

# 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**

## Statement of Common Ground with Network Rail

**The Planning Act 2008**

**Applicant: Keadby Generation Limited**

**Date: May 2022**

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## GLOSSARY

<b>Abbreviation</b>	<b>Description</b>
ADMS	Atmospheric Dispersion Modelling System
AGI	Above ground installation
AIL	Additional Abnormal Indivisible Load
AQMAU	Air Quality Modelling and Assessment Unit
BAT	Best available techniques
CCGT	Combined Cycle Gas Turbine
CCP	Carbon dioxide capture plant
CEMP	Construction Environmental Management Plan
CHP	Combined heat and power
DCO	Development Consent Order
EIA	Environmental Impact Assessment
ES	Environmental Statement
FFL	Finished floor level
FRA	Flood Risk Assessment
HP	High pressure
HRSG	Heat Recovery Steam Generator
MW	megawatts
NLC	North Lincolnshire Council
NSIP	Nationally Significant Infrastructure Project
PCC	Proposed Power and Carbon Capture
PINS	Planning Inspectorate
SoCG	Statement of Common Ground

Abbreviation	Description
WFD	Water Framework Directive
ZCH	Zero Carbon Humber

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## 1.0 INTRODUCTION

### 1.1 Overview

- 1.1.1 This Statement of Common Ground ('SoCG') (**Application Document Ref. 8.9**) has been prepared on behalf of Keadby Generation Limited ('the Applicant') which is a wholly owned subsidiary of SSE plc. It forms part of the application (the 'Application') for a Development Consent Order (a 'DCO'), that has been submitted to the Secretary of State (the 'SoS') for Business, Energy and Industrial Strategy, under Section 37 of 'The Planning Act 2008' (the '2008 Act').
- 1.1.2 The Applicant is seeking development consent for the construction, operation and maintenance of a new low carbon Combined Cycle Gas Turbine (CCGT) Generating Station ('the Proposed Development') on land at, and in the vicinity of, the existing Keadby Power Station, Trentside, Keadby, Scunthorpe DN17 3EF (the 'Proposed Development Site').
- 1.1.3 The Proposed Development is a new electricity generating station of up to 910 megawatts (MW) gross electrical output, equipped with carbon capture and compression plant and fuelled by natural gas, on land to the west of Keadby 1 Power Station and the (under commissioning) Keadby 2 Power Station, including connections for cooling water, electrical, gas and utilities, construction laydown areas and other associated development. It is described in **Chapter 4: The Proposed Development of the Environmental Statement (ES) (ES Volume I – APP-047)**.
- 1.1.4 The Proposed Development falls within the definition of a 'Nationally Significant Infrastructure Project' (NSIP) under Section 14(1)(a) and Sections 15(1) and (2) of the 2008 Act, as it is an onshore generating station in England that would have a generating capacity greater than 50MW electrical output (50MWe). As such, a DCO application is required to authorise the Proposed Development in accordance with Section 31 of the 2008 Act.
- 1.1.5 The DCO, if made by the SoS, would be known as 'The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order' ('the Order').

### 1.2 The Proposed Development

- 1.2.1 The Proposed Development will work by capturing carbon dioxide emissions from the gas-fired power station and connecting into the Zero Carbon Humber (ZCH) Partnership export pipeline and gathering network for onward transport to the Endurance saline aquifer under the North Sea.
- 1.2.2 The Proposed Development would comprise a low carbon gas fired power station with a gross electrical output capacity of up to 910MWe and associated buildings, structures and plant and other associated development defined in the Schedule 1 of the draft DCO (**APP-005**) as Work No. 1 – 11 and shown on the Works Plans (**APP-012**).

1.2.3 At this stage, the final technology selection cannot yet be made as it will be determined by various technical and economic considerations and will be influenced by future UK Government policy and regulation. The design of the Proposed Development therefore incorporates a necessary degree of flexibility to allow for the future selection of the preferred technology in the light of prevailing policy, regulatory and market conditions once a DCO is made.

