

RWE GENERATION UK

PLANNING ACT 2008

INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

THURROCK FELEXIBLE GENERATION PLANT DCO

WRITTEN REPRESENTATIONS BY RWE GENERATION UK

23 MARCH 2021

1. **Summary**

- 1.1 RWE own the former Tilbury B Power Station site. As part of the Proposed Development, the Applicant is seeking the compulsory acquisition of land and powers over the site.
- 1.2 RWE are an electricity licence holder and the Site is operational land. Whilst the power station has been demolished, the land is suitable for future power development.
- 1.3 RWE are concerned about:
 - 1.3.1 the compulsory acquisition of its operational land;
 - 1.3.2 the impact of the Proposed Development on its future plans to redevelop the Site;
 - 1.3.3 the impact of the proposed causeway on the Site and the lack of consideration of alternatives;
 - 1.3.4 interference with the Access Road through the Site which is essential to provide both RWE and National Grid access;
 - 1.3.5 inference with its obligations to tenants;
 - 1.3.6 the impact of the Proposed Development on the adjacent flood defences and the impact this could have on the Site;
 - 1.3.7 the impact of the Proposed Development on RWE's obligations and duties under an environmental permit; and
 - 1.3.8 temporary use of RWE's land for lay down areas associated with movements on the River.
- 1.4 RWE note that currently no protective provisions for the benefit of RWE have been included in the draft DCO. The generic protective provisions for electricity undertakers included in Part 1 of Schedule 9 to the draft DCO are not suitable to protect RWE's undertaking as set out further below and RWE request that protective provisions in the form appended are included.

2. **Introduction**

- 2.1 These written representations are made on behalf of RWE Generation UK ("RWE") in relation to the proposed Thurrock Flexible Generation Plant ("the Proposed Development"). RWE has already submitted a relevant representation in relation to the Proposed Development and these written representations supplement and build on this representation.

RWE

- 2.2 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.
- 2.3 RWE is 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".
- 2.4 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 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>).

- 2.5 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.
- 2.6 Further, as RWE have rights over and apparatus in the Site, section 138 of the Planning Act 2008 applies which means that the Secretary of State must be satisfied that the extinguishment of the right or removal of apparatus is necessary for the purpose of carrying out the Proposed Development for it to be included in the Order.

The Site

- 2.7 The Site, parts of which are subject to the proposed acquisition by Staterra, is located to the East of Tilbury Town and is the location of the former Tilbury B Power Station, originally a coal fired and later a biomass converted power station. The power station started operation on the Site in 1956, was closed at the end of 2013 and demolished in 2019.
- 2.8 The Site boundary is shown edged red on the overlay plan included at Appendix 1.
- 2.9 The Site has been subject to a number of consents, licences and permissions and remains subject to an Environmental Permit issued by the EA (EP 3433LZ). The area bound by the licence is shown in green on the overlay plan included at Appendix 1.
- 2.10 RWE has been the freehold owner of the Site since 2000 and holds the benefit of the above mentioned consents and permits. RWE has to manage the site in accordance with the terms of an existing Environmental Permit.
- 2.11 A Certificate of Lawful Use obtained by RWE on 17 November 2015 (and attached at Appendix 2) confirms that the Site remains operational land for the purposes of the Town and Country Planning Act 1990.
- 2.12 In terms of infrastructure, a number of pipes and cables remain on the Site together with drainage infrastructure and the heavy haul route.
- 2.13 RWE has previously considered the Site for further power generation development (the Tilbury Energy Centre in 2018). The land continues to be attractive to power projects by virtue of its strategic location (in terms of providing electricity to a densely populated region of the UK), easy transport links, availability of water for cooling purposes as well as electricity connection to the National Grid Substation that is located in the Site.

Impact of the Proposed Development

- 2.14 The Site is directly affected by virtue of the land and rights sought through the Proposed Development 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), and electricity connections to the National Grid substation (Work No 3).
- 2.15 RWE is the owner of the land where such rights are sought and holds an interest in that land for the purposes of its undertaking. The land contained in the Book of Reference which RWE has an interest in is set out in the table at Appendix 3 along with a description of the rights sought over this land. This is further illustrated on the overlay plan included at Appendix 1.
- 2.16 Additionally to the rights sought over individual plots as set out in this table, the Site would also be subject to the following powers included within the draft DCO:

- 2.16.1 Article 17 – power of survey and investigate the land
 - 2.16.2 Article 20 – statutory authority to override easements and other rights
 - 2.16.3 Article 23 – extinguishment of private rights
 - 2.16.4 Article 29 – temporary use of land for maintenance for the 5 year maintenance period.
- 2.17 Further, under article 11 (*Street works*), article 13 (*Temporary restriction of use of streets*), article 14 (*access to works*) and article 15 (*traffic regulation*) the Applicant has extensive powers over streets within the Order limits which could impact and restrict RWE’s access to the Site. RWE are in particular concerned with the access road which runs from the National Grid 440kV Substation to the Tunnel Head Compound (“the Access Road”). The Access Road is shown hatched black on the overlay plan included at Appendix 1.
- 2.18 We note that following the acceptance of a non-material change submitted by the Applicant at Deadline C, 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 has been removed from the Order. RWE welcome the removal of this habitat creation from its land at plot 01/20.

Concerns

- 2.19 This written representation sets out the concerns of RWE in relation to the Proposed Development. Generally, RWE’s concerns relate to the powers of compulsory acquisition sought over the Site, the prevention of future development of the Site, the impact of the causeway and the lack of consideration of alternatives, interference with the Access Road and RWE’s obligations to tenants and the impact on the flood defences adjacent to the Site.
- 2.20 Currently the draft Development Consent Order does not contain any protective provisions for the benefit of RWE. We note that in the First Written Questions, the Examining Authority has asked the applicant how RWE’s interests will be protected (including the safety of any operational land) if agreement is not reached.
- 2.21 RWE considers the lack of protective provisions in the draft DCO to be a significant omission and, as set out in section 4 below, is seeking the inclusion of such provisions.

