements of the Project are set out in paragraph 2.2 above. More detail on the elements that comprise the Project can be found in Chapter 3 of the ES (Document Reference 6.1).

5. LOCATION AND DESCRIPTION OF THE ORDER LAND

5.1 Description of the Order Limits

5.1.1 The Power Generation Plant would be located on land at The Rookery, Marston Vale Bedfordshire. This section describes the Order Limits together with key features and characteristics of the surrounding landscape. The entire Project lies within the administrative boundary of BBC and CBC, with whom discussions and consultations on a range of matters have been held since January 2014 as documented in the Consultation Report (Document Reference 5.1).

5.1.2 The Order Limits (also called the Project Site) are located south of Green Lane, east of the Marston Vale Railway Line and Millbrook Proving Ground, west of the Midland Main Line Railway and north west of Millbrook.

Power Generation Plant

5.1.3 The area required by the Power Generation Plant extends to 12.5 ha covering part of The Rookery disused clay pits to the south of Green Lane and east of South Pillinge Farm.

Gas Connection

5.1.4 The Gas Connection corridor would be constructed between the AGI and the Generating Equipment. The Pipeline begins at the AGI which would allow connection to the NTS feeder line, east of Millbrook Proving Ground approximately 1.45km south of the Generating Equipment Site crossing the farm track accessing farmland, continuing north across public footpath 7 and Houghton Lane, running north under the Overhead Transmission Lines and parallel to the Midland Main Line Railway, turning north west across the CLH Pipeline System and public footpath 15 before turning westwards into the Power Generation Plant.

Electrical Connection

5.1.5 The Electrical Connection would be constructed between the Substation and the new transmission tower (replacing an existing tower and to be built within the existing NETS corridor, to the south east of Pillinge Cottages). The underground cables exit the Substation and travel west then immediately south running parallel to South Pillinge Farm and Pillinge Cottages terminating at the new transmission tower.

5.2 Description of the Order Land

5.2.1 MPL is seeking compulsory acquisition powers to secure certain lands, rights and interests within the Order Limits to facilitate the Project.

5.2.2 The land over which compulsory acquisition powers are sought in respect of the **freehold** is shown edged red and shaded **pink** on the Land Plans (Document Reference 2.5). This land is described in more detail in the Book of Reference (Document Reference 4.3). Article 19 of the DCO is relied upon in respect of this land.

5.2.3 The land over which only **new rights** (including restrictive covenants) are being compulsory sought is shown edged red and shaded **blue** on the Land Plans (Document Reference 2.5). This land is described in more detail in the Book of Reference (Document Reference 4.3). Article 22 of the DCO is relied upon in respect of these rights.

5.2.4 Plot 4_PGP is required to access the Power Generation Plant. MPL seeks a right of access of no more than 15 metres in width during construction and the right to construct, use and maintain a permanent access road of no more than 10 metres in width (including any verges). The ~~intention is for the~~ access road ~~to~~ will connect into the existing access~~any~~ road that ~~may~~ has been constructed by the undertaker pursuant to numbered work 5A of the Rookery South

(Resource Recovery Facility) Order 2011. Plot 5 PGP is also required to access the Power Generation Plant and follows the route of the existing access road that has been constructed by the undertaker pursuant to numbered work 5A of the Rookery South (Resource Recovery Facility) Order 2011. Plot 5_PGP also includes sufficient land to enable MPL to carry out works to create a new junction with Green Lane (which has not yet been completed pursuant to the Rookery South (Resource Recovery Facility) Order 2011) and to install services and erect fencing adjacent to the existing access road. ~~The size of plot 4_PGP reflects the limits of deviation on the Works Plan (Document Reference 2.6) for Work No. 2 which has been designed to reflect the limits of deviation shown on the works plan for the Rookery South (Resource Recovery Facility) Order 2011~~.

5.2.5 Plots 6_EC and 9_EC are required for the Electrical Connection. MPL is seeking powers to acquire part of the land for the SECs and seeking new rights over the remaining land, to facilitate the construction, operation and maintenance of the Electrical Connection. A maximum of 0.16 ha of land is permanently required for each of the SECs (Work No. 6(a)). The exact position of the SECs is not yet known as final design and layout of the facility has not yet been undertaken. The final design, layout and micro siting will be subject to detailed engineering assessments. It is standard practice for major infrastructure projects that the full range of investigations and surveys is not carried out until the detailed design stage. These plots therefore include a degree of flexibility to accommodate the siting of the SECs, subject to detailed design, and to allow for mitigation, including landscaping and planting, in order to mitigate certain environmental effects around the boundaries of this facility. Detailed design of the Electrical Connection would be undertaken by NGET following the grant of any consent for the Project, taking into account this evolutionary design process and the fact that mitigation proposals would need to be finalised alongside this design. MPL will only compulsorily acquire the minimum amount of land necessary to construct, use and maintain the SECs. New rights may be acquired and restrictions imposed over the remainder of plots 6_EC and 9_EC to facilitate the Electrical Connection and the provision and maintenance of the proposed landscaping and planting.

5.2.6 MPL considers the inclusion of 6_EC and 9_EC as land to be acquired to be reasonably necessary and that the compelling case test is met in the circumstances of the case.

5.2.7 Plots 1_GC, 7_GC, 8_GC, 9_GC and 10_GC are required for the Pipeline forming part of the Gas Connection. The Pipeline route has an approximate length of 1.8 km and its direction and width varies to account for natural and man made features along the route, but generally provides for a working width of 50m. The permanent easement width would likely generally be 10m. The micro siting for the Pipeline will be subject to detailed engineering assessments. MPL will only compulsorily acquire rights and impose restrictions over the minimum amount of land necessary to construct, use and maintain the Pipeline.

5.2.8 The land over which **temporary use** is sought pursuant to Articles 28 and 29 of the DCO is shown (for ease of understanding) edged red and shaded **yellow** on the Land Plans (Document Reference 2.5). This land is described in more detail in the Book of Reference (Document Reference 4.3). Articles 28 and 29 of the DCO are relied upon in respect of this land and, as such, no compulsory acquisition of rights is sought.

5.2.9 Where MPL is seeking either land or new rights over land, then temporary use of such land pursuant to Articles 28 and 29 is also sought. As such, these parcels are shown as pink or blue in accordance with the above conventions in the same way as for land as set out at 5.2.6 above.

5.3 Private rights, interests, other rights and restrictive covenants affecting the Order Land to be extinguished, suspended or overridden

5.3.1 Pursuant to Article 23 of the DCO:

(a) all private rights over **land** subject to compulsory acquisition under the DCO are to be **extinguished**;

(b) all private rights over land subject to the compulsory acquisition of **rights** under the DCO are to be **suspended and unenforceable** or, where so notified by MPL, **extinguished** in so far as in either case their continuance would be inconsistent with the exercise of that right; and

(c) all private rights over land of which MPL takes **temporary possession** are to be **suspended and unenforceable** for so long as MPL remains in possession of the land and so far as their continuance would be inconsistent with the exercise of the temporary possession of that land.

5.3.2 Article 20 of the DCO is based on Section 237 of the Town and Country Planning Act 1990 and gives MPL the authority to carry out or use the authorised development and do anything else authorised by the DCO notwithstanding that it involves the interference with an interest or right (meaning any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land including any natural right to support) or a breach of a restrictive covenant. In this case, the interest, right or restrictive covenant would be overridden.

5.3.3 Part 3 of the Book of Reference (Document Reference 4.3) identifies those plots where rights may be overridden, suspended or extinguished under Articles 20 and 23.

