



The Planning Inspectorate  
Yr Arolygiaeth Gynllunio

The Planning Act 2008

## **WEST BURTON C POWER STATION PROJECT**

Examining Authority's Report  
of Findings and Conclusions

and

Recommendation to the Secretary of State for  
Business, Energy and Industrial Strategy

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Examining Authority

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**21 JULY 2020**

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# OVERVIEW

File Ref: EN010088

The application was made under section 37 of the Planning Act 2008 and was received in full by The Planning Inspectorate on 30 April 2019.

The Applicant is EDF Energy (Thermal Generation) Limited.

The application was accepted for Examination on 23 May 2019.

The Examination of the application began on 30 October 2019 and was completed on 22 April 2020.

The development proposed comprises the construction, operation and decommissioning of a gas-fired electricity generating power station with an output of up to 299 megawatts, comprising up to five open cycle gas turbines and associated buildings, structures and plant, as well as associated development, within the boundary of the existing West Burton power station site, near Gainsborough, in the county of Nottinghamshire.

Summary of Recommendation:

The Examining Authority recommends that the Secretary of State for Business, Energy and Industrial Strategy should make the Order in the form attached.

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APPENDIX B: LIST OF ABBREVIATIONS

APPENDIX C: THE RECOMMENDED DEVELOPMENT CONSENT ORDER

## ERRATA SHEET – West Burton C – Ref. EN010088

**Examining Authority's Report of Findings and Conclusions and Recommendation to the Secretary of State for the Department of Energy and Climate Change, dated 21 July 2020**

**Corrections agreed by the Examining Authority prior to a decision being made:**

[illegible]

# **1. INTRODUCTION**

## **1.1. INTRODUCTION TO THE EXAMINATION**

1.1.1. The application for a Development Consent Order (DCO) for the West Burton C Power Station (the Proposed Development) [APP-002] was submitted by EDF Energy (Thermal Generation) Limited (the Applicant) to the Planning Inspectorate on 30 April 2019 under section (s) 31 of the Planning Act 2008 (PA2008) and accepted for Examination under s55 of PA2008 on 23 May 2019 [PD-001].

1.1.2. The Proposed Development comprises:

- A gas fired generating station (Work Number (No) 1) with a gross electrical output capacity of up to 299 megawatts (MW) comprising:
  - a) up to five open cycle gas turbine (OCGT) units and associated generators, potentially housed within building(s) with stack(s), transformer(s), air inlets filter(s) and exhaust gas diffuser(s); b) associated switchgear and ancillary equipment; and c) auxiliary closed loop cooling equipment / system;
- Work No 1 may also include a banking compound comprising up to six transformers, overhead busbars, cable sealing ends and associated switchgear and ancillary equipment;
- A gas receiving area, gas treatment and control facilities, a compression station, generator and other auxiliary control cabinets and equipment (Work No 2);
- Electrical connection works (Work No 3) comprising: up to 400 kilovolt (kV) electrical cables and control systems cables to and from the existing West Burton B (WBB) power station switchyard (Work No 3A); and works within or adjacent to the existing WBB power station switchyard, including electrical cables, connections to busbars and upgraded or replacement equipment (Work No 3B);
- Auxiliary buildings, structures and equipment (Work No 4) comprising: a) emergency diesel generator and associated diesel fuel tank; b) contained road tanker diesel unloading area; c) workshop, store, control, administration and welfare building; d) above ground raw water and fire water storage tanks and associated infrastructure; e) area of hardstanding for maintenance laydown and erection of temporary buildings associated with the commissioning, operation and maintenance of the OCGT unit(s); f) pipework, pipe runs and pipe racks; g) fire-fighting equipment, buildings and distribution pipework; and h) chemical storage facilities, other minor infrastructure and auxiliaries / services;
- A new surface water drainage system (Work No 5) 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;
- Gas supply pipeline connection works for the transport of natural gas to Work No 1 from an existing gas receiving facility within WBB power station (Work No 6) comprising: 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

(Work No 6A); and an extension to the existing WBB power station gas receiving facility (Work No 6B) comprising: i) an offtake connection; ii) gas compressor (if required); iii) above and below ground valves, flanges and pipework; iv) an above or below ground remotely operated valve; v) an above or below ground remotely operated valve bypass; vi) an above or below ground pressurisation bridle; vii) instrumentation and electrical kiosks; and viii) telemetry equipment kiosks and communications equipment;

- Water supply and pipeline from Work No 1 to an existing water supply within WBB power station (Work No 7);
- Low voltage electrical, control, metering and other cables and associated switchgear and ancillary equipment and cabinets required to connect Work Nos 1-6 with WBB power station (Work No 8);
- Associated development in connection with Work Nos 1-8 comprising: a rail offloading area from the existing rail loop 'merry-go-round' (Work No 9); and a Landscaping and Biodiversity Management and Enhancement Area (Work No 10); and
- Further associated development comprising: a) vehicle parking and cycle storage facilities; b) 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; c) internal access roads, roadways and footpaths; d) noise attenuation features; e) landscaping, fencing and security provisions; and f) lighting columns and lighting.

1.1.3. The location of the Proposed Development is shown in the Environmental Statement (ES) [APP-029 to APP-131], Location Plan [APP-007] and Land Plans [APP-019]. The application site lies in the administrative County of Nottinghamshire and the administrative District of Bassetlaw and is wholly in England.

1.1.4. The legislative tests for whether the Proposed Development is a Nationally Significant Infrastructure Project (NSIP) were considered by the Secretary of State (SoS) for the Ministry of Housing, Communities and Local Government (MHCLG) in its decision to accept the application for Examination in accordance with s55 of PA2008 [PD-001].

1.1.5. On this basis, the Planning Inspectorate agreed with the Applicant's view stated in the application form [APP-002] that the Proposed Development is an NSIP as it consists of the construction of a generating station with a capacity of more than 50MW, is within s14(1)(a) and s15(1) of PA2008, and so requires development consent in accordance with s31 of PA2008. The Proposed Development therefore meets the definition of an NSIP set out in s14(1)(a) and s15(1) of PA2008.

## **1.2. APPOINTMENT OF THE EXAMINING AUTHORITY**

1.2.1. On 7 August 2019, I was appointed as the Examining Authority (ExA) for the application under s78 and s79 of PA2008 [PD-003].



### **1.3. THE PERSONS INVOLVED IN THE EXAMINATION**

- 1.3.1. The persons involved in the Examination were persons who were entitled to be Interested Parties (IPs) because they had made a relevant representation (RR) or were a statutory party who requested to become an IP.

### **1.4. THE EXAMINATION AND PROCEDURAL DECISIONS**

- 1.4.1. The Examination began on 30 October 2019 and concluded on 22 April 2020.
- 1.4.2. The principal components of and events around the Examination are summarised below. A fuller description, timescales and dates can be found under the Examination Timetable section of the project page of the Planning Inspectorate National Infrastructure website<sup>1</sup>.

#### **The Preliminary Meeting**

- 1.4.3. On 26 September 2019, I wrote to all IPs and Statutory Parties under Rule 6 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) (The Rule 6 Letter) inviting them to the Preliminary Meeting (PM) [PD-004], outlining:
- the arrangements and agenda for the PM;
  - an Initial Assessment of the Principal Issues (IAPI);
  - the draft Examination Timetable;
  - availability of RRs and application documents; and
  - my Procedural Decisions.
- 1.4.4. The PM took place on 30 October 2019 at Best Western Plus West Retford Hotel, 24 North Road, Retford DN22 7XG. An audio recording [EV-002] and a note of the PM [EV-001] were published on the project page of the Planning Inspectorate National Infrastructure Planning website.
- 1.4.5. My procedural decisions and the Examination Timetable took full account of matters raised at the PM. They were provided in the Rule 8 Letter [PD-005], dated 6 November 2019.

#### **Key Procedural Decisions**

- 1.4.6. The Procedural Decisions set out in the Rule 8 Letter related to matters that were confined to the procedure of the Examination and did not bear on my consideration of the planning merits of the Proposed Development. Further, they were complied with by the Applicant and relevant IPs. The Procedural Decisions can be obtained from the Rule 8 Letter [PD-005] and so there is no need to reiterate them here.

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<sup>1</sup> <https://infrastructure.planninginspectorate.gov.uk/projects/north-east/west-burton-c-power-station/>

## Site Inspections

- 1.4.7. Site inspections are held in PA2008 Examinations to ensure that the ExA has an adequate understanding of the Proposed Development within its site and surroundings and its physical and spatial effects.
- 1.4.8. Where the matters for inspection can be viewed from the public domain and there are no other considerations such as personal safety or the need for the identification of relevant features or processes, an Unaccompanied Site Inspection (USI) is held. Where an inspection must be made on land requiring consent to access, there are safety or other technical considerations and / or there are requests made to accompany an inspection, an Accompanied Site Inspection (ASI) is held.
- 1.4.9. I held the following USIs:
- USI1, 25 September 2019, to gain an appreciation and understanding of the context of the application site, its surroundings and views of it [EV-003];
  - USI2, 29 October 2019, to gain further appreciation and understanding of the context of the application site, its surroundings and views of it [EV-004]; and
  - USI3, 22 January 2020, to gain an appreciation of the environs of the application site from the vicinity of Bole during the hours of darkness [EV-004a].
- 1.4.10. A site note providing a procedural record of each USI can be found in the Examination Library under the above references.
- 1.4.11. I held the following ASI:
- ASI [EV-005], 21 January 2020, to gain access to and observe the land and features within the application site and to view the application site and its surroundings from the vicinity of Bole. The ASI on the application site took place in the presence of the Applicant, a representative of West Lindsey District Council (WLDC) and local resident and IP Mr Coomber. The application Case Manager from the Planning Inspectorate was also present. The ASI from the vicinity of Bole was undertaken in the presence of the Applicant and the application Case Manager only, as the representative of WLDC and Mr Coomber did not wish to attend this part of it.
- 1.4.12. Councillor (Cllr) Naish, an IP on behalf of the residents of Bole village, indicated that he would attend the ASI from the vicinity of Bole. However, he was not present at the appointed time and location and did not attend the ASI.
- 1.4.13. The itinerary for the ASI can be found in the Examination Library under the above reference.
- 1.4.14. I have had regard to the information and impressions obtained during the site inspections in all relevant sections of this Report.

## **Hearing Processes**

- 1.4.15. Hearings are held in PA2008 Examinations in two main circumstances:
- To respond to specific requests from persons who have a right to be heard - in summary terms:
    - where persons affected by compulsory acquisition (CA) and / or temporary possession (TP) proposals (Affected Persons) object and request to be heard at a Compulsory Acquisition Hearing (CAH); and / or
    - where IPs request to be heard at an Open Floor Hearing (OFH).
  - To address matters where the ExA considers that an Issue Specific Hearing (ISH) is necessary to inquire orally into matters under examination, typically because they are complex, there is an element of contention or disagreement, or the application of relevant law or policy is not clear.
- 1.4.16. I held a number of hearings to ensure the thorough examination of the issues raised by the application.
- 1.4.17. As the Proposed Development would be undertaken entirely within the boundary of land owned by the Applicant, no CA or TP has been sought and therefore no CAHs were held.
- 1.4.18. An ISH under s91 of PA2008 was held at the Best Western Plus West Retford Hotel, 24 North Road, Retford DN22 7XG. The ISH was held on the subject matter of Environmental Matters and the draft Development Consent Order (dDCO) on 22 January 2020. A letter setting out the principal matters for discussion and the agenda for the ISH was published on the project page of the National Infrastructure Planning website on 13 January 2020 [EV-007].
- 1.4.19. An OFH was held under s93 of PA2008, also at the Best Western Plus West Retford Hotel, 24 North Road, Retford DN22 7XG, on the evening of 21 January 2020. A letter setting out the agenda for the OFH was published on the project page of the National Infrastructure Planning website on 13 January 2020 [EV-006]. All IPs were provided with an opportunity to be heard on any important and relevant subject matter that they wished to raise.
- 1.4.20. Audio recordings of the ISH and the OFH were published on the project page of the National Infrastructure Planning website [EV-008 and EV-009].

## **Written Processes**

- 1.4.21. Examination under PA2008 is primarily a written process, in which the ExA has regard to written material forming the application and arising from the Examination. All of this material is recorded in the Examination Library at Appendix A of this Report and published online. Individual document references to the Examination Library in this Report are enclosed in square brackets []. For this reason, this Report does not

contain extensive summaries of all documents and representations, although full regard has been had to them in my conclusions. I have considered all important and relevant matters arising from them.

- 1.4.22. Key written sources are set out further below.

### **Relevant Representations**

- 1.4.23. Twenty-three RRs were received by the Planning Inspectorate [RR-001 to RR-023]. All makers of RRs received the Rule 6 Letter and were provided with an opportunity to participate in the Examination as IPs. I have fully considered all RRs submitted. The issues that they raise are considered in Chapter 4, 6, 7 and 8 of this Report.

### **Written Representations and Other Examination Documents**

- 1.4.24. The Applicant and IPs were provided with opportunities to:
- make Written Representations (WRs) (Deadline (D) 2);
  - comment on WRs made by the Applicant and other IPs (D3);
  - summarise their oral submissions at hearings in writing (D4); and
  - make other written submissions requested or accepted during the Examination.
- 1.4.25. I have fully considered all WRs and other examination documents submitted. The issues that they raise are considered in Chapter 4, 6, 7 and 8 of this Report.

### **Local Impact Reports**

- 1.4.26. A Local Impact Report (LIR) is a report made by a relevant local authority giving details of the likely impact of the Proposed Development on the authority's area (or any part of that area) that has been invited and submitted to the ExA under s60 PA2008.
- 1.4.27. LIRs have been received from the following relevant local authorities:
- Bassetlaw District Council (BDC) [REP1-018]; and
  - WLDC [REP1-020].
- 1.4.28. The LIRs have been taken fully into account in all relevant Chapters of this Report.

### **Statements of Common Ground**

- 1.4.29. Statements of Common Ground (SoCG) are statements agreed between the Applicant and one or more IPs, recording matters that are agreed between them.
- 1.4.30. By the end of the Examination, the following bodies had concluded SoCG with the Applicant:
- Natural England (NE) [REP1-009];
  - Historic England (HE) [REP1-010];
  - Environment Agency (EA) [REP1-016];

- Marine Management Organisation [REP1-008];
- Nottinghamshire County Council (NCC) [REP1-013 and REP5-011];
- Lincolnshire County Council [REP1-011];
- National Grid [REP1-014];
- Trent Valley Internal Drainage Board [REP1-015];
- BDC [AS-005];
- WLDC [REP1-012]; and
- Nottinghamshire Wildlife Trust (NWT) [REP4-006].

1.4.31. The SoCG have been taken fully into account in all relevant Chapters of this Report.

### **Written Questions**

1.4.32. I asked one round of written questions ahead of the hearings outlined above.

- The Written Questions (ExQ) [PD-006] and Procedural Decisions were set out in the Rule 8 Letter [PD-005], dated 6 November 2019.

1.4.33. The following requests for further information and comments under Rule 17 of the EPR were issued on:

- 11 December 2019 [PD-007]: to the Applicant in respect of outstanding SoCG between the Applicant and BDC / NWT and unnecessary reference in the dDCO to powers to acquire or purchase land; and to NE in respect of matters relating to on-site biodiversity mitigation;
- 5 February [PD-009]: to the Applicant and the Canal and River Trust (CRT) in respect of the potential need for Protective Provisions; and to the Applicant in respect of soil management, transportation of Abnormal Indivisible Loads, clarification on matters relating to biodiversity and matters relating to the dDCO;
- 9 March 2020 [PD-010]: to the Applicant and BDC in respect of soil management; to the Applicant in respect of biodiversity legislation, design and parameters of the dDCO; to NE in respect of protected species licencing; and to WLDC in respect of planning policy; and
- 3 April 2020 [PD-011]: to the Applicant in respect of soil management, biodiversity legislation and a Decommissioning Traffic Management Plan.

1.4.34. All responses to my written questions and requests for further information have been fully considered and taken into account in all relevant Chapters of this Report.

### **Requests to Join and Leave the Examination**

1.4.35. There were no formal requests to join the Examination by persons who were not already IPs at or after the PM.

1.4.36. No persons wrote to formally record the settlement of their issues and the withdrawal of their representations.

## **1.5. ENVIRONMENTAL IMPACT ASSESSMENT**

- 1.5.1. The Proposed Development is development for which an Environmental Impact Assessment (EIA) is required (EIA development). The current EIA legislation for NSIP cases is the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (2017 EIA Regulations). They revoke the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (2009 EIA Regulations) subject to transitional provisions in Regulation 37 of the 2017 EIA Regulations. The Applicant considered that the transitional provisions applied to the application [APP-030].
- 1.5.2. The 2017 EIA Regulations came into force on 16 May 2017, thus before the application was made. Nevertheless, Regulation 37(2)(a)(ii) of the 2017 EIA Regulations states that the 2009 EIA Regulations will continue to apply to any application for an order granting development consent or subsequent consent where before the commencement of the 2017 EIA Regulations, the Applicant had requested the SoS to adopt a Scoping Opinion defined by the 2009 EIA Regulations.
- 1.5.3. On 27 April 2017, the Applicant submitted a Scoping Report to the SoS under Regulation 8 of the 2009 EIA Regulations in order to request an opinion about the scope of the Environmental Statement (ES) to be prepared (a Scoping Opinion) [APP-047]. I am thus satisfied that for this application, the provisions in Regulation 37(2)(a)(ii) of the 2017 EIA Regulations apply, and accordingly it should be considered against the 2009 EIA Regulations. It follows that the Applicant is deemed to have notified the SoS under Regulation 6(1)(b) of the 2009 EIA Regulations that it proposed to provide an ES in respect of the Proposed Development.
- 1.5.4. The Planning Inspectorate provided a Scoping Opinion dated June 2017 [APP-048]. Therefore, in accordance with Regulation 4(2)(a) of the 2009 EIA Regulations, the Proposed Development was determined to be EIA development, and the application was accompanied by an ES [APP-029 to APP-131].
- 1.5.5. The 2009 EIA Regulations establish the minimum information to be supplied by the Applicant within an ES, as well as information that an ExA can request as being reasonably justified given the circumstances of the case. Part 2 of Schedule 4 represents the minimum requirements for an ES under the 2009 EIA Regulations and this is reinforced by Regulation 3(2), which sets out the core duty of the decision-maker in making a decision on EIA Development. Regulation 3(2) of the 2009 EIA Regulations sets out that the decision-maker must not make an order granting development consent unless it has first taken the environmental information into consideration, and it must state in its decision that it has done so.
- 1.5.6. The Proposed Development is EIA development under Schedule 2 of the 2009 EIA Regulations. The Applicant has provided an ES [APP-029 to APP-131] as part of the submitted application. In reaching my

conclusions and recommendation I have taken the environmental information as defined in Regulation 3(2) (including the ES and all other information on the environmental effects of the Proposed Development) into consideration. I am satisfied that the ES met the requirements of Schedule 4 of the 2009 EIA Regulations and, together with the environmental information provided during the Examination, forms an adequate basis for decision making.

- 1.5.7. On 2 September 2019 the Applicant provided the Planning Inspectorate with a certificate confirming that s56 of PA2008 (notifying persons of accepted application) had been complied with. On 2 September 2019 the Applicant provided the Planning Inspectorate with an incorrect certificate confirming that Regulation 13 of the 2009 EIA Regulations (accepted application - publicity and consultation for EIA development) had been complied with. The Planning Inspectorate made the Applicant aware of this and the Applicant subsequently provided the correct certificate on 3 December 2019. I am satisfied that this was a genuine error and that it does not affect the consideration of the application in any way.

## **1.6. HABITATS REGULATIONS ASSESSMENT**

- 1.6.1. The Proposed Development is development for which a Habitats Regulations Assessment (HRA) Report has been provided. A Habitats Regulations Assessment No Significant Effects Report (NSER) was provided as part of the application documentation [APP-027]. It was revised during the Examination [REP7-006] to refer correctly to the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations). Both the original and revised NSERs concluded that no likely significant effects on European sites had been identified and the Proposed Development did not require further consideration through an appropriate assessment.
- 1.6.2. Under Regulation 5(2) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, where required, an application must be accompanied with sufficient information to enable the relevant SoS to meet their statutory duties as the competent authority under the Habitats Regulations.
- 1.6.3. Consideration is given to the adequacy of the NSER, associated information and evidence and the matters arising from it in Chapter 5 of this Report.

## **1.7. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS**

- 1.7.1. By the end of the Examination, there were no matters subject to any formal undertakings, obligations or agreements. All relevant considerations are addressed in this Report as bearing on the DCO.

## **1.8. OTHER CONSENTS**

- 1.8.1. The application documentation and questions during this Examination have identified other consents and licences that the Proposed Development has obtained or must obtain, in addition to Development

Consent under PA2008. The final list of these is set out in the Schedule of Other Consents and Licences submitted at D7 [REP7-005]. The latest position on these is recorded below.

- **Electricity Generation Licence, Electricity Act 1989, Gas and Electricity Markets Authority** Required for the generation of electricity. Application to be submitted prior to the commencement of construction.
- **Bilateral Connection Agreement for connection to National Grid 400 kV substation, National Grid Electricity Transmission Plc (NGET)** Required for electrical connection works to NGET substation. Application to be submitted prior to the commencement of construction.
- **Application to Offer for connection to the National Transmission System, National Grid Gas Plc (NGG)** Required for gas connection works. Application to be submitted prior to the commencement of construction.
- **Non-Obligated Gas Capacity, NGG** Required for gas connection works. Application to be submitted prior to the commencement of construction.
- **Pipeline Safety Notification, The Pipeline Safety Regulations 1996, The Health and Safety Executive (HSE)** Required for gas connection works. Notification 6 months prior to commencement of construction.
- **Gas Safety Case, The Gas Safety (Management) Regulations 1996, HSE** Required for gas connection works. Application to be submitted prior to the commencement of construction.
- **Notification of Construction Works, The Construction (Design and Management) Regulations 1994, HSE** Notification prior to commencement of construction.
- **Greenhouse Gas Permit, Greenhouse Gas Emissions Trading Scheme Regulations 2012, EA** Required for the emission of carbon dioxide. The applicant indicates that an existing Greenhouse Gas Permit for WBB power station could be amended to cover the Proposed Development. Application to be submitted prior to commissioning of the Proposed Development.
- **Fire Notice, The Regulatory Reform (Fire Safety) Order 2005, Local Fire and Rescue Authority** Required for work on construction sites. Application to be submitted prior to the commencement of construction.
- **Construction Noise Consent, The Control of Pollution Act 1974, BDC** May be required for certain activities during construction. Application to be submitted during construction works, if required.
- **Permit for Transport of Abnormal Loads, The Road Vehicles (Authorisation of Special Types) (General) Order 2003 or The Road Traffic Act 1988, VCA (the Executive Agency of the Department for Transport), Highways England and NCC** Required for the management of Abnormal Loads and Abnormal Indivisible Loads (AILs). Permit to be sought once number and type of Abnormal Loads and AILs established, following the appointment of a contractor.



- **Building Regulations Approval, The Building Regulations 2000 (as amended), BDC** Required in respect of buildings and structures. Would be sought prior to commencement of relevant works.
- **Environmental Permit (EP), The Environmental Permitting (England and Wales) Regulations 2010, EA** Required for the operation of the Proposed Development. The Applicant has agreed with the EA that this can take the form of a 'Substantial Variation' to the EP for WBB power station. The application was received by the EA on 15 May 2019. It was duly made by the EA on 8 October 2019 and is currently being determined.
- **EP Partial Surrender Application, EA** Required in parallel with the abovementioned EP 'Substantial Variation' to surrender in part land from the responsibility of West Burton A (WBA) power station to WBB power station. The application was submitted in Q2 2019 and was duly made by the EA on 18 September 2019. It is understood that the EA intends to issue the two varied EPs at the same time to ensure that the surrendered land is not unpermitted while the 'Substantial Variation' application is being determined.
- **European Protected Species Licence, Habitats Regulations, NE** Required for any components of the Proposed Development that affect European protected species. Application to be submitted prior to the commencement of construction, if required.
- **Great Crested Newt (GCN) Mitigation Licence, Habitats Regulations, NE** Required for any components of the Proposed Development that affect this species. Application to be submitted prior to the commencement of development. The Applicant submitted a draft GCN mitigation licence application to NE and NE issued a letter of no impediment dated 27 November 2019 [REP2-010].
- **Badgers: licence to interfere with setts for development purposes, The Protection of Badgers Act 1992, NE** Required for any components of the Proposed Development that affect this species. Application to be submitted prior to start of construction, if required.

1.8.2. In relation to the outstanding consents and licences recorded above, I have considered the available information bearing on these and, without prejudice to the exercise of discretion by future decision-makers, have concluded that there are no apparent impediments to the implementation of the Proposed Development, should the SoS grant the application.

## 1.9. STRUCTURE OF THIS REPORT

1.9.1. This Report provides the SoS for Business, Energy and Industrial Strategy (BEIS) with my findings and conclusions in respect of the application for development consent for the Proposed Development. The Report is structured as follows:

- **Chapter 1** introduces the application and the processes used to carry out the Examination and to make this Report;
- **Chapter 2** describes the application site and its surrounds, the Proposed Development, its planning history and that of related projects;
- **Chapter 3** records the legal and policy context for the SoS's decision;

- **Chapter 4** sets out the planning issues that arose from the application and during the Examination;
- **Chapter 5** considers effects on European sites and HRA;
- **Chapter 6** sets out the balance of planning considerations arising from Chapters 4 and 5, in the light of the factual, legal and policy information in Chapters 1 to 3;
- **Chapter 7** considers the implications of the matters arising from the preceding chapters for the DCO; and
- **Chapter 8** summarises all relevant considerations and sets out my recommendation to the SoS for BEIS.

1.9.2. This Report is supported by the following appendices:

- **Appendix A** – Examination Library;
- **Appendix B** – List of Abbreviations; and
- **Appendix C** – Recommended DCO.

1.9.3. Given that the application and Examination material has been published online, this Report does not contain extensive summaries of all the representations although regard has been had to them in my conclusions. I have considered all important and relevant matters and set out my recommendations to the SoS for BEIS against the tests of PA2008.

## **2. THE PROPOSAL AND THE SITE**

### **2.1. THE APPLICATION AS MADE**

- 2.1.1. The Applicant submitted an application for development consent under the Planning Act 2008 (PA2008) for the construction, operation and decommissioning of a gas-fired electricity generating power station with an output of up to 299 megawatts (MW), comprising up to five open cycle gas turbines (OCGTs) and associated buildings, structures and plant, as well as associated development. The application site is within the boundary of the existing West Burton power station site, near Gainsborough, in the county of Nottinghamshire.
- 2.1.2. Schedule 1 of the recommended Development Consent Order (rDCO) at Appendix C sets out the formal description of the Proposed Development. A brief description of the elements that comprise the Proposed Development is set out below. More detail on these elements can be found in Environmental Statement (ES) Chapter 4 [APP-033].

#### **Power station and associated stacks**

- 2.1.3. The Proposed Development would operate as a peaking plant, for the purposes of rapidly supplying electricity to the National Grid as and when required. Such plants can be fired up at short notice to assist with periods of high demand or low electricity supply nationally. It would be limited to operation for 2250 hours per year (or 1500 hours per year as a rolling five-year average) under an Environmental Permit (EP) issued by the Environment Agency (EA).
- 2.1.4. The final choice of technology for the Proposed Development has not yet been determined. Nor has its overall design. The rDCO thus provides some flexibility to account for this and the ES has been undertaken adopting the principles of the 'Rochdale Envelope'. This involves using varying parameters to establish robust worst-case scenarios in respect of elements where flexibility needs to be retained.
- 2.1.5. However, the Proposed Development would comprise up to five OCGTs with associated stacks. OCGTs utilise natural gas mixed and combusted with air from a compressor to drive the turbines. The OCGTs would either be housed within a single building or would have their own enclosures. If a single large OCGT was selected, it would typically have dimensions of 50 metres (m) in length and 20m in width with a stack height of up to 45m above ground level (mAGL). If smaller OCGTs were selected, each would typically have dimensions of 35m in length and 12m in width with a stack height of up to 45mAGL. The top of the stacks irrespective of final design, would be up to 59m above ordnance datum (mAOD).
- 2.1.6. The Proposed Development would include switchgear and ancillary electrical equipment for its operation and the exportation of electricity to the existing West Burton B (WBB) power station switchyard. It would also include transformer(s), potentially housed in a banking compound, air inlet filter(s), exhaust gas diffuser(s) and cooling system(s) for the OCGT(s).

### **Gas receiving area**

- 2.1.7. A gas receiving area would be required to receive, treat and depressurise natural gas, in advance of using it as fuel for the OCGTs. It would include gas treatment and control facilities, a compression station, generator and other auxiliary equipment.

### **Electricity switchyard and grid connection**

- 2.1.8. The Proposed Development would connect to the existing 400 kilovolt (kV) switchyard within WBB power station using up to 400kV electrical cables and control system cables which would be installed either above ground or below ground, or a combination of both. Depending upon the OCGT technology selected, upgrades to existing switchgear or other existing equipment within WBB power station may be required.

### **Auxiliary buildings, structures and equipment**

- 2.1.9. The Proposed Development requires a range of auxiliary buildings, structures and equipment, including:
- emergency diesel generator;
  - an enclosed road tanker diesel unloading area;
  - a workshop, store, control, administration and welfare building;
  - above ground raw water and fire water storage tanks and associated infrastructure;
  - an area of hardstanding for maintenance laydown and erection of temporary buildings associated with the commissioning, operation and maintenance of the OCGT unit(s);
  - pipework, pipe runs and pipe racks;
  - fire-fighting equipment, buildings and distribution pipework; and
  - chemical storage facilities, other minor infrastructure and auxiliaries / services.

### **Black-start capability / emergency diesel generator**

- 2.1.10. Black-start capability may be provided as part of the Proposed Development. This would assist with restarting the national electricity transmission system in the event of a partial or total shutdown. If required, the emergency diesel generator would start a small gas turbine, which would in turn start a main gas turbine either at WBB power station or at the Proposed Development. The emergency diesel generator would also provide for the safe shutdown of the Proposed Development in the event of an emergency or loss of power. It would be a standalone unit and would not be used to supply electricity to the National Grid. It is expected to run for less than 50 hours per year.

### **Surface water drainage and attenuation**

- 2.1.11. The Proposed Development would incorporate a surface water drainage system, comprising a pond and / or a tank or similar, and would connect to the existing water drainage system associated with WBB power station. Three options have been considered, which include: a connection to WBB power station's purge line outfall to the River Trent, along a route referred to within the ES as 'the northern drainage corridor'; a

connection to WBB power station's purge line outfall to the River Trent, along a route referred to within the ES as 'the southern drainage corridor'; and a connection to WBB power station's drainage system in a manner which connects to the purge line of West Burton A (WBA) power station.

### **Gas supply infrastructure and treatment infrastructure**

- 2.1.12. A gas connection pipeline would link into WBB power station's existing gas supply infrastructure. A connection would be made between the existing WBB power station's gas receiving facility and the gas receiving area to serve the Proposed Development.

### **Sewerage and drains**

- 2.1.13. Foul drainage from the proposed welfare facilities would be directed to an on-site septic tank for treatment prior to discharge. The tank would be emptied by road tanker as and when required.

### **Water supply and pipeline**

- 2.1.14. Water would be supplied to the Proposed Development via a pipeline linking to an existing water supply at WBB power station.

### **Low voltage electrical and utilities connections**

- 2.1.15. Provision would be made for a low voltage electrical supply and associated metering. It is anticipated that these would be supplied from WBB power station.

### **Rail offloading area**

- 2.1.16. The wider West Burton power station site is connected to the Retford-Gainsborough railway line, principally to allow for coal deliveries to WBA power station. A rail loop allows trains to turn around, as required. Transport of construction plant, equipment and materials for the Proposed Development via the railway line is being considered. Thus, the Proposed Development includes provision of a rail offloading area from the existing rail loop.

### **Landscaping and biodiversity enhancement measures**

- 2.1.17. The Proposed Development would include provision of a Landscaping and Biodiversity Management and Enhancement Area. This area would be managed to improve grassland, scrub and reedbed habitats and would be subject to tree planting and the creation of habitat piles and hibernacula, including for great crested newts (GCN). It would also be subject to species rich grassland and scrub habitat reinstatement works following the removal of the construction laydown area.

### **Vehicle parking and cycle storage**

- 2.1.18. Provision would be made within the application site for a number of car parking spaces and cycle storage for operational use.

### **Construction laydown area**

- 2.1.19. The construction laydown area would be used for purposes including the contractors' compound, the storage of materials and plant, the siting of temporary generators, vehicle and cycle parking, offices and welfare facilities.

### **Internal access, roadways and footpaths**

- 2.1.20. Access to the application site would be via the existing main entrance to the West Burton power station site, off Gainsborough Road. Existing internal roadways would be used with additional roadways constructed within the application site as appropriate.

### **Security fencing**

- 2.1.21. Security systems would be provided in respect of the Proposed Development to manage people access, including paladin fencing, intruder alarms and turnstiles.

### **Lighting**

- 2.1.22. Lighting would be required during the construction and operation of the Proposed Development, during hours of darkness. Lighting would be restricted to focussed point use where reasonably practicable. The exception to this would be any lighting required for security or safety purposes. Permanent lighting provided would be for general pedestrian movement, safety and security purposes. Any lighting that may be required for maintenance purposes will be produced by temporary lighting sets specific to the required task. Only critical lighting would be used between 2300 and 0500 hours.

## **2.2. THE APPLICATION SITE AND ITS SURROUNDINGS**

- 2.2.1. The application site and its surroundings are described in ES Chapter 3 [APP-032] and are shown on the Location Plan [APP-007]. The application site is located within the boundary of the existing West Burton power station site, approximately 3.5 kilometres (km) to the southwest of Gainsborough and to the immediate west of the River Trent. It falls within the administrative county of Nottinghamshire and the administrative district of Bassetlaw. Bassetlaw District Council (BDC) is the relevant local planning authority. The application site lies close to the boundaries of Lincolnshire County Council (LCC) and West Lindsey District Council (WLDC), which are to the immediate east of the River Trent.
- 2.2.2. The area surrounding the West Burton power station site is predominantly rural. The nearest settlements are the villages of Bole and Sturton le Steeple, located in excess of 1km to the northwest and southwest of the application site respectively. The West Burton power station site lies close to the junction of the A631 / A620 and is accessed by the C2 (Sturton Road / Gainsborough Road), which joins the A620 at Bole Corner.

- 2.2.3. The West Burton power station site, which covers in excess of 200 hectares (ha), currently encompasses two power stations, owned and operated by the Applicant. These are known as WBA and WBB power stations.
- 2.2.4. WBA power station is a coal fired power station which was commissioned in 1968 and which supplies up to 2000MW of electricity to the National Grid. It comprises four coal fired units with two chimney stacks, each 198m high, and eight natural draught cooling towers, each 112m high, with cooling water sourced from the River Trent. Pulverised fuel ash (PFA) is produced as a by-product of electricity generation at WBA power station. The Bole Ings Ash Disposal Site, to the north of WBA power station, is used for the disposal of PFA. It forms an area of approximately 83ha and has been operational since 1993. It is worth noting here that, under current legislation, it is anticipated that WBA power station would close by 2025.
- 2.2.5. WBB power station is a combined cycle gas turbine (CCGT) power station which was commissioned in 2013. It lies to the immediate northeast of WBA power station and comprises three units, each having a gas turbine, a heat recovery steam generator and an associated steam turbine, with a combined output capacity of 1,332MW. It has three CCGT stacks, each 80m high. WBB power station connects to the National Grid electricity transmission system via the existing WBA power station 400kV substation, located within the confines of the West Burton power station site.
- 2.2.6. The application site is shown on the Land Plan [APP-019] and the Works Plans [APP-009 to APP-018]. It comprises various components and parcels of land.
- 2.2.7. The Proposed Development would occupy land which currently comprises areas of scrub and grassland, created following the development of WBB power station. This area lies to the immediate northeast of WBB power station. To the east of this, within the wider West Burton power station site, is an area of woodland and ponds, forming part of the West Burton Power Station Local Wildlife Site (LWS).
- 2.2.8. The construction laydown area would occupy land to the north of the Proposed Development. This land comprises areas of grassland and scrub as well as an area used as a compound associated with ash disposal for WBA power station.
- 2.2.9. An area to the south of the Proposed Development would be used for a gas connection to an existing gas receiving facility within WBB power station and comprises areas of hardstanding and gravel. Some land to the east of WBB power station, comprising primarily loose stones, would be used for an electricity connection between the WBB power station 400kv switchyard and the Proposed Development.
- 2.2.10. A surface water drainage system would connect to the existing surface water drainage systems of WBB power station. One option for the

connection would be along a northern drainage corridor to an existing WBB power station purge line which run alongside the River Trent. This route largely follows an existing access track but also encompasses some scrub and woodland on the edge of the track. A second option would be along a southern drainage corridor to the purge line. This route passes through areas of grassland, scrub, wet ditch and woodland. A third option would be to connect directly to the existing WBB power station drainage system within the existing WBB power station site to the immediate southwest of the Proposed Development.

- 2.2.11. The rail offloading area comprises a parcel of land to the immediate northeast of WBB power station which forms part of the existing rail loop which serves WBA power station.
- 2.2.12. The landscaping and biodiversity and enhancement areas include: the most northerly parcel of land within the application site which comprises areas of grassland and scrub; the construction laydown area; some land to the northeast of this which comprises grassland and scrub; and some land to the north of the northern drainage corridor which comprises scrub and reedbed.

## **2.3. THE APPLICATION AS EXAMINED**

- 2.3.1. Changes to the key application documents, including the wording of the draft Development Consent Order (dDCO), were submitted and updated during the Examination. The changes seek to address points raised by Interested Parties (IPs) and my questions and to reflect improved information and changes arising during the Examination. These included matters such as clarity and / or discrepancies within the dDCO and other environmental matters.
- 2.3.2. I have remained aware throughout the Examination of the need to consider whether changes to the application documents have changed it to a point where it became a different application and whether the Secretary of State (SoS) would have power therefore under section (s) 114 of PA2008 to make a Development Consent Order (DCO) having regard to the development consent applied for.
- 2.3.3. 'Planning Act 2008: *Guidance for the Examination of applications for development consent*' (March 2015), provides guidance at paragraphs 109 to 115 in relation to changing an application post Acceptance. The view expressed by the Government during the passage of the Localism Act was that s114(1) of PA2008 places the responsibility for making a DCO on the decision maker and does not limit the terms in which it can be made.
- 2.3.4. Having considered this context throughout the Examination, I consider that the changes to the application (primarily consisting of document updating) have not resulted in significant change to that which was applied for. The changes taken into account in reaching this conclusion are documented in the chapters below of this Report. It follows that the



SoS has the power to make the DCO as discussed in Chapter 7 and provided in Appendix C to this Report.

## **2.4. RELEVANT PLANNING HISTORY**

- 2.4.1. The Applicant's Planning Statement [APP-135] briefly outlines the planning history associated with the application site and the wider West Burton power station site. It notes that there is a history of power generation at the West Burton power station site that extends back approximately 50 years.
- 2.4.2. Electricity generation at WBA power station, a coal-fired power station, commenced in 1966. Consent for WBB power station was granted under the provisions of s36 of the Electricity Act 1989 in 2007. Construction of WBB power station commenced in 2008 and it started generating electricity in 2013. Planning permission (16/00954/FUL) for a 49MW battery storage facility within WBB power station was granted in September 2016. The development became operational in February 2018. Planning permission (F/3581) for the use of ash processing plant equipment was granted in 2017. The development commenced in the same year.
- 2.4.3. A planning application for a gas-fired generating station of up to 49MW was to be submitted by the Applicant (being subject to an EIA Scoping Opinion in September 2017). However, the Applicant decided not to proceed with this application.
- 2.4.4. BDC's Local Impact Report (LIR) [REP1-018] identifies some further planning permissions in respect of the West Burton power station site, including:
- 19/01236/HAZ: Hazardous chemicals consent for storage of hazardous chemicals, approved October 2019;
  - 16/01441/CDM: Use of ash processing plant, approved November 2016;
  - 16/01262/HAZ: Hazardous chemicals consent for storage of hazardous chemicals, approved December 2016;
  - 13/00191/VOC: Variation of condition 2 of 08/09/00002 for car parking and offices to be replaced by species rich grassland, approved April 2013;
  - 12/01750/CDM: Removal of condition 5(b) of 52/10/00003 to allow for supplemental delivery of PFA for processing from Cottam power station, approved January 2013;
  - 08/11/00004: Variation of condition 10 of 08/09/00001 relating to disposal of PFA, approved July 2011;
  - 08/10/00009/V: Amend condition 7 of 08/01/00001, approved October 2010;
  - 08/09/00002: Retention of landscape works involving re-use of spoil associated with construction of WBB power station, approved May 2009;
  - 08/09/00001: Modifications to Bole Ings Ash Disposal Site, approved September 2003;

- 08/01/00001: Modifications of conditions, approved September 2003;
- 08/91/00005: Ash disposal facility, approved July 1993;
- 08/86/00002: Borehole and fencing, approved April 1986; and
- 08/76/00005: Disposal of power station ash, approved July 1976.

2.4.5. I believe that none of the above planning permissions have any implications for the control of the DCO and that no previous Nationally Significant Infrastructure Project (NSIP) applications have been submitted relating to or affecting the site of the Proposed Development.

## **3. LEGAL AND POLICY CONTEXT**

### **3.1. INTRODUCTION**

- 3.1.1. This Chapter sets out the relevant legal and policy context for the application. I have taken this into account in the Examination of the Proposed Development and in presenting findings and making recommendations to the Secretary of State (SoS).
- 3.1.2. The Applicant's Planning Statement [APP-135] sets out the policy position in relation to the Proposed Development. The document includes an assessment of the Proposed Development against the policy requirements of National Policy Statement (NPS) EN-1 and NPS EN-2.
- 3.1.3. Environmental Statement (ES) Chapter 5 [APP-034] also sets out the policy position, with specific focus on international obligations, the national policy context and the local policy context. Individual chapters of the ES provide specific policy background relating to particular topics.
- 3.1.4. Bassetlaw District Council's (BDC) Local Impact Report (LIR) [REP1-018] includes the BDC position on applicable development plan policies and other local strategies in its administrative area.
- 3.1.5. West Lindsey District Council's (WLDC) LIR [REP1-020] includes the WLDC position on applicable development plan policies and other local strategies in its administrative area.

### **3.2. THE PLANNING ACT 2008**

- 3.2.1. The application is for a Development Consent Order (DCO) under the Planning Act 2008 (PA2008). It is for an onshore gas-fired electricity generating station with an electrical output of up to 299 megawatts (MW) [APP-002] and is defined as a Nationally Significant Infrastructure Project (NSIP) within section (s) 14(1)(a) and s15(1) of PA2008. The components of the Proposed Development are set out in Chapter 2 of this Report.
- 3.2.2. NPSs in respect of this type of development have been designated and the SoS must therefore, subject to certain exceptions, decide the application in accordance with the relevant NPS as specified in s104(3) of PA2008. Under s104(2) of PA2008, the SoS must have regard to any relevant NPS, any LIRs, any matters prescribed in relation to the development, and any other matters the SoS thinks are both important and relevant to the decision.

### **3.3. NATIONAL POLICY STATEMENTS**

- 3.3.1. The Overarching NPS for Energy (NPS EN-1) published in July 2011 sets out the Government's policy for delivery of major energy infrastructure. It was accompanied by five technology-specific NPSs for the energy sector. The NPS for Fossil Fuel Electricity Generating Infrastructure (NPS EN-2) is relevant to this application.

- 3.3.2. NPS EN-1 states that the United Kingdom (UK) '*needs all the types of energy infrastructure covered by the NPS in order to achieve energy security at the same time as dramatically reducing greenhouse gas emissions*'. That includes fossil fuel generating stations such as the Proposed Development. It states that applications for development consent should be assessed '*on the basis that the Government has demonstrated that there is a need for those types of infrastructure*'. It also sets out that the decision maker should give substantial weight to the contribution which projects would make towards satisfying this need.
- 3.3.3. Fossil fuel generating stations are recognised as playing a vital role in providing reliable energy supplies and providing a flexible response to changes in supply and demand and diversity in energy mix. NPS EN-1 recognises that fossil fuel generating stations produce carbon dioxide (CO<sub>2</sub>) and sets a requirement that new plant over 300MW have to be constructed Carbon Capture Ready (CCR) so that Carbon Capture and Storage (CCS) can be retrofitted at a later date if required. As the Proposed Development would be below the 300MW threshold, such a requirement would not apply in this case.
- 3.3.4. NPS EN-1 sets out general principles and generic impacts to be taken into account in considering applications for energy NSIPs. Generic impacts of relevance to this application include impacts on air quality and emissions, biodiversity, historic environment, landscape and visual and traffic and transport. Environmental, social and economic benefits and adverse impacts at national, regional and local levels should be considered. Account should be taken of:
- The potential benefits of the Proposed Development to meeting the need for energy infrastructure, job creation and any long term or wider benefits; and
  - Potential adverse impacts, including any long-term and cumulative adverse impacts, as well as measures to avoid, reduce or compensate for any adverse impacts.
- 3.3.5. NPS EN-1 states that the decision maker should start with a presumption in favour of granting consent to applications for energy NSIPs.
- 3.3.6. NPS EN-2 sets out the factors which influence the development of sites for fossil fuel generating stations and the criteria which Government requires to be met by them. These include explanations of the Government's approach to subject matters raised by this application, including the selection of gas combustion technology, Combined Heat and Power (CHP), CCR, climate change adaptation and consideration of good design. In terms of the impacts of gas generating stations, NPS EN-2 reiterates the policy in NPS EN-1 and adds the need to consider impacts of air quality and emissions, landscape and visual, noise and vibration and water quality and resources.
- 3.3.7. NPS EN-2 states that mitigation is required to control emissions but recognises that these emissions will be regulated through an Environmental Permit (EP) issued by the Environment Agency (EA).

