

# KEADBY 3 CARBON CAPTURE POWER STATION

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A collaboration between **SSE Thermal** and **Equinor**

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**The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order**

**Land at and in the vicinity of the Keadby Power Station site, Trentside, Keadby, North Lincolnshire**

## **Explanatory Memorandum**

**(non-scheme change DCO)**

**The Planning Act 2008**

**The Infrastructure Planning (Applications: Prescribed Forms and Procedure Regulations 2009**

**Applicant: Keadby Generation Limited**

**Date: May 2022**

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## Glossary of Terms <sup>1</sup>– Explanatory Memorandum

2008 Act	Planning Act 2008
Access and rights of way plans	The access and rights of way plans which form part of the Applicant' application for the Order.
Applicant	Keadby Generation Limited
Authorised development	The Proposed Development to be authorised by the DCO.
Book of Reference	A reference document providing details of all land ownership interests within the Order Limits as identified on the land plans.
CCGT	Combined Cycle Gas Turbine – a highly efficient form of energy generation technology. A gas turbine burns gas to drive a turbine to generate electricity. Surplus heat from the turbine is used to generate steam that is used to generate further electricity.
CCP	Carbon Capture Plant – plant used to capture carbon dioxide (CO <sub>2</sub> ) emissions produced from the use of fossil fuels in electricity generation and industrial processes.
DCO	A Development Consent Order made by the relevant Secretary of State pursuant to the Planning Act 2008 to authorise a NSIP. A DCO does or can incorporate or remove the need for a range of consents which would otherwise be required for a development. A DCO can also include powers of compulsory acquisition.
EIA	Environmental Impact Assessment. The assessment of the likely significant environmental effects of a development undertaken in accordance with the EIA Regulations
EIA Regulations	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 setting out how the EIA of Nationally Significant Infrastructure Projects must be carried out and the procedures that must be followed.
ES	The Environmental Statement documenting the findings of the EIA.
Land Plans	A plan showing all of the land that is required for the Proposed Development and/or over which rights or temporary use are to be sought as part of the DCO.
Model Provisions	Infrastructure Planning (Model) Provisions (England and Wales) Order 2009 (now repealed)

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<sup>1</sup> Note defined terms may appear in lower or upper case

National Grid Carbon Gathering Network	The Humber Low Carbon pipeline being promoted by the Zero Carbon Humber partnership.
Order	The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 202[x] being the DCO that would be made by the Secretary of State authorising the Proposed Development, a draft of which has been submitted as part of the Application.
Order land	Land identified on the land plans to be acquired permanently, over which new rights are to be acquired or for temporary use.
Order limits	The limits shown on the works plans within which the Proposed Development can be carried out as authorised by the Order.
Proposed Development	The proposed development to which the Application relates as listed in Schedule 1 to the Order.
Site	The land corresponding to the Order limits and encompassing the Order land and which is required for the construction and operation of the Proposed Development.
Secretary of State	The Secretary of State being the decision maker for the Application and head of Government department. In this case the Secretary of State for the Department of Business, Energy and Industrial Strategy.
Requirements	The "requirements" at Schedule 2 to the Order that, amongst other matters, are intended to control the final details of the Proposed Development to be constructed, to control its operation and to ensure that it accords with the EIA.
Works Plans	Plans showing the numbered works referred at Schedule 1 to the Order and submitted with the Application.

## 1 Introduction

- 1.1 This Explanatory Memorandum (**Memorandum**) accompanies an application for development consent (the **Application**) by Keadby Generation Limited (the **Applicant**). The memorandum explains the purpose and effect of each article, and Schedules to, the draft Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 202[x] (the **Order**) as required by regulation 5(2)(c) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 as amended.
- 1.2 Notwithstanding its repeal, the wording used in the draft Order has been derived from the Infrastructure Planning (Model) Provisions (England and Wales) Order 2009 (**Model Provisions**). The draft Order also draws from the drafting used in other orders for similar developments made under the Planning Act 2008 (the **2008 Act**), the Transport and Works Act 1992 and other Acts authorising development. Where this is done the applicability of the drafting to the approach taken by the Applicant to the proposed development is explained.
- 1.3 Terms used in the Order have the same meaning in this Memorandum unless otherwise specified.

## **2 The Purpose of the Order**

- 2.1 The Applicant is a wholly owned subsidiary of FTSE-listed SSE plc, one of the UK's largest and broadest based energy companies and a leading generator of renewable energy. The Applicant will be responsible for the construction, operation, maintenance and decommissioning of the Proposed Development.
- 2.2 The Order seeks authority for the construction and operation of carbon capture equipped gas fired generating station under Section 37 of the 2008 Act.
- 2.3 Pursuant to Sections 14(1)(a) and 15(2) of the 2008 Act, an on-shore generating station in England or Wales having a capacity of more than 50MW is a nationally significant infrastructure project (**NSIP**). Section 31 of the 2008 Act provides that a development consent order is required under the Act to the extent that development is or forms part of a NSIP.
- 2.4 As the proposed generating station is an on-shore generating station with a generating capacity of at least 50MW; it is a NSIP within the definition contained in sections 14 and 15 of the 2008 Act. The Proposed Development therefore falls within the remit of the Secretary of State, and the Applicant has made the Application of which the draft Order forms part.

### ***The Site***

- 2.5 The site for the Proposed Development comprises land within the boundary of the existing Keadby Power Station site near Scunthorpe, Lincolnshire and falls within the administrative area of North Lincolnshire Council. The Keadby Power Station site currently encompasses the operational Keadby 1 Power Station and Keadby 2 Power Station (under construction). SSE also operates the Keadby Windfarm which lies to the north and south of the Site.

### ***The Proposed Development***

- 2.6 The Proposed Development comprises the construction, operation and maintenance of a CCGT generating station, like Keadby 1 and Keadby 2 Power Stations, but will also be fitted with "first of a kind" in the UK, carbon capture plant (CCP) technology. This will capture around 1.5 million tonnes of carbon dioxide emissions per annum, that would otherwise be emitted. The main components of the Proposed Development can be summarised as follows;
- (a) National Grid 400kV Substation located directly adjacent to the Proposed Power Station Carbon Capture Site, through which electricity generated by the Proposed Development will be exported;
  - (b) emergency vehicle access road and potential electrical connection to Northern Powergrid Substation, the routes of which utilise an existing farm access track towards Chapel Lane and land within the existing Northern Powergrid substation on Chapel Lane;
  - (c) Water Connection Corridors:
    - (i) Canal Water Abstraction Option which includes land within the existing Keadby Power Station site with an intake adjacent to the Keadby 2 Power Station intake and pumping station and interconnecting pipework;
    - (ii) River Water Abstraction Option which includes a corridor that spans Trent Road and encompasses the existing Keadby Power Station pumping station,

below ground cooling water pipework, and infrastructure within the River Trent; and

- (iii) Water Discharge Corridor which includes an existing discharge pipeline and outfall to the River Trent and follows a route of an existing easement for Keadby 1 Power Station;
  - (d) use of the Waterborne Transport Offloading Area at Railway Wharf and provision and use of a temporary haul road;
  - (e) a number of temporary Construction Laydown Areas on previously developed land and adjoining agricultural land; and
  - (f) land at the A18 Junction and an existing site access road, including two existing private bridge crossings of the Hatfield Waste Drain lying west of Pilfrey Farm (the western of which is known as Mabey Bridge, to be replaced, and the eastern of which is termed Skew Bridge) and an existing temporary gatehouse, to be replaced in permanent form.
- 2.7 The Applicant will be responsible for constructing, operating, maintaining and decommissioning the plant and equipment required for the on-site capture of carbon dioxide emissions from the generating station.
- 2.8 It is intended that the Proposed Development will connect to the National Grid Carbon Gathering Network (NGCGN); the NGCGN will be responsible for the construction, operation and decommissioning of the carbon dioxide gathering network from onshore industrial facilities, including the Proposed Development, and transport carbon dioxide for offshore geological storage. The pipeline will connect the Proposed Development and other emitters in the Humber region. The export pipeline does not form part of this Application and will be subject to a separate development consent order application by the NGCGN<sup>2</sup>.

### ***Ancillary Matters***

- 2.9 The Order contains a number of ancillary matters required to facilitate the authorisation and carrying out of the Proposed Development.
- 2.10 The Order seeks to apply and modify statutory provisions in relation to the compulsory acquisition of land and rights. It is for this reason that under sections 117 and 120(5) of the 2008 Act the Order must be made by way of Statutory Instrument. The draft Order is therefore in that form.
- 2.11 Other ancillary matters include the alteration works to means of access and power to carry out street works and alterations to highway, together with landscaping and planting within the vicinity of the Proposed Development. The draft Order also makes provision for the application and disapplication of legislation.
- 2.12 The Order contains a deemed marine licence under Section 66(1) of the Marine and Coastal Access Act 2009 (the **2009 Act**); the details of which are set out in Schedule 13 of the draft Order.

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<sup>2</sup> <https://infrastructure.planninginspectorate.gov.uk/projects/yorkshire-and-the-humber/humber-low-carbon-pipelines>

### 3 The draft Order and Tailored Articles

3.1 A full, technical explanation of the proposed development is contained in Chapters 3 and 4 of the Environmental Statement (ES) (Application Document Reference 6.2.4.) accompanying the Application. In devising the Proposed Development in the application documentation, the Applicant has had careful regard to Planning Inspectorate's Advice Note 9; using the "Rochdale envelope".

3.2 The Advice note recognises that the approach known as the Rochdale envelope may be useful in considering applications for development consent under the 2008 Act, especially where there are good reasons why the details of the whole project are not available when the application is submitted. The conclusion of the Advice Note is:

*"the challenge for the EIA will be to ensure that all the realistic and likely worst case variations for the project have been properly considered and clearly set out in the ES and as such that the likely significant impacts have been adequately addressed."*

3.3 In order to facilitate the Proposed Development the application and draft Order provide the Applicant with some flexibility in relation to the water abstraction and cooling options for the proposed development (identified as Works No. 4A and 4B). One option is to utilise water extracted from the River Trent and the other is to utilise water extracted from the Stainforth and Keadby Canal. Whichever water source is utilised, treated return cooling water would be directed to the River Trent and discharged through the Keadby 1 Power Station outfall (which will also be utilised for treated water from Keadby 2 Power Station, once operational). The works plans currently identify two routes consistent with the two water cooling options. The rights needed for both options are also identified on the land plans. The option will be determined once the feasibility for water extraction from the Stainforth and Keadby Canal has been confirmed.

3.4 A similar "optional" approach relates to Works No. 3B which allows for a southern or northern route to be used in order to install cables to the Nation Grid substation, as the final route will be determined once detailed site investigation works have taken place.