5.4 MATTERS AFFECTING THE ORDER LAND AND BEING INTERFERED WITH BY THE PROJECT

Public Highways

5.4.1 Within the Order Land, there are the following publically adopted highways which will be affected by the Project:

(a) Green Lane from which a new ~~access road~~junction is to be constructed ~~to serve the Project~~ which will connect to the existing access road constructed pursuant to numbered work 5A of the Rookery South (Resource Recovery Facility) Order 2011. A new access road will connect the existing access road to the Project;

(b) Station Lane will be affected by oversailing works of the Electrical Connection. This will include temporary closure to allow the erection and dismantling of safety equipment required for the construction of the Electrical Connection and temporary traffic management measures to ensure safe access to the Electrical Connection by construction vehicles;

(c) Houghton Lane will be affected by drilling operations under the highway in connection with the Gas Connection; the creation of a new means of access to serve the AGI and temporary traffic management measures on the highway at the crossing point for construction vehicles in the vicinity of the Gas Connection.

5.4.2 In respect of these public highways, MPL is relying on Articles 8, 9, 10, 11, 12, 14 and 27 of the DCO in relation to street works to enter onto them and to lay and maintain apparatus in them, to construct means of access and to create temporary prohibitions and restrictions of the use of such streets to carry out such works. Where no compulsory acquisition of rights is required on, under or over streets, then the street is not shaded on the Land Plans (i.e. it remains white) as the aforementioned Articles will be relied upon.

5.4.3 Any interference with rights, restrictions etc. over the Order Land arising from the exercise of any Articles in the Order which provide statutory access and/or use of land within the Order Limits are captured in Part 3 of the Book of Reference (Document Reference 4.3).

5.4.4 Access to all premises adjoining public highways affected by the Project will be maintained at all times during the execution and operation of the works and will not be materially affected by the operation of the Project.

Utility Rights

5.4.5 Article 30 gives MPL the authority to acquire land and rights from Statutory Undertakers, and to extinguish or suspend their rights, and

to remove or reposition their apparatus, subject to the provisions of Schedule 10 which contains protective provisions for their benefit.

5.4.6 Where the rights of utilities, in relation to their apparatus, are interfered with, steps will be taken to remove or reposition their apparatus so that utility services can be reinstated, maintained and operated. Articles 30, 31 and 32 of the DCO will be relied upon in this respect.

5.4.7 MPL has contacted the applicable statutory undertakers in respect of the Protective Provisions that they would like to see in the DCO. Discussions are ongoing in this regard (see section 8.3 below), however draft Protective Provisions are included in the draft DCO submitted with the DCO Application.

Other powers which may constitute an interference with land and/or rights over land

5.4.8 The DCO contains the following additional powers which may constitute an interference with land and/or rights over land and as such are captured in Part 3 of the Book of Reference (Document Reference 4.3):

(a) Article 16 – Discharge of water;

(b) Article 17 - Authority to survey and investigate the land;

(c) Article 18 – Removal of Human Remains; and

(d) Article 33 – Felling or lopping of trees and removal of hedgerows.

6. NEED FOR THE COMPULSORY ACQUISITION OF LAND AND RIGHTS

6.1 The matters to which the Secretary of State must have regard

6.1.1 Under Section 122 of the PA 2008, a DCO which includes compulsory acquisition powers may be granted only if the conditions in Sections 122(2) and 122(3) of the PA 2008 are met. The conditions to be met are:

(a) at Section 122(2), that the land is required for the development to which the DCO relates or is required to facilitate or is incidental to the development (see this section 6); and

(b) at Section 122(3), there is a compelling case in the public interest for the land to be acquired compulsorily. The Secretary of State must be persuaded that the public benefits from the compulsory acquisitions will outweigh the private loss suffered by those whose land is to be acquired or from whom new rights are to be acquired (see this section 6).

6.1.2 In respect of the Section 122(2) condition, the Guidance (at paragraph 11) states that applicants should be able to demonstrate to the satisfaction of the Secretary of State that the land in question is needed for the development for which consent is sought. The Guidance goes on to say that the Secretary of State will need to be satisfied that the land to be acquired is no more than is reasonably required for the purposes of the development.

6.1.3 In respect of the Section 122(3) condition, the Guidance (at paragraph 13) states that the Secretary of State will need to be persuaded that there is compelling evidence that the public benefits that would be derived from the compulsory acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired. At paragraph 14, the Guidance states that in determining where the balance of public interest lies, the Secretary of State will weigh up the public benefits that a scheme will bring against any private loss to those affected by compulsory acquisition.

6.1.4 Further, paragraphs 8 to 10 of the Guidance also set out a number of general considerations that the applicant must demonstrate to the satisfaction of the Secretary of State when justifying an order authorising compulsory acquisition. These are as follows:

(a) that all reasonable alternatives to compulsory acquisition (including modifications to the Project) have been explored (see section 6.7 below);

(b) that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose and is necessary and proportionate (see sections 6.4 to 6.7 below);

(c) that MPL has a clear idea of how it intends to use the land which it is proposed to acquire (see sections 6.4 to 6.7 below);

(d) that there is a reasonable prospect of the requisite funds for the acquisition becoming available (see the Funding Statement (Document Reference 4.2); and

(e) that the purposes for which compulsory acquisition of land powers are included in the DCO are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected (see sections 6.4 to 6.7 and 9 below).

6.1.5 This statement sets out the factors that MPL considers demonstrate that the conditions in Section 122 of the PA 2008, and the considerations set out in the Guidance, are satisfied.

6.2 Need for Compulsory Acquisition (Sections 122(2) and (3) of the PA 2008)

6.2.1 As stated above at paragraph 3.2.3, MPL completed an option agreement for that part of the Order Limits on which the Power Generation Plant is to be located together with part of the Gas Connection and part of the Electrical Connection. However, MPL is including this land within the Order Land in order to ensure that land assembly and title to the Order Land can be secured with certainty. MPL is also including this land within the Order land so as to ensure that certain easements and other private rights identified as affecting that land are extinguished, so as to facilitate the construction and operation of the Project without hindrance (see the Book of Reference (Document Reference 4.3). In addition, there may be unknown rights, restrictions, easements or servitudes affecting that land which also need to be overridden, removed and/or extinguished in order to facilitate the construction and operation of the Project without hindrance.

6.2.2 In addition, to ensure that the Project can be facilitated, and the Government's policy in relation to the timely provision of new generating capacity is met within a reasonable timescale, MPL requires the acquisition of a number of property interests in third party ownership and the grant of powers to facilitate acquisition and/or creation of rights (including restrictive covenants) and interests and to suspend or extinguish rights and other interests in or over land.

6.2.3 MPL has been seeking to acquire the remaining land, rights (and restriction) over land and temporary use of land (shown edged red and shaded pink, blue and yellow respectively on the Land Plans (Document Reference 2.5)) by private treaty, in order to ensure implementation of the Project. However, it has not yet been possible to acquire all of the land, the temporary use of land and the rights required by private treaty. In addition, MPL requires certain matters to be suspended, overridden or extinguished within the Order Land so as to ensure there are no impediments to the construction, operation and maintenance of the Project.

6.2.4 MPL will continue to endeavour to purchase the land, the rights and other interests and the temporary use of land, as well as secure the removal of matters affecting the Order Land that may impede the Project, by agreement wherever possible. This approach of making the application for powers of compulsory acquisition in the Application for the DCO and, in parallel, conducting negotiations to acquire land by agreement, accords with paragraph 26 of the Guidance.