1.2.4 The Proposed Development will include:

- a carbon capture equipped electricity generating station including a CCGT plant (**Work No. 1A**) with integrated cooling infrastructure (**Work No. 1B**), and carbon dioxide capture plant (CCP) including conditioning and compression equipment, carbon dioxide absorption unit(s) and stack(s) (**Work No. 1C**), natural gas receiving facility (**Work No. 1D**), supporting uses including control room, workshops, stores, raw and demineralised water tanks and permanent laydown area (**Work No. 1E**), and associated utilities, various pipework, water treatment plant, wastewater treatment, firefighting equipment, emergency diesel generator, gatehouse, chemical storage facilities, other minor infrastructure and auxiliaries/ services (all located in the area referred to as the 'Proposed Power and Carbon Capture (PCC) Site' and which together form **Work No. 1**);
- natural gas pipeline from the existing National Grid Gas high pressure (HP) gas pipeline within the Proposed Development Site to supply the Proposed PCC Site including an above ground installation (AGI) for National Grid Gas's apparatus (**Work No. 2A**) and the Applicant's apparatus (**Work No. 2B**) (the 'Gas Connection Corridor');
- electrical connection works to and from the existing National Grid 400kV Substation for the export of electricity (**Work No. 3A**) (the 'Electrical Connection Area to National Grid 400kV Substation');
- electrical connection works to and from the existing Northern Powergrid 132kV Substation for the supply of electricity at up to 132kV to the Proposed PCC Site, and associated plant and equipment (**Work No. 3B**) (the 'Potential Electrical Connection to Northern Powergrid 132kV Substation');
- Water Connection Corridors to provide cooling and make-up water including:
  - underground and/ or overground water supply pipeline(s) and intake structures within the Stainforth and Keadby Canal, including temporary cofferdam (**Work No. 4A**) (the 'Canal Water Abstraction Option');
  - in the event that the canal abstraction option is not available, works to the existing Keadby 1 power station cooling water supply pipelines and intake structures within the River Trent, including temporary cofferdam (**Work No. 4B**) (the 'River Water Abstraction Option');

- works to and use of an existing outfall and associated pipework for the discharge of return cooling water and treated wastewater to the River Trent (**Work No. 5**) (the ‘Water Discharge Corridor’);
- towns water connection pipeline from existing water supply within the Keadby Power Station for potable water (**Work No. 6**);
- above ground carbon dioxide compression and export infrastructure comprising an above ground installation (ail) for the undertaker’s apparatus including deoxygenation, dehydration, staged compression facilities, outlet metering, and electrical connection (**Work No. 7A**) and an above ground installation (AGI) for National Grid Carbon’s apparatus (**Work No. 7B**);
- new permanent access from A18, comprising the maintenance and improvement of an existing private access road from the junction with the A18 including the western private bridge crossing of the Hatfield Waste Drain (**Work No. 8A**) and installation of a layby and gatehouse (**Work No. 8B**), and an emergency vehicle and pedestrian access road comprising the maintenance and improvement of an existing private track running between the Proposed PCC Site and Chapel Lane, Keadby and including new private bridge (**Work No. 8C**);
- temporary construction and laydown areas including contractor facilities and parking (**Work No. 9A**), and access to these using the existing private roads from the A18 and the existing private bridge crossings, including the replacement of the western existing private bridge crossing known as ‘Mabey Bridge’ over Hatfield Waste Drain (**Work No. 9B**) and a temporary construction laydown area associated with that bridge replacement (**Work No. 9C**);
- temporary retention, improvement and subsequent removal of an existing Additional Abnormal Indivisible Load Haulage Route (**Work No. 10A**) and temporary use, maintenance, and placement of mobile crane(s) at the existing Railway Wharf jetty for a Waterborne Transport Offloading Area (**Work No. 10B**) along with the inclusion of riverbed within the Waterborne Transport Offloading Area (Railway Wharf) (Work No. 10C);
- landscaping and biodiversity enhancement measures (**Work No. 11A**) and security fencing and boundary treatments (**Work No. 11B**); and
- minor associated development.

