

Dear Sirs

**EN010092: Thurrock Flexible Generation Plant**

**Deadline 3 Submission on behalf of RWE Generation (UK) Plc**

We are acting for RWE Generation (UK) Plc ("RWE") in relation to the application for Development Consent for the above project.

Procedural Decision on Site Inspections and Notification of Hearings

RWE note the decision made in relation to postpone the detailed planning of an Accompanied Site Inspection (which would include the RWE site) and the invitation for the Applicant to submit alternative proposals for viewing these areas. RWE will review the submission from the Applicant and make any necessary representations at Deadline 4.

In relation to the hearings to be held week commencing 26 April 2021, RWE would like to reserve the right to speak at the following hearings:

- Issue Specific Hearing 1 on Transportation and Traffic (including matters relating to the proposed causeway) in respect of the proposed causeway and associated matters relating to the RWE site including impact on the Access Road.
- Compulsory acquisition hearing in respect of scope of the compulsory acquisition powers sought by the Applicant over RWE's land and interests.
- Issue Specific Hearing 3 on the draft Development Consent Order in respect of the draft protective provisions proposed by RWE for inclusion in the Development Consent Order (to the extent that this is not covered in the compulsory acquisition hearing) and any associated drafting in the DCO which relates to the causeway or access issues if required.

To the extent that the reserved hearing dates are required in respect of any of the above hearings, RWE would reserve the right to speak at the hearings on the same matters as indicated above.

RWE's view is that the protective provisions would be best examined at the compulsory acquisition hearing as they are intrinsically linked to the proposed interests to be acquired and any drafting relating to the causeway and access would be best heard at Issue Specific Hearing 1. If this is the case, then RWE do not consider it necessary to also appear at the DCO Hearing.

Comments on the Applicant's Responses to EXA1

RWE notes the Applicant's response to ExQ 1.3.21:

*"Insofar as RWE Generation (UK) Plc (RWE) is an electricity undertaker its interests will be protected by the protective provisions at schedule 9 of the dDCO. Thurrock Power Limited would also note that the land owned by RWE is currently vacant and any buildings on that land have been demolished. Therefore, it is not clear what interests of RWE would need to be protected."*

RWE's position has been set out in the Written Representation submitted at Deadline 2. Whilst the power station which used to operate on the site has been demolished, RWE is a statutory undertaker for the purposes of section 127(8)(a) of the Planning Act 2008 and the land remains 'operational land' (as confirmed by the Certificate of Lawful Use for the Site which was attached to the Written Representation submitted at Deadline 2) and therefore the tests under section 127 Planning Act 2008 apply. A number of assets (cables, pipes, drainage and transport infrastructure) remain on the site. Therefore, the test set out in section 138 of the Planning Act 2008 also applies to the Site.

Further, any plans by RWE to develop the Site in the future for the development of nationally significant energy and/or other proposals on its Site 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). As was set out in the Written Representation, the Site is in an ideal strategic location for power related development and such development is support by both national and local planning policy.

As operational land with a number of assets still present and the potential for future development, the Site needs to be protected. The protective provisions currently included at schedule 9 of the draft Development Consent Order do not provide adequate protection for RWE and do not include any provisions in relation to the Access Road, which is vital for both RWE and its tenant, National Grid.

On this basis, RWE require the protective provisions submitted as an appendix to the Written Representation at Deadline 2 to be included in the Development Consent Order. RWE are liaising with the Applicant in relation to these protective provisions and will keep the Examining Authority informed on progress.

Further, as set out in the Written Representation, 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. Whilst the power station has been demolished, the security of the Site remains important.

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. 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. RWE are currently in discussion with the Applicant and the Port of Tilbury London Limited in relation to this matter.

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.

#### Statement of Common Ground

RWE have now received a draft Statement of Common Ground and will engage with Applicant to allow a draft Statement of Common Ground to be submitted as soon as possible.

Please do not hesitate to contact us if you require anything further.

Yours faithfully,

**Eversheds Sutherland (International) LLP**