6.2.5 MPL's justification for seeking compulsory acquisition powers, in accordance with the provisions of the PA 2008, is to secure land, the temporary use of land, the permanent rights and other interests required to enable MPL to construct, operate and maintain the Project within a reasonable commercial timeframe. The inclusion of powers of compulsory acquisition in the DCO is sought in order to ensure that this can be achieved. The land and rights (including restrictive covenants) together with the land required for temporary use is no

more than that is required to facilitate the Project, its construction and future maintenance. The necessary powers, together with powers to suspend, override and extinguish rights and other interests in or over land, are contained in Part 3 and Part 5 of the draft DCO which accompanies the Application.

6.3 The interaction between the Millbrook Power Project and the Rookery South (Resource Recovery Facility) Order 2011

6.3.1 There is an element of overlap between the authorised development in the Rookery South (Resource Recovery Facility) Order 2011 (promoted by Covanta Rookery South Limited) and the Project. However, there is no overlap between the generating station and waste recovery facility (Work Nos. 1 and 2 in the Rookery South (Resource Recovery Facility) Order 2011 and the Generating Equipment and Substation (Work Nos. 1A, 1B, 1C, 1D and 5) (for further details see Appendix 5 of the Planning Statement (Document Reference 10.2).

6.3.2 MPL and Covanta Rookery South Limited are currently discussing the terms of protective provisions and/ or an interface agreement that will enable the works permitted by the Rookery South (Resource Recovery Facility) Order 2011 and the DCO to be carried concurrently or simultaneously without prohibiting or causing any adverse impacts to the other project.

6.3.3 MPL has included protective provisions in the DCO for the benefit of Covanta Rookery South Limited. The draft protective provisions are set out in Part 6 of Schedule 10 of the DCO.

6.3.4 MPL also proposes to amend the Rookery South (Resource Recovery Facility) Order 2011 to include protective provisions for the benefit of the MPL. The protective provisions will ensure that Covanta Rookery South Limited cannot use the powers in the Rookery South (Resource Recovery Facility) Order 2011 to:

(a) prevent the Applicant from accessing the Generating Equipment Site or the Substation Site;

(b) access or carry out works to the Generating Equipment Site or the Substation Site; and

(c) interfere with, override or extinguish any rights acquired by the Applicant for the Electrical Connection and/or Gas Connection.

6.3.5 This provision is required to ensure that there is no impediment to the construction or operation of the works permitted by the DCO.

6.4 Compulsory Acquisition of freehold

6.4.1 The intended purpose for which land is subject to proposed powers of compulsory acquisition in Article 19 of the DCO and the status of negotiations with owners and occupiers is summarised in Table 2

below. This is described by reference to the numbered works set out in Schedule 1 to the DCO and shown on the Works Plan (Document Reference 2.6) and by plot number as referenced in the Book of Reference and Land Plans (Document References 4.3 and 2.5 respectively).

6.5 Compulsory Acquisition of / Creation of New Rights (including restrictive covenants)

6.5.1 A number of rights (including restrictive covenants) are sought to facilitate MPL and all persons authorised on its behalf to construct, use and maintain at all times both, during and post construction periods, the Power Generation Plant, Gas Connection and Electrical Connection. The rights and restrictive covenants are set out in Table 1. Routes have been chosen to minimise adverse impacts on third party land.

Table 1

Class 1 Compulsory acquisition and the creation of rights, and the imposition of restrictions, for the installation and use of the authorised development	Means all rights and restrictions necessary for the undertaker and / or those authorised by the undertaker:
a)	to enter on foot, with or without vehicles, plant and machinery for all purposes in connection with the construction, use and maintenance of a drainage ditch together with the right to construct, connect to, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve a drainage ditch
b)	to pass and repass on foot, with or without vehicles, plant and machinery over the low level restoration scheme secondary access track for all purposes in connection with the construction, use and maintenance of the authorised development together with the right to maintain and improve the low level restoration scheme secondary access track
c)	to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the construction, use and maintenance of the authorised development
d)	to construct, use, maintain and improve a permanent means of access and to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve sewers, drains, pipes, ducts, mains, wires, cables, conduits, flues, fibre optic cables and other conducting media of whatsoever nature under and/or adjacent to the permanent means of access
e)	to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the construction,

Class 1 Compulsory acquisition and the creation of rights, and the imposition of restrictions, for the installation and use of the authorised development	Means all rights and restrictions necessary for the undertaker and / or those authorised by the undertaker:
	use and maintenance of a safety barrier(s) together with the right to construct, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace and improve a safety barrier(s)
f)	to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the construction, use and maintenance of a safety barrier(s)
g)	to install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodlands, shrubs, hedgerows, seeding and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs and landscaping and the right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of landscaping and ecological mitigation or enhancement works
h)	to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve 400kV electricity cables up to 120mm in diameter, telecommunications and other ancillary apparatus and any other works as necessary together with the right to fell, trim or lop trees and bushes which may obstruct or interfere with the said cables, telecommunications and other ancillary apparatus
i)	to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve a high pressure gas pipeline of up to 250mm nominal bore, telecommunications and other ancillary apparatus and any other works as necessary
j)	to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection installation, use and maintenance of a high pressure gas pipeline of up to 250mm nominal bore, telecommunications and other ancillary apparatus and any other works as necessary
k)	to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the construction, use and maintenance of an above ground installation
l)	to maintain and improve the access track and to install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve sewers, drains, pipes, ducts, mains, wires, cables, conduits, flues, fibre optic cables and other conducting media of whatsoever nature under and/or adjacent to the access track
m)	Restrictions on erecting buildings or structures, altering ground levels, planting trees or carrying out operations or actions which may obstruct, interrupt, or interfere with the exercise of the rights

6.5.2 The intended purpose for which new rights (including restrictive covenants) are sought under Article 22 of the DCO and the status of negotiations with owners and occupiers is summarised in Table 2 below. This is described by reference to the numbered works set out in Schedule 1 to the DCO and shown on the Works Plan (Document Reference 2.6) and by plot number as referenced in the Book of Reference and Land Plans (Document References 4.3 and 2.5).

6.5.3 There is a need to impose restrictive covenants in relation to new rights required in connection with the Project.

6.5.4 Planning Inspectorate guidance in Advice Note 15 concerning the drafting of DCOs (paragraphs 26.1-26.3) advises that it may be appropriate to include a power to impose restrictive covenants over part of the land which is subject to compulsory acquisition or use under the DCO. The guidance states that before deciding whether or not such a power is justified the Secretary of State will need to consider issues such as proportionality; the risk that use of land above or below a structure could be sterilised if it has to be acquired outright in the absence of a power to impose restrictive covenants; or whether there is for example a policy of establishing a continuous protection zone for the infrastructure network which could be secured more efficiently with the benefit of this power.

6.5.5 The guidance states that the power to impose restrictive covenants over land above a buried cable or pipe, or where a slope contains artificial reinforcement has been granted in DCOs, and cites article 20 of the M1 Junction 10A (Grade Separation) Order 2013 and article 22 of the Network Rail (Norton Bridge Area Improvements) Order 2014 as examples. The guidance advises that in order to enable the Secretary of State to consider whether the imposition of restrictive covenants is necessary for the purposes of implementing an NSIP and appropriate in human rights terms, applicants should be prepared to fully explain and justify the need for including such powers.

6.5.6 MPL has had regard to this guidance in preparing its DCO. Article 22 includes power to impose restrictive covenants in relation to land over which new rights are acquired. MPL considers the imposition of such a power to be justified and proportionate in the circumstances of this case, in order to protect and preserve the integrity of the Electrical Connection and Gas Connection. These restrictions are required to protect the apparatus from becoming exposed, damaged or built over; preventing operations which may obstruct, interrupt or interfere with apparatus and the exercise of new rights required; ensure that access for future maintenance can be facilitated; in the interests of safety of persons using or present on the subject land; and to ensure that land requirements are minimised so far as possible. Use of the land would be sterilised if the land above the pipes or cables had to be acquired. In the absence of such a power it is submitted that this is justifiable to protect the Project and its operation. Similar powers have been granted in the context of NSIP gas fired power stations including the Meaford Gas Fired Generating Station Order 2016 (article 18) and the Wrexham Gas Fired Generating Station Order 2017 (article 18).

