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Tees CCPP Project

The Tees Combined Cycle Power Plant Project
Land at the Wilton International Site, Teesside

Explanatory Memorandum

The Planning Act 2008

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

Regulation 5(2)(c)

Applicant: Sembcorp Utilities UK
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GLOSSARY

Abbreviation	Description
1990 Act	The Town and Country Planning Act 1990
2008 Act	The Planning Act 2008
Applicant	The applicant for the DCO, Semcorp Utilities (UK) Limited
Application	The application for development consent to construct, operate and maintain the Project
Application Guide	The document submitted with the application for the DCO entitled 'Application Guide' with Application Document Reference Number 1.2, as contained in Annex 1 to this Document
Book of Reference	A document scheduling land interests as defined in regulation 7 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009
CCGT	Combined Cycle Gas Turbine
CCPP	Combined Cycle Power Plant
CCS site	An area within the Project Site reserved for carbon capture, compression and storage
DCO	Development Consent Order
EA	Environment Agency
EIA	Environmental Impact Assessment
Environmental Permit	The permit with EA reference QR.25/04/1528, as contained in Annex 3 to this document
2009 EIA Regulations	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009
2017 EIA Regulations	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
HSE	The Health and Safety Executive
LHA	Local Highway Authority which is the local highway authority within R&CBC
Model Provisions	The Infrastructure Planning (Model Provisions) (England and Wales) Order 2009
MWe	Megawatt
NG	National Grid
NSIP	Nationally Significant Infrastructure Project
Order	The DCO submitted as part of the Application (Application Document Reference Number 2.1)
PINS	The Planning Inspectorate
Project	The proposed construction of an onshore natural gas-fired electricity generating station with a capacity of up to 1,700MW (gross output) and associated development
Project Site	The land identified as being the land required for delivery of the Project as shown on the land plan (Application Document Reference Number 4.2)
R&CBC	Redcar and Cleveland Borough Council
RLPA	The relevant local planning authority for the purposes of discharging requirements, which is the local planning authority within R&CBC
SCU	Semcorp Utilities (UK) Limited
SoS	Secretary of State

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1 INTRODUCTION

- 1.1 This explanatory memorandum accompanies the Application by Sembcorp Utilities (UK) Limited (the Applicant) for an Order to construct and operate a combined-cycle gas turbine (CCGT) generating station with an output of up to 1,700 MWe, associated development and any ancillary works (the Project).
- 1.2 It explains the purpose and effect of each article of, and Schedules to, the draft Order, as required by Regulation 5(2)(c) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. It should be read alongside the draft Order and other documents submitted in support of the application for the Order (the Application). Other documents are referred to throughout this memorandum by reference to their Application Document Reference Numbers. The 'Application Guide' submitted to the Planning Inspectorate with the Application includes an index of all Application Documents which is annexed to this memorandum for ease of reference at Annex 1.
- 1.3 The draft Order draws on drafting used in consents for similar developments where appropriate, with bespoke elements incorporated as necessary to address the circumstances and requirements of this particular Project. Where logical to do so, the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009 (the Model Provisions) have been taken into account and elements of the draft Order are based on some of those Model Provisions, but the Model Provisions were only ever intended as a guide for applicants. Subsequently the Localism Act 2011 removed the requirement for the decision-maker to have regard to the prescribed Model Provisions when making a decision on an application for development consent. Consequently, a comparison between the model articles and requirements and the draft Order's articles and requirements is not provided in this case.
- 1.4 The preparation of the draft Order and this memorandum has also taken into account the advice in Advice Note 13, *Preparing the draft order and explanatory memorandum* and Advice Note 15, *Drafting Development Consent Orders* (the Advice Notes), though it is similarly noted that the Advice Note is not formal guidance to which regard must be had under section 50 of the 2008 Act.
- 1.5 As the Order seeks to treat certain requirements as planning conditions, it has been drafted as a statutory instrument in accordance with sections 117(4) and 120(5) of the 2008 Act.

2 THE PURPOSE OF THE ORDER

- 2.1 The Applicant is seeking the Order to construct, maintain and operate the authorised development on the Project Site on the Wilton International Site in Teesside, a major industrial complex near Redcar in Teesside, north east England.
- 2.2 The Order land was formerly home to a CCGT plant which was constructed in 1990, came into operation in 1993 and was decommissioned and demolished between 2013 and 2015. It is located within the administrative area of Redcar and Cleveland Borough Council (R&CBC).
- 2.3 A detailed description of the authorised development is set out in Chapter 5 of the Environmental Statement, 'Project Description and Alternatives' which accompanies the Application [AS-012].
- 2.4 The Project does not require any compulsory acquisition of land. All works will take place on land which the Applicant owns the freehold to. Similarly no acquisition or extinguishment of or interference with rights of any other party is required in order to deliver the Project. Consequently a full standardised Book of Reference is not being supplied as part of the Application as it is not considered necessary given the circumstances i.e. the fact that the Applicant owns the freehold to the land and no compulsory acquisition is proposed. The *Land Ownership and Interests Schedule* summarises details of Category 1 and Category 2 persons for the purposes of sections 42(1)(d), 44, 56(2)(d) and 57 of the 2008 Act. [APP-007].

NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECT ('NSIP')

- 2.5 Pursuant to sections 14(1)(a) and 15(2) of the 2008 Act, an onshore generating station in England or Wales having a capacity of more than 50 MW is a Nationally Significant Infrastructure Project (NSIP). The Applicant is seeking development consent for the NSIP comprising a combined-cycle gas turbine generating station with an output of up to 1,700 MWe and, associated development.

