



Department
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Our ref: EN010050

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Dear Darragh Carr

**PLANNING ACT 2008
PLANNING CONSENT APPLICATION – PROPOSED KNOTTINGLEY
COMBINED CYCLE GAS TURBINE POWER PLANT**

1. I am directed by the Secretary of State for Energy and Climate Change (the “Secretary of State”) to advise you that consideration has been given to:
 - (a) the report dated 12th December 2014 of the Examining Authority, Elizabeth Hill (“the ExA”), who conducted an examination (“the Examination”) into the application (the “Application”) submitted on 4 October 2013 by Knottingley Power Ltd (“the Applicant”) for a Development Consent Order (“the Order”) under section 37 of the Planning Act 2008 (“the 2008 Act”) for the Knottingley Power Plant (“the Development”); and
 - (b) representations received by the Secretary of State and not withdrawn in respect of the Application.
2. The Examination of the Application began on 13 March 2014 and was completed on 13 September 2014. The Examination was conducted on the basis of written evidence submitted to the ExA, two issue specific hearings, one open floor hearing and a number of site visits.
3. The Order, as applied for, would grant development consent for the construction and operation of a Combined Cycle Gas Turbine (“CCGT”) generating station, and associated development, with a gross electrical capacity of up to 1500MW fuelled by natural gas taken from a new gas pipeline about 8km long which would be constructed between the power plant and the National Grid National Gas Transmission System and the Above Ground Installation at Gateforth. The Development will be located 3km east of Knottingley town centre, about 7km north east of Pontefract town centre and about 450m south west of Kellingley and its associated colliery. The Development would comprise of up to three separate

generating units and include hybrid cooling towers, water treatment infrastructure, administration buildings, auxiliary boiler, emergency diesel generator, a fire fighting system and other plant. Associated development will comprise of an electrical grid connection (250m of new 400kV overhead line extending from the existing transmission system to a substation to be built within the main site), an 8km underground gas pipeline and underground cooling water pipes. Space would also be reserved on the main site for carbon capture and storage ("CCS") equipment should this become required and economically viable.

4. Published alongside this letter is a copy of the ExA's Report of findings and conclusions ("the Report") as amended by the Errata Sheet (Ref EN 010050) of corrections produced by the Planning Inspectorate and agreed by the ExA prior to a decision being made. The ExA's findings and conclusions are set out in chapters 4 and 5 of the Report, and the ExA's recommendation is at chapter 8.

Summary of the ExA's Recommendation

5. The ExA recommended that the Order be made, on the basis of the provisions set out in Appendix 4 to the Report.

Summary of the Secretary of State's Decision

6. The Secretary of State has decided under section 114 of the 2008 Act to make, with modifications, an Order granting development consent for the proposals in the Application. This letter is a statement of reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and the notice and statement required by regulation 23(2)(c) and (d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 ("2009 Regulations").
7. The Secretary of State has also had regard to the Local Impact Report ("LIR") submitted by Wakefield Metropolitan District Council and the joint LIR submitted by Selby District Council and North Yorkshire County Council and to the relevant local plans as well as to the environmental information as defined in Regulations 2(1) of the 2009 Regulations and to all other matters which he considers to be important and relevant to his decision as required by section 104 of the 2008 Act.

Secretary of State's consideration

8. The Secretary of State has carefully considered the Report and all other material considerations. The Secretary of State's consideration of the Report is set out in the following paragraphs. All numbered references, unless otherwise stated, are to paragraphs of the Examination Report ("ER").
9. Except as indicated otherwise in the paragraphs below, the Secretary of State agrees with the findings, conclusions and recommendations of the ExA as set out in the Report, and the reasons for the Secretary of State's decision are those given by the ExA in support of his conclusions and recommendations.

Need for the Proposed Development

10. After having regard to the comments of the ExA set out in Chapter 4 of the Report, and in particular the conclusions set out in Chapter 8, the Secretary of State considers that in the absence of any adverse effects which are unacceptable in planning terms, making the Order would be consistent with energy National Policy Statements (NPS) EN-1 (Overarching NPS for Energy), EN-2 (NPS for Fossil Fuel Electricity Generating Infrastructure), EN-4 (Gas Supply Infrastructure and Gas and Oil Pipelines) and EN-5 (Electrical Networks Infrastructure) which set out a national need for development of new nationally significant electricity generating and network infrastructure of the type proposed by the Applicant. Accordingly, the Secretary of State is satisfied that the need for this development has been established.