3.5 In relation to both options, the Applicant is obliged, in settling the detailed design of these elements to confirm the options to be built pursuant to Requirement 5. A specific provision has been drafted to be included within Article 21 to ensure that new rights are confirmed as not being required, once the applicable option has been confirmed. Pursuant to Article 21(3) and (4) the Applicant is obliged, following compliance with the relevant Requirements to serve notices on those owners or individuals with interests in land affected by the option. Such notice is to confirm to the owner/occupied that their land is no longer required for that relevant Work.

3.6 An additional novel Article which has been included in the draft Order to respond to the specifics of this Article is Article 36 (Restoration works). The Proposed Development includes a temporary haul road used for the Keadby 2 Power Station abnormal load delivered from the Waterborne Transport Offloading Area. This route would be maintained as a temporary haul route, used and restored following completion of the construction of the Proposed Development.

3.7 A laydown area south of Stainforth and Keadby Canal and west of North Pilfrey Bridge includes a small area in use for Keadby 2 Power Station known as the Pilfrey laydown area. This area is also to be used for the Proposed Development.



- 3.8 Under the Keadby 2 consents, there are obligations requiring the restoration of the temporary haul road and Pilfrey laydown area following completion of the works. However, the intention is to utilise the existing temporary works for the purposes of Keadby 3 as part of this draft Order. Article 36 provides for the unlikely scenario that if works have not commenced on the Proposed Development by the expiry date of the consent and the temporary works have not been restored as part of the Keadby 2 consent. Article 36 requires the haul road and Pilfrey laydown area (as defined in the draft Order) to be restored in accordance with details to be submitted to and approved by the relevant planning authority.
- 3.9 In relation to Schedule 6 (New Rights) and Schedule 8 (land of which temporary possession may be taken), the plots over which powers of compulsory acquisition are sought, are identified by the relevant Work numbers. As there is an overlap of works, it means that some of the plots are identified more than once in relation to the applicable works, thereby confirming that certain plots are required for more than one work comprised in the authorised development.
- 3.10 It should be noted the Proposed Development is located on land owned by the Applicant that already accommodates two other power generating stations and infrastructure related to Keadby 1 and Keadby 2, with much of the Order land already within the control of the Applicant, SSE plc or its subsidiary companies. This means that the site is less sensitive to the development proposed and the flexibility sought by the Applicant is therefore appropriate and justified.

## **4 The Purpose and Structure of this Document**

- 4.1 This Explanatory Memorandum is prepared to explain the purpose and effect of each article of, and Schedules to, the draft Order, as required by Regulation 5(2)(c) of the AFPF Regulations.
- 4.2 It also seeks to identify and explain departures from the Model Provisions together with any particular novel provisions contained within the draft Order.
- 4.3 The Order consists of 45 operative provisions, each referred to as Articles, and 13 Schedules. This part of the Memorandum refers to the "undertaker" as defined in the draft Order (see further below).
- 4.4 The Order contains a number of provisions to enable the construction, maintenance and operation of the Proposed Development. These are briefly described below and the considered in more details in the following sections:
- (a) Part 1: Article 1 sets out what the Order may be cited as and when it comes into force. Article 2 sets out the meaning of the various terms used in the Order.
  - (b) Part 2: Articles 3 to 8 provides development consent for the Proposed Development and allow it to be constructed, maintained and operated. Articles 6 and 7 set out who has the benefit of the powers of the Order and how those powers can be transferred. Article 8 confirms which statutory provisions are modified and their subsequent application in the context of exercising powers under the Order.
  - (c) Part 3: Articles 9-13 provides for the undertaker to carry out street works to and within streets, to create or improve access and the ability to alter street layout.
  - (d) Part 4: Articles 14-17 sets out supplemental powers relating to the discharge of water, authority to survey land, removal of human remains, ability to temporarily interfere with the canal and public rights of navigation and the use of private roads for construction.
  - (e) Part 5: Articles 18-31 provide for the undertaker to compulsorily acquire the Order land, and rights over/within it, and to be able to temporarily use parts of the Order land for the construction or maintenance of the Proposed Development. The provisions for compensation to be payable to affected persons in respect of affected persons (if not covered elsewhere) and also powers in relation to the equipment of statutory undertakers.
  - (f) Part 6: Articles 32 -34 provide confirmation that Crown Rights are not affected by the compulsory acquisition powers provided for in the Order, powers in relation to trees which need to be removed or lopped in relation to the Proposed Development and any protective works to buildings.
  - (g) Part 7: Articles 35 to 45 – this contains various general provisions in relation to the Order:
    - (i) Article 35 provides protection for statutory undertakers through the protective provisions set out in Schedule 10;
    - (ii) Article 36 is a novel provision which makes provision for the restoration of certain works required as part of the Keadby 2 consents in the event that the

Proposed Development is not implemented within the timescales for commencement;

- (iii) Articles 37-45 includes provisions such as the application of statutes relating to leases, that the Order land will be "operational land", a defence to proceedings for statutory nuisance; deemed MMO licence provisions, procedure for approvals required under the Order, certification of documents, arbitration in the case of dispute and notices served under the Order.
  
- (h) Schedules: there are 13 Schedules to the Order, providing for a description of the Proposed Development (Schedule 1), the Requirements (Schedule 2), matters in relation to streets, highway alterations and access alterations (Schedules 3 to 5), land in which only new rights maybe acquired (Schedule 6), amendments to statutes to ensure appropriate compensation is payable where new rights in land are acquired (Schedule 7), land which may be used temporarily for the Proposed Development (Schedule 8), the procedure for discharging requirements (Schedule 9), protective provisions for statutory undertakers and their apparatus (Schedule 10), Design parameters (Schedule 11), list of documents and plans to be certified (Schedule 12) and a deemed marine licence (Schedule 13).

## 5 Provisions of the Order

### **Part 1- Preliminary**

- 5.1 Article 1 (*Citation and Commencement*) provides for the way in which the Order should be cited and when it takes effect.
- 5.2 Article 2 (*Interpretation*) – the purpose of Article 2 is to define various terms used in the Order. Definitions for documents submitted with the Application and which are referred to in the Order have been added (e.g. environmental statement, design principles, combined heat and power assessment etc.). The majority of the definitions are standard definitions which can be found in other DCO's, some definitions worth explaining are:
- (a) "*commercial use*" and "*commissioning*" - these definitions are substantively similar to those founds in other DCOs but contain additional wording to provide clear alignment with the likely procurement and construction arrangements for the Proposed Development. The definition of "*commercial use*" has been updated to respond to representations made by ClientEarth, to include reference to the export of captured compressed carbon dioxide emissions from the authorised development as part of its commercial use.
  - (b) "carbon capture and compression plant" – this definition has been updated to respond to representations made by ClientEarth to include reference to the minimum capture rate of 90% of carbon dioxide emissions at full load.
  - (c) "*group company*" – this definition applies in relation to Article 7 (*Consent to transfer benefit of the Order*) regarding consent to transfer the benefit of the order. It is intended to capture possible company re-organisation/structuring of the undertaker to enable the position that if the proposed "new" undertaker falls within the definition of "group company" then there would be no specific requirement to obtain the consent of the Secretary of State to transfer the benefit of the DCO. Presently there are other operations being carried out at the Keadby site by SSE plc companies in relation to the Keadby 1 power station, Keadby 2 (under construction) and Keadby windfarm.
  - (d) "*haul road*", "*haul road plans*" and "*haul road planning permission*"- these definitions are required for Article 36 (*Restoration*). The Keadby 2 development is in the process of being constructed and as part of these works temporary laydown areas (Pilfrey laydown) and a haul road has been installed to assist with its construction. The Keadby 2 planning permissions require that the haul road and Pilfrey laydown areas be re-instated and restored following completion of the Keadby 2 development. These same areas are required as part of the construction for the authorised works. Requirements 21 and 24 require the restoration of these areas following completion of the authorised works. In the event that the authorised development is not commenced before the expiry of the development consent (i.e. 7 years) there may still be a need to restore these areas. Article 36 therefore secures the restoration of the haul road and Pilfrey laydown areas in those circumstances.
  - (e) "*maintain*" has been defined to be clear what activities are authorised under article 4 during the operation of the authorised development, and in particular that it does not permit the undertaker to undertake such maintenance works if they will give rise to any materially new or different environmental effects to those identified in the Environmental Statement.

- (f) "*permitted preliminary works*" has been defined to allow certain specified types of activities to be carried out without compliance with various pre-commencement requirements (those with a saving for permitted preliminary works as listed in Schedule 2 (*Requirements*)) in order to support the efficient construction of the authorised development. The definition comprises early site set up and clearance activities that potentially represent works of development but which are *de minimis* in planning terms and would not have impacts of EIA significance.
- (g) "*Pilfrey laydown plans*" and "*Pilfrey laydown planning permission*", these definitions are used in Article 26 (*Restoration*) as is explained in paragraph (c) above.
- (h) "*undertaker*" is defined as Keadby Generation Limited who has the benefit of the provisions of the Order pursuant to Articles 6 (*Benefit of the Order*) and 7 (*Consent to transfer benefit of the Order*).
- (i) "*works plans*" the definition of works plans confirms that the limits of deviations have been incorporated within the works areas identified on the works plans.

5.3 Paragraph 4 to Article 2 (*Interpretation*) has been included to add some clarity to reflect the position that Schedule 13 (deemed MMO licence) has its own definitions. In the event that there is any duplication of definitions included in Article 2 within either of those schedules, then for the purpose of those schedules the definitions in Schedule 13 shall take precedence.

## **Part 2- Principal Powers**

- 5.4 Article 3 (*Development Consent etc granted by the Order*). This grants development consent for the authorised development within the Order limits authorising the construction of the authorised development. The authorised development means the development under Sections 14(1)(a) and 15(2) of the 2008 Act and as described in Schedule 1 (*Authorised development*) of the Order. The authorised development is split into different work numbers. The areas within each work must be constructed within each works area identified on the plans.
- 5.5 Article 4 (*Maintenance of Authorised Development*) provides for the maintenance of the authorised development. Article 4 is clear that maintenance must be in accordance with the provisions of the Order except to the extent any other provisions in the Order (or any agreement) made under the Order provides otherwise.
- 5.6 Article 5 (*Operation of Authorised Development*). This permits the operation and use of the generating station comprised in the authorised development. It is included for the avoidance of doubt and in accordance with section 120(3) and is a matter specifically identified in paragraph 5 of Schedule 5 to the 2008 Act which relates to the operation of a generating station. It also reflects Section 140 of the 2008 Act which states that a DCO may include provision authorising the operation of a generating station where the order relates to the construction of the generating station. Article 5(2) specifically preserves the need for the undertaker to obtain any operational consent that may be needed for the generation station in addition to the Order.
- 5.7 Article 6 (*Benefit of the Order*). This overrides Section 156(1) of the 2008 Act and provides that the benefit of the Order is for the undertaker rather than anyone with an interest in the land. Due to the nature of the authorised development, it is entirely appropriate that this power under the Order is only exercised by the undertaker and not any person having an interest in the land. Certain parts of the Works have been identified as being also for the

benefit of other parties, namely National Grid Electricity Transmission, National Grid Gas plc and National Grid Carbon Limited, as these elements of the works may be carried out by the relevant National Grid company. Overriding Section 156(1) is common in DCOs that have been made, including the Hinckley Point C (Nuclear Generating Station) Order 2013, North Killingholme (Generating Station) Order 2013 and the Drax Power (Generating Stations) Order 2019.