1.2.5 The Proposed Development includes the equipment required for the capture and compression of carbon dioxide emissions from the generating station so that it is capable of being transported off-site. NGCL will be responsible for the development of the carbon dioxide pipeline network linking onshore power and industrial facilities, including the Proposed Development, in the Humber Region. The carbon dioxide export pipeline does not, therefore, form part of the Proposed Development and is not included in the Application but will be the subject of separate consent application(s) to be taken forward by NGCL. The Proposed Development is designed to be capable of operating 24 hours per

day, 7 days a week, with plant operation dispatchable to meet electricity demand and with programmed offline periods for maintenance. It is anticipated that in the event of CCP maintenance outages, for example, it could be necessary to operate the Proposed Development without carbon capture, with exhaust gases from the CCGT being routed via the Heat Recovery Steam Generator (HRSG) stack.

1.2.6 Various types of associated and ancillary development further required in connection with and subsidiary to the above works are detailed in Schedule 1 'Authorised Development' of the draft DCO (**APP-005**). This along with **Chapter 4: The Proposed Development in the ES Volume I (APP-047)** provides further description of the Proposed Development. The areas within which each numbered Work (component) of the Proposed Development are to be built are defined by the coloured and hatched areas on the Works Plans (**APP-012**).

1.2.7 Four changes to the Proposed Development (the 'Proposed Development Changes') have resulted from design contractor involvement since the submission of the DCO Application, to refine the detail of this 'First of a Kind' Project implementation.

- Change No. 1 - Inclusion of riverbed within the Waterborne Transport Offloading Area (Railway Wharf)
- Change No. 2 – not used<sup>1</sup>.
- Change No. 3 - Increase to the maximum heights of the carbon dioxide absorbers/ stacks, if two are installed.
- Change No. 4 - Increase to the maximum heights of the carbon dioxide stripper column.
- Change No. 5 - Increase in proposed soil import volumes to create a suitable development platform.

1.2.8 The Examining Authority accepted the Proposed Development Changes into the examination in a letter dated 12 May 2022 [PD-020] and these form part of the Proposed Development.

### 1.3 The Proposed Development Site

1.3.1 The Proposed Development Site (the 'Order Limits') is located within and near to the existing Keadby Power Station site near Scunthorpe, Lincolnshire and lies within the administrative boundary of North Lincolnshire Council (NLC). The majority of land is within the ownership or control of the Applicant (or SSE

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<sup>1</sup> The Applicant previously consulted on and, at Deadline 5, proposed another change ("Change No. 2 - Changes to the Additional Abnormal Indivisible Load Route largely within SSE land and all within existing Order Limits". This was subsequently withdrawn by the Applicant by letter dated 26 April 2022 (REP6-018) and forms no part of the DCO examination.



associated companies) and is centred on national grid reference 482351, 411796.

1.3.2 The existing Keadby Power Station site currently encompasses the operational Keadby 1 and Keadby 2 Power Station (under commissioning) sites, including the Keadby 2 Power Station Carbon Capture and Readiness reserve space.

1.3.3 The Proposed Development Site encompasses an area of approximately 69.4 hectares (ha). This includes an area of approximately 18.7ha to the west of Keadby 2 Power Station in which the generating station (CCGT plant, cooling infrastructure and CCP) and gas connection will be developed (the Proposed PCC Site).

1.3.4 The Proposed Development Site includes other areas including:

- a high pressure gas pipeline to supply the CCGT including a gas compound for National Grid Gas's (NGG) apparatus and a gas compound for the Applicant's apparatus;
- the National Grid 400kV Substation located directly adjacent to the Proposed PCC Site, through which electricity generated by the Proposed Development will be exported;
- Emergency Vehicle Access Road and Potential Electrical Connection to Northern Powergrid Substation;
- Water Connection Corridors:
  - 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;
  - 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
  - a 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;
- an existing river wharf at Railway Wharf (the Waterborne Transport Offloading Area) and existing temporary haul road into the into the existing Keadby 1 Power Station Site (the 'Additional Abnormal Indivisible Load (AIL) Route');
- a number of temporary Construction Laydown Areas on previously developed land and adjoining agricultural land; and
- land at the A18 Junction and an existing site access road, including two existing private bridge crossing 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.

1.3.5 In the vicinity of the Proposed Development Site the River Trent is tidal. Therefore, parts of the Proposed Development Site are within the UK marine area. No harbour works are proposed.