6.6 Temporary use of land pursuant to Articles 28 and 29 of the DCO

6.6.1 Temporary use of land pursuant to Articles 28 and 29 is required in order to facilitate the use of land by MPL and all persons authorised on its behalf during the construction period and maintenance period of the Project.

6.6.2 The intended purpose, for which temporary use is sought pursuant to Articles 28 and 29 of the DCO, is set out in Schedule 8 of the DCO and shown coloured "yellow" on the Land Plans (Document Reference 2.5). Schedule 8 of the DCO refers to the numbered works set out in Schedule 1 to the DCO and shown on the Works Plan (Document Reference 2.6) and to the plot numbers as referenced in the Book of Reference and Land Plans (Document References 4.3 and 2.5 respectively). The status of negotiations with owners and occupiers is summarised in Table 2 below.

6.6.3 Where MPL is seeking either land or new rights over land, then temporary use of such land is also sought (this is provided for in Articles 28 and 29). As such, these parcels are shown as pink or blue in accordance with the above conventions but are also subject to Articles 28 and 29 of the DCO, in the same way as for "yellow" land. The reason for seeking temporary use powers over this land as well, is that it allows the Applicant to enter on to land for particular purposes (including site preparation works) in advance of any vesting of the relevant land/rights.

Table 2

Land in respect of which powers of compulsory acquisition or temporary possession are sought			
Plot Nos.	**Work Nos.**	**Reason for acquisition or possession**	**Owner / occupier and status of negotiation**
1-PGP	1A, 1B, 1C, 1D, 4A, 5	Freehold acquisition for Power Generation Plant, Electrical Connection (part) and Gas Connection (part)	**O&H Q7 Limited**: An option agreement dated 16th July 2014 was entered into between O&H Q7 Limited and MPL.
1A-PGP, 1B_PGP	8	Temporary possession to facilitate construction of the Power Generation	**O&H Q7 Limited**: An option agreement dated 16th July 2014 was entered into between O&H Q7 Limited and MPL.

Land in respect of which powers of compulsory acquisition or temporary possession are sought			
Plot Nos.	**Work Nos.**	**Reason for acquisition or possession**	**Owner / occupier and status of negotiation**
		Plant	
2_PGP, 3_PGP, 4_PGP. 5_PGP, 5A_PGP, 6_PGP, 7_PGP	2A, 2B, 1D(e)	Acquisition of rights and imposition of restrictions for access to the Power Generation Plant and drainage and temporary use to facilitate construction of the Power Generation Plant	**O&H Q7 Limited**: An option agreement dated 16th July 2014 was entered into between O&H Q7 Limited and MPL.
1_EC	7(b)-(f)	Temporary use for the temporary diversion of the existing 400kV transmission line to facilitate construction of the Electrical Connection	**John Joseph Moran and Sheila Julia Moran:** Mr Moran and Mrs Moran are not resident at or near the property for which temporary land rights are required. An offer was issued to the last known residential address of the landowners in February 2015 but no current address was identified at the time. During the public consultation process in June 2017, the landowners were successfully contacted. Discussions are taking place between the landowners and MPL's agents, Cater Jonas, and formal offers were issued by Carter Jonas on 22 September 2017. No concerns have been raised by the landowners in connection with the Project in principle. The Applicant understands that Mr Moran is now the sole owner of the land. Mr Moran is not resident at or near the property for which temporary use is required. ~~The adjacent property, Moreteyne House, is owned by Mr Hogan. The Applicant is not aware of any current redevelopment plans for Moreteyne House.~~ Discussions took place between Mr Moran and MPL's agent between September 2017

Land in respect of which powers of compulsory acquisition or temporary possession are sought			
Plot Nos.	**Work Nos.**	**Reason for acquisition or possession**	**Owner / occupier and status of negotiation**
			and February 2018. A further offer was made to Mr Moran on 30 April and Mr Moran confirmed that this was acceptable. Solicitors have been instructed to negotiate the documentation. The Applicant is therefore very hopeful that the temporary use will be obtained by voluntary agreement.~~MPL is hopeful that the necessary rights can be acquired by voluntary agreement.~~
2_EC	7(b)-(f)	Temporary use for the temporary diversion of the existing 400kV transmission line to facilitate construction of the Electrical Connection	**John Joseph Moran:** See summary for plot 1_EC.
3_EC, 4_EC (part)	7(b)-(f)	Temporary use for the temporary diversion of the existing 400kV transmission line to facilitate construction of the Electrical Connection	**Millbrook Proving Ground Limited:** The MPL project was first discussed with Martin Hughes, a director of Millbrook Proving Ground and Technology Park, in September 2014 concerning the timing of the project and the potential impact on privacy and security at the landowner's operational site. A fully termed offer was made for the required land affected by the temporary over sailing by National Grid transmission lines in February 2015 but the terms were not discussed in detail at that time. As the project has progressed through consultation during 2017, various updates have been sent to the landowners to update them of the project progress and timing. MPL met with Martin Hughes of Millbrook Proving Ground at the Proving Ground on 9

Land in respect of which powers of compulsory acquisition or temporary possession are sought			
Plot Nos.	**Work Nos.**	**Reason for acquisition or possession**	**Owner / occupier and status of negotiation**
			June 2017. A meeting was held with Mr Hughes on 9th September 2017 to discuss the timing of the project and any impacts on the landowner. An updated offer ~~h~~was ~~been~~ issued by Carter Jonas on behalf of MPL on 22nd September 2017. ~~following completed assessments that the grid connection arrangements would not lead to any change in land requirements. The landowners are expected to appoint legal and land agent advisers shortly and it is the intention of MPL to complete the acquisition of land rights by private treaty before or during the examination period.~~ A subsequent meeting took place between Millbrook Proving Ground and their agent and MPL and its agent on 10 November 2017. A further meeting with Mr Hughes and National Grid representatives took place on 22 February 2018 to discuss the nature of the works. Discussions with Millbrook Proving Ground are ongoing and the Applicant is hopeful that a voluntary agreement will be reached for the temporary use of the land.
6_EC, 9_EC	6(a), 6(c), 6(f)	Freehold acquisition for the Electrical Connection	**O&H Q7 Limited**: An option agreement dated 16th July 2014 was entered into between O&H Q7 Limited and MPL. MPL and O&H have agreed to amend the option to include the acquisition of land required for the SECs. **David Tomkins (tenant of Plot 6_EC):** MPL has been in discussions with David Tomkins since 2014. In April 2017, MPL contacted Mr Tomkins to discuss the Project. MPL explained that the land required for the Project was the same as that discussed in 2014 and 2015. In May 2017, MPL met Mr Tomkins and members of Millbrook Parish at the Project

Land in respect of which powers of compulsory acquisition or temporary possession are sought			
Plot Nos.	**Work Nos.**	**Reason for acquisition or possession**	**Owner / occupier and status of negotiation**
			Site to discuss the Project and its potential impacts. The site visit included going to the edge of Rookery South Pit such that it could be seen where some of the elements of the Project would be located, including the Power Generation Plant and the Electrical Connection. Mr Tomkins attended the Ampthill public exhibition (part of Phase 2 Statutory Consultation). MPL explained using various plans and maps where the elements of the Project would be located and what the potential impacts are likely to be. MPL understands that the terms of Mr Tomkins tenancy enable it to be terminated in part to facilitate development and for easements to be granted for the installation of the underground cables required for the Electrical Connection.
5_EC, 7_EC, 8_EC, 10_EC, 11_EC, 12_EC, 13_EC,	6(b), 6(e), 6(g), 6(h), 7	Acquisition of rights and imposition of restrictions for the Electrical Connection access and landscaping and temporary use to facilitate construction of the Electrical Connection (including the temporary diversion of the existing 400kV transmission line)	**O&H Q7 Limited**: An option agreement dated 16th July 2014 was entered into between O&H Q7 Limited and MPL. **David Tomkins (tenant of Plots 12_EC and 13_EC):** See summary for plot 6_EC.