Terrestrial ecology and Biodiversity

11. The ExA also considered [ER 4.77-4.97] the relevant and important policies in respect of the United Kingdom's international obligations as set out in the Conservation of Habitats and Species Regulations 2010 (as amended) ("the Habitats Regulations") which transpose the Habitats Directive (92/43/EC) into UK law. The Habitats Regulations require the Secretary of State to consider whether the Development would be likely, either alone or in combination with other plans and projects, to have a significant effect on a European site, as defined in the Habitats Regulations. If likely significant effects cannot be ruled out, then an Appropriate Assessment must be undertaken by the Secretary of State pursuant to regulation 61(1) of the Habitats Regulations to address potential adverse effects on site integrity. The Secretary of State may only agree to the Development if he has ascertained that it will not adversely affect the integrity of a European site.

12. The ExA has considered the No Significant Effects Report ("NSER"), submitted with the Environmental Statement (Appendix I.12), and was satisfied that the Development will not have a likely significant effect on any European site. This position was supported by Natural England. The Secretary of State has considered the NSER, noting that the nearest European site to the Development, the Humber Estuary Special Protection Area ("SPA") and Special Area of Conservation ("SAC"), is approximately 21 km away. The Secretary of State agrees with the conclusions within the NSER, principally that the distances involved will ensure that any potential hydrological effects or impacts from the emissions will not affect any European sites. The Secretary of State agrees with the ExA and is satisfied that there is sufficient evidence to conclude that the Development will not have a likely significant effect upon any European sites; an Appropriate Assessment is therefore not required.

13. The ExA also considered the impact of the Development on protected species, other nationally designated sites and non-statutory designated sites within the study area. The Secretary of State agrees with the ExA (ER 4.96) that there will be no significant impact on these areas or that the proposed mitigation will be sufficient to ensure adequate protection.

Landscape and Visual Impacts

14. The Secretary of State notes the ExA's consideration of the impact of the Development on landscape and visual impact in ER 4.31-4.54.
15. The Secretary of State agrees with the ExA that in terms of landscape impact, there would be mitigation through the layout and detailed design of the Development on the main site, as well as through agreements reached between the local authorities and the Applicant, and that this would be sufficient to mitigate the significant impact on the landscape. The Secretary of State notes that as part of this mitigation a section 106 agreement was proposed between the Applicant, Selby District Council and North Yorkshire County Council to mitigate the impact of the Development on the landscape in culmination with the proposed Southmoor Energy centre and Kellingley Colliery. The Secretary of State notes that whilst this agreement was taken into account by the ExA, it was given reduced weight [ER 7.49] due to shortcomings in the agreement [ER 4.41]. The Secretary of State notes that no concerns were raised by the local planning authorities in relation to this agreement although, like the ExA, he places reduced weight on the agreement. The Secretary of State notes that mitigation of the landscape impacts is secured through requirements in the Order and the planning obligations. The Secretary of State therefore agrees with the ExA's overall conclusion that the mitigation proposed would be sufficient to mitigate the significant impact the Development is expected to have on the landscape as identified in the Applicant's Environmental Statement [ER 4.53]. The Secretary of State also agrees with the ExA that the Development would minimise visual impact as far as practicable and would comply with paragraphs 2.6.5 and 2.6.6 of NPS-EN2. Overall, the Secretary of State considers that the need for this Development outweighs any residual adverse impact the Development might have on the landscape or visual impact.

