

South Humber Bank Energy Centre Project

Planning Inspectorate Reference: EN010107

South Marsh Road, Stallingborough, DN41 8BZ

The South Humber Bank Energy Centre Order

7.7 - Statement of Common Ground with Network Rail



Applicant: EP Waste Management Ltd
Date: February 2021

DOCUMENT HISTORY

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GLOSSARY

Abbreviation	Description
ACC	Air-cooled condenser.
CCGT	Combined Cycle Gas Turbine.
DCO	Development Consent Order: provides a consent for building and operating an NSIP.
EfW	Energy from Waste: the combustion of waste material to provide electricity and/or heat.
EIA	Environmental Impact Assessment.
EPUKI	EP UK Investments Ltd.
EPWM	EP Waste Management Limited ('The Applicant').
ES	Environmental Statement.
HGV	Heavy Goods Vehicle.
mAOD	Metres Above Ordnance Datum.
MW	Megawatt: the measure of power produced.
NELC	North East Lincolnshire Council.
NSIP	Nationally Significant Infrastructure Project: for which a DCO is required.
PA 2008	Planning Act 2008.
PINS	Planning Inspectorate.
RDF	Refuse derived fuel.
SHBPS	South Humber Bank Power Station.
SoS	Secretary of State.

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1.0 INTRODUCTION

1.1 Overview

- 1.1.1 This Statement of Common Ground ('SoCG') with Network Rail (Document Ref. 7.7) has been prepared on behalf of EP Waste Management Limited ('EPWM' or the 'Applicant'). It relates to the application (the 'Application') for a Development Consent Order (a 'DCO'), that has been submitted to the Secretary of State (the 'SoS') for Business, Energy and Industrial Strategy, under section 37 of 'The Planning Act 2008' (the 'PA 2008').
- 1.1.2 EPWM is seeking development consent for the construction, operation and maintenance of an energy from waste ('EfW') power station with a gross electrical output of up to 95 megawatts (MW) including an electrical connection, a new site access, and other associated development (together 'the Proposed Development') on land at South Humber Bank Power Station ('SHBPS'), South Marsh Road, near Stallingborough in North East Lincolnshire ('the Site').
- 1.1.3 A DCO is required for the Proposed Development as it falls within the definition and thresholds for a 'Nationally Significant Infrastructure Project' (a 'NSIP') under sections 14 and 15(2) of the PA 2008.
- 1.1.4 The DCO, if made by the SoS, would be known as the 'South Humber Bank Energy Centre Order' ('the Order').
- 1.1.5 Full planning permission ('the Planning Permission') was granted by North East Lincolnshire Council ('NELC') for an EfW power station with a gross electrical output of up to 49.9 MW and associated development ('the Consented Development') on land at SHBPS ('the Consented Development Site') under the Town and Country Planning Act 1990 on 12 April 2019. Since the Planning Permission was granted, the Applicant has assessed potential opportunities to improve the efficiency of the EfW power station, notably in relation to its electrical output. As a consequence, the Proposed Development would have a higher electrical output (up to 95 MW) than the Consented Development, although it would have the same maximum building dimensions and fuel throughput (up to 753,500 tonnes per annum (tpa)).

1.2 The Applicant

- 1.2.1 The Applicant is a subsidiary of EP UK Investments Limited ('EPUKI'). EPUKI owns and operates a number of other power stations in the UK and is a subsidiary of Energetický A Průmyslový Holding ('EPH'). EPH owns and operates energy generation assets in the Czech Republic, Slovak Republic, Germany, Italy, Hungary, Poland, Ireland, and the United Kingdom.

1.3 The Proposed Development Site

- 1.3.1 The Proposed Development Site (the 'Site' or the 'Order limits') is located within the boundary of the SHBPS site, east of the existing SHBPS, along with part of the carriageway within South Marsh Road. The principal access to the Site is off South Marsh Road.

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- 1.3.2 The Site is located on the South Humber Bank between the towns of Immingham and Grimsby; both over 3 km from the Site.
- 1.3.3 The Site lies within the administrative area of NELC, a unitary authority. The Site is owned by EP SHB Limited, a subsidiary of EPUKI, and is therefore under the control of the Applicant, with the exception of the highway land on South Marsh Road required for the new Site access.
- 1.3.4 The existing SHBPS was constructed in two phases between 1997 and 1999 and consists of two Combined Cycle Gas Turbine (CCGT) units fired by natural gas, with a combined gross electrical capacity of approximately 1,400 MW. It is operated by EP SHB Limited.
- 1.3.5 The Site is around 23 hectares ('ha') in area and is generally flat, and typically stands at around 2.0 m Above Ordnance Datum (mAOD).
- 1.3.6 A more detailed description of the Site is provided at Chapter 3: Description of the Proposed Development Site in the Environmental Statement ('ES') Volume I (Document Ref. 6.2).

