

PLANNING ACT 2008

**THE INFRASTRUCTURE PLANNING (APPLICATIONS: PRESCRIBED FORMS AND
PROCEDURE) REGULATIONS 2009**

Regulation 5(2)(c)

THE WEST BURTON C (GAS FIRED GENERATING STATION ORDER) 202[]

Explanatory Memorandum

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1 INTRODUCTION

- 1.1 This memorandum accompanies an application for development consent (the "Application") by EDF Energy (Thermal Generation) Limited (the "Applicant"). The memorandum explains the purpose and effect of each article of, and Schedule to, the draft West Burton C (Gas Fired Generating Station) Order 202[] (the "Order") as required by Regulation 5(2)(c) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 as amended.
- 1.2 It also highlights and explains the purpose and effect of any departures from the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009 (the "model provisions") as recommended by Planning Inspectorate ("PINS") Advice Note 13 *Preparation of a draft order granting development consent and explanatory memorandum*. It is noted however that this advice is not formal guidance to which regard must be had under section 50 of the Planning Act 2008 ("PA 2008") and that the Localism Act 2011 removed the requirement for the decision-maker to have regard to the prescribed model provisions in deciding an application for development consent. Nevertheless, the Applicant considers it is still relevant to note and explain variations made in the Order compared to the model provisions.
- 1.3 The Order is based on the model provisions but where appropriate departs from those clauses and draws from and reflects the drafting used in relevant development consent orders ("DCOs") made under the PA 2008. Where this is done the applicability of the drafting to the approach taken by the Applicant to the proposed development is explained.
- 1.4 Terms used in the Order have the same meaning in this memorandum unless otherwise specified.

2 THE PURPOSE OF THE ORDER

- 2.1 EDF Energy (Thermal Generation) Limited (referred to in the Order as "the undertaker") is making an application to the Secretary of State for an order granting development consent to construct, maintain, use and operate a gas fired power station of up to 299 megawatts ("MW"), associated buildings structures and plant, and associated development (together "the Proposed Development") at the West Burton Power Station Site in Nottinghamshire. The Proposed Development comprises up to five open cycle gas turbine units, associated switchgear and ancillary equipment and auxiliary cooling equipment/system. The elements that make up the Proposed Development are described more fully below.

- 2.2 The Order seeks authority for the construction and operation of an electricity generating station under section 37 of the PA 2008. Provisions are also included relating to the decommissioning of the Proposed Development.

Nationally Significant Infrastructure Project

- 2.3 Pursuant to sections 14(1)(a) and 15(2) of the PA 2008, an onshore generating station in England or Wales having a capacity of more than 50MW is a nationally significant infrastructure project ("NSIP").

- 2.4 Section 31 of the PA 2008 provides that a development consent order is required under that Act to the extent that a development is or forms part of a NSIP.

- 2.5 As the proposed generating station is an onshore generating station with a capacity of up to 299MW it is a NSIP within the definition contained in sections 14 and 15 of the PA 2008. It is for these reasons that the Proposed Development falls within the remit of the Secretary of State, and the undertaker has made the Application of which the draft Order forms part.

- 2.6 The main component of the Proposed Development (comprising *Work No.1* in the Order) is a gas fired power station with a gross electrical output capacity of up to 299MW comprising:

- (a) up to five (5) open cycle gas turbine ("OCGT") units and associated generators, potentially housed within building(s) with stack(s), transformer(s), air inlet filter(s) and exhaust gas diffuser(s);
- (b) associated switchgear and ancillary equipment; and
- (c) auxiliary closed loop cooling equipment/system.

- 2.7 In the event that these works are required, *Work No.1* may also include a banking compound comprising up to six (6) transformers, overhead busbars, cable sealing ends and associated switchgear and ancillary equipment.