Source of Cooling Water

16. The Secretary of State notes that the main contentious matter during the Examination [ER 4.127- 4.128] was the choice between the River Aire and the Aire and Calder Navigation Canal as the alternative sources for the cooling water required by the Development. The Canal and River Trust ("CRT"), which operates the canal, argued throughout the Examination that the canal should be used and called for provisions to be included in the Order that would ensure the Aire and Calder Navigation Canal is used as the primary option with the River Aire as a fall back option [ER 4.155].
17. The Secretary of State notes that the Applicant has been granted an abstraction licence to use the River Aire as the source of cooling water. The ExA examined the advantages and disadvantages of both options in the Report in order to consider the acceptability of the River Aire option particularly as regards two main issues: the extent of the depletion of water in the River Aire as a consequence of the proposal given that the water for the Aire and Calder Navigation Canal is sourced from the river (so either option would result in a reduction of flow in the river); and the effects on fish

due to the discharge of the warmed water back to the water course after cooling the power plant.

18. The Secretary of State notes the ExA's consideration of the first of these two issues [ER 4.134 – 4.141]. The Secretary of State notes that if the River Aire were to be used as the source of cooling water, the discharge point for the water returned to the River Aire would be close to the abstraction point. However, if the Aire and Calder Navigation Canal were to be used, water would be discharged back to the canal and would not rejoin the River Aire until further downstream meaning this option would result in a greater length of the River Aire being depleted.
19. The Secretary of State notes the ExA's consideration of the second issue [ER 4.142 – 4.152] as regards the impact of increased water temperature resulting from the discharge of cooling water back into the water course, particularly in relation to the EU Freshwater Directive and the Surface Waters (Fishlife) (Classification) Regulations 1997 as amended. This requires water temperature not to be increased in cyprinid waters by more than 3°C for more than 2% of the time.
20. The CRT's view [ER 4.146] was that the canal could withstand this discharge without breaching these environmental limits. The Applicant disagreed [ER 4.149] believing that the canal would not be able to withstand the discharge without breaching those limits. The Applicant also stated [ER 4.151] that should the canal option be chosen, then an even larger amount of water would need to be abstracted from the river to feed the canal in order to keep it within the environmental limits, than if the water was discharged into the river. The Secretary of State notes that the Environment Agency ("EA") also highlighted that the length of the depleted river could impede the passage of fish over weirs in that area [4.152].
21. The CRT however argued [ER 4.140] that there would be environmental advantages to using the Aire and Calder Navigation Canal as: the River Aire would require a pumping station to be built on the river bank in greenbelt land to enable cooling water to be extracted; there would be lower energy and construction costs associated with the canal from not needing a pumping station and having a shorter pipeline to the generating station, with less interference to third party interests by the pipeline; the risk to the integrity of the Aire and Calder Navigation Canal from tunnelling under it to construct the water cooling pipelines would be reduced. Whilst the ExA acknowledged that there would be energy and construction savings to using the canal [ER 5.3 (viii)] it was highlighted that the gas pipelines would still need to pass under the canal so there would be little additional risk to the integrity of the canal with the water pipelines, which are of a type regularly excavated under such structures and would be the subject of consultation with the CRT [ER 4.141]. The impact of the pumping station on Green Belt is considered below at paragraphs 23-28.
22. The Secretary of State notes the ExA's overall conclusion that using the river has less potential risk to aquatic ecology [ER 4.157] and agrees that whilst there would be some disadvantages with abstraction and discharge of

cooling water from the River Aire, as highlighted by the CRT, the environmental characteristics of the river would mean that it would be more able to absorb the impact of the cooling water discharge [ER 5.3 (viii)]. The Secretary of State considers these are important conclusions in weighing the benefits of the use of the river or canal as a source of cooling water. In addition the Secretary of State notes that if the canal were to be used the Applicant would need to first surrender their abstraction licence for the River Aire before one could be applied for on their behalf by the CRT. The ExA noted [ER 5.3 (viii)] that no work plans have been submitted, as part of this Application, for any abstraction from the canal. The ExA also noted the Applicant's concern that this would lead to some commercial risk and uncertainty as to whether a licence would be granted, and if it was, it would be granted to CRT meaning the Applicant would not have control over the licence or operations to ensure water is available. The Secretary of State agrees with the ExA that consideration needs to be given to the need for this type of project as expressed in NPS EN-1 and that commercial risks such as this might threaten its delivery [ER 4.157]. The Secretary of State is also satisfied that that the Application for the Development with the abstraction and discharge to the River Aire would comply with the guidance on water resource requirements in NPS EN-1.