- 3.3.8. NPS EN-2 recognises that fossil fuel generating stations are large and would have an impact on the surrounding landscape and visual amenity. It states that it is not possible to eliminate the visual impacts associated with a fossil fuel generating station. The purpose of mitigation measures is therefore to reduce the visual intrusion of the buildings in the landscape and minimise impact on visual amenity as far as reasonably practical. If the location is deemed appropriate and the plant has been designed sensitively to minimise harm to landscape and visual amenity, then *'the visibility of a fossil fuel generating station should be given limited weight.'*
- 3.3.9. NPS EN-1 and NPS EN-2 both recognise the contribution that CHP can make to reducing emissions and full exploration of the potential for this is a requirement of applications for thermal generating stations. The Applicant has provided a Combined Heat and Power Assessment [APP-136] which adequately demonstrates that CHP is not a viable option for the Proposed Development, for the following reasons:
- there are no suitable heat users of applicable scale to the unpredictable heat available within a search area up to 10km from the Proposed Development;
  - no potential future heat requirements in the area have been identified and none that would match the operational pattern of a peaking plant are anticipated;
  - the intermittent and peaking modes of operation of an OCGT are incompatible with the likely continuous demands of heat users;
  - The Proposed Development has no steam cycle from which to extract waste heat for off-site users; and
  - The Proposed Development would operate for up to 1500 hours per year on a rolling 5 year average and therefore an equivalent standby or backup generating plant would be required to feed any off-site heat user when the Proposed Development is not operating.
- 3.3.10. NPS EN-1 and NPS EN-2 identify the contribution that good design can make to producing sustainable infrastructure and to mitigating adverse impacts of projects.

### **3.4. EUROPEAN LAW AND RELATED UK REGULATIONS**

- 3.4.1. The UK left the European Union (EU) as a member state on 31 January 2020. The European Union (Withdrawal Agreement) Act of January 2020 gives effect to the transition arrangements until the 31 December 2020. This provides for EU law to be retained as UK law and also to bring into effect obligations which may come in to force during the transition period. This Report has been prepared on the basis of retained law and references in it to European terms such as 'Habitats' have also been retained for consistency with the examination documents. It will be a matter for the SoS to satisfy themselves as to the position on retained law and obligations at the point of the decision.

### **Air Quality Directive (Council Directive 2008/50/EU) (AQD) and Air Quality Strategy (AQS) for England**

- 3.4.2. The AQD on ambient air quality and cleaner air for Europe entered into force on 11 June 2008. It sets limit values for compliance and establishes control actions where the limit values are exceeded for ambient air quality with respect to sulphur dioxide (SO<sub>2</sub>), nitrogen dioxide (NO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>), particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), lead, benzene and carbon monoxide. The Air Quality Standards Regulations 2010 give statutory effect to the AQD.
- 3.4.3. The AQS applies to the whole of the UK and provides an overview and outline of the UK Government's and devolved administrations' ambient (outdoor) air quality policies. The strategy sets out the air quality objectives and the measures selected to achieve the desired improvements in air quality. The Proposed Development has the potential to affect air quality through generation of emissions from industrial and transport sources.

### **Environmental Impact Assessment Directive (Council Directive 2011/92/EU)**

- 3.4.4. This Directive defines the procedure by which information about the environmental effects of a project is collected and taken into account by the relevant decision-making body before consent is granted for a development. It sets thresholds for projects that require an Environmental Impact Assessment (EIA) and outlines the impacts on the environment that need to be assessed. The Directive was amended in 2014 and is now implemented through the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. However, for the reasons set out in section 1.5 of this Report, the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 apply to this application.

### **Habitats Directive (Council Directive 92/43/EEC) and Wild Birds Directive (Council Directive 2009/147/EC) and The Conservation of Habitats and Species Regulations 2017**

- 3.4.5. The Habitats Directive and the Wild Birds Directive form the cornerstone of Europe's nature conservation policy. The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) are the principal means by which the Habitats Directive is transposed in England and Wales. The Habitats Regulations came into force on 30 November 2017. They consolidated the Conservation of Habitats and Species Regulations 2010 with subsequent amending instruments, and made minor modifications reflecting changes to related legislation.
- 3.4.6. The Applicant provided a report under the Habitats Regulations [REP7-007], which concluded that there would be no significant effects from the Proposed Development. This is considered further in Chapter 5 of this Report.

### **Industrial Emissions Directive (Council Directive 2010/75/EU) (IED)**

- 3.4.7. The IED provides operational limits and controls to which plant must comply, including Emission Limit Values (ELVs) for pollutant releases to air. The Proposed Development falls under the Large Combustion Plant (LCP) requirements (Chapter III) of the IED, since it will be greater than 50MW in capacity. In addition, European Best Available Techniques (BAT) reference documents are published for each industrial sector regulated under the IED, and they include BAT-Achievable Emission Values which are expected to be met through the application of BAT. These values may be the same as those published in the IED, or they may be more stringent.
- 3.4.8. The application is considered against the IED and other legislation relating to air quality matters in Chapter 4 of this Report.

### **Environmental Permitting Regulations (England and Wales) Regulations 2016 (EP Regulations)**

- 3.4.9. The EP Regulations apply to all new installations and transpose the requirements of the IED into UK legislation. As generating stations exceeding 50MW thermal input are covered by the IED and EP Regulations, an EP would be required before the Proposed Development commences operation. Under the IED and EP Regulations, the operator of an installation covered by the IED is required to employ BAT for the prevention or minimisation of emissions to the environment, to ensure a high level of protection of the environment.
- 3.4.10. As set out in section 1.8 of this Report, the Applicant has confirmed that an EP would be required to construct, operate and maintain the Proposed Development and is being sought from the EA separately.

### **Water Framework Directive (Council Directive 2000/60/EC) (WFD)**

- 3.4.11. The WFD establishes a framework for water policy, managing the quality of receiving waters. Amongst other objectives, it seeks to prevent the deterioration of and to improve aquatic ecosystems by progressively reducing pollution and mitigating the effects of floods. In implementing the WFD, NPS EN-1 states at paragraph 5.15.3 that an ES should describe existing physical characteristics of the water environment affected by the proposed project and any impact of physical modifications to these characteristics. It should also address any impacts of the proposed project on water bodies or protected areas under the WFD. The WFD is transposed into law in England and Wales by the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017. The application is considered against the WFD in Chapter 4 of this Report.

### **3.5. OTHER LEGAL AND POLICY PROVISIONS**

#### **United Nations Environment Programme (UNEP) Convention on Biological Diversity 1992**

- 3.5.1. Responsibility for the UK contribution to the Convention on Biological Diversity lies with the Department for Environment, Food and Rural Affairs (DEFRA) who promote the integration of biodiversity into policies, projects and programmes within Government and beyond.
- 3.5.2. As required by Regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010, the UNEP Convention on Biological Diversity has to be taken into account in consideration of the likely impacts of the Proposed Development and of appropriate objectives and mechanisms for mitigation and compensation. The provisions on EIA and transboundary matters with regard to impacts on biodiversity referred to in this Chapter, satisfies the requirements of Article 14 of the Convention (Impact Assessment and Minimising Adverse Impacts).

#### **Natural Environment and Rural Communities Act 2006 (NERC Act)**

- 3.5.3. The NERC Act makes provision for bodies concerned with the natural environment and rural communities, including in connection with wildlife sites and Sites of Special Scientific Interest (SSSI). It includes a duty that every public body must, in exercising its functions have regard, so far as is consistent with the proper exercising of those functions, to the purpose of biodiversity. In complying with the biodiversity duty, regard must be had to the UNEP Convention on Biological Diversity. I have had regard to the NERC Act and the biodiversity duty in all relevant sections of Chapters 4 and 5 of this Report.

#### **Wildlife and Countryside Act 1981 (as amended) (WCA)**

- 3.5.4. The WCA is the primary legislation which protects animals, plants, and certain habitats in the UK. The WCA provides for the notification and confirmation of SSSI. These sites are identified for their flora, fauna, geological or physiographical features by the statutory nature conservation bodies (SNCBs) in the UK. The SNCB for England is Natural England (NE).
- 3.5.5. The WCA provides for and protects wildlife, nature conservation, the countryside, National Parks and public rights of way (PRoW). If a species protected under the WCA is likely to be affected by development, a protected species licence will be required from NE. Sites protected under the WCA, including SSSI, must also be considered. The effects of development on the PRoW network are also relevant.

#### **Countryside and Rights of Way Act 2000 (CRoW Act)**

- 3.5.6. The CRoW Act includes provisions in respect of PRoW and access to land and also provides for the protection and management of SSSI and other designations under the WCA.



### **Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act)**

- 3.5.7. The LBCA Act empowers the SoS to maintain a list of built structures of historic or architectural importance and sets out the principal statutory provisions that must be considered in the determination of any application affecting listed buildings and conservation areas. As required by Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010, I have had regard to the desirability of preserving any listed building and / or its setting in Chapter 4 of this Report.

### **Ancient Monuments and Archaeological Areas Act 1979 (AMAA Act)**

- 3.5.8. The AMAA Act provides for Scheduled Monuments to be protected and for the maintenance of a list of Scheduled Monuments. It also imposes a requirement for Scheduled Monument Consent for any works of demolition, repair, and alteration that might affect a designated Scheduled Monument.

### **Environmental Protection Act 1990 (EPA)**

- 3.5.9. S79(1) of the EPA identifies a number of matters which are considered to be statutory nuisance. This is discussed further in Chapter 4 of this Report.

### **Control of Pollution Act 1974 (CoPA)**

- 3.5.10. The CoPA provides the main legislation regarding demolition and construction site noise and vibration. If noise complaints are received, a s60 notice may be issued by the local planning authority with instructions to cease work until specific conditions to reduce noise have been adopted. S61 of the CoPA provides a means for applying for prior consent to carry out noise generating activities during construction. Once prior consent has been agreed under s61, a s60 notice cannot be served provided the agreed conditions are maintained on-site. The legislation requires Best Practicable Means be adopted for construction noise on any given site.

### **Noise Policy Statement for England (NPSE)**

- 3.5.11. The NPSE seeks to clarify the underlying principles and aims in existing policy documents, legislation and guidance that relate to noise. It applies to all forms of noise, including environmental noise, neighbour noise and neighbourhood noise. The Explanatory Note within the NPSE provides further guidance on defining 'significant adverse effects' and 'adverse effects'. One such concept identifies Lowest Observable Adverse Effect Level (LOAEL), which is defined as the level above which adverse effects on health and quality of life can be detected. Other concepts identified are: Significant Observed Adverse Effect Level (SOAEL), which is the level above which significant adverse effects on health and quality of life occur, and No Observed Effect Level (NOEL), which is the level below which no effect can be detected.

- 3.5.12. When assessing the effects of development on noise matters, the aim should firstly be to avoid noise levels above the SOAEL, and to take all reasonable steps to mitigate and minimise noise effects where development noise levels are between LOAEL and SOAEL. I have considered the effects of noise in Chapter 4 of this Report.

**Water Resources Act 1991, Flood and Water Management Act 2010, Water Act 2003 and 2014, Land Drainage Act 1991**

- 3.5.13. The above Acts set out the relevant regulatory controls that provide protection to waterbodies and water resources from abstraction pressures, discharge and pollution, and for drainage management related to non-main rivers.

**Paris Agreement 2015**

- 3.5.14. The Paris Agreement 2015 concluded in December 2015 with an agreement from all parties to the United Nations Framework Convention on Climate Change to the central aim: *"to keep the global temperature rise this century well below 2 degrees Celsius above pre-industrial levels, while pursuing efforts to limit the increase even further to 1.5 degrees Celsius"*. The Paris Agreement 2015 requires all parties to the agreement to make ambitious efforts to combat climate change and to accelerate and intensify the actions and investments needed for a sustainable low carbon future. For this purpose, the parties agreed to making finance available consistent with a low greenhouse gas emissions and climate-resilient pathway.
- 3.5.15. The Paris Agreement 2015 requires all parties to put forward their best efforts through nationally determined contributions and to report regularly on their emissions and implementation efforts. Some of the key aspects of the agreement include long-term temperature goal, global peaking of greenhouse gas and climate neutrality, and mitigation. There will be a global stocktake every five years to assess the collective progress towards achieving the purpose of the agreement and to inform further individual actions by parties to the agreement.
- 3.5.16. I have considered the Proposed Development in the context of the Paris Agreement 2015 in Chapter 4 of this Report.

**Climate Change**

- 3.5.17. Under s10(3)(a) of PA2008 the SoS is required to have regard to the desirability of mitigating, and adapting to, climate change in designating an NPS. This duty has been addressed throughout Chapter 4 of this Report. The Climate Change Act 2008 (CCA2008) also establishes statutory climate change projections.
- 3.5.18. The CCA2008 (as amended by the Climate Change Act 2008 (2050 Target Amendment) Order 2019 established a long-term framework to tackle climate change. A key provision is the setting of legally binding targets for greenhouse gas emission reductions in the UK of at least 100% by 2050 and at least 26% by 2020, against a 1990 baseline. CCA2008 also created the Committee on Climate Change, with

responsibility for setting five-year Carbon Budgets covering successive periods of emissions reduction to 2050, advising and scrutinising the UK Government's associated climate change adaptation programmes and producing a National Adaptation Plan for the UK Government to implement. I have considered the Proposed Development in the context of the CCA2008 (as amended) in Chapter 4 of this Report.

### **Public Sector Equality Duty (PSED)**

- 3.5.19. The Equality Act 2010 established the PSED to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. The PSED is applicable to the Examining Authority (ExA) in the conduct of this Examination and reporting and to the SoS in decision-making.

## **3.6. MADE DEVELOPMENT CONSENT ORDERS**

- 3.6.1. The Applicant's responses to Relevant Representations (RRs) [REP1-005], written questions [REP2-009] and the Issue Specific Hearing (ISH) [EV-009] made reference to the following made Orders to support the application:

- The Drax Power (Generating Stations) Order 2019;
- The Eggborough Gas Fired Generating Station Order 2018;
- The Knottingley Power Plant Order 2015;
- The Meaford Gas Fired Generating Station Order 2016;
- The Wrexham Gas Fired Generating Station Order 2017;
- The Millbrook Gas Fired Generating Station Order 2019;
- The Tees Combined Cycle Power Plant Order 2019; and
- The Abergelli Power Gas Fired Generating Station Order 2019.

## **3.7. TRANSBOUNDARY EFFECTS**

- 3.7.1. Under Regulation 24 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (2009 EIA Regulations) and based on the information available from the Applicant, the SoS, in its Transboundary Screening document [APP-050], is of the view that the Proposed Development is not likely to have a significant effect on the environment in another European Economic Area State.
- 3.7.2. In reaching this view the SoS has applied the precautionary approach (as explained in the Planning Inspectorate's Advice Note 12: *Transboundary Impacts Consultation*). Transboundary issues consultation under Regulation 24 of the 2009 EIA Regulations has therefore not been considered necessary. I agree with the SoS's conclusion on this matter.

## **3.8. THE NATIONAL PLANNING POLICY FRAMEWORK**

- 3.8.1. The National Planning Policy Framework (NPPF) was published in February 2019. This was taken into account by the Applicant in preparing the ES.
- 3.8.2. The NPPF, together with the accompanying Planning Practice Guidance (PPG), contains statements of planning policy and practice in England

and how these are expected to be applied. Paragraph 5 of the NPPF notes that it is not a source of individual or project-specific policy for NSIP decision-making.

### **3.9. LOCAL IMPACT REPORTS**

- 3.9.1. PA2008 states, under s104(2), that in deciding the application the SoS must have regard to any LIRs within the meaning of s60(3).
- 3.9.2. There is a requirement under s60(2) of PA2008 to give notice in writing to each local authority falling under s56A inviting them to submit LIRs. This notice was given on 26 September 2019 [PD-004].
- 3.9.3. LIRs have been submitted by BDC [REP1-018] and WLDC [REP1-020]. The LIRs set out the principal local planning policies and other policies relevant to the Proposed Development and identify any areas of concern. Issues arising from these are set out Chapter 4 of this Report.

### **3.10. THE DEVELOPMENT PLAN**

- 3.10.1. The LIR submitted by BDC identifies that, for the purposes of s38(6) of the Planning and Compulsory Purchase Act 2004, the development plan for the area of the application site comprises: the Bassetlaw Core Strategy and Development Management Policies Development Plan Document (BCS), adopted in December 2011; and the Sturton Ward Neighbourhood Plan (SWNP), made in February 2016.
- 3.10.2. The relevant BCS policies are identified in BDC's LIR as:
- Policy CS1: Settlement Hierarchy;
  - Policy CS9: All Other Settlements;
  - Policy DM1: Economic Development in the Countryside;
  - Policy DM4: Design and Character;
  - Policy DM7: Securing Economic Development;
  - Policy DM8: The Historic Environment;
  - Policy DM9: Green Infrastructure, Biodiversity and Geodiversity, Landscape, Open Space and Sports Facilities;
  - Policy DM12: Flood Risk, Sewerage and Drainage; and
  - Policy DM13: Sustainable Transport.
- 3.10.3. The relevant SWNP policies are identified in BDC's LIR as:
- Policy 1: Sustainable Development;
  - Policy 2: Conservation and Enhancement of Existing Natural Features;
  - Policy 3: Design Principles;
  - Policy 4: Protecting the Historic Environment; and
  - Policy 12: Reducing the Risk of Flooding.
- 3.10.4. BDC sets out in its LIR that although it is currently working on a new local plan, this has not progressed sufficiently to be afforded any weight in decision making.
- 3.10.5. BDC's LIR also cites its supplementary planning guidance document Guide to Heritage Impact Assessments, updated in October 2013.

- 3.10.6. The LIR submitted by WLDC identifies that the development plan for its area, the boundary of which lies close to the application site, comprises the Central Lincolnshire Local Plan 2012-2036 (CLLP), adopted in April 2017. Relevant CLLP policies are identified in WLDC's LIR as:
- Policy LP1: A Presumption in Favour of Sustainable Development;
  - Policy LP2: The Spatial Strategy and Settlement Hierarchy;
  - Policy LP13: Accessibility and Transport;
  - Policy LP14: Managing Water Resources and Flood Risk;
  - Policy LP17: Landscape, Townscape and Views;
  - Policy LP25: The Historic Environment;
  - Policy LP26: Design and Amenity; and
  - Policy LP38: Protecting Gainsborough's Setting and Character.
- 3.10.7. WLDC provided information at Deadline (D) 6 [REP6-014] setting out that consultation on the Draft Gainsborough Neighbourhood Plan (dGNP) ran from 29 October 2019 until 31 January 2020. However, WLDC state that the consultation results are unknown and the dGNP may be subject to change and thus, little weight should be afforded to it. Relevant dGNP policies cited are:
- NPP5: Protecting Landscape Character; and
  - NPP17: Protecting Heritage Assets.
- 3.10.8. NPS EN-1 notes that local development plans may be important and relevant to decisions on NSIPs but that in the event of any conflict between development plans and an NPS, the NPS prevails for the purpose of decision taking on the NSIP. I have considered the relevant development plans and the LIRs in reaching my conclusions.

## **4. THE PLANNING ISSUES**

### **4.1. MAIN ISSUES IN THE EXAMINATION**

- 4.1.1. Following my initial assessment of the application and of the Relevant Representations (RRs) received, I identified and set out my Initial Assessment of the Principal Issues (IAPI) arising from the Proposed Development, which was published as Annex B to my letter of 26 September 2019 under Rule 6 of the Infrastructure Planning (Examination Procedure) Rules 2010 (Rule 6 Letter) [PD-004].
- 4.1.2. The Principal Issues I identified were as follows, set out in alphabetical order:
- Biodiversity and Nature Conservation;
  - Cultural Heritage;
  - Design and Layout;
  - Draft Development Consent Order (dDCO);
  - Environmental Impact Assessment (EIA);
  - Environmental Issues including: airborne emissions and air quality; water quality, flood risk and flood resilience; ground conditions and contamination; noise, lighting, dust and vibration; landscape and visual; and waste management;
  - Socio-Economic Effects (including Human Health); and
  - Traffic and Transport.
- 4.1.3. At the Preliminary Meeting [EV-001], no party questioned my IAPI. Whilst the Principal Issues I identified subsequently formed the basis of the final assessment, I have considered them under the following headings in this Chapter, in no particular order of importance:
- Air Quality and Emissions;
  - Biodiversity and Nature Conservation;
  - Landscape and Visual;
  - Traffic and Transport;
  - Water Quality, Flood Risk and Flood Resilience;
  - Noise and Vibration;
  - Ground Conditions and Contamination;
  - Cultural Heritage;
  - Waste Management; and
  - Socio-Economic Effects (Including Human Health).
- 4.1.4. Matters relating to the dDCO are addressed in this Chapter within the framework of the individual planning issues to which they relate. The dDCO itself is reported on in Chapter 7 of this Report.
- 4.1.5. In addition to the planning issues, this Chapter also addresses the following topics arising from the conduct of the Examination:
- issues arising in written and oral submissions;
  - issues arising in Local Impact Reports (LIRs);
  - conformity with National Policy Statements (NPSs);
  - conformity with the development plan;

- the application of other policies;
- Environmental Impact Assessment; and
- Environmental Permitting Regime.

## **4.2. ISSUES ARISING IN WRITTEN AND ORAL SUBMISSIONS**

4.2.1. Twenty-three RRs were made [RR-001 to RR-023] and have been considered. These can be summarised as follows:

### **Statutory Parties**

- Anglian Water Services Ltd [RR-001]: Supportive in principle; no impact on assets; no impacts on Humble Carr borehole which is 2 kilometres (km) away and below 220 metres (m) of mudstone; and no Protective Provisions needed;
- Canal and River Trust (CRT) [RR-002]: Navigation authority for the River Trent and must ensure no impact on navigation or navigational safety; acknowledges no change in discharge to or abstraction of water from the River Trent; keen to promote sustainable transport of freight and abnormal indivisible loads (AILs) on the River Trent which is a designated freight waterway; concern that not included as a consultee in the framework Construction Traffic Management Plan (fCTMP) in respect of AILs; and requests Protective Provisions in respect of potential damage to river banks from construction works;
- Environment Agency (EA) [RR-003]: The Flood Risk Assessment (FRA) confirms the Proposed Development would lie in Flood Zone 1 and the EA is satisfied that it would remain high, dry and safe from flooding even during extreme weather events and even in a 1 in 1000 year flood defence breach scenario; a need to ensure surface water can be managed within constraints of existing infrastructure; if northern or southern outfalls required then FRA will need updating as within Flood Zones 2 and 3 and flood risk activity permit (FRAP) should be obtained; part of construction laydown area within Flood Zone 2 but very small area and 16m from flood defences so no FRAP required for this; preference for foul drainage to mains sewer network rather than septic tank; advises lining of any attenuation ponds to prevent leaching of contaminants; no biodiversity objections; any changes to water abstraction would require variation of existing licence; West Burton B (WBB) power station Environmental Permit (EP) variation required (received and duly made) to include the Proposed Development; and a partial surrender of land permit from West Burton A (WBA) power station to WBB power station required;
- Historic England (HE) [RR-004]: Engaged in pre-application discussions with the Applicant and advised the Planning Inspectorate on the scope of EIA; recognises the Proposed Development would be a large new structure but when set against existing WBA and WBB power stations it would represent a limited additional presence in the landscape; some additional but limited impact on setting of designated heritage assets at Bole (Grade II listed Manor House and Grade II listed Church of St Martin) and scheduled West Burton Deserted Medieval Village; direct archaeological impacts sufficiently

covered in ES; recommends Applicant seeks opportunities to financially support the local community in the physical conservation of heritage assets and reinforcement of historic landscape character in the area; no opposition to grant of DCO; and intends to complete a Statement of Common Ground (SoCG);

- Natural England (NE) [RR-005]: Previous concerns relating to ecology and European protected species have been addressed; ecology report identifies key biodiversity enhancement proposals; the Landscaping and Biodiversity Management and Enhancement Plan (LBMEP) includes restoration and enhancement of habitat for great crested newts (GCN); will review draft GCN European protected species mitigation licence (EPSML) once submitted and will provide a letter of no impediment if appropriate; and is currently preparing a SoCG;
- Public Health England (PHE) [RR-006]: Earlier comments addressed; and acknowledges the ES has not identified any issues affecting public health and PHE is satisfied with the methodology used;
- Doncaster Council (DC) [RR-008]: No objections on grounds of air quality, highways and transport, ecology and noise and vibration; accepts no impact of the development of the application site on heritage assets in Doncaster given 16km distance; and suggests consideration be given as to whether any additional traffic and associated noise generated would have an impact on the historic character of the Bawtry Conservation Area (BCA) given that the A631 from Gainsborough joins the Great North Road in the town;
- Newark and Sherwood District Council [RR-009]: Acknowledges it is unlikely any settlement or landscape effects would occur in the District given that it is around 13km away from the application site; notes the Applicant's conclusions of no significant effects on air quality; does not have software or expertise to verify air quality data but recognises an EA permit would be required to control emissions and Best Available Techniques (BAT) would be used and as such has no concerns in relation to air quality;
- Nottinghamshire County Council (NCC) (transport) [RR-012]: Accepts the findings of the transport assessment; and satisfied with the fCTMP and framework Construction Workers' Travel Plan (fCWTP), the provisions of which are appropriately secured in the dDCO, including in respect of stopping ups, agreements with street authorities, construction management, protection of highway surfaces, construction traffic routing, travel planning and decommissioning;
- NCC (ecology) [RR-013]: States that it is working with the Applicant to resolve matters raised by its Natural Environment Manager and that it is anticipated these will be resolved in a SoCG; and
- West Lindsey District Council (WLDC) [RR-016]: Sets out that as a neighbouring authority, it will be making comments on the scale of impacts of the Proposed Development on the District, primarily in relation to visual, heritage, highways and noise.

### **Local Bodies**

- Bawtry Town Council (BTC) [RR-007]: Reiterates the point made by DC relating to impact of traffic on the BCA; concern raised with any potential increase in traffic through Bawtry during the construction phase which is expected to peak at 350 two-way movements per day



with 112 of these due to be heavy goods vehicles (HGVs); no vehicle routing information provided and application states that no further quantitative traffic impact analysis required "as the figures are below the screening thresholds indicated in published guidance"; traffic could cause problems in Bawtry depending on where HGVs go and thus concerned with an approval of the Proposed Development;

- North and South Wheatly Parish Council [RR-010]: Concerns around construction traffic using village lanes as a rat run and speeding; concerns around damage to trees, verges and roads during the construction phase; and the use of local labour during construction and operation should be encouraged as Cottam Power Station is to be decommissioned with loss of jobs;
- North Leverton with Habbleshthorpe Parish Council [RR-011]: Broadly supports sustainable energy projects but concerns around traffic management during the construction phase; and wishes to see use of local labour;
- South Leverton Parish Council [RR-014]: Similar content to North and South Wheatly Parish Council's RR but includes an additional concern around the impact on the village if other projects such as the decommissioning of Cottam Power Station and a new quarry come on stream at similar times; and
- Sturton le Steeple Parish Council [RR-015]: Similar content to South Leverton Parish Council's RR.

### **Local persons**

- Councillor (Cllr) Naish (Sturton Ward) on behalf of Bole residents [RR-017]: Residents generally opposed to the Proposed Development; concerns around traffic during construction, parking at entrance to the village, visual, light, noise and air pollution impacts, efficiency of open cycle gas turbines (OCGTs), confidentiality of badger and breeding bird surveys, construction hours and cumulative effect of three power stations; mentions that promises associated with development of WBB power station (2009-2013) did not always translated into reality; suggests further consideration of additional planting for screening purposes; welcomes appointment of Community Liaison Officer; recognises the area has an important role to play in UK energy production and no wish to unnecessarily impede the Applicant's progress; appreciative of Applicant's community engagement; a list of actions is suggested including limiting use of Bole layby, provision of sufficient on-site parking, HGV route awareness for drivers, access to Applicant's land east of the village for dog walking and recreation, reversal of plans for weekend work outside peak period; and if unable to deliver on these actions then provide a community benefit fund for community buildings, public transport improvements, digital and mobile connectivity, community activities and services, skills, employment and business opportunities, community energy projects, sport, recreation and improved health and wellbeing;
- Mr Collins [RR-018]: Concerns around HGVs using the A620 from Retford during construction and that there is a diversion for high vehicles along Smeath Lane / Road which has a 7.5 tonne limit; and traffic should use the A631 or better still, all heavy goods and equipment should be transported to the application site via rail;

- Mrs King [RR-020]: Support for Cllr Naish's comments;
- Ms Phipps [RR-021]: Concerns around efficiency of OCGTs and carbon dioxide (CO<sub>2</sub>) emissions; and questions why investment in this technology when the Applicant advertises that it is the largest provider of green electricity;
- Mr Coomber [RR-022]: Concern that ongoing medical issues and vibration from low frequency / extra low frequency sound waves and low magnetic fields at his property relate to use of existing WBA and WBB power stations; concern over previous monitoring results undertaken by the Applicant and Bassetlaw District Council (BDC) in respect of vibration; concern around the number of vehicles predicted to pass his property and the possibility this would increase if a quarry at Sturton le Steeple starts up; suggests the Proposed Development has devalued his property to the point it is virtually unsaleable; and mentions a Freedom of Information request made to the Applicant and BDC relating to operational equipment usage since 2013 to date; and
- Ms Wilson [RR-023]: Lives in North Wheatley on the side of the A620 and is concerned about passing construction traffic; also interested in how biodiversity would be affected by construction works.

#### **Others**

- Mr May [RR-019]: Sets out that he would like to show evidence of why climate change is a more serious threat than the established views that lead to the current system suggest, have a look at the political landscape with regard to the power sector, show how the necessary transition which will likely have to happen much more swiftly than anticipated will affect and be affected by the Proposed Development, and show possible alterations and alternative options that would both economically and environmentally be better aligned with future needs.

4.2.2. Participants in the Examination were provided with the opportunity to make Written Representations (WR) at Examination Deadline (D) 2, to comment on them at D3 and to respond in writing to my questions, to matters arising at hearings, to requests for further information and to Additional Submissions, over six deadlines (D2 to D7).

4.2.3. Six Additional Submissions were provided which I accepted and have taken into account [AS-001 to AS-006], comprising:

- Highways England (HiE) [AS-001];
- Harlaxton Gas Networks [AS-002];
- EA [AS-003];
- ESP Utilities Group [AS-004];
- The Applicant [AS-005] and;
- CRT [AS-006].

4.2.4. Signed SoCG between the Applicant and certain parties have been provided and are taken into account as follows:

- NE [REP1-009];
- HE [REP1-010];

- EA [REP1-016];
- Marine Management Organisation (MMO) [REP1-008];
- NCC [REP1-013 and REP5-011];
- Lincolnshire County Council (LCC) [REP1-011];
- National Grid [REP1-014];
- Trent Valley Internal Drainage Board (TVIDB) [REP1-015];
- BDC [AS-005];
- WLDC [REP1-012]; and
- Nottinghamshire Wildlife Trust (NWT) [REP4-006].

4.2.5. Those who participated in the Issue Specific Hearing (ISH) [EV-009] included the Applicant, the EA, BDC, WLDC and Mr Coomber. Mr Coomber, and Cllr Naish on behalf of the residents of Bole, spoke at the Open Floor Hearing (OFH) [EV-008], though few new issues were raised in oral representations which were not addressed in written submissions.

4.2.6. The matters raised in RRs, WRs and responses to my questions, in LIRs, Additional Submissions and to matters arising at hearings have been responded to in my framework of issues set out in Sections 4.9 to 4.19 below and are taken into account in the remainder of this Report to the extent that they are important and relevant.

### **4.3. ISSUES ARISING IN LIRs**

4.3.1. BDC and WLDC produced LIRs [REP1-018 and REP1-020] which were submitted at D1 of the Examination. Section (s) 104(2) of the Planning Act 2008 (PA2008) requires the Secretary of State (SoS) to consider the contents of an LIR when making a decision on an application.

4.3.2. BDC's LIR [REP1-018] provided information on the following matters:

- Details of the proposal;
- Site description and surroundings / location;
- Relevant planning history and any issues arising;
- Development plan policies and guidance;
- Local area characteristics;
- Local transport patterns and issues;
- Site and area constraints;
- Designated sites;
- Socio-economic and community matters; and
- The dDCO.

4.3.3. As recorded in Chapter 3 above, the LIR identified that the development plan for the area comprises the Bassetlaw Core Strategy and Development Management Policies Development Plan Document (BCS), adopted in December 2011; and the Sturton Ward Neighbourhood Plan (SWNP), made in February 2016.

4.3.4. In summary the LIR concluded that the Proposed Development:

- would not be affected by previous planning permissions on the application site;

- would be an appropriate form of development subject to compliance with development plan policies;
- would be in keeping with and seen in the context of the two existing power stations on the wider West Burton power station site;
- would be acceptable on pollution, air quality, noise and highway grounds;
- would have a negligible impact on views from the surrounding area;
- would not have a detrimental impact on residential amenity;
- would support the local economy;
- would have a minimal impact on the setting of listed buildings in the surrounding area given the degree of separation from them and that public benefits would outweigh any harm in this regard;
- would not cause harm to the setting of the non-designated heritage asset WBA power station, the first of its type to be built in England, given that it is immune from listing under a Certificate of Immunity granted in 2017 and that it will eventually be removed once decommissioned;
- would enhance biodiversity and would suitably mitigate impacts on protected species;
- would, on advice from the NCC as the Highway Authority (HA), incorporate sufficient measures to minimise impacts on the local highway network, though consideration should be given to the use of rail and water for the delivery of materials to reduce road traffic and to provide sufficient on-site parking to prevent parking in the layby at the entrance to Bole village;
- should consider a travel plan and sustainable travel options, though acknowledges this is the remit of NCC as the HA; and
- should consider flood risk, though acknowledges this is the remit of the EA.

4.3.5. The LIR sets out that it would be supportive of any proposals offered by the Applicant to the local community to help mitigate impacts in the interests of residential amenity. It also reverts to the expertise of NE and NWT in respect of effects on designated nature conservation sites.

4.3.6. No issues were raised in the LIR in respect of the dDCO and no conflicts were identified with the development plan.

4.3.7. The Applicant and BDC signed a SoCG [AS-005] agreeing all matters in respect of the effects of the Proposed Development, and that appropriate mitigation had been proposed and could be secured through the dDCO. No matters of disagreement exist between them.

4.3.8. WLDC's LIR [REP1-020] provided information on the following matters:

- Site description and surroundings / location;
- Details of the proposal;
- Relevant history;
- Representations;
- Relevant planning policies;
- Main issues - visual impact, heritage, highways and noise; and
- Assessment of main issues.

- 4.3.9. As recorded in Chapter 3 above, the LIR identified that the development plan for WLDC comprises the Central Lincolnshire Local Plan 2012-2036 (CLLP), adopted in April 2017.
- 4.3.10. In summary the LIR concluded that the Proposed Development:
- would be viewed in the context of the existing WBA and WBB power stations and although it would cumulatively widen the high-level built form of the overall West Burton power station site, it would not have a significant harmful visual impact on West Lindsey;
  - would be unlikely to result in unacceptable heritage harm and would therefore preserve the setting of the nearest listed buildings within the District (including those on the western edge of Gainsborough and Knaith Hall, Knaith) and would preserve the character and appearance of the Gainsborough Riverside Conservation Area;
  - would be acceptable in highways terms;
  - would have an extremely negligible noise impact on West Lindsey during construction and operation and would not impact on the living conditions of residents in Gainsborough, Lea or Knaith; and
  - would not have a harmful impact on West Lindsey.
- 4.3.11. Whilst no particular concerns were identified within the LIR, WLDC noted that a generating station with a single stack would have less impact than one with multiple stacks and thus, this would be preferable.
- 4.3.12. No issues were raised in the LIR in respect of the dDCO and no conflicts were identified with the development plan for West Lindsey.
- 4.3.13. The Applicant and WLDC signed a SoCG [REP1-012] agreeing all matters in respect of the effects of the Proposed Development, and that appropriate mitigation had been proposed and could be secured through the dDCO. No matters of disagreement exist between them.

## **Conclusion on LIR Issues**

- 4.3.14. The acknowledgment by the host local authority, BDC, and the nearest neighbouring local authority, WLDC, that the Proposed Development would not give rise to any specific concerns has been noted and taken into account. Analysis of detailed matters raised by the LIRs are addressed in the relevant Chapters and sections of this Report to ensure that they are considered as required by the SoS.

## **4.4. CONFORMITY WITH NATIONAL POLICY STATEMENTS**

- 4.4.1. Under s104(3) of PA2008, the SoS is required to decide the application in accordance with any relevant NPSs that have effect in relation to the application, subject to certain defined exceptions set out in subsections 104(4) to 104(8), none of which are applicable to this case. This section sets out an over-arching analysis of the conformity of the Proposed Development with the relevant NPSs, identified in Chapter 3 above as being NPS EN-1 and NPS EN-2.

- 4.4.2. Section 3.1 of NPS EN-1 requires that the application should be assessed on the basis that the Government has demonstrated that there is a need for the types of infrastructure covered by the energy NPSs. Substantial weight should be given to the contribution which projects would make toward satisfying this need.
- 4.4.3. Paragraph 3.6.1 of NPS EN-1 states that fossil fuel generating stations play a vital role in providing reliable electricity supplies; they can be operated flexibly in response to changes in supply and demand and provide diversity in our energy mix. They will continue to play an important role in our energy mix as the UK makes the transition to a low carbon economy, and Government policy is that they must be constructed, and operate, in line with increasingly demanding climate change goals.
- 4.4.4. Paragraph 4.4.1 of NPS EN-1 states that there is no general requirement to consider alternatives or to establish whether the Proposed Development represents the best option. However, paragraph 4.4.2 indicates that applicants are obliged to include within their Environmental Statement (ES) information about the main alternatives they have studied and explain the main reasons for the applicant's choice. In some cases, there is also a need to consider alternatives under the Habitats Directive whilst sections of NPS EN-1 dealing with biodiversity, flood risk and landscape and visual impacts also raise the issue of alternatives. Section 2.2 of NPS EN-2 sets out factors influencing site selection by applicants for fossil fuel generating stations, including land use, transport infrastructure, water resources and grid connection. However, it also states that it is for energy companies to decide what applications to bring forward and that the Government does not seek to direct applicants to particular sites for fossil fuel generating stations.
- 4.4.5. The Applicant identifies in ES Chapter 4 [APP-033] that the West Burton power station site has been selected, as opposed to other sites, given its long history of power generation, excellent existing electrical grid, gas, water and transport links, that it is a brownfield site and that it is wholly within the ownership of the Applicant. The Applicant also sets out that alternative OCGT technologies, design options and site drainage solutions have been and continue to be considered. Furthermore, that the consideration of alternatives and design evolution has been undertaken with the aim of preventing or reducing adverse environmental effects while maintaining operational efficiency and cost-effectiveness. In addition, the Applicant states that the design of the Proposed Development has evolved in response to consultation feedback and the findings of surveys and technical studies.
- 4.4.6. Section 5 of NPS EN-1 sets out potential generic impacts of energy infrastructure which must be taken into account in assessing projects. Further detail specifically applicable to fossil fuel electricity infrastructure is given in NPS EN-2. These impacts are assessed in the following sections of this Report.

## **Conclusion on NPS Policy**

4.4.7. Taking all relevant documents and policies into account, I conclude as follows:

- No instances of non-compliance with NPSs were identified by Interested Parties (IPs);
- The need for the Proposed Development is established through the NPSs;
- The Proposed Development conforms to high-level policy in NPS EN-1 and NPS EN-2; and
- The compliance of the Proposed Development has been examined against policy detail and tests applicable to individual planning issues as set out in relevant NPS paragraphs, and this analysis is carried out in sections 4.9 to 4.19 below.

## **4.5. CONFORMITY WITH DEVELOPMENT PLANS**

4.5.1. The application site lies wholly within the administrative district of Bassetlaw. As recorded in Chapter 3 above, the LIR from BDC [REP1-018] identified that the development plan in force for the area comprises the BCS, adopted in December 2011; and the SWNP, made in February 2016. No important and relevant issues were raised in the LIR that gave rise to in-principle breaches of relevant NPS policy or to objections to the Proposed Development. The LIR from BDC also did not identify harm against or conflict with the development plan.

4.5.2. BDC signed a SoCG with the Applicant [AS-005] agreeing all matters in respect to the effects of the Proposed Development, and that adequate mitigation would secure conformity with the development plan. No matters of disagreement exist between them.

4.5.3. Whilst wholly within the administrative district of Bassetlaw, the application site lies within close proximity to the boundary with the administrative district of West Lindsey. As recorded in Chapter 3 above, the LIR submitted by WLDC [REP1-020] identifies that the development plan for its area comprises the CLLP, adopted in April 2017. The LIR from WLDC did not identify harm against or conflict with the development plan for its area. Additionally, WLDC signed a SoCG with the Applicant [REP1-012] agreeing all matters in respect to the effects of the Proposed Development, and that no matters of disagreement exist between them.

4.5.4. I have reviewed the development plan policies identified in the LIRs. I am not aware of any issues arising from them that conflict with relevant policy directions arising from NPSs. Whilst NPSs are the primary source of policy for a decision under PA2008, development plan policies are important and relevant considerations. None of them indicate against the directions set out in NPS EN-1 or in NPS EN-2.

## **4.6. APPLICATION OF OTHER POLICIES**

4.6.1. The legislative and policy framework applicable to the assessment of this application is summarised at a high level in Chapter 3 above. Individual

references to relevant legislation and policy detail are drawn out in sections 4.9 to 4.19 of this Report. No IPs raised any concerns or objections regarding the Proposed Development's conformity against such legislation and policy.

## **4.7. ENVIRONMENTAL IMPACT ASSESSMENT**

- 4.7.1. This section addresses the documents comprising the ES [APP-029 to APP-131]. During the course of the Examination, some aspects of the ES were amended and those changes that relate to the content of the ES are considered to constitute 'any other information' as defined by the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (2009 EIA Regulations). I have concluded that the amendments are minor alterations, and that the overall environmental information submitted is sufficient for the SoS to take into consideration before making a decision in compliance with the 2009 EIA Regulations.
- 4.7.2. The ES states that the assessment which it presents follows published guidance, information on best practice and Planning Inspectorate Advice Notes. It aims to identify the changes or impacts that may occur to the receiving environment as a result of the Proposed Development, and to compare the existing environmental conditions (the baseline) with those that would occur in the absence of the Proposed Development (future baseline).
- 4.7.3. The EIA process involves the identification of sensitive receptors that may be affected by impacts resulting from the Proposed Development and assesses the extent to which these receptors may experience significant environmental effects as a result. Where significant effects are identified, the ES proposes mitigation measures to avoid, reduce, or offset the significance of the effects. The remaining effects after taking into account mitigation are expressed as 'residual effects'. Effects that are assessed as being moderate or major are considered to be significant.
- 4.7.4. The environmental impacts of the Proposed Development are assessed during its construction and operation and where possible and relevant, its eventual decommissioning. Existing baseline conditions have been defined based on desk-based studies and site surveys.
- 4.7.5. A cumulative effects assessment taking into account relevant committed developments, and an in combination effects assessment, have been undertaken in ES Chapter 16 [APP-045]. The relevant developments for the cumulative effects assessment were agreed in SoCG from BDC [AS-005], WLDC [REP1-012] and NCC [REP1-013 and REP5-011]. These are identified on ES Figure 16.2 [APP-131] and include:
- a quarry access road and wider mineral extraction site (NCC Ref 16/00354/CDM);
  - a residential development in Gainsborough for 61 dwellings (WLDC Ref 136309);



- a residential development in Gainsborough for 16 dwellings (WLDC Ref 138308); and
- a mixed-use development in Gainsborough to include 220 dwellings (WLDC Ref 137763).

4.7.6. A number of parameters have yet to be finalised for the Proposed Development in order to maintain a degree of flexibility as its design progresses. Therefore, the 'Rochdale Envelope' approach has been applied within the EIA to ensure a robust assessment is presented of the likely significant environmental effects. This involves assessing the proposed maximum (and where relevant, minimum) parameters for the elements of the Proposed Development where flexibility needs to be retained, recognising that the worst-case parameter for one technical assessment may differ from another. Where this approach is applied, this has been confirmed within the relevant chapters of the ES.