3. RWE concerns in relation to the Proposed Development

Prevention of Future Development

- 3.1 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 Proposed Development (particularly the construction of the causeway, proposed heavy haul route and the access route to the public highway).
- 3.2 Whilst the site is not currently energy producing, it remains a very important asset for RWE and the Proposed Development will materially constrain the future possibilities for redevelopment of this site by RWE.
- 3.3 As stated in paragraph 2 the Site is ideally suited for the development of power related infrastructure due to its strategic location (in terms of providing electricity to a densely populated region of the UK), easily transport links, availability of water for cooling purposes and proximity to electricity and gas infrastructure.
- 3.4 RWE does not consider that other equivalent land can be made available elsewhere for this type of development.

- 3.5 The Site is also identified in the Council's Local Plan as a suitable location for new power generation development and local planning policy is clear that protecting the economic and commercial function of the river is of key importance.
- 3.6 Further, National Planning Policy is clear on the benefit of riverside locations for a number of different developments which is highlighted in the National Policy Statement for Ports. This must also be seen in the context of the successful Thames Freeport proposal which includes the Site and is estimated to facilitate a number of socio-economic benefits for the area. The proposed causeway in particular, which will restrict development of the river frontage, risks material prejudice to this important policy objective.
- 3.7 It is also important to note that as part of any future redevelopment of the Site, land is likely to be required for ecological mitigation. Consequently, RWE must retain the ability to use its land in a manner that does not frustrate its ability to deliver development in the future.
- 3.8 There are already a number of factors which constrain development on the Site such as the electricity pylons, the 400kV substation, the Green Belt designation ecological mitigation areas, drainage ditches and existing service corridors. Further constraint caused by the Proposed Development would prevent RWE being able to develop the Site in the future.
- 3.9 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.
- 3.10 RWE objects to the causeway and its possible 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. The land adjacent to the proposed causeway is land which could be brought forward and developed quickly in the future by RWE. As it is previously developed, it would not face Green Belt constraints and could positively contribute to the Freeport objectives. Further, this area has been recognised by Thurrock Council as a potential employment cluster in the work undertaken on the Local Plan.
- 3.11 RWE considers that there are alternatives available to the Applicant for Abnormal Indivisible Load ("AIL") delivery which should be explored, including an alternative location for the causeway. Such possible alternatives do not seem to have been properly considered in the Environmental Statement. It has been working with the Applicant and the neighbouring Port of Tilbury, and the parties have identified suitable alternative to the causeway and the haul road through the Port's and RWE's land. RWE is not aware of any significant constraints to achieving this solution and is of the view that it must be explored.
- 3.12 Therefore, in this context, this land is key to the potential redevelopment of the Site by RWE and this potential redevelopment along with the associated socio-economic opportunities for the area allowed by such redevelopment should not be prevented or hindered by the Proposed Development.

Compulsory Acquisition Powers over the Site

- 3.13 RWE is concerned by the scope of the compulsory acquisition powers sought by the Applicant over the Site and considers that much of this proposed compulsory acquisition could have been avoided by discussion ahead of the application.
- 3.14 It is further considered that the powers of acquisition over RWE's land to facilitate AILs could have been avoided by alternatives being explored ahead of the application, especially given the small level of movements required. The existence of a clear alternative to the current causeway and AIL proposal, and one which could avoid the need for compulsory acquisition of RWE's land, fundamentally undermines the compelling case in the public interest for compulsory acquisition powers in respect of RWE's interests.

Impacts of the Proposed Causeway

- 3.15 RWE is concerned about the impact of the proposed causeway on the Site, especially in relation to the need for additional security between its Site and the causeway. The proposals will introduce a new access point to the Site and there is the possibility of footpath users trying to access the causeway.
- 3.16 Review of paragraphs 3.2.5 to 3.2.10 of the Alternatives Chapter of the ES (APP-046) do not provide much information in relation to the consideration of alternatives for AIL delivery. Whilst some constraints are noted in paragraph 3.6.8 of the Non-Technical Summary (APP-043), a number of alternatives are not considered including access through the Port of Tilbury or the A1089; utilising the highway network; then through Tilbury2 and RWE's land onto the main power plant site.
- 3.17 RWE therefore request that the Applicant gives urgent consideration to bringing forward an alternative proposal with regards to AIL via a change request or otherwise gives clear reasons as to why the alternative, which will have a lesser impact on RWE's land, cannot be progressed. In the event that the Applicant declines to do so, RWE reserves its rights to seek appropriate requirements in the draft DCO which constrain the ability to bring forward the current AIL and causeway solution until proper and detailed consideration has been given to alternative options.

Impacts of the Proposed Development on the Access Road

- 3.18 The Access Road houses RWE's pump house for surface water as well as the tunnel head compound for the National Grid cable where it emerges from the tunnel under the Thames.
- 3.19 The Access Road is suitable for heavy loads and access is required 24 hours a day in the event of emergencies at the tunnel head.
- 3.20 This road is the only means of access to the Site and is the heavy haul access to the Site and National Grid's assets.
- 3.21 RWE are concerned about the impact of the proposed haul road on the Access Road. Whilst RWE do not dispute the need for the haul road in principle, it is seeking to reach agreement with the Applicant to ensure that compulsory acquisition powers are not required and that suitable protection for the Access Road is secured.

Obligations to Tenants

- 3.22 As is shown by the Book of Reference and marked orange on the overlay plan included at Appendix 1, plots 01/10 and 01/15 forming part of the Site are the subject of a lease to National Grid. Further National Grid have access rights over plots 01/11 and 04/01 and electricity pylons at plot 01/09.
- 3.23 National Grid has a right of way granted in the lease dated 30th March 1990 along the access road along with a right to load and unload plant and machinery on the roadways immediately adjacent to the land demised to them. National Grid has easements for the service media which generally follow the routes of the roadways.
- 3.24 The current access road to the Site is therefore used by National Grid as well as RWE. Twenty-four hour access is required by National Grid along the access road in the event of emergencies at either their tunnel head compound or the substation and RWE have an obligation to ensure this is maintained. The road is also used by RWE as its main access to the southern part of its site.
- 3.25 It is essential that the Proposed Development does not cause RWE to breach any of the terms of the lease with National Grid.

Flood Defences

- 3.26 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.