Impact of Development on Green Belt

23. The Secretary of State notes that part of the Development falls within areas of Green Belt. This includes: works for the grid connection which will involve the erection of an additional temporary pylon whilst a diversion is constructed to allow connection to the grid [ER 4.201]; underground pipelines for cooling water and gas; and a pumping station on the bank of the River Aire to allow cooling water to be abstracted.
24. The National Planning Policy Framework ("NPPF") states that although there are some exceptions, new buildings in Green Belt should be regarded as inappropriate development and that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. It states that very special circumstances will not exist unless the potential harm to Green Belt by inappropriate development and any other harm is clearly outweighed by other considerations.
25. This issue was considered by the ExA in ER 4.199-4.207. The Secretary of State notes the ExA's conclusion that the additional pylon would be considered to be inappropriate development and would harm the openness of the Green Belt but that this harm would be temporary (during the construction phase noting that the completion date for connection works is expected to be 31 October 2018) until a permanent grid connection is put in place. In addition, it would be part of the associated development of a power plant to which the ExA highlights NPS EN-1 states that substantial weight should be given, due to the need for generating station development. As regards the underground pipelines for cooling water and gas, the ExA did not consider this to be inappropriate development but considered that it would have an impact on the openness of Green Belt. However, the ExA noted that this would also be temporary (during the expected 40 month construction phase) whilst works on the pipeline took place [ER4.206].

26. As regards the pumping station, the Secretary of State notes that the CRT cite the location of this pumping station as one of the reasons why the canal should be used as the source of cooling water rather than the River Aire because abstraction of water from the canal would not require a pumping station to be built in the Green Belt [ER 4.204].
27. The ExA highlighted [ER 4.202- 4.203] that if cooling water were to be abstracted from the River Aire a pumping station would be required on the river bank and, as it was not a pipeline, it should be treated as a new building in the Green Belt and as such it would be inappropriate development and it would also have an adverse effect on the openness of the Green Belt. However, the ExA noted that, as there are a number of other structures along the river bank in this area, the pumping station would not appear out of place. The Secretary of State notes that Selby District Council suggested landscaping to help mitigate the impact of the pumping station on the openness of the Green Belt and its visual amenities. However, the ExA noted that the river bank in this location has few trees and little vegetation and planting would only serve to draw attention to the building and increase its impact on the openness of the Green Belt. The ExA therefore concluded as regards the pumping station that there would be harm to the Green Belt by reason of inappropriateness, and due to the impact on its openness, with or without landscaping, which has substantial weight. However, there would be no other harm as a result of this part of the Development. The Secretary of State is satisfied that landscaping is not necessary. The Secretary of State notes, however, that there would be a condition in the Order to ensure the pumping station would be removed as part of the decommissioning of the generating station so any harm would be limited to the period of the pumping station remaining in place.
28. The Secretary of State notes that, as set out in the ExA's report (ER 4.205), NPS EN-1 states that substantial weight should be given to the need for projects such as this which would help meet the Government's identified need for additional generating capacity. In addition, the Secretary of State notes that paragraph 4.6.8 of NPS EN-1 says the potential for power stations, such as this, to provide Combined Heat and Power should also be given substantial additional positive weight. The Secretary of State recognises the impact the Development would have on the openness of the Green Belt but is satisfied, that these other considerations outweigh any potential harm resulting from inappropriate development and any other harm. As such, the Secretary of State is satisfied that very special circumstances necessary to allow the Development required by the NPPF, have been shown to exist.

Seven Year Commencement Date

29. The Secretary of State notes that the ExA accepted the Applicant's request that a condition be included in the Order that would allow for the Development to be commenced within seven years of the consent being issued [ER 7.32].
30. It is common practice for a time limit of five years to be set and the Secretary of State notes that the reason the Applicant requested seven years in this

case, is to take account of uncertainties in the market for power both in terms of market rules and the structure. Whilst the Secretary of State recognises that market rules and structure are likely to be important considerations for a developer, it has not been demonstrated to the satisfaction of the Secretary of State that this issue is substantially more complex for this Development than for other similar developments. Setting a seven year commencement date may result in prolonged uncertainties for those parties that will be affected by the Development, including in particular in relation to compulsory acquisition of land.

