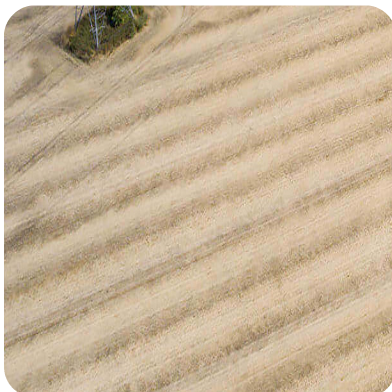


# Thurrock Power Ltd Comments on RWE Generation UK Plc's Deadline 2 Submission (REP2-095)

## Deadline 3



# 1 POWERS OF COMPULSORY ACQUISITION SOUGHT OVER THE SITE

- 1.1 As set out at paragraph 10.10 of the Applicant's Statement of Reasons submitted with the application (APP-024), the Applicant has been in contact with RWE since 2016, both in relation to the potential to use the RWE site (which was not a viable option) and subsequently to seek to agree access arrangements.
- 1.2 The Applicant is seeking the minimum interference possible with RWE, seeking freehold acquisition only where the current use would be interfered with (in accordance with the guidance), and, for the majority of plots, the Applicant seeks only rights to improve and use existing accesses. Those rights would exist in common with other rights of access, including existing rights in favour of National Grid and there is no proposal to remove such existing rights.
- 1.3 The seeking of access rights along existing routes on a previously developed site where other third party rights already exist is considered to represent the minimum level of interference and impacts on affected landowners from the project as a whole. Previously considered and rejected alternative access arrangements included the need to upgrade small, local roads (public and private) in proximity to residences, build a haul road on greenfield land, use a roundabout in close proximity to a school and surface, use and occupy common land for craning loads over a railway. As set out in the Statement of Reasons, the Applicant therefore considers that the correct balance has been reached on overall impacts and interference with private rights in promoting the application and a compelling case in the public interest exists for the compulsory powers sought.
- 1.4 The Applicant submitted an offer to RWE, subject to contact, in July 2019 and both parties have continued to negotiate. The Applicant very much hopes to reach agreement with RWE over the use of its land, however unless and until a voluntary agreement can be reached, the inclusion of compulsory powers is necessary to ensure that the development can be delivered.

## 2 DCO DRAFTING

- 2.1 RWE has objected (REP2-095) to the application of the following articles to its land:
  - Article 17 – power of survey and investigate the land
  - Article 20 – statutory authority to override easements and other rights
  - Article 23 – extinguishment of private rights
  - Article 29 – temporary use of land for maintenance for the 5 year maintenance Period.
- 2.2 The Applicant considers that the substance of these objections can be addressed through protective provisions in favour of RWE. The Applicant has amended the draft provisions provided by RWE and is seeking to progress these with RWE with the intention of resolving these points.
- 2.3 In the case of Article 17, the Applicant considers that the right to survey and investigate land is needed to inform the detailed design of the construction accesses but proposes to limit the use of this power, as set out in the protective provisions, to require RWE's consent.
- 2.4 Articles 20 and 23: the Applicant is not currently aware of any easements or rights which require to be overridden or extinguished in RWE land. However, the Applicant again proposes that control around the use of these powers in protective provisions is more appropriate than seeking to remove them.

- 2.5 Article 29: this would only be required on RWE land for maintenance of the access routes or potentially the causeway and consent would be sought under the protective provisions.
- 2.6 RWE has also objected to the application of article 11 (street works), article 13 (temporary restriction of use of streets), article 14 (access to works) and article 15 (traffic regulation) to its land on the basis that exercise of these powers 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. Notice of use of these powers is already required to be given under the outline CTMP; however a specific protective provision addressing this for RWE has also been proposed in the revised draft protective provisions.

### **3 IMPACTS ON THE SITE AND TENANTS**

- 3.1 On the causeway access, RWE specifically notes in its WR (REP2-095 at 3.14) that the number of movements required over this access by the Applicant will be small. It is therefore illogical to argue that there will be an unacceptable impact on the use of this access (to the National Grid Tunnel Head compound) on other parties arising from that small number of movements.
- 3.2 RWE has submitted that the footpath users may try to access the causeway and that causeway access will introduce a new point of access to the site. The Applicant does not agree as the access route towards the river is pre-existing, the new gate in the flood defence wall will only be open during vehicle movements, which will be marshalled, and the causeway itself will be gated to prevent public access to it. The Applicant is however very happy to discuss detailed design points with RWE on this to address any concern.

### **4 PREVENTION OF FUTURE DEVELOPMENT OF THE SITE**

- 4.1 RWE has submitted that the acquisition of access rights over the former Tilbury B power station site jeopardises its future development (REP2-095 at section 3). The Applicant does not agree. The construction access route runs along the northern boundary of the site and a right of access already exists along it for a third party (National Grid). The causeway access route follows the path of existing accesses including to the National Grid substation. The accesses are therefore already subject to access rights which would co-exist with those sought by the Applicant. The Applicant is happy to accept that such accesses may be relocated or changed to accommodate development of the site, provided that the alternative is suitable for the use required.

### **5 THE IMPACT OF THE CAUSEWAY AND THE LACK OF CONSIDERATION OF ALTERNATIVES**

- 5.1 RWE has stated that there are alternatives to the causeway for delivery of AILs which should be explored (REP2-095 at paragraph 3.11). This is taken to be a reference to the suggestion by the Port of Tilbury that delivery to the Port facilities should be preferred to construction of the causeway. The Applicant has responded to the suggestion of delivery through the Port of Tilbury in detail in its response to the Port's WR and does not repeat that here other than to note that delivery to the Port was considered at length in developing the project but had to be rejected as no agreement to use Port facilities could be reached.
- 5.2 The Applicant did consider all the AIL transport options in detail and at length (APP-046 para 3.2.7). However as noted in the ES the engine block AILs are too large to fit under most highway bridges and options are accordingly very constrained by the inability to use many public highways.

- 5.3 The Applicant would not have brought the causeway forward, with the attendant costs and delay to the application, and additional complexities of introducing a marine element to the project, if there had been a reasonable alternative available.
- 5.4 The causeway is necessary simply to allow the delivery of the AILs which are fundamental to the development, and to allow replacement of those if necessary during the project's lifetime, which is required to ensure that the project is fundable.

## **6 IMPACT ON THE FLOOD DEFENCES ADJACENT TO THE SITE**

- 6.1 The Applicant is happy to consult RWE on the proposed detailed design as regards flood defences and the gate in the flood defence wall. The Applicant notes that the flood impacts have been fully assessed and the Environment Agency have advised (ahead of this submission) that they are happy with all of the Water Framework Directive assessments. The EA are required to approve the final design of the changes to the flood defence wall and to be satisfied that this work is acceptable in flood risk terms.