Land in respect of which powers of compulsory acquisition or temporary possession are sought			
Plot Nos.	**Work Nos.**	**Reason for acquisition or possession**	**Owner / occupier and status of negotiation**
14_EC	7(b)-(f)	Temporary use to facilitate construction of the Electrical Connection	**Jacalyn Heather Parrish and Robert James Parrish:** The MPL project was first discussed with Mr and Mrs Parrish in 2014 with exchanges between the parties in September 2014 on the preferred orientation of the AGI. The AGI was designed to accommodate the preference of the landowners at that time. A fully termed offer was made for the required permanent and temporary land easements for the Pipeline and acquisition of land for the AGI in February 2015 but the Project was then put on hold. In conjunction with the statutory consultation for the Project undertaken in 2017, various telephone calls and emails have been sent to the landowners to update them of the Project progress. No concerns have been raised by the landowners in connection with the Project in principle. An updated offer was issued by MPL's agent, Carter Jonas, on 22 September 2017. ~~The landowners are currently in the process of appointing legal advisers and land agents and a meeting has been arranged between MPL and the landowner and their agents in November 2017. MPL is hopeful that the necessary land and rights can be acquired by voluntary agreement.~~ The landowners have appointed land agents and a meeting took place with Carter Jonas and the landowners and their agent on 2 February 2018. Further information with respect to the anticipated design of the AGI site was provided on 21 February 2018 and a counter offer received on 20 March 2018. A further improved offer was made by MPL to the Mr and Mrs Parrish on 10 April 2018 and a further counter offer made on 13 April 2018. On 17 April 2018, a further offer was submitted to the Mr and Mrs Parrish by MPL and further information provided with respect

Land in respect of which powers of compulsory acquisition or temporary possession are sought			
Plot Nos.	**Work Nos.**	**Reason for acquisition or possession**	**Owner / occupier and status of negotiation**
			to the DCO application status to their agents. A counter offer was received on 20 April 2018. A final offer was made by MPL on 2 May 2018. Mr and Mrs Parrish then indicated that they had remaining concerns over crop loss and damage to the field drainage systems and a meeting was held to discuss these issues between MPL and Mr and Mrs Parrish, and their respective agents, on 7 June 2018. Following the meeting a further revised offer was made by MPL on 11 June 2018 with an additional payment mechanism to cover crop loss. This offer was accepted by Mr and Mrs Parrish on 13 June 2018. Solicitors are currently negotiating the form of agreement. Therefore the Applicant is hopeful that it will be able to acquire the relevant plots by voluntary agreement.
1_GC, 1A_GC, 1B_GC, 2_GC, 3_GC, 4_GC, 5_GC, 6_GC,	4A, 1D(e), 6(e)	Acquisition of rights and imposition of restrictions for the Gas Connection, access, drainage and landscaping and temporary use to facilitate construction of the Gas Connection	**O&H Q7 Limited**: An option agreement dated 16th July 2014 was entered into between O&H Q7 Limited and the Applicant. **David Tomkins (tenant of Plot 4_GC):** See summary for plot 6_EC.
7_GC, 7A_GC, 7B_GC, 8_GC, 9_GC,	4A, 3B	Acquisition of rights and imposition of restrictions for the Gas	**Jacalyn Heather Parrish and Robert James Parrish:** See summary for plot 14_EC.

Land in respect of which powers of compulsory acquisition or temporary possession are sought			
Plot Nos.	**Work Nos.**	**Reason for acquisition or possession**	**Owner / occupier and status of negotiation**
9A_GC, 9B_GC, 9C_GC, 10_GC, 11_GC,		Connection, access and temporary use to facilitate construction of the Gas Connection	
12GC,	3A, 4A,	Freehold acquisition for the AGI forming part of the Gas Connection	**Jacalyn Heather Parrish and Robert James Parrish:** See summary for plot 14_EC.
12A_GC, 12B_GC	4B	Temporary use to facilitate construction of the Gas Connection	**Jacalyn Heather Parrish and Robert James Parrish:** See summary for plot 14_EC.

6.7 Alternatives to Compulsory Acquisition

6.7.1 The Project requires the acquisition of land and the acquisition of/creation of rights (including restrictive covenants) to secure the land and rights (together with the areas of land to be used by MPL in relation to the Project) needed to provide the Power Generation Plant, the Gas Connection and the Electrical Connection. Accordingly, there is no alternative but to seek to acquire land, the temporary use of land and the acquisition of/creation of rights to allow the Project to be constructed, operated and maintained.

6.7.2 As set out in Chapter 5 of the ES and the Consultation Report (Document References 6.1 and 5.1 respectively) MPL has studied various alternatives at relevant stages prior to the making of the Application. These are set out in summary below.

6.7.3 The ES explains further the studies made of:

(a) Alternative development sites;

(b) Alternative technologies for electricity generation;

(c) Alternative options for the Gas Connection; and

(d) Alternative options for the Electrical Connection.

6.7.4 The Consultation Report explains further how community and statutory consultees have influenced considerations as to alternative layouts for the Power Generation Plant and alternative options for the Electrical Connection and the Gas Connection.

6.7.5 As to alternative development sites, a range of sites around the UK have been studied to ascertain their suitability to support power generation plants of the Project's nature. The key factors which were considered necessary in a site were broadly four-fold: technical (e.g. the size of the site and the proximity to appropriate gas and electrical connection points), environmental, economic, and whether the proposals would be in line with local planning policy. On such basis the Project Site was considered suitable:

(a) it is of sufficient size and of a suitable shape to accommodate the Project and is available to MPL;

(b) it has good accessibility;

(c) the location of the Power Generation Plant is on previously developed land and constructing and operating the Project on it would be compatible with the development plan;

(d) it avoids environmentally sensitive areas; and

(e) local adverse and environmental impacts are capable of being minimised to an acceptable degree when considered in the context of the wider public benefits of the Project.

6.7.6 As to alternative technologies for electricity generation, three technology options were originally considered for the Power Generation Plant operating as a peaking plant: OCGT plant, CCGT plant and RGE plant. The potential for using CHP opportunities using these technologies was also considered. These alternatives were considered from environmental, technical and economic perspectives and it was found that a OCGT plant would likely perform better economically and with short start-up times (paying due regard to the Capacity Mechanism, the likely market regime), and lower impacts in respect of water usage, visual impact, noise and land take.

6.7.7 As to alternative options for the Gas Connection, 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 PEIR and formally consulted upon in 2014. A preferred gas connection route and AGI location were also presented within the more southerly route corridor option at that consultation stage. Based on further refinement and

feedback received during statutory consultation, this has been narrowed down further to one option which was presented in the PEIR and formally consulted upon in 2017. This option was selected because it is shorter (and therefore less expensive and less damaging to agricultural land) and it also avoids crossing the midland mainline railway line.