4.7.7. The ES provided as part of the application submission comprised the following:

- Glossary and Table of Contents [APP-029];
- Chapter 1: Introduction [APP-030];
- Chapter 2: Assessment Methodology [APP-031];
- Chapter 3: Description of the Site and its Surroundings [APP-032];
- Chapter 4: The Proposed Development [APP-033];
- Chapter 5: Legislative Context and Planning Policy Framework [APP-034];
- Chapter 6: Air Quality [APP-035];
- Chapter 7: Traffic and Transport [APP-036];
- Chapter 8: Noise and Vibration [APP-037];
- Chapter 9: Ecology [APP-038];
- Chapter 10: Landscape and Visual Amenity [APP-039];
- Chapter 11: Ground Conditions and Hydrogeology [APP-040];
- Chapter 12: Flood Risk, Hydrology and Water Resources [APP-041];
- Chapter 13: Socio-economics [APP-042];
- Chapter 14: Cultural Heritage [APP-043];
- Chapter 15: Sustainability, Waste and Climate Change [APP-044];
- Chapter 16: Cumulative and Combined Effects [APP-045];
- Chapter 17: Summary of Likely Significant Residual Effects [APP-046];
- Appendix 1A: Scoping Report [APP-047];
- Appendix 1B: Scoping Opinion [APP-048];
- Appendix 1C: Matters Addressed from Scoping Opinion [APP-049];
- Appendix 2A: Transboundary Screening [APP-050];
- Appendix 6A: Air Quality Technical Appendix [APP-051];
- Appendix 7A: Transport Assessment (TA) [APP-052];
- Appendix 9A: Legislation and Planning Policy [APP-053];
- Appendix 9B: Ecological Impact Assessment Methodology [APP-054];
- Appendix 9C: Preliminary Ecological Appraisal [APP-055];
- Appendix 9D to Appendix 9I: Various species surveys [APP-056 to APP-062];
- Appendix 10A: Landscape and Visual Impact Assessment Methodology [APP-063]

- Appendix 11A: Phase 1 Geo-Environmental Site Assessment [APP-064];
- Appendix 11B: Ground Investigation Environmental Support and Sampling Report [APP-065];
- Appendix 12A: FRA [APP-066];
- Appendix 13A: Human Health [APP-067];
- Appendix 14A: Desk Based Assessment [APP-068];
- Appendix 15A: Greenhouse Gas Assessment (GGA) [APP-069]; and
- Various Figures relating to ES Chapters [APP-070 to APP-131].

4.7.8. The ES was supported by the following documents:

- Habitats Regulations Assessment No Significant Effects Report (NSER) [APP-027];
- ES Non-Technical Summary [APP-028];
- Grid Connection Statement [APP-132];
- Gas Connection Statement [APP-133];
- Statutory Nuisance Statement [APP-134];
- Planning Statement [APP-135];
- Combined Heat and Power (CHP) Assessment [APP-136];
- Framework Construction Environmental Management Plan (fCEMP), including a Framework Site Waste Management Plan (fSWMP) [APP-137];
- Lighting Strategy [APP-138];
- Landscaping and Biodiversity Management and Enhancement Plan (LBMEP) [APP-139];
- fCTMP [APP-140];
- fCWTP [APP-141];
- Outline Drainage Strategy [APP-142]; and
- Outline Written Scheme of Investigation (OWSI) [APP-143].

4.7.9. Following the submission and acceptance of the application, various amendments were made to some ES chapters, appendices, figures and supporting documents. These comprised the following:

- Figure 10.1: Public Rights of Way and Conservation Areas, Figure 10.5: Viewpoint Locations, Figure 10.18: Viewpoint 13 and Figure 10.18: Viewpoint 13A [REP1-017];
- Factual Report on Ground Investigation (Parts 1 and 2) (to update Annex A of Appendix 11B) [REP2-012 and REP2-013];
- Figure 7.1: Transport Assessment Study Area [REP2-014];
- Figure 10.16: Viewpoint 11 [REP2-015];
- Figure 13.1: Local Businesses and Residential Receptors [REP2-016];
- fCTMP [REP2-008, REP4-016 and REP5-009];
- NSER [REP7-007];
- Chapter 9: Ecology [REP5-005 and REP7-014];
- Appendix 9A: Legislation and Planning Policy [REP7-015];
- Appendix 9C: Preliminary Ecological Appraisal [REP7-016];
- Appendix 9E: Great Crested Newt Survey Report [REP7-017];
- Appendix 9G: Bat Survey Report [REP7-018];
- Appendix 9I: Riparian Mammal Survey Report [REP7-019];
- fCEMP [REP6-007 and REP7-021]; and
- LBMEP [REP1-004, REP5-007, REP7-023].

- 4.7.10. I refer to the final versions of ES chapters, appendices, figures and supporting documents hereafter where appropriate and explain the reasons for the changes if important and necessary to do so.
- 4.7.11. During the Examination there were no submissions raising concerns about the overall adequacy of the EIA process and the ES. Individual submissions raising subject-specific issues bearing on individual planning issues are addressed in sections 4.9 to 4.19 below as necessary.
- 4.7.12. The ES and associated information submitted by the Applicant during the Examination have provided an adequate assessment of the likely significant environmental effects of the Proposed Development which meets the requirements of the 2009 EIA Regulations. The ES is sufficient to describe the 'Rochdale Envelope' for the Proposed Development and to secure its delivery within that envelope through the recommended Development Consent Order (rDCO). Full account has been taken of all environmental information in the assessment of the application and in the recommendation to the SoS.

## **4.8. ENVIRONMENTAL PERMITTING REGIME**

- 4.8.1. As stated in Chapter 3 of this Report, the Proposed Development falls under the Environmental Permitting (England and Wales) Regulations 2016 (EP Regulations). As a result, elements of the Proposed Development would require an EP. This is made separately and independently to the EA, who is the competent authority to issue and regulate EPs. For the purposes of this Report, the process of applying for the EP is identified as the EP regime.
- 4.8.2. The Applicant's approach, as agreed by the EA [RR-003 and AS-003], is to substantially vary the existing EP for WBB power station to include the Proposed Development. As the part of the application site which the Proposed Development would occupy is currently the responsibility WBA power station, this would also require a variation to the EP for WBA to surrender this land to WBB power station.
- 4.8.3. An application for a substantial variation to the WBB power station EP was submitted to and was subsequently duly made by the EA on 8 October 2019 [REP7-005] and is currently being determined. An application to partially surrender land from WBA power station to WBB power station to facilitate the variation of the EP was submitted to and was subsequently duly made by the EA on 18 September 2019 [REP7-005]. The EA intends to issue the two varied permits for WBA and WBB power stations at the same time, following their determination.
- 4.8.4. The EA signed a SoCG with the Applicant [REP1-016] setting out that operational effects, including CHP, air quality and noise, are being considered as part of the determination of the varied EP applications. The EA also notes [RR-003 and AS-003] that BAT would be a consideration of the varied EP applications and that conditions would be imposed on any consent to ensure emissions and discharges would be at levels that

would not result in significant impact on people and the environment, reflecting current statutory requirements.

- 4.8.5. The EA expects the varied EP permit applications to be determined in late spring / summer 2020 [REP2-025]. During the ISH [EV-009], the EA confirmed that on the basis of the information submitted with the applications, it was not aware of any reasons as to why the varied EP applications would not be granted.

## **4.9. AIR QUALITY AND EMISSIONS**

### **Policy Considerations**

- 4.9.1. Paragraph 4.10.2 of NPS EN-1 sets out the different functions of the planning and pollution control systems in relation to air quality matters. It confirms that the planning system is concerned with the development and use of land in the public interest and in improving the natural environment, public health and safety and amenity. Pollution control is concerned with the use of measures to prohibit or limit the releases of substances to the environment to the lowest practicable level.
- 4.9.2. As set out in paragraph 4.10.3 of NPS EN-1, the SoS is required to focus on whether the project itself is an acceptable use of the land, and on the impacts of that use, rather than the control of processes, emissions or discharges themselves. It also indicates that the SoS is entitled to assume that the relevant pollution control and environmental regulatory regimes will be properly applied and enforced and that the SoS should seek to complement but not duplicate them.
- 4.9.3. Paragraph 5.2.1 of NPS EN-1 notes that infrastructure development can have adverse effects on air quality involving emissions to air which can lead to adverse impacts on health, protected species and habitats. Levels for pollutants in ambient air are set out in the Air Quality Strategy for England (AQS). NPS EN-1 also notes that emissions from combustion plants are generally released through exhaust stacks and therefore the design of stacks, particularly height, is the primary driver for the delivery of optimal dispersion of emissions.
- 4.9.4. The SoS should give air quality considerations substantial weight where a project would lead to a deterioration in air quality in an area, new breaches of national air quality limits or substantial changes in air quality levels even where no breaches occur. Paragraph 5.2.10 of NPS EN-1 advises that account must be taken of any relevant statutory air quality limits.
- 4.9.5. Paragraph 2.5.3 of NPS EN-2 notes that fossil fuel generating stations are likely to emit nitrogen oxides (NO<sub>x</sub>) and sulphur oxides (SO<sub>x</sub>) and that to meet the Large Combustion Plants requirements of the Industrial Emissions Directive (IED) a range of mitigation must be applied, regulated through the EP Regulations.

## The Applicant's Case

- 4.9.6. ES Chapter 6 [APP-035] assesses the effect of the Proposed Development on air quality from emissions during construction, operation and decommissioning for human health and ecological receptors. It is supplemented by ES Appendix 6A: Air Quality Technical Appendix [APP-051].
- 4.9.7. Existing air quality conditions in the vicinity of the application site have been evaluated through a review of local authority air quality management reports, Government published data and other sources. Such sources include measurements taken from nitrogen dioxide (NO<sub>2</sub>) diffusion tubes, one operated by the Applicant to monitor emissions from WBA and WBB power stations 4km to the northeast of the application site in Gainsborough Cemetery, and some operated by WLDC, including three for background monitoring purposes also within Gainsborough Cemetery.
- 4.9.8. Key pollutants of concern resulting from construction, operation and decommissioning of the Proposed Development are identified as NO<sub>x</sub>, NO<sub>2</sub>, carbon monoxide (CO) and particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>). No Air Quality Management Areas exist within the administrative areas of BDC or WLDC and baseline data indicates that NO<sub>2</sub>, CO, PM<sub>10</sub> and PM<sub>2.5</sub> concentrations within the vicinity of the application site are consistently well below the AQS annual mean objectives.
- 4.9.9. The study area for the construction phase is based on guidance of the Institute of Air Quality Management (IAQM) and extends specified screening distances of between 50m to 350m from proposed construction traffic routes (or lengths of it within 500m of the site entrance) and / or the application site boundary, depending on the type of receptor and potential impact. The study area for the operational phase extends up to 2km from the part of the application site which the Proposed Development would occupy in respect of human health and non-statutory wildlife sites, and 10km in respect of statutory national and European sites.
- 4.9.10. During the construction phase, no residential human health or statutory national or European site receptors have been identified within the relevant IAQM screening distances where construction dust and PM<sub>10</sub> impacts, and emissions from non-road mobile machinery (NRMM), might occur. Non-statutory wildlife sites located within the relevant screening distance include West Burton Power Station Local Wildlife Site (LWS) and West Burton Reedbed LWS. However, with reference to IAQM guidance, such sites are considered to be of low sensitivity to dust and particulate impacts. Users of nearby public rights of way (PRoW), including Bole FP9#1 and West Burton FP4, are the only human health receptors identified within the relevant screening distance. However, in accordance with IAQM and Department for Environment, Food and Rural Affairs (DEFRA) guidance, these are identified as low sensitivity receptors, on the basis of their transient nature and thus limited exposure time to any dust or particulates from construction activities.

- 4.9.11. In addition, the management of dust and particulates and the application of suitable impact avoidance measures during construction would be controlled through a Construction Environmental Management Plan (CEMP), secured by Requirement (R) 16 of the dDCO [REP7-003]. The CEMP would accord with the fCEMP [REP7-021], which details such measures.
- 4.9.12. During the construction phase, traffic generated would peak at 112 HGV two-way movements per day during months 18-30 and 338 total two-way movements per day during months 25-27. ES Chapter 6 [APP-035] states that on this basis, further quantitative assessment of air quality impacts of road traffic associated with the construction phase has not been undertaken. This is given that IAQM and Environmental Protection UK (EPUK) guidance advises that a detailed assessment of air quality impacts during construction is only likely to be necessary where HGV flows would be in excess of 200 movements per day and total vehicle flows in excess of 1000 movements per day.
- 4.9.13. In light of the above, ES Chapter 6 [APP-035] concludes that the effects of emissions to air, including dust, from construction site activities and construction traffic associated with the Proposed Development on identified receptors would be not significant.
- 4.9.14. During operation, it is predicted that the Proposed Development would generate 10 two-way vehicle movements per day. According to IAQM and EPUK guidance, this would be below the criteria requiring an air quality assessment in respect of it. Therefore, traffic associated with the operation of the Proposed Development has been screened out of the assessment.
- 4.9.15. Emission to air impacts from the Proposed Development have been assessed based on 35m stack heights for each of up to five open OCGTs and a 40m stack height for a single OCGT based on height in metres above ground level (mAGL). These are the stack heights considered to adequately disperse emissions from the assessed options. Stacks of a different height could be utilised depending on the technology selected, provided that they would adequately disperse emissions. Higher stacks of up to 45m above ground level could also be constructed which, as stated in ES Chapter 6 [APP-035], would further reduce predicted ground level pollutant concentrations.
- 4.9.16. Up to five smaller OCGT units with stacks aligned north to south and running at the maximum of 2250 hours per year are considered to represent the worst-case modelled scenario of the Proposed Development for the purposes of the air quality assessment. Also, as it is anticipated that WBA power station would close by 2025 under current legislation, it is feasible that it and the Proposed Development would not run concurrently. Therefore, to include process contributions (PC) of emissions from WBA power station within existing and future background pollutant concentrations, as has been done as part of the assessment, represents the worst-case scenario.

- 4.9.17. ES Chapter 6 [APP-035] highlights that the Proposed Development would be designed to meet Emission Limit Value (ELV) requirements for pollutant releases to air as specified in the IED and would be required to employ BAT for the prevention or minimisation of emissions to the environment. This would be regulated through an EP issued by the EA.
- 4.9.18. The PC for human health receptors during operation has been determined from isopleth figures of pollutant dispersion and maximum model output at receptor locations. The maximum hourly and annual mean PC and predicted environmental concentrations of NO<sub>2</sub> has been compared with the AQS objectives. The assessment concludes that, at the worst affected human health receptor, maximum hourly and annual mean PC and predicted environmental concentration levels of NO<sub>2</sub> fall well below the AQS objectives and as such, effects on air quality for human health receptors would be not significant.
- 4.9.19. The PC for ecological receptors during operation has also been determined from isopleth figures of pollutant dispersion and maximum model output at the receptor locations. The maximum daily and annual mean PC and predicted environmental concentrations of NO<sub>x</sub> has been compared with the Critical Levels at the worst affected statutory national wildlife site within the study area; Lea Marsh Site of Special Scientific Interest (SSSI). No European sites have been identified within the study area. The assessment concludes that the daily and annual mean PC and predicted environmental concentrations of NO<sub>x</sub> fall well below the Critical Level for Lea Marsh SSSI.
- 4.9.20. The assessment also concludes that the maximum PC of nutrient nitrogen deposition and acid deposition at Lea Marsh SSSI would be well below the Critical Load for this SSSI. Additionally, the PC of sulphur deposition would be negligible, as the emissions of sulphur dioxide (SO<sub>2</sub>) from natural gas combustion are negligible, as are emissions of PM<sub>10</sub>. As such, it is considered that effects on air quality for all statutory wildlife sites within the study area would be not significant. This is also considered to be the case for all non-statutory wildlife sites within the study area, including West Burton Power Station LWS, which would be the worst affected.
- 4.9.21. The maximum PC of CO at all identified receptors would represent a negligible change in the AQS objective and effects of CO are thus considered to be not significant.
- 4.9.22. Appropriate best practice mitigation measures would be applied during decommissioning works and would be documented in a Decommissioning Environmental Management Plan (DEMP), secured by R27 of the dDCO [REP7-003]. It is predicted that air quality and emissions effects of the decommissioning of the Proposed Development would be comparable to, or less than, those assessed for construction activities.
- 4.9.23. ES Chapter 16 [APP-045] concludes that there would be no significant cumulative effects (taking into account other relevant committed

developments [APP-131]) or in combination effects in respect of air quality and emissions.

- 4.9.24. Taking the above into account, ES Chapter 6 [APP-035] concludes that air quality and emissions effects of the Proposed Development as a whole on identified receptors are considered to be not significant.

## **Examination**

- 4.9.25. No significant matters of concern were raised by IPs in RRs and WRs in respect of air quality and emissions matters assessed as part of ES Chapter 6 [APP-035] and ES Appendix 6A [APP-051].
- 4.9.26. I posed a number of Written Questions [PD-006] about air quality and emissions to which the Applicant and relevant parties adequately responded.
- 4.9.27. BDC and WLDC signed SoCG with the Applicant [AS-005 and REP1-012] agreeing the approach taken in the ES to assess the air quality effects of the Proposed Development to be appropriate. It was further agreed by BDC and WLDC that, assuming the ELV would be met for the Proposed Development as required under the IED and in accordance with the use of BAT under an EP, operational effects on air quality would be not significant and would not exceed AQS objectives. BDC's LIR [REP1-018] specifically notes the acceptability of the Proposed Development on air quality grounds.
- 4.9.28. The EA signed a SoCG with the Applicant [REP1-016] which sets out that the EA advised that BAT should be used and emissions minimised to levels that would not result in significant air quality impacts and in accordance with the IED and other statutory requirements. The EA agreed that the air quality assessment in the ES had been prepared assuming operation to these levels. NE signed a SoCG with the Applicant [REP1-009] agreeing that there would be no significant residual effects on statutory wildlife sites (including European sites), non-statutory wildlife sites, habitats or protected species.
- 4.9.29. Tables 1 and 2 of R5 of the dDCO [REP7-003] specify the maximum height of stack(s) and other elements of the Proposed Development in terms of metres above ordnance datum (mAOD). In respect of stack heights, this would be 59mAOD for both the single OCGT and up to five OCGT options. However, the ES assessed emissions to air impacts from the Proposed Development based on the minimum stack heights in mAGL that are considered to adequately disperse emissions from the assessed options. This was 40mAGL in respect of a single OCGT and 35mAGL in respect of up to five OCGTs.
- 4.9.30. I asked the Applicant [PD-010] whether, on this basis, minimum as well as maximum stack heights should be secured within Tables 1 and 2 of R5 of the dDCO. In its response [REP6-008], the Applicant took the view that this was not necessary as the air quality assessment was based on available information on turbine performance and emission rates at the time of preparing the application and turbine technology and



performance continue to advance and improve. Accordingly, the Applicant inferred that lower stack heights than those assessed may be able to be utilised which would achieve the same level of insignificance for air quality effects as presented in the ES. The Applicant therefore considered that if a minimum stack height is specified in the dDCO, there would be no opportunity to take advantage of any such advancement or improvement in turbine technology, which would correspondingly reduce the visual impacts of the stacks.

- 4.9.31. Having carefully considered the Applicant's response, my concerns remain with this approach. This is because the DCO should reflect the parameters corresponding to the assessments undertaken, which in this case, were based on specified minimum stack heights with regard to air quality and emissions. The dDCO [REP7-003] does not include an article or requirement stating that the Proposed Development must be constructed in line with that assessed in the ES. Though there may be ongoing advancements or improvements in turbine technology, it was the technology available at the time of the application which formed the basis of the assessment. In light of this, I recommend changes are made to the Applicant's final dDCO [REP7-003] to make provision for minimum stack heights in Tables 1 and 2 of R5, shown in mAGL. This is reflected in rDCO. For consistency and clarity, I also recommend that maximum heights of the elements of the Proposed Development identified in Tables 1 and 2 of R5 of the rDCO, including stacks, are shown in mAGL, in addition to mAOD.
- 4.9.32. The rDCO would still afford some flexibility to the Applicant by virtue of R5(3), which provides for change outside of the parameters of Tables 1 and 2, provided it is agreed by the relevant planning authority. In addition, by virtue of R1(3) of the rDCO, approval can only be given provided that the change is unlikely to give rise to any greater environmental effects from those assessed in the ES.

## **ExA Conclusions**

- 4.9.33. I am satisfied that there would be no significant air quality and emissions effects caused from construction and decommissioning activities of the Proposed Development. Emissions during its operation would be controlled by the EP regime and, subject to the inclusion of minimum stack heights in the rDCO, I am satisfied that there would be no significant air quality and emissions effects during operation. I am also satisfied that the Proposed Development would accord with the relevant NPSs. R5 (detailed design), R16 (CEMP) and R27 (decommissioning) are adequately secured in the rDCO and would ensure appropriate mitigation is carried out. With these controls, air quality does not affect the planning balance.

## **4.10. BIODIVERSITY AND NATURE CONSERVATION**

### **Policy Considerations**

- 4.10.1. Paragraph 5.3.3 of NPS EN-1 states that where the development is subject to EIA, the Applicant should ensure that the ES clearly sets out

any effects on internationally, nationally and locally designated sites of ecological or geological conservation importance, on protected species and on habitats and other species identified as being of principal importance for the conservation of biodiversity.

4.10.2. Paragraph 5.3.7 of NPS EN-1 states that development should aim to avoid significant harm to biodiversity and geological conservation interests. Paragraph 5.3.8 states that the SoS should ensure that appropriate weight is attached to designated sites of international, national and local importance; protected species; habitats and other species of principal importance for the conservation of biodiversity; and to biodiversity and geological interests within the wider environment.

4.10.3. Paragraph 5.3.4 of NPS EN-1 states that the Applicant should show how the project has taken advantage of opportunities to conserve and enhance biodiversity and geological conservation interests. Paragraphs 5.3.15 and 5.3.19 state that the SoS should maximise opportunities for building-in beneficial biodiversity or geological features, using requirements or planning obligations where appropriate. Section 5.6 of NPS EN-1 recognises the potential for energy infrastructure to release artificial light and for applicants to assess the effects of this.

### **The Applicant's Case**

4.10.4. ES Chapter 9 [REP7-014] assesses the effect of the Proposed Development on biodiversity and nature conservation during construction, operation and decommissioning. It is accompanied by several appendices (9A-9I), including in respect of the assessment methodology [APP-054], policy and legislation [REP7-015], a preliminary ecological appraisal [REP7-016] and relevant species surveys [APP-056, REP7-017, APP-058, REP7-018, APP-060, APP-061 and REP7-019]. Geological conservation is considered in ES Chapter 14: Cultural Heritage [APP-043] and is considered later in this Report.

4.10.5. The ecological assessment has been undertaken in accordance with best practice guidance issued by the Chartered Institute of Ecology and Environmental Management (CIEEM) and aims to identify ecological features which may be affected, to provide an assessment of any ecological impacts and to set out any steps to be taken to adhere to legal requirements relating to ecological features concerned.

4.10.6. A desk study was undertaken, using a variety of relevant sources, to identify ecological features within corresponding study areas as follows:

- International statutory nature conservation designations (including Special Areas of Conservation, Special Protection Areas and Ramsar sites) within 10km;
- National statutory nature conservation designations (including SSSI) within 2km of the application site;
- Local non-statutory nature conservation designations (including LWS) within 2km of the application site;

- Protected and notable habitats and species within 2km of the application site; and
- Ponds within 500m from the application site.

- 4.10.7. Field surveys were undertaken to identify the scope of habitat and protected species, including badgers, GCN, reptiles, bats, breeding birds, otters and water voles, within the application site. The results of these are detailed in ES Appendices 9C to 9I [REP7-016, APP-056, REP7-017, APP-058, REP7-018, APP-060, APP-061 and REP7-019].
- 4.10.8. Ecological features of relevance have been assigned a value (international, national, regional, county, district, local or negligible), defined with reference to the geographical level at which it matters based on CIEEM guidance. All ecological features of local value and above have been assessed.
- 4.10.9. No international statutory nature conservation designations (European sites) have been identified within a 10km radius of the application site. ES Chapter 9 [REP7-014] thus concludes that, as the study area is based on the zone of influence for which the most far reaching impacts would be on air quality, there is no potential for effects on European sites. The implications for European sites are discussed further in Chapter 5 of this Report, having regard to the Habitats Regulations and with reference to the Applicant's NSER [REP7-007].
- 4.10.10. Lea Marsh SSSI is the only wildlife site of national importance within a 2km radius of the application site. There are 10 LWS within a 2km radius of the application site. These are West Burton Power Station LWS (partially within the site), Bole Ings LWS (partially within the site), West Burton Reedbed LWS, Burton Round Ditch LWS, Bole Ings Drains LWS, Saundby Ponds LWS, Bole Ings Flood Pasture LWS, Mother Drain-Upper Ings LWS, West Burton Meadow LWS and Lea Meadow LWS. These sites are shown on Figure 9C.1 of ES Appendix 9C [REP7-016].
- 4.10.11. The application site contains a variety of habitats, including semi-improved neutral grassland, scrub, semi-mature broadleaved woodland, ruderal vegetation, wet woodland, hardstanding with scattered semi-mature trees and reedbed and swamp. It also includes several artificial amphibian hibernacula, which, along with the creation and management of an area of the semi-improved neutral grassland within the application site, were provided as mitigation associated with the construction of WBB power station. These habitats are shown on Figure 9C.2 of ES Appendix 9C [REP7-016], with the hibernacula and the area of grassland associated with the construction of WBB annotated with Target Notes 2 and 5 respectively. This area of grassland is also identified as 'Area 5' on ES Figure 9.1 [APP-086] and Figure 2 of the LBMEP [REP7-023].
- 4.10.12. Notable habitats outside of, but close to the application site, also shown on Figure 9C.2 of ES Appendix 9C [REP7-016], includes flooded gravel pits, wet woodland, reedbeds and the River Trent. No protected, rare or notable plant species were identified within the application site during the preliminary ecological appraisal [REP7-016]. Nor were any invasive, non-native plant species identified. Protected and notable faunal species

identified as present, or potentially present, within and adjacent to the application site, include GCN, bats, badgers, grass snakes, breeding birds, otters and brown hares.

- 4.10.13. ES Chapter 9 [REP7-014] identifies habitat loss and disturbance (from noise, light and vibration) as potential impacts on ecology during the construction of the Proposed Development. Air quality and disturbance (from noise, light and vibration) are identified as potential impacts on ecology during its operation.
- 4.10.14. The Proposed Development would avoid, as far as reasonably practicable, areas of high quality habitat. To further reduce the potential for adverse ecological effects during construction, including in relation to water pollution, dust and noise, ES Chapter 9 [REP7-014] sets out that the Proposed Development would comply with industry good practice and environmental protection legislation. In support of this, a CEMP detailing all requirements for environmental protection and legal compliance would be prepared and implemented. This would be in accordance with the fCEMP [REP7-021] and is secured under R16 of the dDCO [REP7-003].
- 4.10.15. During construction, lighting impacts on sensitive ecological features would be minimised in accordance with the Lighting Strategy [APP-138], secured under R7 of the dDCO [REP7-003]. Vegetation clearance works would be undertaken outside the bird breeding season and where this is not reasonably practicable, an ecologist would inspect all areas of vegetation prior to clearance, as set out within the fCEMP [REP7-021].
- 4.10.16. An EPSML in respect of GCN and a licence to close any active badger setts, if necessary, would be obtained from NE prior to works commencing. A suitably licensed Ecological Clerk of Works would be employed to supervise and manage the implementation of measures to mitigate impacts on ecological features prior to and during the construction phase.
- 4.10.17. The assessment concludes there would be no direct or indirect construction impacts on Lea Marsh SSSI given its distance from the application site. Of the LWSs, West Burton Power Station LWS is the only one identified as being potentially affected. This would be due to some vegetation clearance and ground disturbance should drainage connections to existing drainage infrastructure associated with WBB power station follow either the northern or southern drainage corridor options. However, the impact on habitats within the West Burton Power Station LWS would be temporary, as it would be reinstated upon the completion of works. This is set out in the Landscaping and Biodiversity Management and Enhancement Plan (LBMEP) [REP7-023] and secured under R6 and R24 of the dDCO [REP7-003]. Furthermore, the potentially affected areas would represent only a small part (less than 5%) of the overall West Burton Power Station LWS. In addition, the flooded gravel pits and associated wet woodland, which are the habitats that support the ecological features for which the West Burton Power Station LWS is designated, would not be directly or indirectly affected during construction of either drainage connection corridor option. As such, the

predicted effect on the West Burton Power Station LWS is considered to be not significant.

- 4.10.18. During construction, there would be some permanent loss of semi-improved neutral grassland. The affected grassland does not form part of any LWS. This would arise predominantly from the siting of the Proposed Development. The affected grassland is of local value and comprises floral species that can be readily substituted to deliver habitats of comparable or higher ecological structure and function elsewhere within the application site. Some temporary loss of semi-improved neutral grassland, predominantly from the siting of the construction laydown area, would also occur. This would be reinstated to a comparable or better condition following construction. This is set out in the LBMEP [REP7-023] and secured under R6 and R24 of the dDCO [REP7-003]. Effects on grassland during construction are not considered to adversely affect the structure or function of the wider grassland resource associated with the application site or the surrounding landscape. Consequently, no significant effect on this habitat type would occur during the construction period.
- 4.10.19. Construction effects of the Proposed Development on the population of bats, grass snakes, birds, otters and brown hares, resulting from habitat loss and / or disturbance, are considered to be not significant. The killing or injury of individual GCN during construction works within the vicinity of breeding ponds would be avoided through measures to be implemented under an EPSML. However, construction effects on the population of GCN, due to temporary and permanent loss of terrestrial habitat for foraging, shelter and hibernation (from the siting of the Proposed Development, the siting of the construction laydown area and potential drainage connection along the southern drainage corridor), is predicted to be moderate adverse and thus significant.
- 4.10.20. Construction and operational impacts of the Proposed Development on statutory and non-statutory wildlife sites relating to air quality and emissions are assessed in detail in ES Chapter 6 [APP-035] and its accompanying ES Appendix 6A [APP-051]. Air quality and emissions impacts on wildlife sites would be minimised through the use of appropriate stack heights to aid dispersion of pollutants and through emissions monitoring to demonstrate compliance with ELV set by the EA. This would be controlled through an EP. As set out above in section 4.9 of this Report and reiterated in ES Chapter 9 [REP7-014], it is expected that air quality and emissions effects for all statutory and non-statutory wildlife sites within the study area would be not significant.
- 4.10.21. During operation, lighting impacts on sensitive ecological features would be minimised in accordance with the Lighting Strategy [APP-138], secured under R7 of the dDCO [REP7-003]. Proposals for biodiversity management and enhancement within the application site are set out within the LBMEP [REP7-023] and the areas of the application site subject to such management and enhancement are shown on Figure 2 of this document. Appendix B of the LBMEP [REP7-023] states that these areas will be managed and maintained for 10 years, with a review after 5

years. The proposals have been designed to compensate for loss of habitat in order to ensure no net loss of and a net gain of biodiversity overall, including in respect of habitat for GCN, thereby reducing the effect on the population of this species from moderate adverse (significant) to neutral (not significant). A final LBMEP is secured under R6 of the dDCO [REP7-003].

- 4.10.22. Impacts associated with the decommissioning of the Proposed Development are likely to be of a similar nature to those associated with its construction. As a result, potential effects on ecological features during decommissioning are not anticipated to differ significantly from those predicted at construction. Additionally, the extent of habitat loss likely to be required during decommissioning is anticipated to be much less than during construction. Therefore, the resulting effects on ecological features are likely to be not significant during the decommissioning stage.
- 4.10.23. ES Chapter 16 [APP-045] concludes that there would be no significant cumulative effects (taking into account other relevant committed developments [APP-131]) or in combination effects in respect of biodiversity and nature conservation.

### **Examination**

- 4.10.24. NE signed a SoCG [REP1-009] with the Applicant agreeing the approach set out in the ES to assess the effects of the Proposed Development on ecology to be appropriate and that the construction, operation and decommissioning phases would not result in significant residual effects upon statutory and non-statutory wildlife sites, habitats or protected species. It was agreed between the parties that the LBMEP [REP7-023], secured by R6 of the dDCO [APP-004], would provide appropriate measures to compensate any loss of habitat in order to ensure no net loss of biodiversity overall. It was also agreed that measures within the fCEMP [REP7-021], a final version of which is secured under R15 of the dDCO [APP-004], would be appropriate to control effects on protected species, and that the Lighting Strategy [APP-138], secured by R7 of the dDCO [APP-004], would provide an appropriate means of minimising the effects of external lighting on ecology.
- 4.10.25. The SoCG between NE and the Applicant agreed that a draft EPSML application for GCN, to ensure the protection of that species during construction, would be submitted to NE for consideration during the examination period. The Applicant submitted such an application and NE issued a letter of no impediment dated 27 November 2019 [REP2-010].
- 4.10.26. NCC signed an initial SoCG [REP1-013] with the Applicant generally agreeing to the approach taken in the ES to assess the effects of the Proposed Development on ecology. However, NCC raised a concern in respect of the Applicant's biodiversity net gain assessment, having regard to the DEFRA biodiversity metric. In response to one of my Written Questions [PD-006], NCC clarified its concern [REP2-019], which primarily related to whether additional ecological enhancement of the

area of grassland within the application site identified as 'Area 5' could realistically be achieved. This was given that the enhancement of this area was already required as part of the planning consent for WBB power station. NCC thus suggested that additional land might be required to compensate for this. It is worth noting that NE responded to the same question to confirm it was content with the proposed enhancement of 'Area 5' [REP3-009].

- 4.10.27. I was aware that, following my request for information from the Applicant under Rule 17 [PD-007] relating to an absence of a SoCG between NWT and the Applicant, that NWT, albeit not formally registered as an IP, also had concerns over biodiversity enhancement [REP3-002].
- 4.10.28. Subsequent to the submission of the application, the DEFRA Biodiversity Metric initially used by the Applicant to measure biodiversity net gain was superseded by the DEFRA Biodiversity Metric 2.0, published in July 2019. During the course of the Examination and in response to the concerns of NCC and NWT and this update, the Applicant recalculated changes in biodiversity using the updated metric which would arise from the Proposed Development and submitted the results at D3 [REP3-005], albeit with little explanation of the data. This demonstrated that a biodiversity net gain of approximately 33% would be achieved. To understand this matter and the concerns of NCC and NWT further, I included it on the agenda for the Issue Specific Hearing [EV-007] and invited NCC and NWT to attend, although neither organisation took up this invitation. During the ISH [EV-009], the Applicant provided an explanation of how biodiversity net gain would be achieved and, as I requested, an updated ES Chapter 9 [REP5-004] and LBMEP [REP4-014] to reflect the use of the DEFRA Biodiversity Metric 2.0 data were submitted to the Examination.
- 4.10.29. Subsequently, NWT signed a SoCG [REP4-006] and NCC signed a further SoCG [REP5-011] agreeing on ecological matters, that biodiversity net gain could be achieved at 'Area 5' through the LBMEP and that this is secured under R6 of the dDCO [APP-004].
- 4.10.30. No other IPs raised any significant concerns in their RRs or WRs in respect of biodiversity and nature conservation. However, some residents of Bole queried the necessity [RR-017 and REP3-010] for the confidentiality of badger and breeding bird surveys [APP-056, APP-060 and APP-061]. The Applicant responded [REP1-005 and REP4-004] highlighting that advice from the Planning Inspectorate had been followed which states that information about the presence and locations of rare or sensitive species, where disturbance, damage, persecution or commercial exploitation may result from publication should be marked as 'confidential' and shared only with relevant statutory consultees.
- 4.10.31. I note that this advice, including in respect of badgers and rare birds, is set out in the Annex to Planning Inspectorate Advice Note 7: *Environmental Impact Assessment: Process, Preliminary Environmental Information and Environmental Statements*. This matter was not pursued any further by the residents of Bole and I have no substantive reasons to

believe that they, or any other IPs have been prejudiced by the confidentiality of the reports. Moreover, I have had regard to the reports in reaching my conclusions and NE has raised no concerns in respect of the effects of the Proposal Development on badgers or breeding birds.

- 4.10.32. Regarding badgers, ES Chapter 9 [REP7-014] sets out that, if required, a licence would be obtained from NE to close any active setts affected, prior to works commencing and, in response to one of my Written Questions [REP6-013], NE confirmed that such an approach would be appropriate, without the need for a prior draft licence application.
- 4.10.33. The final version of ES Chapter 9 [REP7-014] and updates to its Appendices 9C, 9E, 9G and to 9I [REP7-016, REP7-017, REP7-018 and REP7-019] were submitted at D7 to make correct reference to the Conservation of Species and Habitats Regulations 2017. I am satisfied this has no material bearing on the consideration of the application. A final version of the LBMEP [REP7-023] was also submitted at D7 for the same reason.

## **ExA Conclusions**

- 4.10.34. The ES did not identify any significant effects on statutory or non-statutory wildlife sites, protected species and habitats and other species of notable importance for the conservation of biodiversity. The exception to this is in respect of GCN during the construction phase where moderate adverse and thus significant effects on the local population are predicted due to loss of terrestrial habitat, albeit that the killing or injury of individual GCN during construction works would be avoided through measures to be implemented under a EPSML.
- 4.10.35. A range of mitigation measures have been proposed, including within the LBMEP [REP7-023], Lighting Strategy [APP-138] and fCEMP [REP7-021], which are secured by R6 (landscaping and biodiversity management and enhancement), R7 (lighting), R16 (CEMP) and R24 (restoration of land) of the rDCO. The effect of these mitigation measures, and the securing of an EPSML in respect of GCN, for which NE has issued a letter of no impediment [REP2-010], would be that no residual likely significant effects are anticipated on any of the ecological receptors identified. In addition, R15 (protected species) of the rDCO makes provision for further protected species surveys to be carried out prior to the commencement of the Proposed Development to establish any changes in this regard since the original survey work was undertaken.
- 4.10.36. Accordingly, I am satisfied that the Proposed Development would comply with policy and legislation relating to biodiversity and nature conservation, including that of NPS EN-1. I am satisfied that the obligations in respect of biodiversity have been met and that this matter is thus a neutral consideration in the planning balance.



## **4.11. LANDSCAPE AND VISUAL**

### **Policy Considerations**

- 4.11.1. Paragraph 5.9.1 of NPS EN-1 notes that the landscape and visual effects of energy projects will vary on a case by case basis according to the type of development, its location and the landscape setting. Exhaust stacks and their plumes are described as having the most obvious impact on landscape and visual amenity for thermal combustion generating stations. Paragraph 5.9.5 requires an applicant to carry out a landscape and visual assessment which should include reference to any landscape character assessment and associated studies as a means of assessing landscape impacts relevant to the Proposed Development.
- 4.11.2. NPS EN-1 notes that virtually all Nationally Significant Infrastructure Projects (NSIPs) relating to energy will have effects on the landscape, and that projects need to take account of the potential impact. Having regard to siting, operational and other relevant constraints, the aim should be to minimise harm, providing reasonable mitigation where possible and appropriate. In addition, paragraph 5.9.18 of NPS EN-1 recognises that all proposed energy infrastructure is likely to have visual effects for many visual receptors around proposed sites and therefore it is necessary to judge whether the effects outweigh the benefits of the project.
- 4.11.3. Section 2.6 of NPS EN-2 also deals with landscape and visual matters. It recognises that the main structures for a fossil fuel generating plant are large and will have an impact on the surrounding landscape and visual amenity, with the overall size of the development dependent upon technology and design. It also recognises that night-time lighting for continuous operation will also have an impact on visual amenity.
- 4.11.4. Paragraph 2.6.4 of NPS EN-2 advises an applicant to consider the design of the plant, including the materials to be used, and the visual impact of the stack in the context of the local landscape recognising that it is not possible to eliminate the visual impacts associated with a fossil fuel generating station. Recognising the statutory and technical requirements which inform plant design, paragraph 2.6.10 of NPS EN-2 states that if the location is appropriate for the project and it has been designed sensitively to minimise harm to landscape and visual amenity, the visibility of a fossil fuel generating station should be given limited weight.

### **The Applicant's Case**

- 4.11.5. ES Chapter 10 [APP-039] assesses the effect of the Proposed Development on landscape and visual receptors. The study area for both has been formed by the combination of producing a Zone of Theoretical Visibility and professional judgement on where there would be potential direct and indirect effects on landscape character and sensitive viewpoints from the construction, operation and decommissioning of the Proposed Development.

- 4.11.6. ES Chapter 10 [APP-039] states that based upon the tallest element of the Proposed Development being the stack(s), with a maximum height of 45mAGL / 59mAOD, it is highly unlikely that significant effects would be possible from further than 5km from the centre of the stack(s). A 5km radius study area has thus been adopted for the purpose of the assessment, in agreement with BDC and WLDC.
- 4.11.7. ES Chapter 10 [APP-039] sets out that, in respect of assessing likely impacts on the landscape, consideration has been given to landscape character, landscape quality, landscape value and landscape sensitivity. This includes direct and indirect impacts of the Proposed Development on landscape elements and features as well as on the general landscape character of the surrounding area. The assessment of visual effects considers 15 viewpoints within the study area which are considered representative of views that would be available of the Proposed Development from key visual receptors. These are shown on ES Figure 10.5 Rev 1 [REP2-015]. Viewpoint locations were agreed with BDC and WLDC.
- 4.11.8. ES Chapter 10 [APP-039] highlights that as there is no final design of the Proposed Development, the landscape and visual impact assessment considers a worst-case scenario, adopting the 'Rochdale Envelope' approach, allowing for later choice of technology and dimensions and configuration of any buildings and stacks.
- 4.11.9. A maximum final ground level of 14mAOD has been assumed in the assessment which translates to a maximum stack height of 59mAOD. This is secured in Tables 1 and 2 of R5 of the dDCO [REP7-003]. It is considered that up to five narrower stacks would be more visually intrusive than a single wider stack and that multiple stacks in a north-south configuration would have a greater visual effect than an east-west configuration. ES Chapter 10 [APP-039] therefore notes that the results presented in the assessment are representative of several different design options and that the overall effect of the Proposed Development may be less than that presented, as the design to be taken forward may present lesser impacts on some receptors than presented in the assessment.
- 4.11.10. In terms of development design and impact avoidance of the Proposed Development in relation to landscape and visual effects, ES Chapter 10 [APP-039] sets out that:
- existing vegetation around the application site, which would be substantially retained and maintained, would provide screening for low level operations and structures;
  - suitable materials would be used where reasonably practicable in the construction of buildings and structures to reduce reflection and glare and to assist with breaking up their massing;
  - the selection of finishes for the buildings and structures would be informed by the finishes of adjacent developments in order to minimise visual impact; and

- lighting required during operation of the Proposed Development would be designed to reduce unnecessary light spill.

- 4.11.11. The study area, as identified within ES Chapter 10 [APP-039] and on ES Figure 10.3 [APP-089], lies primarily within National Character Area 48: Trent and Belvoir Vales, characterised as low lying, open and wide, with power stations and associated overhead power lines located along the River Trent exerting a visible influence over a wide area. At a regional level, the study area lies within the Trent Washlands Regional Character Area (RCA), the Mid Nottinghamshire Farmlands RCA and the Trent Valley Landscape Character Area (LCA), with the application site itself within the Trent Washlands RCA. The Bassetlaw Landscape Character Assessment (BLCA) notes that, with regard to the Trent Washlands RCA, a number of pressures have greatly affected the traditional character of the region including the impact of power stations and pylon lines. Further, that the West Burton and Cottam power stations and their associated overhead power lines are the most dominant and visually intrusive landscape features within this area. The BLCA notes the Mid Nottinghamshire Farmlands RCA to be an undulating landscape of distinctively rural, agricultural character. The West Lindsey Landscape Character Assessment notes the Trent Valley LCA to be low-lying and gently undulating with power stations along the River Trent dominating views to the west.
- 4.11.12. ES Chapter 10 [APP-039] highlights that machinery and construction activity would be introduced onto the application site during the construction period. It also identifies that there would be the removal of some existing grassland and vegetation for the siting of the Proposed Development, construction compound and laydown areas. However, ES Chapter 10 [APP-039] concludes that such changes would result in not significant effects on the identified landscape character areas or on the landscape features of the application site itself.
- 4.11.13. During operation, ES Chapter 10 [APP-039] sets out that, whilst built structures associated with the Proposed Development would be introduced onto the application site, this would be in the context of the existing and larger WBA and WBB power stations which already influence the character of the area. Limited beneficial effects are identified for the landscape features of the application site during the operational stage of the Proposed Development on the basis of the reinstatement of some areas of grassland and the management and enhancement of existing and retained landscape areas within the boundaries of the application site. Such measures are set out within the LBMEP [REP7-023] and are secured under R6 and R24 of the dDCO [REP7-003]. Thus, ES Chapter 10 [APP-039] concludes that effects on the identified landscape character areas and the landscape features of the application site during operation would be not significant.
- 4.11.14. Landscape effects during decommissioning of the Proposed Development have been assessed as similar to those during the construction phase and would be not significant. A DEMP, including details of land restoration works, is secured under R27 of the dDCO [REP7-003].

