

Keadby Development Consent Order

Written Representations on behalf of Network Rail

1. **Introduction**
2. We are instructed by Network Rail Infrastructure Limited ("Network Rail") in relation to the development consent application made by Keadby Generation Limited ("the Promoter") for a combined cycle gas turbine (CCGT) power station, comprising a CCGT unit with a capacity of up to 910 megawatts electrical output (gross), carbon capture and compression plant, electrical, gas, and cooling water connections, and associated development ("the Project"). This section Written Representation is made on behalf of Network Rail.
 - 2.1 The draft DCO includes powers for the Promoter to acquire compulsorily new rights to enable access over plots 28 and 29 as shown on the Land Plans and set out in the Book of Reference. These plots comprise airspace occupied by a bridge over the railway that was constructed by SSE pursuant to a lease. SSE also maintain and use the bridge. Network Rail is the freehold owner of this airspace.
 - 2.2 The rights to be acquired over these plots are to facilitate the following works:
 - 2.2.1 Work No. 8A: access route comprising the maintenance and improvement of an existing private track running between Work Nos. 1 and 2 including private bridge and the existing junction with the A18 nearby to the west of Pilfrey Farm, comprising surfacing works and signage, and creation of on and off-slips; and
 - 2.2.2 Work No. 9B: the maintenance and improvement of the existing private tracks connecting the existing junctions with the A18 to the west of Pilfrey Farm with Work No. 9A via two existing private bridge crossings of the Hatfield Waste Drain, including the replacement, widening, improvement and maintenance of the westernmost existing private bridge crossing, surfacing, drainage and strengthening works, barriers and enclosures.
 - 2.3 Network Rail understand that the proposed works provide for the following:
 - 2.3.1 the routing of construction traffic (including HGVs and abnormal loads) over the railway using the existing North Pilfrey Bridge ("the Bridge") in connection with the construction of the Proposed Development (Work Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9A, 10, 11);
 - 2.3.2 the potential resurfacing, maintenance or improvement of the existing track passing over the North Pilfrey Bridge but no replacement, rebuilding or widening of the bridge or its parapets; and
 - 2.3.3 the continued use of a compound to the south of the railway which benefits from an existing planning permission with North Lincolnshire Council reference PA/2018/1950, dated 23 November 2018, defined as the 'Pilfrey laydown planning permission' in the draft DCO (APP-005).
3. **Role of Network Rail**
 - 3.1 Network Rail is a statutory undertaker responsible for maintaining and operating the country's railway infrastructure and associated estate.
 - 3.2 Network Rail owns and operates Great Britain's railway network and has statutory and regulatory obligations in respect of it.
 - 3.3 Network Rail's role in relation to the DCO process derives from the PA 2008 and secondary legislation made under the same.

3.4 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.

3.5 Network Rail has registered as an interested party in the DCO examination process by submitting a Relevant Representation to the Planning Inspectorate ('PINS').

4. Due to the DCO seeking to authorise work either above or adjacent to Network Rail's operational railway and works which may impede Network Rail's ability to ensure the safe, efficient and economical operation of the railway network, Network Rail requires certain standard protections for the benefit of the operational railway and to manage this interface. Network Rail's requirements for the protection of its operational railway and associated railway infrastructure are set out in further detail in this representation.

5. **Existing Agreement**

5.1 There is an existing lease of easement in relation to the Bridge between Network Rail and SSE PLC. However, this agreement would need to be varied in order to allow the bridge to be used for the Project.

5.2 The existing agreement is currently being reviewed alongside the draft Heads of Terms by Network Rail to ascertain whether a variation can be undertaken or a new agreement will be needed and also to confirm what protections are required to ensure the safe operation of the railway.

6. **Concerns over the Use of the Bridge for the Project**

6.1 The Promoter is proposing the variation of the Existing Agreement to allow the Bridge to be used in connection with the Project.

6.2 Network Rail are currently fully assessing the impact of such variation on the railway and would make the following initial comments:

6.2.1 meaning of 'improvement':

6.2.1.1 It is noted that the proposed works provide for the "potential resurfacing, maintenance or improvement of the existing track passing over the North Palfrey Bridge but no replacement, rebuilding or widening of the bridge or its parapets".

6.2.1.2 Network Rail would welcome clarity as to what would constitute 'improvement' to ensure that the full potential impact on the railway can be assessed.

6.2.2 any impacts of increased use:

6.2.2.1 any increased use of the Bridge must be carefully assessed to ensure that there is no adverse impact on the railway.

6.2.3 any mitigation measures required to prevent falling material;

6.2.3.1 It is imperative for the safe operation of the railway that any works required to the bridge are carried out in such a way as to ensure that no material falls on to the railway.