1.3.6 Further description of the Proposed Development Site and its surroundings is provided in **Chapter 3: The Site and Surrounding Area** in ES Volume I (**APP-046**).

## 1.4 The Development Consent Process

1.4.1 As a NSIP project, the Applicant is required to seek a DCO to construct, operate and maintain the generating station, under Section 31 of the 2008 Act. Sections 42 to 48 of the 2008 Act govern the consultation that the promoter must carry out before submitting an application for a DCO and Section 37 of the 2008 Act governs the form, content and accompanying documents that are required as part of a DCO application.

1.4.2 An application for development consent for the Proposed Development has been submitted to and accepted for examination by the Planning Inspectorate (PINS) acting on behalf of the Secretary of State. PINS is now examining the Application and will make a recommendation to the Secretary of State, who will then decide whether to make (grant) the DCO.

## 1.5 The Purpose and Structure of this Document

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

1.5.2 This second version of this SoCG has been updated for submission at Deadline 7 to set out the latest positions of the Applicant and Network Rail.

1.5.3 The document is structured as follows:

- Section 2 – sets out the role of Network Rail with particular regards to the DCO process;
- Section 3 – sets out key correspondence sent by both parties up until the submission of the Application;
- Section 4 – sets out the powers and matters in the DCO Application of relevance to Network Rail's interests; and
- Section 5 – sets out the matters that are not yet to be agreed and where discussions are on-going between the parties, and summarises next steps.

## 2.0 THE ROLE OF NETWORK RAIL

- 2.1.1 Network Rail is a statutory undertaker responsible for maintaining and operating the country's railway infrastructure and associated estate.
- 2.1.2 Network Rail owns and operates Great Britain's railway network and has statutory and regulatory obligations in respect of it.
- 2.1.3 Network Rail's role in relation to the DCO process derives from the PA 2008 and secondary legislation made under the same.
- 2.1.4 Network Rail is a consultee under sections 42 and 56 of the PA 2008, meaning applicants must consult with Network Rail before submitting a DCO application and once an application has been accepted for examination.
- 2.1.5 Network Rail has registered as an interested party in the DCO examination process by submitting a Relevant Representation to the Planning Inspectorate ('PINS').

### 3.0 SUMMARY OF CORRESPONDENCE

3.1.1 The below Table 3.1 contains a record of key correspondence between the Applicant and Network Rail pertinent to this Statement of Common ground.

**Table 3.1: Summary of Correspondence**

<b>Date</b>	<b>Correspondence</b>
15/06/2020	Network Rail response to PINS EIA Scoping Opinion Consultation.  A copy of the response can be found at pages 133 of the Environmental Statement Volume II – Appendix 1B: Scoping Opinion (APP-066).
24/11/2020	Applicant Section 42 consultation.  A copy of the letter template sent for the Section 42 consultation can be found at pages 336 – 342 of the Consultation Report (APP-030).
20/01/2021	Section 42 response from Network Rail relating to the impact on Network Rail Infrastructure.  A copy of the consultation response can be found at page 399 of the Consultation Report (APP-030).
17/03/2021	SSE contacts Network Rail
18/03/2021	SSE responds to request for information
29/03/2021	Applicant Section 42 re-consultation.  A copy of the letter template sent for the Section 42 consultation can be found at pages 550 – 557 of the Consultation Report (APP-030).
30/03/2021	Network Rail requests further information
23/04/2021	Section 42 response from Network Rail relating to the impact on Network Rail Infrastructure.  A copy of the consultation response can be found at pages 595 – 596 of the Consultation Report (APP-030).
05/05/2021	The Applicant sent a response to the points raised in Network Rail's Section 42 response.