6.7.8 As to alternative options for the Electrical Connection, 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. Studies undertaken up to statutory consultation and feedback received during the statutory consultation determined that the most suitable location for the Substation was within Rookery South Pit, adjacent to the Generating Equipment Site. 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. Following further refinement studies and feedback received during statutory consultation, it has been determined, however, that the most appropriate method of connecting into the NETS would be via underground cables and two SECs.

6.7.9 MPL therefore considers that all reasonable alternatives have been considered prior to the making of the DCO Application and such consideration has included reasonable factors at relevant stages, such as consultee comments, technical feasibility, the anticipated market regime, and the minimisation of environmental and visual impacts and land take.

6.8 Availability of Funds for Compensation

6.8.1 The Funding Statement (Document Reference 4.2) confirms that MPL has the ability to procure the financial resources required for the Project, including the cost of acquiring any land and rights and the payment of compensation, as applicable.

6.8.2 MPL therefore considers that the Secretary of State can be satisfied that the requisite funds for payment of compensation will be available at the appropriate time.

7. JUSTIFICATION FOR THE USE OF POWERS OF COMPULSORY ACQUISITION

7.1 Compelling Case

7.1.1 A Planning Statement (Document Reference 10.1) accompanies the DCO Application. In addition to the information set out above, the Planning Statement explains how the Project:-

(a) meets an urgent need for new energy infrastructure;

(b) is a form of economic development that is suitable in its local context;

(c) minimises or mitigates adverse landscape and amenity impacts to an acceptable degree;

(d) minimises or mitigates adverse environmental impacts to an acceptable degree;

(e) is compliant with NPS EN-1, NPS EN-2, NPS EN-4 and NPS EN-5 and in accordance with the other decision-making factors specified in Section 104 of the PA 2008.

7.1.2 The Planning Statement (Document Reference 10.1) provides an extensive review of these matters, which is summarised in the subsequent paragraphs of this section.

7.2 The Urgent Need for New Gas Fired Power Station Infrastructure

7.2.1 The urgent need for flexible gas fired power generating stations is acknowledged in recent policy of government at all levels, such as within NPS EN-1, the National Infrastructure Plan 2014 (HM Treasury, 2014) and the Gas Generation Strategy (DECC, 2012).

7.2.2 National Policy Statements acknowledge the substantial national need for gas generation infrastructure to respond to changes in supply and demand and to replace the capacity that will be lost through the closure of existing large coal plants, to which the Project will directly contribute.

7.2.3 Gas-fired generating stations are very well suited to meeting ‘peak’ load demands as they can be specified with very reliable, flexible technology. Peaking plants operate for up to 2,250 hours per year and help to ‘balance out’ the grid at times of peak electricity demand and also help to support the grid at times when intermittent renewable sources cannot generate electricity. The chosen technology for a peaking plant should maximise reliability for an intermittent pattern of usage, and short start-up time.

7.2.4 With the substantial recent and forecast increases in intermittent sources on the grid, ‘peaking’ plants have a valuable role in ‘evening out’ the power supply to the grid and thus complementing renewable sources, as supported by the National Policy Statements.

7.2.5 In the fifth Annual Energy Statement (AES) (2014), DECC reiterated the need to build new power generation infrastructure and acknowledged the need for gas to continue to feature strongly in the energy mix, stating at paragraph 41 “to ensure the UK has a secure supply of electricity into the next decade, the Government is introducing a Capacity Market, which will drive new investment in gas and demand side capacity to help keep the lights on, as well as getting the best out of our existing generation fleet as we transition to a low carbon electricity future.”

7.2.6 Accordingly it can be seen that the Project, being a gas fired OCGT generating station with integral grid connections, can contribute to the immediate and medium term needs for flexible, reliable, peak load power generation and facilitate the transition to a low carbon economy. It therefore makes a material contribution to attaining UK energy policy objectives.

7.3 Economic development considerations

7.3.1 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 is also notes that "Applicants should locate new fossil fuel generating stations in the vicinity of existing transport routes wherever possible." These factors, along with consideration of the nature and intensity of neighbouring land uses and the proximity of grid connections to minimise construction effects on the surrounding area, have been taken into account in selecting the site (see the alternatives section at paragraph 6.7 above).

7.3.2 The Project site is within Rookery South Pit, which is a disused former clay extraction pit of approximately 95 ha. The area has been identified as being potentially suitable for energy infrastructure. Further, the area has a well-developed road network for access to the Project Site and is located in close proximity to the National Electricity Transmission System and the gas National Transmission System.

7.3.3 The Environmental Statement, Chapter 14 (Document Reference 6.1) deals with the socio economic impacts of the Project and its findings are summarised below:

(a) During construction and decommissioning the Project will have slight positive effects on the socio-economic status of the area through both employment creation (up to 150 jobs during the 22 month construction period) and capital expenditure and worker spending in the local economy.

(b) During operation the Project is anticipated to bring slight beneficial effects to the area in the vicinity of the Project Site through the generation of jobs (up to 10 full time equivalent permanent jobs during operation as well as other contracts (e.g. maintenance) which would be offered locally where possible) and investment of staff from e.g. spending their wages locally.

(c) No likely significant impacts are predicted on tourism and community infrastructure as a result of the construction and operation of the Project from visual, noise, traffic and accessibility and air quality impacts, given that assessments in Chapters 11, 7, 12 and 6 respectively have concluded that there will be no likely significant effects arising from these areas on tourism or community assets.

(d) There are no likely significant effects when the Project is considered cumulatively with other projects, including the Covanta Resource Recovery Facility.

7.3.4 The CHP Statement contained in the Environmental Statement Appendix 5.1 (Document Reference 6.2) explains the considerations that have been given to CHP at relevant stages of the evolution of the Project and concludes that exporting heat is technically unfeasible for OCGT technology and that there is no regional market for heat in this location, no potential future heat requirements in the area that would match the unpredictable operational pattern of a peaking power station can be identified, and the intermittent operation is inherently unsuitable for the likely continuous or regular demands of heat users.

7.3.5 In conclusion, it is considered that the Project has been sited, laid out and designed with appropriate regard to NPS policies and relevant economic development considerations.

7.4 Conclusion on the case for the Project

7.4.1 The urgent need for energy generation, including gas fired generating stations and unabated gas and peaking plants, are provided in NPS EN-1 and the National Infrastructure Plan (HM Treasury, 2014). The Project would contribute materially to meeting this need.

7.4.2 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.

7.4.3 The Project is in line with the relevant 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 connection, safety, health, nuisance and security have been given due consideration as demonstrated in the Environmental Statement (Document Reference 6.1) and its appendices (Document Reference 6.2 to 6.4), the Design and Access Statement (Document Reference 10.2), the Planning Statement (Document Reference 10.1), and the Grid Connection Statement (Document Reference 9.1). The Environmental Statement has also assessed all relevant likely significant environmental effects and has proposed appropriate mitigation wherever feasible (Document Reference 6.1). These are to be secured through compliance with various submitted documents and further approvals such as under the proposed requirements attached to the DCO (Document Reference 3.1).

7.4.4 As such, it is considered that there are no relevant matters that give rise to adverse impacts sufficient to outweigh the identified benefits of the Project.

7.4.5 MPL 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 DCO is made.

7.4.6 It is considered that there are no international obligations that would be breached if the DCO were made in the terms proposed.

7.4.7 In conclusion and in line with the factors set out in Section 104 of the PA 2008 there is a compelling case in the public interest for the DCO to be made in the terms proposed and in the absence of sufficient indications to the contrary.