ASSOCIATED DEVELOPMENT

- 2.6 Pursuant to section 115 of the 2008 Act, development consent can be granted for both the NSIP and associated development.
- 2.7 The Secretary of State for Communities and Local Government has issued guidance entitled Guidance on associated development applications for major infrastructure projects, April 2013, which sets out the defining characteristics of, and illustrates the types of development that may qualify as associated development. In summary, associated development must not be an aim in itself; it must be subordinate to and necessary for the effective operation of the NSIP, and may include measures that support construction or operation of the NSIP, or measures that are necessary to mitigate the effects of the primary development. Associated development should generally be proportionate to the nature and scale of the NSIP. The guidance clarified that it is for an applicant to decide whether to include something that could be considered as associated development in an application for development consent or whether to apply for consent for it by other means.

Associated development forming part of the authorised development is proposed to include a lay down area, vehicle parking, internal roadways and footpaths, lighting columns and lighting, signage, and an area reserved for carbon capture, compression and storage (such area to be used for parking and

laydown area during construction of the authorised development). It is considered that all of these elements clearly fit within the definition of associated development in that they are not an aim in themselves and are proportionate to the nature and scale of the NSIP.

- 2.9 A full technical explanation of the authorised development is contained in Chapter 5 of the Environmental Statement; 'Project Description and Alternatives' [AS-012].
- 2.10 The location of the numbered works is shown on the works plans [APP-014 superceded by REP2-007, REP2-026, REP2-048, REP2-075 and REP2-076].

3 PRELIMINARY PROVISIONS

- 3.1 The preamble to the Order sets out some key legislative provisions and if made, will explain that an application under section 37 of the 2008 Act has been made to the Secretary of State for an order granting development consent, and that the application has been examined by the examining authority appointed by the Secretary of State pursuant to Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010. If made, it will go on to explain that the Secretary of State has considered the examining authority's report and recommendation, has taken into account the environmental information submitted with the application in accordance with regulation 3 of the 2009 EIA Regulations¹, and has had regard to the documents and matters referred to in section 104(2) of the 2008 Act (which include the National Policy Statements and a Local Impact report that will be prepared by the RLPA) in deciding to make the Order.
- 3.2 Articles 1 and 2 of the Order contain preliminary provisions.

3.3 ARTICLE 1 (CITATION AND COMMENCEMENT)

This provides for the commencement and citation of the Order. It includes the date on which the Order comes into force, which may or may not be the date on which the Order is made.

3.4 ARTICLE 2 (INTERPRETATION)

- 3.4.1 Article 2 (1) provides for the interpretation of the Order and sets out specific definitions relating to the CCGT Power Plant and its associated development. The "authorised development" is defined as the development and the associated development, the components of which are listed in Schedule One of the Order (see further below at paragraph 6.1), **this incorporates any further necessary associated development comprising ancillary works which are integral to and part of the Authorised Works.** A prescriptive definition of "further associated development" has not been included to provide flexibility for any unforeseen circumstances. **This approach has been adopted in many other orders for development consent including the Knottingley Power Plant Order 2015 (the **Knottingley Order**) and Wrexham Gas Fired Generating Station Order 2017 (the **Wrexham Order**).** It should be noted that Part Two of Schedule One also contains some further definitions of certain terms that relate specifically to the requirements, and Schedule Two contains further definitions of certain terms that relate specifically to the procedure for discharge of requirements.
- 3.4.2 Article 2 (2) clarifies that any rights over land that are granted by the Order include references to rights to do or to place and maintain anything in, on or under land, or in the air-space above its surface.

¹ The 2017 EIA Regulations came into force on 16 May 2017, replacing the 2009 EIA Regulations. The 2009 EIA Regulations however continue to apply to certain projects, pursuant to the transitional arrangements set out in Regulation 37 of the 2017 EIA Regulations, which provides that where a request has been made that the SoS adopts a scoping opinion, prior to the date of the commencement of the 2017 EIA Regulations, then the 2009 EIA Regulations continue to apply to any application for an order granting development consent. The Applicant submitted such a request to the SoS and it was received by the SoS on 21 February 2017, before 16 May 2017 when the 2017 EIA Regulations came into force. Consequently the 2009 EIA Regulations are those that apply to the Application. However in consideration of the SoS's scoping opinion which drew attention to the 2017 EIA Regulations, with regard to the EIA carried out, the Applicant has chosen to both comply with the 2009 EIA Regulations while also voluntarily addressing the additional elements introduced by the 2017 EIA Regulations. However, the draft DCO correctly refers to the 2009 EIA Regulations.

- 3.4.3 Article 2 (3) provides that all distances, directions and lengths referred to in the Order are approximate, which allows for some flexibility in the event that it transpires there will be marginal differences in any of the dimensions and ensures they are permitted under the terms of the Order. This approach has been adopted in other CCGT development consent orders including the Wrexham Order.
- 3.4.4 Article 2 (4) confirms that references in the Order to numbered works are references to the various components of the works forming the authorised development as shown on the works plan.
- 3.4.5 Articles 2 (5) to (7) generally follow the form of made orders including the Wrexham Order. They include a statement confirming that the areas described in square metres in the land ownership and interests schedule are approximate, and that references to statutory bodies should be taken to read as including any successors to those statutory bodies.

4 OPERATIVE PROVISIONS

4.1 Articles 3 to 9 of the Order contain operative provisions in relation to the carrying out, operation and maintenance of the authorised development.