- 2.8 The undertaker seeks authorisation for the following works within the Order:

- (a) *Work No.2* – a gas receiving area, gas treatment and control facilities, a compression station, generator and other auxiliary control cabinets and equipment.
- (b) *Work No.3* – electrical connection works comprising—
 - (i) *Work No. 3A* – up to 400 kV electrical cables and control systems cables to and from the existing West Burton B switchyard; and

- (ii) *Work No. 3B* – works within or adjacent to the existing West Burton B switchyard, including switchgear and electrical cables, connections to busbars and upgraded or replacement equipment.
- (c) *Work No.4* – auxiliary buildings, structures and equipment, comprising—
 - (i) emergency diesel generator and associated diesel fuel tank;
 - (ii) contained road tanker diesel unloading area;
 - (iii) workshop, store, control, administration and welfare building;
 - (iv) above ground raw water and fire water storage tanks and associated infrastructure;
 - (v) area of hardstanding for maintenance laydown and erection of temporary buildings associated with the commissioning, operation and maintenance of the OCGT unit(s);
 - (vi) pipework, pipe runs and pipe racks;
 - (vii) fire-fighting equipment, buildings and distribution pipework; and
 - (viii) chemical storage facilities, other minor infrastructure and auxiliaries/services.
- (d) *Work No. 5* – a new surface water drainage system comprising pond(s) and/or a tank or similar including connection to an existing surface water drainage system on the West Burton Power Station Site.
- (e) *Work No. 6* – gas supply pipeline connection works for the transport of natural gas to *Work No. 1* from an existing gas receiving facility within West Burton B comprising –
 - (i) *Work No. 6A* – on or below ground high pressure steel pipeline of up to 500 millimetres (nominal bore) in diameter and up to 150 metres in length including controls and instrumentation; and
 - (ii) *Work No. 6B* – an extension to the existing West Burton B gas receiving facility comprising –
 - (A) an offtake connection;
 - (B) gas compressor (if required);
 - (C) above and below ground valves, flanges and pipework;
 - (D) an above or below ground remotely operated valve;
 - (E) an above or below ground remotely operated valve bypass;
 - (F) an above or below ground pressurisation bridle;
 - (G) instrumentation and electrical kiosks; and
 - (H) telemetry equipment kiosks and communications equipment.
- (f) *Work No. 7* – water supply and pipeline from *Work No. 1* to an existing water supply within West Burton B;

- (g) *Work No. 8* – low voltage electrical, control, metering and other cables and associated switchgear and ancillary equipment and cabinets required to connect Work Nos 1-6 with West Burton B.

Associated Development

2.9 Pursuant to section 115 of the PA 2008 development consent can be granted for the NSIP and associated development. Associated development is development associated with the NSIP as set out in section 115 of the PA 2008. Guidance on associated development applications for major infrastructure projects has been issued by the Department for Communities and Local Government in April 2013 ("Associated Development Guidance").

2.10 The Associated Development Guidance illustrates the types of development that may qualify as associated development and sets out the core principles the Secretary of State will take into account in deciding whether or not development should be treated as associated development. Those principles include that associated development must not be an aim in itself - in most cases it is a type normally brought forward with the primary development, and may include measures necessary to mitigate the effects of the primary development or innovative development ideas otherwise fulfilling the principles of the Associated Development Guidance. It should be proportionate in scale to the primary development.

- (a) *Work No. 9* – a rail offloading area from the existing rail loop ‘merry-go-round’ on the West Burton Power Station site.
- (b) *Work No. 10* – a Landscaping and Biodiversity Management and Enhancement Area.
- (c) And, to the extent that it does not otherwise form part of any such works, further associated development within the meaning of section 115(2) of the 2008 Act comprising such other works or operations as may be necessary or expedient for the purpose of or in connection with the construction, operation and maintenance of the works in this Schedule whether or not shown on the plans falling within the scope of the works assessed in the environmental statement comprising—
 - (i) vehicle parking and cycle storage facilities;
 - (ii) construction laydown areas and contractor facilities, including materials and plant storage and laydown areas; generators; concrete batching facilities; vehicle and cycle parking facilities; pedestrian and cycle routes and facilities; offices and staff welfare facilities; security fencing and gates; external lighting; roadways and haul routes; wheel wash facilities; and signage;
 - (iii) internal access roads, roadways and footpaths;
 - (iv) noise attenuation features;
 - (v) landscaping, fencing and security provisions; and

(vi) lighting columns and lighting.