- 4.11.15. With regard to visual receptors, ES Chapter 10 [APP-039] identifies one viewpoint, Viewpoint 4, where moderate adverse, and thus significant visual effects in EIA terms are likely to occur. This includes during construction (due to visibility of plant movement, cranes, construction operations, progressive construction of tall structures and construction lighting), operation (due to visibility of a large single gas turbine and an associated stack or up to five smaller gas turbines with individual stacks) and decommissioning (due to visibility of plant movement, cranes and the progressive deconstruction of tall structures). Viewpoint 4 is located at the junction of PRoW Bole FP3B and Bole FP4, approximately 1.35km from the part of the application site which the Proposed Development would occupy, and represents views for users of these PRoW and residents of Bole village generally. In respect of other representative viewpoints within the study area, visual effects have been assessed as not significant during construction, operation and decommissioning of the Proposed Development.
- 4.11.16. ES Chapter 10 [APP-039] sets out that lighting associated with the Proposed Development has been assessed within the context of lighting for the existing WBA and WBB power stations. It concludes that due to the screening effect of intervening vegetation and the restrictions placed on lighting by the submitted Lighting Strategy [APP-138], to be secured under R7 of the dDCO [REP7-003], it is anticipated that overall, the effects of night-time lighting at sensitive receptors resulting from the Proposed Development would not significantly increase above current baseline levels.
- 4.11.17. ES Chapter 10 [APP-039] highlights that the opportunity for mitigation of the visual effects of the Proposed Development from Viewpoint 4 is limited and as such none is proposed. This is because the visual effects largely relate to the height of the tallest structures and as such the addition of landscape features such as trees and woodland would not be effective in reducing the effects on visual amenity. However, ES Chapter 10 [APP-039] notes that an integrated design approach that considers massing and the disposition of taller structures to minimise potential wall effects would have potential to reduce the visual impact of the Proposed Development. The detailed design of the Proposed Development is secured under R5 of the dDCO [REP7-003]. It is also highlighted that the Proposed Development would have a close visual relationship with existing structures on the wider West Burton power station site.
- 4.11.18. ES Chapter 16 [APP-045] concludes that there would be no significant cumulative effects (taking into account other relevant committed developments [APP-131]) or in combination effects in respect of landscape and visual matters.

## **Examination**

- 4.11.19. Other than Cllr Naish on behalf of the residents of Bole village, no other IPs raised landscape and visual impacts, including lighting, as a particular concern. On this matter, BDC, WLDC, NCC and LCC confirm in their SoCG with the Applicant [AS-005, REP1-012, REP1-013 and REP1-011], that

landscape and visual effects associated with the Proposed Development would be acceptable. The LIRs from BDC and WLDC [REP1-018 and REP1-020] reiterate this.

- 4.11.20. I visited all viewpoints listed in ES Chapter 10 [APP-039] unaccompanied on at least one occasion and Viewpoint 4 unaccompanied on three occasions [EV-003, EV-004 and EV004a] and during the Accompanied Site Inspection [EV-005]. One of the unaccompanied visits I made to Viewpoint 4 was during the hours of darkness. Given this, I have a good understanding of the context of the application site and views towards it from within the defined study area. I observed that the existing WBA and WBB power stations are notable built features within the landscape from many of the selected viewpoints, including from Viewpoint 4, and exert a strong industrial influence on the character of the area. I also observed that lighting associated with them during hours of darkness to be prominent.
- 4.11.21. The Applicant has provided summer and winter photomontages of the Proposed Development from Viewpoint 4, including in the form of a single turbine and stack option and a five turbine and stack option, to illustrate how it could appear within the view from this location [APP-107 to APP-116]. On the basis of the photomontages and my own observations, I would concur that the introduction of the Proposed Development into the view would have a moderate detrimental impact on visual amenity for users of PRow in the vicinity of Viewpoint 4 and the residents of Bole in general.
- 4.11.22. However, adverse visual effects would be tempered by the close proximity of the Proposed Development to WBA and WBB power stations, which are considerably greater in scale. In addition, much of the lower-level built form would be screened or partially screened by existing intervening vegetation and unlike WBA and WBB power stations, the Proposed Development, as confirmed by the Applicant in answer to my Written Questions [REP2-009], would not emit plumes from its stack(s). Moreover, the detailed design of the Proposed Development, including its siting, layout, scale and external appearance, including the colour, materials and surface finishes of all new permanent buildings and structures, in order to minimise visual impact, is appropriately secured under R5 of the dDCO [REP7-003].
- 4.11.23. I acknowledge that the residents of Bole have a desire for additional tree planting to screen the Proposed Development [RR-017, REP3-010 and REP4-019]. However, given its overall size and scale and that it would be its tallest elements which would be most visible, I take a similar view to that of the Applicant that any additional tree planting for screening purposes would have very little impact as mitigation.
- 4.11.24. In terms of lighting associated with the Proposed Development, this would be seen in the context of already prominent lighting on the wider West Burton power station site and would not, in my view, result in any material additional effects in this regard. Furthermore, details of external lighting during construction and operation is secured under R7 of the

dDCO [REP7-003]. Such details would need to accord with the submitted Lighting Strategy [APP-138] which sets out appropriate measures to minimise effects of lighting.

- 4.11.25. Although a moderate adverse impact would occur from within the vicinity of Viewpoint 4 and thus in EIA terms, a significant effect, I am mindful that NPS EN-1 recognises that all proposed energy infrastructure is likely to have visual effects and that NPS EN-2 states that if the location is appropriate for the project and it has been designed sensitively to minimise harm to landscape and visual amenity, the visibility of a fossil fuel generating station should be given limited weight.
- 4.11.26. I am satisfied that the Proposed Development would have no significant visual effects from other viewpoints. I am also satisfied that given the scale of the identified landscape character areas, the already acknowledged influence of large power stations as part of these and that the Proposed Development, which would be smaller in scale than WBA and WBB power stations and would sit within the immediate context of them, would not give rise to significant effects on landscape character overall.
- 4.11.27. WLDC's LIR [REP1-020], whilst not raising any particular landscape or visual concerns in respect of the Proposed Development, indicated a preference for a single stack design over one with multiple stacks in the interests of visual amenity. I raised this matter at the ISH [EV-009] and asked WLDC whether it might wish to be included as a consultee on the design of the Proposed Development under the relevant requirement of the dDCO. WLDC was agreeable to this, as was the Applicant. R5 of the dDCO relating to detailed design was updated at D4 [REP4-012] to reflect this.
- 4.11.28. As a result of visiting each viewpoint, I observed that the location of Viewpoint 13, as shown on ES Figure 10.5 [APP-091] submitted with the application, was plotted incorrectly. I made the Applicant aware of this as part my Written Questions [PD-006] and updated figures were provided by the Applicant at D2 [REP2-015] to address this. I am satisfied that this does not affect the consideration of the application in any way.
- 4.11.29. Tables 1 and 2 of R5 of the dDCO [REP7-003] secure maximum heights of relevant components of the Proposed Development, including stacks, in mAOD. However, ES Chapter 10 [APP-039], as part of the landscape and visual assessment, also specifies maximum stack heights in mAGL. Tables 4-1 and 4-2 of ES Chapter 4 [APP-033] also specify maximum heights of relevant components of the Proposed Development, including stacks, in mAOD. I asked the Applicant to ensure that the dDCO includes all relevant height parameters corresponding to the assessments undertaken [PD-010]. However, the Applicant was not forthcoming to make the amendments to the dDCO [REP6-008]. I thus recommend, for clarity and to reflect the assessment undertaken, maximum heights of the relevant components of the Proposed Development in mAGL, in addition to mAOD, are included in Tables 1 and 2 of R5 of the rDCO.

- 4.11.30. I posed a number of other Written Questions [PD-006] about landscape and visual amenity to which the Applicant and relevant parties adequately responded.

## **ExA Conclusions**

- 4.11.31. The Proposed Development would not give rise to any significant effects on landscape character or landscape features during its construction, operation or decommissioning. R6 of the rDCO would secure some limited benefits to the landscape and ecological features of the application site in accordance with the LBMEP [REP7-023] during the operational stage. R24 of the rDCO would secure restoration of land temporarily used for construction and R27 would secure the restoration of land following decommissioning.
- 4.11.32. However, the Proposed Development would give rise to moderate adverse and thus significant effects in EIA terms for some visual receptors during its construction, operation and decommissioning, albeit that such effects would be localised and limited to users of PRoW in the vicinity of Viewpoint 4 and the residents of Bole village in general. This would largely be due to the use of cranes during construction and decommissioning and the height and visibility of the stack(s) of the Proposed Development during operation. There is little scope for any meaningful mitigation to avoid such an effect.
- 4.11.33. Nevertheless, the Proposed Development, the siting of which would be close to the existing and notably larger WBA and WBB power stations, would occupy an appropriate location and would be seen in the context of these power stations. Lower-level built form would largely be screened by existing vegetation. No plumes would be emitted from the stack(s) of the Proposed Development. These factors would temper any adverse visual impact from Viewpoint 4. Moreover, R5 of the rDCO would provide for the sensitive design of the buildings and stack(s) associated with the Proposed Development to minimise visual impact and, in Tables 1 and 2, would secure a maximum stack height of 59mAOD. R7 of the rDCO would provide for sensitive lighting design to minimise visual impact also.
- 4.11.34. However, for clarity and to reflect the assessment undertaken, I recommend that Tables 1 and 2 of R5 of the rDCO specify maximum heights of the relevant components of the Proposed Development in mAGL, in addition to mAOD.
- 4.11.35. Taking these matters into account, and given the limited wider visual impact of the Proposed Development, I afford the visibility of the Proposed Development from Viewpoint 4 limited weight and I am satisfied that it would accord with NPS EN-1 and NPS EN-2 in respect of landscape and visual matters.

## **4.12. TRAFFIC AND TRANSPORT**

### **Policy Considerations**

- 4.12.1. NPS EN-1 recognises that the transport of materials, goods and personnel to and from a project, during all project phases can have a variety of impacts on the surrounding transport infrastructure. It notes at paragraph 5.3.12 that the consideration and mitigation of transport impacts is an essential part of Government's wider policy objectives for sustainable development and that, as far as possible, adequate mitigation measures should be proposed to reduce the impact on the transport infrastructure to acceptable levels. NPS EN-1 sets out that an applicant should include a TA for any project likely to have significant transport implications, and where appropriate a Travel Plan should be prepared.
- 4.12.2. Paragraph 5.13.10 of NPS EN-1 identifies that water-borne or rail transport is preferred over road transport at all stages of the project where cost-effective.

### **The Applicant's Case**

- 4.12.3. ES Chapter 7 [APP-036] assesses the effect of the Proposed Development on traffic and transportation during construction, operation and decommissioning. A TA has been included as ES Appendix 7A [APP-052].
- 4.12.4. The study area for the assessment has been defined by reference to the Institute of Environmental Management and Assessment (IEMA) publication *Guidelines for the Environmental Assessment of Road Traffic 1993* and includes, as shown on ES Figure 7.1 [REP2-014]:
- C2 Gainsborough Road, south of the West Burton power station site main entrance;
  - C2 Sturton Road, north of the West Burton power station site main entrance;
  - A620 Gainsborough Road, west of Sturton Road roundabout; and
  - A620 Saundby Road, north of Sturton Road roundabout.
- 4.12.5. HiE confirmed during the scoping stage of the Proposed Development that no assessment of the Strategic Road Network was necessary.
- 4.12.6. The sensitivity of these roads, based on professional judgement and having regard to user groups and any footpath and cycle route networks within the study area, range from low to medium.
- 4.12.7. ES Chapter 7 [APP-036] sets out that a series of 7-day automatic traffic counts were undertaken between Thursday 8 June 2017 and Wednesday 14 June 2017 to provide a baseline for comparison on the roads within the study area. The Applicant considers these counts to be representative as they are less than three years old and conform with published guidance.



- 4.12.8. In addition to the abovementioned automatic traffic counts, the Applicant agreed with NCC that impacts would be examined for morning and evening peak hours at the A631 / A620 / Station Road Roundabout and the A620 / Saundby Road / Sturton Road Roundabout. Surveys in respect of these junctions were undertaken on Wednesday 7 June 2017 between the 0700 and 1900 hours. These counts are also considered to be representative for the same reasons as mentioned above.
- 4.12.9. Traffic and transport scenarios assessed as part of the TA [APP-052] include:
- A 36 month construction phase commencing in 2027 with a peak of construction in 2029 (given as a worst-case on the basis of a consent in 2020, seven years in which to implement it and increased traffic flows year on year);
  - an opening year of 2030; and
  - decommissioning in year 2070, based on a 40 year operational life of the Proposed Development.
- 4.12.10. Though there is potential for some construction related deliveries, including AILs, to be delivered by rail to the application site or by the River Trent to the application site via a route from a jetty at Cottam power station, the assessment assumes a worst-case scenario that all deliveries would be by road.
- 4.12.11. The assessment notes that severance, pedestrian amenity, fear and intimidation, highway safety and driver delay are effects that can be susceptible to change as a result of increases in traffic.
- 4.12.12. Future year baseline traffic flows for the assessment year of 2029 have been derived by applying the national standard programme Trip End Model Presentation Program to derive a traffic growth factor which has been taken into account when comparing the baseline and future traffic scenarios. However, this has not been detailed for 2030 (opening) due to the very low traffic flows which would be generated by the operation of the Proposed Development. On this basis, a quantitative assessment of operational traffic has not been considered necessary as the vehicle numbers generated would be considerably lower than those that would be experienced during the construction period.
- 4.12.13. The assessment has had regard to the traffic expected to be generated in respect of a number of committed developments and developments which have commenced since the 2017 traffic counts, where relevant. This includes an ash processing facility and a battery storage facility within the wider West Burton power station site, a quarry access road and wider mineral extraction site, two residential developments in Gainsborough for 61 and 16 dwellings respectively and a mixed-use development in Gainsborough to include 220 dwellings.
- 4.12.14. ES Chapter 7 [APP-036] identifies that traffic movements would be controlled during the construction phase to minimise potential impacts on the surrounding road network. This would include the routing of construction HGVs to and from the application site to the north via the

A620 and A631, as shown on Figure 2 of the fCTMP [REP5-009], thus avoiding HGV traffic through surrounding villages. A final CTMP, in accordance with the fCTMP [REP5-009], including HGV routing, is secured under R18 of the dDCO [REP7-003]. Other measures to minimise potential traffic impacts include the implementation of a Construction Workers' Travel Plan (CWTP), in accordance with the fCWTP [APP-141], to promote sustainable travel, which is secured under R19 of the dDCO [REP7-003].

- 4.12.15. Once the Proposed Development is operational, up to 15 permanent operational roles are expected to be created. Due to the very low traffic flows this would generate, no impact avoidance measures are proposed.
- 4.12.16. ES Chapter 7 [APP-036] notes that decommissioning would be expected to require some traffic movements associated with the removal and recycling of material arising from demolition and potentially the import of materials for land restoration and reinstatement. However, vehicle numbers are not expected to be any higher than those experienced during the construction period. To minimise the impacts of decommissioning upon local highways, it is anticipated that a Decommissioning Traffic Management Plan (DTMP) would be prepared to control the routing and impact of HGVs and would be secured by a requirement of the dDCO.
- 4.12.17. Core construction working hours would be between 0700 to 1900 hours on Mondays to Fridays (except bank holidays) and 0800 to 1800 hours on Saturdays. The intention is to manage HGV arrivals and departures to spread evenly over the day, as indicated in Table 7-13 of ES Chapter 7 [APP-036].
- 4.12.18. The assessment sets out that, having regard to IEMA guidance on traffic increase thresholds and junction modelling, increases in traffic generated during the construction of the Proposed Development would have little impact on severance, pedestrian amenity, fear and intimidation, highway safety and driver delay. This includes during the peak period of construction. Thus, the assessment concludes that the effects of construction traffic on all roads and junctions within the study area would be not significant. The assessment concludes the same in respect of traffic impacts during the decommissioning of the Proposed Development given that vehicle numbers at that stage are not expected to be higher than those during the construction period.
- 4.12.19. In terms of the operation of the Proposed Development, ES Chapter 7 [APP-036] states that due to the very low traffic flows which would be generated, including 15 cars and four HGVs entering and leaving the site each day, vehicle numbers would be considerably lower than those during the construction period. Consequently, it is concluded that the overall traffic effects during the operation of the Proposed Development, albeit longer term, would be not significant.
- 4.12.20. ES Chapter 16 [APP-045] concludes that there would be no significant cumulative effects (taking into account other relevant committed

developments [APP-131]) or in combination effects in respect of traffic and transport.

- 4.12.21. The TA [APP-052] concludes that, overall, traffic and transportation impacts associated with the Proposed Development would be temporary and limited and would not result in severe highway capacity or safety problems.

## **Examination**

- 4.12.22. NCC, LCC, BDC and WLDC signed SoCG with the Applicant [REP1-013, REP1-011, AS-005 and REP1-012] agreeing the approach taken in the ES to assess traffic and transport effects to be appropriate. It was also agreed by the parties that residual effects of construction traffic related to the Proposed Development on all road links and junctions would be negligible and not significant and that the committed developments identified were appropriate to determine any cumulative effects. In addition, the parties agreed that measures to limit traffic and transport impacts set out within the fCTMP [REP5-009] and fCWTP [APP-141] are appropriate, and that final versions of these are adequately secured by R17 and R18 of the dDCO [APP-004].
- 4.12.23. The LIRs from BDC [REP1-018] and WLDC [REP1-020] raised no concerns in respect of traffic and transport impacts of the Proposed Development, with BDC deferring to NCC's view on the matter as the HA.
- 4.12.24. HiE confirmed [AS-001] that it had no objections to the Proposed Development on traffic and transport grounds, on the basis that it considers impacts on the strategic road network would be negligible.
- 4.12.25. A number of IPs raised traffic and transport concerns, particularly in respect of the construction period. These can be summarised as follows:
- North and South Wheatly Parish Council [RR-010]; Sturton le Steeple Parish Council [RR-015]; and South Leverton Parish Council [RR-014]: concerns around impacts of construction traffic travelling through the respective villages, including in respect of speeding and damage to trees, verges and roads;
  - North Leverton with Habbleshorpe Parish Council [RR-011]: concerns around traffic management during construction;
  - Local resident Mr Collins [RR-018 and REP2-030]: concern around HGV use of the A620 from Retford during construction and suggests traffic should use the A631 or for heavy goods and materials to be delivered by rail;
  - Local resident Ms Wilson [RR-023]: concern around HGV use of the A620 through North Wheatly during construction;
  - Local resident Mr Coomber [RR-022, REP2-029 and REP6-012]: concern about the number of vehicles that would pass his property;
  - BTC [RR-007]: concern about traffic impacts in Bawtry, particularly at the A631 / Great North Road junction;
  - Cllr Naish on behalf of the residents of Bole [RR-017]: level of traffic during the construction period; HGVs and construction workers

parking in a layby at the entrance to Bole village; traffic queuing to get into the application site and associated highway safety issues; adequacy of on-site parking; clear HGV routing and signage; preference of use of railway for deliveries; and concern that traffic levels during the construction of WBB power station were perceived to be higher than projected;

- Local resident Mrs King [RR-020]: support for Cllr Naish's comments; and
- CRT [RR-002, REP2-022]: keen to promote sustainable transport of freight and AILs on the River Trent; requests there should be a requirement of the dDCO to secure this; request to be included as a consultee on the final CTMP in respect of AILs.

4.12.26. In addition to the above, I accepted a submission [REP4-018] from the Commercial Boat Operators Association (CBOA), a non-registered IP. This promoted the use of the River Trent for AILs, in line with the HiE publication *Water Preferred Policy - Guidelines for the movement of abnormal indivisible loads* (Water Preferred Policy). It also suggested that the opportunity to create a jetty near the application site should be investigated further, and for consideration to be given to a requirement to secure this within the DCO.

4.12.27. With regard to impacts on the villages of North and South Wheatly, North Leverton with Habbleshthorpe, South Leverton and Sturton le Steeple, the fCTMP [REP5-009] demonstrates that the routing of HGVs would not pass through these villages. This is also the case for the A620 to and from Retford. HGV traffic routing and signage is appropriately secured under R18 of the dDCO [REP7-003] relating to construction traffic management. Any construction workers who may happen to drive cars or vans through these villages on their daily commute would be subject to enforceable speed limits.

4.12.28. Whilst there is the potential for some AILs to be transported between a jetty at Cottam power station and the application site, the route of which passes through some of these villages as shown on Figure 3 of the fCTMP [REP5-009], the number of AILs is likely to be limited. Furthermore, details of how this would be achieved with minimal impact is secured under R18 of the dDCO [REP7-003] in relation to construction traffic management. Moreover, this route has previously been used for the delivery of AILs to the wider West Burton power station site and thus its potential for this purpose is established. Schedule 4 of the dDCO [REP7-003] identifies the roads along this route which may be subject to temporary prohibition or restriction of use as a result of the construction of the Proposed Development. Article 5 of the dDCO [REP7-003] provides this power but also makes provision for pedestrian access to properties during such times. R17 of the dDCO [REP7-003] makes provision for the protection of road surfaces and if necessary, their repair. Article 14 of the dDCO [REP7-003] requires the Applicant to give notice to the relevant authority of any tree works required along the AIL route and seeks to prevent any unnecessary damage to trees and shrubs and to pay compensation from any loss or damage which may arise.

- 4.12.29. In its response to BTC's RR [RR-007], the Applicant highlighted that consultation was undertaken with DC to agree the scope of the TA, including in respect of the A631 / Great North Road (A638) junction within Bawtry. Further, that in July 2017, DC confirmed that no additional assessment or modelling of this junction was required. The Applicant also highlighted that the TA concludes that traffic increases and effects associated with the Proposed Development would be not significant in EIA terms on roads or junctions which would experience higher construction traffic flows than the A638 / A631 junction, and thus the same would be the case in respect of this junction. BTC has not sought to dispute the Applicant's TA in any detail, or its response on this matter and I have no substantive reasons to either.
- 4.12.30. The fCTMP [REP5-009], a final version of which is secured under R18 of the dDCO [REP7-003], makes provision to spread out HGV deliveries throughout the day to avoid on-site congestion and any need to queue at the access point to the West Burton power station site. It also makes provision for signage to be erected to ensure HGVs use the correct route. In addition, it sets out that it would be a condition of contract between the Applicant and appointed contractor to ensure HGVs do not park in the layby at the entrance to Bole village or on the public highway and that this would be reinforced during staff inductions. To ensure compliance, disciplinary procedures would be put in place to prohibit HGV drivers from making further deliveries if they do not abide by the condition of contract. A name and number would be made available for the public to contact at any time should any concerns arise and the Applicant would provide regular bulletins in respect of construction matters on its website and the Sturton Ward website (which Bole falls into), if feasible. I am satisfied that these measures would overcome many of the concerns of the residents of Bole, notwithstanding that some level of disruption would be inevitable.
- 4.12.31. In addition to the above, R25 of the dDCO [REP7-003] makes provision for the Applicant to establish a local liaison committee (LLC) to liaise with local residents and local organisations about matters relating to the Proposed Development. It would meet every quarter during the construction phase and once a year during operation. Any concerns of the residents of Bole could be raised at such meetings. As originally written, the requirement made an allowance for a meeting to be cancelled should a majority of members agree one is not necessary. However, to ensure fairness to all members, I asked the Applicant in my Written Questions [PD-006] and at the ISH [EV-009] to make provisions within the requirement for a LLC to still go ahead if a minority of members consider one necessary. The Applicant amended the dDCO at D4 [REP4-012] in response to this to include provision within R25 to allow a LCC member to make a written request for a meeting to go ahead if considered necessary within 20 working days of the scheduled meeting.
- 4.12.32. I recognise that traffic levels during construction would noticeably increase along the route between the application site and the A631, which passes the entrance to Bole village and the entrance to Mr

Coomber's property. Nonetheless, I am satisfied that the methodology of the TA [APP-052] and its findings, and the mitigation measures to be put in place, are satisfactory to demonstrate that no significant traffic and transport issues would arise, including during the peak construction period. I am also satisfied, on the basis of the evidence, that this would be the case if increases in traffic generated from committed development in the area were to occur simultaneously.

- 4.12.33. As part of a Rule 17 letter [PD-009], I queried whether the Applicant could strengthen its commitment to the use of water transport for AILs. The Applicant responded [REP5-014], highlighting that the route between the jetty at Cottam Power station and the West Burton power station site had been used for AIL transportation during the building of WBB power station with no significant environmental effects. The Applicant also stated that a high-level cost comparison of road versus inland waterway for AIL delivery would be undertaken when further information on the origin of AILs is known and the decision as to which delivery option would be used would form part of the final CTMP. The fCTMP was subsequently updated to reflect this [REP5-009]. It also specifies CRT as a consultee should the River Trent be used for AIL deliveries, as requested in its RR [RR-002].
- 4.12.34. I am satisfied that whilst the ES demonstrates there would be no significant effects in traffic and transport terms if all construction materials were to be delivered by road, and that this represents the worst-case scenario in traffic and transport terms, the fCTMP [REP5-009] makes adequate provision for exploring AIL delivery by river in line with the HiE Water Preferred Policy. However, it is worth noting here that the Applicant would be unable to use this route for such a purpose should it give rise to environmental effects beyond those assessed in the ES. I am also satisfied that to specify CRT as a consultee in the fCTMP [REP5-009], should river transport be selected for AIL delivery, is adequate, rather than CRT being specified as a consultee on the final CTMP within the dDCO. In addition, I do not consider it necessary, as suggested by CRT, to include a requirement in the dDCO for AILs to be delivered by water, as this is not necessary to make the Proposed Development acceptable in planning terms.
- 4.12.35. A jetty at the West Burton power station site, as suggested by CBOA [REP4-018], does not form part of the application and is thus not a matter for my consideration. In addition, the Applicant states [REP5-014] that the construction of new jetty at the West Burton power station site would be disproportionate for Proposed Development based on the relatively low AIL volumes. I have no substantive reasons to disagree. Given these factors, I am satisfied that such a matter need not be included as a requirement of the dDCO.
- 4.12.36. The application includes the provision of a rail off-loading area associated with the railway which runs through the West Burton power station site. This would allow the potential for some deliveries via rail and the fCTMP [REP5-009] sets out that the use of rail for such purposes would be

reviewed by the chosen contractor. I am satisfied that this addresses the points about the use of rail raised by the relevant IPs.

- 4.12.37. I noted that although ES Chapter 7 [APP-036] sets out that a DTMP would be prepared and secured by a requirement of the dDCO, no such requirement had been included. I brought this to the attention of the Applicant [PD-011] who subsequently incorporated a requirement for a DTMP into R27 of the dDCO [REP7-003] relating to decommissioning. I consider this to be an acceptable approach.
- 4.12.38. I posed a number of other Written Questions [PD-006] about traffic and transport to which the Applicant and relevant parties adequately responded.

## **ExA Conclusions**

- 4.12.39. Construction traffic, particularly at its peak, would result in a noticeable increase in the level of vehicles using the local highway network. However, I am satisfied that the ES has adequately assessed traffic and transport impacts and that there would be no significant effects during the construction of the Proposed Development. I am also satisfied that the ES has adequately assessed traffic and transport impacts during the operation and decommissioning of the Proposed Development and that there would be no significant effects during these stages. In addition, I am content that traffic and transport management matters are adequately provided for and secured in the rDCO. This includes R17 (protection of highway surfaces), R18 (CTMP), R19 (CWTP), R25 (LLC) and R27 (decommissioning).
- 4.12.40. The Proposed Development would thus accord with all legislation and policy requirements, including those of NPS EN-1 and there is no disbenefit to be weighed in the planning balance.

## **4.13. WATER QUALITY, FLOOD RISK AND FLOOD RESILIENCE**

### **Policy Considerations**

- 4.13.1. NPS EN-1 notes that applications should undertake an assessment of the impact of the proposed project on water quality, water resources, the physical characteristics of the water environment and water bodies and protected areas.
- 4.13.2. NPS EN-1 states that a FRA should be carried out to consider the risk of flooding arising from the project in addition to the risk of flooding to the project. The FRA should take the effects of climate change into account.
- 4.13.3. Paragraphs 5.7.13, 5.7.14, 5.7.15 and 5.7.16 of NPS EN-1 set out the need for development to pass a Sequential Test, then an Exception Test if development is to be considered permissible in Flood Zone 3. Paragraph 5.7.12 of NPS EN-1 states that the SoS should not consent development in Flood Zone 3 unless they are satisfied that the Sequential and Exception Test requirements have been met.

- 4.13.4. NPS EN-2 includes guidance on the abstraction and use of water for cooling. However, the Proposed Development would not abstract water for cooling and thus this guidance is not of relevance.

### **The Applicant's Case**

- 4.13.5. ES Chapter 12 [APP-041] assesses the effect of the Proposed Development on water quality, flood risk and flood resilience during construction, operation and decommissioning. A separate FRA was provided as ES Appendix 12A [APP-066]. ES Chapter 12 [APP-041] cross refers to ES Chapter 11: Ground Conditions and Hydrogeology [APP-040] where effects relating to hydrogeology are also addressed.

#### *Water Quality*

- 4.13.6. In terms of water quality, the assessment considers potential impacts on water courses immediately upstream of the application site or to the extent that impacts may occur downstream, based on professional judgement (including the River Trent, Wheatley Beck, Railway Dike Drain and Catchwater Drain). The assessment also considers surface water bodies that are hydrologically connected with the application site. These water courses and water bodies are shown on Figure 2 of ES Appendix 12A [APP-066]. The assessment also considers potential impacts on groundwater, in order to consider potential impacts on underlying aquifers. The importance of these water features, having regard to relevant attributes, including water quality, recreation and other uses, water supply, biodiversity and groundwater vulnerability, are identified in Table 12-7 of ES Chapter 12 [APP-041].
- 4.13.7. During construction, there is an elevated risk of leakage or accidental spillage of construction materials and pollutants used or present on site migrating to nearby surface watercourses or infiltrating into groundwater. In addition, piling through contaminated ground has the potential to create a route for pollutants to enter groundwater and underlying aquifers. There is also the potential for the movement and storage of construction and waste materials, and other construction activity, to result in suspended sediments in surface water run-off to enter watercourses, leading to a reduction in water quality.
- 4.13.8. Embedded mitigation measures have been taken into account as part of the assessment. As a general measure to protect ground and surface water from a range of activities associated with construction, best practice would be implemented through a CEMP. This is secured under R16 of the dDCO [REP7-003] and would be in accordance with the fCEMP [REP7-021]. In addition, prior to any piling works commencing, a piling and penetrative foundation design method statement, informed by a risk assessment, would need to be approved. This is secured by R23 of the dDCO [REP7-003].
- 4.13.9. ES Chapter 12 [APP-041] concludes that through the implementation of mitigation in the form of the fCEMP [REP7-021], appropriate piling techniques and suitable surface water drainage solutions, all of which are secured under R16, R23 and R9 of the dDCO [REP7-003] respectively,



effects on watercourses, surface water bodies, groundwater and aquifers during construction would be not significant.

- 4.13.10. During operation of the Proposed Development, minimal contaminated wastewater would be generated. Any uncontaminated surface water would be discharged directly to the River Trent via one of three options to connect into existing drainage infrastructure associated with WBB power station. Surface water would drain from the application site at a restricted greenfield rate of 5 litres / second with any excess run-off above this rate stored in an attenuation pond or tank. Details of surface water drainage, including its maintenance, are provided in the Outline Drainage Strategy [APP-142] and secured under R9 of the dDCO [REP7-003]. An EP for the Proposed Development would include provisions for the monitoring of any discharge to demonstrate that it is not contaminated.
- 4.13.11. Although potential impacts would remain from leakage or accidental spillage of pollutants (such as diesel fuel stored on-site or vehicle washing), there is a low probability of operational activities impacting groundwater. Impact avoidance measures during the construction phase would minimise potential for the creation of impact pathways during operation and the EP would include a condition to safeguard water quality during the operational phase. Therefore, it is concluded there would be no significant effects during operation.
- 4.13.12. The Proposed Development would be subject to decommissioning under the conditions of the EP including conditions relating to chemical and polluting material handling, storage and use and emergency procedures in line with BAT. A detailed DEMP would be prepared to identify required measures to prevent pollution during this phase. The impact avoidance measures for decommissioning would be similar to those identified above for the construction phase. As above, measures would be in place to prevent pollution in accordance with the EP. The DEMP is secured by R27 of the dDCO [REP7-003]. Decommissioning impacts are thus expected to be limited to watercourses, waterbodies and groundwater close to the application site and would be expected to be broadly similar to construction impacts.
- 4.13.13. The River Trent, Wheatley Beck and Catchwater Drain are classified under the Water Frameworks Directive (WFD). These watercourses are subject to current mitigation and, as included within the Humber River Basin Management Plans, further mitigation is proposed. The WFD status of these watercourses has been considered as part of the assessment. It concludes that given the nature of the impacts on these watercourses and relying on the implementation of the impact avoidance measures set out in the fCEMP [REP7-021], there would be no significant effect on their WFD status. Furthermore, the Proposed Development would be unlikely to impact on their current and proposed WFD mitigation objectives.
- 4.13.14. ES Chapter 12 [APP-041] notes that whilst direct surface water drainage outfalls to the River Trent had been considered as part of the Preliminary Environmental Information Report published for consultation in

September 2017, such outfalls do not form part of the Proposed Development. Rather, surface water associated with the Proposed Development would be dealt with via connections into WBB power station's existing drainage infrastructure, which has the capacity to accommodate it.

- 4.13.15. ES Chapter 16 [APP-045] concludes that there would be no significant cumulative effects (taking into account other relevant committed developments [APP-131]) or in combination effects in respect of water quality.

*Flood Risk and Resilience*

- 4.13.16. As shown on Figure 4 of the FRA [APP-066], the majority of the application site, including the area the Proposed Development would occupy, lies within Flood Zone 1. A small area, associated with part of the construction laydown area, lies within Flood Zone 2, and the areas of the application site into which parts of the northern and southern drainage corridors extend lie within Flood Zone 3. Flood defences along the western banks of the River Trent, which are managed and maintained by the EA, afford the application site protection against a 1 in 100 year flood event.
- 4.13.17. The construction year, for the purposes of the assessment, is 2020. It is considered unlikely that there would be any substantial change in the risk of flooding from all sources between the time of the assessment and this year.
- 4.13.18. ES Chapter 12 [APP-041] and the FRA [APP-066] employed UK Climate Projections 2018 (UKCP18) in line with the Government's Planning Practice Guidance (PPG), using the lifetime extent of the Proposed Development (2063) as the worst-case scenario.
- 4.13.19. The Proposed Development would be located within Flood Zone 1. According to the PPG, essential infrastructure, which includes power stations, is appropriate development within Flood Zones 1 and 2, but if in Flood Zone 3 would need to pass the Sequential and Exception Test. The only works proposed in Flood Zone 3 relate to the potential construction of below ground surface water drainage systems, which would link into existing drainage infrastructure associated with WBB power station. The FRA [APP-066] sets out that, as such, there is no requirement to satisfy the Sequential or Exception Test. The Proposed Development does not require any works on or in the River Trent. Nor does it require any works on, or under, the existing flood defences along the River Trent.
- 4.13.20. Any construction works within the drainage connection corridors, specifically where located within Flood Zone 3, would not be undertaken when an EA flood warning is in place for the River Trent. It is proposed that at least one designated flood warden would be present on site who is familiar with the risks and remains vigilant to news reports, flood warnings and water levels in the River Trent. This is set out within the fCEMP [REP7-021], along with measures aimed at preventing an increase in flood risk during the construction works. The fCEMP [REP7-021] also

requires the production of Flood Risk Management Plan to minimise any danger of flood risk associated with works in Flood Zone 2 and Flood Zone 3. A final CEMP, in accordance with the fCEMP [REP7-021], is secured under R16 of the dDCO [REP7-003].

- 4.13.21. There is considered to be a medium risk of flooding of lower levels of the application site from groundwater. However, ES Chapter 12 [APP-041] states that should this be encountered during the construction phase, it could be appropriately dealt with by the use of a small pump, and would not increase groundwater flood risk to the wider area during or after construction works.
- 4.13.22. As previously mentioned, surface water would drain from the application site at a restricted greenfield rate of 5 litres / second with any excess run-off above this rate stored in an attenuation pond or tank. For outline design purposes a 1 in 100 year, 60 minute storm rainfall event with a 20% climate change allowance has been used to size surface water drainage capacity for the Proposed Development. This would ensure that ponding due to exceedance of drainage network flow capacity would be unlikely to occur during the lifetime of the Proposed Development.
- 4.13.23. Details of foul and surface water drainage during the construction of the Proposed Development and throughout its operation, are secured through R9 and R10 of the dDCO [REP7-003], in accordance with the Outline Drainage Strategy [APP-142]. A scheme for flood risk mitigation, including during construction works, is secured under R11 of the dDCO [REP7-003].
- 4.13.24. To address the potential of 1 in 100 year flood level breach of the River Trent, the minimum ground level of the Proposed Development, inclusive of climate change allowances, would be 7.1mAOD. This is secured under R5 of the dDCO [REP7-003].
- 4.13.25. ES Chapter 16 [APP-045] concludes that there would be no significant cumulative effects (taking into account other relevant committed developments [APP-131]) or in combination effects in respect of flood risk.

## **Examination**

- 4.13.26. No RRs or WRs received during the course of Examination raised any significant concerns about water quality, flood risk or flood resilience issues. However, in its RR [RR-003] and Additional Submission [AS-003], the EA expressed it had a preference, in line with the policies of the National Planning Policy Framework (NPPF), for foul drainage to connect to the main sewage network where reasonable to do so, rather than be disposed of via an on-site septic tank as suggested in the FRA.
- 4.13.27. I posed a question in respect of this to the Applicant [PD-006] and in response [REP2-009], the Applicant confirmed that it was amenable to undertaking further investigations to determine the potential for a mains sewer connection for foul drainage and to provide justification if found not practical or reasonable to do so. In order to secure this commitment,

the Applicant proposed an amendment to R9 (surface and foul water drainage) of the dDCO [APP-004] to deal solely with surface water drainage, and a new R10 to deal solely with foul drainage incorporating the commitment. This was reiterated in the Applicant's response to the EA's RR and Additional Submission [REP1-005]. The changes to the dDCO were subsequently made at D2 [REP2-004].

- 4.13.28. The EA signed a SoCG [REP1-016] with the Applicant agreeing that the FRA was satisfactory. The EA agreed that a FRAP would not be required for temporary works within Flood Zone 2 given the very small area affected. The EA also agreed that R10 of the dDCO [APP-004] relating to flood risk mitigation, along with the Applicant's proposed changes to the dDCO in respect of surface water and foul water drainage, would ensure the acceptability of the Proposed Development in respect of these matters. The EA's WR [REP2-026] reiterated this.
- 4.13.29. The EA agreed in the SoCG [REP1-016] that there would be no contaminated water streams requiring disposal from the application site to the River Trent and thus no impacts on the WFD status and objectives of the River Trent would arise. The SoCG sets out that an application to vary the existing WBB power station EP has been submitted to the EA and has been drafted to include the control of surface water discharge. In addition, the EA agreed that R11 and R12 of the dDCO [APP-004] relating to contaminated land and groundwater and unexpected contamination respectively would secure the necessary impact and avoidance measures to minimise potential pollution risks to surface water and groundwater. Furthermore, the SoCG recorded that such measures would be secured in a final CEMP under R15 of the dDCO [APP-004].
- 4.13.30. NCC (Lead Local Flood Authority) and the TVIDB also signed SoCG with the Applicant [REP1-013 and REP1-015] agreeing the acceptability of the ES, FRA, mitigation measures to avoid flood risk and drainage proposals.
- 4.13.31. The MMO signed a SoCG with the Applicant [REP1-008] agreeing that as direct surface water drainage outfalls to the River Trent are now not proposed, it is no longer a statutory consultee for the purposes of the application, as no works are proposed within the River Trent or below the Mean High Water Springs.
- 4.13.32. Regarding potential drainage infrastructure along the northern and southern drainage corridors, parts of which fall within Flood Zone 3, I asked the EA [PD-006] whether it agrees with the Applicant that the Sequential and Exception Tests would not apply to such infrastructure given that it would be underground. In response [REP2-025] the EA confirmed that it had no concerns in this regard and considers that such infrastructure in itself would not constitute development. I have no substantive reasons to take a different view.
- 4.13.33. I posed a number of other Written Questions [PD-006] about water quality, flood risk and flood resilience to which the Applicant and relevant parties adequately responded.

## **ExA Conclusions**

- 4.13.34. I am satisfied that the Proposed Development would have no significant environmental effects in terms of water quality or flood risk and would be flood resilient over its lifetime. I am content that adequate mitigation measures relating to water quality, flood risk and flood resilience are secured in the rDCO, including under R5 (detailed design), R9 (surface water drainage), R10 (foul water drainage), R11 (flood risk mitigation), R12 (contaminated land and groundwater), R13 (unexpected contamination) R16 (CEMP), R23 (piling and penetrative foundation design and R27 (decommissioning).
- 4.13.35. The Proposed Development would thus accord with relevant legislation and policy requirements, including those of NPS EN-1 and WFD, and water quality, flood risk and flood resilience effects are a neutral consideration in the planning balance.

## **4.14. NOISE AND VIBRATION**

### **Policy Considerations**

- 4.14.1. NPS EN-1 recognises that excessive noise can have wide-ranging impacts on the quality of human life and can also have adverse effects on wildlife and biodiversity. NPS EN-1 sets out the requirements for a noise assessment of energy related projects and outlines the approach that applicants should adopt for their preparation, in line with the Noise Policy Statement for England (NPSE), which promotes good health and good quality of life through effective noise management. NPS EN-1 advises that similar considerations apply to vibration, which can also cause damage to buildings.
- 4.14.2. Paragraph 5.11.8 of NPS EN-1 notes that the project should demonstrate good design through the selection of the quietest cost-effective plant available; containment of noise within buildings wherever possible; optimisation of plant layout to minimise noise emissions; and, where possible, the use of landscaping, bunds or noise barriers to reduce noise transmission. Paragraph 2.7.5 of NPS EN-2 reflects this advice.
- 4.14.3. Paragraph 5.11.9 of NPS EN-1 requires that, when determining the application, the SoS should not grant development consent unless satisfied that the proposals will:
- avoid significant adverse impacts on health and quality of life from noise;
  - mitigate and minimise other adverse impacts on health and quality of life from noise; and
  - where possible, contribute to improvements to health and quality of life through the effective management and control of noise.

### **The Applicant's Case**

- 4.14.4. ES Chapter 8 [APP-037] assesses the effect of noise and vibration emissions on human receptors during the construction, operation and

decommissioning of the Proposed Development. Effects of noise and vibration emissions on ecological receptors are assessed in ES Chapter 9 [REP7-014] and considered in section 4.10 of this Report.

- 4.14.5. Key noise sensitive receptor (NSR) locations, considered to be representative of the nearest and potentially most sensitive receptors to the application site, have been identified. These are all residential receptors. The locations of these are shown in Table 8-5 of ES Chapter 8 [APP-037] and on ES Figure 8.1 [APP-085]. In order to define existing sound conditions at these receptors, long-term ambient sound measurements have been undertaken.
- 4.14.6. The noise monitoring locations were agreed with BDC and WLDC. All noise measurements were undertaken between Friday 14 July 2017 and Monday 24 July 2017 and in accordance with BS 7445-1:2003 *Description and measurement of environmental noise. Guide to quantities and procedures*. The measured levels are considered representative of a range of weather conditions prevailing at the NSR locations.
- 4.14.7. ES Chapter 8 [APP-037] notes that if noise and vibration levels are suitably controlled at the key receptors identified, then noise and vibration levels would be suitably controlled at other sensitive receptor locations in the surrounding area.
- 4.14.8. As a construction contractor has not yet been appointed, site-specific details of the construction activities, programme and number and type of construction plant are not yet available. Therefore, detailed construction noise predictions at specific NSR have not been undertaken. Rather, indicative construction noise predictions have been adopted using calculation methods set out in BS 5228:2009+A1:2014 *Code of practice for noise and vibration control on construction and open sites - Part 1 – Noise* (BS5228), based on construction information from other power stations projects and data relating to the construction phase of the Proposed Development.
- 4.14.9. Significant observed adverse effect level (SOAEL) and lowest observed adverse effect level (LOAEL) for construction noise on residential receptors has been defined in line with the NPSE and takes into account guidance of BS5228. LOAEL is the level above which adverse effects on health and quality of life can be detected and SOAEL is the level above which significant adverse effects on health and quality of life occur. The criteria for the assessment of traffic noise changes arising during construction have been taken from Table 3.1 of the Design Manual for Roads and Bridges and the traffic data used within the assessment has been sourced from ES Chapter 7: Traffic and Transport [APP-036] and its Appendix 7A: Transport Assessment [APP-052].
- 4.14.10. To minimise noise impacts during construction, working hours would be limited to between 0700 and 1900 hours on Mondays to Fridays (except on bank holidays) and between 0800 and 1800 hours on Saturdays. Where construction activity would be necessary outside of these hours,

this would only be carried out with the prior approval of the relevant planning authority and would not exceed agreed noise limits. These matters are secured under R20 of the dDCO [REP7-003]. In addition, the Applicant has provided a fCEMP [REP7-021] setting out further development design and impact avoidance measures to minimise noise impacts during construction. A final CEMP is secured under R16 of the dDCO [REP7-003]. Furthermore, a scheme for the control and monitoring of noise during construction is secured under R21 of the dDCO [REP7-003].