4.2 ARTICLE 3 (DEVELOPMENT CONSENT ETC. GRANTED BY THE ORDER)

This article provides that development consent is granted for the authorised development, which is described in detail in Part One of Schedule One. Schedule One lists the main components of each generating unit forming part of the generating station (Work 1A) together with other development forming part of the project such as hybrid cooling water towers and other cooling water plant (Work 1B). It also provides for associated development such as vehicle parking and lighting (Work 2A) and an area reserved for carbon capture (Work 2B), such area to be used as a laydown area during the construction of the authorised development. Article 3 also makes it clear that the authorised development is subject to the requirements, which are contained in Part Two of Schedule One.

4.3 ARTICLE 4 (POWER TO MAINTAIN AUTHORISED DEVELOPMENT)

This provision expressly permits the maintenance of the authorised development. Maintenance is defined in Article 1 as including operations such as inspections, repairing, adjusting, altering, refurbishing, improving and removing the authorised development to be carried out in the Order Limits. The definition of maintenance follows the form of the definition in the Wrexham Order. Such maintenance is only permitted to the extent that there would be no materially new or materially different environmental effects to those already assessed.

4.4 ARTICLE 5 (OPERATION OF GENERATING STATION)

4.4.1 This article permits the operation of the generating station with a nominal net electrical output of up to 1,700 MWe, and associated plant, that comprise the authorised development. The authorised development described in more detail in Schedule One makes it clear that the “generating station” may consist of up to two generating units. Consequently Article 5 in conjunction with Schedule One permits the operation of one or two generating stations, enabling the development to be constructed in phases.

4.4.2 The article also expressly states that the Order does not dispense with the need to apply for any other permits or licences that are required to operate the electricity generating station. As highlighted in the Other Consents and Licences [APP-035], The Applicant has already submitted an application for a bilateral connection agreement for connection to the National Grid substation to secure the electricity connection. The Applicant further anticipates applying for the necessary capacity agreement for the reservation of gas to secure the gas supply in the near future. Further information is given in the Grid Connection Statement [APP-033] and the Gas Connection Statement [APP-034]. Thereafter The Applicant intends to apply for an electricity generation licence in February 2018, following which it will submit applications for an environmental permit for the operation of the generating station and an application to vary an existing greenhouse gas permit.

4.5 ARTICLE 6 (LIMITS OF DEVIATION)

Article 6 lays out, by reference to the works plan, [APP-014 superceded by REP2-007, REP2-026, REP2-048, REP2-075 and REP2-076], the permissible limits of deviation i.e. the extent to which the development can be constructed in a slightly different location to the proposed location shown on the works plan and indicative generating station layout plan [APP-16, AS-015, APP-019 and REP2-069]. It is standard practice to include some degree of flexibility to allow for any ground conditions or other engineering challenges that may be encountered during construction, to ensure that a slight shift in specific location will still be permitted. A similar approach has been used in many similar orders including the Wrexham Order. The article refers to allowable lateral deviation as shown on the works plan and unlimited downwards deviation insofar as is necessary to construct foundations and any underground structures. However, it does not provide upward limits of deviation, as maximum heights for major elements of the Project are fixed in the requirements (see further draft requirement 4 summarised in table 6.2 below).

4.6 ARTICLE 7 (BENEFIT OF THE ORDER)

This article provides for the transfer of the whole or part of the benefit of the Order with the consent of the Secretary of State, subject to certain exceptions. Similar wording has been used in a number of development consent orders for example recently in the Wrexham Order. The draft article seeks to remove the need for Secretary of State consent if the proposed transferee/ lessee already holds appropriate gas and/or electricity licences, subject to certain details about the transferee/lessee being provided to the Secretary of State before the transfer or grant takes effect.

4.7 ARTICLE 8 (APPLICATION OF LEGISLATIVE PROVISIONS)

Article 8 provides certainty that elements of the Town and Country Planning (General Permitted Development) Order 2015 will apply to the authorised development and further provides confirmation that any development carried out pursuant to such permitted development rights or pursuant to a planning permission granted under the Town and Country Planning Act 1990 will not breach the terms of the order. A similar approach has been adopted in other made orders including the York Potash Harbour Facilities Order 2016 and East Midlands Gateway Rail Freight Interchange and Highway Order 2016.

4.8 ARTICLE 9 (DEFENCE TO PROCEEDINGS IN RESPECT OF STATUTORY NUISANCE)

This is based on a Model Provision and is contained in many made orders, the most recent of which is the Wrexham Order 2017. The Article in this draft Order differs slightly in that it removes references to section 65 of the Control of Pollution Act 1974, which has been repealed. The article provides that no-one will be able to bring statutory nuisance proceedings under the Environmental Protection Act 1990 in respect of noise, if the noise relates to the use of the authorised development, or is in connection with the construction or maintenance of the authorised development, providing that it is either:

- attributable to activity being carried out in accordance with a notice issued by the local authority in relation to control of noise, or prior consent for certain work (pursuant to section 60 or 61 of the Control of Pollution act 1974 respectively); or
- attributable to activity being carried out in accordance with any scheme approved in relation to requirement 20 (control of noise during the operational phase); or
- reasonably unavoidable.

5. MISCELLANEOUS AND GENERAL PROVISIONS

5.1 Articles 10 to 14 of the Order contain operative provisions relating to miscellaneous matters, such as the application of other legislative provisions to the authorised development and how disputes over the interpretation of provisions of the Order will be addressed. Article 14 applies a procedure to be followed in relation to discharge of requirements.