- 2.11 All these components are of a type listed in the Associated Development Guidance.
- 2.12 A full, technical explanation of the Proposed Development including the associated development is contained in Chapter 4 of the Environmental Statement (the "ES") (Application Document ref. 5.2) accompanying the Application.
- 2.13 In devising the Proposed Development and the application documentation, in particular the environmental statement and draft Order, the applicant has had careful regard to the Planning Inspectorate's Advice Note 9: Using the 'Rochdale Envelope'. This advice recognises that "the approach known as the 'Rochdale Envelope' may be useful in considering applications for development consent under the 2008 Act, especially where there are good reasons why the details of the whole project are not available when the application is submitted". The conclusions of the Advice Note are:
- The challenge for the EIA will be to ensure that all the realistic and likely worst case variations of the project have been properly considered and clearly set out in the ES and as such that the likely significant impacts have been adequately addressed.*
- It may be possible to draft a DCO in such a way as to allow some flexibility in the project. The project should be described in such a way that a robust EIA can be undertaken.*
- 2.14 In order to facilitate the delivery of the Proposed Development and ensure a rigorous procurement exercise can be undertaken that can take advantage of advancing gas turbine technology, the application and draft Order provide the undertaker with some flexibility in terms of equipment to be installed and the final arrangement of Work No 1. This includes:
- (a) The specific locations of emissions points within the Site;
 - (b) The number of OCGT units to be installed;
 - (c) The massings of structures and buildings; and
 - (d) The final stack heights.
- 2.15 These matters cannot be confirmed until the tendering process for the design and construction of the generating station has been completed which will only happen when and if consent is secured.
- 2.16 However, where elements can be fixed at this stage they have been. Clearly defined works areas are identified for the various elements of the Proposed Development which limits the locations within which those elements can be built. For works that have the potential to have a greater impact (in particular the stack(s)), the following elements have been fixed:
- (a) The stacks can only be located within a small area of the site (identified on the Works Plans, Document reference 3.2):

- (b) If multiple turbines and stacks are installed these can only be located in a nominal north-south direction unless it can be shown to the satisfaction of the relevant planning authority that the environmental impacts will be no worse than those assessed; and
 - (c) Maximum stack heights are identified to ensure the worst case landscape and visual effects have been assessed.
- 2.17 The key development parameters on which environmental assessment has been based are set out in Table 4-1 and 4-2 of the Environmental Statement. These parameters are also included in requirement 5 of the draft Order. In addition, the alternative configurations that could be developed have been identified and assessed and the worst case impacts for each environmental discipline, in combination and cumulatively, have been identified and reported.
- 2.18 In addition, it should be noted that the Proposed Development is located on land owned by the Applicant that already accommodates significant power plant infrastructure related to the operational West Burton A and West Burton B power stations. This means that the site is less sensitive to the type of development proposed and the flexibility sought by the Applicant is therefore both appropriate and justified.

3 PRELIMINARY PROVISIONS

- 3.1 Articles 1 and 2 of the Order contain preliminary provisions.
- 3.2 *Article 1 (Citation and Commencement)* provides for the commencement and citation of the Order.
- 3.3 *Article 2 (Interpretation)* provides for the interpretation of the Order including the Schedules. Where appropriate some Schedules also contain definitions of terms that are used in the relevant Schedule. Article 2 makes alterations to the model provisions to accommodate the departures from the model provisions elsewhere in the Order, and to add required definitions, including:
- (a) Definitions of documents submitted as part of the Application and which are referred to in the Order (such as the ES, the combined heat and power assessment and various plans) have been added.
 - (b) Definitions of parts comprising the authorised development and West Burton B and which are referred to in the Order (such as CCGT and electrical cables). A definition of “gross rated electrical output” has been included as it is relevant in the context of the authorised development. The same definition has been used in a number of DCOs for gas-fired power stations, most recently in the Millbrook Gas Fired Generating Station Order 2019.

- (c) A definition of "commence" has also been included to clarify the scope of preliminary works that may be carried out before the authorised development can be said to be commenced. These works are required in order to prepare the site for the Proposed Development and allow detailed surveys and design work necessary to finalise the NSIP and the discharge of the various requirements controlling the Proposed Development. The requirements in Schedule 2 of the Order have been drafted to ensure that, despite commencement not being triggered, the carrying out of certain works (including archaeological surveys) will be done in accordance with approved schemes.
- (d) A definition of "maintain" has been added to include inspect, repair, adjust, alter, refurbish, remove, reconstruct (any part), replace (any part) and improve. This is different to the approach used in the model provisions but has been added to make clear what is authorised under article 4 (see below), and in particular that it does not permit the undertaker to depart from the description of the authorised development in Schedule 1 nor to carry out maintenance operations which would cause different environmental effects to those identified in the ES. This definition has been used in a number of has been used in a number of DCOs for gas-fired power stations, most recently in the Millbrook Gas Fired Generating Station Order 2019.
- (e) "Undertaker" is defined as EDF Energy (Thermal Generation) Limited who has who has the benefit of the provisions of the Order, in accordance with article 7 (benefit of order).
- (f) Sub-paragraph (2) has been added to provide clarity that, save in relation to Tables 1 and 2 of Schedule 2 which contains the key parameters of the works, all distances, directions and lengths are approximate.