- 5.8 Article 7 (*Consent to Transfer Benefit of the Order*). This makes provision for the transfer of the benefit of the Order. The consent of the Secretary of State is needed before the undertaker can transfer the benefit of the Order or grant a lease to another person, except where the transferee or lessee is (1) the holder of a electricity generating licence (2) a highway authority responsible for the highways within the Order limits; (3) is a company within a group company or (4) where the compensation provisions for the acquisition of rights or interest in land or if all effects on land have been discharged or are no longer relevant.
- 5.9 Reference has been made to group company (as defined in Article 2) to allow for the benefit of the Order to be transferred between the family of the Applicant's companies on the basis that this allows for any restructuring of the companies who may take over responsibility for the authorised works and/or the Proposed Development's continued operation in the future. It is also considered that the exemption relating to a holder of a licence under S6 of the Electricity Act 1989 is justified on the basis that, in considering whether to grant a generating licence under the Electricity Act 1989, the Secretary of State will have established the fitness of the licence holder and its suitability to take the benefit of the Order and similarly for those elements of highway works being carried out by a highway authority.
- 5.10 Article 7(4) provides that the Secretary of State is obliged to consult the Marine Management Organisation (MMO) before giving consent to transfer or grant to another person the whole of the benefit of the provisions of the deemed marine licence. Where consent is not required under these provisions, paragraph 5 and 6 requires written notification to be given to the Secretary of State. This wording is used in a number of DCOs including the Drax Power (Generating Stations) Order 2019 and the West Burton C (Gas Fire Generating Station) Order 2020.
- 5.11 Article 8 (*Application and Modification of Statutory Provisions*). This article dis-applies provisions of the Neighbourhood Planning Act 2017. This application provides that the temporary possession provisions in that enactment will not take effect in operating the temporary possession provisions contained in this Order. The rationale for this is that the wording of the temporary possession provisions within the Order is well established and the relevant provisions relating to the temporary possessions within the Neighbourhood Planning Act 2017 are currently untested and regulations required to provide more detail on the operation of the regime have yet to be made. There is a precedent for this approach in the proposed Millbrook Gas Fire Generating Station Order 2019, the Silvertown Tunnel Order 2018 and the A19/A184 Testo's Junction Alteration Development Consent Order 2018 and Drax Power (Generating Stations) Order 2019.

### **Part 3 - Streets**

- 5.12 Article 9 (*Street Works*). This provides that the undertaker may enter any of the streets specified in Schedule 3, within the Order limits, to undertake the activities listed for the purposes of the authorised development. The right given by the Article is a statutory right for the purposes of Section 48(3) (Street Works and Undertakers) and Section 51(1) (Prohibition of Unauthorised Street Works) of the New Roads and Street Works Act 1991.

- 5.13 Article 10 (*Power to alter layout etc of Streets*). This has been included to provide the right to alter the layout of a street in the case of permanent alterations and works specified in Schedule 4. Paragraph (5) of this Article imposes a time limit for the highway authority to provide consent, if the undertaker is required to apply for such consent pursuant to paragraph (3) of the Article. If within 28 days the highway authority fails to respond then consent is deemed to have been given. The provision for deemed consent after 28 days avoids unnecessary delays to the authorised works. This has precedent in the recent Transport and Works Act Orders of Network Rail (East West Rail) (Bicester to Bedford Improvements) Order 2020 (S.I.2020 No.114) and Network Rail (Ordsall Chord) Order 2015.
- 5.14 Article 11 (*Construction and Maintenance of new or altered means of access*). Provides that new or altered means of access are to be constructed to a particular standard and maintained at the expense of the undertaker for a year. Any part of the new or altered means of access which are proposed to be public highway (as set out in the Access and Rights of Way Plan) and described Schedule 5 will then be maintained by the Highway Authority. Paragraph 1 of Article 11 has been tailored to respond to North Lincolnshire Council's (as highway authority) request that any highway works to be maintained at public expense should be subject to inspection and sign off of such works. Accordingly the highway authority is not obliged to be responsible for the maintenance of those works until it is satisfied with the standard of the works, including any remedial works it may require be carried out to ensure the highway works are up to the required standard.
- 5.15 Paragraph 4 and 5 mirror the defence in Section 58 of the Highways Act 1980 where the undertaker is subject to an action for damages and has taken such care as was reasonably required in the circumstances to secure that the street was not dangerous to traffic. This Article and the incorporation of defence in particular is similar to Article 19 in the Hinckley Point C (Nuclear Generating Station) Order 2013 and the Drax Power (Generating Stations) Order 2019.
- 5.16 Article 12 (*Access to Works*). This Article provides that the undertaker may form new or improved existing means of access in the locations specified in Schedule 4 (*streets subject to permanent alterations of layout*) and for any other access, with the approval of the relevant planning authority after consultation with the relevant highway authority. Other means of access or works can also be provided in other locations reasonably required for the authorised development with the approval of the highway authority. As with Article 10 (*Power to alter layout, etc., of streets*), a time limit has been included for the highway authority to provide its consent, with such consent being deemed if consent is not forthcoming after 28 days or, if refused, proper reasons have not been given for such refusal. This has precedent in the recent Transport and Works Act Orders of Network Rail (East West Rail) (Bicester to Bedford Improvements) Order 2020 (S.I.2020 No.114) and Network Rail (Ordsall Chord) Order 2015.
- 5.17 Article 13 (*Agreement with Street Authorities*). This authorises street authorities and the undertaker to enter into agreements relating to the construction of a street or the carrying out of works on the street and the alteration diversion of the street. It also provides for such agreements to deal with the strengthening, improvement or repair of any streets. Such a provision was included in the Progress Power (Gas Fired Station) Order 2015 and the Drax Power (Generating Stations) Order 2019.

#### **Part 4 Supplemental Powers**

- 5.18 Article 14 (*Discharge of water*) provides that the undertaker can use and connect into (either directly or through) additional infrastructure any existing watercourse, public sewer or drain

within the Order limits for the purposes of the authorised development. Article 14(3) provides that before the undertaker can discharge any water into any watercourse, public sewer or drain, it must first obtain the consent of the owner, who may impose reasonable terms and conditions on the discharge.

- 5.19 Article 14(6) prevents the undertaker from carrying out any works that damage or interfere with the beds or banks of watercourses forming part of a main river without the Environment Agency's consent.
- 5.20 Article 14(7) confirms that the right to discharge does not remove the requirement to obtain environmental permits in respect of any discharges to water or groundwater.
- 5.21 Article 15 (*Authority to survey and investigate the land*) authorises the undertaker to enter onto any land within the Order limits or which may be affected by the authorised development to undertake various survey and investigative works including trial holes. The power is subject to a number of conditions, including a requirement for 14 days' notices to be given and is subject to the payment of compensation.
- 5.22 Article 16 (*Temporary interference with canal and public rights of navigation*) – during the construction process there will be a need to temporarily moor vessels along parts of the Stainforth and Keadby Canal and River Trent, load and unload them and possibly interfere with other vessels navigating the canal. This article has been included to allow the undertaker to temporarily interfere with other users rights as set out in the article, it is subject to the protective provisions agreed with the Canal and River Trust at Part 2 of Schedule 10. Paragraph (3) makes provision for payment of compensation for any loss suffered by reason of interference with any private rights of navigation. The provisions reflect those included in The Eggborough Gas Fired Generating Station Order 2018.
- 5.23 Article 17 (Use of Private roads for construction) – this permits the undertaker to use private roads within the Order limits for the purposes of constructing the authorised works, the extent of private roads is identified on the Access and Rights of Way Plan. Whilst most of these private roads are within SSE plc ownership (or subsidiary company ownership) and necessary rights are being sought to use these roads as part of the Order, it has been considered appropriate to include this power out of prudence. There is precedent for this provision in the London Overground (Barking Riverside Extension) Order 2017.

#### ***Part 5 Powers of Acquisition***

- 5.24 Article 18 (*Compulsory acquisition of land*) this article provides the undertaker with the powers to compulsorily acquire any land within the Order limits where that land is required for purposes in connection with or ancillary to the authorised development. This power is necessary to ensure that the undertaker can have exclusive possession and control of land that is required for the authorised development. This article is subject to article 21 (compulsory acquisition of rights) article 27 (temporary use of land for carrying out the authorised development), article 30 (statutory undertakers) and article 32 (Crown Rights).
- 5.25 Article 19 (*Statutory authority to override easements and other rights*). This provides that by virtue of Section 158 of the 2008 Act, in carrying out or using the development authorised by the Order, the undertaker may interfere with any easement, liberty, privilege, rights or advantage annexed to such land and affecting other land. This will include any natural right to support, breach of any restriction as to use of the land arising by virtue of contract. By virtue of Section 152 of the 2008 Act compensation may be payable under Section 10 of the Compulsory Purchase Act 1965 for any such interference or breach. This provision has been



previously authorised in for example Rookery South (Resource Recovery Facility) Order 2011, Wrexham Gas Fire Generating Station Order 2017 and Drax Power (Generating Stations) Order 2019.