Date	Correspondence
	A copy of this letter can be found at Appendix 1 of this SoCG.
06/05/2021	SSE inform Network Rail that a communications cable may need to be attached to the bridge.
10/06/2021	SSE followed up with Network Rail
27/07/2021	Applicant Section 56 Notification.  A copy of the letter template sent for the Section 56 Notice can be found at Examination Library Ref. OD-005.
08/08/2021	DWD contact Network Rail providing further information
31/08/2021	New contact at Network Rail, DWD point of contact confirmed. Eversheds confirmed as Network Rail's advisors
01/09/2021	Multiple email communications between Network Rail and DWD
02/09/2021	Multiple email communications between Network Rail and DWD
13/09/2021	Multiple email communications between Network Rail and DWD
17/09/2021	Network Rail contact with DWD
20/09/2021	DWD response to Network Rail
22/09/2021	DWD provide further information to Network Rail
29/09/2021	DWD provide further information to Network Rail
08/10/2021	Network Rail further request. DWD responds.
12/10/2021	Network Rail further request DWD responds.
13/10/2021	DWD provides documents to Network Rail
16/11/2021	Network Rail further request.
23/11/2021	Network Rail follow up.
26/11/2021	Network Rail follow up.
29/11/2021	DWD provides documents to Network Rail.

<b>Date</b>	<b>Correspondence</b>
30/11/2021	Various DWD and Network Rail exchanges of emails.
07/12/2021	DWD email to Network Rail.
08/12/2021	New contact at Network Rail.
17/12/2021	Network Rail contact with DWD.
18/01/2022	DWD email to Network Rail.
25/01/2022	Network Rail email to DWD.
23/02/2022	Network Rail email to DWD.
03/03/22	Dentons e-mail to Eversheds
09/03/22	Eversheds e-mail to Dentons
10/03/22	Dentons e-mail to Eversheds
22/03/22	Eversheds e-mail to Dentons
20/04/22	E-mail exchange between Dentons and Eversheds
29/04/22	Eversheds response to Dentons
24/02/2022	DWD email to Network Rail.
22/04/2022	DWD email to Network Rail.
28/04/2022	Network Rail email to DWD.
28/04/2022	DWD email to Network Rail.
04/05/2022	Dentons email to Eversheds
05/05/2022	Eversheds email to Dentons.
06/05/2022	DWD follow up with Network Rail.
06/05/2022	Dentons email to Eversheds.
12/05/2022	DWD follow up with Network Rail.
13/05/2022	Network Rail response to DWD.



## 4.0 RELEVANT DCO POWERS AND NETWORK RAIL ASSETS

### 4.1 Relevant Network Rail Assets

4.1.1 The draft DCO includes powers for the Promoter to acquire compulsorily new rights to enable access over plots 28 and 29 as shown on the Land Plans and set out in the Book of Reference. These plots comprise airspace occupied by a bridge over the railway that was constructed by SSE pursuant to a lease. SSE also maintain and use the bridge. Network Rail is the freehold owner of this airspace.

4.1.2 The rights to be acquired over these plots are to facilitate the following works:

- Work No. 8A: access route comprising the maintenance and improvement of an existing private track running between Work Nos. 1 and 2 including private bridge and the existing junction with the A18 nearby to the west of Pilfrey Farm, comprising surfacing works and signage, and creation of on and off-slips; and
- 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.

4.1.3 The proposed works provide for the following:

- the routing of construction traffic (including HGVs and abnormal loads) over the railway using the existing North Pilfrey Bridge in connection with the construction of the Proposed Development (Work Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9A, 10, 11);
- the potential resurfacing, maintenance or improvement of the existing track passing over the North Pilfrey Bridge but no replacement, rebuilding or widening of the bridge or its parapets; and
- the continued use of a compound to the south of the railway which benefits from an existing planning permission with North Lincolnshire Council reference PA/2018/1950, dated 23 November 2018, defined as the 'Pilfrey laydown planning permission' in the draft DCO (APP-005).

### 4.2 Impacts on Network Rail Assets

4.2.1 Chapel Lane level crossing will not be utilised by Keadby 3 construction or operational traffic, since it is located well away from the designated HGV route and no part of the Proposed Development lies on the strip of land that is accessed by the level crossing. The nearest part of the Proposed Development (the canal water supply connection, Work No. 4A) would be constructed at least



25 meters to the north of the level crossing and on the other side of the South Soak Drain, and access during construction of this work would be via land to the north that is owned by the Applicant.

- 4.2.2 The proposed generating station (Work No. 1) is to be sited some 200m north of the railway, beyond the overhead lines. No new overhead lines or towers near to the railway are proposed. Small associated development works such as underground water pipelines, roadways and administration buildings may be situated closer but at least 100m away.
- 4.2.3 Conformity with the Framework CTMP is controlled by Requirement 25 in the draft DCO (APP-005).