6.2.3.2 Network Rail would like to understand what measures will be put in place during any required works to the Bridge to ensure that

6.2.4 how the cable will be affixed to the bridge, the impacts of this and any required mitigation measures or asset protection agreements:

- 6.2.4.1 It is understood that as part of the proposed works for the Project, a cable will need to be laid across the Bridge.
- 6.2.4.2 Network Rail would like to understand how it is proposed that this cable will be affixed to the Bridge, any impacts of this on the railway and any mitigation measures which will be required for the carrying out of the works and how any such measures will be secured.
- 6.2.5 the appropriate level of public liability insurance will be required:
 - 6.2.5.1 Network Rail will require the Promoter to obtain and maintain an appropriate level of public liability insurance for the works.
- 6.2.6 any weight restrictions required:
 - 6.2.6.1 Network Rail are assessing whether any weight restrictions on vehicles using the Bridge are required in order to ensure the safety of the railway.
- 6.2.7 any traffic management over the bridge which needs be identified:
 - 6.2.7.1 Network Rail are assessing whether any traffic management measures will be required in relation to the Bridge to ensure the safety of the railway.

7. **Other Impacts of the Application on the Railway**

- 7.1 Network Rail are also currently assessing other potential impacts of the DCO and the Project on the railway.
 - 7.1.1 the potential increased risk of trespass:
 - 7.1.1.1 the presence of construction compounds and works in proximity to the railway increases the risk of trespass and suitable mitigation measures will be required to manage this risk.
 - 7.1.2 any risk associated with unloading / loading in areas adjacent to railway infrastructure including any crane operations, piling operations and increased vibration:
 - 7.1.2.1 the construction works themselves pose a risk to the stability and integrity of the railway and appropriate mitigation measures will be required.
 - 7.1.3 any indirect impact on the Chapel Lane Level Crossing:
 - 7.1.3.1 Network Rail are currently assessing whether the Project will have any indirect impact on this level crossing.
 - 7.1.4 any other operations which could impact on the safety of the railway.

8. **Powers sought in the DCO**

- 8.1 Network Rail objects to the powers contained in articles 20 (statutory authority to override easements and other rights), 22 (compulsory acquisition of rights etc.), 23 (private rights), 28 (temporary use of land for carrying out the authorised development, 29 (temporary use of land for maintaining the authorised development) and 33 (statutory authority to override easements and other rights) of the draft DCO authorising the Promoter to compulsorily acquire rights in or over land, or temporarily use land, which forms part of Network Rail's operational railway land and which Network Rail relies upon for the carrying out of its statutory undertaking.

- 8.2 Any temporary use of or entry upon Network Rail's operational railway can only be granted with Network Rail's consent as any such use of the railway must be in accordance with the statutory requirements imposed on Network Rail as operator of the railway network and all requirements necessary to ensure the safe operation of the railway.
- 8.3 Any acquisition of permanent rights could only be granted with Network Rail's consent and would require an easement agreed with Network Rail. It would also need to go through Network Rail's land clearance process as required by Network Rail's Network Licence.
- 8.4 Network Rail are currently reviewing whether there are any other rights over the DCO Land which would need to be retained. Any existing rights which Network Rail have over the land would need to be retained and cannot be subject to extinguishment under the Order.

9. **Protective Provisions and associated agreements**

- 9.1 Network Rail notes that the Promoter has not included Protective Provisions for the protection of Network Rail in the draft DCO.
- 9.2 The inclusion of Network Rail's standard form Protective Provisions in both TWAOs and DCOs is well precedented and includes, for example, protections for compulsory purchase of Network Rail's land and interests and processes for approving works on or affecting the railway. Network Rail requires its standard form Protective Provisions in the DCO.
- 9.3 In addition to protective provisions for the benefit of Network Rail being included in the Order, Network Rail also requires the Promoter to enter into an asset protection agreement to ensure the appropriate and necessary technical, engineering and safety requirements for working on or near Network Rail's operational railway are applied to the DCO Scheme.
- 9.4 Network Rail will also require the Promoter to enter into a Framework Agreement and any required property agreements and asset protection agreements.
- 9.5 Network Rail has shared a copy of its preferred protective provisions and a draft Framework Agreement with the Promoter's solicitor and are waiting for confirmation as to whether the Promoter will include the protective provisions in the DCO and enter into the Framework Agreement.

RESPONSES TO WRITTEN QUESTIONS

Q1.6.5: Network Rail are currently in discussions with the Promoter in relation to both required land rights and also the protection of Network Rail's assets. It is not yet possible to provide a time estimate for these discussions to conclude.

Q1.6.10: Network Rail's protective provisions were not included in the draft DCO submitted by the Promoter. Network Rail requires its standard protective provisions to be included in the DCO and also for the Promoter to enter into a Framework Agreement. Network Rail have provided a copy of its preferred protective provision wording to the Promoter's solicitors along with a Framework Agreement but are yet to receive confirmation that the Promoter will include the protective provisions in the DCO and enter into the Framework Agreement. Network Rail have included with this submission a copy of its preferred protective provisions to be included in the Order.