- 5.26 Article 20 (*Time limit for exercise of authority to acquire land compulsorily*). This Article provides a limit of five years beginning on the day on which this Order is made to exercise the powers of compulsory acquisition of land. This time limit is in keeping with other DCO's.
- 5.27 Article 21 (*Compulsory acquisition of rights etc*). Article 21 enables the undertaker to acquire rights over land, including new rights and existing rights if applicable.
- 5.28 As identified above, the authorised works currently include options in relation to Work Nos 4A, 4B and 3B. Paragraph (3) requires, following confirmation of the Work No. 4 option pursuant to requirement 5(4), that the undertaker serve notice on all parties with interests in the relevant plots not affected by the confirmed Work No.4 option, such notice is to confirm that their land is no longer required.
- 5.29 Paragraph 4 requires the undertaker, once the Work No. 3B option has been confirmed in accordance with requirement 5(3), to serve notice on those with interests in plots whose land is not required to implement the Work No. 3B option. The purpose of the notice is to confirm the undertaker no longer intends to compulsorily acquire new rights in those plots.
- 5.30 The Article introduces Schedule 7 (*Modifications of compensation and compulsory purchase enactments for creation of new rights*) which amends existing compensation legislation in the case of compulsory acquisition under the Order or a right by the creation of a new right or the imposition of a restriction. Schedule 7 does not affect their entitlement to compensation but generally ensures the compensation code applies. The Article also provides for the transfer of power to acquire new rights to a statutory undertaker with the consent of the Secretary of State to allow for the creation of easements in favour of statutory undertakers in respect of their apparatus which would not otherwise be possible as the undertaker would not be the dominant tenement.
- 5.31 Article 22 (*Private rights*). This has the effect of extinguishing private rights and restrictions over land where (1) the land is subject to compulsory acquisition (2) the private right is inconsistent with the right being compulsorily acquired or (3) the land is owned by the undertaker. The Article also suspends private rights for as long as the undertaker is in temporary possession of land under the Order. This Article follows the approach in Wrexham Gas Fired Generating Station Order 2017 and Drax Power (Generating Stations) Order 2019.
- 5.32 Article 23 (*Application of the Compulsory Purchase (Vesting) Declarations Act 1981 and Part 1 of the Land Compensation Act 1961*). This applies the vesting procedures in the Compulsory Purchase (vesting) Declarations Act 1981 to the exercise of powers of compulsory acquisition pursuant to the Orders. It gives the undertaker the option to acquire land via the process set out in the 1981 Act rather than via the notice to treat/notice to entry process. The Article has been updated to incorporate and reflect changes brought about by the Housing and Planning Act 2016.
- 5.33 A new provision has been added at paragraph 11 to modify the application of Part 1 of the Land Compensation Act 1961 so that it applies in relation to all disputes which may arise in relation to all circumstances which give rise to compensation payable pursuant to the provisions of this Order. This provision allows for any dispute as to compensation to be referred to the Upper Tribunal and not only in circumstances where a dispute arises for land acquisition.

- 5.34 Article 24 (*Acquisition of sub-soil or airspace only*). This permits the undertaker to acquire only the sub-soil or airspace of land which is to be compulsorily acquired or the sub-soil of rights or air rights over land which may be created and gives the undertaker the ability to minimise the extent of interests acquired from owners. This Article is appropriate in the context of cables or pipes to be laid underground as part of the authorised development where the acquisition of the entire freehold may not be necessary.
- 5.35 Article 25 (*Modification of Part 1 of the Compulsory Purchase Act 1965*). This modifies the provisions of Part 1 of the Compulsory Purchase Act 1965 as applied to the Order by Section 125 of the 2008 Act. This provision reflects changes introduced by the Housing and Planning Act 2016. Paragraphs 1 to 3 amend the Compulsory Purchase Act 1965 so they are consistent with the terms of the Order and paragraph 4 makes a clear that the notice period introduced by the Housing and Planning Act 2016 does not apply to the temporary possession or use of the land under Article 27 (*Temporary use of land for carrying out the authorised development*), 28 (*temporary use of land for maintaining the authorised development*) or 35 (*Protective Provisions*) of this Order. These modifications have broad precedent in Schedule 14 to the High Speed Rail (London–West Midlands) Act 2017 and the Wrexham Gas Fired Generating Station Order 2017).
- 5.36 Article 26 (*Rights under or over streets*). This is adapted from the Model Provision to allow the undertaker to enter on and appropriate interests within streets where required for the purpose of the authorised development without being required to acquire that land. Provision is made for payment of compensation in certain circumstances. This wording has precedent in the Progress Power (Gas Fire Power Station) Order 2015.
- 5.37 Article 27 (*Temporary use of land for carrying out the authorised development*). This Article enables the undertaker in connection with the carrying out of the authorised development to take temporary possession of the land as listed in column 2, Schedule 8 (*Land of which temporary possession may be taken*). It also permits land to be temporarily occupied relating to any area within the Order limits. It imposes time limits for the occupation of land acquired temporarily. The undertaker must give at least 14 days' notice of its intended date to enter onto land pursuant to this article and to restore the land following the temporary works.
- 5.38 Article 28 (*Temporary use of land for maintaining the authorised development*). This allows any land within the Order land to be temporarily used for carrying out the authorised development. However in order to carry out and comply with the landscaping commitments as part of the authorised works (see indicative landscaping and biodiversity management and enhancement plan), the maintenance period has been extended to reflect such maintenance period as will be established as part of Requirement 6. A similar provision was included in the North Wales Windfarm Connection Order 2016 and the Drax Power (Generating Stations) Order 2019.
- 5.39 Article 29 (*Statutory undertakers*). This allows for the acquisition of land belonging to statutory undertakers within the Order land and includes the power to move apparatus of those statutory undertakers and extinguish their rights. This article is subject to the Protective Provisions (see Article 35 below) included at Schedule 10 of the Order. Similar wording has been used in Orders including the Wrexham Gas Fire Generating Station Order 2017 and the Drax Power (Generating Stations) Order 2019.
- 5.40 Article 30 (*Apparatus and rights of statutory undertakers of streets*). This makes provision in respect of apparatus and rights of statutory undertakers in streets which are temporarily altered or diverted or where use is temporarily prohibited or restricted under Articles 9, 10, 11 and 12 including provision as to the relocation of apparatus.

- 5.41 Article 31 (*Recovery of costs of new connections*). This provides that persons who have to create a new connection following the exercise of powers under Article 30 may recover costs of new connections from the undertaker.

### **Part 6 – Operations**

- 5.42 Article 32 (*Crown Rights*) this article prevents protects Crown Land from any compulsory acquisition unless the Crown gives written consent. For the purposes of completeness, those plots in which the Crown has an interest are identified in (as applicable) in Schedule 6 (*New Rights*) and Schedule 8 (*Land of which temporary possession may be taken*), however the Crown interests are excluded in the Book of Reference and also have the benefit of Article 32, in that powers of compulsory acquisition cannot be used against any Crown interest without the consent of the Crown.
- 5.43 Article 33 (*Felling or lopping of trees and removal of hedgerow*). This provides that the undertaker may fell or lop or cut back the roots of any trees or shrub near the part of the authorised development. It has been specifically amended, following the Examination Hearing on the DCO to limit the use of this power to where needed to prevent a tree or shrub from obstructing or interfering with the passage of abnormal indivisible loads to the extent needed for the purposes of constructing the authorised development. the extent it is necessary to facilitate the passage of abnormal indivisible loads. Compensation is provided for if loss or damage is caused.
- 5.44 Article 34(*Protective Works to buildings*). This allows the undertaker to carry out protective works to buildings within the Order limits subject to a number of conditions including the serving of 14 days notices (except in the case of emergency) and payment of compensation.

### **Part 7 – Miscellaneous and General**

- 5.45 Article 35 (*Protective provisions*). This provides for Schedule 10 (*Protective provisions*) which protects the interests of certain statutory undertakers, to have effect.
- 5.46 Article 36 (*Restoration Works*) this article is specific to the authorised works. The Keadby 2 development is in the process of being constructed and as part of these works temporary laydown areas (Pilfrey laydown) and a haul road has been installed to assist with its construction. The Keadby 2 planning permissions require that the haul road and Pilfrey laydown areas be re-instated and restored following completion of the Keadby 2 development. These same areas are required as part of the construction for the authorised works. Requirements 21 and 24 require the restoration of these areas following completion of the authorised works. In the event that the authorised development is not commenced before the expiry of the development consent (i.e. 7 years) there may still be a need to restore these areas. Article 36 therefore secures the restoration of the haul road and Pilfrey laydown areas in those circumstances.
- 5.47 Article 37(*Application of landlord and tenant law*). This Article overrides the application of landlord and tenant laws so far as it may prejudice the operation of any agreement for leasing the whole or part of the authorised development or the rights to operate the same agreement entered into by the undertaker for the construction, maintenance, use or operation of the authorised development.
- 5.48 Article 38 (*Operational land for the purposes of the 1990 Act*). This Article provides that the development consent granted by this Order shall be treated as a specific planning permission

for the purposes of Section 264(3) of the Town and Country Planning Act 1990 (cases in which land is to be treated as operational land for the purposes of that Act).

- 5.49 Article 39 (*Deemed Marine Licence under the Marine and Coast Access Act 2009*). This Article provides for the Deemed Marine Licence. The terms of the licence are set out in Schedule 13. The provisions are consistent with those in The Eggborough Gas Fired Generating Station Order 2018.
- 5.50 Article 40 (*Defence to proceedings in respect of statutory nuisance*). This Article provides that no one should be able to bring statutory nuisance proceedings under the Environmental Protection Act 1990 in respect of noise if the noise is created in the course of constructing or maintaining the authorised project and for which a notice under Section 60 has been given or consent obtained under Section 61 or 65 of the Control of Pollution Act 1974 or which cannot reasonably be avoided as a consequence of the Authorised Development. The Article also relates to other forms of statutory nuisance under Section 79(1)(b), (c), (d), (e), (fb) (g) or (h) which covers issues such as nuisance created by dust, artificial light, fumes, other emissions or effluvia. The Statement of Statutory Nuisance submitted in support of the DCO application (Document ref:5.9) which identifies the assessment undertaken regarding possible significant effects that could constitute a statutory nuisance and concludes that the proposed development will not give rise to statutory nuisance during construction or operational stages; accordingly it is appropriate to include a defence against statutory proceedings with the Order in the form proposed.
- 5.51 Article 41 (*Certification of plans etc.*). This provides for the submission of the various documents referred to in the Order (such as the Book of Reference, works plans and Environmental Statement) to the Secretary of State so that they could be certified as being true copies. The list of documents to be certified is set out in Schedule 12 (*Documents and plans to be certified*) of the Order.
- 5.52 Article 42 (*Service of notices*). This deals with the service of notices pursuant to the Order. These provisions are based on those appearing in the Transport and Works (Model Provisions to Railways and Tramways) Order 2006.
- 5.53 Article 43 (*Procedure in relation to certain approvals etc.*). This provides procedures in relation to consents and approvals required pursuant to the Order. Schedule 9 contains the process for discharge.
- 5.54 Article 44 (*Arbitration*). This is a general arbitration provision which provides for differences under the Order should be settled by arbitration unless means of resolving a dispute is provided for in the Order. It has been amended to carve out that any consent or approval from the Secretary of State or MMO shall not be subject to arbitration.
- 5.55 Article 45 (*Guarantees in respect of payment of compensation*). This restricts the undertaker from exercising powers confirmed under Articles 18, 21, 22, 26, 27, 28, and 29 until it has either put in place a guarantee or other security approved by the Secretary of State in respect of liabilities of the undertaker to pay compensation under the Order. The guarantee or alternative form of security is not required to be in place for more than 15 years from the date on which the relevant power is exercised.

