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By email only: **REDACTED**

**REDACTED**

RWE Generations UK PLC  
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01 October 2024

Dear **REDACTED**,

**ELECTRICITY ACT 1989**

**ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (ENGLAND AND WALES) REGULATIONS 2017 (the “2017 EIA Regulations”)**

**ELECTRICITY GENERATING STATIONS (VARIATION OF CONSENTS) (ENGLAND AND WALES) REGULATIONS 2013 (the “Variation Regulations”)**

**ELECTRICITY GENERATING STATIONS (THE CARBON CAPTURE READINESS) (ENGLAND AND WALES) REGULATIONS 2013 (the “CCR Regulations”)**

**GREAT YARMOUTH POWER STATION, SOUTH DENES ROAD, GREAT YARMOUTH, NR30 3PY**

**1 THE APPLICATION**

- 1.1 I am directed by the Secretary of State for Energy Security and Net Zero (“the Secretary of State”) to refer to the application submitted 15 December 2023 and updated with additional documents on 18 December 2023 (“the Application”) on behalf of RWE Generations UK PLC (“the Applicant”) to vary the consent granted by the Secretary of State under Section 36 of the Electricity Act 1989 (“the Act”) on 23 October 1997. The 1997 Section 36 consent permitted the construction and operation of a combined cycle gas turbine generating station at South Denes Road, Great Yarmouth, NR30 3PY (“the Development”) with a capacity of “about 350MW”. The consent was subsequently amended on 4 April 2001 to permit the Development to operate at a higher gross capacity of “about 400MW”.
- 1.2 In the Application, the Applicant requests permission to amend the existing consent (dated 4 April 2001) for the operation of the Development, to permit it to operate at an increased gross capacity of up to 430MW, pursuant to Section 36C of the Act (“the Proposed Development”).
- 1.3 On 17 May 2024 the Secretary of State asked the Applicant to amend the Supporting Statement submitted 18 December 2023 in order to fully set out any potential environmental

effects arising from the Proposed Development. The Applicant submitted two amended Supporting Statements on 27 February 2024 including the requested information entitled: “supporting-statement-s36-variation-supporting-statement” (“Supporting Statement 1”) and “supporting-statement-s36-variation-supporting-statement-with-section-4-as-table” (“Supporting Statement 2”). Supporting Statement 2 included the requested environmental information as a table, and Supporting Statement 1 included the requested environmental information as paragraphs of text. On page 10 of Supporting Statement 1, the Applicant summarises the proposed works to enable the Proposed Development as follows:

*“The proposed Section 36 variation will not result in any changes to the character nor the configuration of the generating station as described in the existing Section 36 consent. Further, there will be no changes to the original red line boundary of the power station. The main purpose of the variation is to amend the existing consent to allow the operation of the station at an increased gross generation. The increase in gross generation is mainly attributable to ambient conditions after modest improvements to the power station, and not a result of expanded infrastructure. The main area of the power station, its external layout as well as its approved red line boundary will remain unaffected by the proposed variation. This variation also aims to remove redundant construction-related conditions which are part of the deemed planning permission granted under Section 90 (2ZA) of the Town and Country Planning Act 1990 to ensure that the deemed planning permission is relevant to the continued operation of the power station”.*

1.4 Supporting Statement 1 explains this further at page 11:

*“The Great Yarmouth Power Station has been subject to modest improvements aimed at enhancing its efficiency, flexibility and reliability. Whilst these changes have resulted in small increases in generation capacity, the station’s gross generation has remained consistent with the existing Section 36 consent under the Electricity Act of 1989. A variation of this consent is now sought to enable operation at an increased gross generation of up to 430 MWe to enable the station to operate at its maximum generation capacity. This request for variation, together with modest improvements to the station over the years, also stems from technical findings indicating that lower temperatures and higher air pressures can boost the station’s power output and thermal efficiency. As a result of this Section 36C variation application, the station will be authorised to operate at a gross generation of up to 430 MWe. There will be no physical works associated with the Proposed Development and the Section 36 consent variation”.*

1.5 At page 22, Supporting Statement 1 refers to the accompanying Air Quality Impact Assessment (“AQIA”) which investigated the effects of the Proposed Development operating at three different capacities. The modelled scenarios were 1; operating throughout the year at the Applicant’s current baseline of 420MW, 2; the worst-case scenario where the power plant operates at 430MW throughout the year, and 3; the most realistic scenario, where the power plant largely maintains 420MW but switches to 430MW during colder ambient temperatures.