4 OPERATIVE PROVISIONS

- 4.1 Articles 3 to 22 of the Order contain provisions for and relating to the authorised development and miscellaneous and general provisions.
- 4.2 *Article 3 (Development consent etc. granted by the Order)* grants development consent for the authorised development within the Order limits thereby authorising the construction of the authorised development. The authorised development means the development under sections 14(1)(a) and 15(2) of the PA 2008 and associated development under section 115 of the PA 2008 described in Schedule 1. Sub-paragraph (2) requires that the works authorised by the Order are constructed and installed within the Order limits in the lines and situations shown on the Works Plans. This is in order to provide certainty as to what has been consented by the Order.

- 4.3 *Article 4 (Maintenance of authorised development)* provides for the maintenance of the authorised development. Article 4 reflects the terms of the model provisions, but text has been added to make clear that maintenance must be in accordance with the provisions of the Order, and that it may only take place within the Order limits.
- 4.4 *Article 5 (Operation of generating station)* permits the operation and use of the generating station comprised in the authorised development and is included in accordance with s.140 of the PA 2008. *Article 5(2)* specifically preserves the need for the undertaker to obtain any other operational consent that may be needed for the generating station, in addition to the Order.
- 4.5 *Article 6 (Limits of deviation)* limits the scope of any deviation to the relevant work areas shown on the works plans, to ensure that the development is carried out in accordance with the environmental impact assessment undertaken.
- 4.6 *Article 7 (Benefit of the Order)* makes provision for the transfer of the benefit of the Order. The consent of the Secretary of State is needed before the undertaker can transfer or lease all or any of the benefit of the provisions of the Order except where the transferee or lessee is the holder of an electricity generating licence or a gas transporter. Where the consent of the Secretary of State is not required, written notification must be given to the Secretary of State instead. This wording is used in a number of electricity DCOs, including the Eggborough Gas Fired Generating Station Order 2018 and is justified as it is considered that in granting a generating licence under the Electricity Act 1989 or the Gas Act 1986 the Secretary of State will have established the fitness of the licence-holder and its suitability to take the benefit of the Order.

Part 3 (Streets)

- 4.7 *Article 8 (Defence to proceedings in respect of statutory nuisance)* provides that no one shall be able to bring statutory nuisance proceedings under the Environmental Protection Act 1990, if the nuisance is created in the course of carrying out or maintenance of the authorised development and for which notice has been given under section 60 or consent obtained under section 61 of the Control of Pollution Act 1974 or which is unavoidable. This article follows the model provisions in that it only applies to noise, although the drafting has been amended to refer to the operation of the Proposed Development being in accordance with any noise monitoring scheme approved under requirement 21. This is to ensure that the agreed noise levels are used in considering any proceedings.
- 4.8 *Article 9 (Temporary stopping up of public rights of way)* provides for the temporary stopping up of public rights of way subject to the consent of the local highway authority concerned which may attach reasonable conditions to any such consent. This follows the approach taken in the model provisions.