## 5.0 MATTERS AGREED PRIOR TO EXAMINATION

5.1.1 Network Rail are currently fully assessing the impact of the DCO on its land, assets and infrastructure, as summarised in section 4.

## 6.0 MATTERS NOT AGREED AND NEXT STEPS

6.1.1 Matters not yet agreed between the parties are summarised below:

**Table 5.2: Summary of Matters Not Yet Agreed**

<b>Matter Not Yet Agreed</b>	<b>Network Rail Position</b>	<b>Applicant Position</b>
<p>Protective Provisions and Framework Agreement – exercise of compulsory purchase powers</p>	<p>It is noted that there is an existing agreement between the Promoter and Network Rail in relation to the proposed haulage route which imposes certain limitations which would not be suitable for the proposed DCO Scheme.</p> <p>Network Rail and the Promoter have been in discussions in relation to the protective provisions and Framework Agreement. NR's understanding is that the Promoter is willing to include protective provisions for the benefit of Network Rail but agreement has not been reached between the parties and there are some points of disagreement remaining between the parties.</p> <p>The main point of disagreement between the parties relates to the inclusion of a restriction on the exercise of compulsory purchase powers over land and rights belonging to Network Rail. The Promoter has declined to include this provision in its preferred Order.</p> <p>It is standard practice in Development Consent Orders for protective provisions in favour of statutory undertakers</p>	<p>The current position is that SSE PLC have the benefit of a lease from Railtrack pursuant to which it constructed, maintained and uses the existing bridge. It was therefore the case, prior to submission of the DCO that the Applicant understood that it would be able to use the bridge pursuant to that lease. However, it considered that it would be prudent to obtain NR's agreement to this.</p> <p>To that end, the Applicant has been in contact with Network Rail since March 2021 and has consistently and regularly attempted to progress matters, as outlined in Appendix 1 of the Applicant's Response to the Examining Authority's Further Written Questions [REP6-016].</p> <p>The vast majority of the exchanges with NR have centred on their insistence that the Applicant must agree their Protective Provisions and a Framework Agreement. The Applicant has provided revised Protective Provisions and a Framework Agreement</p>

<b>Matter Not Yet Agreed</b>	<b>Network Rail Position</b>	<b>Applicant Position</b>
	<p>to provide a restriction on the exercise of compulsory acquisition powers to ensure that such powers do not have a detrimental impact on the ability of the undertaker to carry out its statutory function. Such provision has been included in many recent Development Consent Orders where Network Rail's land and apparatus has been impacted.</p> <p>NR attach at Appendix 1 of Deadline 6 Submission - Responses to ExQ2 [REP6-037] Network Rail's requested protective provisions to be included in the Development Consent Order for consideration by the Examining Authority.</p> <p>As can be seen at paragraph 4(6) of the abovementioned protective provisions, Network Rail cannot unreasonably withhold its consent to the exercise of compulsory powers over land, but may give such consent subject to reasonable conditions.</p> <p>Paragraph 4(6) of Network Rail's requested form of protective provision should provide the Promoter with sufficient comfort that Network Rail cannot act unreasonably in relation to this point. It is essential that Network Rail can impose conditions where appropriate as the rights to be</p>	<p>accepting the majority of Network Rail's points, but these have been rejected by Network Rail as they maintain that agreement is dependent upon the Applicant forgoing CA powers in respect of their interests. There has been no flexibility on the part of NR nor recognition of the impediment that their approach would pose to the scheme, and they are adamant that they must be exempt from the exercise of CA powers. However, the Applicant has, within the offers made to NR, confirmed that it would be a condition of any agreement that they would not exercise CA powers in respect of the bridge rights. As such, if NR were to agree such terms their desire to be excluded would be fulfilled.</p> <p>In simple terms, the Applicant has proposed that the quantum of consideration be determined by a Third Party so that Network Rail would have satisfaction that they were receiving full value together with an agreement that, if such terms were agreed, the Applicant would not exercise CA powers such that Network Rail's desire to be exempt from CA powers would be achieved.</p> <p>NR's position from the outset has been that the bridge comprises operational land and should therefore be exempt from CA powers. As has</p>