31. The Secretary of State notes that should the Applicant not be able to commence the Development within the five year time period, an application to amend the Order can be made under the relevant provisions of the 2008 Act but this application will be decided on its merits at the time of being submitted. The Secretary of State does not therefore consider that a compelling case for deviating from the usual practice for commencement dates has been presented and has included a requirement in the Order for the Development to be commenced within five years of the consent being issued.

Socio-Economic Impacts

32. The Secretary of State notes that Wakefield Metropolitan District Council suggested including in the Order a requirement to help ensure opportunities from the Development for employment and skills development for local people. He further notes that the ExA was content that the Applicant had experience in other projects in engaging with the local community to ensure that they and their contractors employ local people where possible, and so did not consider such a requirement needed to be included in the Order [ER 4.190].
33. The Secretary of State has carefully considered this issue. He considers that it is important to provide as many opportunities as possible for the local workforce to benefit from the economic opportunities provided by the Development and he concludes that such a requirement would assist in this aim. Whilst the Secretary of State has no reason to believe that the Applicant will not provide those opportunities in the absence of a requirement, the requirement will run with the Order for the lifetime of the project including in any future circumstances where the Applicant is no longer involved in the project. He has therefore included the requirement in the Order.

Other Matters

Compulsory Acquisition Powers

34. The Secretary of State has considered the compulsory acquisition powers sought for land, rights over land and the extinguishment or suspension of rights. The rights sought are of both a permanent and temporary nature, for the purposes of constructing, operating and maintaining the Development. The ExA's detailed consideration of compulsory acquisition matters is set out in ER section 6.

35. The Secretary of State notes that there were two outstanding objections from statutory undertakers in relation to compulsory acquisition that were not withdrawn at the close of the Examination and section 127 of the 2008 Act is therefore triggered.
36. The first outstanding objection was in relation to the CRT [ER 6.59 – 6.63]. Protective provisions have been agreed for the CRT which would ensure there would be no serious detriment to the carrying on of their undertaking as required by section 127. However, the CRT has not withdrawn their objection because they have sought to include additional protective provisions in the Order which would ensure that the canal is used as the primary source for cooling water on the grounds that this would be in the public interest. The ExA noted [ER 6.63] that as the Applicant is not pursuing the option of taking water from the canal, and the draft Order did not include any details for such works to be carried out, the additional provisions sought by the CRT would not be necessary under section 127 (3) (a), as amended, of the 2008 Act.
37. As set out above in paragraphs 22 the Secretary of State is satisfied that the river offers a better alternative to the canal as a source of cooling water. He agrees with the reasons given by the ExA for concluding that the public interest test in section 122(3) of the Act has been satisfied in this case and that the additional provisions sought by the CRT are not necessary under section 127(3) (a) of the Act. The Secretary of State agrees with the ExA and is satisfied that the provisions already agreed in relation to the CRT are sufficient to ensure the CRT's undertaking can be carried on without serious detriment [ER 6.64].
38. The second outstanding objection was from the EA. The ExA noted that the land and interests required by the Applicant could be taken without serious detriment to EA's ability to carry out their statutory duties provided protective provisions safeguarding the EA's assets could be agreed. Whilst these were not agreed at the close of the Examination, as set out below at paragraph 42, the Applicant and the EA have since confirmed that an Option Agreement has been exchanged and that protective provisions to safeguard the assets of the EA are therefore no longer required. The EA have therefore withdrawn their objection.
39. The Secretary of State also notes that there is an outstanding objection from Paul and Alexandra Caddick and Caddick Construction Ltd ("Caddick"), affected persons [ER 6.74 -6.77] which was resolved but the objections were not withdrawn. The Secretary of State is satisfied that, although the objections have not been formally withdrawn, there are no outstanding issues that need to be addressed.
40. The Secretary of State is satisfied with the ExA's analysis of the issues relating to compulsory acquisition and that the necessary requirements for granting compulsory powers have been met. The Secretary of State agrees with the ExA's conclusion that there is a compelling case in the public interest for the grant of the compulsory acquisition powers sought by the Applicant.