- 4.9 *Article 10 (Agreements with street authorities)* is a model provision and authorises street authorities and the undertaker to enter into agreements relating to the carrying out of works in the street and the stopping up, alteration or diversion of streets.
- 4.10 *Article 11 (Discharge of water)* is a model provision and enables the undertaker to discharge water into any watercourse, public sewer or drain in connection with the construction and maintenance of the authorised development with the approval and superintendence (if provided) of the authority to which the watercourse, public sewer or drain belongs (such approval not to be unreasonably withheld) and subject to certain other conditions. The article makes it clear that it does not over-ride the requirement for separate consents such as an environmental permit. In this regard, the reference from the model provisions to s.85 of the Water Resources Act 1991 has been deleted as this section has now been repealed - this has been replaced with a reference to the Environmental Permitting (England and Wales) Regulations 2016 instead.
- 4.11 *Article 12 (removal of human remains)* is a model provision. The only modification to the model provision, which would define a particular area of land to which it relates, is that the proposed article would apply to all land within the Order limits. This is because, while it is not anticipated that any human remains will be encountered during construction works, it is possible that human remains could be found during excavations anywhere within the Order limits. This article would provide a process for notification and identification of the human remains as well as their re-internment or cremation. The undertaker would be required to pay the reasonable expenses associated with this process.
- 4.12 *Article 13 (Application of landlord and tenant law)* is a model provision and overrides the application of landlord and tenant law in so far as it may prejudice the operation of any agreement for leasing the whole or part of the authorised development or the right to operate the same and any agreement for the construction, maintenance, use or operation of the authorised development or any part of it entered into by the undertaker.
- 4.13 *Article 14 (Operational land for purposes of the 1990 Act)* is a model provision and provides that for the purposes of section 264(3)(a) of the 1990 Act the development consent granted by the Order shall be treated as specific planning permission which means that certain permitted development rights are available to the undertaker.
- 4.14 *Article 15 (Felling or lopping of trees)* is a model provision which enables the undertaker to fell or lop trees and shrubs within the Order limits for the purposes of preventing obstruction or interference with the authorised development. The Article amends the model provision by also allowing the undertaker to fell or lop trees and shrubs overhanging the Order limits or those located within the extent of the publicly maintainable highway outside the Order limits for the purposes of preventing obstruction

or interference with the authorised development or constituting a danger to persons using the authorised development. Provision is included for the payment of compensation for loss and damage.

- 4.15 *Article 16 (protective provisions)* gives effect to *Schedule 4 (Protective provisions)* which protects the interests of certain statutory undertakers.
- 4.16 *Article 17 (certification of plans etc.)* is a model provision which requires the undertaker to submit copies of the relevant plans and documents referred to in the Order to the decision-maker for certification as true copies following the making of the Order.
- 4.17 *Article 18 (Procedure in relation to certain approvals etc.)* provides that any consent or approval from a consenting body required by the provisions of the Order shall be given in writing and not unreasonably withheld and gives effect to *Schedule 3* which sets out the procedure for the discharge of requirements.
- 4.18 *Article 19 (Arbitration)* makes provision for differences arising under any provision of the Order to be settled by a single arbitrator agreed or appointed by the Secretary of State. It is a model provision.
- 4.19 *Schedule 1 (Authorised development)* describes the authorised development in detail, split into 'work numbers', each of which represents different elements of the Proposed Development. The split between different work numbers enables the Order to refer to different parts of the Proposed Development by citing the relevant work number. The split also enables the Order and Works Plans to delineate the area within which each 'work' can be constructed, maintained and operated. The areas within which each work can be constructed are therefore shown on the Works Plans.
- 4.20 *Schedule 2 (Requirements)* sets out certain requirements that the undertaker must meet in relation to the construction and operation of the authorised development. These requirements take a similar form to planning conditions. The requirements follow the form of those in the model provisions except where the particular requirements of the authorised development justify an amendment to those provisions, or additional requirements are needed. The requirements have also, in some instances, been amended in response to the comments received from stakeholders including the local planning authority (Bassetlaw District Council), the highways authority (Nottinghamshire District Council) and neighbouring authorities such as Lincolnshire County Council and West Lindsey District Council, Natural England and Historic England and the Environment Agency to pre-application consultation on the draft Order. The requirements closely relate to the mitigation set out in the Environmental Statement (Application Document Ref. 5.2).

4.21 The requirements operate by reference to different stages of the authorised development (or parts of it) or specific Works. The undertaker may not proceed to these stages or Works until it has met its obligations under the requirements. This staged approach follows the approach agreed by the planning authority in relation to the Knottingley Power Plant Order 2015, and permits an appropriately flexible approach to the discharge of requirements by the undertaker which allows it to discharge a requirement in respect of part of the Proposed Development and construct that element, whilst continuing to submit details to discharge the requirement in relation to the other parts. This provides an appropriate balance between development not starting until details are approved and allowing other parts of the Proposed Development (where details have been approved) to be constructed.