5.2 ARTICLE 10 (APPLICATION OF LANDLORD AND TENANT LAW)

This is based on a Model Provision and similar provisions appear in other recent orders (for example The Palm Paper Mill Generating Station Order 2016 (the Palm Paper Order)). It ensures that any rights in landlord and tenant law that might prejudice the operation of any agreement for leasing the whole or part of the authorised development or the right to operate, construct, maintain or use it, will not apply.

5.3 ARTICLE 11 (OPERATIONAL LAND FOR PURPOSES OF THE 1990 ACT)

This is a Model Provision used in many orders including the Knottingley, Palm Paper and Wrexham Orders. It ensures that for the purposes of section 264(3) of the Town and Country Planning Act 1990, the Order would be treated as a specific planning permission and so consequently the Order land will be treated as “operational land”, which benefits from specific provisions in the Town and Country Planning Act 1990 and the Town and Country Planning General Permitted Development Order 2015.

5.4 ARTICLE 12 (CERTIFICATION OF PLANS ETC.)

5.4.1 This article, based on a Model Provision, requires the undertaker to submit copies of the documents and plans referred to in the Order to the Secretary of State, for certification as true copies following the making of the Order. These documents and plans are also defined in Article 2 (Interpretation).

5.4.2 There is a land ownership and interests schedule rather than a full Book of Reference, as the Order does not seek to acquire any land or interests, and there are a limited number of parties with interests in the land.

5.4.3 A number of the Application drawings show existing utility networks but indicative connection points within the Project Site, such points to be fixed at a later date, on this basis the development must be carried out in accordance with the limits of deviation referred to in Article 6 and the detailed design fixed by virtue of requirement 4.

5.4.4 Note that although these drawings and documents have all been submitted with the Application, drawing numbers may change as additional revisions might be required during the course of examination. Consequently DCO drawing numbers are not currently referred to in this document or in the draft Order.

5.5 ARTICLE 13 (ARBITRATION)

This is based on a Model Provision and requires any dispute arising under the provisions of the Order to be settled by arbitration, unless otherwise provided for expressly, or agreed between the parties.

5.6 ARTICLE 14 (PROCEDURE IN RELATION TO CERTAIN APPROVALS)

Article 14 provides a mechanism for securing any consent or approval from a consenting body required by the provisions of the Order. Similar mechanisms are included in many other orders including the Knottingley, Palm Paper and Wrexham Orders. It applies Schedule Two, which sets out the procedure for the discharge of requirements contained in Part Two of Schedule One (see further below).

- 5.7 As identified in the *Schedule of Land Ownership and Interests* (Application Document Reference Number 3.1) **The Applicant** owns the freehold to the land and there are limited parties with other interests in the land. Consequently many provisions that relate to powers of compulsory acquisition and stopping up of streets or works in streets are not required. Similarly, as was indicated in the National Grid consultation responses (annexed to this document for ease of reference at Annex 2) protective provisions are required “*where the promoter intends to acquire land, extinguish rights or interfere with NG apparatus*”. As land is not being compulsorily acquired and rights are not being extinguished, protective provisions are not necessary and are not included in the Order. The Applicant has had regard to the advice in Advice Note 15, and in particular paragraph 3.1. The connections to the two existing substations on the Project Site will be addressed under the ‘*Connection Application*’ that was submitted to NG on 19th September 2017 and any connection works will be carried out in accordance with the terms of such agreement with NG. *The Grid Connection Statement* (Application Document Reference Number 5.2) provides further information in that regard.
- 5.8 Other provisions that are not required in the Order include drainage rights and rights to access land to carry out surveys, as **The Applicant** owns the Order land and requires no additional rights over it, and a procedure relating to the removal of human remains. The presence of any such remains is highly unlikely given the Project Site’s location and former use as a power station, which was decommissioned and demolished recently (between 2013 and 2015). Furthermore due to the ground conditions as assessed in Chapter 6 of the Environmental Statement; ‘Contaminated Land, Water Resources and Flood Risk’ (Application Document Reference Number 6.3.6), any such discovery would be highly unlikely in any event. Similarly, the delivery of the Project does not require any felling or lopping of trees and so no such article is included.

6. SCHEDULES

6.1 SCHEDULE ONE (AUTHORISED DEVELOPMENT)

Part One of Schedule One specifies the authorised development comprising the scheduled works. A more detailed description of the Project is contained in Chapter 5 of the Environmental Statement, 'Project Description and Alternatives' [AS-012] but Schedule One lists the components of the Project which in summary include:

Work No. 1 – an electricity generating station with a nominal net electrical output capacity of up to 1,700 MWe at ISO Conditions. This is further split into:

- Work No. 1A which sets out the main components of up to two separate generating units including gas and steam turbines, stacks, electricity generators and heat recovery steam generators;
- Work No. 1B which sets out the main components of the related cooling water infrastructure; and
- Works relating to 1A and 1B such as an administration building, a control room and workshop, connection works and pipework.

Work No. 2 – associated development which may comprise:

- Work No. 2A which includes a permanent laydown area, vehicle parking, internal roadways and footpaths and lighting; and
- Work No. 2B which includes an area reserved for carbon capture, compression and storage, such area to be laid out as vehicle parking and used for the open and covered storage of construction materials and equipment during construction of any part of the authorised development.

and to the extent that they do not form part of the above any such other ancillary buildings, structures, enclosures, plant, works or operations as are integral to and part of the construction, operation and maintenance of the works. Such further associated development is only permitted to the extent it is within the Order limits (i.e. the limits shown on the works plan within which the authorised development may be carried out), and insofar as it will not give rise to any materially new or materially different environmental effects from those assessed in the Environmental Statement.