<b>Matter Not Yet Agreed</b>	<b>Network Rail Position</b>	<b>Applicant Position</b>
	<p>acquired and works undertaken to Pilsfrey Bridge could have a direct impact on the operational railway land underneath the bridge. The ability to impose conditions is necessary for Network Rail to safeguard the safe operation of the railway. For example, Network Rail does not yet have clarity as to what, if any, improvements will be needed to the bridge and how these will be undertaken and how the proposed cable will be laid across the bridge.</p> <p>The parties are currently negotiating a voluntary agreement in relation to the rights and hope that this will be concluded shortly. However, Network Rail must ensure that its undertaking is protected in case of no agreement being concluded.</p> <p>Network Rail notes that the Applicant recognises the role that the voluntary agreement will play in setting out the relationship between the parties as regards the implementation of the powers under the DCO, once made. However Network Rail does not agree that any such agreement should function to contract out of any compulsory acquisition powers. Rather through that agreement Network Rail will grant to the Applicant the relevant rights required. Network Rail's position remains</p>	<p>already been expressed to the ExA, the Applicant does not accept that the bridge is operational land and sees no justification for NR to be afforded special treatment and granted exemption from statutory provisions.</p> <p>In the absence of NR engaging in respect of a voluntary agreement, the Applicant has, in addition to responding with amended Protective Provisions and Framework Agreement, as a matter of last resort, drafted a Deed of Variation and a Licence which were emailed to NR on 22 April 2022. These are entirely consistent with the terms proposed to the Environment Agency and C&amp;RT in respect of their interests in the same bridge. A response is awaited.</p> <p>In the meantime, it is crucial that the Applicant secures CA powers to avoid delay and/or financial risk to the project. Either of these circumstances would comprise an impediment to the scheme.</p> <p>The Applicant has issued Network Rail with amended Protective Provisions and Network Rail have instructed legal representation in respect of these. The Applicant's position is that the ability to exercise compulsory purchase powers is</p>

<b>Matter Not Yet Agreed</b>	<b>Network Rail Position</b>	<b>Applicant Position</b>
	<p>that the protective provisions on the face of the DCO should include provision that compulsory powers over operation railway land cannot be exercised, except with Network Rail's consent (not to be unreasonably withheld); for the reasons set out in this Statement of Common Ground.</p>	<p>critical to ensuring that Network Rail do not comprise any impediment to the implementation of the scheme.</p>

- 6.1.2 Network Rail and the Applicant will continue to engage constructively and regularly and seek to reach agreement on the above matters prior to and during examination while keeping the examining authority updated through periodic updates of this Statement of Common Ground, including with regards to the agreement of Protective Provisions.
- 6.1.3 The Applicant, in Chapter 3 of this report, has evidenced discussions over a long period for attempts to acquire the land interests voluntarily and terms for this seem close to being agreed but since it is possible this will not be concluded before the end of examination then compulsory acquisition rights are, as has precedent in numerous energy DCO projects, included in the draft DCO as a last resort to be able to deliver the scheme.


## 7.0 SIGNATURES

7.1.1 This Statement of Common Ground is agreed:

### On behalf of Network Rail:

Name:  Dale Clarke  
Signature:  2022-05-24  
Date:  15:59+01:00

### On behalf of the Applicant:

Name: Colin Turnbull, DWD  
Signature:   
Date: 24 May 2022

## APPENDIX 1 – LETTER FROM APPLICANT TO NR



Date: 5 May 2021  
Your Ref: 14592



Network Rail Property - Eastern Region  
George Stephenson House  
Toft Green  
York  
YO1 6JT

6 New Bridge Street  
London EC4V 6AB  
T: 020 7489 0213  
F: 020 7248 4743  
E: info@dwdllp.com

Dear

Thank you for your S42 response letter dated 23 April 2021 in response to our current targeted consultation, and earlier S42 response dated 20 January 2021. The consultation documents included a comprehensive Preliminary Environmental Impact Report (PEIR) including a draft Transport Assessment which assessed construction, AIL and operational traffic routes and junction capacity using appropriate assumptions regarding traffic generation and assessment years.