- (a) *Requirement 2: Commencement of the authorised development* - this requirement departs from the model provisions and requires that the authorised development must be commenced within 7 years of the date of the Order coming into force rather than 5, and also that the undertaker must give the relevant planning authority the standard 14 days' notice of its intention to commence the authorised development. The seven year period is proposed in order to enable the authorised development to be brought forward at the most appropriate time to meet the need for new peaking capacity and to secure a corresponding capacity market agreement to enable its financing. The timing will be driven by a number of factors, including the scale of future demand for electricity, the timing and extent of closure of existing generation capacity and the realisation of competing new generation and interconnector projects. As these factors cannot be foreseen with accuracy, a commencement period of seven years is proposed in order to encompass a range of scenarios. A seven year period was authorised for the CGen North Killingholme CCGT project.
- (b) *Requirement 3: Notice of commencement and completion of commissioning* - this is not a model provision. It requires the undertaker to give notice to the relevant planning authority and the named authorities (who have been included at their request) of the intended start and completion of commissioning.
- (c) *Requirement 4: Notice of commencement of commercial use* - this is not a model provision. It requires the undertaker to notify the relevant planning authority of the intended start of commercial use of the authorised development.
- (d) *Requirement 5: Detailed Design* - this is based on a model provision. It requires the specific design details of each of Works No 1, 2 and 4, or parts of them, to be submitted to and approved by the relevant planning authority before commencement, and for the authorised development to be constructed in accordance with those approved details. This requirement also sets out the

parameters of the various elements of the Proposed Development. Table 1 provides the maximum parameters in the event that a single large OGCT unit is constructed, and Table 2 the maximum parameters if up to five smaller gas turbines. These parameters are those assessed within the ES (see tables 4-1 and 4-2) for the “worst case” impacts. In order to provide for minor changes to these parameters in the final design the requirement allows for such changes to be authorised as long as they do not give rise to any greater environmental effects from those assessed in the ES. This approach has been authorised in the National Grid (Richborough Connection Project) Development Consent Order 2017 and more recently in the Millbrook Gas Fired Generating Station Order 2019.

- (e) *Requirement 6: Landscaping and Biodiversity management and enhancement* - this is based on a landscaping model provision, and has been modified to include provision for biodiversity protection management and enhancement. It requires the undertaker to submit a landscaping and biodiversity management and enhancement plan prior to commencing each of Works No 1, No 2 and No 4, or parts of them, in accordance with the landscaping and biodiversity management and enhancement plan submitted as part of the Application. The plan must set out measures to protect existing tree and shrub planting and avoid impacts on biodiversity and habitats, and must be implemented as approved.
- (f) *Requirement 7: External lighting* - this is based upon a model provision and requires the undertaker to submit details of external lighting to be installed during construction of Work No 1 to the relevant planning authority for approval before these works may commence. These details must be in accordance with the principles of the lighting strategy submitted as part of the Application. Sub-paragraph (2) contains an equivalent provision for the operation of Work No 1 which requires the scheme to be submitted prior to commissioning.
- (g) *Requirement 8: Means of enclosure* - this is based on a model provision. It requires that no stage of the authorised development may commence until details of all temporary means of enclosure have for that part been submitted to and approved by the relevant planning authority, including a programme for the removal of such temporary means of enclosure. It also requires that the pre-commencement material operations which involve temporary means of enclosure may only take place when they have been approved and authorised development may not be brought into commercial use until any permanent means of enclosure have been approved and completed.
- (h) *Requirement 9: Surface and foul water drainage* - this is based on a model provision. It provides that no stage of the authorised development may

commence until details of the temporary surface and foul water drainage systems for that part, in accordance with the outline drainage strategy, have been submitted to and approved by the relevant planning authority (in consultation with the Lead Local Flood Authority, the relevant internal drainage board and the Environment Agency). The systems must be constructed in accordance with the approved details. The undertaker must then also obtain the approval of the relevant planning authority following consultation with the Lead Local Flood Authority in relation to permanent surface water drainage and the other specified bodies in relation to both surface water and foul drainage of the equivalent permanent systems, which must occur prior to the start of construction of any part of those systems. The consultation requirements relating to the permanent drainage systems were included at the request of the various bodies.

