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All Interested Parties, Statutory Parties
and Other Persons

Your Ref:

Our Ref: EN010092

Date: 20 January 2021

Dear Sir/Madam,

The Planning Act 2008 – Section 89
The Infrastructure Planning (Examination Procedure) Rules 2010 – Rule 9

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

Procedural Decisions on Changes to the Application

I am writing to advise you of procedural decisions I have made in relation to the Examination of the above application. These procedural decisions relate to change requests made by the Applicant in their letter dated 14 January 2021. A copy of this letter has been published on the project page of the Planning Inspectorate's National Infrastructure website (the NI Website).

In summary, the changes sought are for:

- the removal of 2.2 hectares from the Order Limits (being approximately half of plot 01/20, owned by RWE) where habitat enhancement had been proposed as part of Work No 2. An equivalent amount of habitat creation is now proposed at an alternative location within the existing Order Limits; and
- the removal of Work No 9 – saltmarsh creation. Document APP-146 (Outline Saltmarsh Enhancement and Maintenance Plan) is also being withdrawn.

No new land is proposed to be subject to powers of compulsory acquisition (CA).

Documentation relating to these change requests was submitted by the Applicant at Procedural Deadline C and is available on the project page of the NI website. A table detailing these documents is given in **Annex B**. They include updates to the Environmental Statement, the draft Development Consent Order, Plans (including Works Plans, Land Plans and Indicative Layout Plans), the Book of Reference and the Habitats Regulation Assessment Report.

Having regard to the proposed changes to the application, and to guidance in the Planning Inspectorate's Advice Note 16: Requesting Changes (AN16), I have decided that both of the proposed change requests are not material and have accepted them into the Examination on that basis. My reasoning is set out in **Annex A** below.

I also note that the Applicant gave notice at the Preliminary Meeting (Part 1) of their intention to submit a material change request during the course of the Examination. It is important to note that where such changes extend the Order land onto land that statutory consultees have not previously considered and/or there are new owners or beneficiaries affected who have not previously been notified or listed in the Books of Reference as Affected Persons, then following advice in AN16 (at paragraph 2.1) there is a raised likelihood of materiality.

It is also most likely that the CA Regulations will be engaged by such changes, in turn requiring additional Examination processes. Where changes are material and/or invoke the CA Regulations, sufficient time for notice, consultation and responses, and the means within the Examinations for full written and oral inquiries to be made by the ExA need to be planned for and available (see AN16 section 6). If material changes are submitted to the Examination without sufficient time to address these requirements, they may not be able to be accepted for examination (see DCLG Examinations Guidance at paragraph 115).

The Applicant is therefore requested to engage with the Case Manager at their earliest opportunity to ensure that the implications and timescales of any further change requests are fully understood.

Yours faithfully

Rory Cridland

Rory Cridland
Examining Authority

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Procedural Decisions taken by the ExA

Proposed Changes to the Application

Approach to Consultation and Examination

At Procedural Deadline C, the Applicant submitted updated documents relating to the change request. I note that the Applicant undertook prior consultation with statutory bodies and other interested parties on these changes and that they are intended to address some of the concerns raised by interested parties in the Relevant Representations.

I have considered the proposed changes and have concluded that they are non-material, for the reasons set out below. It follows that no formal acceptance, notice or further consultation is required before I commence examination of these proposed changes, which I will do following the close of the Preliminary Meeting. As such, these changes now form part of the application.

This does not imply any acceptance of the planning merits or evidence for these changes, the effects of which will be examined with equal rigour to the proposals contained in the original application.

Reasoning

In reaching the decision on the materiality of the proposed changes, I note that neither extend the land affected by the application. Indeed, the relocation of part of Work No 2 to elsewhere within the Order Limits results in a reduction of the amount of land affected by the powers sought.

I agree with the Applicant's view that the changes proposed do not alter the substance of the scheme. Furthermore, neither the removal of the saltmarsh creation nor the relocation of a part of the onshore wildlife habitat creation and enhancement appear to have the effect of increasing the extent and/or impact of environmental effects (and so appear likely to be within the Rochdale Envelope for the Proposed Development). While I make no judgement as to whether the proposed changes will reduce adverse effects, I accept on the basis of the evidence provided that the changes proposed would not be likely to lead to any material increase in adverse effects.

On this basis and having taken AN16 into account, I accept the Applicant's reasoning that the changes requested are not material changes to the application.

Documentation relating to these change requests

PDC-047	2.1 - Location and Order Limit Plans
PDC-045	2.2 - Land, Special Category Land and Crown Land Plans
PDC-056	2.3 - Works Plans
PDC-003	2.4 - Access, Rights of Way and Traffic Regulation Measures Plans
PDC-042	2.5 - Illustrative Highway Engineering Drawings
PDC-057	2.6 - Illustrative General Arrangement Plans
PDC-044	2.7 - Illustrative Site Layout Plan
PDC-043	2.9 - Illustrative Landscaping Plan
PDC-006	2.10 - Concept Drainage Plan
PDC-041	2.11 - Historic or Scheduled Monument Sites Plan
PDC-054	2.12 - Statutory and Non-Statutory Nature Conservation Sites
PDC-055	2.13 - Tree Preservation Order and Hedgerow Plan
PDC-008	2.14 - Deemed Marine License Co-ordinate Plan
PDC-009	3.1 - Draft Development Consent Order - Clean
PDC-010	3.1 - Draft Development Consent Order - Tracked
PDC-011	3.1 - Draft Development Consent Order - Table of amendments v2 / v3
PDC-035	3.2 - Explanatory Memorandum - Clean
PDC-036	3.2 - Explanatory Memorandum - Tracked
PDC-004	4.3 Book of Reference - Clean
PDC-005	4.3 Book of Reference - Tracked
PDC-039	5.2 Habitats Regulations Assessment Report - Clean
PDC-040	5.2 Habitats Regulations Assessment Report - Tracked
PDC-015	6.2 Chapter 2 - Project Description - Clean
PDC-016	6.2 Chapter 2 - Project Description - Tracked
PDC-021	6.3 - Chapter 9 - Onshore Ecology - Clean
PDC-022	6.3 - Chapter 9 - Onshore Ecology - Tracked
PDC-019	6.3 - Chapter 17 - Marine Environment - Clean
PDC-020	6.3 - Chapter 17 - Marine Environment - Tracked
PDC-023	6.5 - Chapter 33 - Summary of Residual Effects - Clean
PDC-024	6.5 - Chapter 33 - Summary of Residual Effects - Tracked
PDC-029	6.6 - Appendix 2.1 - Mitigation, Enhancement and Monitoring Commitments - Clean
PDC-030	6.6 - Appendix 2.1 - Mitigation, Enhancement and Monitoring Commitments - Tracked
PDC-031	6.6 - Appendix 9.3 - Biodiversity Net Gain - Clean
PDC-032	6.6 - Appendix 9.3 - Biodiversity Net Gain - Tracked
PDC-027	6.6 - Appendix 17.3 - Water Framework Directive Assessment - Clean
PDC-028	6.6 - Appendix 17.3 - Water Framework Directive Assessment - Tracked
PDC-050	8.7 - Outline Ecological Management Plan - Clean
PDC-051	8.7 - Outline Ecological Management Plan - Tracked
PDC-048	8.8 - Construction Traffic Management Plan - Clean
PDC-049	8.8 - Construction Traffic Management Plan - Tracked

Withdrawn:

APP-146 – [8.10 Outline Saltmarsh Enhancement and Maintenance Plan](#)