- 6.2 Part 2 of Schedule One sets out certain requirements that the undertaker would have to meet in relation to the construction, operation and decommissioning of the authorised project. The Applicant held a meeting with the RLPA in September 2017 to discuss these requirements. Subject to some amendments which were requested by the RLPA, the requirements remain largely in the form discussed, save for necessary minor amendments made for clarification and to ensure consistency across the requirements. These requirements, which are summarised below, take a similar form to planning conditions.

Table 6.2

<p>Requirement 1 Interpretation</p>	<p>Interpretation defines terms that are relevant to the requirements in the context of the proposed Order.</p> <p>Two key definitions are that of “part” and “phase” of the development.</p> <p>For ease of reference, the requirement defines the main elements of the authorised development with reference to numbered works in Part One of Schedule One. These elements are defined as “parts” of the authorised development.</p> <p>As the Order would grant consent for up to two generating units, this requirement also defines a “phase” of the project as being <u>one</u> of the generating units described in Works 1A and Works 1B (as listed in Part One of Schedule One) and any development which is associated with or ancillary to that generating unit as described in Part One of Schedule One).</p> <p>The requirements are generally expressed to be triggered by the commencement of a part, being applicable to each part separately, or where more appropriate, are linked to a phase, for example the requirement to notify the Ministry of Defence before commencement, and the requirement to give the RLPA notice of commissioning.</p> <p>Other key definitions relating to the triggers for certain actions to be taken by the undertaker include:</p> <ul style="list-style-type: none"> • “Commence”, unless otherwise provided for, means beginning to carry out any material operation (as defined in section 155 of the 2008 Act) forming the relevant part of the authorised • “Preliminary Works” means development other than operations consisting of site clearance, environmental surveys, investigations for the purpose of assessing ground conditions, erection of any temporary means of enclosure, the temporary display of site notices or installation of a site compound or any other temporary building or structure] and these types of work have been excluded from the trigger for requirements linked to “Commencement”. • “Start-up” means the period of time prior to construction works commencing on any particular day during which activities including the arrival of construction workers, changing into work wear and pre-works briefings and meetings take place, and “Shut-down” means the period of time after construction works have finished on any particular day during which activities including workers changing out of work wear, workers departing the site, post-works briefings and meetings and closing and securing of the site take place. • “Commissioning” means the process of assuring that all systems and components of the authorised development (which are installed or installation of which is near to completion) are tested to verify that they function and are operable in accordance with the design objectives, specifications and operational requirements of the undertaker.
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	<ul style="list-style-type: none"> • “Operational” means the period of time that the relevant part of the authorised development is in operation after construction and commissioning is complete, which begins on the date specified in an operational phase notice to be issued to the RLPA confirming that the operational phase is about to be begin.
Requirement 2 Commencement of the authorised development	<p>This provides that the authorised development may not be commenced after the expiration of five years from the date the Order comes into force.</p> <p>It also provides that the authorised development must not commence until a scheme setting out the phasing of the Project has been approved by the RLPA. This enables the RLPA to consider the proposed phasing of the Project and arrange for appropriate monitoring of pre-commencement requirements as necessary.</p> <p>In relation to the second generating unit, it requires development to commence within 5 years of the first generating unit becoming operational.</p>
Requirement 3 Notice of commencement and completion of commissioning	<p>Notice of the intended start of commissioning of each phase of the authorised development must be given to the RLPA prior to the start of commissioning, and in any event within fourteen days from the date commissioning is started.</p> <p>Similarly notice of the date on which commissioning is intended to be completed must be given, in advance of completion where practicable, and in any event within fourteen days from the completion of commissioning. Again this enables the RLPA to arrange for appropriate monitoring of requirements relating to the commissioning and operational phases as necessary.</p>
Requirement 4 Detailed Design	<p>Requirement 4 is based on a model requirement and the approach has been adopted in many orders including the Knottingley and Palm Paper Orders.</p> <p>It requires the specific design details, such as colour, materials, height and siting of permanent buildings and structures, together with cross sections showing details of existing and proposed ground levels, to be approved by the RLPA prior to commencement (excluding preliminary works).</p> <p>The requirement also imposes strict parameters for some key components of the authorised development by imposing maximum heights.</p> <p>The authorised development must be carried out pursuant to these details and any other plans approved pursuant to the requirements.</p> <p>The threshold for the maximum stack height is 75m. The requirement does not include a minimum stack height, but the requirement has subsequently been amended so that if the undertaker wishes to construct a stack at a height less than 75m it must be able to demonstrate that there will be no new or materially different environmental effects or that any likely significant effects can be mitigated to the satisfaction of the RLPA and Environment Agency prior to development commencing.</p>
Requirement 5 External Lighting	<p>This requires that no part of the authorised development may commence (excluding preliminary works) until a scheme for all external lighting to be installed during construction (which accords with Guidance Note for the Reduction of Obtrusive Light GN01:2011) for that part has been approved by the RLPA, and that no part of the authorised development may be brought into operation until a scheme for all permanent external lighting to be installed has</p>

	<p>been approved by the RLPA. The approved lighting must be installed in accordance with the approved schemes.</p>
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Other orders including the Palm Paper and Wrexham Orders have requirements relating to lighting and such requirements have been adapted as appropriate for use in relation to this Project.