## 6 Schedule 1 – Authorised Development

**Schedule 1** describes the Authorised Development in detail, split into "work numbers", each of which represents a different element of the authorised works. The areas within each work can be constructed is shown on each of the referenced work plans.

6.1 **Work No. 1** – a carbon capture enabled electricity generating station located on land at the Keadby Power Station site, west of Scunthorpe, gas fuelled, and with a gross output capacity of up to 910 megawatts (MWe) at ISO standard reference conditions comprising—

- (a) **Work No. 1A** – a combined cycle gas turbine plant, comprising—
  - (i) a combined cycle gas turbine;
  - (ii) a steam turbine;
  - (iii) gas turbine hall and steam turbine hall;
  - (iv) heat recovery steam generator;
  - (v) gas turbine air intake filters;
  - (vi) emissions stack;
  - (vii) transformers;
  - (viii) deaerator and feed water pump house buildings;
  - (ix) nitrogen oxide emissions control equipment and chemical storage;
  - (x) chemical sampling / dosing plants; and
  - (xi) continuous emissions monitoring system.
- (b) **Work No. 1B** – combined cycle gas turbine plant cooling infrastructure, comprising—
  - (i) hybrid cooling towers;
  - (ii) cooling water pumps, plant and buildings; and
  - (iii) cooling water dosing and sampling plant and buildings
- (c) **Work No. 1C** – carbon dioxide capture plant, comprising—
  - (i) flue gas pre-treatment plant, including cooling and scrubbing plant and flue gas blower;
  - (ii) carbon dioxide absorber unit(s) and associated stack(s);
  - (iii) carbon dioxide stripper and solvent regenerator;
  - (iv) ammonia emissions monitoring and control equipment and associated chemical storage;
  - (v) carbon dioxide conditioning and compression plant; and

- (vi) ancillary equipment, including air compressors, pumps, heat exchangers, water treatment plant and pipework.
- (d) **Work No. 1D** – natural gas reception facility, comprising:
- (i) above and below ground valves, flanges and pipework;
  - (ii) gas supply pipeline connection works;
  - (iii) gas receiving area;
  - (iv) gas de-compression equipment and maintenance building and pipeline internal gauge launcher;
  - (v) an above or below ground isolation valve;
  - (vi) gas vents;
  - (vii) gas metering, dehydration and pressure reduction equipment;
  - (viii) instrumentation and electrical kiosk(s);
  - (ix) telemetry equipment kiosk(s); and
  - (x) standby generator sockets.
- (e) **Work No. 1E** - generating station supporting uses, comprising:
- (i) administration and control buildings;
  - (ii) raw water storage tank(s);
  - (iii) demineralised water treatment plant, including storage tanks; and
  - (iv) permanent plant laydown area(s) for operation and maintenance activities
- (f) In connection with and in addition to Work Nos. 1A, 1B, 1C, 1D and 1E:
- (i) administration and control buildings;
  - (ii) auxiliary plant, buildings, enclosures and structures;
  - (iii) auxiliary boiler;
  - (iv) emergency diesel generators and bunded diesel storage tank(s);
  - (v) chemical storage facilities;
  - (vi) demineralised water treatment plant, including storage tank;
  - (vii) firefighting equipment and building;
  - (viii) fire storage tank(s);
  - (ix) fire water retention basin;

- (x) gatehouses;
- (xi) mechanical, electrical, gas, telecommunications and water networks, pipework, pipe runs, cables, racks, infrastructure, instrumentation and utilities including connections between Work Nos 2, 3, 4, 5, 6, 7 and 8, and parts of Work Nos. 1A, 1B, 1C, 1D and 1E;
- (xii) permanent plant laydown area(s) for operation and maintenance activities;
- (xiii) waste water treatment facilities; and
- (xiv) workshop and stores building.

and associated development within the meaning of section 115(2) of the Planning Act 2008 in connection with the nationally significant infrastructure project referred to in Work No. 1, comprising—

6.2 **Work No. 2** – a high pressure gas supply pipeline for the transport of natural gas to Work No. 1, comprising a high pressure steel pipeline of up to 800 millimetres (nominal bore) in diameter and approximately 0.3km in length, including cathodic protection posts and marker posts, running within the Keadby Power Station site between Work No. 1D and Work No. 2B, and above ground installation comprising—

(a) **Work No. 2A** – a compound for National Grid Gas’s apparatus, comprising—

- (i) an offtake connection from the National Transmission System;
- (ii) above and below ground valves, flanges and pipework;
- (iii) an above or below ground remotely operated valve;
- (iv) an above or below ground remotely operated valve bypass;
- (v) an above or below ground pressurisation bridle;
- (vi) instrumentation and electrical kiosks;
- (vii) pipeline inspection gauge receiving facility; and
- (viii) telemetry equipment kiosks and communications equipment,

(b) **Work No. 2B** – a compound for the undertaker’s apparatus, comprising—

- (i) above and below ground valves, flanges and pipework;
- (ii) an above or below ground isolation valve;
- (iii) an above or below ground pipeline inline gauge launching facility;
- (iv) instrumentation and electrical kiosks; and
- (v) telemetry equipment kiosks and communications equipment,

- (c) in connection with Work Nos. 2A and 2B, access works, vehicle parking, electrical and telecommunications connections, surface water drainage, security fencing and gates, and closed circuit television cameras and columns.
- 6.3 **Work No. 3** – electrical connection works for the export and import of electricity to and from national electricity transmission networks and the import of electricity from district electricity transmission networks, comprising—
- (a) **Work No. 3A** – up to 400 kilovolt overground and/or underground electrical cables and control systems cables running from Work No. 1A to the existing National Grid Electricity Transmission substation located west of Chapel Lane, including works within the substation; and
  - (b) **Work No. 3B** – up to 132 kilovolt underground electrical cables running from Work No. 1A to the existing Northern Powergrid 132kV substation located at Chapel Lane, including above ground infrastructure works within the substation.
- 6.4 **Work No. 4** – water supply connection works to provide cooling and make-up water to Work No. 1, comprising—
- (a) either
    - (i) **Work No. 4A** – underground and/or overground water supply pipeline running between Work No. 1E and the canal including, as necessary, a temporary cofferdam structure, new, upgraded or replacement pipeline, plant, buildings, enclosures, intake structures screens and other structures, cable, temporary moorings, temporary repositioning of existing moorings, access works, vehicle parking, screening, lighting, and signage; or
    - (ii) **Work No. 4B** – works to the existing cooling water supply pipelines running between Works No. 1E and the existing intake structures within the River Trent, including, as necessary, a temporary cofferdam structure, new, upgraded or replacement pipelines, plant, enclosures, intake structures, cable placement of material, temporary moorings, installation and repositioning of existing hazard dolphins, access works, screening, lighting, and signage.
- 6.5 **Work No. 5** – works to discharge used cooling water and treated wastewater comprising works to the existing cooling water discharge pipeline(s) running from Work No. 1B to the existing outfall structures within the River Trent including, as necessary new, upgraded or replacement pipelines, plant, enclosures, outfall structures and other structures and cable.
- 6.6 **Work No. 6** – towns water connection to supply towns water to Work No.1 from the supply point east of Chapel Lane including works to the existing towns water pipelines, replacement and new pipelines, plant, enclosures and structures.
- 6.7 **Work No. 7** – a high pressure carbon dioxide pipeline for the export of carbon dioxide from Work No. 1C to the National Grid Carbon Gathering Network and above ground carbon dioxide compression and export infrastructure on land at Keadby Power Station, comprising—
- (a) **Work No. 7A** – compressor station comprising deoxygenation, dehydration, and staged compression facilities, and outlet metering and electrical connection; and



- (b) **Work No. 7B** – National Grid above ground infrastructure compound, comprising export connection to the National Grid Carbon Gathering Network, above and below ground valves, flanges and pipework, above or below ground remotely operated valve, above or below ground remotely operated valve bypass, compression facilities, instrumentation and electrical kiosks, electrical connection, inlet metering and telemetry equipment kiosks and communications equipment;
- (c) in connection with Work Nos. 7A and 7B, access works, vehicle parking, electrical and telecommunications connections, surface water drainage, security fencing and gates, and closed circuit television cameras and columns.

6.8 **Work No. 8** – new permanent accesses to Work Nos. 1, 2 and 7 comprising—

- (a) **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;
- (b) **Work No. 8B** – installation of laybys and gatehouse building nearby to the north of the junction with the A18, barriers, enclosures, drainage and lighting;
- (c) **Work No. 8C** - emergency access route comprising the installation of a bridge crossing of an existing drainage channel, the maintenance and improvement of an existing private track running between Work No. 1 and Chapel Lane, Keadby, surfacing and strengthening works, drainage, enclosures and lighting.

6.9 **Work No. 9** – temporary construction and laydown areas and temporary and permanent accesses, comprising—

- (a) **Work No. 9A** – temporary construction and laydown areas comprising hard standing, earthworks and levelling, laydown and open storage areas, contractor compounds and construction staff welfare facilities, surface water drainage and gatehouse and weighbridge.
- (b) **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.
- (c) **Work No. 9C** - temporary construction and laydown area in association with the replacement of the private bridge in Work No. 9B comprising laydown and open storage areas, hard standing, and the placement of mobile cranes.

6.10 **Work No. 10** – temporary haulage route and waterborne transport offloading facilities on land east of the Keadby Power Station site and at the River Trent comprising—

- (a) **Work No. 10A** – the maintenance and improvement of the existing temporary paved haulage route and ditch crossings and their subsequent removal; and
- (b) **Work No. 10B** – the inspection and repair of the existing jetty, and temporary placement of mobile cranes including the temporary oversailing of crane arms above the river.

6.11 **Work No. 11** – landscaping and planting and boundary treatment comprising—

- (a) **Works 11A** -soft landscaping including planting and biodiversity enhancement measures; and
- (b) **Works 11B** - security fencing, gates, boundary treatment and other means of enclosure;

In connection with and in addition to Works Nos. 1 to 11, further associated development including—

- (a) surface water drainage systems, storm water attenuation systems including storage basins, oil water separators, including channelling and culverting and works to existing drainage systems;
- (b) electrical, gas, potable water supply, foul water drainage and telecommunications infrastructure connections and works, and works to alter the position of such services and utilities connections;
- (c) hard standings and hard landscaping;
- (d) soft landscaping, including bunds, embankments and planting;
- (e) biodiversity enhancement measures;
- (f) fencing, gates, boundary treatment and means of enclosure;
- (g) external lighting, including lighting columns;
- (h) gatehouses and weighbridges;
- (i) closed circuit television cameras and columns and other security measures;
- (j) site establishment and preparation works, including site clearance (including vegetation removal, demolition of existing buildings and structures); earthworks (including soil stripping and storage and site levelling and formation of embankments) and excavations; the creation of temporary construction access points; the alteration of the position of services and utilities; and works for the protection of buildings and land;
- (k) temporary construction laydown areas and contractor facilities, including materials and plant storage and laydown areas; generators; concrete batching facilities; vehicle and cycle parking facilities; pedestrian and cycle routes and facilities; offices and staff welfare facilities; security fencing and gates; external lighting; roadways and haul routes; wheel wash facilities; and signage;
- (l) vehicle parking and cycle storage facilities;
- (m) accesses, roads and pedestrian and cycle routes;
- (n) tunnelling, boring and drilling works;
- (o) demolition

- (p) temporary works associated with the maintenance of the authorised development including laydown for outages, contractor facilities, offices and staff welfare facilities; security fencing and gates; external lighting; wheel wash facilities; and signage;

and, to the extent that it does not form part of such works, further associated development comprising such other works (i) as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and (ii) which fall within the scope of the works assessed in the environmental statement.