1.6 The Proposed Development also seeks to remove redundant construction related conditions which are part of the deemed planning permission granted under Section 90(2ZA) of the Town and Country Planning Act 1990 to ensure that the deemed planning permission is relevant to the continued operation of the power station. The Secretary of State has considered these additional proposed amendments (beyond the primary change outlined in paragraph 1.2) and has decided to retain the original conditions within the Section 36 consent and Deemed Planning Permission, irrespective of whether they have been discharged. This is because the proposed amendments to conditions are not relevant to the Varied Proposed Development itself and there is a risk that removal of these conditions may have unintended consequences. The Secretary of State is satisfied that this approach is appropriate in this case.

## **2 SUITABILITY OF THE SECTION 36 VARIATION PROCEDURE FOR PERMITTING THE PROPOSED VARIATION**

2.1 The guidance “Varying consents granted under Section 36 of the Act for generating stations in England and Wales” (“the Variation Guidance Note”), issued in 2013, states:

*“Changes in the design of generating stations which have been consented but not constructed which would allow them to generate an amount of power that would be inconsistent with the original consent are likely to be appropriate subject matter for a variation application, provided there are no major changes in the environmental impact of the plant. Similar changes to an existing plant could be appropriate subject matter for a variation application only if they did not involve physical extension of the generating station, relocation of generating plant, or the installation of new equipment that would amount to the construction of a new generating station.”*

2.2 The Section 36 variation procedure also does not allow changes that would result in a development that would be fundamentally different in character or scale from what was originally consented. Any such changes would require a new application.

2.3 The Secretary of State notes that the Applicant states there would be no significant additional impacts arising from the Proposed Development when compared with those arising from the operation of the Development under the existing consent.

2.4 The Secretary of State considers that the Proposed Development would not be fundamentally different in character or scale from the Development operating under the existing consent, there are no major changes in the environmental impact and no physical extension of the generating station and, having considered the Variation Guidance Note<sup>1</sup> for the Section 36 variation procedure, concludes that it is appropriate for the Proposed Development to be considered under the Section 36 variation procedure.

2.5 The Secretary of State wrote to the Applicant on 15 January 2024 regarding the Secretary of State’s assessment of the suitability of the Application for publication. The Secretary of State was satisfied that the information provided in the Application accords with the requirements of regulation 3 of the Variation Regulations. However, the Secretary of State asked the Applicant to amend the Supporting Statement submitted on 18 December 2023

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<sup>1</sup> <https://www.gov.uk/government/publications/varying-consents-granted-under-section-36-of-the-electricity-act-1989-for-generating-stations-in-england-and-wales>

in order to fully set out any potential environmental effects. The Applicant submitted two amended Supporting Statements on 27 February 2024 with the requested information and the Secretary of State was then satisfied the Proposed Development was suitable for publication in accordance with regulation 4 of the Variation Regulations.

- 2.6 The Application was published by the Applicant in accordance with the Variation Regulations and served on Great Yarmouth Borough Council and Norfolk County Council (“the Relevant Local Planning Authorities”). The Application was advertised by the Applicant in the London Gazette (17 May 2024) and in the Great Yarmouth Mercury (successive weeks on 17 and 24 May 2024). The Application was also subject to a public consultation between 17 May 2024 and 28 June 2024 which was carried out by the Applicant. The Relevant Local Planning Authorities were consulted from 17 May 2024 to 17 July 2024 by the Applicant and the Secretary of State. The Environment Agency and Natural England were consulted from 17 May 2024 to 17 June 2024 by the Applicant and the Secretary of State.

### **3 ISSUES RAISED DURING CONSULTATION**

- 3.1 The following parties responded to the consultation: Natural England, the Environment Agency and Great Yarmouth Borough Council.
- 3.2 Natural England summarised that it was not able to provide specific advice on this Application and therefore had no comment to make on its details.
- 3.3 The Environment Agency confirmed it had no concerns over the Proposed Development and had no comments to make. The Environment Agency stated that this was a technical variation of planning on energy output, whereas environmental permits only limit thermal input, and as this variation allows energy efficiency to increase without any changes to fuel input it was satisfied that all permit requirements are already in place for this variation.
- 3.4 Great Yarmouth Borough Council raised no objections.
- 3.5 Norfolk County Council did not respond.