- 4.14.11. In terms of noise from construction traffic, the assessment considers 2029 to represent the worst-case scenario in terms of road traffic volume and peak construction year for the Proposed Development (on the basis of consent in 2020, seven years in which to implement it and increased traffic flows year on year, as noted in ES Chapter 7: Traffic and Transport [APP-036]). The assessment focuses on the impact at existing residential properties located alongside the local road network. Basic Noise Level (BNL) calculations in decibels (dB) have been undertaken to predict the change in noise level 10m from the roads. As shown in Table 8-29 of ES Chapter 8 [APP-037], taking into account the 2029 traffic baseline and committed development traffic flows, the additional traffic expected to be generated during the peak of construction would result in no, or very little, change to BNL during this time. As such, construction traffic has been assessed to have no significant noise effects on residential NSR.
- 4.14.12. In respect of vibration effects on NSR, ES Chapter 8 [APP-037] sets out that, based on professional judgement and given the degree of separation of residential receptors from the application site, no significant vibration is expected to result at residential NSR from construction activities and further assessment of effects on NSR in this respect has been scoped out. This is also considered to be the case in respect of damage to residential buildings caused by vibration.
- 4.14.13. It is considered unlikely that most typical construction working routines would generate levels of vibration which would cause building damage within the wider West Burton power station site. However, there is the potential that vibration could cause annoyance to occupants of some of these buildings, particularly from any piling works for foundations. Nonetheless, as these buildings are within the Applicant's control, any issues could be effectively managed with the chosen contractor. In addition, R23 of the dDCO [REP7-003] requires details and a method statement for any piling works, informed by a risk assessment, to minimise potential effects of vibration within the wider West Burton power station site.
- 4.14.14. The assessment of operational sound levels has been based on calculations using plant emissions data available at the time of the assessment provided by equipment manufacturers. Based upon the predicted sound levels, an assessment of potential impact at identified NSR has been undertaken using the guidance in BS 4142:2014 *Methods for rating and assessing industrial and commercial sound*. This has

determined the operational SOAEL and LOAEL noise levels for NSR locations in line with NPSE.

- 4.14.15. ES Chapter 8 [APP-037] sets out that a configuration of five smaller OCGTs has been determined to represent the worst-case scenario in terms of operational noise. Furthermore, that to inform a worst-case assessment, continual operation of the plant has been assumed, albeit that the expectation is for it to generally operate during periods of peak demand only and for relatively short periods. The assessment assumes that potential sound of a tonal, impulsive or intermittent nature would be designed out through the selection of appropriate plant, building cladding, louvres and silencers / attenuators as necessary.
- 4.14.16. The assessment sets out that unmitigated, operational noise from the Proposed Development would result in significant adverse effects on many of the NSRs during the day and at night, on the basis of the excess level of sound generated over respective background sound levels (ranging between 4-16 dB excess during the day and 12-19 dB excess at night). Given this, mitigation to reduce sound levels to the LOAEL, that is, no greater than +5 dB excess of rating level over background sound level, would be required. ES Chapter 8 [APP-037] sets out that mitigation would include:
- reducing the breakout noise from the gas turbines, generator and accessories through use of enhanced enclosures, or potentially containing them within a building;
  - reducing the air inlet noise emissions by addition of further in-line attenuation;
  - reducing the stack outlet noise emissions by addition of silencers or sound proofing panels;
  - reducing fin fan cooler noise emissions by screening, re-sizing, fitting low noise fans or attenuation;
  - screening or enclosing the transformers or other equipment;
  - use of screening or bunding to shield receptors from noise sources; and
  - orientating plant within the application site to provide screening of low-level noise sources with other buildings and structures, or orientating fans and air inlets away from sensitive receptors.
- 4.14.17. The assessment concludes such mitigation measures would result in an excess rating level of equal to or below background sound level at the identified NSR locations during the day and at night. As such, with mitigation, the assessment concludes that operational noise of the Proposed Development would result in a very low magnitude of impact at each of the identified NSR locations and thus no significant effects on sensitive receptors. R22 of the dDCO [REP7-003] secures a scheme of noise management and monitoring during operation and requires operational noise to be no greater than +5dB above background levels at any residential property in the area. In addition, the Proposed Development would be operated in accordance with an EP issued and regulated by the EA. This would require operational noise from the Proposed Development to be controlled through the use of BAT.



- 4.14.18. As with construction mitigation, it is expected that relevant best practice mitigation measures would be in place during any decommissioning works. No additional mitigation has been identified as necessary for the decommissioning phase of the Proposed Development at this stage. The predicted noise and vibration effects of eventual decommissioning of the Proposed Development are considered to be comparable to, or less than, those assessed for construction activities. As such, effects are anticipated to be not significant.
- 4.14.19. ES Chapter 16 [APP-045] concludes that there would be no significant cumulative effects (taking into account other relevant committed developments [APP-131]) or in combination effects in respect of noise and vibration.
- 4.14.20. Overall, ES Chapter 8 [APP-037] concludes that, on the basis of the above, residual noise and vibration effects of the Proposed Development on NSR are considered to be not significant.

## **Examination**

- 4.14.21. BDC and WLDC signed SoCG [AS-005 and REP1-012] with the Applicant agreeing the approach taken in the ES to assess noise and vibration effects of the Proposed Development to be appropriate. BDC and WLDC also agreed baseline monitoring locations to be suitable and representative of NSR. In addition, it was agreed by BDC and WLDC that operational noise emissions would be controlled through an EP issued by the EA and that at the detailed design stage, noise models would be refined and additional acoustic assessments undertaken to determine the most appropriate mitigation options in accordance with BAT. BDC and WLDC agreed that appropriate operational noise control and monitoring is secured under R21 of the dDCO [APP-004]. The LIRs from BDC and WLDC [REP1-018 and REP1-020] note the acceptability of the Proposed Development on noise grounds.
- 4.14.22. PHE in its RR [RR-006] acknowledged that the ES has not identified any issues which could significantly affect public health and confirmed that it is satisfied with the methodology used in the ES to undertake assessments.
- 4.14.23. Some IPs raised noise as a concern, including Cllr Naish on behalf of the residents of Bole [RR-017], and local resident Mr Coomber [RR-022, REP1-021, REP2-029 and REP6-012]. Mr Coomber also raised vibration from low frequency / extra low frequency sound waves and low magnetic fields, and the effects of this on his health, as a concern.
- 4.14.24. The RR from Cllr Naish [RR-017] included a suggestion to limit construction work outside of the peak construction period (expected to be during months 25-27 according to ES Chapter 7: Traffic and Transport [APP-036]) to weekdays only, in order to minimise noise and disturbance to the local community. The Applicant responded [REP1-005] highlighting that construction noise effects at all NSR are predicted to be negligible during the daytime period and thus not significant, predominantly due to

the distances between construction work and NSRs, as set out in ES Chapter 8 [APP-037]. Furthermore, that works would already be restricted on Sundays and Bank Holidays and to also restrict working hours on a Saturday would correspondingly extend the overall duration of the construction works.

- 4.14.25. Cllr Naish on behalf of the residents of Bole has not sought to dispute the finding of the Applicant's noise and vibration assessment in ES Chapter 8 [APP-037]. On this basis, and given that BDC and WLDC have also not sought to dispute it, I have no substantive reasons to either, considering the mitigation measures secured in the dDCO [REP7-003], including R16 in respect of a CEMP and R21 in respect of the control of construction noise. Accordingly, I am satisfied that noise effects during construction would be not significant and the working hours proposed, including on Saturdays, would be appropriate. Consequently, to restrict construction activity to weekdays only outside of the peak construction period, would unnecessarily prolong the construction phase. In addition, the D3 submission from Cllr Naish on behalf of the residents of Bole [REP3-010] recognises that to extend the construction period would have negative impacts on the area.
- 4.14.26. The concerns of Mr Coomber in respect of noise and vibration, which were reiterated at the OFH [EV-008], relate primarily to the operation of the existing WBA and WBB power stations. Thus, such concerns, and any correspondence with BDC, the Applicant and any associated reports pertaining to this, are of little relevance to the Examination of the application. Additionally, I note from Mr Coomber's submission at D4 [REP4-020] that the EA intends to undertake a noise audit of WBB power station and to issue a report detailing any EP non-compliance and any required actions the operator should undertake. In addition, whilst Mr Coomber implies that the effects of vibration from WBA and WBB power stations have had a deleterious effect on his health, no compelling evidence has been provided to demonstrate a correlation. I deal with matters relating to human health, including electromagnetic fields (EMF), which has been considered in ES Appendix 13A [APP-067], later in this Report.
- 4.14.27. Mr Coomber raised some concern in his written submissions, including at D2 [REP2-029], over noise from construction vehicles. This was on the basis that most would pass his property, and particularly if the construction of the Proposed Development were to coincide with other committed development in the area. The Applicant responded to this [REP3-003] highlighting that construction traffic associated with relevant committed developments in the area had been taken into account in combination with that of the Proposed Development, as presented in the TA [APP-036 and APP-052] and that negligible effects on traffic flows and noise and vibration were predicted. I am satisfied with the Applicant's response and have no reasons to doubt the conclusions of the ES. The content of a further written submission from Mr Coomber [REP6-012], in part relating to a similar concern, does not change my view on this matter.

- 4.14.28. I posed a number of Written Questions [PD-006] about noise and vibration to which the Applicant adequately responded.

## **ExA Conclusions**

- 4.14.29. I am satisfied that the Proposed Development would not give rise to any significant noise and vibration effects during its construction, operation or decommissioning and that noise and vibration matters, including appropriate mitigation, are adequately provided for and secured in the rDCO to ensure this. This includes under R16 (CEMP), R20 (construction hours), R21 (control of construction noise), R22 (control of operational noise) and R23 (piling and penetrative foundation design). Accordingly, I am content that the Proposed Development would accord with all relevant legislation and policy requirements, including those of NPS EN-1 and NPS EN-2 and there are no disbenefits to weigh in the planning balance.

## **4.15. GROUND CONDITIONS AND CONTAMINATION**

### **Policy Considerations**

- 4.15.1. Paragraph 5.10.8 of NPS EN-1 advises that applicants should identify any effects and seek to minimise impacts on soil quality taking into account any mitigation measures proposed. It also sets out that for developments on previously developed land, applicants should ensure that they have considered the risk posed by land contamination.

### **The Applicant's Case**

- 4.15.2. ES Chapter 11 [APP-040] assesses the effect of the Proposed Development on ground conditions and contamination during construction, operation and decommissioning. It is supported by ES Appendix 11A: Phase 1 Geo-Environmental Site Assessment [APP-064] and ES Appendix 11B: Ground Investigation Environmental Support and Sampling Report [APP-065]. ES Chapter 11 [APP-040] notes that there is some overlap between it and ES Chapter 12: Flood Risk, Hydrology and Water Resources [APP-041].
- 4.15.3. Baseline conditions of the application site and its surroundings, considered as part of the assessment, have been identified from sources including:
- site walkovers;
  - reviews of databases compiled by national and local governmental agencies including the EA;
  - British Geological Survey mapping;
  - historical Ordnance Survey mapping;
  - reviews of previous site investigation reports; and
  - intrusive ground investigations across the site.
- 4.15.4. The study area comprises the application site and up to a 2km zone of influence around it. Receptors with the potential to be affected by contamination have been identified as construction workers, operational

workers, visitors to the site, surrounding land uses, ecological sites, the built environment, geology / geomorphology and groundwater.

- 4.15.5. ES Chapter 11 [APP-040] sets out that to minimise effects of contamination on identified receptors, a number of impact avoidance measures would either be incorporated into the design of the Proposed Development or would be standard construction, operation and demolition practices.
- 4.15.6. In respect of construction, a CEMP would be produced which would provide details of proposed environmental control measures, including measures related to the protection of land quality during this phase. This is secured by R16 of the dDCO [REP7-003] and would be in accordance with the principles set out within the fCEMP [REP7-021]. The CEMP would make provisions for good operational practices, appropriate health and safety measures, dust suppression measures, soil and waste management and pollution control measures. The dDCO [REP7-003] also makes provision, under R12 and R13, for schemes to deal with contaminated land prior to the commencement of relevant stages of development and to deal with any unexpected contamination found during construction works.
- 4.15.7. Foundations of the Proposed Development would be designed and constructed to prevent the creation of pathways for the migration of contaminants to identified receptors. To ensure pathways are not created, a piling and penetrative foundation design method statement, informed by a risk assessment, is secured by R23 of the dDCO [REP7-003].
- 4.15.8. Taking these factors into account, ES Chapter 11 [APP-040] concludes that ground condition and contamination related effects of the Proposed Development on identified receptors during construction would be not significant.
- 4.15.9. The operation of the Proposed Development would be subject to an EP, issued by the EA. In addition, the Outline Drainage Strategy [APP-142] incorporates a range of measures, to be incorporated into the final design of the Proposed Development, to prevent the leakage of materials with the potential to cause ground and water contamination. Such measures include oily water drainage systems and bunding around diesel tanks to prevent contaminants entering the surface water drainage system. On this basis, ES Chapter 11 [APP-040] concludes that ground condition and contamination related effects on identified receptors during operation would be not significant.
- 4.15.10. Decommissioning of the Proposed Development would be subject to conditions of the EP, including in respect of potential contaminant material handling, storage and use and emergency procedures in line with BAT. A detailed DEMP would be prepared to identify measures to prevent effects of pollution and contamination during the demolition phase. Such measures are expected to be similar to those identified for the construction phase. The DEMP is secured by R27 of the dDCO [REP7-

003]. Consequently, ES Chapter 11 [APP-040] concludes that ground condition and contamination related effects on identified receptors during decommissioning would be not significant.

- 4.15.11. ES Chapter 16 [APP-045] concludes that there would be no significant cumulative effects (taking into account other relevant committed developments [APP-131]) or in combination effects in respect of ground conditions and contamination.

## **Examination**

- 4.15.12. No significant matters of concerns were raised by IPs in RRs and WRs in respect of ground conditions and contamination issues.
- 4.15.13. A signed SoCG between the Applicant and the EA [REP1-016] confirmed that the ES provides a satisfactory assessment of the potential pollution risks to surface water and groundwater during construction and operation of the Proposed Development. The EA also confirmed that the impact avoidance and mitigation measures identified within R11 and R12 of the dDCO [APP-004] in relation to contaminated land and groundwater and unexpected contamination, are appropriate. The EA also agreed that such controls are adequately provided for within the fCEMP [REP7-021], a final version of which is secured by R15 of the dDCO [APP-004].
- 4.15.14. In its RR [RR-003] and Additional Submission [AS-003], the EA mentioned that site investigations undertaken by the Applicant had shown that a limited number of leachable contaminants have the potential to affect groundwater and that any attenuation pond associated with surface water drainage should be lined to avoid this. In its response to this [REP1-005] and to one of my Written Questions on this matter [REP2-009], the Applicant stated that any attenuation pond would contain uncontaminated surface water only, as it would be segregated from any process or storage areas, as set out in the Outline Drainage Strategy [APP-142]. Nevertheless, the Applicant confirmed that any attenuation pond would have an impermeable lining to address the EA's request. The Applicant highlighted that this would form part of the details of surface water drainage, secured through R9 of the dDCO [APP-004]. The EA confirmed its satisfaction with this approach within the SoCG [REP1-016].
- 4.15.15. The EA also confirmed in its WR [REP2-026] and in response to one of my Written Questions [REP2-025], that it was satisfied all matters relating to contamination and protection of controlled waters have been satisfactorily addressed. This includes in respect of how contaminant mobilisation during the construction period would be minimised, including through measures such as a piling and penetrative foundation risk assessment to be undertaken prior to construction works, as secured by R22 of the dDCO [APP-004].

## **ExA Conclusions**

- 4.15.16. I am satisfied that the Proposed Development accords with all relevant legislation and policy requirements in respect of ground conditions and

contamination and that relevant matters are adequately provided for and secured in the rDCO. This includes under R9 (surface water drainage), R12 (contaminated land and ground water), R13 (unexpected contamination), R16 (CEMP), R23 (piling and penetrative foundation design) and R27 (decommissioning). Matters relating to ground conditions and contamination are thus a neutral consideration in the planning balance.

## **4.16. CULTURAL HERITAGE**

### **Policy Considerations**

- 4.16.1. NPS EN-1 identifies the construction, operation and decommissioning of energy infrastructure as having the potential to result in adverse impacts on the historic environment. This includes both designated and non-designated heritage assets. Consideration should be given to the significance of any heritage assets and whether the development would affect their setting. There should be a presumption in favour of the conservation of designated heritage assets. Loss affecting any designated assets should require clear and convincing justification. Any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of development.

### **The Applicant's case**

- 4.16.2. ES Chapter 14 [APP-043] assesses the effect of the Proposed Development on cultural heritage. A desk-based assessment has been undertaken in order to identify the known cultural heritage resources within defined study areas and the potential for unknown archaeological remains to be present at the application site. Site visits were also undertaken to assess heritage assets and effects on these.
- 4.16.3. The assessment considers a study area with a 3km radius from the centre of the application site for designated heritage assets, as shown on ES Figure 14.2 [APP-128], and a study area of approximately 1km from the Order Limits for non-designated heritage assets, as shown on ES Figure 14.1 [APP-127]. Designated heritage assets that lie outside the 3km study area, up to a radius of 5km, were also considered where these may have views of the Proposed Development. Data sources for the identification of heritage assets include, amongst other sources, Nottinghamshire Historic Environmental Record (HER) and Lincolnshire HER.
- 4.16.4. Most designated and non-designated heritage assets identified within the respective study areas have been scoped out from further assessment. The reason for this is that it is considered that the distances between these assets and the Proposed Development, existing screening and existing impacts associated with the WBA and WBB power stations means that no further change to the significance of these assets would result from the Proposed Development and thus, it would have no impact on them.

- 4.16.5. Table 14-7 of ES Chapter 14 [APP-043] identifies the designated and non-designated heritage assets with the potential to be affected by the Proposed Development. Designated heritage assets identified in the table include: the scheduled monuments of West Burton Medieval Deserted Village and Segelocom Roman Town; and Grade II listed buildings Bole Manor House and the Church of St Martin in Bole. The only non-designated heritage asset identified in the table is WBA power station. As all these heritage assets lie outside of the application site and would not be affected directly, it is the impact of the Proposed Development on their settings which is considered in the assessment. It is worth noting that all heritage assets identified within the table lie within Bassetlaw District.
- 4.16.6. The impact of the Proposed Development on the setting of designated and non-designated heritage assets would largely arise from the visibility of its taller elements, such as its stack(s), during operation, and from the use of machinery and tall structures such as cranes during construction and decommissioning.
- 4.16.7. The assessment concludes that in respect of the identified designated heritage assets, the impact of the Proposed Development on their settings would be limited, given the existing presence of the larger WBA and WBB power stations and thus overall effects would be not significant. Accordingly, any harm to the significance of the designated heritage assets, having regard to the NPPF, would be less than substantial. As WBB power station lies between WBA power station and the application site, and given that the Proposed Development would be of a smaller scale to that of WBB power station, the assessment concludes the impact on the setting and significance of the WBA power station non-designated heritage asset would also be limited and the effect not significant. No mitigation is therefore proposed in respect of effects on the identified heritage assets.
- 4.16.8. The presence of below ground archaeology on the application site is currently unknown given that substantial depths of pulverised fuel ash (PFA) deposits preclude any productive investigations. However, ES Chapter 14 [APP-043] identifies that the application site has a moderate potential for prehistoric or Roman archaeological deposits, a moderate potential for medieval deposits and a moderate potential for alluvial deposits that may contain paleoenvironmental evidence.
- 4.16.9. Impacts on below ground archaeology would potentially arise from constructing foundations for the Proposed Development which may involve piling, the subsequent removal of foundations during decommissioning and excavations for drainage works. The assessment presents a best-case scenario should below ground archaeology exist which ranges between negligible to minor adverse effects (not significant) should preservation of archaeology in situ be a reasonably practical option; and a worst-case scenario which ranges between negligible to moderate adverse effects (potentially significant) should preservation by record be the only practical option.

- 4.16.10. However, a programme of archaeological monitoring and associated environmental sampling would accompany pre-construction site investigation works, secured by R14 of the dDCO [REP7-003] and based on the OWSI [APP-143]. This would allow more detailed information of any below ground archaeology to be gathered. Evaluation of the findings during detailed design would allow for preservation in-situ of archaeological remains, where reasonably practicable. Where not reasonably practicable, it would enable the development and implementation of a strategy for archaeological recording to preserve any archaeological remains impacted by record.
- 4.16.11. ES Chapter 16 [APP-045] concludes that there would be no significant cumulative effects (taking into account other relevant committed developments [APP-131]) or in combination effects in respect of cultural heritage.

### **Examination**

- 4.16.12. No significant matters of concerns were raised by IPs in RRs and WRs in respect of heritage matters.
- 4.16.13. HE signed a SoCG [REP1-010] with the Applicant agreeing that a suitable assessment of heritage and archaeological effects had been undertaken to inform the application and that the approach and wording of the OWSI was acceptable. HE also agreed that significant effects on built heritage assets would be unlikely as a result of the Proposed Development and that the wording of R13 of the dDCO [APP-004] adequately secured a WSI to mitigate against potential harm to archaeology. BDC signed a SoCG [AS-005] with the Applicant also agreeing these matters. In addition, WLDC signed a SoCG [REP1-012] with the Applicant agreeing that the Proposed Development would result in not significant effects on built heritage assets within its administrative area. BDC and WLDC raised no particular concerns in respect of effects of the Proposed Development on heritage assets in their LIRs [REP1-018 and REP1-020].
- 4.16.14. In its RR [RR-008], DC mentioned that consideration should be given to whether any additional traffic generated by the Proposed Development and associated noise would have an incremental adverse impact on the historic character of the BCA. This is because the A631 from Gainsborough joins the Great North Road (A638) in the town. BTC reiterated this in its RR [RR-007]. In its response to these RRs and to one of my Written Questions on this matter [REP1-005 and REP2-009], the Applicant highlighted that consultation was undertaken with DC to agree the scope of the TA, including in respect of the A631 / A638 junction within Bawtry, and that in July 2017, DC confirmed that no further assessment or modelling of this junction was required. This was based on worst-case assumptions that peak construction would last up to 3 months with up to 26 and 34 construction worker vehicles over morning and afternoon peak periods respectively and up to 4 HGVs inbound / outbound in any one-hour forecast.



- 4.16.15. The Applicant considers that given these figures, increases in traffic, as set out within the TA [APP-036 and APP-052], would be not significant, and whilst not specifically assessed, would be unlikely to have a material detrimental traffic related effect on the historic character of the BCA as a result. Additionally, the Applicant's noise and vibration assessment [APP-037] concludes that increases in traffic during construction would result in negligible increases in noise on roads which would experience higher construction traffic flows than would be the case at the junction of the A631 / A638. Thus, it stands to reason that any additional noise generated by construction traffic at this junction would also be negligible and thus not harmful to the historic character of the BCA.
- 4.16.16. Neither DC nor BTC have disputed the Applicant's response on these matters and, on the basis of the evidence, I have no substantive reasons to either. Nor has it been demonstrated by these IPs that the BCA is particularly sensitive to traffic and noise in any event.
- 4.16.17. I posed a number of other Written Questions about cultural heritage [PD-006] to which the Applicant and relevant parties adequately responded.

## **ExA Conclusions**

- 4.16.18. I am satisfied that the Applicant has carried out the assessments of the impact of the Proposed Development on heritage assets set out in NPS EN-1.
- 4.16.19. There would be some limited impact during construction, operation and decommissioning on the setting of a very small number of designated heritage assets, including two Grade II listed buildings and two scheduled monuments. I have had the benefit of observing views towards the application site from within close vicinity of these [EV-003]. Taking into account the existence of the WBA and WBB power stations, and that the Proposed Development would be of a smaller scale than these power stations, I concur with the Applicant's assessment that the impacts on the settings of the identified designated heritage assets would be not significant. I would also concur with the Applicant that the Proposed Development, given the intervening and larger WBB power station, would have a limited impact on the setting of the WBA power station non-designated heritage asset during construction, operation and decommissioning.
- 4.16.20. Moreover, any harm to the significance of the identified designated heritage assets through impacts on their settings would be less than substantial and would be outweighed by the public benefits of the Proposed Development, which includes the need for the type of energy infrastructure proposed, as established through NPS EN-1.
- 4.16.21. In addition, I am satisfied that the potential for the loss of some archaeological remains from the construction of the Proposed Development would be adequately addressed and mitigated through R14 (archaeology) of the rDCO, which requires a WSI, in accordance with the OWSI [APP-143]. However, the potential for the loss of some

archaeological remains, if present and if their loss cannot be avoided and would be preserved by record only, weighs negatively in the planning balance.

## **4.17. WASTE MANAGEMENT**

### **Policy Considerations**

- 4.17.1. Paragraph 5.14.2 of NPS EN-1 sets a waste hierarchy approach to manage waste which is: prevention; preparation for reuse; recycle; other recovery; and disposal. Paragraph 5.14.4 states that all large infrastructure projects are likely to generate hazardous and non-hazardous waste, and that it falls under the EP regime. Paragraph 5.14.6 states that the Applicant should set out the arrangements that are proposed for managing any waste produced and prepare a Site Waste Management Plan (SWMP). The arrangements described should include information on the proposed waste recovery and disposal system for all waste generated by the development, and an assessment of the impact of the waste arising from development on the capacity of waste management facilities to deal with other waste arising in the area for at least five years of operation.

### **The Applicant's case**

- 4.17.2. ES Chapter 15 [APP-044] addresses waste management. It sets out that the assessment identifies the likely types and quantities of waste that would be generated during the construction and operation of the Proposed Development and the waste treatment capacity of the immediate area and surrounding region.
- 4.17.3. ES Chapter 15 [APP-044] notes that waste producers have a legal duty of care to manage their waste in accordance with regulations and to ensure that any waste leaving the site of generation is transferred to a suitably licensed facility for further treatment or disposal. ES Chapter 15 [APP-044] further notes that facilities transferring, treating or disposing of waste must be either licensed or apply for an exemption from a license, and impacts arising from the operation of waste management facilities are considered as part of the planning and permitting process for these facilities themselves.
- 4.17.4. ES Chapter 15 [APP-044] states that it is not expected that there would be any significant volumes of PFA or waste spoil required to be removed from the site to facilitate the Proposed Development. Therefore, the excavation and removal of PFA is not included within the scope of the assessment. Furthermore, in order to establish whether the volume of waste generated during construction is likely to be significant, it needs to be compared to overall total volume of construction and demolition waste generated within the Nottinghamshire and Nottingham area.
- 4.17.5. A CEMP, secured as R16 of the dDCO [REP7-003], would detail the legal and best practice requirements for environmental protection including those relating to waste. A SWMP, with targets for diverting waste from landfill would form part of the CEMP, providing a basis for the effective

management of construction waste by the contractor. A fSWMP has been included within Appendix A of the fCEMP [REP7-021].

- 4.17.6. The fSWMP includes best practice approaches to minimise the quantities of waste requiring disposal from both construction and operation of the Proposed Development. Such measures include:
- agreements with material suppliers to reduce packaging;
  - implementation of a 'just in time' delivery system to avoid stockpiling of materials to minimise risk of damage and disposal as waste;
  - attention to material quantity requirements to avoid over-ordering;
  - re-use of materials on site where feasible;
  - segregation of waste at source where practical; and
  - re-use and recycling of materials off-site where re-use on site is not practical.
- 4.17.7. Further measures set out within the fSWMP to minimise waste during construction include: the appointment of an environmental manager to hold responsibility for waste management, its co-ordination and its monitoring; accurate record keeping of waste types, volumes and disposal routes; staff training on waste management procedures; and the setting of key performance indicators for waste recycling and reduction.
- 4.17.8. The construction phase of the Proposed Development, which is likely to be between 3-4 years, is anticipated to generate approximately 800 tonnes of waste per year. This is considered to be very low compared to the Nottinghamshire and Nottingham baseline annual estimate of construction and demolition waste generated, which is around 2.725 million tonnes out of a total of around 5 million tonnes for all waste. In addition, through the effective use of best practice guidance and adoption of the CEMP and SWMP, it is estimated that the majority of waste generated would be re-used or recycled. On this basis, no significant effects relating to waste are expected to arise during the construction phase of the Proposed Development.
- 4.17.9. Operational waste, including oil contaminated solids, resin, lubricating oils and turbine washwater, would be managed in accordance with the Waste (England and Wales) Regulations 2011 (as amended) and would be subject to an EP issued by the EA. It would be consigned via a registered private waste carrier for treatment or disposal at a suitably licenced waste facility. The anticipated annual volume of operational waste is expected to be around 1.5 tonnes. This is considered to be very low compared to the Nottinghamshire and Nottingham baseline annual estimate of commercial and industrial industry waste, which is around 900,000 tonnes. Accordingly, volumes of operational waste from the Proposed Development and effects of waste during this phase, would be not significant.
- 4.17.10. Decommissioning of the Proposed Development, which is expected to take place after 40 years of operation, has been scoped out of the assessment. This is because the unknowns in respect of waste policy and legislation, regional waste levels or facilities for dealing with waste at that time. However, any waste policies or legislation in force at the time

of decommissioning would need to be complied with and the majority of material generated would most likely comprise concrete and steel, both of which could be re-used or recycled rather than disposed of. In addition, the decommissioning of the Proposed Development would require the submission of a DEMP. The DEMP, which would aim to detail how waste would be effectively managed, is secured under R27 of the dDCO [REP7-003]. As such, effects of waste during decommissioning are expected to be not significant.

- 4.17.11. ES Chapter 16 [APP-045] concludes that there would be no significant cumulative effects (taking into account other relevant committed developments [APP-131]) or in combination effects in respect of waste management.

### **Examination**

- 4.17.12. No significant matters of concerns were raised by IPs in RRs and WRs in respect of waste management issues.
- 4.17.13. As set out in NPS EN-1 the EP regime would address waste management during operation. At the construction stage R16 of the dDCO [REP7-003] makes provision for a CEMP to be prepared, in accordance with the fCEMP [REP17-021], which would include a soil and waste management plan.
- 4.17.14. During the course of the Examination, I posed some questions [PD-006] to the Applicant in respect of soil management and tabled it for discussion at the ISH [EV-009]. The reason for this was that the part of the application site which the Proposed Development would occupy sits predominantly at around 12-13mAOD, but Tables 1 and 2 of R5 of the dDCO [REP7-003] provide for a final ground height of between 7.1mAOD and 14mAOD. Consequently, if this part of the application site were to be reduced to 7.1mAOD, this would necessitate the excavation and removal of large volumes of waste soil, possibly off-site, which had not been accounted for within the ES. This may then have potential impacts on assessments such as those relating to traffic and transport and air quality.
- 4.17.15. On this matter, the Applicant highlighted in a memo [REP4-007] that the minimum ground height of 7.1mAOD for the Proposed Development, as specified in Tables 1 and 2 of R5 of the dDCO, was to reflect the minimum ground height required to satisfy the FRA. Furthermore, the Applicant stated it had no intention of taking the entirety of this part of the application site down to this level and that a 'cut and fill' approach would be adopted with a final ground level more in the region of 12-14mAOD, though some flexibility in ground levels are required to tie into existing infrastructure such as an access road. The Applicant also confirmed that any excavated soil could be managed on-site and that details of finalised ground heights and soil management are secured by R5 and R16 of the dDCO [REP7-003] respectively.

- 4.17.16. After careful consideration, I was satisfied with this response. However, in the interests of certainty, I asked the Applicant [PD-010] to revise the fCEMP [APP-137] to incorporate the details set out within the memo [REP4-007]. The Applicant subsequently did so [REP6-007], though I requested this commitment be further strengthened [PD-011], which again, the Applicant complied with [REP7-021]. This culminated in a fCEMP [REP7-021] which I consider satisfactorily addresses my concerns in respect of soil management.

## **ExA Conclusions**

- 4.17.17. I am satisfied that the Proposed Development would not result in any significant effects arising from waste generated during its construction, operation or decommissioning. I am satisfied that matters relating to mitigation in respect of waste and soil management would be adequately provided for and are secured through the rDCO. This includes under R16 (CEMP). Thus, the Proposed Development would meet all legislative and policy requirements relating to waste management, including those of NPS EN-1, and there are no disbenefits which weigh against it in this regard.

## **4.18. SOCIO-ECONOMICS (INCLUDING HUMAN HEALTH)**

### **Policy Considerations**

- 4.18.1. Section 5.12 of NPS EN-1 notes that the assessment of a project should consider all relevant socio-economic impacts including the creation of jobs and training opportunities, provision of additional local services and local infrastructure, effects on tourism, influx of workers and cumulative effects with other projects in the vicinity. Mitigation measures to address adverse effects should be considered.
- 4.18.2. Paragraph 4.13.2 of NPS EN-1 sets out that where the proposed project has an effect on human beings, the ES should assess these effects for each element of the project, identifying any adverse health impacts, and identifying measures to avoid, reduce or compensate for these impacts as appropriate. Paragraph 4.13.3 recognises that direct impacts on health may include increased traffic, air or water pollution, dust, odour, hazardous waste and substances, noise, exposure to radiation, and increases in pests.
- 4.18.3. Paragraph 4.3.15 of NPS EN-1 states that generally, those aspects of energy infrastructure which are most likely to have a significantly detrimental impact on health are subject to separate regulation (for example for air pollution) which will constitute effective mitigation of them, so that it is unlikely that health concerns will either constitute a reason to refused consents or require specific mitigation under PA2008. However, account should be taken of health concerns when setting requirements relating to a range of impacts such as noise.

## **The Applicant's case**

- 4.18.4. ES Chapter 13 [APP-042] assesses the socio-economic effects of the Proposed Development on socio-economics during construction, operation and decommissioning, whilst ES Appendix 13A [APP-067] addresses effects on human health.

### *Socio-economic effects*

- 4.18.5. The assessment considers the role of the Proposed Development in the generation of direct and indirect employment opportunities at the local and regional level during its construction and operation, as well as the potential effect on local services. Where possible, socio-economic impacts have been appraised against relevant national standards. Where these do not exist professional experience and judgement have been applied.
- 4.18.6. The Office of National Statistics statistical geographies have been used to define the study area for the socio-economic assessment. The Proposed Development falls within 'Sturton Ward', defined as the Direct Impact Area. The socio-economic assessment also makes comparisons to Bassetlaw District, the East Midlands and the whole of England. Key indicators include population and labour force, skills and unemployment, industry and the economy.
- 4.18.7. In considering the socio-economic impacts on employment, ES Chapter 13 [APP-042] takes into account the principal labour market catchment area of the travel to work area (TTWA). TTWAs contain at least 75% of the area's workforce that both live and work in the area. The Proposed Development falls within the Worksop and Retford TTWA.
- 4.18.8. ES Chapter 13 [APP-042] sets out that the Proposed Development would create a range of jobs during the construction phase, both directly and indirectly, and across a wide range of sectors and skills. It is anticipated that a gross average of approximately 95 temporary construction jobs would be created during the construction phase, 66 of which could theoretically be filled by people living within the Worksop and Retford TTWA, with a peak of around 200 workers per day. Additionally, the direct expenditure involved in the construction phase would lead to increased output generated in the Worksop and Retford TTWA economy.
- 4.18.9. The total net number of direct and indirect jobs created by the Proposed Development during its construction phase, taking into account job displacement from other areas, is envisaged to be 95, 65 of which could theoretically be filled by people living within the Worksop and Retford TTWA. It is considered that the employment created by the construction phase of the Proposed Development would have a short-term beneficial effect on the economy of the Worksop and Retford TTWA but would be not significant.
- 4.18.10. R26 of the dDCO [REP7-003] secures a plan detailing arrangements to promote employment, skills and training opportunities for local residents during construction of the Proposed Development, in consultation with NCC and LCC.

- 4.18.11. During the operational phase of the Proposed Development, it is anticipated that up to 15 operational roles would be created, 10 of which could theoretically be filled by people living within the Worksop and Retford TTWA. However, in practice, such roles could contribute to the sustainability of employment of workers associated with WBB and Cottam power stations. Temporary and contractor employees associated with maintenance activities would also be employed as required. Given the small amount of employment to be generated during the operation of the Proposed Development, socio-economic benefits during this phase would be not significant.
- 4.18.12. The workforce employed to decommission the Proposed Development would have a beneficial effect on the economy, in the same way as those employed during construction. However, at this stage the significance of socio-economic effects during decommissioning is uncertain due to limited information available regarding decommissioning methods, timescales and associated staffing requirements.
- 4.18.13. ES Chapter 16 [APP-045] concludes that there would be no significant cumulative (taking into account other relevant committed developments [APP-131]) or in combination socio-economic effects.

#### *Human Health*

- 4.18.14. ES Appendix 13A [APP-067] is predominantly a summary document, highlighting key aspects of the technical assessments presented elsewhere in the ES insofar as they relate to human health. Such assessments include those relating to air quality, traffic and transport, noise and vibration, flood risk and water quality, waste management, ground conditions and contamination, landscape and visual and socio-economics.
- 4.18.15. ES Appendix 13A [APP-067] concludes that, in most cases, there would be no significant effects during the construction, operation or decommissioning of the Proposed Development, particularly following impact avoidance and mitigation secured through requirements in the dDCO. The exception to this relates to visual impacts from Viewpoint 4, within the vicinity of Bole village, where moderate adverse effects for sensitive receptors are predicted to occur during all stages. This would largely be due to the visibility of the tallest structures of the Proposed Development and the limited effectiveness of any existing or additional landscape features, such as trees, to mitigate such impacts.
- 4.18.16. Nonetheless, NPS EN-2 recognises that it is not possible to eliminate the visual impacts associated with a fossil fuel generating station and that mitigation should therefore be to reduce the visual intrusion of the buildings in the landscape and minimise impact on visual amenity as far as reasonably practical. To ensure this, the detailed design of the Proposed Development, including its siting, layout, scale and external appearance, including the colour, materials and surface finishes of all new buildings and structures, is secured under R5 of the dDCO [REP7-003] and would be approved by BDC in consultation with WLDC. Details of lighting associated with the Proposed Development is secured under

R7 of the dDCO [REP7-003] and would accord with the principles of the submitted Lighting Strategy [APP-138], which aims to minimise lighting emissions. In addition, the Proposed Development would be seen in the context of the existing, larger WBA and WBB power stations and would have a close visual relationship with them.

- 4.18.17. ES Appendix 13A [APP-067] also addresses effects of EMF on human health, recognising that there are potential health impacts associated with electrical and magnetic fields around switchyards and connecting cables and power lines. The Proposed Development would include new above or below ground electrical cables to connect to the existing 400kV switchyard within WBB power station. The assessment sets out that EMF from switchyards fall to background levels within a few metres of their perimeters and, in respect of above ground cables, at a distance of around 20m. Below ground cables are unlikely to produce any external EMF.
- 4.18.18. To adopt a conservative approach, the study area in respect of ground level and / or underground cables has been set at a 50m linear distance from the centre line of the proposed electrical connection corridor to the existing 400kV switchyard. No residential receptors are present within this study area and none are anticipated to be present within it in the future. As such, the only potential exposure to EMF arises for construction workers and operational staff. However, the choice and design of plant and equipment would comply with standard industry guidelines set to protect human health. In addition, as set out in guidance from the International Commission on Non-Ionizing Radiation Protection, those occupationally exposed to EMF would consist of adults exposed under known conditions and who would be trained to be aware of potential risks and to take appropriate precautions. Furthermore, risks due to EMF from relevant sources would be reduced using the 'as low as reasonably practicable' principle. With these precautions in place, no significant health effects for construction workers or operational staff are predicted.
- 4.18.19. The application is accompanied by a Statutory Nuisance Statement (SNS) [APP-134]. It concludes that operational noise is the only matter under s79(1) of the Environmental Protection Act 1990 as having the potential to lead to significant statutory nuisance effects in the absence of mitigation. However, following the implementation of mitigation measures, including those set out within the fCEMP [REP7-021], no significant noise effects are anticipated. A final CEMP, in accordance with the fCEMP [REP7-021], is secured under R16 of the dDCO [REP7-003]. A scheme for the control of operational noise and its monitoring is secured by R22 of the dDCO [REP7-003]. Furthermore, the SNS highlights that the operation of the Proposed Development would be regulated by the EA through an EP. This would be used to control emissions from the Proposed Development so as to prevent off-site nuisance impacts through the use of BAT.



## **Examination**

### *Socio-economic effects*

- 4.18.20. No significant matters of concerns were raised by IPs in RRs and WRs in respect of socio-economics matters. BDC's LIR [REP1-018] recognised that the Proposed Development would generate economic benefits, including local job creation and training opportunities. NCC and LCC signed SoCG with the Applicant [REP1-013, REP5-011 and REP1-011] agreeing on the wording of R25 of the dDCO [APP-004] in respect of local employment, skills and training.
- 4.18.21. I am satisfied that ES Chapter 13 [APP-042] has adequately demonstrated that the Proposed Development would provide economic benefits, including within the local area, and that local job and training opportunities is secured by R26 of the dDCO [REP7-003]. This suitably addresses comments relating to the use of local labour, as made in RRs by North and South Wheatly Parish Council [RR-010], North Leverton with Hablesthorpe Parish Council [RR-011], South Leverton Parish Council [RR-014] and Sturton le Steeple Parish Council [RR-015].

### *Human Health*

- 4.18.22. With the exception of local resident Mr Coomber, no significant matters of concerns were raised by IPs in RRs and WRs in respect of human health matters. In addition, PHE in its RR [RR-006] acknowledged that the ES has not identified any issues which could significantly affect public health and confirmed that it is satisfied with the methodology used in the ES to undertake assessments.
- 4.18.23. Mr Coomber raised concerns [RR-022, REP1-021, REP2-029 and REP6-012] around noise and vibration and the impact of this on his health. I have largely considered these concerns within the section of this Report on noise and vibration above, finding such concerns unwarranted and unsubstantiated and in the large, relating to the operation of WBA and WBB power stations. The same appears to be the case in respect of Mr Coomber's concerns around EMF. Furthermore, I have no substantive reasons to doubt the Applicant's assertion that EMF from switchyards and above ground cables fall to background levels within a short distance from them and that below ground cables are unlikely to produce any external EMF. On this basis, given the conservative extent of the study area for EMF and that Mr Coomber's property lies a considerable distance beyond this, as do all other residential properties, I am satisfied that the operation of the Proposed Development would not give rise to any EMF effects on residential receptors, including the residence of Mr Coomber.

## **ExA Conclusions**

### *Socio-economic effects*

- 4.18.24. I consider that the ES has adequately assessed the socio-economic effects of the Proposed Development and has provided sufficient evidence to support its conclusions on those effects. I am satisfied that the Proposed Development would support economic development in the

area and would accord with all relevant policies, including NPS EN-1. Arrangements to promote employment, skills and training opportunities for local people during the construction period, when the highest number of jobs would be created, are appropriately secured through R26 of the rDCO. This weighs modestly in favour of the Proposed Development.

#### *Human Health*

- 4.18.25. I am satisfied that the ES has adequately addressed and considered human health matters relating to the Proposed Development and that necessary mitigation to avoid adverse effects in this regard is appropriately secured through the relevant requirements of the rDCO, including R16 (CEMP), R21 (control of construction noise) and R22 (control of operational noise). In addition, the operation of the Proposed Development would be regulated by the EA through an EP to control emissions from the Proposed Development through the use of BAT. The Proposed Development would thus comply with relevant legislation and policy in respect of human health, including that of NPS EN-1, and there are no disbenefits which weigh against the Proposed Development in this regard.

## **4.19. OTHER CONSIDERATIONS**

### **Climate Change**

- 4.19.1. The Climate Change Act 2008 (CCA2008) sets a legally binding target for the UK to reduce its net greenhouse gas emissions from 1990 levels. At the time of the application, this target was 80%. In June 2019, the UK Government altered this target to 100% by virtue of the Climate Change Act 2008 (2050 Target Amendment) Order 2019 (CCA Target Amendment Order).
- 4.19.2. As noted in Chapter 3 of this Report, the UK is a signatory to the Paris Agreement 2015 under the United Nations Framework Convention on Climate Change. This provides a framework to keep global warming below 2°C, pursuing efforts to limit the temperature increase to 1.5°C.
- 4.19.3. NPS EN-1 makes clear the Government's legally binding commitment to cut greenhouse gas emissions. NPS EN-1 and NPS EN-2 identify that applicants should have regard to climate change. NPS EN-1 notes the importance of securing reliable supplies of electricity as the UK transitions to a low carbon economy and ensuring a diverse mix of energy generating technologies, including fossil fuels, to avoid overdependence on a single fuel type. Furthermore, it recognises that gas is the cleanest and most reliable fossil fuel and is likely to continue to be a central part of the transition to a low carbon economy. NPS EN-1 and NPS EN-2 recognise that whilst CO<sub>2</sub> emissions can have a significant adverse impact from some types of energy infrastructure which cannot be totally avoided, individual applications do not need to be assessed in terms of carbon emissions against carbon budgets and, furthermore, CO<sub>2</sub> emissions are not a reason to prohibit the consenting of projects.