- 6.12 Since the submission of the DCO application, Work No. 1C has been updated to explicitly include reference "*ammonia emissions monitoring and control equipment*" which was previously treated as falling within "associated development" within the meaning of S115(2) of the 2008 Act. Natural England, has requested this reference be specifically included within the description of works to provide comfort that the additional measures to achieve the effects assessed in the Environmental Statement are secured. Such an approach is also consistent with the description of Work No.1A which includes reference to "*nitrogen oxide emissions control equipment*".

## 7 Schedule 2 – Requirements

**Schedule 2 (Requirements):** sets out the requirements which apply to the carrying out and operation of the authorised development. The Requirements closely relate to the mitigation referred to within the Environmental Statement ('ES') (Document Ref. 6.1 – 6.4) and listed in the schedule of mitigation commitments in ES Volume III (Document Ref. 6.3.34). A number of amendments have been made to the Requirement throughout the examination process to accommodate representations made by statutory bodies and other key stakeholders.

- 7.1 Requirement 1 (*Interpretation*): this provides definitions for certain terms used in the requirements.
- 7.2 Requirement 2 (*Commencement of the authorised development*): This requirement is based upon the model provisions and requires that the authorised development can only be commenced within 7 years of the date of the Order coming into force. A period of 5 years is typically granted in development consent orders (see for example requirement 2 of Schedule 2 of the Hinkley Point C (Nuclear Generating Station) Order 2013) and the 7 year period is considered appropriate given that the revenue mechanisms to underpin investment in industrial carbon capture projects are not yet developed as identified in the Energy White Paper and this will need to be concluded, and the relevant revenue secured, for procurement to conclude and the authorised development commenced. The undertaker is required to give the relevant planning authority at least 14 days' notice of its intention to commence the authorised development.
- 7.3 Requirement 3 (*Notice of commencement and completion of commissioning*): This is not a model provision. It requires the undertaker to give notice to the relevant planning authority of the intended start and completion of commissioning. These are points in the construction programme at which certain articles and requirements are triggered, and it is therefore appropriate for the relevant planning authority to be notified of when they occur.
- 7.4 Requirement 4 (*Notice of commencement of commercial use*): This is not a model provision. It requires the undertaker to notify the relevant planning authority of the intended start of commercial use of the authorised development prior to such start and in any event within 14 days from the date that commercial use commences. This is required for the same reason as Requirement 2.
- 7.5 Requirement 5 (*Detailed design*): This is based on a model provision. It requires the specific design details for each Work Number to be submitted to and approved by the relevant planning authority before commencement, save for the permitted preliminary works. The model provision has been modified in order to specify the appropriate details for each numbered Work, which vary according to the nature of the development comprised within the work. The specified details generally include external appearance, materials, siting, levels and heights, and access and circulation. In the case of Work Nos. 2, 3, 4, 5, and 7, the required details include the route and method of installation of the underground connection routes.
- 7.6 Additional consultation requirements have been added in relation to works where particular stakeholders have an interest in engagement on design details when submitted to the relevant local planning authority. For example, the Canal and River Trust are to be consulted on the details of Work No. 4A and National Grid Carbon Limited as to be consulted on details relating to Work No.7.
- 7.7 In respect of Work Nos. 1 and 8B, the submitted details must comply with the parameters set out in Schedule 11, since Schedule 11 contains parameters for these works only. The

parameters in Schedule 11 match the parameters used in the Environmental Statement to assess the Proposed Development. The authorised development must be constructed in accordance with the approved details. In addition Work Nos. 1 and 8 must be constructed in accordance with the design principles statement.

- 7.8 Requirement 6 (*Landscaping and biodiversity protection management and enhancement*) - This is based on a landscaping model provision, however has been modified to make additional provision for biodiversity mitigation since this is delivered as part of the landscaping (Work No. 11A), including measures relating to protected species, and proposals for biodiversity enhancement.
- 7.9 Sub-paragraph (1) requires the undertaker to submit a landscaping and biodiversity protection plan to the relevant planning authority prior to commencing the authorised development of that part the plan relates to. The plan must set out measures to carry out further surveys to establish the presence or absence of protected species and to protect existing tree and shrub planting and otherwise avoid impacts on biodiversity and habitats, and must be implemented as approved during the construction period. The undertaker is required to consult with the Canal and River Trust in relation to the location and details of proposed coir rolls.
- 7.10 Sub-paragraph (4) requires the undertaker to submit a landscaping and biodiversity management and enhancement plan, prior to the commissioning of the authorised development, to be in accordance with the principles of the indicative landscaping and biodiversity strategy. This plan must include specific details as specified in sub-paragraph (5) including an implementation timetable and must be implemented as approved during operation of the authorised development.
- 7.11 Sub-paragraph (7) requires the undertaker to consult with Keadby Parish Council in relation to any planting proposed adjoining the Order limits, this has been included at the request of the parish council.
- 7.12 This approach of splitting out the requirement into two plans provides appropriate protection for the landscaping and biodiversity elements during construction, whilst providing the undertaker with the ability to commence construction without having to have provided full details of all the final landscaping and biodiversity proposals. It has precedent in the Immingham Open Cycle Gas Turbine Order 2020.
- 7.13 Requirement 7 (*External lighting*): This is based upon a model provision and requires the undertaker to submit details of all external lighting to be installed during construction to the relevant planning authority for approval before the authorised development may commence, save for the permitted preliminary works. Sub-paragraph (2) contains an equivalent provision for the operation of the authorised development which requires the scheme to be submitted prior to commissioning. Sub-paragraph (3) requires that the construction and operation stage schemes each include measures to minimise and mitigate light emissions.
- 7.14 Requirement 8 (*Highway accesses*): This is based on a model provision. It provides that no part of the authorised development, save for the permitted preliminary works, may commence until siting, design and layout details of any new or modified temporary (construction phase) means of access to the public highway to be used by vehicular traffic, or any alteration to an existing means of access to a public highway used by vehicular traffic for that part have been submitted to and approved by the relevant planning authority. It also provides that the relevant parts of the development must not come into commercial use until the design details of any permanent highway accesses have been approved under the relevant part of the detailed design requirement (Requirement 5(8)).

- 7.15 Requirement 9 (*Means of enclosure*): This is based on a model provision. It requires that no part of the authorised development may commence, save for the permitted preliminary works until details of all temporary means of enclosure have for that part been submitted to and approved by the relevant planning authority, including a programme for the removal of such temporary means of enclosure. It also requires that the authorised development may not be brought into commercial use until the permanent means of enclosure have been approved and completed.
- 7.16 Requirement 10 (*Site security*): This is not a model provision. It requires that no part of the authorised development must be brought in to use until a scheme detailing security measures to minimise the risk of crime has been approved by the relevant planning authority. The approved scheme must be implemented throughout the operation of authorised development.
- 7.17 Requirement 11 (*Fire prevention*): This is not a model provision. It provides that no part of the authorised development, save for the permitted preliminary works, can commence until details of accesses for the use of fire appliances have been submitted to and approved by the relevant planning authority. The authorised development must be implemented in accordance with the approved details and maintained at all times throughout the operation of the authorised development.
- 7.18 Requirement 12 (*Surface water drainage*): This is based on a model provision but which is split out into one requirement for surface water drainage and one for foul water drainage (see below). Sub-paragraph (1) provides that no part of the authorised development may commence, save for the permitted preliminary works, until details of the temporary surface water drainage systems for that part, in accordance with the construction environmental management plan, and a management and maintenance plan, have been submitted to and approved by the relevant planning authority. The systems must be constructed and maintained in accordance with the approved details. In response to stakeholder representations, the undertaker is required to consult with the lead local flood authority and relevant internal drainage board in relation to the detailed permanent surface water drainage system and timetable for its implementation.
- 7.19 Sub-paragraph (3) requires equivalent details for the permanent systems, and the relevant planning authority must consult the lead local flood authority and the relevant internal drainage board. The details submitted must be in accordance with the indicative surface water drainage plan (Document Ref. 4.13). Sub-paragraph (5) requires that the systems are implemented as approved and maintained throughout the operation of the authorised development.
- 7.20 Requirement 13 (*Foul water drainage*): This is based on a model provision but which is split out into one requirement for surface water drainage (see above) and one for foul water drainage. Sub-paragraph (1) provides that no part of the authorised development may commence, save for the permitted preliminary works, until details of the temporary foul water drainage systems for that part, in accordance with the construction environmental management plan, and a management and maintenance plan, have been submitted to and approved by the relevant planning authority, who must consult Severn Trent Water before giving approval. The systems must be constructed in accordance with the approved details.
- 7.21 Sub-paragraph (3) requires equivalent details for the permanent systems, and requires the relevant planning authority to consult both Severn Trent Water, and the Environment Agency, being relevant consultees for Work No. 5, if this option for the discharge of foul water drainage is selected by the Applicant. Sub-paragraph (4) requires that the systems are

implemented as approved and maintained throughout the operation of the authorised development.