- (i) *Requirement 10: Flood risk mitigation* - this is not a model provision. It provides that no stage of the authorised development may commence until a scheme for the mitigation of flood risk during construction has, for that part, been submitted to and approved by the relevant planning authority. The scheme must be in accordance with the principles set out in the ES and the requirement makes clear that the relevant planning authority should consult with the Environment Agency and the relevant internal drainage board prior to approving the schemes. Reference to the relevant internal drainage board was added in response to the pre-application consultation. The scheme must then be implemented during the construction of the authorised development unless otherwise agreed with the relevant local planning authority. The permanent flood mitigation works are to be approved in the same way prior to such works taking place.
- (j) *Requirement 11: Contaminated land and groundwater* - this is a modified model provision. It provides that no stage of the authorised development may commence until a scheme (to include a risk assessment and, if necessary, a site investigation) to deal with the contamination of land has, for that stage, been submitted to and approved by the relevant planning authority. It requires that the submitted scheme must be in accordance with the principles set out in the ES. It requires the relevant planning authority to consult with the Environment Agency on the submitted scheme. It also requires that any pre-commencement remedial work may only take place when it has been approved.
- (k) *Requirement 12: Unexpected contamination* – this is not a model provision and is based on the Environment Agency's required drafting of requirement 15 in the Triton Knoll Electrical System Order 2016 which is located in the same county

as the proposed development. It requires that, if during any stage of the authorised development, contamination not previously identified is found within the Order limits, then works in the vicinity of the contamination will cease until a written scheme including an investigation and assessment report identifying the extent of any contamination and the remedial measures to be taken, has been submitted to and approved by the relevant planning authority following consultation with the Environment Agency. Remedial works shall not be undertaken until the scheme has been approved.

- (l) *Requirement 13: Archaeology* - this is a modified model provision and the wording has been specifically requested by Historic England. It provides that no stage of the authorised development may commence until a written scheme of archaeological investigation for that stage has been submitted to and approved by the relevant planning authority after consultation with the relevant archaeological body. A similar provision applies in respect of pre-construction archaeological investigations and pre-commencement material operations which include intrusive ground works. The scheme submitted and approved must be in accordance with the principles set out in the outline written scheme of investigation submitted as part of the Application. Furthermore, any archaeological investigations must be carried out in accordance with the approved scheme and by a suitably qualified person or organisation approved by the relevant planning authority.
- (m) *Requirement 14: Protected species* - this is a modified model provision. It requires that no part of the authorised development may commence until further survey work for that part has been carried out to establish the presence of any protected species. Should the survey work identify any protected species, no development of that part may be begun until, after consultation with Natural England and the Environment Agency, a scheme of protection and mitigation measures has been submitted to and approved in writing by the relevant planning authority. This requirement is broader than the model provision in that it refers to "any" protected species, rather than just European protected species.
- (n) *Requirement 15: Construction environmental management plan* - this is a modified version of the model provision on 'Code of Construction Practice'. It requires a Construction and Environmental Management Plan, in accordance with the framework construction and environmental management plan and providing all of the details set out in sub-paragraph (2), to be submitted to and approved by the relevant planning authority before commencement of the authorised development. All construction works must be in accordance with the approved Construction and Environmental Management Plan.

- (o) *Requirement 16: Protection of highway surfaces* - this is not a model provision. It requires details of the condition surveys (including any post-construction surveys) which are to be carried out on the public highways to be used during construction to be submitted to the relevant planning authority prior to commencement of the authorised development.
- (p) *Requirement 17: Construction traffic and routing management plan* - this is a modified model provision. It requires a construction traffic routing and management plan in accordance with the principles of the framework plan submitted as part of the Application to be submitted to and approved by the relevant planning authority, following consultation with the highway authority, named authorities (who have been included at their request) and Highways England, before commencement of the relevant stage of the authorised development. It also requires notices to be erected and maintained throughout the construction period at every entrance to and exit from the construction site, indicating the approved routes for traffic entering and leaving the site.
- (q) *Requirement 18: Travel plan - construction staff* - this is a modified model provision. It requires a travel plan for construction staff to be submitted to the relevant planning authority. The plan must be in accordance with the framework construction workers travel plan submitted as part of the Application and include measures to encourage sustainable transport; details of the responsibility for and timetable for implementation of those measures; details of parking for construction personnel, and a monitoring and review regime. The approved plan (which is to be approved in consultation the highway authority) must be implemented within three months of commencement of the authorised development.
- (r) *Requirement 19: Construction hours* - this is a modified model provision. It specifies the hours in the day within which all construction work associated with the authorised development must be carried out. The restrictions do not apply to work that does not exceed a specified noise limit, relate to continuous construction activities previously notified or approved in advance by the relevant planning authority, is associated with an emergency or relates to the delivery of abnormal indivisible loads in specified circumstances. The requirement also permits a 30 minute start-up and shut-down period at the beginning and the end of the day in relation to the specified construction hours. The 48 hour notice period has been included at the request of Lincolnshire County Council.
- (s) *Requirement 20: Control of noise - construction* - this is a modified model provision. It requires a scheme for the monitoring and control of noise to be