- 4.19.4. The RRs of some IPs, including those of Cllr Naish on behalf of the residents of Bole [RR-017] and local resident Mrs Phipps [RR-021], cite CO<sub>2</sub> emissions and the efficiency of OCGTs as a concern. In addition, as part of my Written Questions [PD-006], I asked the Applicant to comment on the CCA Target Amendment Order. The RR from Mr May [RR-019] indicated that he would provide a submission relating to climate change, but no further submission was received.
- 4.19.5. ES Chapter 15 [APP-044] considers the effects of the Proposed Development on climate change and a GGA is provided at ES Appendix 15A [APP-069]. The GGA concludes that when compared to average fossil fuel power stations, the Proposed Development would produce an additional 10-106 tonnes of CO<sub>2</sub> equivalent per gigawatt hour of electricity generated, depending on its efficiency level. Nonetheless, it notes that the Proposed Development would be used for short periods of time and would only operate for approximately 1500 hours per annum under the EP issued by the EA.
- 4.19.6. The Applicant also states, in response to IPs concerns around the efficiency of OCGTs [REP1-005] and to my Written Questions [REP2-009], that such technology is recognised by the EA to represent BAT for peaking plants. Furthermore, that as the proportion of renewable energy increases, due to its intermittency, there will be a corresponding requirement for more back up capacity, which the Proposed Development would provide. I am also mindful that overall annual CO<sub>2</sub> emissions as a result of the Proposed Development would be limited by its operation for 2250 hours per year (or 1500 hours per year as a rolling five-year average) under an EP issued by the EA. In addition, as it is anticipated that WBA coal fired power station would cease to operate by 2025 under current legislation, it is feasible that it and the Proposed Development would not run concurrently. In such a situation, levels of CO<sub>2</sub> emissions associated with the wider West Burton power station site would be likely to reduce.
- 4.19.7. The Proposed Development, as an intermittent peaking plant, would be fired up at short notice to help meet periods of high demand or low electricity supply nationally and would thus be used to rapidly supply electricity to the National Grid when required. The ability to be started up at short notice to help meet periods of high demand or low supply would positively contribute towards a secure, flexible energy supply and would help meet the identified need for additional generating capacity as established in NPS EN-1. It would thus support the UK's transition to low carbon energy generation.
- 4.19.8. The Applicant provided a submission titled 'Note on Policy Compliance' (Note) [REP6-010] at D6. It recognised that a legal challenge had been made in respect of the decision of the SoS to grant the Drax Power (Generating Stations) Order 2019 (Drax Order), on the basis that the consented scheme would undermine the Government's commitment to cut greenhouse gas emissions. It also alluded to a potential legal challenge to the suite of Energy NPSs including NPS EN-1 and NPS EN-2 on the basis that they are out of date. This followed a recent Court of

Appeal decision which found that the designation of the Airports NPS in 2018 was unlawful as due regard had not been given to the Government's policy and commitments on climate change, including the Paris Agreement 2015.

- 4.19.9. The Note [REP6-010] concludes that neither of the abovementioned matters affect the legislative framework to be applied to the determination of the application. In respect of the Energy NPSs, no formal legal challenge had been made in respect of them at the close of the examination, and the Government had not instigated a review of them or indicated an intention to do so. In respect of the legal challenge to the Drax Order, the outcome of this at the close of the examination was unknown. Thus, it is not something I consider further, though I note that the development consented under that Order is of a considerably greater scale to that of the Proposed Development and is thus not wholly comparable in any event. No IPs made any comments in respect of the Note [REP6-010].
- 4.19.10. Should the situation in respect of the Energy NPSs change prior to the SoS making a decision on the application, then it is likely that this would need to be addressed. On this matter, the Note [REP6-010] suggests that even if the Energy NPSs cease to have effect, meaning that the application should be considered under s105 of PA2008, then the application would still be acceptable having regard to other policy. This includes in respect of the development plans for BDC and WLDC, which, in their LIRs [REP1-018 and REP1-020], BDC and WLDC find no conflict with.

### **ExA's Conclusions on Climate Change**

- 4.19.11. Whilst there would be a modest increase in greenhouse gas emissions, this would not be significant. Moreover, the increase in greenhouse gas emissions would be outweighed by the contribution that the Proposed Development, in its role as a peaking plant, would make to supporting the UK's transition to a low carbon economy. Consequently, I am satisfied that the Proposed Development would accord with the guidance in NPS EN-1 and NPS EN-2 and would accord with the UK's commitments under CCA2008 and the Paris Agreement 2015.

### **Other Matters Raised in Written and Oral Submissions**

- 4.19.12. I have dealt with the key concerns raised in Cllr Naish's written and oral submission on behalf of the residents of Bole [RR-017, REP3-010, EV-008 and REP4-019] in the preceding paragraphs of this chapter of the Report. Such concerns relate to: excessive traffic volumes; parking at the entrance of the village; and visual, light, noise and other environmental impacts. I have found that such concerns do not weigh significantly against the Proposed Development. However, I am aware that the Applicant intends to make a financial contribution towards a community fund for the residents of Bole village. Matters around this are mentioned in Cllr Naish's submissions and the Applicant's responses to these [REP1-

005, REP4-003, REP4-004 and REP5-010], including how it might be utilised. Nonetheless, this is a private matter between the parties, and I am satisfied that such a contribution is not necessary to make the Proposed Development acceptable in planning terms. Thus, I am satisfied that I need not consider this matter further.

- 4.19.13. Cllr Naish's written and oral submission on behalf of the residents of Bole [RR-017, REP3-010, EV-008 and REP4-019] also request access, for dog walking and other recreational purposes, to some land owned by the Applicant. However, this is also not necessary to make the Proposed Development acceptable in planning terms. Furthermore, the Applicant explains that the land in question is operational land relating to WBA and WBB power stations and to open it up to the public would have health and safety implications. In addition, according to ES Figure 10.1 [REP1-017] and my own observations, there is an extensive network of PROW in the area which is already likely to provide decent opportunities for recreation, including dog walking.
- 4.19.14. Mr Coomber raised a concern [RR-022] that the Proposed Development has devalued his property to the point it is virtually unsaleable. However, as planning is concerned with land use in the public interest, property values are not a matter for my consideration.
- 4.19.15. CRT initially requested Protective Provisions. This was on the basis of a concern that any surface water drainage infrastructure works close to the western bank of the River Trent during the construction of the Proposed Development may cause damage to it, which the CRT would be liable for [RR-002, AS-006 and REP2-022]. The necessity of Protective Provisions in respect of CRT was disputed by the Applicant [REP1-005, REP2-009, REP5-012].
- 4.19.16. I tabled the matter for discussion at the ISH and invited CRT to attend [EV-007]. CRT indicated it did not wish to do so but that its concerns remained [REP4-017]. I subsequently requested further information on the matter from the Applicant and CRT [PD-009]. I also asked for the parties to consider whether there might be any alternative to Protective Provisions. An alternative I suggested was to amend R9 (surface water drainage) of the dDCO [REP4-012], to provide for a method statement for any works close the banks of the River Trent to be submitted to and approved by the relevant planning authority prior to the relevant works commencing and after consultation with CRT. In addition, I sought confirmation that River Road, a narrow lane which runs between the application site and the top of the western bank of the River Trent, would not be used for construction traffic.
- 4.19.17. Following discussion with the Applicant, CRT confirmed that such an approach was acceptable to negate the need for Protective Provisions [REP5-016]. The Applicant submitted a revised dDCO at D5 [REP5-003] incorporating the changes to R9. The Applicant also amended the fCTMP at D5 [REP5-009] to clarify that River Road would not be used for construction traffic.

## **ExA Conclusions on Other Matters Raised**

- 4.19.18. I have given consideration to all other matters arising from the application documentation and raised in representations. I confirm that there are no other matters that appear to indicate against the grant of development consent or indicate a need to change the DCO in respect of them.

## **5. FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT**

### **5.1. INTRODUCTION**

- 5.1.1. The Secretary of State (SoS) for Business, Energy and Industrial Strategy (BEIS) is the competent authority for the purposes of the Habitats Directive<sup>2</sup> and the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). Regulation 63 of the Habitats Regulations states that if a plan or project is likely to have a significant effect on a European site<sup>3</sup> (either alone or in combination with other plans or projects), then the competent authority must undertake an appropriate assessment of the implications for that site in view of its conservation objectives.
- 5.1.2. Regulation 63 of the Habitats Regulations states that in light of the conclusions of the assessment, and subject to Regulation 64 (considerations of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site.
- 5.1.3. Section 4.3 of National Policy Statement (NPS) EN-1 reiterates the above requirements and sets out that applicants should seek the advice from Natural England (NE) and provide the competent authority with the information required to determine whether an appropriate assessment is required. It further sets out that applicants must provide the competent authority with such information as may reasonably be required to enable it to conduct the appropriate assessment, which should include information on any mitigation measures that are proposed to minimise or avoid likely effects.

### **5.2. PROJECT LOCATION**

- 5.2.1. The application site forms part of the existing West Burton power station site, approximately 3.5 kilometres (km) to the southwest of Gainsborough and to the immediate west of the River Trent, in the county of Nottinghamshire. As described in Chapter 2 above, the Proposed Development comprises an open cycle gas turbine (OCGT) gas fired generating station with an electrical generation capacity of up to 299 megawatts (MW).

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<sup>2</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora

<sup>3</sup> Including Sites of Community Importance, Special Areas of Conservation (SACs), candidate SACs, Special Protection Areas (SPAs), potential SPAs and Ramsar sites

### **5.3. HRA IMPLICATIONS OF THE PROJECT**

- 5.3.1. The Applicant submitted a report with its application to inform the Habitats Regulations Assessment (HRA) under Regulation 5(2)g of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended) entitled the 'Habitats Regulations Assessment No Significant Effects Report' (NSER) [APP-027]. This was subsequently revised to make correct reference within it to the Habitats Regulations [REP7-007].
- 5.3.2. The Applicant states that the NSER [REP7-007] was prepared in accordance with the Planning Inspectorate Advice Note 10: *Habitats Regulations Assessment relevant to nationally significant infrastructure projects, November 2017* (AN10). The SoS for Ministry of Housing, Communities and Local Government (MHCLG) considered that the information provided in the NSER [REP7-007] was adequate for acceptance of the application for Examination on 23 May 2019 [PD-001].
- 5.3.3. The Applicant developed the scope for the NSER [REP7-007] by searching for European sites within a 10km radius of the application site. This was on the basis, as set out within Environmental Statement (ES) Chapter 9: Ecology [REP7-014], that that such a study area is based on the zone of influence for which the most far reaching impacts would be on air quality.
- 5.3.4. No European sites have been identified within the 10km search area.

### **5.4. ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS**

- 5.4.1. The NSER [REP7-007] identifies that the nearest European sites to the application site are as follows:
- Hatfield Moor SAC (approximately 19.5km from the application site);
  - Thorne Moor SPA / SAC (approximately 25km from the application site);
  - Birklands and Bilhaugh SAC (approximately 25km from the application site); and
  - The Humber Estuary SPA / SAC / Ramsar site (approximately 25km from the application site in respect of the SAC and 35km in respect of the SPA / Ramsar site).
- 5.4.2. In terms of potential surface water impacts, the NSER [REP7-007] notes that there are no direct discharges to the River Trent proposed during the construction or operation of the Proposed Development and that design and impact avoidance measures, as set out in ES Chapter 12: Flood Risk, Hydrology and Water Resources [APP-041] and included within the framework Construction Environmental Management Plan (fCEMP) [REP7-021], would minimise the risk of any unplanned discharges. The NSER [REP7-007] further notes that even in the absence of such design and avoidance measures, any potential surface water pollution would be significantly diluted over a distance of 25km such that it would not pose a risk to the nearest part of the Humber Estuary SPA / SAC / Ramsar site, located downstream of the application site, near to the confluence of the River Trent and the River Humber.



- 5.4.3. The NSER [REP7-007] additionally notes that operationally, discharges of surface water runoff to the River Trent would be managed via a new surface water drainage system comprising pond(s) and / or a tank or similar, connecting to an existing purge line and outfall to the River Trent associated with West Burton B power station. Discharges would be monitored and controlled through an Environmental Permit (EP) issued by the Environment Agency (EA) and as such, operational impacts on the River Trent and thereby on the Humber Estuary SPA / SAC / Ramsar site are considered to be not significant.
- 5.4.4. In terms of noise impacts, the NSER [REP7-007] sets out that no pathways by which noise could give rise to likely significant effects (LSE) on species within European sites have been identified given the considerable separation distances involved. For the same reason, the NSER [REP7-007] concludes that there are no pathways that could result in direct habitat loss or direct physical damage to any of the European sites or pathways over this distance through which could give rise to any effects on their groundwater dependent terrestrial ecosystems.
- 5.4.5. In terms of air quality impacts, the NSER [REP7-007] notes that no assessment of this has been undertaken for European sites given that they lie outside the 10km search area and as such would not be affected by the Proposed Development. I note that, as referenced in the Scoping Opinion provided by the Planning Inspectorate [APP-048], the EA guidance *Air emissions risk assessment for your environmental permit* advises checking for any European sites within 10km of an application site for screening purposes and that screening to 15km for such sites may be required for some larger emitters (greater than 50MW). The nearest European site is located approximately 19.5km from the application site and thus beyond the furthest screening distance as set out within this guidance.
- 5.4.6. The NSER [REP7-007] concludes that as no European site would be affected by the Proposed Development, no in combination effects assessment is necessary and, as such, the screening matrices referenced in AN10 need not be completed.
- 5.4.7. NE in its Statement of Common Ground (SoCG) with the Applicant [REP1-009], and in response to my Written Questions [REP2-028], confirmed that it was satisfied with the findings of the NSER and agreed that there is no potential for LSE on European sites and as such, a detailed HRA is not required. No other Interested Parties (IPs) have raised any concerns in this regard.

I am satisfied that such information has been provided as is reasonably necessary for the SoS to determine that an appropriate assessment is not required. I also conclude that there are no HRA matters which would prevent the SoS from making the Development Consent Order (DCO). Accordingly, I took the view that there was no need to prepare a Report on the Implications for European Sites.

## **5.5. HRA CONCLUSIONS**

- 5.5.1. Drawing from the information provided in the application, with specific reference to the ES and the NSER [REP7-007] together, and taking full account of the responses to relevant written questions into account, I am satisfied that the evidence indicates that the Proposed Development would not give rise to any LSE on European sites.
- 5.5.2. I am also satisfied that the SoS for BEIS has sufficient information available to discharge their obligations under the Habitats Regulations.

## **6. CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT**

### **6.1. INTRODUCTION**

- 6.1.1. This Chapter provides a balanced evaluation of the planning merits of the Proposed Development. It does so in the light of the legal and policy context set out in Chapter 3 and individual applicable legal and policy requirements identified in Chapters 4 and 5 above. The designated National Policy Statements (NPSs) NPS EN-1 and NPS EN-2 provide the primary basis for the Secretary of State (SoS) for Business, Energy and Industrial Strategy (BEIS) to make decisions on development consent applications for energy based Nationally Significant Infrastructure Projects (NSIPs) in England. Conclusions on the case for development consent set out in the application are therefore reached within the context of the policies contained in the NPSs.

### **6.2. CONCLUSIONS ON THE PLANNING ISSUES**

- 6.2.1. I have reached a number of conclusions on the effects of the Proposed Development and its performance against relevant policy and legislation which draw on the analysis of the planning considerations in Chapter 4 and the relevant facts and issues documented in the Habitats Regulations Assessment (HRA) in Chapter 5.

#### **Issues arising in written and oral submissions**

- 6.2.2. Matters which arose during written and oral submissions were either addressed or did not raise any concerns which weighed materially against the Proposed Development.

#### **Issues arising in Local Impact Reports (LIRs)**

- 6.2.3. Whilst deferring to the views of other Interested Parties (IPs) or statutory authorities on some matters, the LIRs for both Bassetlaw District Council (BDC) and West Lindsey District Council (WLDC) concluded that the Proposed Development would not give rise to significant concerns. Furthermore, the Applicant submitted Statements of Common Ground (SoCG) with BDC and WLDC agreeing all matters in respect of the effects of the Proposed Development, that the proposed mitigation was appropriate and could be secured through the Development Consent Order (DCO) and that there were no matters of disagreement between the parties.

#### **Conformity with National Policy Statements (NPSs)**

- 6.2.4. In relation to NPS EN-1 and NPS EN-2 I find:
- no instances of non-compliance with NPSs were identified by IPs;
  - the need for the Proposed Development is established through the NPSs;
  - the Proposed Development conforms to high-level policy in NPS EN-1 and NPS EN-2; and

- the compliance of the Proposed Development has been examined against policy detail and tests applicable to individual planning issues as set out in relevant NPS paragraphs, with this analysis set out below.

### **Conformity with the Development Plan**

- 6.2.5. The Proposed Development conforms with the development plan for BDC and no instances of unaddressed policy conflict have been identified. Moreover, there are no issues arising from development plan policies of BDC that conflict with relevant policy directions arising from NPSs. Accordingly, development plan policies will be fully met by a decision that is in accordance with relevant NPSs.
- 6.2.6. I consider the same to be the case in respect of the development plan for WLDC.

### **Application of other policies**

- 6.2.7. I have found that the Proposed Development conforms with other relevant policies identified by BDC and the Applicant. Furthermore, as there are no conflicts between NPS EN-1 and NPS EN-2 and these other policies they would be addressed by a decision that is in accordance with relevant NPSs.

### **Environmental Impact Assessment (EIA)**

- 6.2.8. No submissions were made which raised concerns about the overall adequacy of the EIA or the Environmental Statement (ES). The ES and associated information submitted by the Applicant during the Examination provided an adequate assessment of the environmental effects of the Proposed Development which meets the requirements of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009. It is sufficient to describe the 'Rochdale Envelope' for it and to secure its delivery within that envelope through the recommended Development Consent Order (rDCO).

### **HRA considerations**

- 6.2.9. I am satisfied that the evidence indicates that the Proposed Development would not give rise to any likely significant effects on European sites. I am also satisfied that the SoS has sufficient information available to discharge their obligations on this matter under the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations).

### **Environmental Permitting regime**

- 6.2.10. The Proposed Development falls under the Environmental Permitting (England and Wales) Regulations 2016 and therefore will require an Environmental Permit (EP). The Environment Agency (EA), as the regulatory authority for EPs, has confirmed that the existing EP for West Burton B (WBB) power station could be varied to include the Proposed Development. The EA has also confirmed that the EP for West Burton A (WBA) power station could be varied to transfer the responsibility of the

land which the Proposed Development would occupy from WBA to WBB power station.

- 6.2.11. The EA has received the EP variation applications and these have been duly made. The EA expects the applications to be determined in late spring / summer 2020 and has confirmed that on the basis of the information submitted with them, it is not aware of any reasons as to why they would not be granted. Consequently, I have no concerns in this regard either, should the SoS grant the application.

#### **Other Consents and Licences**

- 6.2.12. In relation to other outstanding consents and licences in addition to the abovementioned EPs, I have considered the available information bearing on these and, without prejudice to the exercise of discretion by future decision-makers, have concluded that there are no apparent impediments to the implementation of the Proposed Development, should the SoS grant the application. Furthermore, in relation to a European protected species mitigation licence (EPSML) in respect of great crested newts (GCN), the Applicant submitted a draft application to Natural England (NE), who in turn issued a letter of no impediment [REP2-010].

#### **Air Quality and Emissions**

- 6.2.13. I am satisfied that there would be no significant effects caused from construction and decommissioning activities of the Proposed Development. Emissions during its operation would be controlled by the EP regime and, subject to the inclusion of minimum stack heights in the rDCO, I am satisfied that there would be no significant air quality and emissions effects during operation. I am also satisfied that the Proposed Development would accord with the relevant NPSs. Requirement (R) 5 (detailed design), R16 (Construction Environmental Management Plan (CEMP)) and R27 (decommissioning) are adequately secured in the rDCO and would ensure appropriate mitigation is carried out.
- 6.2.14. I conclude that air quality and emissions effects of the Proposed Development are a neutral consideration.

#### **Biodiversity and Nature Conservation**

- 6.2.15. The ES did not identify any significant effects on statutory or non-statutory wildlife sites, protected species and habitats and other species of notable importance for the conservation of biodiversity. The exception to this is in respect of GCN during the construction phase where moderate adverse and thus significant effects on the local population are predicted due to loss of terrestrial habitat, albeit that the killing or injury of individual GCN during construction works would be avoided through measures to be implemented under an EPSML.
- 6.2.16. Various mitigation measures have been proposed, including within the Landscaping and Biodiversity Management and Enhancement Plan (LBMEP) [REP7-023], Lighting Strategy [APP-138] and framework Construction Environmental Management Plan (fCEMP) [REP7-021], which are secured by R6 (landscaping and biodiversity management and

enhancement), R7 (lighting), R16 (CEMP) and R24 (restoration of land) of the rDCO respectively. The effect of those mitigation measures, and the securing of an EPSML in respect of GCN, for which NE has issued a letter of no impediment, would be that no residual likely significant effects are anticipated on any of the ecological receptors identified. In addition, R15 (protected species) of the rDCO makes provision for further protected species surveys to be carried out prior to the commencement of the Proposed Development to establish any changes in this regard since the original survey work was undertaken.

6.2.17. Accordingly, I am satisfied that the Proposed Development would comply with policy and legislation relating to biodiversity and nature conservation, including that of NPS EN-1.

6.2.18. I conclude that biodiversity and nature conservation effects of the Proposed Development are a neutral consideration.

### **Landscape and Visual**

6.2.19. The Proposed Development would not give rise to any significant effects on landscape character or landscape features during its construction, operation or decommissioning. R6 of the rDCO would secure some limited benefits to the landscape and ecological features of the application site in accordance with the LBMEP [REP7-023] during the operational stage. R24 of the rDCO would secure restoration of land temporarily used for construction and R27 would secure the restoration of land following decommissioning.

6.2.20. However, the Proposed Development would give rise to moderate adverse and thus significant effects for some visual receptors during its construction, operation and decommissioning, albeit that such effects would be localised and limited to users of public rights of way (PRoW) in the vicinity of Viewpoint 4 and the residents of Bole village in general. This would largely be due to the use of cranes during construction and decommissioning and the height and visibility of the stack(s) of the Proposed Development during operation. There is little scope for any meaningful mitigation to avoid such an effect.

6.2.21. Nevertheless, the Proposed Development, the siting of which would be close to the existing and notably larger WBA and WBB power stations, would occupy an appropriate location and would be seen in the context of these power stations. Lower-level built form would largely be screened by existing vegetation. No plumes would be emitted from the stack(s) of the Proposed Development. These factors would temper any adverse visual impact from Viewpoint 4. Moreover, R5 of the rDCO would provide for the sensitive design of the buildings and stack(s) associated with the Proposed Development to minimise visual impact and, in Tables 1 and 2, would secure a maximum stack height of 59 metres above ordnance datum (mAOD). R7 of the rDCO would provide for sensitive lighting design to minimise visual impact also.

6.2.22. However, for clarity and to reflect the assessment undertaken, I recommend that Tables 1 and 2 of R5 of the rDCO specify maximum

heights of the relevant components of the Proposed Development in metres above ground level (mAGL), in addition to mAOD.

- 6.2.23. Taking these matters into account, and given the limited wider visual impact of the Proposed Development, I afford the visibility of the Proposed Development from Viewpoint 4 limited weight and I am satisfied that it would accord with NPS EN-1 and NPS EN-2 in respect of landscape and visual matters.
- 6.2.24. I conclude that landscape effects of the Proposed Development are a neutral consideration. I conclude that visual effects of the Proposed Development are a negative consideration. However, moderate adverse and thus significant visual effects of the Proposed Development would be localised and limited to Viewpoint 4 only. Additionally, the Proposed Development would be seen in the context of the existing and larger WBA and WBB power stations, which would temper the adverse visual effects.

### **Traffic and Transport**

- 6.2.25. Construction traffic, particularly at its peak, would result in a noticeable increase in the level of vehicles using the local highway network. However, I am satisfied that the ES has adequately assessed traffic and transport impacts and that there would be no significant effects during the construction of the Proposed Development. I am also satisfied that the ES has adequately assessed traffic and transport impacts during the operation and decommissioning of the Proposed Development and that there would be no significant effects during these stages. In addition, I am content that traffic and transport management matters are adequately provided for and secured in the rDCO. This includes R17 (protection of highway surfaces), R18 (Construction Traffic Management Plan), R19 (Construction Workers' Travel Plan), R26 (local liaison committee) and R27 (decommissioning).
- 6.2.26. The Proposed Development would thus accord with all legislation and policy requirements, including those of NPS EN-1.
- 6.2.27. I conclude that traffic and transport effects of the Proposed Development are a neutral consideration.

### **Water Quality, Flood Risk and Flood Resilience**

- 6.2.28. I am satisfied that the Proposed Development would have no significant environmental effects in terms of water quality or flood risk and would be flood resilient over its lifetime. I am content that adequate mitigation measures relating to water quality, flood risk and flood resilience are secured in the rDCO, including under R5 (detailed design), R9 (surface water drainage), R10 (foul water drainage), R11 (flood risk mitigation), R12 (contaminated land and groundwater), R13 (unexpected contamination), R16 (CEMP), R23 (piling and penetrative foundation design) and R27 (decommissioning). The Proposed Development would thus accord with relevant legislation and policy requirements, including those of NPS EN-1.

- 6.2.29. I conclude that water quality, flood risk and flood resilience effects of the Proposed Development are a neutral consideration.

**Noise and Vibration**

- 6.2.30. I am satisfied that the Proposed Development would not give rise to any significant noise and vibration effects during its construction, operation or decommissioning and that noise and vibration matters, including appropriate mitigation, are adequately provided for and secured in the rDCO to ensure this. This includes under R16 (CEMP), R20 (construction hours), R21 (control of construction noise), R22 (control of operational noise) and R23 (piling and penetrative foundation design). Accordingly, I am content that the Proposed Development would accord with all relevant legislation and policy requirements, including those of NPS EN-1 and NPS EN-2.
- 6.2.31. I conclude that noise and vibration effects of the Proposed Development are a neutral consideration.

**Ground Conditions and Contamination**

- 6.2.32. I am satisfied that the Proposed Development accords with all relevant legislation and policy requirements in respect of ground conditions and contamination and that relevant matters are adequately provided for and secured in the rDCO. This includes under R9 (surface water drainage), R12 (contaminated land and ground water), R13 (unexpected contamination), R16 (CEMP), R23 (piling and penetrative foundation design) and R27 (decommissioning).
- 6.2.33. I conclude that ground conditions and contamination effects of the Proposed Development are a neutral consideration.

**Cultural Heritage**

- 6.2.34. I am satisfied that the Applicant has carried out the assessments of the impact of the Proposed Development on heritage assets as required by NPS EN-1.
- 6.2.35. There would be some limited impact during construction, operation and decommissioning on the setting of a very small number of designated heritage assets, including two Grade II listed buildings and two scheduled monuments. I have had the benefit of observing views towards the application site from within close vicinity of these [EV-003]. Taking into account the existence of the WBA and WBB power stations, and that the Proposed Development would be of a smaller scale than these power stations, I concur with the Applicant's assessment that the impacts on the settings of the identified designated heritage assets would be not significant. I would also concur with the Applicant that the Proposed Development, given the intervening and larger WBB power station, would have a limited impact on the setting of the WBA power station non-designated heritage asset during construction, operation and decommissioning.



- 6.2.36. Moreover, any harm to the significance of the identified designated heritage assets through impacts on their settings would be less than substantial and would be outweighed by the public benefits of the Proposed Development, which includes the need for the type of energy infrastructure proposed, as established through NPS EN-1.
- 6.2.37. In addition, I am satisfied that the potential for the loss of some archaeological remains from the construction of the Proposed Development would be adequately addressed and mitigated through R14 (archaeology) of the rDCO, which requires a Written Scheme of Investigation (WSI), in accordance with the Outline Written Scheme of Investigation (OWSI) [APP-143]. However, the potential for the loss of some archaeological remains, if present and if their loss cannot be avoided and would be preserved by record only, weighs negatively in the planning balance.

### **Waste Management**

- 6.2.38. I am satisfied that the Proposed Development would not result in any significant effects arising from waste generated during its construction, operation or decommissioning. I am satisfied that matters relating to mitigation in respect of waste and soil management would be adequately provided for and are secured through the rDCO. This includes under R16 (CEMP). Thus, the Proposed Development would meet all legislative and policy requirements relating to waste management, including those of NPS EN-1.
- 6.2.39. I conclude that waste management effects of the Proposed Development are a neutral consideration.

### **Socio-Economic Effects (including Human Health)**

#### *Socio-economic effects*

- 6.2.40. I consider that the ES has adequately assessed the socio-economic effects of the Proposed Development and has provided sufficient evidence to support its conclusions on those effects. I am satisfied that the Proposed Development would support economic development in the area and would accord with all relevant policies, including NPS EN-1. Arrangements to promote employment, skills and training opportunities for local people during the construction period, when the highest number of jobs would be created, are appropriately secured through R26 of the rDCO.
- 6.2.41. I conclude that the socio-economic effects of the Proposed Development are a positive consideration, albeit that in the wider scheme of things, the benefits would be modest in scale.

#### *Human Health*

- 6.2.42. I am satisfied that the ES has adequately addressed and considered human health matters relating to the Proposed Development and that necessary mitigation to avoid adverse effects in this regard is appropriately secured through the relevant requirements of the rDCO,

including R16 (CEMP), R21 (control of construction noise) and R22 (control of operational noise). In addition, the operation of the Proposed Development would be regulated by the EA through an EP to control emissions from the Proposed Development through the use of Best Available Techniques (BAT). The Proposed Development would thus comply with relevant legislation and policy in respect of human health, including that of NPS EN-1.

- 6.2.43. I conclude that human health effects of the Proposed Development are a neutral consideration.

### **Climate Change**

- 6.2.44. Whilst there would be a modest increase in greenhouse gas emissions, this would not be significant. Moreover, the increase in greenhouse gas emissions would be outweighed by the contribution that the Proposed Development would make to supporting the UK's transition to a low carbon economy in its role as a peaking plant. Consequently, I am satisfied that the Proposed Development would accord with the guidance in NPS EN-1 and NPS EN-2 and would accord with the UK's commitments under the Climate Change Act 2008 (CCA2008) and the Paris Agreement 2015.

### **Other Considerations**

- 6.2.45. I have given consideration to all other matters arising from the application documentation and raised in representations. I confirm that there are no other matters that appear to indicate against the grant of development consent or indicate a need to change the DCO in respect of them.

## **6.3. THE PLANNING BALANCE**

- 6.3.1. In reaching conclusions on the case for the Proposed Development, I have had regard to NPS EN-1 and NPS EN-2 as the relevant NPSs, LIRs and all other matters which I consider are both important and relevant to the SoS's decision. I have further considered whether the determination of this application in accordance with the relevant NPSs would lead the UK to be in breach of any of its international obligations where relevant, including CCA2008 and the Paris Agreement 2015. I conclude that, in all respects, this will not be the case.
- 6.3.2. The potential adverse impacts of the Proposed Development and the concerns raised in submissions on the application have been considered. The ES identifies that the Proposed Development would, primarily, either have no significant effects from construction, operation and decommissioning activities on the environment, or that the identified potential significant effects can be mitigated as far as possible through practices which are appropriately secured in the rDCO. All harmful effects are within the scope envisaged in the relevant NPSs as still being policy compliant.

- 6.3.3. The likely significant visual effects from the construction, operation and decommissioning of the Proposed Development, when seen by visual receptors in the vicinity of Viewpoint 4, cannot be entirely mitigated. However, such an impact would be of a moderate degree, localised and reflective of the scale of the Proposed Development. Furthermore, the Proposed Development would be appropriate for the context of the area and wider West Burton power station site which already contains two power stations of a notably larger scale. NPS EN-1 acknowledges that energy infrastructure proposals are likely to have visual effects for visual receptors and a balancing exercise must be undertaken in terms of the public benefits and any harm caused. NPS EN-2 recognises that fossil fuel generating stations are large, would have an impact on the surrounding landscape and visual amenity and that it is not possible to eliminate the visual impacts associated with a fossil fuel generating station. NPS EN-2 also recognises that if the location is deemed appropriate, as is the case here, and the plant has been designed sensitively to minimise harm to landscape and visual amenity, which would also be the case, then *'the visibility of a fossil fuel generating station should be given limited weight.'*
- 6.3.4. The public benefits of the Proposed Development can be identified in the context of NPS EN-1's recognition of the need for energy generating infrastructure and the presumption in favour of granting consent for energy NSIPs whilst recognising that fossil fuel generation, and gas in particular, plays a vital role in providing reliable energy supplies. Additionally, the location of the Proposed Development is determined by the existing energy infrastructure use of the wider West Burton power station site, which includes WBA and WBB power stations.
- 6.3.5. In conclusion, I find that the identified harms in relation to the construction, operation and decommissioning of the Proposed Development would be outweighed by the benefits from the provision of energy to meet the need identified in NPS EN-1. I further conclude that there would be no breach of NPS policy overall.
- 6.3.6. No HRA effects have been identified and there is no reason for HRA matters to prevent the making of the DCO.
- 6.3.7. For the reasons set out in the preceding chapters and summarised above, I conclude that the Proposed Development is acceptable, and that development consent should be granted. I carry this conclusion forward noting also that my reasoning above identifies the basis for a small number of changes to the dDCO [REP7-003], documented in Chapter 7 below.

## **7. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS**

### **7.1. INTRODUCTION**

- 7.1.1. The application draft Development Consent Order (dDCO) [APP-004] and the Explanatory Memorandum (EM) [APP-005] were submitted by the Applicant as part of the application for development consent. The EM describes the purpose of the dDCO as originally submitted, with each of its articles and schedules.
- 7.1.2. The submission version dDCO [APP-004] was broadly based on the Model Provisions (MP), as set out in the now-repealed Infrastructure Planning (Model Provisions) (England and Wales) Order 2009, but departed from those clauses to draw upon drafting used in made Orders for energy development under the Planning Act 2008 (PA2008). There has been a change of approach to the use of MP since the Localism Act 2011, and although they provide a starting point for the consideration of the dDCO, precedent cases are generally more appropriate. The EM [APP-005] notes and explain variations made in the dDCO compared to the MP. The submission version dDCO [APP-004] and subsequent iterations are in the form of a statutory instrument as required by section (s) 117(4) of PA2008.
- 7.1.3. The dDCO was updated several times during the course of the Examination. This Chapter provides an overview of the changes made to the dDCO during the Examination process, between the application dDCO [APP-004] and the final dDCO [REP7-003] submitted at Deadline (D) 7. It then considers changes made to the final dDCO in order to arrive at the recommended Development Consent Order (rDCO) in Appendix C to this Report.
- 7.1.4. I do not report on every change made in the updated versions of the dDCO, as some were the result of typographical or grammatical errors, were minor changes, reflected updated documents, or were changes in the interests of clarity or consistency following discussion between the Applicant and relevant interested parties, or as a result of my written questions. Accordingly, and in the interest of conciseness, I have focussed on key changes made in the updated versions of the dDCO.

### **7.2. THE DEVELOPMENT CONSENT ORDER AS APPLIED FOR**

- 7.2.1. This section records the structure of the dDCO. It is based on the Applicant's final dDCO [REP7-003] submitted at D7, and is as follows:
- Part 1, Articles 1 and 2 sets out how the Order may be cited and when it comes into force. Article 2 sets out the meaning of the various terms of the Order;
  - Part 2, Articles 3 and 4 provide development consent for the Proposed Development, and allows it to be constructed and maintained;

- Part 3 sets out the framework for the operation of the Proposed Development. Articles 5 and 6 provide for the operation of the generating station and set the limits of deviation. Article 7 sets out who has the benefit of the powers of the Order and how those powers can be transferred. Article 8 sets out a defence to proceedings in respect of statutory nuisance;
- Part 4, Article 9 provides for the temporary prohibition or restriction of use of streets and Article 10 provides for agreements to be undertaken with street authorities;
- Part 5, Articles 11 and 12 set out supplemental powers relating to discharge of water and removal of human remains; and
- Part 6 is concerned with miscellaneous and general matters. Articles 13-19 relate to the application of landlord and tenant law, operational land for the purposes of the Town and Country Planning Act 1990, felling or lopping of trees, effect of Protective Provisions, certification of plans, procedure in relation to approvals and arbitration.

7.2.2. There are five Schedules to the Order, providing for the description of the Authorised Development (Schedule 1), the requirements which apply to it (Schedule 2), the procedure for the discharge of requirements (Schedule 3), the identification of streets subject to temporary prohibition or restriction of use (Schedule 4) and Protective Provisions (Schedule 5).

7.2.3. I find that the structure of the Applicant's final dDCO [REP7-003] as outlined above is fit for purpose and no changes to the structure are recommended.

7.2.4. Additionally, I am satisfied that the Proposed Development's gross electrical output of 299 megawatts (MW) is controlled in the Applicant's final dDCO [REP7-003] as this limit is specified in the description of the authorised development at Schedule 1.

### **7.3. CHANGES DURING EXAMINATION**

7.3.1. The Applicant updated the dDCO several times during the Examination, responding to issues raised in questions, to Written Representations (WRs) and as a consequence of the hearing process. At each revision, the Applicant submitted a clean copy, a copy showing tracked changes from the previous clean copy version and a table of amendments documenting the changes. The versions of the updated dDCO submitted by the Applicant were as follows:

- Version 1 (D2 version) [REP2-004] (clean) and [REP2-003] (tracked);
- Version 2 (D3 version) [REP3-008] (clean) and [REP3-007] (tracked);
- Version 3 (D4 version) [REP4-012] (clean) and [REP4-011] (tracked);
- Version 4 (D5 version) [REP5-003] (clean) and [REP5-002] (tracked);
- Version 5 (D6 version) [REP6-003] (clean) and [REP6-002] (tracked); and
- Version 6 (D7 version) [REP7-003] (clean) and [REP7-002] (tracked).

7.3.2. The table of amendments submitted at D7 [REP7-025] provides a documentation of all changes made to the dDCO during the Examination.

- 7.3.3. The key changes to the dDCO during the Examination, and the reasons for these changes, are set out in Table 7.1 below:

**Table 7.1: Iterations of the dDCO post-submission**

<b>dDCO Version</b>	<b>Key changes</b>
Version 1 [REP2-004]	<p>Page numbers added, as I requested;</p> <p>Articles in the contents page correctly numbered to reflect Article numbering in the main body of the document, as I requested;</p> <p>Schedule 2: addition of a new requirement (R) 10 (foul water drainage) and amendment of R9 (surface water drainage) to address foul water drainage concerns raised by the Environment Agency and to provide for maintenance of surface and foul water drainage systems, as I requested;</p> <p>Schedule 2: relevant requirements re-numbered to reflect insertion of new R10;</p> <p>Schedule 2, R20 (construction hours): Sundays specified to be excluded from normal working hours, as I requested, for clarity;</p> <p>Schedule 2, R27 (decommissioning): re-worded to provide clarity of when a Decommissioning Environmental Management Plan (DEMP) is to be submitted for approval;</p> <p>Schedule 2: R28 (consultation on requirements) added in respect of: consulting named consultees on plans, documents or details in advance of these being submitted to the relevant planning authority for approval; and making provision for, unless otherwise agreed with the undertaker, a time limit of 21 days for a consultee to provide comments, beyond which, a consultee is deemed to have no comments; and</p> <p>Explanatory Note: inclusion of the address of Bassetlaw District Council as the public viewing location for the DCO and certified documents, as I requested.</p>
Version 2 [REP3-008]	<p>Schedule 4, Part 1: In response to one of my Written Questions, Part 1 was deleted on the basis that the dDCO does not grant power to acquire or purchase land, to remove apparatus or extinguish rights, and</p>

dDCO Version	Key changes
	thus Protective Provisions for electricity, gas and sewage undertakers are not necessary.
Version 3 [REP4-012]	<p>Part 1, Article 2: on my request, removal of the term <i>the Order limits plans</i> from the list of definitions, as the Order limits are suitably defined elsewhere in Part 1, Article 2 as meaning the limits shown on the works plans, which are also defined;</p> <p>Part 4, Article 9: reference to <i>temporary stopping up or alteration</i> in respect of streets and public rights of way (ProW) changed to <i>temporary prohibition or restriction of use</i> to reflect terminology used in other recently approved DCOs; reference to new Schedule 4 which identifies streets affected; provision for pedestrian access specified; provision for consultation with the street authority prior to temporary prohibition or restriction of use of identified streets; provision for formal consent from the street authority if temporary prohibition or restriction of use of any other streets is necessary; provision of timescales for such consent; and removal of provision to use temporarily stopped up streets or PRoW as a temporary working site;</p> <p>Part 4, Article 10: reference to <i>temporary stopping up or alteration</i> in respect of streets changed to <i>temporary prohibition or restriction of use</i>;</p> <p>Part 6, Article 15: provision to limit any potential works to trees within the extent of the publicly maintainable highway to circumstances involving the delivery of abnormal indivisible loads (AILs) only and to give 14 days' notice to the relevant authority of any such tree works, as I requested;</p> <p>Part 6, Article 17: removed <i>the order limits plans</i> from the list of certified documents as they are not necessary given that the Order limits are shown on the works plans, which would be certified documents; and updated relevant document revision numbers;</p> <p>Schedule 2, R5 (detailed design): West Lindsey District Council (WLDC) added as a consultee on design matters, as suggested by myself and WLDC at the Issue Specific Hearing (ISH);</p> <p>Schedule 2, R25 (local liaison committee (LLC)): provision for a LLC meeting to go ahead, if, in the</p>

dDCO Version	Key changes
	<p>situation that the majority of members agree in writing that one is not needed, other members consider otherwise by making a written request within 20 working days of the scheduled meeting. This was at my request, in the interests of fairness to all members of the LLC;</p> <p>Schedule 2, R28 (consultation on requirements): provision for the consultation period for named consultees on matters relating to the discharge of requirements to be extended from 21 days to 24 days to account for bank holidays. This was to address a query I had during the ISH on the adequacy of the consultation period and the response of WLDC to this query as part of the ISH discussions;</p> <p>New Schedule 4, which links to Part 1, Article 9, to define streets which may be subject to temporary prohibition or restriction of use along the AIL delivery route; and</p> <p>Previous Schedule 4 relating to Protective Provisions renamed <i>Schedule 5</i>.</p>
Version 4 [REP5-003]	<p>Part 4, Article 9: removal of references to <i>public rights of way</i> at my request as no PRow are to be subject to temporary prohibition or restriction of use and none are listed in Schedule 4;</p> <p>Part 6, Article 17: updated relevant document revision numbers;</p> <p>Schedule 2, R1 (interpretation): addition of term <i>non-material</i> to precede the word <i>changes</i> to limit the scope for any changes in respect of approvals or agreements required under the terms of a requirement, as I requested;</p> <p>Schedule 2, R5 (detailed design): inserted (<i>Work No.1</i>) into row 2 of Table 1 and row 2 of Table 2 in response to my question / concern in respect of the relationship between specified minimum ground levels relating to the part of the application site identified for the Proposed Development and potential soil management issues;</p>



dDCO Version	Key changes
	<p>Schedule 2, R6 (landscaping and biodiversity management and enhancement): updated document revision number; and</p> <p>Schedule 2, R9 (surface water drainage): included the Canal and River Trust (CRT) as a consultee on details for temporary and permanent surface water drainage systems; and specified that such details must include a detailed construction method statement. These amendments were made to overcome concerns of CRT, and my questions relating to those concerns, in respect of impacts of works on the banks of the River Trent and the necessity or otherwise for Protective Provisions for CRT. CRT confirmed the changes overcame its concerns and negated the need for Protective Provisions.</p>
Version 5 [REP6-003]	<p>Part 6, Article 17: updated relevant document revision numbers; and</p> <p>Schedule 2, R5 (detailed design): deleted previous addition of (<i>Work No.1</i>) from row 2 of Table 1 and row 2 of Table 2 in response to my request to deal with my concern relating to levels and soil management through amendments to the framework Construction Environmental Management Plan (fCEMP) instead.</p>
Version 6 [REP7-003]	<p>Part 6, Article 17: updated relevant document revision numbers; and</p> <p>Schedule 2, R27 (decommissioning): included reference to a Decommissioning Traffic Management Plan in respect of details to be submitted as part of the DEMP, as I requested, to reflect reference to such a plan within ES Chapter 7: Traffic and Transport [APP-036].</p>

- 7.3.4. No Interested Parties (IPs) or Statutory Parties raised any concerns in respect of any of the changes listed in Table 7.1.
- 7.3.5. The provisions in respect of which I have recommended changes to the Applicant's final dDCO [REP7-003] in the rDCO at Appendix C, and the reasons for this, are set out in Table 7.2 below:

**Table 7.2: dDCO provisions recommended to be changed**

<b>Provision</b>	<b>Recommendations</b>	<b>Reason</b>
Contents page	<p>Add <i>0000</i> after <i>2020[] No.</i></p> <p>Delete <i>Laid before Parliament</i></p> <p>Delete <i>and public rights of way</i> from the title of Part 4, Article 9</p>	<p>For statutory instrument template validation purposes</p> <p>Not required in a DCO</p> <p>No PRoW would be subject to temporary prohibition or restriction of use</p>
Part 4, Article 9	Delete <i>and public rights of way</i> from the title of Part 4, Article 9	No PRoW would be subject to temporary prohibition or restriction of use
Part 6, Article 17(1)(b)(1)	Change Article 17(1)(b)(1) to Article 17(1)(b)(i)	For statutory instrument template validation purposes
Schedule 2, R1(1)	Add " <i>mAOD means metres above ordnance datum</i> "	To provide a definition of the term <i>mAOD</i> used in Table 1 and Table 2 of Schedule 2, R5
Schedule 2, R1(1)	Add " <i>mAGL means metres above ground level</i> "	To provide a definition of the term <i>mAGL</i> used in Table 1 and Table 2 of Schedule 2, R5
Schedule 2, R1(1)	Add " <i>m means metres</i> "	To provide a definition of the term <i>m</i> used in Table 1 and Table 2 of Schedule 2, R5
Schedule 2, R5	Table 1: add maximum heights in metres above ground level (mAGL) in the fourth column in respect of all components;	To provide clarity on the maximum heights of specified components of the Proposed Development as assessed in the ES in terms of height in mAGL in addition to metres above

Provision	Recommendations	Reason
	<p>Table 1: add a new column to specify a minimum height of 40mAGL in respect of the stack;</p> <p>Table 2: Add maximum heights in mAGL in respect of all components; and</p> <p>Table 2: add a new column to specify minimum height of 35mAGL in respect of stacks</p>	<p>ordnance datum (mAOD)</p> <p>To reflect the minimum height of a stack in mAGL that has been assessed in the ES as that which would adequately disperse emissions should a single open cycle gas turbine (OCGT) be selected</p> <p>To provide clarity on the maximum heights of specified components of the Proposed Development as assessed in the ES in terms of height in mAGL in addition to mAOD</p> <p>To reflect the minimum height of stacks in mAGL that has been assessed in the ES as that which would adequately disperse emissions should up to five OCGT's be selected</p>
Schedule 2, R6(3)	Add the word <i>certified</i> before <i>landscaping and biodiversity management and enhancement plan</i> ; and delete ( <i>Doc 7.5 Rev 2</i> ) submitted with the application	To refer to the correct version of the document that the Landscaping and Biodiversity Management and Enhancement Plan to be submitted and approved should be in accordance with
Schedule 2, R19(1)	Change <i>construction worker's travel plan</i> to <i>construction workers' travel plan</i>	To provide consistency with other parts of the rDCO and to reflect

Provision	Recommendations	Reason
		the title of the framework Construction Workers' Travel Plan
Schedule 4	Change <i>Easting</i> and <i>Northing</i> in the grid reference columns to <i>X</i> and <i>Y</i>	To enable the table dimensions to accord with the statutory instrument template validation
Explanatory note	Change <i>article 20</i> to <i>article 17</i>	To refer to the correct article

7.3.6. In addition to the recommended changes to the Applicant's final version of the dDCO [REP7-003] as set out in Table 7.2 above, some minor formatting changes are required for statutory instrument template validation purposes. Additionally, I note that there are some minor discrepancies between the referencing of some documents specified in Part 6, Article 17 of the final dDCO [REP7-003] and the actual documents submitted. These are as follows:

- Part 6, Article 17(1)(b)(i) refers to *Chapter 9 (Ecology Chapter) of the environmental statement (Rev 2)*. However, the second revision of ES Chapter 9 [REP7-014] submitted at D7 is not identified as 'Revision 2' on the document; and
- Part 6, Article 17(1)(c) refers to the *framework construction environmental management plan (Document 7.3 Rev 2)*. However, the second revision of the fCEMP [REP7-021] submitted at D7 incorrectly identifies, on the second page, that it is 'Revision 01'.