In relation to AIL routing we have previously engaged with eastern region asset engineers ( and , 22 February 2021, e-mails with AECOM) to determine the weight limits for each bridge so that we can ensure we reflect this in our abnormal loads routing strategy and their advice has guided our proposals.

In relation to the letter comments regarding the use of the existing privately owned and purpose built bridge over the railway (North Pilfrey Bridge, with axle load limit of 16.5t and NR asset number DOW/26AA), this is the proposed principal vehicular access to the site during construction and operations. This will not be used for larger AILs given its loading limits and because we are prioritising the use of water freight. The intended usage is outlined in chapters 5 and 10 of the PEIR and will be described further in our Framework Construction Traffic Management Place (CTMP)), conformity with which is to be secured via a requirement in the DCO.

The use of this bridge in terms of vehicle types is unlikely to be materially different to the existing uses that are authorised by an existing easement dated 7 June 2001 between Railtrack Plc (1) and Scottish and Southern Energy Plc (2), with a term of 125 years, for a right of way over the bridge with vehicles (or without) at all times and for all purposes in connection with the extension of Keadby Power Station. There is also a second bridge easement dated 16 January 2012 between Network Rail Infrastructure Limited (1) and SSE Generation Limited (2) which is specific to the wind farm. We have contacted Network Rail (17 March 2021, – SSE estate surveyor, made initial contact and has had subsequent email correspondence with , Network Rail Chartered Valuation Surveyor) to seek a variation of the 2001 easement to widen the definition of SSE's land benefitting from the easement in connection with future use by SSE in relation to the Keadby Power Stations, and hope we will be able to reach voluntary agreement to the variation on reasonable commercial terms. Until such time, acquisition of the right of access and the right to lay a communication cable across this bridge will be included in our Book of Reference. We do not propose further works such as the laying of utility connections.

We can confirm that the Chapel Lane level crossing will not be utilised by Keadby 3 construction or operational traffic. It is located well away from our designated HGV route and no part of the Proposed

**Partners**

R J Greeves BSc (Hons) MRICS  
G Bullock BA (Hons) BPL MRTPI  
A Vickery BSc MRICS IRRV (Hons)  
S Price BA (Hons) DipTP MRTPI

A R Holden BSc (Hons) FRICS  
G Denning B.Eng (Hons) MSc MRICS  
B Murphy BA (Hons) MRUP MRTPI  
A Meech BSc MRICS

S Page BA MA (Cantab) MSc MRTPI  
P Roberts FRICS CEnv  
T Lodeiro BA (Hons) PGDip MSc MRICS  
A Pilbrow BSc (Hons) MRICS IRRV(Hons)



Development lies on the strip of land that is accessed by the level crossing. The nearest part of the Proposed Development (the canal water supply connection) would be constructed at least 25 meters to the north of the level crossing and on the other side of the South Soak Drain, and access during construction of this work would be via land to the north that is owned by the Applicant.

Further in relation to asset protection, the proposed generating station is to be sited some 200m north of the railway, beyond the overhead lines. No new overhead lines or towers near to the railway are proposed. Small associated development works such as underground water pipelines, roadways and administration buildings may be situated closer but at least 100m away. An alternative AIL route in our Framework CTMP is via Bonnyhale Road and the A161 Crowle Bridge which has a 32t/axle limit and has NR asset number DOW/25C. This is a public highway and the bridge is owned by NLC. The PEIR and our Framework CTMP explains this proposal and notes that it was used for 10 AILs for the Keadby 2 construction project. It would be used for a low number of movements for the Keadby 3 project.

Based on the design and assessment carried out, which has involved engagement with Network Rail asset engineers, and the inclusion of appropriate DCO requirements, there is no likelihood of impacts upon Network Rail's undertaking and we do not regard inclusion of Network Rail's own protective provisions as necessary.

I trust the above information is helpful. In order to progress negotiations on the easement variation, I would be grateful if you could liaise with \_\_\_\_\_ and confirm your requirements in respect of the easement variation to the SSE estate surveyor, \_\_\_\_\_, and the SSE in-house solicitor, \_\_\_\_\_ as soon as possible.

Kind regards,

**Senior Associate**  
**DWD**

E-mail: Telephone (mobile):