Representations received after the close of the ExA's examination of the Application

41. As noted in paragraph 38 above, at the close of the Examination protective provisions to safeguard the assets of the EA had not been agreed. On 14 January 2015 the Secretary of State wrote to the Applicant and the EA requesting an update on negotiations relating to the provisions that might need to be included in the Order to safeguard the assets of the EA, should the Secretary of State grant consent for the Development.
42. On 28 January 2015 the Secretary of State received confirmation on behalf of the Applicant that an Option agreement had been agreed and they were therefore satisfied that no additional protective provisions were required to be included in the Order. The EA wrote to the Secretary of State on 28 January 2015 confirming this. The Applicant and EA confirmed on 13th February 2015 that the Option Agreement had been entered into and on 16th February 2015, the EA confirmed that they withdrew their objection. The Secretary of State is therefore satisfied that protective provisions to safeguard the EA's assets are not required to be included in the Order.

Carbon Capture and Storage

43. There is a requirement in NPS EN-1 and EN-2 that all commercial scale fossil fuel generating stations with a capacity of 300MW or more should demonstrate that the power plant is 'Carbon Capture Ready' ("CCR"). This sets out that developers / applicants for development consent for this type and size of infrastructure are required to demonstrate that their proposed development complies with the guidance on CCR issued by the Secretary of State in November 2009¹ or any successor to it.
44. The Secretary of State notes the ExA's consideration of CCR issues [ER 4.171-4.176] and agrees with the ExA's conclusion that CCR requirements have been adequately assessed and is satisfied that, subject to the conditions set out in the Order that the Development would comply with NPS EN-1 and EN-2.

Combined Heat and Power

45. There is a requirement in NPS EN-1 that thermal generation stations applied for under the 2008 Act should either include combined heat and power ("CHP") or contain evidence that opportunities for it have been explored.
46. The Secretary of State notes the ExA's consideration of CHP issues [ER 4.167-4.170] and is content that they are addressed properly in line with the requirements of EN-1. The Secretary of State notes the ExA's conclusion that although there were no current opportunities for the supply of CHP, the power plant would be CHP ready and the Applicant has supplied the

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1 Carbon Capture Readiness A guidance note for Section 36 Applications URN090/810

http://www.decc.gov.uk/en/content/cms/what_we_do/uk_supply/consents_planning/guidance.aspx

information required in paragraph 4.6.6 of NPS EN-1 and has ensured that sufficient space will be made available through conditions in the Order for future CHP provision. The ExA also noted that future reviews of opportunities for CHP provision would be required through the Environmental Permit [ER 4.170]. As this has not yet been granted, the Secretary of State has amended the requirement in the Order relating to CHP to address the need for future reviews of opportunities for CHP provision to take place. This is consistent with the approach taken to other Nationally Significant Infrastructure Projects approved under the 2008 Act.

47. Overall the Secretary of State is therefore satisfied that the CHP requirements set out in NPS EN-1 have been adequately addressed.

General Considerations

Equality Act 2010

48. The Equality Act 2010 introduced a public sector “general equality duty”. This requires public authorities to have due regard in the exercise of their functions to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited under the Act; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not in respect of the following “protected characteristics”: age; gender; gender reassignment; disability; marriage and civil partnerships²; pregnancy and maternity; religion and belief; and race. This Secretary of State is satisfied that there is no evidence of any harm, lack of respect for equalities, or disregard to equality issues in relation to this Application.

Human Rights Act 1998

49. The Secretary of State has considered the potential infringement of human rights in relation to the European Convention on Human Rights, by the Development and compulsory purchase powers. The Secretary of State notes that the ExA concludes that the proposed interference with the human rights of individuals would be for legitimate purposes that would justify such interference in the public interest and to a proportionate extent. The Secretary of State agrees that the ExA’s rationale for reaching its conclusion, as set out in ER 6.29, provides a justifiable basis for taking the view that the grant of development consent would not violate any human rights as enacted into UK law by the Human Rights Act 1998.