7.3.7. In the interests of clarity, it is therefore recommended that the Secretary of State (SoS) for Business, Energy and Industrial Strategy (BEIS) requests that the two abovementioned documents are clearly identified as second revisions when submitted for certification.

## 7.4. CONCLUSIONS

7.4.1. I have considered all iterations of the dDCO as provided by the Applicant, from the submission version [APP-004] to the final version [REP7-003] submitted at D7 and I have considered the degree to which the Applicant's final version has addressed outstanding matters. A number of matters are the subject of recommendations in this Chapter and are included in the rDCO in Appendix C of this Report.

7.4.2. Taking all matters raised in this Chapter and all matters relevant to the DCO raised in the remainder of this Report fully into account, if the SoS for BEIS is minded to make the DCO, it is recommended to be made in the form set out in Appendix C of this Report.

## **8. SUMMARY OF FINDINGS AND CONCLUSIONS**

### **8.1. CONSIDERATION OF FINDINGS AND CONCLUSIONS**

- 8.1.1. In relation to section 104 of the Planning Act 2008, I conclude that making the recommended Development Consent Order (rDCO) would be in accordance with National Policy Statements (NPSs) EN-1 and EN-2. It would also accord with relevant development plans and other relevant policy, all of which have been taken into account in this Report. I have also had regard to the Local Impact Reports produced by Bassetlaw District Council and West Lindsey District Council in reaching my conclusion.
- 8.1.2. Whilst the Secretary of State (SoS) for Business, Energy and Industrial Strategy (BEIS) is the competent authority under the Conservation of Habitats and Species Regulations 2017, and will make the definitive assessment, I conclude that the Proposed Development would not be likely to have significant effects on European sites, and I have taken this finding into account in reaching my recommendation.
- 8.1.3. I have had regard to the Public Sector Equality Duty (PSED) throughout the Examination and in producing this Report. The Proposed Development would not harm the interests of persons who share a protected characteristic or have any adverse effect on the relationships between such persons and persons who do not share a protected characteristic. On that basis, there would be no breach of the PSED.
- 8.1.4. I have further considered whether the determination of this application in accordance with the relevant NPSs would lead the UK to be in breach of any of its international obligations where relevant, including the Climate Change Act 2008 and the Paris Agreement 2015. I conclude that, in all respects, this would not be the case.
- 8.1.5. With regard to all other matters and representations received, I have found no important and relevant matters that would individually or collectively lead to a different recommendation to that below.
- 8.1.6. With the mitigation proposed through the rDCO, there are no adverse impacts arising from the Proposed Development that would outweigh its benefits.
- 8.1.7. Furthermore, there is nothing to indicate that the application should be decided other than in accordance with the relevant NPSs.

### **8.2. RECOMMENDATION**

- 8.2.1. For all of the above reasons, and in the light of my findings and conclusions on important and relevant matters set out in this Report, I recommend that the SoS for BEIS makes the West Burton C (Gas Fired Generating Station) Development Consent Order in the form recommended at Appendix C to this Report.

## **APPENDICES**

## **APPENDIX A: EXAMINATION LIBRARY**

# **West Burton C Power Station Examination Library**

**Updated – 16 July 2020**

**Please note that the changes made on 16 July 2020 are purely cosmetic, amending typographical errors and ensuring consistent document titles.**

**No documents have been added since the close of the Examination**

This Examination Library relates to the West Burton C Power Station application. The library lists each document that has been submitted to the examination by any party and documents that have been issued by the Planning Inspectorate. All documents listed have been published to the National Infrastructure's Planning website and a hyperlink is provided for each document. A unique reference is given to each document; these references will be used in the Examining Authority's (ExA's) Recommendation Report. The documents within the library are categorised either by document type or by the deadline to which they are submitted.

Please note the following:

- This is a working document and will be updated periodically as the examination progresses.
- Advice under Section 51 of the Planning Act 2008 that has been issued by the Inspectorate, is published to the National Infrastructure Website but is not included within the Examination Library as such advice is not an examination document.
- This document contains references to documents from the point the application was submitted.
- The order of documents within each sub-section is either chronological, numerical, or alphabetical and confers no priority or higher status on those that have been listed first.



**EN010088 - West Burton C power station****Examination Library - Index**

<b>Category</b>	<b>Reference</b>
<a href="#">Application Documents</a>  As submitted and amended version received before the Preliminary Meeting (PM). Any amended version received during the Examination stage to be saved under the Deadline received	APP-xxx
<a href="#">Adequacy of Consultation responses</a>	AoC-xxx
<a href="#">Relevant Representations</a>	RR-xxx
<a href="#">Procedural Decisions and Notifications from the Examining Authority</a>  Includes the Examining Authority's questions, s55, and post acceptance s51	PD-xxx
<a href="#">Additional Submissions</a>  Includes anything accepted at the PM and correspondence that is either relevant to a procedural decision or contains factual information pertaining to the examination	AS-xxx
<a href="#">Events and Hearings</a>  Includes agendas for hearings and site inspections, audio recordings, responses to notifications, applicant's hearing notices, and responses to Rule 6 and Rule 8 letters	EV-xxx
<b><a href="#">Representations – by Deadline</a></b>	
<a href="#">Deadline 1:</a>	REP1-xxx
<a href="#">Deadline 2:</a>	REP2-xxx
<a href="#">Deadline 3:</a>	REP3-xxx
<a href="#">Deadline 4:</a>	REP4-xxx
<a href="#">Deadline 5:</a>	REP5-xxx
<a href="#">Deadline 6:</a>	REP6-xxx
<a href="#">Other Documents</a>  Includes s127/131/138 information, s56, s58 and s59 certificates, and transboundary documents	OD-xxx

## EN010088 - West Burton C power station

### Examination Library

#### Application Documents

APP-001	<a href="#">EDF Energy (Thermal Generation) Limited</a> 1.1 Covering Letter (Inc. copies of the consultation newspaper notices) for the West Burton C project
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AoC-003	<a href="#">Derbyshire County Council</a> Adequacy of Consultation Representation
AoC-004	<a href="#">Doncaster Council</a> Adequacy of Consultation Representation
AoC-005	<a href="#">Lincolnshire County Council</a> Adequacy of Consultation Representation
AoC-006	<a href="#">Newark and Sherwood District Council</a> Adequacy of Consultation Representation
AoC-007	<a href="#">North Lincolnshire Council</a> Adequacy of Consultation Representation
AoC-008	<a href="#">Nottinghamshire County Council</a> Adequacy of Consultation Representation
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<b>Relevant Representations</b>	
RR-001	<a href="#">Anglian Water Services Ltd</a>
RR-002	<a href="#">Canal &amp; River Trust</a>
RR-003	<a href="#">Environment Agency</a>
RR-004	<a href="#">Historic England (HBMCE)</a>
RR-005	<a href="#">Natural England</a>
RR-006	<a href="#">Public Health England</a>
RR-007	<a href="#">Bawtry Town Council</a>
RR-008	<a href="#">Doncaster Council</a>
RR-009	<a href="#">Newark and Sherwood District Council</a>
RR-010	<a href="#">North and South Wheatley Parish Council</a>
RR-011	<a href="#">North Leverton with Habbleshorpe Parish Council</a>
RR-012	<a href="#">Nottinghamshire County Council</a> – Transport
RR-013	<a href="#">Nottinghamshire County Council</a> - Ecology
RR-014	<a href="#">South Leverton Parish Council</a>
RR-015	<a href="#">Sturton Le Steeple Parish Council</a>
RR-016	<a href="#">West Lindsey District Council</a>
RR-017	<a href="#">Councillor James Naish on behalf of Sturton Ward, Bassetlaw District Council</a>
RR-018	<a href="#">J John Collins</a>
RR-019	<a href="#">Julian May</a>
RR-020	<a href="#">Mrs Lisa King</a>
RR-021	<a href="#">Mrs Anne Phipps</a>
RR-022	<a href="#">Peter Coomber</a>
RR-023	<a href="#">Victoria Wilson</a>
<b>Procedural Decisions and Notifications from the Examining Authority</b>	
PD-001	<a href="#">Notification of Decision to Accept Application</a>
PD-002	<a href="#">Section 55 Checklist</a>
PD-003	<a href="#">Rule 4 - Appointment of Single Examining Inspector - 7 August 2019</a>
PD-004	<a href="#">Rule 6 letter - notification of the Preliminary Meeting and matters to be discussed</a>
PD-005	<a href="#">Rule 8 letter- notification of timetable for the examination</a>
PD-006	<a href="#">ExA's Written Questions</a>

PD-007	<a href="#">Request for Further Information from the Applicant and Natural England - Rule 17</a>
PD-008	<a href="#">Rule 13 and Rule 16 - Notification of Hearings and Accompanied Site Inspection</a>
PD-009	<a href="#">Request for Further Information from the Applicant and the Canal and River Trust - Rule 17</a>
PD-010	<a href="#">Request for Further Information from the Applicant, Bassetlaw District Council, West Lindsey District and Natural England - Rule 17</a>
PD-011	<a href="#">Request for Further Information from the Applicant - Rule 17</a>
PD-012	<a href="#">Notification of completion of the ExA's Examination</a>
<b>Additional Submissions</b>	
AS-001	<a href="#">Highways England</a> Additional Submission - Response in relation to Consultation - Accepted at the discretion of the ExA
AS-002	<a href="#">Harlaxton Gas Networks Limited</a> Additional Submission - Response in relation to Consultation - Accepted at the discretion of the ExA
AS-003	<a href="#">Environment Agency</a> Additional Submission - Update following Relevant Representation - Accepted at the discretion of the ExA
AS-004	<a href="#">ESP Utilities Group Ltd</a> Additional Submission Accepted at the discretion of the ExA
AS-005	<a href="#">EDF Energy (Thermal Generation) Limited</a> Additional Submission - Accepted at the discretion of the ExA - Statement of Common Ground (SoCG) with Bassetlaw District Council
AS-006	<a href="#">Canal and River Trust</a> Additional Submission accepted at the discretion of the ExA
<b>Events and Hearings</b>	
<b>Preliminary Meeting</b>	
EV-001	<a href="#">Preliminary Meeting Note</a>
EV-002	<a href="#">Recording of the Preliminary Meeting - 30 October 2019</a>
<b>Unaccompanied Site Inspections</b>	
EV-003	<a href="#">Note of Unaccompanied Site Inspection - 25 September 2019</a>
EV-004	<a href="#">Note of Unaccompanied Site Inspection - 29 October 2019</a>
EV-004a	<a href="#">Note of Unaccompanied Site Inspection - 22 January 2020</a>
<b>Accompanied Site Inspections</b>	
EV-005	<a href="#">Accompanied Site Inspection Itinerary - 21 January 2020</a>
<b>Hearings</b>	
EV-006	<a href="#">Agenda for Open Floor Hearing (OFH) - 21 January 2020</a>
EV-007	<a href="#">Agenda for Issue Specific Hearing (ISH) on Environmental Matters and the draft DCO - 22 January 2020</a>
EV-008	<a href="#">Recording of OFH - 21 January 2020</a>
EV-009	<a href="#">Recording of ISH on Environmental Matters and the draft DCO - 22 January 2020</a>
<b>Representations</b>	
<b>Deadline 1</b>	

**Deadline for receipt by the ExA of:**

- Local Impact Reports (LIRs) from Local Authorities;
- Initial Statements of Common Ground (SoCG) requested by the ExA (see Annex E of Rule 8 letter);
- Requests for an Open Floor Hearing (OFH);
- Notification of wish to speak at an OFH;
- Notification of wish to attend the Accompanied Site Inspection (ASI);
- Submission of suggested locations / sites for the ExA to include as part of the ASI including the issues to be observed there, information on whether the site can be accessed on public land and reasoning for each nominated site;
- Applicant's draft itinerary for the ASI;
- Comments on Relevant Representations;
- Comments on any Additional Submissions.

REP1-001	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 1 Submission - 8.1 Covering Letter
REP1-002	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 1 Submission - 1.3A Navigation Document
REP1-003	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 1 Submission - 7.5A Landscaping and Biodiversity Management and Enhancement Plan (Tracked)
REP1-004	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 1 Submission - 7.5B Landscaping and Biodiversity Management and Enhancement Plan (Clean)
REP1-005	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 1 Submission - 8.2 Applicant's Response to Relevant Representations and Additional Submissions
REP1-006	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 1 Submission - 8.3 Proposed Itinerary
REP1-007	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 1 Submission - 8.4 Statement of Commonality
REP1-008	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 1 Submission - 8.5 Marine Management Organisation SoCG
REP1-009	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 1 Submission - 8.6 Natural England SoCG
REP1-010	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 1 Submission - 8.7 Historic England SoCG
REP1-011	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 1 Submission - 8.8 Lincolnshire County Council SoCG
REP1-012	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 1 Submission - 8.9 West Lindsey District Council SoCG
REP1-013	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 1 Submission - 8.10 Nottinghamshire County Council SoCG
REP1-014	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 1 Submission - 8.11 National Grid SoCG
REP1-015	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 1 Submission - 8.12 Trent Valley Internal Drainage Board SoCG
REP1-016	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 1 Submission - 8.13 Environment Agency SoCG

REP1-017	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 1 Submission - 8.14 Updated Landscape and Visual Impact Assessment Figures
REP1-018	<a href="#">Bassetlaw District Council</a> Deadline 1 Submission - LIR
REP1-019	<a href="#">West Lindsey District Council</a> Deadline 1 Submission - Cover letter
REP1-020	<a href="#">West Lindsey District Council</a> Deadline 1 Submission - LIR
REP1-021	<a href="#">Peter Coomber</a> Deadline 1 Submission
<b>Deadline 2</b>  <b>Deadline for receipt by the Examining Authority of:</b> <ul style="list-style-type: none"> <li>• Responses to the ExA's Written Questions;</li> <li>• Written Representations (WRs);</li> <li>• Summaries of all WRs exceeding 1500 words;</li> <li>• Comments on LIR(s);</li> <li>• Comments on the Applicant's draft ASI itinerary submitted by Deadline 1;</li> <li>• Progressed SoCG requested by the ExA;</li> <li>• Any updated version of the draft Development Consent Order (draft DCO) in clean, tracked and word versions;</li> <li>• Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules (EPR).</li> </ul>	
REP2-001	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 2 Submission - Covering Letter
REP2-002	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 2 Submission - Document 1.3B Navigation Document
REP2-003	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 2 Submission - Document 2.1A draft DCO (Version 1) (Tracked)
REP2-004	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 2 Submission - Document 2.1B draft DCO (Version 1) (Clean)
REP2-005	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 2 Submission - Document 4.2A Schedule of Other Consents and Licenses (Revision 1) (Tracked)
REP2-006	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 2 Submission - Document 4.2B Schedule of Other Consents and Licenses (Revision 1) (Clean)
REP2-007	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 2 Submission - Document 7.6A Framework Construction Traffic Management Plan (Revision 1) (Tracked)
REP2-008	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 2 Submission - Document 7.6B Framework Construction Traffic Management Plan (Revision 1) (Clean)
REP2-009	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 2 Submission - Document 9.2 Applicant's Responses to ExA Written Questions
REP2-010	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 2 Submission - Document 9.3 Natural England
REP2-011	<a href="#">EDF Energy (Thermal Generation) Limited</a>

	Deadline 2 Submission - Document 9.4 Figure E11/E12
REP2-012	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 2 Submission - Document 9.5 Factual Report on Ground Investigation (Part 1 of 2)
REP2-013	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 2 Submission - Document 9.5 Factual Report on Ground Investigation (Part 2 of 2)
REP2-014	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 2 Submission - Document 9.6 Figure 7.1
REP2-015	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 2 Submission - Document 9.7 Figure 10.16
REP2-016	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 2 Submission - Document 9.8 Figure 13.1
REP2-017	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 2 Submission - Document 9.9 Table of Amendments to the draft DCO
REP2-018	<a href="#">Nottinghamshire County Council</a> Deadline 2 Submission - Response to the ExA's Written Questions and Request for Information
REP2-019	<a href="#">Nottinghamshire County Council</a> Deadline 2 Submission - Written Questions & Request for Information - Ecology Comments
REP2-020	<a href="#">West Lindsey District Council</a> Deadline 2 Submission - Response to the ExA's Written Questions
REP2-021	<a href="#">Anglian Water Services Limited</a> Deadline 2 Submission - WR
REP2-022	<a href="#">Canal and River Trust</a> Deadline 2 Submission - Deadline 2 Comments
REP2-023	<a href="#">Canal and River Trust</a> Deadline 2 Submission - Appendix A - Trust's Suggested Draft Protective Provisions
REP2-024	<a href="#">Canal and River Trust</a> Deadline 2 Submission - Appendix B - Technical Documentation for Work no.5
REP2-025	<a href="#">Environment Agency</a> Deadline 2 Submission - Response to the ExA's Written Questions
REP2-026	<a href="#">Environment Agency</a> Deadline 2 Submission - WR
REP2-027	<a href="#">Historic England</a> Deadline 2 Submission - Response to the ExA's Written Questions
REP2-028	<a href="#">Natural England</a> Deadline 2 Submission - Response to the ExA's Written Questions
REP2-029	<a href="#">Peter Coomber</a> Deadline 2 Submission - WR
REP2-030	<a href="#">John P Collins</a> Deadline 2 Submission - WR

### Deadline 3

#### Deadline for receipt by the Examining Authority of:

- Comments on responses to the ExA's Written Questions;
- Comments on WRs;
- Comments on any other information submitted for Deadline 2;

<ul style="list-style-type: none"> <li>• Progressed SoCG requested by the ExA;</li> <li>• Any updated version of the draft DCO in clean, tracked and word versions;</li> <li>• Any further information requested by the ExA under Rule 17 of the EPR.</li> </ul>	
REP3-001	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 3 Submission - 1.3C - Updated Navigation Document
REP3-002	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 3 Submission - 10.1 - Cover Letter
REP3-003	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 3 Submission - 10.2 - Applicant's Responses to Deadline 2 Submissions
REP3-004	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 3 Submission - 10.3 - Courier Receipt
REP3-005	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 3 Submission - 10.4 - The Biodiversity Metric 2.0 – Calculation Tool
REP3-006	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 3 Submission - 10.5 - Table of Amendments to the draft DCO
REP3-007	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 3 Submission - 2.1C - draft DCO (Version 2) (Tracked)
REP3-008	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 3 Submission - 2.1D - draft DCO (Version 2) (Clean)
REP3-009	<a href="#">Natural England</a> Deadline 3 Submission – Response to Rule 17 request
REP3-010	<a href="#">Cllr James Naish on behalf of Sturton Ward, Bassetlaw District Council</a> Deadline 3 Submission - The Formal Response of Bole Villagers for Deadline 2
<b>Deadline 4</b>  <b>Deadline for receipt by the ExA of:</b> <ul style="list-style-type: none"> <li>• Written summaries of oral submissions made at any Hearings held during the week commencing 20 January 2020;</li> <li>• Comments on any information submitted for Deadline 3;</li> <li>• Any updated version of the draft DCO in clean, tracked and word versions;</li> <li>• Progressed SoCG requested by the ExA;</li> <li>• Any further information requested by the ExA under Rule 17 of the EPR.</li> </ul>	
REP4-001	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 4 Submission - 11.1 Covering Letter
REP4-002	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 4 Submission - 1.3D Navigation Document
REP4-003	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 4 Submission - 11.2 Written summary of oral submissions made at OFH and ISH
REP4-004	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 4 Submission - 11.3 The Formal Response of Bole Villagers, together with the Applicant's Response for Deadline 4
REP4-005	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 4 Submission - 11.4 Memo - Biodiversity Loss and Gain Calculations
REP4-006	<a href="#">EDF Energy (Thermal Generation) Limited</a>



	Deadline 4 Submission - 11.5 Nottinghamshire Wildlife Trust SoCG
REP4-007	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 4 Submission - 11.6 Memo - Soil Management
REP4-008	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 4 Submission - 11.7 Memo - Updates to the Framework Construction Traffic Management Plan
REP4-009	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 4 Submission - 11.8 Development Consent Order examples in relation to Environmental Permits
REP4-010	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 4 Submission - 11.9 Table of Amendments to the draft DCO
REP4-011	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 4 Submission - 2.1E draft DCO (Version 3) (Tracked)
REP4-012	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 4 Submission - 2.1F draft DCO (Version 3) (Clean)
REP4-013	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 4 Submission - 7.5C Landscape and Biodiversity Management Enhancement Plan (Revision 2) (Tracked)
REP4-014	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 4 Submission - 7.5D Landscape and Biodiversity Management Enhancement Plan (Revision 2) (Clean)
REP4-015	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 4 Submission - 7.6C Framework Construction Traffic Management Plan (Revision 2) (Tracked)
REP4-016	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 4 Submission - 7.6D Framework Construction Traffic Management Plan (Revision 2) (Clean)
REP4-017	<a href="#">Canal and River Trust</a> Deadline 4 Submission
REP4-018	<a href="#">Commercial Boat Operators Association (CBOA)</a> Deadline 4 Submission – Non-Registered Interested Party submission accepted at the discretion of the ExA, regarding the use of the River Trent
REP4-019	<a href="#">Cllr James Naish on behalf of Sturton Ward, Bassetlaw District Council</a> Deadline 4 Submission - Post-hearing submission including written summary of oral case
REP4-020	<a href="#">Peter Coomber</a> Deadline 4 Submission - Environment Agency response to FoI request
<b>Deadline 5</b>  <b>Deadline for receipt by the ExA of:</b> <ul style="list-style-type: none"> <li>• Responses to the ExA's Further Written Questions (if required);</li> <li>• Comments on responses submitted for Deadline 4;</li> <li>• Any updated version of the draft DCO in clean, tracked and word versions;</li> <li>• Progressed SoCG;</li> <li>• Any further information requested by the ExA under Rule 17 of the EPR</li> </ul>	
REP5-001	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 5 Submission - 1.3E Updated Navigation Document



REP5-002	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 5 Submission - 2.1G draft DCO (Version 4) (Tracked)
REP5-003	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 5 Submission - 2.1H draft DCO (Version 4) (Clean)
REP5-004	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 5 Submission - 5.2A Environmental Statement Volume 1 Chapter 9 - Ecology (Version 1) (Tracked)
REP5-005	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 5 Submission - 5.2B Environmental Statement Volume 1 Chapter 9 - Ecology (Version 1) (Clean)
REP5-006	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 5 Submission - 7.5E Landscaping and Biodiversity Management and Enhancement Plan (Revision 3) (Tracked)
REP5-007	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 5 Submission - 7.5F Landscaping and Biodiversity Management and Enhancement Plan (Revision 3) (Clean)
REP5-008	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 5 Submission - 7.6E Framework Construction Traffic Management Plan (Revision 3) (Tracked)
REP5-009	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 5 Submission - 7.6F Framework Construction Traffic Management Plan (Revision 3) (Clean)
REP5-010	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 5 Submission - 12.1 Covering Letter
REP5-011	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 5 Submission - 12.2 SoCG with Nottinghamshire County Council
REP5-012	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 5 Submission - 12.3 Memo - Canal and River Trust - Outstanding Matters
REP5-013	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 5 Submission - 12.4 Memo - Spoil Management
REP5-014	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 5 Submission - 12.5 Memo - Abnormal Indivisible Loads and Transportation
REP5-015	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 5 Submission - 12.6 Table of Amendments to the draft DCO
REP5-016	<a href="#">Canal and River Trust</a> Deadline 5 Submission - Response to Rule 17 request
REP5-017	<a href="#">Canal and River Trust</a> Deadline 5 Submission - Plan showing extent of masonry bank

## Deadline 6

### Deadline for receipt by the ExA of:

- Finalised SoCG;
- Signed and dated s106 Agreement (if required);
- Comments on the Report on the Implications for European Sites (if required);
- Comments on the ExA's draft DCO (if required);
- Comments on responses submitted for Deadline 5;
- Responses to any further information requested by the ExA under Rule 17 of the EPR (if required);
- The Applicant's Final Preferred DCO in the SI template validation report.

REP6-001	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 6 Submission - 1.3F - Updated Navigation Document
REP6-002	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 6 Submission - 2.1I - draft DCO (Version 5) (Tracked)
REP6-003	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 6 Submission - 2.1J - draft DCO (Version 5) (Clean)
REP6-004	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 6 Submission - 4.2C - Schedule of Other Consents and Licenses (Version 2) (Tracked)
REP6-005	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 6 Submission - 4.2D - Schedule of Other Consents and Licenses (Version 2) (Clean)
REP6-006	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 6 Submission - 7.3A - Framework Construction Environmental Management Plan (Version 1) (Tracked)
REP6-007	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 6 Submission - 7.3B - Framework Construction Environmental Management Plan (Version 1) (Clean)
REP6-008	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 6 Submission - 13.1 - Cover Letter
REP6-009	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 6 Submission - 13.2 - Table of Amendments to the draft DCO
REP6-010	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 6 Submission - 13.3 - Note on Policy Compliance
REP6-011	<a href="#">Bassetlaw District Council</a> Deadline 6 Submission - Response to Rule 17 request
REP6-012	<a href="#">Peter Coomber</a> Deadline 6 Submission - Comments on responses submitted for Deadline 5
REP6-013	<a href="#">Natural England</a> Deadline 6 Submission - Responses to any further information
REP6-014	<a href="#">West Lindsey District Council</a> Deadline 6 Submission - Cover Email
REP6-015	<a href="#">West Lindsey District Council</a> Deadline 6 Submission - Draft Gainsborough Neighbourhood Plan

REP6-016	<a href="#">West Lindsey District Council</a> Deadline 6 Submission - Full copy of Central Lincolnshire Local Plan
REP6-017	<a href="#">West Lindsey District Council</a> Deadline 6 Submission - Local policies of the Central Lincolnshire Local Plan which were identified in the LIR
<b>Deadline 7:</b>  <b>Deadline for receipt by the ExA of:</b> <ul style="list-style-type: none"> <li>• Comments on responses submitted for Deadline 6;</li> <li>• Comments on the Applicant's Preferred DCO.</li> </ul>	
REP7-001	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 7 Submission - 1.3G - Updated Navigation Document
REP7-002	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 7 Submission - 2.1K - draft DCO (Version 6) (Tracked)
REP7-003	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 7 Submission - 2.1L - draft DCO (Version 6) (Clean)
REP7-004	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 7 Submission - 4.2E - Schedule of Other Consents and Licenses (Version 3) (Tracked)
REP7-005	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 7 Submission - 4.2F - Schedule of Other Consents and Licenses (Version 3) (Clean)
REP7-006	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 7 submission - 4.3A Habitats Regulations No Significant Effects Report (Version 1) (Tracked)
REP7-007	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 7 Submission- 4.3B - Habitats Regulations No Significant Effects Report (Version 1) (Clean)
REP7-008	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 7 Submission - 5.2C – Environmental Statement Volume I, Chapter 9: Ecology (Version 2) (Tracked)
REP7-009	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 7 Submission - 5.2C – Environmental Statement Volume II, Appendix 9A: Legislation and Planning Policy (Version 1) (Tracked)
REP7-010	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 7 Submission - 5.2C – Environmental Statement Volume II, Appendix 9C: Preliminary Ecological Appraisal (Version 1) (Tracked)
REP7-011	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 7 Submission - 5.2C – Environmental Statement Volume II, Appendix 9E: Great Crested Newt Survey Report (Version 1) (Tracked)
REP7-012	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 7 Submission - 5.2C – Environmental Statement Volume II, Appendix 9G: Bat Survey Report (Version 1) (Tracked)
REP7-013	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 7 Submission - 5.2C – Environmental Statement Volume II, Appendix 9I: Riparian Mammal Survey Report (Version 1) (Tracked)
REP7-014	<a href="#">EDF Energy (Thermal Generation) Limited</a>

	Deadline 7 Submission - 5.2D – Environmental Statement Volume I, Chapter 9: Ecology (Version 2) (Clean)
REP7-015	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 7 Submission - 5.2D – Environmental Statement Volume II, Appendix 9A: Legislation and Planning Policy (Version 1) (Clean)
REP7-016	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 7 Submission - 5.2D – Environmental Statement Volume II, Appendix 9C: Preliminary Ecological Appraisal (Version 1) (Clean)
REP7-017	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 7 Submission - 5.2D – Environmental Statement Volume II, Appendix 9E: Great Crested Newt Survey Report (Version 1) (Clean)
REP7-018	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 7 Submission - 5.2D – Environmental Statement Volume II, Appendix 9G: Bat Survey Report (Version 1) (Clean)
REP7-019	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 7 Submission - 5.2D – Environmental Statement Volume II, Appendix 9I: Riparian Mammal Survey Report (Version 1) (Clean)
REP7-020	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 7 Submission - Document 7.3C Framework Construction Environmental Management Plan (Version 2) (Tracked)
REP7-021	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 7 Submission - Document 7.3D Framework Construction Environmental Management Plan (Version 2) (Clean)
REP7-022	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 7 Submission - Document 7.5G Landscaping and Biodiversity Management and Enhancement Plan (Version 4) (Tracked)
REP7-023	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 7 Submission - Document 7.5H Landscaping and Biodiversity Management and Enhancement Plan (Version 4) (Clean)
REP7-024	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 7 Submission - 14.1 - Covering Letter
REP7-025	<a href="#">EDF Energy (Thermal Generation) Limited</a> Deadline 7 Submission - 14.2 - Table of Amendments to the draft DCO
<b>Other Documents</b>	
OD-001	<a href="#">EDF Energy (Thermal Generation) Limited</a> List of Statutory Consultees - Information from the Applicant requested under Regulation 5(5)
OD-002	<a href="#">EDF Energy (Thermal Generation) Limited</a> Letter to Statutory Consultees - Information from the Applicant requested under Regulation 5(5)

## **APPENDIX B: LIST OF ABBREVIATIONS**

## APPENDIX B: LIST OF ABBREVIATIONS

Abbreviation or usage	Reference
AIL	Abnormal Indivisible Load
AMAA Act	Ancient Monuments and Archaeological Areas Act 1971
AN (number)	Planning Inspectorate's Advice Notes
AQD	Air Quality Directive - Directive 2008/50/EC
AQS	Air Quality Strategy
ASI	Accompanied Site Inspection
BAT	Best Available Techniques
BCA	Bawtry Conservation Area
BCS	Bassetlaw Core Strategy and Development Management Policies Development Plan Document 2011
BDC	Bassetlaw District Council
BEIS	Department for Business, Energy and Industrial Strategy
BLCA	Bassetlaw Landscape Character Assessment
BNL	Basic Noise Level
BS	British Standard
BTC	Bawtry Town Council
CA	Compulsory Acquisition
CAH	Compulsory Acquisition Hearing
CBOA	Commercial Boat Operators Association
CCA2008	Climate Change Act 2008
CCGT	Combined Cycle Gas Turbine
CCR	Carbon Capture Ready
CCS	Carbon Capture and Storage
CEMP	Construction Environmental Management Plan
CHP	Combined Heat and Power
CIEEM	Chartered Institute of Ecology and Environmental Management
CLLP	Central Lincolnshire Local Plan 2012-2036
Cllr	Councillor
CO	Carbon Monoxide
CO <sub>2</sub>	Carbon Dioxide
CoPA	Control of Pollution Act 1974
CRow Act	Countryside and Rights of Way Act 2000
CRT	Canal and River Trust
CTMP	Construction Traffic Management Plan
CWTP	Construction Workers' Travel Plan
D	Deadline
dB	Decibel
DC	Doncaster Council
DCO	Development Consent Order
dDCO	Draft Development Consent Order
DEFRA	Department for Environment, Food and Rural Affairs
DEMP	Decommissioning Environmental Management Plan
dGNP	Draft Gainsborough Neighbourhood Plan

<b>Abbreviation or usage</b>	<b>Reference</b>
DTMP	Decommissioning Traffic Management Plan
EA	Environment Agency
EIA	Environmental Impact Assessment
2009 EIA Regulations	Infrastructure Planning (Environmental Impact Assessment) Regulations 2009
2017 EIA Regulations	Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
ELV	Emission Limit Value
EM	Explanatory Memorandum
EMF	Electromagnetic Fields
EP	Environmental Permit
EPA	Environmental Protection Act 1990
EPR	Infrastructure Planning (Examination Procedure) Rules 2010
EP Regulations	Environmental Permitting (England and Wales) Regulations 2016
EPSML	European Protected Species Mitigation Licence
EPUK	Environmental Protection UK
ES	Environmental Statement
EU	European Union
ExA	Examining Authority
ExQ	Written Questions
fCEMP	Framework Construction Environmental Management Plan
fCTMP	Framework Construction Traffic Management Plan
fCWTP	Framework Construction Workers' Travel Plan
FRA	Flood Risk Assessment
FRAP	Flood Risk Activity Permit
fSWMP	Framework Site Waste Management Plan
GCN	Great Crested Newt
GGA	Greenhouse Gas Assessment
ha	Hectare
HA	Highway Authority
Habitats Regulations	Conservation of Habitats and Species Regulations 2017
HE	Historic England
HER	Historic Environmental Record
HGV	Heavy Goods Vehicle
HiE	Highways England
HRA	Habitats Regulations Assessment
HSE	Health and Safety Executive
IAP1	Initial Assessment of Principal Issues
IAQM	Institute of Air Quality Management
IED	Industrial Emissions Directive - Directive 2010/75/EU
IEMA	Institute of Environmental Management and Assessment
IP	Interested Party
ISH	Issue Specific Hearing
km	Kilometre
kV	Kilovolt

<b>Abbreviation or usage</b>	<b>Reference</b>
LBCA Act	Planning (Listed Buildings and Conservation Areas) Act 1990
LBMEP	Landscaping and Biodiversity Management and Enhancement Plan
LCA	Local Character Area
LCC	Lincolnshire County Council
LCP	Large Combustion Plant
LIR	Local Impact Report
LLC	Local Liaison Committee
LOAEL	Lowest Observable Adverse Effect Level
LSE	Likely Significant Effects
LWS	Local Wildlife Site
m	Metre
made Order	A statutory Order providing development consent made by the relevant SoS under PA2008
mAGL	Metres Above Ground Level
mAOD	Metres Above Ordnance Datum
MHCLG	Ministry of Housing, Communities and Local Government
MMO	Marine Management Organisation
MP	Model Provisions
MW	Megawatts
National Grid	used to refer to NGET and NGG collectively
NCC	Nottinghamshire County Council
NE	Natural England
NERC Act	Natural Environment and Rural Communities Act 2006
NGET	National Grid Electricity Transmission Plc
NGG	National Grid Gas Plc
No	Number
NO <sub>2</sub>	Nitrogen Dioxide
NO <sub>x</sub>	Nitrogen Oxides
NOEL	No Observed Effect Level
NCC	Nottinghamshire County Council
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NPSE	Noise Policy Statement for England
NRMM	Non-Road Mobile Machinery
NSER	No Significant Effects Report
NSIP	Nationally Significant Infrastructure Project
NSR	Noise Sensitive Receptor
NWT	Nottinghamshire Wildlife Trust
OCGT	Open Cycle Gas Turbine
OFH	Open Floor Hearing
OWSI	Outline Written Scheme of Investigation
PA2008	Planning Act 2008
PFA	Pulverised Fuel Ash
PC	Process Contributions
PM	Preliminary Meeting
PM (number)	Particulate Matter (micrometres)



<b>Abbreviation or usage</b>	<b>Reference</b>
PPG	Planning Practice Guidance
PRoW	Public Rights of Way
PSED	Public Sector Equality Duty
R	Requirement
RCA	Regional Character Area
rDCO	Recommended Development Consent Order
RR	Relevant Representation
s	Section of a statute
SAC	Special Area of Conservation
SNCB	Statutory Nature Conservation Body
SNS	Statutory Nuisance Statement
SOAEL	Significant Observed Adverse Effect Level
SO <sub>2</sub>	Sulphur Dioxide
SO <sub>x</sub>	Sulphur Oxides
SoCG	Statement(s) of Common Ground
SoS	Secretary of State
SPA	Special Protection Area
SSSI	Site of Special Scientific Interest
SWMP	Site Waste Management Plan
SWNP	Sturton Ward Neighbourhood Plan 2016
TA	Transport Assessment
TP	Temporary Possession
TTWA	Travel to Work Area
UK	United Kingdom
UKCP18	UK Climate Projections 2018
UNEP	United Nations Environment Programme
USI	Unaccompanied Site Inspection
WBA	West Burton A
WBB	West Burton B
WCA	Wildlife and Countryside Act 1981
WFD	Water Framework Directive – Directive 2000/60/EC
WLDC	West Lindsey District Council
WR	Written Representation
WSI	Written Scheme of Investigation

## **APPENDIX C: THE RECOMMENDED DEVELOPMENT CONSENT ORDER**

**202[ ] No. 0000**

**INFRASTRUCTURE PLANNING**

**The West Burton C (Gas Fired Generating Station) Order 202[ ]**

*Made* - - - -

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*Coming into force* - -

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An application has been made to the Secretary of State under section 37 of the Planning Act 2008(a) (“the 2008 Act”) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (b) for an Order granting development consent.

The application was examined by a single appointed person appointed by the Secretary of State in accordance with Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010(c).

The single appointed person, having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 83 of the 2008 Act, has submitted a report and recommendation to the Secretary of State.

The Secretary of State, having considered the representations made and not withdrawn, and the report and recommendation of the single appointed person, has decided to make an Order granting development consent for the development described in the application with modifications which in the opinion of the Secretary of State do not make any substantial change to the proposals comprised in the application.

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 120 and 140 of the 2008 Act, makes the following Order—

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(a) 2008 c.29. Sections 37, 83, 114 and 120 were amended by Localism Act 2011 (c.20). Section 115 was amended by the Localism Act 2011, Housing and Planning Act 2016 (c.22) and Wales Act 2017 (c.4)

(b) S.I. 2009/2264, amended by S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2015/377, S.I. 2017/572; modified by S.I. 2012/1659.

(c) S.I. 2010/103, as amended by S.I. 2012/635.

# PART 1

## Preliminary

### Citation and commencement

1.—(1) This Order may be cited as the West Burton C (Gas Fired Generating Station) Order 202[ ] and comes into force on [ ].

### Interpretation

2.—(1) In this Order—

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

“the 1980 Act” means the Highways Act 1980(b);

“the 1989 Act” means the Electricity Act 1989(c);

“the 1990 Act” means the Town and Country Planning Act 1990(d);

“the 1991 Act” means the New Roads and Street Works Act 1991(e);

“the 2008 Act” means the Planning Act 2008(f);

“authorised development” means the development and associated development described in Schedule 1 (authorised development) which is development within the meaning of section 32 of the 2008 Act;

“building” includes any structure or erection or any part of a building, structure or erection;

“carriageway” has the same meaning as in the 1980 Act;

“CCGT” means combined cycle gas turbine;

“the combined heat and power assessment” means the document certified as the combined heat and power assessment by the Secretary of State for the purposes of this Order;

“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 development other than operations consisting of preliminary works, site clearance, demolition work, archaeological investigations, environmental surveys, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and “commencement” is construed accordingly;

“discharging authority” means the body responsible for giving any agreement or approval required by a requirement;

“electrical cables” means overhead or underground cables including fibre optic cables;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order;

“framework construction environmental management plan” means the document certified as the framework construction environmental management plan by the Secretary of State for the purposes of this Order;

“framework construction traffic management plan” means the document certified as the framework construction traffic management plan by the Secretary of State for the purposes of this Order;

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- (a) 1961 c.33.  
(b) 1980 c.66.  
(c) 1989 c.29.  
(d) 1990 c.8.  
(e) 1991 c.22.  
(f) 2008 c.29.

“framework construction workers’ travel plan” means the document certified as the framework construction workers’ travel plan by the Secretary of State for the purposes of this Order;

“gross rated electrical output” means the aggregate of gross electrical power as measured at the terminals of each generator in accordance with standards agreed with the regulating authority under the Environmental Permitting (England and Wales) Regulations 2010(a);

“highway” and “highway authority” have the same meaning as in the 1980 Act;

“Highways England” means Highways England (company registration number 09346363) whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ;

“Historic England” means the Historic Buildings and Monuments Commission for England;

“indicative layout plans” means the plans certified as the indicative layout plans by the Secretary of State for the purposes of this Order;

“the land plans” means the plans certified as the land plans by the Secretary of State for the purposes of this Order;

“the landscaping and biodiversity management and enhancement plan” means the document certified as the landscaping and biodiversity management and enhancement plan by the Secretary of State for the purposes of this Order;

“Lead Local Flood Authority” means Nottinghamshire County Council or any replacement body;

“lighting strategy” means the document certified as the lighting strategy by the Secretary of State for the purposes of this Order;

“maintain” includes, to the extent assessed in the environmental statement, inspect, repair, adjust, alter, refurbish, remove, reconstruct any part (but not the whole), replacement of any part (but not the whole) and improve, but not so as to vary from the description of the authorised development and “maintenance” is construed accordingly;

“the Order limits” means the limits shown on the works plans as the limits within which the authorised development may be carried out;

“outline drainage strategy” means the document certified as the outline drainage strategy by the Secretary of State for the purposes of this Order;

“OCGT” means open cycle gas turbine;

“outline written scheme of investigation” means the document certified as the outline written scheme of investigation by the Secretary of State for the purposes of this Order;

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(b);

“public sewer or drain” means a sewer or drain which belongs to the Environment Agency, an internal drainage board, a local authority or a sewerage undertaker;

“relevant internal drainage board” means Trent Valley Internal Drainage Board or any replacement body;

“relevant planning authority” in relation to any land means the district planning authority for the area in which the land is situated;

“requirements” means those matters set out in Schedule 2 to this Order;

“scheduled works” means the numbered works specified in Schedule 1 to this Order, or any part of them;

“sewerage undertaker” has the same meaning as in Schedule 1 of the Interpretation Act 1978(c);

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(a) S.I. 2016/1154.

(b) 1981 c.67. The definition of “owner” was amended by the Planning and Compensation Act 1991 (c.34).

(c) 1978 c.30.

“statutory undertaker” means any person falling within section 127(8) of the 2008 Act;

“street” means a street within the meaning of section 48 of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes any footpath and any part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“tree preservation order” has the meaning given in section 198 of the 1990 Act(a).

“undertaker” means EDF Energy (Thermal Generation) Limited (company number 4267569);

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain;

“West Burton B” means West Burton B CCGT, a gas fired power station operated by the undertaker, forming part of the West Burton Power Station Site;

“West Burton Power Station Site” means the land near Retford in Nottinghamshire within the ownership of the undertaker comprising West Burton A, a coal fired power station, West Burton B and other land including the Order limits; and

“the works plans” means the plans certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the air-space above its surface.

(3) Save in relation to Tables 1 and 2 of Schedule 2 all distances, directions and lengths referred to in this Order are approximate and distances between points on a scheduled work comprised in the authorised development will be taken to be measured along that scheduled work.

## PART 2

### Principal Powers

#### **Development consent etc. granted by the Order**

3.—(1) Subject to the provisions of this Order and to the requirements, the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

(2) Subject to article 6 (limits of deviation) the development must be constructed and installed in the lines and situations shown on the works plans.

#### **Maintenance of authorised development**

4.—(1) The undertaker may at any time maintain the authorised development, except to the extent that this Order or an agreement made under this Order, provides otherwise.

(2) This article only authorises the carrying out of maintenance works within the Order limits.

## PART 3

### Operations

#### **Operation of generating station**

5.—(1) The undertaker is hereby authorised to use and to operate the generating station comprised in the authorised development.

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(a) Section 198 was amended by the 2008 Act.

(2) This article does not relieve the undertaker of any requirement to obtain any permit or licence under any other legislation that may be required from time to time to authorise the operation of an electricity generating station.