- 3.27 It is imperative that any changes to the flood defences on the Site are designed appropriately and robustly to ensure that the Site is suitably protected and that future development proposals are adequately protected.

EA Permit

- 3.28 The Site is subject to an environmental permit which imposes a number of duties and obligations on RWE in relation to the Site. The land affected by the permit is shown bounded green on the overlay plan included at Appendix 1.
- 3.29 Whilst RWE is in the process of surrendering the licence, currently the licence remains in place and RWE are bound to comply with the licence conditions.
- 3.30 RWE is concerned to ensure that the proposals for the Proposed Development do not prevent RWE complying with its duties and obligations or put RWE in breach of the licence conditions.

Temporary Use of RWE Land for compounds

- 3.31 RWE have not yet been provided with clarity about any intended use of the RWE site for temporary works (including laydown areas and welfare facilities required as a result of use of the river for AIL) to facilitate the construction of the Development. On this basis, it has not yet been included in the draft protective provisions discussed in section 4 below. RWE reserve the right to make further representations in relation to this point and to add to the draft protective provisions as required.

4. Protective Provisions

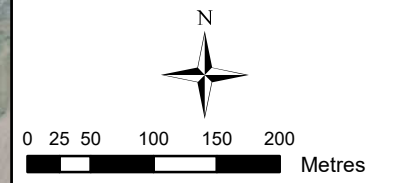
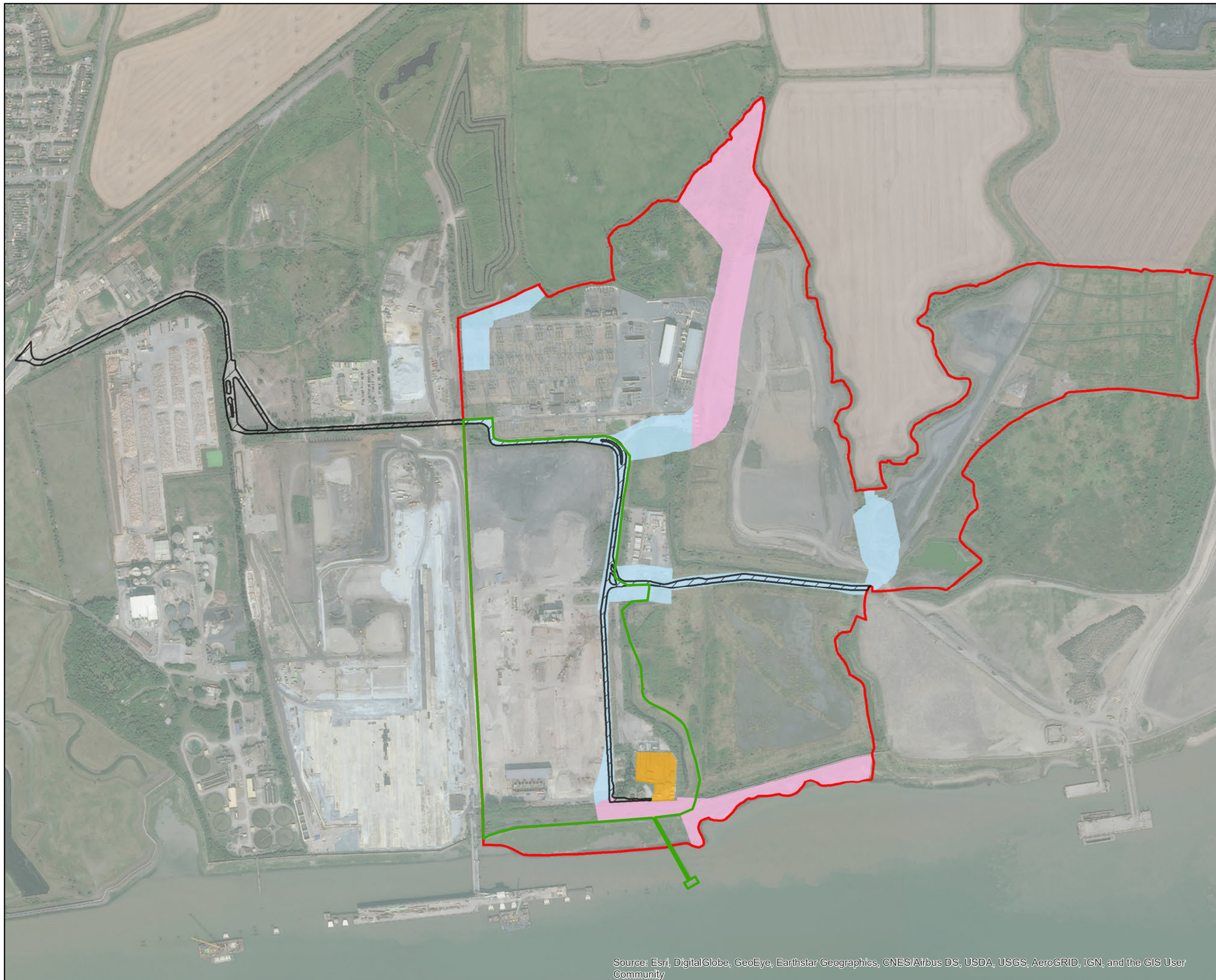
- 4.1 Currently the draft Development Consent Order does not contain protective provisions for the benefit of RWE. In the event that compulsory acquisition is confirmed through the DCO, RWE requires adequate protection of its undertaking and land interests by way of protective provisions.
- 4.2 The draft Development Consent Order only contains general protective provisions for the protection of electricity, gas, water and sewerage undertakers. However, these general protective provisions are not sufficient to provide the required level of protection for the Site and RWE's undertaking generally. For example, the definition of apparatus is limited to electric lines and electrical plant and therefore would not provide the required protection for RWE's undertaking. Further, given the importance of the Access Road to the site, RWE require provisions which provide adequate protection for the road and its wider undertaking.
- 4.3 On this basis, RWE require bespoke protective provisions to be included in the draft Development Consent Order.
- 4.4 The purpose of these protective provisions is to ensure the protection of the existing apparatus at the Site, protect RWE's operational land and undertaking and to ensure that RWE and its tenants retain suitable access to the Site during the construction and operation of the Proposed Development.
- 4.5 A copy of the draft protective provisions required are included at Appendix 4 to these written representations. These protective provisions have not yet been shared with the Applicant and RWE will engage with the Applicant in relation to them and will keep the Examining Authority updated on negotiations.