Section 40(1) of the Natural Environment and Rural Communities Act 2006

50. The Secretary of State, in accordance with the duty in section 40(1) of the Natural Environment and Rural Communities Act 2006, has to have regard to the purpose of conserving biodiversity, and in particular to the United Nations Environmental Programme Convention on Biological Diversity of 1992, when granting development consent. The Secretary of State is of the

² In respect of the first statutory objective (eliminating unlawful discrimination etc.) only.

view that the Report considers biodiversity sufficiently to accord with this duty.

Secretary of State's conclusions and decision

51. For the reasons given in this letter, the Secretary of State considers that there is a compelling case for authorising the Application, given the national need for the proposed Development and that the potential adverse local impacts of the Development do not outweigh the benefits of the scheme.
52. The Secretary of State notes that in addition to the Order, the Development would need an Environmental Permit from the EA to ensure further protection for the environment by regulating emissions from the power plant during its operation. The Applicant has submitted an application to the EA which the EA is currently considering. The Secretary of State notes, however, that the Applicant will not be able to operate the power plant until EA are satisfied that stringent environmental conditions are met and that appropriate monitoring of environmental impacts will be required in the event that operation of the power plant does take place. The Secretary of State further notes that the EA has stated in a written representation that the Development would be capable of being adequately regulated under an Environmental Permit [ER 4.30].
53. The Secretary of State has therefore decided to accept the ExA's recommendation in paragraph 8.6 of the Report to make the Order granting development consent and to impose the requirements recommended by the ExA, but subject to the modifications described in paragraphs 54-58 below. In reaching this decision, the Secretary of State has had regard to the Report as amended by the Errata sheet referred to in paragraph 4 above, and to all other matters which he considers important and relevant to his decision as required by section 105 of the 2008 Act. The Secretary of State also confirms for the purposes of regulation 3(2) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 that he has taken into consideration the environmental information as defined in regulation 2(1) of those Regulations.

Modifications to the Order

54. As set out above at paragraphs 29-31 the Secretary of State has amended requirement 2 in Schedule 1, Part 2 of the ExA's recommended Order to reflect that the Development must be commenced within five years of the consent being granted rather than seven.
55. The Secretary of State has removed the definition of "*ancillary works*" in the ExA's recommended Order, and any reference to this, including in the definition of "*authorised project*". The Secretary of State notes that the Applicant was not able to identify any ancillary works associated with this Development but requested that this reference remained in the Order to retain flexibility on this matter. Whilst the ExA accepted this request [ER 7.9] the Secretary of State considers that in the absence of any identified ancillary works which are necessary for the Development, to include this

reference would be to grant consent wider in scope than is necessary to authorise the Development in question.

56. For the reasons set out in paragraphs 32-33 above, the Secretary of State has included in the Order a requirement (requirement 36, Schedule 1, Part 2) in respect of local employment and skills development.
57. For the reasons set out in paragraphs 45-47 above, the Secretary of State has amended the requirement related to Combined Heat and Power (requirement 28, Schedule 1, Part 2).
58. The Secretary of State has removed Parts of Schedule 8 (Protective Provisions) of the ExA's recommended Order. The sections removed relate to confidential agreements entered into by the Applicant with National Grid Electricity Transmission plc and National Grid Gas plc. If the parties have entered into commercially binding agreements, then they can only be varied or amended by agreement with the parties in accordance with the terms of those agreements. On that basis the Secretary of State considers that to include such provisions in the Order is legally unnecessary and inappropriate

Challenge to decision

59. The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached at the Annex to this letter.

Publicity for decision

60. The Secretary of State's decision on this Application is being publicised as required by section 116 of the 2008 Act and regulation 23 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

Yours sincerely



Giles Scott
Head of National Infrastructure Consents and Coal Liabilities

ANNEX

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the former Infrastructure Planning Commission or the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the Planning Court during the period of 6 weeks beginning with the date when the Order is published. The Knottingley Power Plant Order as made is being published on the date of this letter on the Planning Inspectorate website at the following address:

<http://infrastructure.planningportal.gov.uk/projects/yorkshire-and-the-humber/knottingley-power-project/>

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655)