<p>Requirement 6 Fencing and other means of enclosure</p>	<p>This requirement is based on a model requirement. It requires each part of the authorised development to be securely fenced during construction, with details of all temporary and permanent fencing to be approved by the RLPA prior to commencement (except preliminary works). Temporary fencing would have to be removed on completion of the relevant part of the authorised development. A similar requirement was imposed in the Wrexham Order.</p>
<p>Requirement 7 Notice of commencement of operation</p>	<p>It is generally standard practice to include a requirement of this type, which requires the undertaker to give notice to the RLPA of the intended start of operations, which assists the authority in being able to monitor the progress of the development and compliance with the requirements.</p>
<p>Requirement 8 Highway accesses</p>	<p>This requirement is based on a model requirement but adapted to address the fact that the highway access already exists.</p> <p>It requires the undertaker to submit details of the arrangements for vehicular access to and egress from the site (during both construction and the operational phase), including the proposed directional signage, for approval by the RLPA in consultation with the LHA. Such details must be submitted and approved before development commences (except preliminary works) and access and egress must be operated in accordance with the approved scheme.</p>
<p>Requirement 9 Temporary buildings and structures</p>	<p>No part of the authorised development may commence (except preliminary works) until a written scheme including details of:</p> <ul style="list-style-type: none"> • siting, design and external appearance of temporary buildings and structures; and • temporary parking hardstandings, laydown areas and turning facilities to be used during the period of construction, has been approved by the RLPA. <p>The scheme must be implemented as approved and thereafter adhered to throughout the construction phase of that part of the authorised development.</p> <p>All temporary works relating to a particular part of the authorised development must be removed within twelve months of it being brought into operation.</p> <p>A similar requirement was imposed in the Knottingley Order.</p>

<p>Requirement 10 Contaminated land and groundwater</p>	<p>This requirement is based on a model requirement and requires works to be suspended if contaminated land or groundwater is encountered in excavations. In the event such contamination is encountered, investigation and surveys must be carried out and a written scheme containing proposals for addressing the contamination must be approved by the RLPA in consultation with the Environment Agency prior to any works resuming. Any agreed remediation must also be carried out prior to any works resuming.</p> <p>The model requirement is amended to clarify that the scheme would only be required to address “significant” pollution of controlled waters or the environment. Similar requirements were imposed in Knottingley, Palm Paper and most recently the Wrexham Order.</p> <p>Some orders contain more prescriptive requirements in relation to contamination. This lesser requirement is appropriate in these circumstances because the most recent site investigation (carried out in 2015 after the previous power plant had been decommissioned and demolished) did not reveal any existing contamination. See Chapter 6 of the Environmental Statement; ‘Contaminated Land, Water Resources and Flood Risk’ [APP-067].</p> <p>Consequently this requirement only addresses the discovery of any unexpected contamination during construction. It also takes account of comments received from R&CBC during consultation.</p>
<p>Requirement 11 Ground nesting birds survey</p>	<p>This requirement is bespoke to address the circumstances of this Project.</p> <p>No part of the authorised development can commence during the nominal breeding season (March to August inclusive) unless and until a ground nesting birds statement (which must include a proposed survey and mitigation scheme to be implemented in the event ground nesting birds are identified at the Project Site), is approved in writing. Thereafter it must be implemented in accordance with an approved implementation timetable.</p> <p>Initial surveys revealed the potential for ground nesting birds to be present on site during their breeding season. See Chapter 9 of the Environmental Statement; ‘Ecology and Nature Conservation’ [APP-051]. This requirement is drafted to address that eventuality and to take account of comments received from Natural England and the Secretary of State during consultation.</p>
<p>Requirement 12 Landscaping</p>	<p>This is based on a model requirement. It requires the undertaker to submit a written landscaping scheme before work on either generating unit commences (except preliminary works) .</p> <p>The landscaping scheme must be based on the indicative landscaping plan [APP-029], must include details of proposed planting and any hard surfacing and must include an implementation timetable.</p> <p>Following discussions with the RLPA on 14 September 2017 the scope of this requirement was extended to provide for the replanting of any shrub or tree that dies within five years of being planted.</p>

<p>Requirement 13 Construction Environmental Management Plan (“CEMP”)</p>	<p>This is not a model requirement, but it incorporates the content of several separate model requirements and this approach has been used in many made orders including the Knottingley, Palm Paper and Wrexham Orders.</p> <p>It sets out some of the key issues to be covered in an overarching construction environmental management plan at 13(2) to be adhered to during the construction phase of the authorised development.</p> <p>It is also required to accord with the principles of the more detailed framework for a construction environment management plan (CEMP) which is set out at Annex L of the Environmental Statement [APP-081], specifying particular measures that the Environmental Statement either assumes as standard best practice mitigation or recommends as additional mitigation see Chapter 17 [APP-059]</p> <p>In particular the CEMP will impose permitted hours of construction, being, in the majority of cases, between 0700 and 1900 hours on weekdays and 0800 and 1800 hours on Saturdays, with no construction work on Sunday or public holidays.</p> <p>Discussions were held with the RLPA on 14 September 2017 during which they confirmed the proposed hours of construction are acceptable.</p>
<p>Requirement 14 Waste management during construction phase</p>	<p>Requirement 14, based on a model requirement, requires the submission of a waste management plan prior to commencement of any part of development (except preliminary works), such plan to be adhered to throughout the construction phase of each part of the authorised development.</p> <p>The plan must be based on the draft waste management plan contained in Annex D4 of the Environmental Statement [APP-068] and must address storage and removal of waste materials on site, and the disposal of general engineering wastes. It must also include a materials management plan, a sediment control plan and monitoring measures.</p>
<p>Requirement 15 Construction transport management plan</p>	<p>This is based on requirements in other development consent orders but modified to address the particular circumstances of this Project. It requires that no part of the authorised development may commence (except preliminary works) until a construction transport management plan relating to that part has been approved in writing by the RLPA.</p> <p>The plan must be based on the draft construction transport management plan contained in Annex I2 of the Environmental Statement [APP-078] and must address construction traffic to and from the site, including details of proposed routeing, scheduling and management of abnormal indivisible loads and delivery vehicles, how the site will be accessed and egressed, car parking arrangements during the construction phase. The authorised development must be carried out in accordance with the approved plan.</p> <p>The RLPA confirmed during discussions on 14 September 2017 that it did not consider that there was any need to impose a requirement in relation to traffic during the operational phase of the authorised development.</p>