5. Conclusion

- 5.1 RWE is involved in discussions with the Applicant and will continue to work to reach a voluntary settlement to allow the construction and operation of the Proposed Development.
- 5.2 RWE is not opposed to the Proposed Development in principle; however, it will strongly resist the compulsory acquisition of land and rights over land which RWE owns and requires for development purposes.

- 5.3 RWE does however object to the current AIL and causeway solution, and request that the Applicant gives urgent consideration to bringing forward an alternative proposal with regards to AIL via a change request or otherwise gives clear reasons as to why the alternative, which will have a lesser impact on RWE's land, cannot be progressed . In the event that the Applicant declines to do so, RWE reserves its rights to seek appropriate requirements in the draft DCO which constrain the ability to bring forward the current AIL and causeway solution until proper and detailed consideration has been given to alternative options.
- 5.4 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 Proposed Development.
- 5.5 To protect RWE's existing property interests and future plans for the development of its Site suitable protective provisions must be incorporated into the draft DCO.
- 5.6 RWE is willing to enter into a Statement of Common Ground with the Applicant and would invite the Applicant to share a draft to progress matters further.
- 5.7 RWE reserves the right to make further relevant representations and provide written evidence as well as attend future hearings.

APPENDIX 1: SITE OVERLAY PLAN



KEY:

- RWE Generation Ownership Boundary
- EA Permit Boundary
- National Grid Substation
- Access Way

Thurrock DCO RWE Land Requirements

- Permanent Freehold Acquisition
- Acquisition of Permanent New Rights

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| JGB | *** | 22/03/2020 | *** | A |
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Geospatial Graphics E: james.bean@rwe.com
 RWE Generation UK plc
 Electron - E12
 Windmill Hill Business Park
 Swindon
 SN5 6PB

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| Size of original | Scale of original |
| A3 | 1:6,000 |

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| Site | TILBURY |
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| Title | THURROCK DCO RWE LAND REQUIREMENTS DRAFT |
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| Reference: UKP/TLC/0351/AP1 |
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Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

APPENDIX 2: CERTIFICATE OF LAWFULNESS



TOWN AND COUNTRY PLANNING ACT 1990:sections 191 and 192
Town and Country Planning (General Development Management Procedure)
(England) Order 2010:article35

| | | | |
|------------|--|-------------------|-----------------------|
| Applicant: | RWE Generation UK plc | Application Ref: | 15/01124/CLEUD |
| Agent: | Mr Neil Richardson RWE Generation UK plc Electron Building Windmill Hill Business Park Wjwhitehill Way Swindon Wiltshire SN5 6PB | Date Accepted: | 21st September 2015 |
| | | Date of Decision: | 17th November 2015 |

Grant of Certificate of Lawful Existing Use/Development

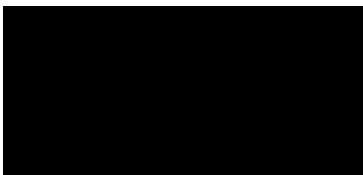
Thurrock Council as the Planning Authority, certify that on the date of the application given above, the existing use/development described in the First Schedule in respect of the land and/or building specified in the Second Schedule, is lawful in the meaning of the Section 191 of the Town and Country Planning Act 1990 (as amended) as applied by section 192(2) of the act, for the following reason(s):

- 1 On balance of probability and in the absence of any information to the contrary, the use of the land as outlined in red on plans MAP/TILB/073/A is lawful and has been used for the storage of ash for more than 10 years. Accordingly, the land is considered to be Operational Land in connection with Tilbury B Power Station for the purposes of the 1990 Town and Country Planning Act.

First Schedule:- Continued use of land for the purpose of ash storage and disposal (Activity has been taking place for more than 10 years) As detailed in the approved plans listed below:

| Plan Reference | Plan Type | Plan Date |
|-------------------------------------|-------------------|---------------------|
| MAP/TILB/073/A | Location Plan | 18th September 2015 |
| SUPPORTING INFORMATION | General Documents | 18th September 2015 |
| APPEAL: APP/L1500/G/85/38 | General Documents | 18th September 2015 |
| PLANNING DECISION: ES/THU/264/63 | General Documents | 18th September 2015 |

Second Schedule:- National Power PLC Tilbury Power Station Fort Road Tilbury Essex
As detailed in the plans listed above



APPENDIX 3: TABLE SHOWING RWE LAND IMPACTED BY PROPOSED DEVELOPMENT

TABLE SHOWING IMPACT OF THE DEVELOPMENT ON RWE

| Number on Plan | Description of Land | Nature of RWE ownership/right/claim as listed in Book of Reference | Interest in land which may be acquired under the Order | Relevant part of the authorised development for which temporary possession for construction can be taken |
|-----------------------|--|---|--|---|
| 01/04 | New rights over 8735.56 square metres of land being public road (Fort Road), private road (Power Station Approach Road, Fort Road), north of Tilbury Power Station, Tilbury. <i>Freehold title EX932756</i> | Occupiers or Reputed Occupiers (in respect of apparatus) | Permanent rights (Article 22 and Schedule 5) Right of access, including vehicular access, to construct, operate and maintain the authorised development | All works (article 28 and Schedule 5). |
| 01/09 | New rights over 3054.05 square metres of land being grassland, overhead transmission lines and pylons, north of Tilbury Power Station, Tilbury. <i>Freehold title EX639032</i> <i>Leasehold title EX487728</i> | Freehold or Reputed Freehold Owners | Permanent rights (Article 22 and Schedule 5) Right to install, use, protect, retain, inspect, maintain, repair and replace electrical cables and associated infrastructure and to take vehicular access for the same. Imposition of a restrictive covenant for the protection of electrical cables and associated infrastructure installed in the land. | Work No. 3 only (article 28 and Schedule 5) |
| 01/10 | New rights over 3185.91 square metres of land being hardstanding at Tilbury Power Substation, Tilbury. <i>Freehold title EX639032</i> <i>Leasehold title EX487728</i> | Freehold or Reputed Freehold Owners | Permanent rights (Article 22 and Schedule 5) Right to install, use, protect, retain, inspect, maintain, repair and replace electrical cables and associated infrastructure and to take vehicular access for the same. Imposition of a restrictive covenant for the protection of electrical cables | Work No 3 only (article 28 and Schedule 5) |