1.4 The Proposed Development

- 1.4.1 The main components of the Proposed Development are summarised below:
- Work No. 1— an electricity generating station located on land at SHBPS, fuelled by refuse derived fuel ('RDF') with a gross electrical output of up to 95 MW at ISO conditions;
 - Work No. 1A— two emissions stacks and associated emissions monitoring systems;
 - Work No. 1B— administration block, including control room, workshops, stores and welfare facilities;
 - Work No. 2— comprising electrical, gas, water, telecommunication, steam and other utility connections for the generating station (Work No. 1);
 - Work No. 3— landscaping and biodiversity works;
 - Work No. 4— a new site access on to South Marsh Road and works to an existing access on to South Marsh Road; and
 - Work No. 5— temporary construction and laydown areas.
- 1.4.2 Various types of ancillary development further required in connection with and subsidiary to the above works are detailed in Schedule 1 of the DCO.
- 1.4.3 The Proposed Development comprises the works contained in the Consented Development, along with additional works not forming part of the Consented Development ('the Additional Works'). The Additional Works are summarised below:
- a larger air-cooled condenser ('ACC'), with an additional row of fans and heat exchangers;
 - a greater installed cooling capacity for the generator;
 - an increased transformer capacity; and

- ancillary works.

1.4.4 A more detailed description of the Proposed Development is provided at Schedule 1 'Authorised Development' of the Draft DCO and Chapter 4: The Proposed Development in the ES Volume I (Document Ref. 6.2) and the areas within which each of the main components of the Proposed Development are to be built is shown by the coloured and hatched areas on the Works Plans (Document Ref. 4.3). Three representative construction scenarios (timescales) are described within Chapter 5: Construction Programme and Management in the ES Volume I (Document Ref. 6.2) and assessed in the Environmental Impact Assessment ('EIA').

1.5 Purpose of this Document

1.5.1 This document is intended to summarise clearly the agreement reached between the parties on matters relevant to the examination of the Application, and to assist the Examining Authority. It has been prepared with regard to the guidance in 'Planning Act 2008: examination of applications for development consent' (Department for Communities and Local Government, March 2015).

1.6 Status of this Version

1.6.1 The SoCG was prepared in February 2021 and subsequently was agreed on 18 February 2021 between the parties.

1.6.2 Section 2 of this document summarises the role of Network Rail, Section 3 sets out the agreement that has been reached and Section 4 sets out the Agreed Modifications.

2.0 THE ROLE OF NETWORK RAIL

- 2.1.1 Network Rail owns, operates and develops Britain's railway infrastructure.
- 2.1.2 Network Rail's role in relation to the DCO process derives from the PA 2008 and secondary legislation made under the same.
- 2.1.3 Network Rail is a consultee under sections 42 and 56 of the PA 2008, meaning applicants must consult with Network Rail before submitting a DCO application and once an application has been accepted for examination.
- 2.1.4 Network Rail has registered as an interested party in the DCO examination process by submitting a Relevant Representation to the Planning Inspectorate ('PINS'). Network Rail summarised its objection to the Order as comprising concerns relating primarily to the increase in HGV use of the Kiln Lane Level Crossing, as well as, to the use of the South Marsh Road Level Crossing.

3.0 AGREEMENT BETWEEN THE PARTIES

- 3.1.1 On 8 February 2021, the Parties entered into an agreement (**Compromise Agreement**, which is signed by each of the Parties and dated 8 February 2021) under which the Applicant has agreed to include Network Rail's bespoke protective provisions (as set out in Section 4 below) and to amend requirements 16, 24 and to include a new requirement 37 (as set out in Section 4 below) in the revised draft DCO (**Agreed Modifications**) and to submit the updated draft DCO to the Examining Authority at Deadline 4. The remaining terms of the Compromise Agreement are confidential.
- 3.1.2 However, with the Agreed Modifications in place, alongside the terms of the Compromise Agreement, Network Rail is comfortable that there will be no serious detriment to the railway as a result of the Proposed Development.
- 3.1.3 On the basis of the Compromise Agreement and the Agreed Modifications, Network Rail submitted a letter to the Examining Authority, withdrawing its objection to the Applicant's Application (Examination Library Ref AS-008).
- 3.1.4 On this basis, Network Rail does not intend to make any further representations to the Examining Authority.

