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By email

Your Ref:

Stephanie Boswall

Our Ref: EN010092

Date: 27 March 2020

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Dear Ms Boswall

## **Planning Act 2008 (as amended) – Section 55**

### **Application by Thurrock Power Limited for an Order Granting Development Consent for the Thurrock Flexible Generation Plant**

#### **Notification of decision not to accept an application for Examination for an Order Granting Development Consent**

I refer to the above application for an Order granting development consent made under section 37(2) of the Planning Act 2008 (as amended) (PA2008) and received by the Planning Inspectorate on behalf of the Secretary of State on 28 February 2020.

Under section 55 of PA2008 the Secretary of State considers that the application cannot be accepted for the reasons set out below.

The Inspectorate has had regard to relevant information contained within the Applicant's application and is of the view that the information provided falls below the standard required to enable an examination of a Nationally Significant Infrastructure Project (NSIP). There are three principal areas of concern in this regard and they are as follows:

#### **Flood Risk Assessment**

The Applicant has provided a Flood Risk Assessment (FRA) (Document A6 Volume 6 Appendix 15.1) which forms an intrinsic part of the Environmental Statement (ES) and is relevant to the assessment of Hydrology, Flood Risk and Climate Change. The Inspectorate's Scoping Opinion informed the Applicant of the need to ensure that any uncertainties or assumptions encountered when using the climate change model to assess impacts to water resources and flood risk should be stated within the ES. The Scoping Opinion also included advice from the Environment Agency that required the Applicant's FRA to assess the actual and residual tidal flood risk to the site over the development's lifetime taking into consideration the impacts of climate change on

sea levels. In this regard the FRA indicates that the Applicant has carried out the assessment in accordance with the Planning Practice Guidance available online.

The Inspectorate notes that the Guidance stipulates that a site-specific FRA should take climate change into account. In order to do so the assessment should apply climate change allowances for the following; peak river flow, peak rainfall intensity, sea level rise, and offshore wind speed and extreme wave height. The Inspectorate is aware that the Guidance was updated in December 2019 in relation to sea level rise, offshore wind speed and extreme wave height. Unfortunately, the Applicant's FRA has not been undertaken in line with the updated Guidance and is instead reliant upon information taken from the UKCP09 sea level rise projections. The Inspectorate notes the location of the Proposed Development is adjacent to the River Thames and within Flood Risk Zone 3a with a high risk from tidal flooding. The Applicant proposes mitigation to address this risk in Table 2.6 of Chapter 15 of the ES.

However, the failure to apply up to date sea level rise allowances in the FRA brings into question the future baseline presented in Chapter 15 and undermines the likely efficacy of the proposed mitigation since the worst-case scenario assumed could underestimate the likely effects from climate change. The application includes no evidence of any separate agreements reached with relevant consultation bodies regarding this approach to the assessment and demonstrating that the apparent divergence from Guidance would not affect the outcome. In coming to this view the Inspectorate has also had regard to the consultation responses provided by the Applicant.

## **Landscape and Visual Resources**

As part of the ES the Applicant has undertaken an assessment of Landscape and Visual Resources. The assessment states that it has broadly followed the approach advised in the Guidelines for Landscape and Visual Impact Assessment Vol3 (GLVIA3). The proposed use of GLVIA3 was indicated in the Applicant's Scoping Report and the Inspectorate did not contest its use since it supports the approach as a general principle and as a matter of good practice. The Inspectorate notes that GLVIA3 impresses the importance of visualisations to the assessment approach and the findings in relation to significant effects. The Applicant's Scoping Report indicated that effort would be made to agree appropriate viewpoints and photomontages with relevant consultation bodies including the affected Local Planning Authorities. The Inspectorate's Scoping Opinion affirmed this position and suggested that in particular the viewpoint locations and photomontages should be agreed with Gravesham and Thurrock Councils.

Despite this the Applicant's ES fails to include any such visualisations and instead incorporates the most basic of 2D visualisations which fail to adequately represent the Proposed Development in sufficient context. The Inspectorate notes that guidance from the Landscape Institute indicates 2D visualisations should not be used in EIA assessments and that 3D wireline models and full photomontages are more appropriate. The ES bases the landscape and visual assessment on 2D wireline figures and representative viewpoints and therefore the assessment does not meet the quality expected of an NSIP application potentially undermining the ability to understand the likely significant effects. Accordingly, the assessment falls below the standard expected and is not considered sufficient to enable a robust assessment or examination of the significant environmental effects.

## **Design and External Appearance**

The Inspectorate has also considered the general approach taken within the application towards the design characteristics for the Proposed Development and the lack of substantive detail in this regard. The Inspectorate understands that design considerations are made alongside the required need for flexibility and this is accepted by the Inspectorate. The Applicant's proposed approach to addressing the need for flexibility in the assessment is to apply a Rochdale Envelope approach with applicable parameters established at Requirement 4 of the draft DCO.

The approach is broadly in line with the advice contained in the Inspectorate's Advice Note Nine 'Rochdale Envelope'. However, Advice Note Nine is clear in stating that at the point of submitting the application the assessment should be undertaken on the basis of relevant design parameters applicable to the characteristics of the Proposed Development. In this regard the Inspectorate notes that it is necessary for some degree of understanding to be provided regarding the Applicant's intentions for external design and appearance of buildings and other structures e.g. emission stacks.

This information is necessary to support any sufficient examination of the significant effects of the Proposed Development and to ensure they are properly assessed. The Inspectorate notes that the only indicative impression of the proposed external appearance of the Proposed Development is presented in Figure 11 of the Design Principles Statement, document A8.4. This is a basic concept of massing and is not related to the actual development site. Illustrative cross sections in document A2.8 provide maximum roof and stack heights but are small scale black and white drawings with no real indication of external design or appearance. Taken together with the insufficient visualisations presented in the landscape assessment the Inspectorate considers that the presentation of the proposed design characteristics for the Proposed Development is insufficient to support a robust examination of the application.

In reaching his decision as to whether an application is of a satisfactory standard, the Secretary of State must have regard to (inter alia) the extent to which the applicant has followed any applicable guidance given under section 37(4) of PA2008 (section 55(5A)(b)). In relation to the application documents referred to above, the Secretary of State has concluded that the applicant has not sufficiently followed this guidance. For example, paragraph 6 of the DCLG Application Form Guidance (2008) states that 'the application information must be provided to a sufficient degree of detail that will enable the Secretary of State (and all interested parties) to appropriately consider the proposal'.

We would encourage you to meet with us so we can advise how best to address the issues to help facilitate a new application at the earliest opportunity.

Yours sincerely

*Simone Wilding*

**Simone Wilding**  
**Head of Operations**

**For and on behalf of the Secretary of State for the Ministry of Housing,  
Communities and Local Government**

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