| Number on Plan | Description of Land | Nature of RWE ownership/right/claim as listed in Book of Reference | Interest in land which may be acquired under the Order | Relevant part of the authorised development for which temporary possession for construction can be taken |
|----------------|---|---|---|--|
| | | | and associated infrastructure installed in the land. | |
| 01/11 | New rights over 4698.52 square metres of land being private road (unnamed), north of Tilbury Power Station, Tilbury. <i>Freehold title EX639032</i> | Freehold or Reputed Freehold Owners and Occupiers or Reputed Occupiers | Permanent rights (Article 22 and Schedule 5) Right of access including vehicular access, to construct, operate and maintain the authorised development, and to use, repair, improve or alter existing access tracks, roads or ways. | All works (article 28 and Schedule 5) |
| 01/15 | New rights over 968.66 square metres of land being hardstanding at Tilbury Power Substation, Tilbury. <i>Freehold title EX639032</i> <i>Leasehold title EX487728</i> | Freehold or Reputed Freehold Owners | Permanent rights (Article 22 and Schedule 5) Right to install, use, protect, retain, inspect, maintain, repair and replace electrical cables and associated infrastructure and to take vehicular access for the same. Imposition of a restrictive covenant for the protection of electrical cables and associated infrastructure installed in the land | Work No 3 only (article 28 and Schedule 5) |
| 01/17 | Permanent acquisition of 131997.60 square metres of land being arable field, drains, pylons and overhead transmission lines, south of Parsonage Common, Tilbury. <i>Freehold title EX76275, EX95363</i> <i>Leasehold title EX102231</i> | Category 2 owners (as beneficiary) Claimant under section 10 of the Compulsory Purchase Act 1965 (as beneficiary) Persons enjoying easement or right over land (as beneficiary) | Freehold | |

| Number on Plan | Description of Land | Nature of RWE ownership/right/claim as listed in Book of Reference | Interest in land which may be acquired under the Order | Relevant part of the authorised development for which temporary possession for construction can be taken |
|----------------|---|--|--|--|
| 01/19 | Permanent acquisition of 11445.30 square metres of land being grassland, hardstanding, private road (unnamed), trees, shrubbery and overhead transmission lines, south east of Tilbury Power Substation, Tilbury. <i>Freehold title EX639032</i> | Freehold or Reputed Freehold Owners and Occupiers or Reputed Occupiers | Freehold | Article 28(1)(a)(iii) general temporary possession power |
| 01/20 | Permanent acquisition of 27967.48 square metres of land being grassland, shrubbery, pylons and overhead transmission lines, east of Walton Common, Tilbury. <i>Freehold title EX639032</i> | Freehold or Reputed Freehold Owners and Occupiers or Reputed Occupiers | Freehold | Article 28(1)(a)(iii) general temporary possession power |
| 01/21 | New rights over 98.22 square metres of land being hardstanding, north east of Tilbury Power Station, Tilbury. <i>Freehold title EX639032</i> | Freehold or Reputed Freehold Owners and Occupiers or Reputed Occupiers | Permanent rights (Article 22 and Schedule 5) Right of access including vehicular access, to construct, operate and maintain the authorised development, and to use, repair, improve or alter existing access tracks, roads or ways. | All works (article 28 and Schedule 5) |
| 01/22 | Permanent acquisition of 1060.13 square metres of land being | Freehold or Reputed Freehold Owners and | Freehold | Article 28(1)(a)(iii) general temporary possession power |

| Number on Plan | Description of Land | Nature of RWE ownership/right/claim as listed in Book of Reference | Interest in land which may be acquired under the Order | Relevant part of the authorised development for which temporary possession for construction can be taken |
|----------------|---|---|--|--|
| | hardstanding at Tilbury Power Station, Tilbury. <i>Freehold title EX639032</i> <i>Leasehold title EX826359</i> | Occupiers or Reputed Occupiers | | |
| 01/23 | Permanent acquisition of 337.44 square metres of land being grassland, drain, trees and overhead transmission lines, east of Walton Common, Tilbury. <i>Unregistered</i> | Freehold or Reputed Freehold Owners and Occupiers or Reputed Occupiers (in respect of subsoil) | Freehold | Article 28(1)(a)(iii) general temporary possession power |
| 01/25 | New rights over 297.70 square metres of land being arable field, drains, south east of Parsonage Common, Tilbury. <i>Freehold title EX246891</i> | Category 2 owners (as beneficiary) Claimant under section 10 of the Compulsory Purchase Act 1965 (as beneficiary) Persons enjoying easement or right over land (as beneficiary) | Permanent rights (Article 22 and Schedule 5) Right to install, use, protect, retain, inspect, maintain, repair and replace a gas pipeline and associated infrastructure, and to take vehicular access for the same. Imposition of a restrictive covenant for the protection of gas pipeline and associated infrastructure installed in the land. | Work Nos. 4 and 8 only (article 28 and Schedule 5) |
| 01/26 | Permanent acquisition of 24.70 square metres of land being grassland and drain, east of Walton Common, Tilbury. <i>Unregistered</i> | Freehold or Reputed Freehold Owners and Occupiers or Reputed Occupiers (in respect of subsoil) | Freehold | Article 28(1)(a)(iii) general temporary possession power |