- 7.22 Requirement 14 (*Flood risk mitigation*): This is not a model provision. Sub-paragraphs (1) and (2) provide that no part of the authorised development, save for the permitted preliminary works, may commence until a scheme for the mitigation of flood risk and the creation of a development platform of a specified height during construction has, for that part, been submitted to and approved by the relevant planning authority, after having consulted the lead local flood authority. Sub-paragraph (3) and (5) requires that the authorised development is not commissioned until a scheme for the mitigation of flood risk during the operational stage including the raising of specified critical operational infrastructure assets to to a specific height above ordinance datum, has, for that part, been submitted to and approved by the relevant planning authority, after having consulted the lead local flood authority, Environment Agency, relevant internal drainage board and Canal and River Trust. Sub-paragraph (6) requires that the scheme approved under sub-paragraph (3) must be implemented as approved and maintained as part of the authorised development.
- 7.23 The schemes submitted under sub-paragraphs (1) and (3) must each be in accordance with the flood risk assessment (Document Ref. 6.3.20). Sub-paragraph (7) secures the approval and implementation of a flood emergency response and contingency plan, and makes clear that the lead local flood authority must be consulted by the relevant planning authority before such approval is given.
- 7.24 Requirement 15 (*Contaminated land and groundwater*): This is a modified model provision. It provides that no parts of the authorised development may commence save for investigations to assess ground conditions until a scheme (to include a risk assessment and site investigation results, and if necessary, remedial measures) to deal with the contamination of land has, for that part, been submitted to and approved by the relevant planning authority following consultation with the Environment Agency. It requires that the submitted scheme must be in accordance with the Environmental Statement (Document Ref. 6.2) and must be included in the construction environmental management plan submitted pursuant to requirement 17. Sub-paragraph (4) requires that the authorised development, and any remedial measures that were identified as necessary, are implemented and maintained as approved.
- 7.25 Requirement 16 (*Archaeology*): This is a modified model provision. It provides that no part of the authorised development may commence until a scheme of archaeological investigation for that part has been submitted to and approved by the relevant planning authority after consultation with the County archaeologist. The scheme submitted and approved must be in accordance with the outline written scheme of investigation (Document Ref. 7.4). Furthermore, any archaeological investigations must be carried out in accordance with the approved scheme and by a suitably qualified person or organisation approved by the relevant planning authority after consultation with the relevant archaeology body.
- 7.26 Requirement 17 (*Construction environmental management plan*): This is a modified version of the model provision on 'Code of Construction Practice'. It requires a Construction Environmental Management Plan, in accordance with the framework construction environmental management plan (Document Ref. 7.1) to have been submitted to and approved by the relevant planning authority in consultation with Natural England and the Environment Agency before commencement of the authorised development, save for the permitted preliminary works. The plan should include all of the details set out in sub-paragraph (2) including a soil management plan and a site waste management plan and a fish management plan. Sub-paragraph (3) requires that all construction works associated with

the authorised development must be carried out in accordance with the approved Construction and Environmental Management Plan.

- 7.27 Requirement 18 (*Protection of highway surfaces*): This is not a model provision. It requires details of the condition surveys (including any post-construction surveys) which are to be carried out on the public highways to be used during construction to be approved by the relevant planning authority prior to commencement of the authorised development, save for the permitted preliminary works. The surveys must then be carried out in accordance with the approved details, and a schedule of repairs including an implementation timetable must be submitted to and approved by the relevant planning authority, in consultation with the highway authority. The schedule of repairs must be implemented as approved.
- 7.28 Requirement 19 (*Temporary haul road (traffic management and protection)*): This is not a model provision. It is based on a condition on the haul road planning permission (defined in requirement 1 by reference to its local authority reference) and requires that the haul road (Work No. 10A) is retained and maintained in accordance with the plans approved under the haul road planning permission (reproduced in Document Ref. 4.19) and appropriate traffic management measures are put in place at Trent Side, a public highway, and thereafter implemented.
- 7.29 Requirement 20 (*Temporary haul road (biodiversity protection)*): This is not a model provision. It is based on a condition on the haul road planning permission (defined in requirement 1 by reference to its local authority reference) and requires that the haul road (Work No. 10A) is retained and maintained in accordance with the biodiversity protection measures approved under the haul road planning permission (reproduced in contained in appendices C and D of the framework construction environmental management plan,(Document Ref. 7.1), and a report by a qualified ecologist confirming this must be submitted to the relevant planning authority prior to completion of the authorised development.
- 7.30 Requirement 21 (*Temporary haul road (removal and restoration)*): This is not a model provision. It is based on a condition on the haul road planning permission (defined in requirement 1 by reference to its local authority reference) and requires that the haul road (Work No. 10A) is excavated, dismantled and removed within 28 days of the completion of commissioning, and within 3 months of the completion of the removal of Work No. 10A the land for this work must be restored in accordance with a scheme to be approved under Requirement 22.
- 7.31 Requirement 22 (*Temporary haul road (prior approval of restoration scheme)*): This is not a model provision. It is based on a condition on the haul road planning permission (defined in requirement 1 by reference to its local authority reference) and requires that a scheme for the restoration of the land for the haul road (Work No. 10A), including biodiversity enhancements, is submitted to and approved by the relevant planning authority and thereafter implemented in full.
- 7.32 Requirement 23 (*Pilfrey laydown (design)*): This is not a model provision. It is based on a condition on the Pilfrey laydown planning permission (defined in requirement 1 by reference to its local authority reference) and requires that the laydown area (that part of Work No. 9A lying in the area indicated in the Pilfrey laydown plans, which are the plans approved under the Pilfrey laydown planning permission and reproduced in Document Ref. 4.20) is retained and maintained in accordance with the same plans.
- 7.33 Requirement 24 (*Pilfrey laydown (removal and restoration)*): This is not a model provision. It is based on a condition on the Pilfrey laydown planning permission (defined in requirement 1



by reference to its local authority reference) and requires that a scheme for the restoration of the laydown area (that part of Work No. 9A lying in the area indicated in the Pilfrey laydown plans) to its former condition is submitted to and approved in writing by the relevant planning authority within 3 months of the completion of commissioning, and thereafter implemented in full.

- 7.34 Requirement 25 (*Construction traffic management plan*): This is a modified model provision. It requires a construction traffic management plan to be submitted to and approved by the relevant planning authority, following consultation with Highways England and the highway authority, before commencement, save for permitted preliminary works. It also requires notices to be erected and maintained throughout the construction period at every entrance to and exit from the construction site, indicating the approved routes for traffic entering and leaving the site. The plan submitted and approved must be in accordance with the framework construction traffic management plan (Document Ref. 7.2). Sub-paragraphs (3)(b), (d) and (3) make particular provisions to promote and control water freight and abnormal indivisible load transport within Work No. 10, and include controls currently contained in conditions forming part of the haul road planning permission. Sub-paragraph (c) requires the provisions of a wharf management plan, this has been included at the request of the Canal and River Trust in order to minimise abnormal load deliveries which temporarily obstruct Keadby Lock outside of notified timings; the Canal and River Trust is to be consulted on the wharf management plan. The approved construction traffic management plan must be implemented within 3 months of commencement of the authorised development and maintained throughout construction.
- 7.35 Requirement 26 (*Construction workers travel plan*): This is a modified model provision. It requires a travel plan for construction workers to be submitted to the relevant planning authorities following consultation with the highway authority prior to commencement of the authorised development, save for the permitted preliminary works. The plan must include measures to encourage sustainable transport; details of the responsibility for and timetable for implementation of those measures; details of parking for construction personnel, and a monitoring and review regime. The approved plan must be implemented within three months of the commencement of the authorised development, save for the permitted preliminary works. The plan submitted and approved must be in accordance with the framework construction workers travel plan (Document Ref. 7.3).
- 7.36 Requirement 27 (*Construction hours*): This is a modified model provision. It specifies the hours in the day within which all construction work and deliveries associated with the authorised development must be carried out. The restrictions do not apply to work that does not exceed a specified noise limit, is approved in advance by the relevant planning authority or is associated with an emergency.
- 7.37 The restricted hours for construction under sub-paragraph (1) and the delivery of materials under sub-paragraph (2) do not apply where they do not exceed a noise level first agreed in writing with the relevant planning authority or are prior approved by the relevant planning authority, or which relate to an emergency. The restricted hours for the delivery of materials under sub-paragraph (2) do not apply to the delivery of abnormal indivisible loads where this is associated with an emergency or carried out with the prior approval of the relevant planning authority.
- 7.38 The requirement also permits 30 minute start-up and shut-down periods at the beginning and the end of the construction hours and the maintenance at any time of plant and machinery engaged in the construction of the authorised development.

- 7.39 Requirement 28 (*Control of noise— construction*): This is based on a model provision. It requires a scheme for the monitoring and control of noise and specified methodologies for identifying receptor locations, for noise measurement, and for the setting of noise levels, to be submitted and approved prior to the commencement of the authorised development.
- 7.40 Requirement 29 (*Control of noise-operation*): This is based on a model provision. It requires that no part of the authorised development must be brought in to commercial use until a scheme for the management and monitoring of noise during operation has been submitted to and approved by the planning authority. The noise level is to be determined with reference to BS4142:2014. Following representations received, paragraph (5) has been amended to include a process for investigating and responding to noise complaints.
- 7.41 Requirement 30 (*Piling and penetrative and foundation design*): This is not a model provision. It requires that no part of Work Nos. 1, 2, 4A, 7, 8B, or 9B can commence until a piling and penetrative foundation design method statement, informed by a risk assessment, has been submitted to and approved with by the planning authority. It requires that the planning authority must consult with the Environment Agency on the method statement before giving such approval.
- 7.42 Requirement 31 (*Restoration of land used temporarily for construction*): This is modified model provision. It prevents the authorised development being brought into commercial use until the scheme for the restoration of any land within the Order limits which has been used temporarily for construction has been submitted to and approved by the relevant planning authority. It stipulates that the land must be restored within three years of the authorised development being brought into commercial use (or such other period as may be approved by the relevant planning authority), in accordance with the restoration scheme and the landscaping and biodiversity management and enhancement plan (Document Ref. 5.10).
- 7.43 Requirement 32 (*Combined heat and power*): This is not a model provision. It is based, with drafting modifications, on requirement 34 of the North Blyth Biomass Power Station Order 2013 and requirement 39 of the Ferrybridge Multifuel 2 Power Station Order 2014. It requires the relevant planning authority to give notice, before first commercial use of the authorised development, that it is satisfied that the authorised development includes space and routes through the later provision of heat pass-puts for off-site users of process or space heating and its later connection to such systems. The undertaker must maintain such space and routes for the lifetime of the authorised development and must submit a CHP review to the planning authority 12 months after first commercial use. The undertaker must submit an updated CHP review to the planning authority every 5 years.
- 7.44 Requirement 33 (*Carbon Capture Plant*): This is not a model provision. Sub-paragraph (1) requires that the authorised development may not commenced, save for permitted preliminary works, until various details relating to the consenting and licensing of elements of the wider carbon capture, usage and storage chain, outwith the DCO application, have been submitted to and approved by the relevant planning authority. Sub-paragraph (2) is similar to requirement 31 of the Eggborough Gas Fired Generating Station Order 2018. It requires that the land required for Work Nos. 1C and 7 (carbon capture equipment) is not disposed of and is not used in a way that prevents it being used within two years for the development of the carbon capture equipment. Sub-paragraph (3) prevents Work No. 1A (the combined cycle gas turbine) coming into commercial use following commissioning without Work Nos. 1C and 7 (carbon capture and compression equipment and compound) also being brought into commercial use following commissioning. This requirement has been updated to incorporate representations from National Grid Carbon Limited.