4.0 AGREED MODIFICATIONS

- 4.1.1 Under the Compromise Agreement, the Parties agreed that the Applicant would make (or retain where already made) the Agreed Modifications set out below to its draft DCO and submit the revised draft DCO to the Examining Authority at Deadline 4:

ARTICLE 2

A new definition is to be added in to article 2 as follows:

"Network Rail" means Network Rail Infrastructure Limited (Company No. 02904587) whose registered office is at 1 Eversholt Street, London NW1 2DN

REQUIREMENT 16

Construction traffic management and travel planning

16.—(1) No part of the authorised development may commence until a construction traffic management plan for that part has been submitted to and, after consultation with Network Rail, approved by the relevant planning authority.

(2) The plan submitted and approved under sub-paragraph (1) must be in accordance with the framework construction traffic management plan included as annex 28 of appendix 9A of the environmental statement.

(3) The plan submitted and approved under sub-paragraph (1) for Work No. 1 must include—

(a) details of the routes to be used for the delivery of abnormal indivisible loads and procedures for the notification of these to the local highway authority and, if the route includes railway assets, Network Rail; and

(b) a construction worker travel plan (which must be in accordance with the framework construction worker travel plan included as annex 27 of appendix 9A of the environmental statement).

(4) The plan must be implemented as approved unless otherwise agreed with the relevant planning authority.

~~(5) In this requirement, "Network Rail" means Network Rail Infrastructure Limited (Company No. 02904587) whose registered office is at 1 Eversholt Street, London NW1 2DN.~~

REQUIREMENT 24

Delivery and servicing plan

24.—(1) The authorised development must not come into operation until an operational delivery and servicing plan for all operational HGVs entering and leaving

the site has been submitted to and, after consultation with Network Rail, approved in writing by the relevant planning authority.

(2) The plan submitted and approved under sub-paragraph (1) must be in accordance with the operational delivery and servicing plan within annex 26 of appendix 9A of the environmental statement unless otherwise agreed by the relevant planning authority.

(3) The plan approved under sub-paragraph (1) must be implemented as approved throughout the operation of the authorised development unless otherwise agreed by the relevant planning authority.

REQUIREMENT 37

A new requirement is to be included as follows:

Heavy goods vehicle prohibition

37. The plans submitted pursuant to requirements 16, 24 and 33 must not provide for the use of South Marsh Road (west of Hobson Way, also known as South Marsh Lane Bridleway) by heavy goods vehicles accessing to or egressing from the authorised development.

SCHEDULE 8, PART 5: PROTECTIVE PROVISIONS FOR THE BENEFIT OF NETWORK RAIL

41. For the protection of Network Rail as defined in this part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and Network Rail.

42. In this part of this Schedule—

“Network Rail” means Network Rail Infrastructure Limited (Company registration number 02904587) whose registered office is at 1 Eversholt Street, London, NW1 2DN and any associated company of Network Rail which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 (meaning of “subsidiary” etc.) of the Companies Act 2006) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

43. —(1) Where under this Part Network Rail is required to give its consent, agreement or approval in respect of any matter, that consent, agreement or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) Subject to subparagraph (1) where Network Rail is asked to give its consent, agreement or approval pursuant to this Part, such consent, agreement or approval must not be unreasonably withheld but may be given subject to reasonable conditions.

44. —(1) The undertaker shall not submit the construction traffic management plan to the relevant planning authorities in accordance with requirement 16 of Schedule 2 (Construction traffic management and travel planning) without having first consulted with Network Rail.

(2) The undertaker shall provide Network Rail with a draft of the construction traffic management plan and Network Rail shall within a period of 28 days beginning with the date on which the draft construction traffic management plan is received by Network Rail serve written notice on the undertaker confirming:

(a) any comments on the draft construction traffic management plan; or

(b) any reasonable amendments to the draft construction traffic management plan as requested by Network Rail; or

(c) that further information is required in order for Network Rail to make comments and/or reasonable amendments (in which case this paragraph 44(2) shall apply to such further information from the date of its receipt by Network Rail).

(3) In the event that Network Rail fails to serve written notice in accordance with paragraph 44(2) within 28 days of receipt no further consultation with Network Rail shall be required.

(4) The undertaker must include any reasonable amendments which are requested by Network Rail and notified to the undertaker by Network Rail in the notice given pursuant to paragraph 44(2)(b) in the draft construction traffic management plan it submits to the relevant planning authorities in accordance with requirement 16 of Schedule 2 (Construction traffic management and travel planning) and the undertaker shall not submit any such written details to the relevant planning authorities or finalise a construction traffic management plan which Network Rail has not been consulted on in accordance with paragraphs 44(2) or (3).