| Number on Plan | Description of Land | Nature of RWE ownership/right/claim as listed in Book of Reference | Interest in land which may be acquired under the Order | Relevant part of the authorised development for which temporary possession for construction can be taken |
|-----------------------|---|---|---|---|
| 01/26a | Permanent acquisition of 216.48 square metres of land being grassland and drain, east of Walton Common, Tilbury. <i>Unregistered</i> | Freehold or Reputed Freehold Owners And Occupiers or Reputed Occupiers (in respect of subsoil) | Freehold | Article 28(1)(a)(iii) general temporary possession power |
| 01/27 | Permanent acquisition of 10460.75 square metres of land being arable field, south east of Walton Common, Tilbury. <i>Freehold title EX246891</i> | Category 2 owners (as beneficiary) Persons enjoying easement or right over land (as beneficiary) Claimant under section 10 of the Compulsory Purchase Act 1965 (as beneficiary) | Freehold | Article 28(1)(a)(iii) general temporary possession power |
| 01/28 | Permanent acquisition of 1992.46 square metres of land being grassland east of Tilbury Power Station. <i>Freehold title EX639032</i> | Freehold or Reputed Freehold Owners and Occupiers or Reputed Occupiers | Freehold | Article 28(1)(a)(iii) general temporary possession power |
| 01/29 | Permanent acquisition of 50.19 square metres of land being track, north east of Tilbury Power Station, Tilbury. <i>Unregistered</i> | Freehold or Reputed Freehold Owners And Occupiers or Reputed Occupiers (in respect of subsoil) | Freehold | Article 28(1)(a)(iii) general temporary possession power |
| 01/30 | New rights over 7490.22 square metres of land being grassland, | Freehold or Reputed Freehold Owners and | Permanent rights (Article 22 and Schedule 5) | All works (article 28 and Schedule 5) |

| Number on Plan | Description of Land | Nature of RWE ownership/right/claim as listed in Book of Reference | Interest in land which may be acquired under the Order | Relevant part of the authorised development for which temporary possession for construction can be taken |
|----------------|--|---|--|--|
| | hardstanding, private road (unnamed), trees, shrubbery and overhead transmission lines, south east of Tilbury Power Substation, Tilbury. <i>Freehold title EX639032</i> | Occupiers or Reputed Occupiers | Right of access including vehicular access, to construct, operate and maintain the authorised development, and to use, repair, improve or alter existing access tracks, roads or ways. | |
| 01/31 | New rights over 95.22 square metres of land being hardstanding and private road, east of Walton Common, Tilbury. <i>Freehold title EX639032</i> | Freehold or Reputed Freehold Owners And Occupiers or Reputed Occupiers | Permanent rights (Article 22 and Schedule 5) Right of access including vehicular access, to construct, operate and maintain the authorised development, and to use, repair, improve or alter existing access tracks, roads or ways. | All works (article 28 and Schedule 5) |
| 01/32 | Permanent acquisition of 52.12 square metres of land being hardstanding, east of Walton Common, Tilbury. <i>Freehold title EX639032</i> | Freehold or Reputed Freehold Owners and Occupiers or Reputed Occupiers | Freehold | Article 28(1)(a)(iii) general temporary possession power |
| 02/05 | Permanent acquisition of 78.25 square metres of land being trees at Parsonage Common, West Tilbury. <i>Freehold title EX95363</i> | Category 2 owners (as beneficiary) Persons enjoying easement or right over land (as beneficiary) Claimant under section 10 of the Compulsory Purchase Act 1965 (as beneficiary) | Freehold | Article 28(1)(a)(iii) general temporary possession power |

| Number on Plan | Description of Land | Nature of RWE ownership/right/claim as listed in Book of Reference | Interest in land which may be acquired under the Order | Relevant part of the authorised development for which temporary possession for construction can be taken |
|----------------|--|---|---|--|
| 02/06 | Permanent acquisition of 45291.69 square metres of land being arable field, track, drains, pylons and overhead transmission lines, south of Parsonage Common, West Tilbury. <i>Freehold title EX76275, EX95363 Leasehold title EX102231</i> | Category 2 owners (as beneficiary) Persons enjoying easement or right over land (as beneficiary) Claimant under section 10 of the Compulsory Purchase Act 1965 (as beneficiary) | Freehold | Article 28(1)(a)(iii) general temporary possession power |
| 02/07 | Permanent acquisition of 52640.80 square metres of land being arable field, shrubbery, drains, pylons, overhead transmission lines at Parsonage Shaw, West Tilbury. <i>Freehold title EX95363, EX418108 Leasehold title EX102231</i> | Category 2 owners (as beneficiary) Persons enjoying easement or right over land (as beneficiary) Claimant under section 10 of the Compulsory Purchase Act 1965 (as beneficiary) | Freehold | Article 28(1)(a)(iii) general temporary possession power |
| 02/09 | New rights over 25.27 square metres of land being grassland and drain at Parsonage Common, West Tilbury. <i>Unregistered Leasehold title EX102231</i> | Category 2 owners (as beneficiary) Persons enjoying easement or right over land (as beneficiary) Claimant under section 10 of the Compulsory Purchase Act 1965 (as beneficiary) | Permanent rights (Article 22 and Schedule 5) Right of access, including vehicular access, to create and maintain replacement common land | Work No 14 only (article 28 and Schedule 5) |

| Number on Plan | Description of Land | Nature of RWE ownership/right/claim as listed in Book of Reference | Interest in land which may be acquired under the Order | Relevant part of the authorised development for which temporary possession for construction can be taken |
|----------------|---|---|--|--|
| 02/11 | New rights over 253.28 square metres of land being shrubbery at Parsonage Shaw, West Tilbury. <i>Freehold title EX95363, EX418108 Leasehold title EX102231</i> | Category 2 owners (as beneficiary) Claimant under section 10 of the Compulsory Purchase Act 1965 (as beneficiary) Persons enjoying easement or right over land (as beneficiary) | Permanent rights (Article 22 and Schedule 5) Right of access, including vehicular access, to create and maintain replacement common land and habitat creation and enhancement land, and to use, repair, improve or alter existing accesses, tracks, roads or ways | Work Nos. 2 and 14 (article 28 and Schedule 5) |
| 02/13 | New rights over 60035.74 square metres of land being arable field, track, pylons and overhead transmission lines, west of Parsonage Shaw, West Tilbury. <i>Freehold title EX246891</i> | Category 2 owners (as beneficiary) Claimant under section 10 of the Compulsory Purchase Act 1965 (as beneficiary) Persons enjoying easement or right over land (as beneficiary) | Permanent rights (Article 22 and Schedule 5) Right to install, use, protect, retain, inspect, maintain, repair and replace a gas pipeline and associated infrastructure, and to take vehicular access for the same. Imposition of a restrictive covenant for the protection of gas pipeline and associated infrastructure installed in the land. | Work Nos. 4 and 8 (article 28 and Schedule 5) |
| 02/14 | Permanent acquisition of 38353.62 square metres of land being arable field, track and drains, west of Parsonage Shaw, West Tilbury. <i>Freehold title EX246891</i> | Category 2 owners (as beneficiary) Claimant under section 10 of the Compulsory Purchase Act 1965 (as beneficiary) | Freehold | Article 28(1)(a)(iii) general temporary possession power |