8. SPECIAL CONSIDERATIONS

8.1 Special Category Land – Crown Land

8.1.1 There are no Crown interests included in the Order Land.

8.2 Special Category Land – Open Space

8.2.1 No open space, common land fuel or field garden allotment is included in or affected by the Order Land.

8.3 Statutory Undertakers Land and Apparatus

8.3.1 The interests held by each statutory undertaker identified by MPL as having a right to keep or access apparatus within the Order Limits are identified in Part 2 and Part 3 of the Book of Reference (Document Reference 4.3).

8.3.2 MPL is currently in active discussions with National Grid Electricity Transmission plc, National Grid Gas plc, Eastern Power Networks plc, Anglian Water Services Limited and CLH Pipeline System (CLH-PS) Ltd regarding the protection of their apparatus.

8.3.3 Section 127(2) of the PA 2008 states that an order granting development consent may only include provision authorising the compulsory acquisition of statutory undertakers' land to the extent that:

(a) the land can be purchased and not replaced without serious detriment to the carrying on of the undertaking; or

(b) the land can be replaced by other land belonging to or available for acquisition by the undertakers without serious detriment to the carrying on of the undertaking.

8.3.4 Section 127(5) of the PA 2008 states that an order granting development consent may only include provision authorising the compulsory acquisition of a right over statutory undertaker's land by the creation of a new right over land to the extent that:-

(a) the right can be purchased without serious detriment to the carrying on of the undertaking; or

(b) any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertakers by the use of the other land belonging to or available for acquisition by them.

8.3.5 Adequate protection for the statutory undertakers will be included within protective provisions in the DCO and/or asset protection agreements between the parties. MPL therefore considers that the statutory undertakers will not suffer serious detriment to the carrying on of the undertaking as a result of the compulsory acquisition of land or rights over land or powers of temporary possession.

8.3.6 A summary of the current status of negotiations with each statutory undertaker is set out in Table 3 below.

Table 3

Summary of negotiations with statutory undertakers			
Plot Nos.	**Work Nos.**	**Engagement of Section 127**	**Statutory undertaker and status of negotiation**
1_EC, 2_EC, 3_EC, 4_EC, 5_EC, 6_EC, 9_EC, 11_EC, 13_EC, 14_EC, 7_GC, 7A_GC, 7B_GC	6, 7, 4A	MPL considers that the land and rights can be acquired without serious detriment to the carrying on of NGET's undertaking. The Protective Provisions in the draft DCO ensure that NGET's apparatus will be protected and access maintained during construction. The Protective Provisions also ensure that (if necessary) no rights will be extinguished without NGET's agreement and no apparatus removed until alternative apparatus has been constructed.	**National Grid Electricity Transmission plc:** MPL and NGET ~~are currently negotiating the protective provisions to be included in the DCO and~~~~have~~ entered into a side agreement on 17 April 2018 for the protection of NGET's apparatus and access to apparatus. MPL has included ~~draft~~ the agreed protective provisions for the benefit of NGET in Part 3 of Schedule 10 of the DCO.
9_GC, 9A_GC, 9B_GC, 11_GC, 12_GC, 12A_GC	4A, 3A, 3B	MPL considers that the land and rights can be acquired without serious detriment to the carrying on of NGG's undertaking. The Protective Provisions in the draft DCO ensure that	**National Grid Gas plc**: MPL and NGG ~~are currently negotiating the protective provisions to be included in the DCO and~~~~have~~ entered into a side agreement on 17 April 2018 for the protection of NGG's apparatus and access to apparatus. MPL has included ~~draft~~ the agreed protective

Summary of negotiations with statutory undertakers			
Plot Nos.	**Work Nos.**	**Engagement of Section 127**	**Statutory undertaker and status of negotiation**
		NGG's apparatus will be protected and access maintained during construction. The Protective Provisions also ensure that (if necessary) no rights will be extinguished without NGG's agreement and no apparatus removed until alternative apparatus has been constructed. MPL is not intending to extinguish any rights belonging to NGG.	provisions for the benefit of NGG in Part 3 of Schedule 10 of the DCO.
1_EC, 3_EC, 9B_GC, 9C_GC, 10_GC, 11_GC	4A, 3B, 6, 7	MPL considers that the land and rights can be acquired without serious detriment to the carrying on of EPN's undertaking. The Protective Provisions in the draft DCO ensure that EPN's apparatus will be protected and access maintained during construction. The Protective Provisions also ensure that (if necessary) no rights will be extinguished without EPN's agreement and no apparatus removed until alternative apparatus has been constructed. MPL is not intending to extinguish any rights belonging to EPN.	**Eastern Power Networks plc ("EPN"):** MPL has entered into a side agreement with EPN on 30 November 2017~~The terms of the protective provisions to be included in the DCO and a side agreement~~ for the protection of EPN's apparatus and access to apparatus ~~are in an agreed form. This side agreement is in the process of being signed~~. MPL has included the agreed protective provisions for the benefit of EPN in Part 4 of Schedule 10 of the DCO.
8_GC, 12_GC, 12A_GC	4A, 3A	MPL considers that the land and rights can be acquired without serious detriment to the carrying on of Anglian Water's undertaking. The Protective Provisions in	**Anglian Water Services Limited:** ~~MPL and Anglian Water are currently negotiating the protective provisions to be included in the DCO for the protection of Anglian Water's apparatus and access to apparatus.~~ MPL has included the agreed ~~draft~~

Summary of negotiations with statutory undertakers			
Plot Nos.	**Work Nos.**	**Engagement of Section 127**	**Statutory undertaker and status of negotiation**
		the draft DCO ensure that Anglian Water's apparatus will be protected and access maintained during construction. The Protective Provisions also ensure that (if necessary) no rights will be extinguished without Anglian Water's agreement and no apparatus removed until alternative apparatus has been constructed. MPL is not intending to extinguish any rights belonging to Anglian Water.	protective provisions for the benefit of Anglian Water in Part 5 of Schedule 10 of the DCO.
7_GC, 7A_GC, 7B_GC	4A	MPL considers that the land and rights can be acquired without serious detriment to the carrying on of CLH's undertaking. The asset protection agreement will ensure that CLH's apparatus will be protected and access maintained during construction. MPL is not intending to extinguish any rights belonging to CLH.	**CLH Pipeline System (CLH-PS) Ltd:** ~~MPL and CLH are currently negotiating an~~The terms of an asset protection agreement for the protection of CLH's apparatus and access to apparatus are in an agreed form. The asset protection agreement is in the process of being signed. CLH's preference is to enter into a commercial agreement instead of having the benefit of protective provisions in the DCO. ~~In the event that a commercial agreement is not agreed prior to the end of the Examination, MPL will include protective provisions for the benefit of CLH in the DCO.~~

8.4 Other consents

8.4.1 Other consents are required in order for the Project to be constructed and subsequently operate. The Other Consents and Licences Document (Document Reference 5.6) sets out the additional consents required and when they will be applied for. Some of these additional consents are identified below:

Generation Licence

8.4.2 As required under Section 6 of the Electricity Act 1989, MPL will submit an application for a Generation Licence to the Gas and Electricity Markets Authority prior to any operational activities taking place.

Connection Agreement

8.4.3 MPL entered into a Bilateral Connection Agreement and Construction Agreement with NGET on 20 February 2015 to connect the Generating Equipment to the National Electricity Transmission System.

Environmental Permit

8.4.4 As required by the Environmental Permitting (England and Wales) Regulations 2010 as amended, MPL will submit an application for an Environmental Permit, required to operate the Project, to the Environment Agency. MPL has been in discussions with the Environment Agency about an Environmental Permit and supplied the Environment Agency with detailed information in relation to the same.