<p>Requirement 16 Surface water drainage - operational</p>	<p>This requirement is based on a model requirement and derivatives of this requirement are used in many made development consent orders.</p> <p>It requires details of surface water drainage systems of each part of the authorised development to be approved by the RLPA, in consultation with the Environment Agency, and to be implemented before that part becomes operational.</p> <p>See paragraph 6.3 below for details of the existing permit relating to sewage and trade effluent.</p>
<p>Requirement 17 Air safety</p>	<p>This requirement has been included in a number of similar orders such as the Knottingley and Palm Paper Orders, and as a result of consultation with the Ministry of Defence. A similar approach is adopted here. It requires the undertaker to notify the Ministry of Defence of:</p> <ul style="list-style-type: none"> • the precise location of the authorised development; • the proposed date of commencement; • the maximum heights of both construction equipment and the tallest structure forming part of the authorised development; and • the date of completion of construction of the generating unit in either phase of the authorised development. <p>Following discussions with the RLPA on 14 September 2017 this has been extended to require the undertaker to also notify Durham Tees Valley Airport of these factors.</p> <p>The draft requirement has been subsequently amended to remove the need to fit aviation warning lighting on the main stacks because such lighting is not necessary on the basis no other stacks (even over 75m) on the Wilton International site have aviation warning lighting fitted.</p>
<p>Requirement 18 Waste management during operational phase</p>	<p>This is based on a requirement in the Knottingley Order and requires a waste management plan to be approved by the RLPA before the authorised development is brought into use.</p> <p>The plan must address the storage and removal of waste materials on site and the disposal of general engineering wastes during the operational phase. The authorised development must thereafter be operated in accordance with the approved plan. The Applicant already operates a site wide waste management plan which may, subject to minor amendments, satisfy the terms of this requirement.</p>

<p>Requirement 19 Control of noise during the operational phase</p>	<p>This is based on a model requirement and requires a scheme for noise management (including monitoring and attenuation) to be agreed by the RLPA prior to commissioning of the authorised development.</p> <p>The scheme must specify details of the locations where monitoring of noise levels will be carried out and the methods to be used in monitoring noise.</p> <p>Results of monitoring must be submitted to the RLPA.</p> <p>As a result of consultation with R&CBC, there is a requirement that the maximum level of noise from any monitoring station must not exceed 3 decibels above a baseline to be agreed with R&CBC, save in an emergency.</p> <p>The scheme must also include details relating to the rebuilding and maintenance of the western boundary sound wall, which form part of the associated development. This wall must be rebuilt before the authorised development is commissioned. Similarly any works that may be required to the southern boundary sound wall, to ensure that it provides an effective noise barrier, must be approved as part of the scheme.</p>
<p>Requirement 20 Combined heat and power</p>	<p>This requirement is based on requirements contained in the Knottingley and Wrexham Orders. The undertaker must allow for space and routes within the design of the authorised development for the later provision of heat pass-outs for off-site users of process or space heating, and its later connection to such systems, should they be identified and commercially viable. The RLPA must give notice that it is satisfied that the undertaker has complied with this requirement before the authorised development is brought into commercial use.</p> <p>Such space and routes must be maintained during the operation of the authorised development.</p> <p>Twelve months after the authorised development is first brought into use, and every four years thereafter, a report must be submitted to the RLPA detailing any opportunities that exist for the export of heat and actions that will be taken in respect of those opportunities.</p> <p>This requirement will cease to have effect in certain circumstances namely:</p> <ul style="list-style-type: none"> • if the Project is decommissioned; • if the RLPA agrees in writing that the requirement ceases to have effect; or • it no longer reflects legal or policy requirements.