| Number on Plan | Description of Land | Nature of RWE ownership/right/claim as listed in Book of Reference | Interest in land which may be acquired under the Order | Relevant part of the authorised development for which temporary possession for construction can be taken |
|----------------|---|---|--|--|
| | | Persons enjoying easement or right over land (as beneficiary) | | |
| 03/01a | New rights over 7893.09 square metres of land being arable land, pylons and overhead transmission lines and drain, south of Station Road, Tilbury. <i>Freehold title EX246891</i> | Category 2 owners (as beneficiary) Claimant under section 10 of the Compulsory Purchase Act 1965 (as beneficiary) Persons enjoying easement or right over land (as beneficiary) | Freehold | Article 28(1)(a)(iii) general temporary possession power |
| 03/01 | New rights over 34276.76 square metres of land being arable land, pylons and overhead transmission lines and drain, south of Station Road, Tilbury. <i>Freehold title EX246891</i> | Category 2 owners (as beneficiary) Claimant under section 10 of the Compulsory Purchase Act 1965 (as beneficiary) Persons enjoying easement or right over land (as beneficiary) | Permanent rights (Article 22 and Schedule 5) Right to install, use, protect, retain, inspect, maintain, repair and replace a gas pipeline and associated infrastructure, and to take vehicular access for the same. Imposition of a restrictive covenant for the protection of gas pipeline and associated infrastructure installed in the land. | Work Nos. 4 and 8 only(article 28 and Schedule 5) |
| 03/02 | New rights over 5690.37 square metres of land being arable land and | Category 2 owners (as beneficiary) | Permanent rights (Article 22 and Schedule 5) Right to install, use, protect, | Work No. 4 only (article 28 and Schedule 5) |

| Number on Plan | Description of Land | Nature of RWE ownership/right/claim as listed in Book of Reference | Interest in land which may be acquired under the Order | Relevant part of the authorised development for which temporary possession for construction can be taken |
|----------------|---|---|---|--|
| | drain, south of Station Road, Tilbury. <i>Freehold title EX246891</i> | Claimant under section 10 of the Compulsory Purchase Act 1965 (as beneficiary) Persons enjoying easement or right over land (as beneficiary) | retain, inspect, maintain, repair and replace a gas pipeline and associated infrastructure, and to take vehicular access for the same . Imposition of a restrictive covenant for the protection of gas pipeline and associated infrastructure installed in the land. | |
| 04/01 | New rights over 7181.29 square metres of land being private access road (unnamed), hardstanding, grassland and shrubbery, east of Tilbury Power Station, Tilbury. <i>Freehold title EX639032</i> | Freehold or Reputed Freehold Owners and Occupiers or Reputed Occupiers | Permanent rights (Article 22 and Schedule 5) Right of access including vehicular access, to construct, operate and maintain the authorised development, and to use, repair, improve or alter existing access tracks, roads or ways. | All works (article 28 and Schedule 5) |
| 04/02 | Permanent acquisition of 15213.50 square metres of land being public footpath (Footpath 146), grassland, trees, shrubbery and hardstanding, east of Tilbury Power Station, Tilbury. <i>Freehold title EX639032</i> | Freehold or Reputed Freehold Owners and Occupiers or Reputed Occupiers | Freehold | Article 28(1)(a)(iii) general temporary possession power |
| 04/03 | New rights over 11346.49 square metres of land being private access road (unnamed), | Freehold or Reputed Freehold Owners and | Permanent rights (Article 22 and Schedule 5) Right of access including | All Works (article 28 and Schedule 5) |

| Number on Plan | Description of Land | Nature of RWE ownership/right/claim as listed in Book of Reference | Interest in land which may be acquired under the Order | Relevant part of the authorised development for which temporary possession for construction can be taken |
|----------------|--|--|--|--|
| | quarryland and grassland, east of Tilbury Power Station. <i>Freehold title EX639032</i> | Occupiers or Reputed Occupiers | vehicular access, to construct, operate and maintain the authorised development, and to use, repair, improve or alter existing access tracks, roads or ways. | |
| 04/06 | Permanent acquisition of 145.19 square metres of land being private access road (unnamed), quarryland and grassland, east of Tilbury Power Station. <i>Unregistered</i> | Freehold or Reputed Freehold Owners and Occupiers or Reputed Occupiers (in respect of subsoil) | Freehold | Article 28(1)(a)(iii) general temporary possession power |

APPENDIX 4: PROTECTIVE PROVISIONS REQUESTED

**SCHEDULE 9
PROTECTIVE PROVISIONS**

PART []

FOR THE PROTECTION OF RWE GENERATION UK PLC

1. The provisions of this part of this Schedule have effect for the protection of RWE Generation UK Plc unless otherwise agreed in writing between the Undertaker and RWE Generation PLC.

2. In this Part of this Schedule-

3. "the access road" means the road which runs through the site from the National Grid Substation to the Tunnel Head Compound as shown on plan [];

"existing apparatus" means any pipes, cables, drainage systems or associated equipment belonging to RWE within the Order land;

"environmental permit" means the environmental permit held by RWE in relation to the site with reference EP3433LZ;

"functions" includes powers and duties;

"in": in a context referring to the existing apparatus or alternative apparatus being in land, includes a reference to apparatus under, over or on land;

"plan" includes all designs, drawings, specifications and method statements necessary to describe the works to be executed;

"RWE" means RWE Generation UK Plc, company number 03892782 of Windmill Hill Business Park, Whitehill Way, Swindon, Wiltshire, SNS 6PB or any of its entities or successor entities;

"RWE Undertaking" means any land and apparatus belonging to RWE including but not limited to the site, the existing apparatus and the land subject to the environmental permit including any rights, liabilities and duties of RWE;

"specified works" means any authorised works under the Order which are undertaken within 15m of the RWE Undertaking or which may have an adverse impact on the RWE Undertaking;

"the site" means the former Tilbury B Power Station site located to the East of Tilbury Town.