submitted and approved prior to the commencement of any stage of the authorised development.

- (t) *Requirement 21: Control of noise - operation* - this requires that no stage of the authorised development must be brought in to commercial use until a scheme for the management and monitoring of noise during operation has been submitted to and approved by the relevant planning authority. Noise from the scheme must not exceed 5dB above background levels at any existing residential property measured following commissioning of the authorised development.
- (u) *Requirement 22: Piling and penetrative foundation design* - this is not a model provision. It requires that no piling works for the construction of the authorised development must commence until a piling and penetrative foundation design method statement, informed by a risk assessment, has been submitted to and approved with by the relevant planning authority. It requires that the relevant planning authority must consult with the Environment Agency on the method statement.
- (v) *Requirement 23: Restoration of land used temporarily for construction* - this is a modified model provision. It prevents the authorised development being brought into commercial use until the scheme for the restoration of any land within the Order limits which has been used temporarily for construction has been submitted to and approved by the relevant planning authority. It stipulates that the land must be restored within three years of the authorised development being brought into commercial use (or such other period as may be approved by the relevant planning authority), in accordance with the restoration scheme and the landscaping and biodiversity management and enhancement plan.
- (w) *Requirement 24: Local liaison committee* - this is not a model provision. It requires that, before the authorised development commences, the undertaker must establish a committee to liaise with local residents and organisations about matters relating to the authorised development. Relevant interest groups, Lincolnshire County Council, Nottinghamshire County Council, West Lindsey District Council and the relevant planning authority must also be invited and a representative of the undertaker must be in attendance. Unless otherwise agreed by the members, the committee must meet at least every quarter, starting in the month prior to commencement of the authorised development throughout construction, and then once a year during operation.
- (x) *Requirement 25 - Employment, skills and training plan* - this is not a model provision, and has been included to secure an employment, skills and training

plan, particularly in relation to local people, during construction. This is to ensure that, where possible, local people can benefit from the construction jobs created by the Proposed Development. A similar requirement was included at requirement 36 of the Knottingley Power Plant Order 2015 and requirement 34 of the Eggborough Gas Fired Generating Station Order 2018.

- (y) *Requirement 26: Decommissioning* - this is not a model provision. It requires the undertaker to submit a decommissioning environmental management plan to the relevant planning authority within 12 months of it deciding to decommission the authorised development. The relevant planning authority must approve the scheme before any decommissioning works are carried out and the scheme must be implemented as approved unless otherwise agreed with the relevant planning authority. This is considered relevant in the context of the authorised development. A similar requirement was included at requirement 38 of the Eggborough Gas Fired Generating Station Order 2018.

4.22 *Schedule 3 (Procedure for discharge of requirements)* 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. This is not in the model provisions. However, it is based on the procedure contained within the Hinkley Point C (Nuclear Generating Station) Order 2013, as amended, the National Grid (King's Lynn B Power Station Connection) Order 2013 and the Eggborough Gas Fired Generating Station Order 2018 and is included to ensure that there is a clear and timely process for discharging the requirements of the Order.

4.23 *Schedule 4 (Protective provisions)* includes the model protective provisions for gas electricity and sewerage undertakers (Part 1) and for the operators of electronic communications code networks (part 2). No requests have been made by these undertakers for such provisions to be included. The Applicant has engaged with the relevant statutory undertakers and will continue to do so following submission of the Application with a view to agreeing, where necessary, bespoke protective provisions for inclusion in the Order (or where appropriate to agreeing terms for such provisions outside the Order itself). In respect of National Grid Electricity Transmission and National Grid Gas (together "National Grid"), it is understood that Protective Provisions are unlikely to be required and the undertaker is seeking confirmation of this from National Grid.

Burges Salmon LLP

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