### **Limits of deviation**

6. In carrying out the authorised development the undertaker may deviate laterally from the lines or situations of the authorised development shown on the works plans within the relevant areas shown on those plans.

### **Benefit of Order**

7.—(1) — The undertaker may, with the consent of the Secretary of State—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; or
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed

except where paragraph (5) applies in which case no such consent is required.

(2) Consent under paragraph (1) may not be unreasonably withheld or delayed.

(3) Where a transfer or grant has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (4) include references to the transferee or the lessee.

(4) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(5) This paragraph applies where the transferee or lessee is a person who holds a licence under section 6 of the 1989 Act(a) or section 7 of the Gas Act 1986(b).

(6) Where the consent of the Secretary of State is not required under paragraph (5) the undertaker must notify the Secretary of State in writing before transferring or granting a benefit referred to in paragraph (1).

### **Defence to proceedings in respect of statutory nuisance**

8.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(c) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order is to be made, and no fine is to be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance
  - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent

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(a) Section 6 was amended by Utilities Act 2000 (c.27), Energy Act 2004 (c.20), Climate Change Act 2008 (c.27), Electricity and Gas (Internal Markets) Regulations (2011/2704) and Electricity and Gas (Smart Meters Licensable Activity) Order (2012/2400).

(b) 1986 c.44, Section 7 was amended by section 5 of the Gas Act 1995 (c.45) and section 76(2) of the Utilities Act 2000 (c.27). There are other amendments to the section that are not relevant to this Order.

(c) 1990 c.43. Section 82(1) was amended by the Environment Act 1995 (c.25). There are other amendments to this Act which are not relevant to this Order.



given under section 61 (prior consent for work on construction site) of the Control of Pollution Act 1974(a); or

- (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance
  - (i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised development and that the nuisance is attributable to the use of the authorised development which is being used in accordance with a scheme of monitoring of noise agreed with the relevant planning authority as described in requirement 22; or
  - (ii) is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

## PART 4

### Streets

#### Temporary prohibition or restriction of use of streets

9.—(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily divert or prohibit or restrict the use of any street specified in column 2 of Schedule 4 (Streets subject to temporary prohibition or restriction of use) and may for any reasonable time—

- (a) divert the traffic or a class of traffic from the street; and
- (b) subject to paragraph (2), prevent all persons from passing along the street.

(2) The undertaker must provide reasonable access for non-motorised users (including pedestrians) going to or from premises abutting a street affected by the temporary diversion, prohibition or restriction of a street under this article if there would otherwise be no such access.

(3) The undertaker must not temporarily divert or prohibit or restrict the use of—

- (a) any street specified in paragraph (1) without first consulting the street authority; or
- (b) any other street without the prior written consent of the street authority which may attach reasonable conditions to any consent.

(4) If a street authority fails to notify the undertaker of its decision within 4 weeks of receiving an application for consent under paragraph (3)(b) (or such longer period as may be agreed with the undertaker in writing) that street authority is deemed to have granted consent.

(5) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

#### Agreements with street authorities

10.—(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) any diversion or prohibition or restriction of use of a street authorised by this Order; or

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(a) 1974 c.40. Section 61 was amended by the Building Act 1984 (c.55), the Environmental Protection Act 1990 and the Environment Act 1995. There are other amendments to this Act which are not relevant to this Order.

- (b) the temporary removal and reinstatement of street furniture.
- (2) Such an agreement may, without prejudice to the generality of paragraph (1)—
  - (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
  - (b) include an agreement between the undertaker and street authority specifying a reasonable time for the completion of the works; and
  - (c) contain such terms as to payment and otherwise as the parties consider appropriate.

## PART 5

### Supplemental powers

#### Discharge of water

**11.**—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker pursuant to paragraph (1) is to be determined as if it were a dispute under section 106 of the Water Industry Act 1991(a) (right to communicate with public sewers).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

- (4) The undertaker must not make any opening into any public sewer or drain except—
  - (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and
  - (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river other than in accordance with a consent granted by the Environment Agency.

(6) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) This article does not authorise a water discharge activity or groundwater activity that is prohibited by regulation 1 of the Environmental Permitting (England and Wales) Regulations 2016(b).

(8) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1) of the Environmental Permitting (England and Wales) Regulations 2016 (requirement for an environmental permit).

- (9) In this article—
  - (a) “public sewer or drain” means a sewer or drain which belongs to the Homes and Communities Agency, the Environment Agency, a harbour authority within the meaning of section 57 of the Harbours Act 1964(c) (interpretation), an internal drainage board, a

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(a) 1991 c.56. Section 106 was amended by the Water Act 2003 (c.37), Competition and Services (Utilities) Act 1992 c.43. and Flood and Water Management Act 2010.

(b) S.I. 2016/1154. “Groundwater activity” is defined in paragraph 3 of Schedule 22 of the Regulations. “Water discharge activity” is defined in paragraph 3 of Schedule 21.

(c) 1964 c.40.

joint planning board, a local authority, a National Park Authority, a sewerage undertaker or an urban development corporation; and

- (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991<sup>(a)</sup> have the same meaning as in that Act.

### **Removal of human remains**

**12.—**(1) In this article “the specified land” means the land within the Order limits.

(2) Before the undertaker carries out any development or works which will or may disturb any human remains in the specified land it must remove those human remains from the specified land, or cause them to be removed, in accordance with the following provisions of this article.

(3) Before any such remains are removed from the specified land the undertaker must give notice of the intended removal, describing the specified land and stating the general effect of the following provisions of this article, by—

- (a) publishing a notice once in each of two successive weeks in a newspaper circulating in the area of the authorised development; and
- (b) displaying a notice in a conspicuous place on or near to the specified land.

(4) As soon as reasonably practicable after the first publication of a notice under paragraph (3) the undertaker must send a copy of the notice to the relevant planning authority.

(5) At any time within 56 days after the first publication of a notice under paragraph (3) any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land may give notice in writing to the undertaker of that person’s intention to undertake the removal of the remains.

(6) Where a person has given notice under paragraph (5), and the remains in question can be identified, that person may cause such remains to be—

- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
- (b) removed to, and cremated in, any crematorium,  
and that person must, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (11).

(7) If the undertaker is not satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question is to be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who must remove the remains and as to the payment of the costs of the application.

(8) The undertaker must pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.

(9) If—

- (a) within the period of 56 days referred to in paragraph (5) no notice under that paragraph has been given to the undertaker in respect of any remains in the specified land; or
- (b) such notice is given and no application is made under paragraph (7) within 56 days after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 56 days; or
- (c) within 56 days after any order is made by the county court under paragraph (7) any person, other than the undertaker, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice relates cannot be identified,

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(a) 1991 c.57.

subject to paragraph (10) the undertaker must remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose; and, so far as possible, remains from individual graves must be re-interred in individual containers which must be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(10) If the undertaker is satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

(11) On the re-interment or cremation of any remains under this article—

- (a) a certificate of re-interment or cremation must be sent by the undertaker to the Registrar General by the undertaker giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
- (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (9) must be sent by the undertaker to the relevant planning authority.

(12) The removal of the remains of any deceased person under this article must be carried out in accordance with any directions which may be given by the Secretary of State.

(13) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

(14) Section 25 of the Burial Act 1857<sup>(a)</sup> (bodies not to be removed from burial grounds, save under faculty, without licence of Secretary of State) does not apply to a removal carried out in accordance with this article.

## PART 6

### Miscellaneous and General

#### **Application of landlord and tenant law**

**13.—**(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it,

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;

---

<sup>(a)</sup> 1857 c.81. Section 25 was substituted by the Church of England (Miscellaneous Provisions) Measure 2014 no 1 and existing text renumbered as 5.25(4)(a) and 5.25(4)(b) by the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 No.3 Sch3(1)Para1

- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

### **Operational land for purposes of the 1990 Act**

**14.** Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as not being operational land).

### **Felling or lopping of trees**

**15.—(1)** The undertaker may fell or lop any tree or shrub within or overhanging the Order limits or within the extent of the publicly maintainable highway, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from obstructing or interfering with the construction, maintenance or operation of the authorised development.

(2) In relation to the felling or lopping of any tree or shrub within the publicly maintainable highway, the power contained in paragraph (1) must only be exercised in connection with the delivery of abnormal indivisible loads to the West Burton Power Station Site.

(3) In carrying out any activity authorised by paragraph (1) the undertaker must –

- (a) give at least 14 days’ notice to the relevant planning authority of its intention to fell or lop any tree or shrub overhanging the Order limits or within the extent of the publicly maintainable highway;
- (b) do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity; and
- (c) the duty contained in section 206(1) of the 1990 Act (replacement of trees)(a) does not apply.

(4) The authority given by paragraph (1) constitutes a deemed consent under the relevant tree preservation order.

(5) Any dispute as to a person’s entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined under Part 1 of the 1961 Act (determination of questions of disputed compensation).

### **Protective provisions**

**16.** Schedule 5 (protective provisions) has effect.

### **Certification of plans etc.**

**17.—(1)** The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the combined heat and power assessment (Document 7.2 Rev 0);
- (b) the environmental statement (Document 5.2 Rev 0);
  - (i) Chapter 9 (Ecology Chapter) of the environmental statement (Rev 2);
- (c) the framework construction environmental management plan (Document 7.3 Rev 2);
- (d) the framework construction traffic management plan (Document 7.6 Rev 3);
- (e) the framework construction workers’ travel plan (Document 7.7 Rev 0);

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(a) Section 206(1) was amended by the 2008 Act.

- (f) the indicative layout plans (Document 3.4 Rev 0);
- (g) the land plans (Document 3.3 Rev 0);
- (h) the landscaping and biodiversity management and enhancement plan (Document 7.5 Rev 4);
- (i) the lighting strategy (Document 7.4 Rev 0);
- (j) the outline drainage strategy (Document 7.8 Rev 0);
- (k) the outline written scheme of investigation (Document 7.9 Rev 0); and
- (l) the works plans (Document 3.2 Rev 0);

for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

#### **Procedure in relation to certain approvals etc.**

**18.**—(1) Where an application is made to or request is made of the relevant planning authority, a highway authority, a street authority or the owner of a watercourse, sewer or drain for any agreement or approval required or contemplated by any of the provisions of this Order, such agreement or approval must, if given, be given in writing and must not be unreasonably withheld or delayed.

(2) Schedule 3 (procedure for discharge of requirements) has effect in relation to all agreements or approvals granted, refused or withheld in relation to the requirements.

#### **Arbitration**

**19.** Any difference under any provision of this Order, unless otherwise provided for, is to be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

Signed by authority of the Secretary of State for Business, Energy and Industrial Strategy

Address  
Date

*Name*  
Position  
Department

# SCHEDULES

## SCHEDULE 1

Article 2, 3, 5

### AUTHORISED DEVELOPMENT

In the County of Nottinghamshire and District of Bassetlaw a nationally significant infrastructure project as defined in sections 14 and 15 of the 2008 Act, comprising—

Work No.1 a gas fired generating station located on the West Burton Power Station Site with a gross electrical output capacity of up to 299MW comprising—

- (a) Up to 5 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.

Work No.1 may also include a banking compound comprising up to 6 transformers, overhead busbars, cable sealing ends and associated switchgear and ancillary equipment.

Work No.2 – a gas receiving area, gas treatment and control facilities, a compression station, generator and other auxiliary control cabinets and equipment.

Work No.3 – electrical connection works comprising—

Work No. 3A – up to 400 kV electrical cables and control systems cables to and from the existing West Burton B switchyard; and

Work No. 3B – works within or adjacent to the existing West Burton B switchyard, including electrical cables, connections to busbars and upgraded or replacement equipment.

Work No.4 – auxiliary buildings, structures and equipment, comprising—

- (a) emergency diesel generator and associated diesel fuel tank;
- (b) contained road tanker diesel unloading area;
- (c) workshop, store, control, administration and welfare building;
- (d) above ground raw water and fire water storage tanks and associated infrastructure;
- (e) area of hardstanding for maintenance laydown and erection of temporary buildings associated with the commissioning, operation and maintenance of the OCGT unit(s);
- (f) pipework, pipe runs and pipe racks;
- (g) fire-fighting equipment, buildings and distribution pipework; and
- (h) chemical storage facilities, other minor infrastructure and auxiliaries/services.

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.

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 -

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

Work No. 6B - an extension to the existing West Burton B gas receiving facility comprising –

- (i) an offtake connection;

- (ii) gas compressor (if required);
- (iii) above and below ground valves, flanges and pipework;
- (iv) an above or below ground remotely operated valve;
- (v) an above or below ground remotely operated valve bypass;
- (vi) an above or below ground pressurisation bridge;
- (vii) instrumentation and electrical kiosks; and
- (viii) telemetry equipment kiosks and communications equipment.

Work No. 7 – water supply and pipeline from Work No. 1 to an existing water supply within West Burton B.

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 within the meaning of section 115(2) of the 2008 Act in connection with Work Nos. 1 - 8 comprising—

Work No. 9 – a rail offloading area from the existing rail loop ‘merry-go-round’ on the West Burton Power Station site.

Work No. 10 – a Landscaping and Biodiversity Management and Enhancement Area.

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 land plans, Order limit plans and works plans and falling within the scope of the works assessed in the environmental statement comprising—

- (a) vehicle parking and cycle storage facilities;
- (b) 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;
- (c) internal access roads, roadways and footpaths;
- (d) noise attenuation features;
- (e) landscaping, fencing and security provisions; and
- (f) lighting columns and lighting.

## SCHEDULE 2 REQUIREMENTS

Article 2, 3

### Interpretation

1.—(1) In this Schedule—

“commercial use” means that the commissioning of the authorised development has been completed and it is generating electricity on a commercial basis;

“commissioning” means the process of assuring that all systems and components of the authorised development (which are installed or installation 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;



“local residents” means the residents living within the administrative areas of Nottinghamshire and Lincolnshire;

“local organisations” means organisations based or with their main activities within the administrative areas of Nottinghamshire and Lincolnshire;

“m” means metres;

“mAGL” means metres above ground level;

“mAOD” means metres above ordnance datum; and

“stage” of the authorised development means any part or parts of Works Nos. 1 to 10.

(2) Where any requirement requires the authorised development to be carried out in accordance with matters including a plan, document, or details approved by the relevant planning authority, those matters are to be taken to include any amendments that may subsequently be approved in writing by the relevant planning authority.

(3) Where an approval or agreement is required under the terms of a requirement or a document referred to in a requirement, or any requirement specifies “unless otherwise approved” or “unless otherwise agreed” by the relevant planning authority, such approval or agreement may only be given in relation to non-material changes where it has been demonstrated to the satisfaction of the relevant planning authority that the subject matter of the approval or agreement sought is unlikely to give rise to any greater environmental effects from those assessed in the environmental statement.

### **Commencement of the authorised development**

2.—(1) The authorised development must not be commenced after the expiration of 7 years from the date this Order comes into force.

(2) The authorised development must not commence unless the undertaker has given the relevant planning authority 14 days’ notice of its intention to commence the authorised development.

### **Notice of commencement and completion of commissioning**

3.—(1) Notice of the intended commissioning of the authorised development must be given to the relevant planning authority, Nottinghamshire County Council, Lincolnshire County Council and West Lindsey District Council prior to such commencement and in any event not less than 7 days from the date that commissioning is commenced.

(2) Notice of the intended completion of commissioning of the authorised development must be given to the relevant planning authority where practicable prior to such completion and in any event within 7 days from the date that commissioning is completed.

### **Notice of commencement of commercial use**

4. Notice of the intended commencement of commercial use of the authorised development must be given to the relevant planning authority prior to such commencement and in any event not less than 7 days from the date that commercial use is commenced.

### **Detailed design**

5.—(1) In relation to Work No. 1, Work No. 2, Work No. 4 and Work No. 5, no development must commence until details of the following, where relevant for that Work have, after consultation with West Lindsey District Council and the Lead Local Flood Authority, been submitted to and approved by the relevant planning authority—

- (a) the siting, layout, scale and external appearance, including the colour, materials and surface finishes of all new permanent buildings and structures;
- (b) finished floor levels;

- (c) hard standings;
- (d) the internal vehicular access and circulation roads, loading and unloading, vehicle parking and turning facilities, cycle parking and routes and pedestrian facilities and routes; and
- (e) surface water management.

(2) Work No. 1, Work No. 2, Work No. 4 and Work No. 5 unless otherwise agreed with the relevant planning authority must be carried out in accordance with the approved details.

(3) Unless otherwise agreed with the relevant planning authority if a single OCGT is installed the details approved by the relevant planning authority under paragraph (1) must be in accordance with table 1.

**Table 1**

**Main Dimensions for Single OCGT**

<i>Component</i>	<i>Maximum length (m)</i>	<i>Maximum width (m)</i>	<i>Maximum height (mAGL/ mAOD)</i>	<i>Minimum height (mAGL)</i>
Minimum final ground height (mAOD)	+7.1m			
Maximum final ground height (mAOD)	+14m			
Single Gas Turbine, Exhaust gas diffuser, Generator and Air inlet filter (Work No. 1(a))	50	20	27/41	-
Gas Turbine building (if required) (Work No. 1(a))	36	12	19/33	-
Stack(s) (Work No. 1(a))	10m diameter		45/59	40
Auxiliary closed loop cooling equipment (Work No. 1(c))	30	15	12/26	-
Workshop, Stores, Control, Administration and Welfare Buildings (Work No. 4(c))	40	30	10/24	-
Raw Water / Fire Water Storage tank (Work No. 4(d))	15m diameter		7/21	-
Gas receiving areas, gas treatment facilities, compression station and other auxiliary control cabinets and equipment (Work No. 2)	60	45	7/21	-

(4) Unless otherwise agreed with the relevant planning authority if up to 5 OCGT units are installed the details approved by the relevant planning authority under paragraph (1) must be in accordance with table 2.

**Table 2**

**Main Dimensions for Up to 5 Gas Turbines**

<i>Component</i>	<i>Maximum length (m)</i>	<i>Maximum width (m)</i>	<i>Maximum height (mAGL/ mAOD)</i>	<i>Minimum height (mAGL)</i>
Minimum final ground height (mAOD)	+7.1m			
Maximum final ground height (mAOD)	+14m			
Each Single Gas Turbine and	35	12	15/29	-

Generator (Work No. 1(a))				
Each Stack (Work No. 1(a))	5m diameter		45/59	35
Banking Compound Area (Work No. 1)	52	48	8/22	-
Workshop, Stores, Control, Administration and Welfare Buildings (Work No. 4(c))	40	30	10/24	-
Raw Water / Fire Water Storage Tank (Work No. 4(d))	15m diameter		7/21	-
Gas receiving areas, gas treatment facilities, compression station and other auxiliary control cabinets and equipment (Work No. 2)	60	45	7/21	-

### **Landscaping and biodiversity management and enhancement**

6.—(1) In relation to Work No. 1, Work No. 2 and Work No. 4, no development must be commenced until a landscaping and biodiversity management and enhancement plan, where relevant for that Work has, after consultation with the Environment Agency, Natural England, Lincolnshire County Council, Nottinghamshire County Council and West Lindsey District Council, been submitted to and approved by the relevant planning authority.

(2) The plan submitted and approved must include details of—

- (a) measures to protect, manage and enhance existing shrub and tree planting that is to be retained;
- (b) biodiversity and habitat mitigation and impact avoidance;
- (c) an implementation timetable; and
- (d) maintenance and management, including a landscaping maintenance plan incorporating measures to protect, manage and enhance all shrub and tree planting.

(3) The plan submitted and approved must be in accordance with the certified landscaping and biodiversity management and enhancement plan unless otherwise agreed with the relevant planning authority.

(4) The plan must be implemented prior to commissioning and maintained as approved unless otherwise agreed with the relevant planning authority.

(5) Any shrub or tree planted as part of the approved plan that, within a period of 5 years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted unless otherwise agreed with the relevant planning authority.

### **External lighting**

7.—(1) In relation to Work No. 1, no development must commence until a scheme for all external lighting to be installed during construction, where relevant to that Work, has been submitted to and approved by the relevant planning authority.

(2) No part of Work No. 1 must be commissioned until a scheme for all permanent external lighting to be installed has been submitted to and approved by the relevant planning authority.

(3) The schemes submitted and approved pursuant to paragraphs (1) and (2) of this requirement must accord with the principles of the lighting strategy and include measures to minimise and otherwise mitigate any artificial light emissions during the construction and operation of the authorised development.

(4) The schemes must be implemented as approved unless otherwise agreed with the relevant planning authority.

### **Means of enclosure**

8.—(1) No stage of the authorised development must commence until details of any proposed temporary means of enclosure (including a programme for the removal of all temporary means of enclosure) where relevant to that stage have been submitted to and approved by the relevant planning authority.

(2) Any construction areas or sites associated with the authorised development must remain securely fenced at all times during construction of the authorised development.

(3) Pre-commencement activities which involve temporary means of enclosure may take place only in accordance with a specific written scheme of investigation which has been submitted to and approved by the relevant planning authority.

(4) No stage of the authorised development must be brought into commercial use until details of any proposed permanent means of enclosure, have, for that stage, been submitted to and approved by the relevant planning authority.

(5) No stage of the authorised development may be brought into commercial use until any approved permanent means of enclosure has been completed.

(6) The authorised development must be carried out in accordance with the approved details unless otherwise agreed with the relevant planning authority.

(7) In this requirement, “means of enclosure” means fencing, walls or other means of boundary treatment and enclosure.

### **Surface water drainage**

9.—(1) In relation to Work No. 1, Work No. 2, Work No. 4 and Work No.5, no development must commence until, where relevant for that Work details of temporary surface water drainage system, including means of pollution control have, after consultation with the Environment Agency, Lead Local Flood Authority and relevant internal drainage board and Canal & River Trust in relation to Work No. 5 only, been submitted to and approved in writing by the relevant planning authority.

(2) Details of the permanent surface water drainage system, including a programme for its implementation and maintenance must, after consultation with the Lead Local Flood Authority, Environment Agency and relevant internal drainage board and Canal & River Trust in relation to Work No. 5 only, be submitted to and approved by the relevant planning authority prior to the start of construction of any part of that system.

(3) The details submitted and approved pursuant to paragraphs (1) and (2) of this requirement in relation to Work No. 5 must include a detailed construction method statement for the proposed works, including temporary access arrangements and construction vehicle routes to facilitate the drainage connection.

(4) The details submitted and approved pursuant to paragraphs (1) and (2) of this requirement must be in accordance with the outline drainage strategy.

(5) The schemes must be implemented as approved and maintained throughout the construction and operation of the authorised development unless otherwise agreed with the relevant planning authority.

### **Foul water drainage**

10.—(1) In relation to Work No. 4, no development must commence until, where details for that work, details of a written scheme for the connection, conveyance, treatment and disposal of foul water drainage on and off the West Burton Power Station Site has, after consultation with the Environment Agency and Severn Trent Water, been submitted to and approved by the relevant planning authority.

(2) If the written scheme submitted and approved pursuant to paragraph (1) of this requirement identifies that it is not practicable or reasonable to connect to a mains foul water system, an alternative strategy for the provision and implementation of wastewater treatment must, after

consultation with the Environment Agency and Severn Trent Water, be submitted to and approved by the relevant planning authority.

(3) Any alternative strategy submitted and approved pursuant to paragraph (2) of this requirement must include a management and maintenance plan to ensure that it will not cause pollution to the water environment.

(4) The schemes approved pursuant to paragraph (1) and, where relevant, paragraph (2) of this requirement must be implemented and maintained throughout the operation of the authorised development unless otherwise agreed with the relevant planning authority.

### **Flood risk mitigation**

**11.—**(1) No stage of the authorised development must commence until for that stage a scheme for mitigation of flood risk during construction has, after consultation with the Environment Agency and relevant internal drainage board, been submitted to and approved in writing by the relevant planning authority.

(2) Details of the permanent flood risk mitigation works, including a programme for their implementation must, after consultation with the Environment Agency and relevant internal drainage board, be submitted to and approved in writing by the relevant planning authority prior to the start of construction of any part of those works.

(3) The details submitted and approved pursuant to paragraphs (1) and (2) of this requirement must be in accordance with the principles set out in the flood risk assessment that forms part of the environmental statement.

(4) The schemes must be implemented as approved and maintained throughout the construction and operation of the authorised development unless otherwise agreed with the relevant local planning authority.

### **Contaminated land and groundwater**

**12.—**(1) No stage of the authorised development must commence until a scheme to deal with the contamination of land including groundwater which is likely to cause significant effects to persons or pollution of controlled waters or the environment has, for that stage and after consultation with the Environment Agency, been submitted to and approved by the relevant planning authority.

(2) The scheme submitted and approved must be in accordance with the principles set out in chapter 11 of the environmental statement and must be included in the construction environmental management plan submitted pursuant to requirement 16.

(3) The scheme must include a risk assessment and if necessary a site investigation to identify the extent of any contamination and the remedial measures to be taken to render the land fit for its intended purpose, together with a materials management plan which sets out long-term measures with respect to any contaminants remaining on the site.

(4) Pre-construction remedial work and pre-commencement activities which involve remedial works in respect of any contamination or adverse ground conditions may take place only in accordance with a specific written scheme which has been submitted to and approved by the relevant planning authority.

(5) The authorised development, including any remediation, must be carried out in accordance with the approved scheme unless otherwise agreed with the relevant planning authority.

### **Unexpected contamination**

**13.—**(1) If, during any stage of the authorised development, contamination not identified or addressed within the scheme approved under requirement 12 is found to be present within the Order limits, no further development in the vicinity of the contamination may be carried out until a written scheme to deal with the associated risks has, after consultation with the Environment Agency, been submitted to and approved by the relevant planning authority.

(2) The scheme must include an investigation and assessment report prepared by a specialist consultant notified in advance to the relevant planning authority, the purpose of which is to identify the extent of any contamination and the remedial measures to be taken to render the land fit for its intended purpose, together with a management plan which sets out long-term measures with respect to any contaminants remaining on site.

(3) No remedial work identified in accordance with paragraph (2) may be carried out until the scheme has been approved.

(4) The scheme and management plan must be implemented as approved unless otherwise agreed with the relevant planning authority.

### **Archaeology**

**14.—**(1) No stage of the authorised development must commence until a written scheme of investigation for that stage has, after consultation with Historic England and Nottinghamshire County Council in its capacity as the relevant archaeological body, been submitted to and approved by the relevant planning authority.

(2) The scheme submitted and approved must be in accordance with the outline written scheme of investigation.

(3) The scheme must identify any areas where further archaeological investigations are required and the nature and extent of the investigation required in order to preserve by knowledge or in-situ any archaeological features that are identified.

(4) Pre-construction archaeological investigations and pre-commencement activities which include intensive ground works may take place only in accordance with a specific written scheme of investigations which has been submitted to and approved by the relevant planning authority.

(5) Any archaeological investigations implemented must be carried out—

- (a) in accordance with the approved scheme; and
- (b) by a suitably qualified person or organisation approved by the relevant planning authority unless otherwise agreed with the relevant planning authority.

### **Protected species**

**15.—**(1) No stage of the authorised development must commence until further survey work for that stage has been carried out to establish whether any protected species is present on any of the land affected, or likely to be affected, by that part of the authorised development.

(2) Where a protected species is shown to be present, no authorised development of that part must commence 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.

(3) The authorised development must be implemented in accordance with the approved scheme unless otherwise agreed with the relevant planning authority.

### **Construction environmental management plan**

**16.—**(1) No stage of the authorised development must commence until a construction environmental management plan has been submitted to and approved by the relevant planning authority.

(2) The plan submitted and approved must be in accordance with the framework construction environmental management plan and incorporate—

- (a) a code of construction practice, specifying measures designed to minimise the impacts of construction works;
- (b) a scheme for the control of any emissions to air;
- (c) a soil and waste management plan;

- (d) a sediment control plan;
- (e) a scheme for environmental monitoring and reporting during the construction of the authorised development, including measures for undertaking any corrective actions; and
- (f) a scheme for the notification of any significant construction impacts on local residents and for handling any complaints received from local residents relating to such impacts during the construction of the authorised development.

(3) All construction works associated with the authorised development must be carried out in accordance with the approved construction environmental management plan unless otherwise agreed with the relevant planning authority.

### **Protection of highway surfaces**

17.—(1) No stage of the authorised development must commence until details for undertaking condition surveys of the relevant highways which are maintainable at the public expense and which are to be used during construction of the authorised development have been submitted to and, after consultation with the highway authority, approved by the relevant planning authority.

(2) The condition surveys must be undertaken in accordance with the approved details and a schedule of repairs, including a programme for undertaking any such repairs and their inspection, must, following the completion of the post-construction condition surveys, be submitted to and, after consultation with the highway authority, approved by the relevant planning authority.

(3) The schedule of repairs must be carried out as approved unless otherwise agreed with the relevant planning authority.

### **Construction traffic management plan**

18.—(1) No stage of the authorised development must commence until a construction traffic management plan has, after consultation with Highways England, the highway authority, Lincolnshire County Council and West Lindsey District Council been submitted to and approved by the relevant planning authority.

(2) The plan submitted and approved must be in accordance with the principles set out in the framework construction traffic management plan.

(3) The plan submitted and approved must include—

- (a) details of the routes to be used for the delivery of construction materials and any temporary signage to identify routes and promote their safe use, including details of the access points to the construction site to be used by light goods vehicles and heavy goods vehicles;
- (b) details of the routing strategy and procedures for the notification and conveyance of abnormal indivisible loads, including agreed routes, the numbers of abnormal loads to be delivered by road and measures to mitigate traffic impact;
- (c) the construction programme; and
- (d) any necessary measures for the temporary protection of carriageway surfaces, the protection of statutory undertakers' plant and equipment and any temporary removal of street furniture.

(4) Notices must be erected and maintained throughout the period of construction at every entrance to and exit from the construction site, indicating to drivers the approved routes for traffic entering and leaving the construction site.

(5) The plan must be implemented as approved unless otherwise agreed with the relevant planning authority in consultation with Highways England and the highway authority.

### **Travel plan - construction staff**

**19.**—(1) No stage of the authorised development must commence until a construction workers' travel plan has, after consultation with the highway authority, been submitted to and approved by the relevant planning authority.

(2) The plan submitted and approved must be in accordance with the framework construction workers' travel plan.

(3) The plan submitted and approved must include—

- (a) measures to promote the use of sustainable transport modes to and from the authorised development by construction staff;
- (b) provision as to the responsibility for, and timescales of, the implementation of those measures;
- (c) details of parking for construction personnel within the construction site(s); and
- (d) a monitoring and review regime.

(4) The approved plan must be implemented within 3 months of commencement of the authorised development and must be maintained throughout the construction of the authorised development unless otherwise agreed with the relevant planning authority.

### **Construction hours**

**20.**—(1) Subject to sub-paragraph (2) construction work relating to the authorised development, including the delivery or removal of materials, plant and machinery, must not take place on bank holidays or Sundays and otherwise outside the hours of—

- (a) 0700 and 1900 hours on Monday to Friday; and
- (b) 0800 and 1800 hours on a Saturday.

(2) The restrictions in sub-paragraph (1) do not apply to construction work or the delivery or removal of materials, plant and machinery, where these—

- (a) do not exceed a noise limit to be agreed with the relevant planning authority at the Order limits;
- (b) relate to continuous construction activities where prior notification has been given to the relevant planning authority;
- (c) are carried out with the prior approval of the relevant planning authority; or
- (d) are associated with an emergency.

(3) The restrictions in sub-paragraph (1) do not apply to the delivery of abnormal indivisible loads, where this is—

- (a) associated with an emergency; or
- (b) carried out with the prior approval of the relevant planning authority.

(4) Sub-paragraph (1) does not preclude:

- (a) a start-up period from 0630 to 0700 and a shut-down period from 1900 to 1930 Monday to Friday and a start-up period from 0730 to 0800 and a shut-down period from 1800 to 1830 on a Saturday; or
- (b) maintenance at any time of plant and machinery engaged in the construction of the authorised development.

(5) Any request for the prior approval of the relevant planning authority under sub-paragraphs (2)(b) or (3)(b) must be made at least 48 hours in advance of start of the proposed activity.

(6) In this requirement “emergency” means a situation where, if the relevant action is not taken, there will be adverse health, safety, security or environmental consequences that in the reasonable opinion of the undertaker would outweigh the adverse effects to the public (whether individuals, classes or generally as the case may be) of taking that action.



### **Control of noise - construction**

**21.—**(1) No stage of the authorised development must commence until a scheme for the monitoring and control of noise during the construction of the authorised development has been submitted to and approved by the relevant planning authority.

(2) The scheme submitted and approved must specify—

- (a) each location from which noise is to be monitored;
- (b) the method and frequency of noise measurement;
- (c) the maximum permitted levels of noise at each monitoring location during the daytime;
- (d) provision as to the circumstances in which construction activities must cease as a result of a failure to comply with a maximum permitted level of noise; and
- (e) the noise control measures to be employed.

(3) The scheme must be implemented as approved unless otherwise agreed with the relevant planning authority.

### **Control of noise - operation**

**22.—**(1) No stage of the authorised development must be brought into commercial use until a scheme for noise management including monitoring during operation of the authorised development has been submitted to and approved by the relevant planning authority.

(2) Noise from the operation of the authorised development must be no greater than 5dB above background levels measured following commissioning of the authorised development at any residential property in existence at the date of this Order.

(3) The scheme must be implemented as approved unless otherwise agreed with the relevant planning authority.

### **Piling and penetrative foundation design**

**23.—**(1) No piling works for the construction of the authorised development must commence until for that stage a written piling and penetrative foundation design method statement, informed by a risk assessment has, after consultation with the Environment Agency, been submitted to and approved by the relevant planning authority.

(2) All piling and penetrative foundation works must be carried out in accordance with the approved method statement unless otherwise agreed with the relevant planning authority.

### **Restoration of land used temporarily for construction**

**24.—**(1) The authorised development must not be brought into commercial use until a 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.

(2) The land must be restored within 3 years of the authorised development being brought into commercial use (or such other period as the relevant planning authority may approve), in accordance with—

- (a) the restoration scheme approved in accordance with sub- paragraph (1); and
- (b) the landscaping and biodiversity management and enhancement plan approved in accordance with requirement 6.

### **Local liaison committee**

**25.—**(1) The authorised development must not commence until the undertaker has established a committee to liaise with local residents and local organisations about matters relating to the authorised development (a ‘local liaison committee’).

(2) The local liaison committee must include representatives of the undertaker.

(3) The undertaker must invite the relevant planning authority, Lincolnshire County Council, Nottinghamshire County Council, West Lindsey District Council, and other relevant interest groups as agreed with the relevant planning authority, to nominate representatives to join the local liaison committee.

(4) The undertaker must provide a full secretariat service and supply an appropriate venue.

(5) The local liaison committee must, unless otherwise agreed in writing by the majority of the members of the local liaison committee –

(a) meet every quarter, starting in the month prior to commencement of the authorised development, until the completion of construction, testing and commissioning works; and

(b) meet once a year during the operation of the authorised development.

(6) If the majority of members agree in writing that a meeting is not required in accordance with sub-paragraph (5), any individual committee member can require the meeting to go ahead by making a written request within 20 working days of the scheduled meeting.

### **Employment, skills and training plan**

**26.—**(1) No part of the authorised development must commence until a plan detailing arrangements to promote employment, skills and training development opportunities for local residents during construction of the authorised development has, after consultation with Lincolnshire County Council and Nottinghamshire County Council, been submitted to and approved by the relevant planning authority.

(2) The approved plan must be implemented and maintained during the construction of the authorised development unless otherwise agreed by the relevant planning authority.

### **Decommissioning**

**27.—**(1) The undertaker must submit to the relevant planning authority for its approval a decommissioning environmental management plan within 12 months of the date that the authorised development is to be decommissioned.

(2) No decommissioning works must be carried out until the relevant planning authority has approved the plan.

(3) The plan submitted and approved must include details of—

(a) the buildings to be demolished;

(b) the means of removal of the materials resulting from the decommissioning works;

(c) the phasing of the demolition and removal works;

(d) any restoration works to restore land shown within the Order limits to a condition agreed with the relevant planning authority;

(e) the phasing of any restoration works;

(f) a timetable for the implementation of the scheme; and

(g) a decommissioning traffic management plan.

(4) The plan must be implemented as approved unless otherwise agreed with the relevant planning authority.

### **Consultation on requirements**

**28.—**(1) Where any requirement specifies that consultation must be undertaken with a named consultee in relation to a plan, document or details being submitted to the relevant planning authority for approval—

(a) such consultation must be carried out in advance of the plan, document or details being provided to the relevant planning authority for approval; and

- (b) unless otherwise agreed in advance with the undertaker, if a named consultee has not provided its comments in relation to the plan, document or details within 24 days of receipt of a request to do so, the consultee is deemed to have no comments in relation to the plan, document or details.

## SCHEDULE 3

Article 18

### PROCEDURE FOR DISCHARGE OF REQUIREMENTS

#### **Applications made under Requirements**

1.—(1) Where an application has been made to the discharging authority for any consent, agreement or approval required under a requirement the discharging authority must give notice to the undertaker of its decision on the application including the reasons before the end of the decision period.

(2) For the purposes of paragraph (1), the decision period is—

- (a) where no further information is requested under paragraph (2), 8 weeks from the first business day immediately following that on which the application is received by the discharging authority or the day on which the fee under paragraph 3(1) is received, whichever is the later;
- (b) where further information is requested under paragraph (2), 8 weeks from the first business day immediately following that on which further information has been supplied by the undertaker under paragraph (2);
- (c) such longer period as may be agreed by the undertaker and the discharging authority in writing before the end of the period in sub-paragraph (a) or (b).

#### **Further information**

2.—(1) In relation to any application to which this Schedule applies, the discharging authority may request further information from the undertaker where it is necessary to enable it to consider the application.

(2) If the discharging authority considers such further information necessary, it must, within 7 business days of receipt of the application, notify the undertaker in writing specifying the further information required.

#### **Fees**

3.—(1) Where an application is made to the discharging authority for agreement or approval in respect of a requirement the fee contained in regulation 16(1)(b) of the Town and Country Planning (fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012(a) (as maybe amended from time to time) is to apply and must be paid to the discharging authority for each application.

(2) Any fee paid under this Schedule must be refunded to the undertaker within 8 weeks of the discharging authority either rejecting the application as invalidly made or failing to determine the application within the decision period as determined under paragraph (1), unless within that period the undertaker agrees, in writing, that the fee may be retained by the discharging authority and credited in respect of a future application.

#### **Appeals**

4.—(1) The undertaker may appeal in the event that—

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(a) S.I. 2012/2920 as amended by S.I. 2013/2153 and S.I. 2014/357 and S.I. 2014/2026, and S.I. 2017/1314 and S.I. 2019/1154

- (a) the discharging authority refuses an application for any agreement or approval required by a requirement or grants it subject to conditions;
- (b) the discharging authority does not give notice of its decision to the undertaker within the decision period as determined in paragraph 1(2);
- (c) on receipt of a request for further information pursuant to paragraph (2) the undertaker considers that either the whole or part of the specified information requested by the discharging authority is not necessary for consideration of the application; or
- (d) on receipt of any further information requested, the discharging authority notifies the undertaker that the information provided is inadequate and requests additional information, which the undertaker considers, is not necessary for consideration of the application.

(2) The appeal process is as follows—

- (a) the undertaker must submit to the Secretary of State a copy of the application submitted to the discharging authority and any supporting documentation which the undertaker may wish to provide (“the appeal documentation”);
- (b) the undertaker must on the same day provide copies of the appeal documentation to the discharging authority;
- (c) as soon as is practicable after receiving the appeal documentation, but in any event within 10 business days of receiving the appeal documentation, the Secretary of State must appoint a person (“the appointed person”) and forthwith notify the appeal parties of the identity of the appointed person and the address to which all correspondence for that person’s attention should be sent;
- (d) the discharging authority must submit written representations to the appointed person in respect of the appeal within 20 business days of the date on which the appeal parties are notified of the appointment of a person under paragraph (c) and must ensure that copies of its written representations are sent to the undertaker on the day on which they are submitted to the appointed person;
- (e) the appeal parties must make any counter-submissions to the appointed person within 10 business days of receipt of written representations pursuant to paragraph (d) above.

(3) The appointed person must make his decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable and in any event within 30 business days of the deadline for the receipt of counter-submissions pursuant to sub-paragraph (e).

(4) If the appointed person considers that further information is necessary to enable him to consider the appeal he must, as soon as practicable, notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information is to be submitted.

(5) Any further information required pursuant to sub-paragraph 4 must be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person. Any written representations concerning matter contained in the further information must be submitted to the appointed person, and made available to all appeal parties within 10 business days of that date.

(6) On an appeal under this paragraph, the appointed person may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the discharging authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to the appointed person in the first instance.

(7) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits prescribed, or set by the appointed person, under this paragraph.

(8) The appointed person may proceed to a decision even though no written representations have been made within those time limits, if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(9) The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.

(10) If an approval is given by the appointed person pursuant to this Schedule, it is deemed to be an approval for the purpose of the relevant requirement in Schedule 2 as if it had been given by the discharging authority. The discharging authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) may not be taken to affect or invalidate the effect of the appointed person's determination.

(11) Save where a direction is given pursuant to paragraph (12) requiring the costs of the appointed person to be paid by the discharging authority, the reasonable costs of the appointed person must be met by the undertaker.

(12) On application by the discharging authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to the Planning Practice Guidance or any circular or guidance which may from time to time replace it.

(13) In this Schedule:

- (a) "business day" means a normal working day, excluding weekends and Bank Holidays;  
and
- (b) "Planning Practice Guidance" means the Planning Practice Guidance as published online by the Ministry of Housing, Communities and Local Government.

# SCHEDULE 4

Article 9

## STREETS SUBJECT TO TEMPORARY PROHIBITION OR RESTRICTION OF USE

(1) Area	(2) Streets	(3) Extent of Prohibition					
		Streets from	Grid reference		Streets to	Grid reference	
			X	Y		X	Y
In the District of Bassetlaw	Cottam Road	Power Station Site Entrance	4809 96	3797 57	Rampton Road	4792 07	3795 83
In the District of Bassetlaw	Green Lane	Rampton Road	4792 07	3795 83	Cottam Lane	4789 74	3795 07
In the District of Bassetlaw	Cottam Lane	Cottam Lane	4789 74	3795 07	Townside Lane	4786 40	3792 93
In the District of Bassetlaw	Town Street	Townside Lane	4786 40	3792 93	Leverton Road	4782 88	3792 14
In the District of Bassetlaw	Leverton Road	Leverton Road	4782 88	3792 14	Beckingham Lane	4781 25	3796 98
In the District of Bassetlaw	Treswell Road	Beckingham Lane	4781 25	3796 98	High Street	4783 39	3807 93
In the District of Bassetlaw	Church Street	High Street	4783 39	3807 93	Station Road	4783 42	3812 31
In the District of Bassetlaw	Station Road	Station Road	4783 42	3812 31	Pippistrelle Close	4785 65	3818 35
In the District of Bassetlaw	Southgore Lane	Pippistrelle Close	4785 65	3818 35	Main Street	4785 39	3821 49
In the District of Bassetlaw	Sturton Road	Main Street	4785 39	3821 49	Ketlock Hill Lane	4785 64	3824 52
In the District of Bassetlaw	Leverton Road	Ketlock Hill Lane	4785 64	3824 52	Church Street	4787 06	3839 03
In the District of Bassetlaw	Cross Street	Church Street	4787 06	3839 03	North Street	4786 01	3845 06
In the District of Bassetlaw	Station Road	North Street	4786 01	3845 06	Gainsborough Road	4784 39	3845 27
In the District of Bassetlaw	Gainsborough Road	Station Road	4784 39	3845 27	Power Station Site Entrance	4785 54	3851 36

## PROTECTIVE PROVISIONS

## PART 1

## Protection for operators of electronic communications code networks

1. The provisions of this Part have effect for the protection of an operator unless otherwise agreed in writing between the undertaker and the operator.

2. In this Part—

3. “2003 Act” means the Communications Act 2003(a);

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system must be construed in accordance with paragraph 1(3A) of the code;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act;

“electronic communications code network” means—

(a) so much of an electronic communications network or infrastructure system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act(b); and

(b) an electronic communications network which the Secretary of State is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act;

“operator” means the operator of an electronic communications code network.

4.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development its construction, or any subsidence resulting from any of those works—

(a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or other property of an operator; or

(b) there is any interruption in the supply of the service provided by an operator, the undertaker must—

(c) bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply;

(d) make reasonable compensation to an operator for loss sustained by it; and

(e) indemnify an operator against claims, demands, proceedings, costs, damages and expenses which may be made or taken against, or recovered from, or incurred by, an operator by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any claim or demand, and no settlement or compromise of the claim or demand may be made without the consent of the

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(a) 2003 c.21.

(b) Section 106 was amended by the Digital Economy Act 2017 (c.30).

undertaker which, if it withholds consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this paragraph must be referred to and settled by arbitration under article 19 (arbitration).

**5.** This Part does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by Part 3 of the 1991 Act (Street works in England and Wales); or
- (b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised development.

**6.** Nothing in this Part effects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.



## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order authorises EDF Energy (Thermal Generation) Limited (referred to in this Order as the undertaker) to construct, operate, use and maintain a gas fired electricity generating station.

A copy of the Order plans and documents mentioned in this Order and certified in accordance with article 17 of this Order (certification of plans etc.) may be inspected free of charge during working hours at Bassetlaw District Council, 17B The Square, Retford, Notts, DN22 6DB.