(5) Each notice and all other information required to be sent to Network Rail under the terms of this paragraph 44 shall:

(a) be sent to the Company Secretary and General Counsel at Network Rail Infrastructure Limited, 1 Eversholt Street, London, NW1 2DN via Royal Mail plc's special delivery service (or if this service is no longer being provided an appropriate recorded delivery postal service) and marked for the attention of the London North Western Route Level Crossing Manager; and

(b) contain a clear statement on its front page that the matter is urgent and Network Rail must respond within 28 days of receipt.

(6) In the event that any subsequent changes are made to the construction traffic management plan following consultation with Network Rail, in so far as such changes impact on railway property, the undertaker shall not submit any such written details to the relevant planning authorities or finalise any updates to the construction traffic management plan without further consultation with Network Rail.

45. —(1) The undertaker shall not submit the delivery and servicing plan to the relevant planning authorities in accordance with requirement 24 of Schedule 2 (Delivery and servicing plan) without having first consulted with Network Rail.

(2) The undertaker shall provide Network Rail with a draft of the delivery and servicing plan and Network Rail shall within a period of 28 days beginning with the date on which the draft delivery and servicing plan is received by Network Rail serve written notice on the undertaker confirming:

(a) any comments on the draft delivery and servicing plan; or

(b) any reasonable amendments to the draft delivery and servicing plan as requested by Network Rail; or

(c) that further information is required in order for Network Rail to make comments and/or reasonable amendments (in which case this paragraph 45(2) shall apply to such further information from the date of its receipt by Network Rail).

(3) In the event that Network Rail fails to serve written notice in accordance with paragraph 45(2) within 28 days of receipt no further consultation with Network Rail shall be required.

(4) The undertaker must include any reasonable amendments which are requested by Network Rail and notified to the undertaker by Network Rail in the notice given pursuant to paragraph 45(2)(b) in the draft delivery and servicing plan it submits to the relevant planning authorities in accordance with requirement 24 of Schedule 2 (Delivery and servicing plan) and the undertaker shall not submit any such written details to the relevant planning authorities or finalise a delivery and servicing plan which Network Rail has not been consulted on in accordance with paragraphs 45(2) or (3).

(5) Each notice and all other information required to be sent to Network Rail under the terms of this paragraph 45 shall:

(a) be sent to the Company Secretary and General Counsel at Network Rail Infrastructure Limited, 1 Eversholt Street, London, NW1 2DN via Royal Mail plc's special delivery service (or if this service is no longer being provided an appropriate recorded delivery postal service) and marked for the attention of the London North Western Route Level Crossing Manager; and

(b) contain a clear statement on its front page that the matter is urgent and Network Rail must respond within 28 days of receipt.

(6) In the event that any subsequent changes are made to the delivery and servicing plan following consultation with Network Rail, in so far as such changes impact on railway property, the undertaker shall not submit any such written details to the relevant planning authorities or finalise any updates to the delivery and servicing plan without further consultation with Network Rail.

46. The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

(a) in respect of the consultation with the engineer on the construction traffic management plan and the delivery and servicing plan submitted by the undertaker;

(b) in respect of the employment or procurement of the services of any inspectors, signalmen, watchmen and other persons whom it shall be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others;

(c) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others or from the substitution or diversion of services which may be reasonable necessary for the same reason; and

(d) in respect of any additional temporary lighting of railway property, being lighting made reasonably necessary by reason or in consequence of damage to railway property as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others.

47 —(1)The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule which may be occasioned to or reasonably incurred by Network Rail—

(a) by reason of the construction or maintenance of a specified works or the failure thereof or

(b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified works or

(c) by reason of any act or omission of the undertaker or any person in its employ or of its contractors or others whilst accessing to or egressing from the authorised development or

(d) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others;

and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified works or any such failure, act or omission: and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under his supervision shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) Network Rail must give the undertaker reasonable written notice of any such claim or demand and no settlement or compromise of such a claim or demand shall be made without the prior consent of the undertaker.

(3) The sums payable by the undertaker under sub-paragraph (1) shall if relevant include a sum equivalent to the relevant costs.

(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under subparagraph (3) which relates to the relevant costs of that train operator.

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs shall, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to subparagraph (4).

(6) In this paragraph—

"the relevant costs" means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any specified work including but not limited to any restriction of the use of Network Rail's railway network as a result of the construction, maintenance or failure of a specified works or any such act or omission as mentioned in subparagraph (1); and

"train operator" means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

48. Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.

Signed:

On behalf of: Network Rail

Date: 18 February 2021



Signed:



Kirsty Cobb, Technical Director, AECOM

On behalf of: EP Waste Management Ltd

Date: 18 February 2021