European Protected Species Licence

8.4.5 No European Protected Species have been identified to date. Discussions with Natural England will be commenced in the event that any European Protected Species are identified in further protected species surveys.

Ordinary Water Course Consent

8.4.6 A consent under the Land Drainage Act 1991, as amended by the Flood and Water Management Act 2010 (ordinary water course consent), may be required for crossing watercourses during construction of the Gas Connection, for works to the watercourses / drains bordering Rookery Pit. An application would be made by the contractor prior to commencement of construction as appropriate.

Permit to emit CO2

8.4.7 The Greenhouse Gas Emissions Trading Scheme Regulations 2012 require any operator that carries out a 'regulated activity' to have a permit. Regulated activities include the combustion of fuels. The application for this permit will be progressed in parallel with the Environmental Permit application.

9. HUMAN RIGHTS

9.1 The Human Rights Act 1998 incorporated into UK law the European Convention on Human Rights (the "**Convention**"). The Convention includes provisions in the form of Articles, the aim of which is to protect the rights of the individual.

9.2 The following Articles of the Convention are relevant to the Secretary of State's decision as to whether the DCO should be made so as to include powers of compulsory acquisition:

9.2.1 **Article 1 of the First Protocol to the Convention**

(a) this protects the right of everyone to a peaceful enjoyment of possessions and provides that no one can be deprived of their possessions except in the public interest and subject to the relevant national and international laws and principles.

9.2.2 **Article 6**

(a) this entitles those affected by the powers sought in the DCO to a fair and public hearing of any relevant objections they may have to the granting of those powers. This includes property rights and can include opportunities to be heard in the decision making process.

9.2.3 **Article 8**

(a) this protects private and family life, home and correspondence. No public authority can interfere with these rights except such as in accordance with the law and is necessary in the interest of national security, public safety or the economic well-being of the country.

9.2.4 The Secretary of State, as the decision maker, is under a duty to consider whether the exercise of powers interacts with the rights protected by the Convention.

9.2.5 The DCO has the potential to infringe the rights of persons who hold interests in land within the Order Limits under Article 1 of the First Protocol. Such an infringement is authorised by law so long as:

(a) the statutory procedures for making the DCO are followed and there is a compelling case in the public interest for the inclusion of powers of compulsory acquisition in the DCO; and

(b) the interference with the convention right is proportionate.

9.2.6 In preparing the Application, MPL has considered the potential infringement of the Convention rights in consequence of the inclusion of compulsory acquisition powers within the DCO and has sought to minimise the amount of land over which it requires powers of compulsory acquisition. MPL considers that there would be a very significant public benefit arising from the grant of the DCO. The benefit is only realised if the DCO is accompanied by the grant of powers of compulsory acquisition. MPL has concluded on balance that the significant public benefits outweigh the effects upon persons who own property within the Order Land. For those affected by expropriation or dispossession, compensation is payable in accordance with the statutory compensation code.

9.2.7 In relation to Article 6, there has been opportunity to make representations regarding the preparation of the Application. In accordance with Part 5 of the PA 2008, MPL has consulted with persons set out in the categories contained in Section 44 of the PA 2008, which includes owners of land within the Order Limits and those who may be able to make claims either under Sections 7 and 10 of the Compulsory Purchase Act 1965 in respect of injurious affection or under Part 1 of the Land Compensation Act 1973. Also, the beneficiaries of rights overridden by the exercise of powers in the DCO would be capable of making claims under Section 10 of the Compulsory Purchase Act 1965.

9.2.8 Furthermore, representations can also be made in response to any notice given under Section 56 of the PA 2008 for consideration at examination of the Application by the ExA and in any written representations procedure which the ExA decides to uphold or at any compulsory acquisition hearing held under Section 92 of the PA 2008.

9.2.9 Should the DCO be made, any person aggrieved may challenge the DCO in the High Court if they consider that the grounds for doing so are made out pursuant to Section 118 of the PA 2008.

9.2.10 In relation to matters of compensation for land to be acquired, affected persons have the right to apply to the Upper Tribunal (Lands Chamber), which is an independent judicial body to determine the compensation payable.

9.2.11 For the above reasons, any infringement of the Convention rights of those whose interests are affected by the inclusion in the DCO of powers of compulsory acquisition, is proportionate and legitimate and is in accordance with national and European law. For the reasons set out in Sections 6 and 7 of this Statement, MPL considers that there is a compelling case in the public interest for the exercise of such powers of compulsory acquisition. MPL considers that it would, therefore, be appropriate and proportionate for the Secretary of State to make the DCO, including the grant of compulsory acquisition powers.

10. FURTHER INFORMATION

10.1 Negotiation of Sale

10.1.1 Owners and occupiers of property affected by the DCO who wish to negotiate a sale or discuss matters of compensation should contact Susannah Crawford of MPL (Tel - 0131 550 3380, email - scrawford@stagenergy.com)

10.2 Compensation

10.2.1 Provision is made by statute with regard to compensation for the compulsory acquisition of land and the depreciation value of properties. Helpful information is given in the series of booklets published by DCLG entitled "Compulsory Purchase and Compensation" listed below:-

(a) Booklet No. 1 - Compulsory Purchase Procedure;

(b) Booklet No. 2 - Compensation to Business Owners and Occupiers;

(c) Booklet No. 3 - Compensation to Agricultural Owners and Occupiers;

(d) Booklet No.4 - Compensation for Residential Owners and Occupiers; and

(e) Booklet No.5 – Reducing the Adverse Effects of Public Development: Mitigation Works.

10.2.2 Copies of these booklets are obtainable, free of charge, from: https://www.gov.uk/government/collections/compulsory-purchase-system-guidance

11. CONCLUSIONS

11.1 MPL submits, for the reasons explained in this Statement, that the inclusion of powers of compulsory acquisition in the DCO for the purposes of the Project meets the conditions of Section 122 of the PA 2008 as well as the considerations in the Guidance.

11.2 The acquisition of land and rights (including restrictive covenants) and the temporary use of land, together with the overriding of interests, rights and restrictive covenants and the suspension or extinguishment of private rights is no more than is reasonably required to facilitate or is incidental to the Project.

11.3 Furthermore, the land identified to be subject to compulsory acquisition is no more than is reasonably necessary for that purpose and is proportionate, as is shown in the DCO (Document Reference 3.1), the Works Plan (Document Reference 2.6) and other information both in this Statement and in other document accompanying the Application.

11.4 The need for the Project, suitability of the Order Limits and the support for such projects in NPS EN-1, NPS EN-2, NPS EN-4 and NPS EN-5 demonstrate that there is a compelling case in the public interest for the land to be acquired compulsorily.

11.5 All reasonable alternatives to compulsory acquisition have been explored. Given the national and local need for the Project and the support for it found in policy, as well as the suitability of the Order Land (for the reasons outlined above), compulsory acquisition of the land and rights and the temporary use of

land, together with the overriding of interests, rights and restrictive covenants and the suspension or extinguishment of matters affecting the Order Land identified by MPL for the Project is justified.

11.6 The proposed interference with the rights of those with an interest in the Order Land is for a legitimate purpose, namely the Project, and is necessary and proportionate to that purpose. MPL considers that the very substantial public benefits to be derived from the proposed compulsory acquisition of the Order Land would decisively outweigh the private loss that would be suffered by those whose land is to be acquired.

11.7 MPL has set out clear and specific proposals regarding how the Order Land will be used.

11.8 The requisite funds are available to meet any costs of land acquisition and compensation payable as a result of the use of powers of compulsory acquisition.

11.9 The purpose of the powers of compulsory acquisition for the Project in the DCO is entirely legitimate and justifies interfering with the rights of those persons with an interest in the land proposed to be acquired.