- 7.45 Requirement 34 (*Aviation warning lighting*): This is not a model provision. It requires details of the aviation warning lighting to be installed for the construction and operation of Work Nos. 1 and also 10B (mobile cranes), to be submitted to the relevant planning authority prior to commencement of development. It requires the planning authority to consult with the Civil Aviation Authority and Ministry of Defence Safeguarding on the submitted details before giving such approval.
- 7.46 Requirement 35 (*Air safety*): This is not a model provision. It requires details of the information required by the Defence Geographic Centre of the Ministry of Defence to be submitted to and approved by the planning authority before commencement of the authorised development.
- 7.47 Requirement 36 (*Local liaison committee*): This is not a model provision. It requires that before the authorised development commences, the undertaker must establish a committee to liaise with local residents and organisations to keep them informed about matters relating to the authorised development. Nearby parish councils, relevant interest groups and the planning authority must also be invited and a representative of the undertaker must be in attendance. The committee must meet every other month, starting in the month prior to commencement of the authorised development throughout construction. A yearly meeting during operation is also provided for.
- 7.48 Requirement 37 (*Employment, skills and training plan*): This is not a model provision. It requires that a plan detailing arrangements to promote employment, skills and training development opportunities for local residents during construction, and employment opportunities during operation, of the authorised development has been submitted to and approved by the relevant planning authority. The plan must be approved prior to the commencement of the authorised development, save for permitted preliminary works. The plan approved must be implemented and maintained during the construction and operational phases of the authorised development.
- 7.49 Requirement 38 (*Decommissioning*): This is not a model provision. It requires the undertaker to submit a decommissioning environmental management plan, to include specified details including an implementation timetable to the relevant planning authorities within 12 months of it deciding to decommission the authorised development. The relevant planning authority must approve the scheme before any decommissioning works are carried out and the scheme must be implemented and maintained as approved.
- 7.50 Requirement 39 (*Requirement for written approval*): This is based on a model provision and confirms that the relevant planning authority's approval or agreement must be given in writing.
- 7.51 Requirement 40 (*Approved details and amendments to them*): This is not a model provision. It requires that all details submitted to the relevant planning authority for approval must be in accordance with the parameters in the Environmental Statement and reflect the principles of the documents submitted for certification (in accordance with article 41 (*Certification of plans etc.*)). It expressly states that "approved details" includes any amendments which may be subsequently approved by the relevant planning authority.
- 7.52 Requirement 41 (*Amendments agreed by the relevant planning authority*): This is a modified model provision. This clarifies that where the phrase "unless otherwise agreed" appears in requirements, it does not permit changes which could give rise to any materially new or materially different environmental effects than those assessed in the Environmental Statement. It also makes clear that where the requirement requires consultation with another

body, then any approval or agreement to any amendments must not be given without the relevant planning authority having first consulted with that body.

## 8 Schedules 3 – 13

- 8.1 **Schedule 3** (*Streets subject to street works*): sets out those streets which are to be subject to street works.
- 8.2 **Schedule 4** (*Streets subject to permanent and temporary alterations of layout*). This identifies those works to permanently alter layout of highways and/or temporary layout.
- 8.3 **Schedule 5** (*Access*). This sets out details of access works which are to be maintained at public expense once constructed in accordance with the provisions of the Order.
- 8.4 **Schedule 6** (*Land in which only new rights etc. may be required*). This sets out details of land in relation to which new rights may be acquired and sets out the purpose of the new rights sought over specific plots.
- 8.5 **Schedule 7** (*Modification of compensation and compulsory purchase enactments for creation of new rights*). This sets out changes to the operation of legislation related to compulsory purchase insofar as it relates to the acquisition of new rights.
- 8.6 **Schedule 8** (*Land of which temporary possession may be taken*). This sets out details of such land that may be occupied under temporary powers, it identifies the land by plot and the relevant works which such temporary possession will facilitate the construction of.
- 8.7 **Schedule 9** (*Procedure for discharge*). This sets out the process for approvals pursuant to the DCO.
- 8.8 **Schedule 10** (*Protective provisions*). This sets out protective provisions for statutory undertakers affected by the authorised development, the purpose is to provide adequate protection for the relevant statutory undertaker's apparatus and equipment during the construction of the authorised development. There are 7 parts to Schedule 10 which are as follows:
- 8.8.1 Part 1 For the Protection of National Grid as Electricity and Gas Undertaker
- (a) These protective provisions are based on standard form protective provisions for this statutory undertaker. The indemnity provision at paragraph 11(1) has been amended so that it is limited to damage, losses etc arising from the construction or maintenance of the authorised works and not from use. It is considered that indemnifying for "use" is too wide, particularly as it is not limited in time. The indemnity as included in the preferred form DCO is in a form which is consistent with other indemnities included in the remaining protective provisions. Paragraph 11(7) has also been amended so that the undertaker provides either a form of acceptable security or has procured acceptable insurance, rather than having to provide both. In both instances the undertaker is unable to undertake any works affecting National Grid land or apparatus until National Grid is satisfied the requisite arrangement is in place. Overall it is considered that the protective provisions as drafted provide sufficiently adequate protections to National Grid apparatus.
- 8.8.2 Part 2- For the protection of Canal and River Trust.
- (a) These protective provisions have been the subject of updating throughout the examination process to incorporate requested amendments from the Canal and River Trust. It is considered the final form of protective provisions accommodates all of the amendments requested and is an acceptable form.

8.8.3 Part 3 – For the protection of Electricity, Gas, Water and Sewerage Undertakers

- (a) These protective provisions are generic to cover those undertakers for whom there are no tailored protective provisions. They are in a form which is consistent with that contained in other DCO's and TWAO's and the undertaker has received no representations on them throughout the Examination process.

8.8.4 Part 4 – For the Protection of Operators of Electronic Communications Code Networks

- (a) These protective provisions are generic for electronic communications code network operators and are in a form which is consistent with those used in other DCO's and TWAO's. The undertaker has received no representations from any such operators on the form of the protective provisions throughout the Examination process.

8.8.5 Part 5 - For the Protection of Railway Interests

- (a) These protective provisions are for the benefit of Network Rail Infrastructure Limited (Network Rail) and afford Network Rail protection for any works to be carried out within 15 metres of railway property, which includes the Pilfrey bridge. The provisions are consistent with Network Rail's standard form in setting out those requirements the undertaker must comply with in carrying out such works.
- (b) The protective provisions do not include Network Rail's standard requirement that it cannot exercise certain elements of the DCO, particularly the use of compulsory purchase powers in relation to Network Rail property. The undertaker has been in negotiations with Network Rail to agree the necessary property documentation and it is anticipated this will be forthcoming such that there will be no need to rely on compulsory purchase powers. However the undertaker requires the ability to use its compulsory purchase powers in the event the property documentation is not entered into in a timely manner.

8.8.6 Part 6 – For the Protection of National Grid Carbon Limited

- (a) Currently National Grid Carbon Limited (NGC) has no apparatus within the Order limits. The protective provisions comprise 2 parts. Section A which takes effect once the Order is made and imposes obligations on the undertaker to work with NGC in working up the detailed design relating to the interaction of the authorised development with the National Grid Carbon Gathering Network and a co-ordinated approach to programme and land assembly. There are further provisions which seek to restrict the carrying out of the carbon dioxide export connection works, unless agreed with NGC, and for detailed plans for such connection works to be submitted to NGC for its approval. If the undertaker constructs these works paragraph 10 contains protections for NGC to ensure it is built to the approved specification, with NGC having the right to seek remedial works, or step in to remediate if the undertaker fails to do so. It is considered that Section A contains sufficient protection for NGC regarding the interaction, co-ordination and construction of the connection works with the National Grid Carbon Gathering Network, providing NGC with approval at each stage.
- (b) Section B applies if NGC apparatus is installed and completed to an agreed schedule of works. It is considered that the schedule of works needs to be agreed to provide the undertaker with visibility of the completed apparatus which are afforded the subsequent Section B protections. It also reflects the likelihood that some of the

apparatus could be constructed by both parties. The remainder of Section B is consistent with the usual protections afforded to apparatus and plant which is in situ. The undertaker considers the indemnity sufficiently covers all loss and damage NGC may be exposed to during the construction and maintenance of the authorised works; it is not considered appropriate that the indemnity should extend to use of the authorised development for reasons given above. The undertaker has also agreed to meet the identified costs and expenses incurred by NGC in paragraph 18, it is considered any expenses relating to survey work sought by NGC for the construction of the carbon dioxide export connection works extends beyond the remit of the protective provisions as this relates to feasibility work as part of the detailed design and construction process. If survey work is incurred in order, for example to relocate apparatus, then it is considered that paragraph 18(1) would capture this in any event.

- (c) As with Network Rail, NGC requires a restriction on the undertaker's use of compulsory powers. At this stage NGC has no interest in the land and it is not yet known the extent of the interest, if any it could have in the land. A prohibition on use of compulsory acquisition powers, particularly when the extent of NGC's interest is unknown/does not exist, could affect delivery of the authorised development and is not acceptable. The undertaker has however committed not to exercise powers to extinguish or acquire any rights NGC may have in relation to its in-situ apparatus and this is consistent with the approach taken for the other protective provisions.

#### 8.8.7 Part 7 – For the Protection of Northern Powergrid (Yorkshire) Plc

- (a) The protective provisions included in the preferred form of Order are in an agreed form with Northern Powergrid (Yorkshire) Plc.

8.8.8 It is noted that that paragraph 4 of Annex 4 of the "Department for Transport - A Guide to Transport and Works Act Procedures 2006" contains guidance which is of relevance to these protective provisions. It states:

"If matters set out in protective provisions can be adequately handled by contractual arrangements rather than by provisions in an order, they should be dealt with in that way"

8.8.9 For those matters where this is a difference between provisions sought by an undertaker and the final form of protective provisions incorporated in the Order, it is considered sit more appropriately in a contractual arrangements; commercial arrangements continue to be discussed in particular with National Grid, NGC and Northern Powergrid. Ultimately, the form of protective provisions in the draft Order provide adequate protections for the relevant undertaker's apparatus for the duration of the construction of the authorised development.

8.9 **Schedule 11** (*Design parameters*). This sets out the development envelope in terms of maximum parameters. The updated parameters are secured by Requirement 5(11) in Schedule 2 (*Requirements*).

8.10 **Schedule 12** (*Documents and plans*). This identifies the documents and plans to be certified by the Secretary of State in authorising the Order.

8.11 **Schedule 13** (*Deemed Licence under Marine and Coastal Access Act 2009 – Generation Assets Licence*). This sets out the deemed marine licences for the authorised development.