

From: [REDACTED]
To: [Thurrock FPG](#)
Cc: [REDACTED]
Subject: Thurrock Power Limited (a Statera Energy Group Company) - Proposed Flexible Generation Plant in Thurrock, Essex. Proposed Flexible Generation Plant in Thurrock, Essex.
Date: 20 August 2020 11:07:17
Importance: High

Dear Sir/Madam,

**Thurrock Power Limited (a Statera Energy Group Company)
Proposed Flexible Generation Plant in Thurrock, Essex.
Planning Inspectorate Reference: EN010092
RWE GENERATION UK Written Representation.**

RWE Generation UK Plc (RWE) writes in response to the Notice of Acceptance of Application for Thurrock Power's proposed Development Consent Order (DCO) for a flexible generation plant (The Development), with the following representation.

RWE is an Interested Party by virtue of its retained property and operational interest on the Tilbury Power Station site (the "Site") which adjoins the proposed Development and requests to be registered as such, with all future electronic or paper correspondence to be addressed to as specified in this registration.

RWE is also a deemed statutory undertaker for the purposes of Section 127(8)(a) of the Planning Act 2008. That section defines "statutory undertaker" by reference to section 8 of the Acquisition of Land Act 1981 (the "1981 Act") and expressly includes authorities, bodies and undertakers which are "deemed to be statutory undertakers for the purposes of that Act, by virtue of another enactment". The Electricity Act 1989 ("the 1989 Act") clarifies at paragraph 2(2) of Schedule 16 that a licence holder who is entitled to exercise any power conferred by Schedule 3 of the 1989 Act shall be deemed to be a statutory undertaker (and his undertaking a statutory undertaking) for the purposes of the 1981 Act. RWE holds an electricity generation licence under section 6(1)(a) of the 1989 Act (attached) and this licence includes compulsory acquisition powers by way of incorporation of Standard Condition 14 of the Electricity Generation Licence: Standard Conditions (attached, also on: <https://www.ofgem.gov.uk/licences-industry-codes-and-standards/licences/licence-conditions>). RWE therefore falls within paragraph 2(2) of Schedule 16 to the 1989 Act and is deemed to be a statutory undertaker for the purposes of the 1981 Act. As a result, RWE is a deemed statutory undertaker pursuant to section 127(8)(a) of the Planning Act 2008.

The Site is directly affected by virtue of rights sought through the proposed DCO for the construction of a causeway on the River Thames (Work No 10, 11 and 12), two possible heavy haul roads through the Site to the Development (Work No 12), a further access to the adopted highway (Work No 12), ecological mitigation (Work No 2) and electricity connections to the National Grid substation (Work No 3). RWE is the owner of the land where such rights are sought and holds an interest on that land for the purposes of its undertaking.

RWE is in discussion with the applicant regarding these proposals and, although in principle and subject to the agreement of negotiated rights, is supportive of the Development, it objects to the inclusion of its land in the book of reference. RWE is retaining the option for the development of nationally significant energy and/or other proposals on its Site that will be affected by the Development (particularly the construction of the causeway, proposed heavy haul route, the access route to the public highway and the ecological mitigation land). RWE is a holder of an electricity generation licence under Section 6 of the Electricity Act 1989 and a deemed statutory undertaker under the Planning Act 2008 and wishes to ensure that its land interests at the Site are suitably protected in any DCO for the Development. In the event that a negotiated settlement is reached in relation to the grant of property rights, RWE requires the removal of its respective plots of land from the book of reference and the scope of the land powers within the DCO to ensure that RWE's undertaking and the future development prospects of the Site are not inhibited as a result of the Development. In the event that compulsory acquisition is confirmed through the DCO, RWE requires adequate protection of its undertaking and land interests by way of protective provisions. Compulsory

rights that are sought for access and ecological mitigation will be resisted by RWE on the basis that they have the potential to jeopardise the future development of the Site.

In terms of minimizing the impact of the Development on RWE's land, RWE wishes the applicant to consider alternative options outside of its land holding for mitigating the ecological impacts of its Development. This land is retained for the purposes of RWE's undertaking and will be required by RWE for development purposes in future and will not be available for use by the applicant. Additionally, the Development should seek to ensure that the proposed use of a haul road through the Site is minimised to one route and that route should be peripheral to RWE's land ownership to minimise the possibility of any disruption to future development plans. RWE also wishes to be satisfied that the applicant will be required to agree with RWE the proposed changes to the existing flood defence on its land. RWE also objects to the causeway and its impacts on the future development of the Site, and considers that more information is required from the applicant as to (1) the construction and operational methodologies for it; and (2) its impacts during construction and then once retained, both during periods of use and when it is not being used.

In summary despite being generally supportive of the Development, RWE strongly objects:

1. to the extensive access rights that the applicant seeks to impose on RWE's landholding through compulsory acquisition powers, which could prevent the future development of the Site;
2. to the proposal to acquire part of the Site to mitigate ecological impacts of the Development. RWE requires this land for its own ecological mitigation purposes; and
3. to the proposals for a causeway adjacent to the Site.

RWE will continue to work with the applicant to reach a voluntary agreement to enable the construction and operation of the Development. However, it will strongly resist the compulsory acquisition of land and rights over land which RWE owns and requires for development purposes. To protect RWE's existing property interests and future plans for the development of its Site suitable protective provisions should also be incorporated into the DCO. RWE reserves the right to make further relevant representations and provide written evidence as well as attend future hearings.

If you have any queries please do not hesitate to contact me.

John Norton
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for and on behalf of

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Development Planning Manager
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