4. Acquisition of Land and Exercise of Powers

4.1 Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order the undertaker must not acquire any land interest or apparatus under articles 19, 22, 25 or 30 override any easement or other interest of RWE otherwise than by agreement (such agreement not to be unreasonably withheld).

4.2 The undertaker must not exercise the powers conferred by articles 11 (street works), 13 (temporary restriction of use of streets); 14 (access to works); 15 (traffic regulation); 17 (authority to survey and investigate the land); 18 (removal of human remains); 27 (rights under or over streets); 28 (temporary use of land for carrying out the authorised development); 29 (temporary use of land for maintaining the authorised development) of the Order in respect of RWE's Undertaking and the affected highways or streets unless the exercise of such powers is with the agreement of the RWE (such agreement not to be unreasonably withheld).

5. **Apparatus**

- 5.1 Despite any provision of this Order and anything shown on the Land Plans, the undertaker must not acquire any apparatus other than by agreement.
- 5.2 If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Part or under any other statutory power, and any right of RWE to use, maintain, or renew that apparatus in that land must not be extinguished.
- 5.3 Not less than 56 days before starting the execution of specified works, the undertaker must submit to RWE a plan, section and description of the works to be executed.
- 5.4 Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph 5.1 and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph 5.3 by RWE for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and RWE is entitled to watch and inspect the execution of those works, and the undertaker must supply RWE with any additional information concerning such works as RWE may reasonably require.
- 5.5 Any requirements made by RWE under sub-paragraph 5.2 must be made within a period of 56 days beginning with the date on which a plan, section and description under sub-paragraph 5.1 are submitted to it.
- 5.6 Where RWE requires any protective works under sub-paragraph 5.2 to be carried out either by itself or by the undertaker (whether of a permanent or temporary nature), the protective works must be carried out to RWE's reasonable satisfaction prior to the carrying out of the specified works.
- 5.7 Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.
- 5.8 The undertaker is not required to comply with sub-paragraph 5.1 in a case of emergency, but in that case it must give to RWE notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph 5.2 in so far as is reasonably practicable in the circumstances.
- 5.9 The undertaker must pay to RWE the proper and reasonable expenses reasonably incurred by RWE in, or in connection with, the inspection, alteration or protection of any apparatus.
- 5.10 Subject to sub-paragraph 5.3, if by reason, or in consequence, of the construction, use, existence, operation or failure of any specified works or in consequence of the construction, use, existence, operation, maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by the undertaker) in the course of carrying out such works, any damage is caused to any apparatus or property of RWE, or to operations, or there is any interruption in any service provided to RWE or by RWE, or in the supply of any goods to RWE or by RWE, or RWE becomes liable to pay any amount to any third party, the undertaker must—
- 5.10.1 bear and pay on demand the proper and reasonable cost reasonably and properly incurred by RWE in making good such damage or restoring operations, services or supply; and
- 5.10.2 indemnify RWE for any other expenses, loss (whether direct or indirect and including losses of an economic nature), demands, proceedings, damages, claims penalty or costs incurred by or recovered from RWE, by reason or in

consequence of any such damage or interruption or RWE becoming so liable to any third party.

- 5.11 The fact that any act or thing may have been done by RWE on behalf of the undertaker or in accordance with a plan approved by RWE or in accordance with any requirement of RWE or its supervision does not (subject to sub-paragraph 5.3) excuse the undertaker from liability under subparagraph 5.1.
- 5.12 Nothing in sub-paragraph 5.1 imposes any liability on the undertaker with respect to any loss, damage, injury or interruption to the extent that it is attributable to the neglect or default of RWE, its officers, servants, contractors or agents.
- 5.13 RWE must give the undertaker reasonable notice (being not less than 28 days) of any claim or demand, and no settlement or compromise may be made without the consent of the undertaker (not to be unreasonably withheld or delayed) which, if it reasonably withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

6. **Access Road and RWE Undertaking**

- 6.1 The undertaker shall give RWE no less than 56 days' written notice of the intended commencement of any specified works and shall include with this notification a plan and description of the works to be commenced and a programme for these works.
- 6.2 The undertaker shall permit RWE, its successors in title, occupiers, tenants and invitees of the site pedestrian and vehicular access at all times and for all purposes along the Access Road in common with the undertaker.
- 6.3 Save in the case of emergency, the undertaker shall not prevent or restrict RWE from using the Access Road (or any alternative access provided under these protective provisions) .
- 6.4 The undertaker shall ensure that the Access Road or a suitable alternative is open for emergency access to the site at all times.
- 6.5 If the undertaker requires to undertake any specified works which will break open the surface of the Access Road or involve any temporary closure of the Access Road then the undertaker shall provide 7 days written notice of such works to RWE and acting reasonably shall have regard to (and accommodate so far as reasonably practicable) any requests from RWE in respect of this period of works, including measures, where practicable to minimise disruption and facilitate access to the site.
- 6.6 Where any temporary closure of the access road is required, a suitable alternative access to the site must be provided to RWE, its occupiers, tenants and invitees which is no less convenient to access the site than the Access Road for the whole period of the closure. The undertaker must have regard to any requests from RWE (acting reasonably) in relation to the location of the alternative access road.
- 6.7 The undertaker shall keep the Access Road (or alternative access if one is provided) clean and tidy and free of obstructions at all times.
- 6.8 The undertaker shall indemnify RWE against all damage caused to the RWE Undertaking as a result of the specified works and/or its subsequent use of the same.

7. **General**

- 7.1 Any difference or dispute arising between the undertaker and RWE under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and RWE, be determined by arbitration in accordance with article [] of this Order.
- 7.2 The undertaker and RWE must each act reasonably in connection with the implementation of this part of this Schedule.