### **4 THE SECRETARY OF STATE'S CONSIDERATION OF POSSIBLE EFFECTS ON DESIGNATED SITES**

- 4.1 The Secretary of State is prohibited from granting a variation to a Section 36 consent unless it can be demonstrated that any proposed change will not adversely affect the integrity of any Special Areas of Conservation (“SAC”) and Special Protection Areas (“SPA”) that form part of the National Site Network designated under the Conservation of Habitats and Species Regulations 2017. In the case that any proposed changes were to adversely affect the integrity of these sites, the Secretary of State should be satisfied that there are no feasible alternatives which would be less damaging to the sites, that there are imperative reasons of overriding public interest, and that sufficient compensation is provided to offset damage which could be caused to the sites.
- 4.2 The Applicant’s Supporting Statement 1 discusses designated sites at page 13 and states:

*“The Proposed Development sought via this Section 36 variation has been assessed and determined to have no adverse impact on these environmentally sensitive sites, ensuring no significant impacts on the preservation of their ecological integrity”.*

The Applicant’s submission included an AQIA, and a Preliminary ecological appraisal (“PEA”).

- 4.3 The AQIA (Sections 4.2.8 and 4.2.9) evaluated the potential impacts on air quality and designated sites within a 10km radius. The assessment indicated that “[the] ecological impacts resulting from air concentrations of NO<sub>x</sub>, associated acid, and nutrient nitrogen deposition are insignificant, with no likely significant effects, either alone or in combination with other sources.”
- 4.4 The PEA (Section 4.2.9) included a consideration of two RAMSAR sites (Broadland and Breydon Water) and three designated sites (Outer Thames Estuary SPA, Southern North Sea SPA and the Broads SAC), all located within 10km of the existing power station. The PEA concluded that the Proposed Development will have no adverse impact on these designated sites.
- 4.5 On the basis of the information provided and in the absence of any views to the contrary from consultees, the Secretary of State considers that the Proposed Development will not have any likely significant effects on any sites designated as part of the National Site Network or other protected sites either alone or in-combination with other plans or projects.

## **5 SECRETARY OF STATE’S CONSIDERATION OF THE ENVIRONMENTAL INFORMATION**

- 5.1 The Applicant’s updated Supporting Statements provide an overview of:
- the site and its planning history;
  - the legislation and guidance relating to Variation Applications;
  - the consultation that had been undertaken in developing the Application;
  - a description of the Proposed Development and the proposed changes to the consent;
  - the planning policy framework; and
  - a planning assessment.
- 5.2 The Secretary of State considers that the information submitted by the Applicant is sufficient to determine whether any potential impacts of the Proposed Development are acceptable.
- 5.3 The Applicant’s Supporting Statement 1 discusses environment matters from pages 17 to 25. On page 18 the Applicant states the following:

*“[The Proposed Development] is not expected to result in environmental effects and impacts that are materially different from the ones associated with the power station as currently consented and operated. There are no new physical works associated with the proposed variation and therefore there are no potential construction impacts. In terms of potential operational impacts, air quality is the main aspect of the environment which has the potential to be affected by the Proposed Development. A full Air Quality Impact Assessment has been undertaken to assess the potential impact. The potential environmental effects foreseen as a result of the proposed Section 36 variation are not significant”.*

- 5.4 On page 24 the Applicant summarises:

*“The proposed Section 36 variation will have no impact on other consents which regulate environmental emissions from Great Yarmouth Power Station. The station will continue to operate in line with the parameters of its current Environmental Permit and abstraction licence. This updated supporting statement also demonstrates that the Proposed Development*

*will not have likely significant effects on the environment and is therefore not considered to be EIA Development for the purposes of the 2017 EIA Regulations”.*

5.5 Below is a summary of relevant environmental information from the Applicant’s Supporting Statement 1 that has highlighted a risk of potential impacts above the original ES:

Issue	Supporting Statement 1 Assessment
Climate Change	By being able to operate when sufficient renewable energy is unavailable to satisfy demand, efficient gas-fired power stations are projected to undertake an important role in preserving security of supply during the transition to a future energy system with low-carbon emissions. This will support the increasing size of the UK renewables portfolio. Consequently, the proposed capacity increase will contribute to addressing climate change by ensuring that, when gas-fired generation is required, this will be preferentially delivered by efficient plants.
Climate Change Adaptation	The proposed capacity increase is not expected to affect in any way the risks associated with the effects of Climate Change on Great Yarmouth Power Station.
Ecology and Biodiversity	[The AQIA] indicates that ecological impacts resulting from air concentrations of NOx, associated acid, and nutrient nitrogen deposition are insignificant, with no likely significant effects, either alone or in combination with other sources.  Thus, even under the worst-case scenario of continuous 430 MWe operation, the contributions of NOx and other pollutants are not expected to significantly alter air quality or negatively affect the ecological integrity of nearby coastal and grazing habitats. In summary, the Proposed Development, both individually and in combination with other local sources, is unlikely to have a significant impact on air quality or ecological habitats in the surrounding area.