<p>Requirement 21 CCS site</p>	<p>This is not a model requirement, but is drafted to comply with the requirements of the Overarching National Policy Statement for Energy (EN-1) section 4.7. It requires the undertaker to maintain an area of land available for carbon capture for as long as the authorised development is operational. A similar approach was adopted in the Knottingley Order.</p> <p>This requirement will cease to have effect in certain circumstances (see requirement 23 below).</p>
<p>Requirement 22 CCS monitoring report</p>	<p>This requirement, like requirement 21, is drafted to comply with EN-1.</p> <p>It requires the undertaker to submit “CCS monitoring reports” to the Secretary of State for Energy and Climate Change every two years, detailing the position regarding implementation of current CCS proposals.</p> <p>This requirement will cease to have effect in certain circumstances (see requirement 23 below).</p>
<p>Requirement 23 Applicability of Requirements 21 and 22</p>	<p>This requirement sets out circumstances in which it would be appropriate for requirements 21 and 22 to cease to apply because they no longer reflect legal or policy requirements. The definition of CCS site is also drafted to allow for any future change in law or policy. Requirements 21 and 22 are based on wording contained in the Section 36 consent for the Thorpe Marsh CCGT power plant and the Knottingley Order.</p>
<p>Requirement 24 Decommissioning</p>	<p>This is not a model requirement but a similar approach has been adopted in many made orders for similar developments including the Knottingley and Wrexham Orders.</p> <p>Where possible the effects of decommissioning on environmental factors have been assessed as part of the application, but best practice, technology and methods to be used in the decommissioning process may have changed considerably by the time the Project is decommissioned. This requirement acknowledges that and requires a site closure and restoration scheme, containing details of the means of phasing of demolition works and removal of materials, to be submitted and approved within twelve months of the generating station permanently ceasing to be used for the purposes of generating electricity.</p>
<p>Requirement 25 Requirement for written approval</p>	<p>This is a model requirement, providing that any approval or agreement of a discharging authority must be given in writing enabling a clear record of all approved details, plans and schemes.</p>
<p>Requirement 26 Approved details</p>	<p>Requirement 27 is similarly based on a model requirement, adapted to refer to the approval of details by the RLPA.</p> <p>It provides that all details submitted for the approval of the RLPA under the requirements must be in accordance with the parameters of the Environmental Statement and reflect the principles set out in the certified documents (see paragraph 5.4 above) and confirms that the authorised development must be carried out in accordance with the details approved.</p>

<p>Requirement 27 Amendments to approved details</p>	<p>This requirement is again based on a model requirement and the Palm Paper and Wrexham Orders contain similar requirements.</p> <p>It sets out that any amendments to or variations from the approved details, thresholds, plans or schemes must be minor or immaterial and must be unlikely to give rise to any materially new or materially different environmental effects from those already assessed. It also provides clearly that any references to approved details, plans or schemes will include any subsequently approved amendments.</p>
<p>Requirement 28 Accident and emergency response</p>	<p>This is a similarly bespoke requirement which provides that no phase of the authorised development may commence until an accident and emergency response plan has been submitted to and approved in writing by the RLPA and implemented as approved. It must be maintained for the duration of use of the authorised development.</p> <p>Whilst the extent of risk associated with the authorised project has been assessed and findings are contained in Chapter 15 of the Environmental Statement; Major Accidents [APP-057], it is standard practice to maintain and adhere to such a plan and the draft Order just codifies that practice.</p>

- 6.3 There are some requirements which are included in a number of other similar development consent orders that are not included in the draft Tees Combined Cycle Power Plant Order as they are not necessary for this particular Project. For example:
- There is no requirement relating to the setting up of a local liaison committee, because the Wilton International site operates its own procedures and as part of that The Applicant already meets with R&CBC, the Industrial Briefing Group (IBG) and Lazenby Environment Group (LEG) on a regular basis. For further information about the IBG and LEG see the Consultation Report [APP-032].
 - An Environmental Permit is already in place with reference QR.25/04/1528 (annexed to this document for ease of reference at Annex 3) which permits the discharge of sewage and trade effluent from the Wilton International site in accordance with the terms of the permit. There is no requirement imposed in relation to foul water drainage as a permitted system is already in place and the Project will connect into that system.

6.4 Schedule Two (Procedure in relation to discharge of requirements)

This Schedule sets out the process to be followed in relation to applications made to a discharging authority for any agreement or approval required by a requirement in the Order. It is largely based on similar provisions in the Knottingley and Wrexham Orders.

- Paragraph 1 contains some key defined terms relevant to Schedule Two.
- Paragraph 2 provides a clear procedure and sets out time limits for the discharge of requirements by the RLPA. The RLPA must notify the undertaker of its decision either: --
 - within thirty business days of the day after it received the application; or
 - within thirty business days of the day after the undertaker has supplied further information that may be requested by the RLPA in relation to the application; or
 - within a longer time period that may be agreed.

If the application is not determined within the relevant time period, it is deemed that the RLPA has granted all parts of the application, save for where it is likely that the subject matter of such application will give rise to any materially new or materially different environmental effects, in which case the application will be deemed to have been refused.

- Paragraph 3 makes provision for circumstances where the RLPA decides further information should be provided in relation to an application for the discharge of a requirement:
 - The RLPA should make such a request within ten business days of receiving the application.
 - In the event consultation is required with another authority, for example with the LHA or with the HSE, the RLPA must issue a consultation to the relevant consultee within five business days of it receiving the application.
 - Thereafter the consultee must provide details of any further information it requires in order to respond to the consultation within ten business days of receiving the consultation.
 - Any such request for additional information must be passed to the undertaker by the RLPA within five days of receipt.

Where these time limits are not adhered to, the RLPA is treated as having sufficient information to consider the application and the time limits for deciding the application as summarised above will apply.

- Paragraph 4 sets out the process for appealing to the Secretary of State in respect of decisions on applications for discharge of requirements:

- If the undertaker wants to appeal against a decision it must submit a copy of the application to the Secretary of State who must appoint a person to determine the appeal (who must be a qualified town planner of at least ten years' experience).
- The undertaker must also send a copy of their appeal to the RLPA and any consultee where relevant.
- The RLPA (and any consultee where relevant) may submit representations within ten business days of the day after they received notice of the appeal.
- Counter representations may be made within ten business days of the day after the date of receipt of any written representations.
- The appointed person must decide the appeal as soon as reasonably practicable.
- Paragraph 5 deals with the outcome of appeals and gives the appointed person the power to allow or dismiss an appeal or reverse or vary part of the RLPA's decision. The decision of the appointed person will be final and binding on all parties.