Atmospheric Emissions, Human Health and Ecology	<p>The [AQIA] demonstrated that the impacts of the Proposed Development to be authorised by this Section 36C variation relative to the baseline are insignificant by comparing modelling results for the baseline and the proposed change over a 10 km radius around the plant.</p> <p>From a human health perspective, modelling indicated that the NO<sub>2</sub> and CO contributions, under all scenarios, would be below 10% of the EA stage 1 screening criteria and thus deemed insignificant. While annual mean NO<sub>2</sub> concentrations would slightly exceed 1% of the EA stage 1 criteria, they would remain significantly below the 70% threshold set by the EA stage 2 assessment criteria. Furthermore, if the plant were to operate at 430 MWe throughout the year there would be negligible effects on local air quality and human health receptors.</p> <p>Ecologically, the annual mean concentrations resulting from the Proposed Development, even under the worst-case Scenario (2) would remain insignificant. However, while maximum daily NO<sub>x</sub> concentrations would exceed 10% of the Environmental Acceptance Level, they were still predicted to be under 100% of the Critical Load at each assessed ecological site. Even when considering that NO<sub>x</sub>'s primary effect is to increase nitrogen and acid deposition, these depositions are anticipated to remain less than 1% of the relevant thresholds. Furthermore, changes in NO<sub>x</sub> concentrations due to altered operations (comparing Scenarios (2) or (3) to the baseline Scenario (1) are expected to result in an inconsequential rise of less than 0.1% of their respective critical levels.</p> <p>In summary, the [AQIA] that the predicted changes in air quality, from allowing the facility to operate at a gross generation of 430 MWe under the worst case of continuous operation (Scenario 2), would be unlikely to have a significant impact on local air quality.</p>
Potential Cumulative Impacts	<p>The Proposed Development, both on its own and in combination with other authorised Developments, will not lead to significant cumulative impacts on local air quality, ecology, or noise.</p>

5.6 The Secretary of State notes that the Proposed Development would lead to increased atmospheric emissions. However, the Applicants AQIA, PEA and Supporting Statement 1 provides evidence to demonstrate that the effects would not be significant. The Supporting Statement 1 concludes that the Proposed Development, both individually and in combination with other local sources, is unlikely to have a significant impact on air quality or ecological habitats in the surrounding area. The Supporting Statement 1 states that ecologically, the annual mean concentrations resulting from the Proposed Development, even under the worst-case scenario (2) would remain insignificant. From a human health perspective, the Supporting Statement 1 concludes that modelling indicated that the NO<sub>2</sub> and CO contributions, under all scenarios, would be below 10% of the EA stage 1 screening criteria and thus deemed insignificant. The Supporting Statement 1 notes the Proposed Development will have no impact on other consents which regulate environmental emissions from Great Yarmouth Power Station and that the station will continue to operate in line with the parameters of its current Environmental Permit. The Secretary of State notes that in the consultation the Environment Agency confirmed it had no concerns over the Proposed Development and was satisfied that all permit requirements are already in place for this variation. The Applicant's document titled 'Technical Information to demonstrate impacts of ambient conditions on gross power generation' ("Ambient Conditions Report") states the

Proposed Development, operating at 430MW, would result in an increase of total fuel consumption of 44MJ which is an increase of 1.6%, compared to operating at 420MW. The Secretary of State acknowledges the Applicant's "realistic scenario" in the AQIA whereby the Proposed Development will continue to operate at 420MW for the majority of the year, with the exception of when the ambient temperatures are favourable (i.e. less than 5°C) and the Proposed Development would operate at the higher 430MW. The Secretary of State considers the increase in fuel consumption and the related greenhouse gas emissions are not significant.

- 5.7 The Secretary of State is in agreement with the Applicant's assessment in regards to the Proposed Development's effect on Climate Change as stated in Supporting Statement 1. The Secretary of State considers the Applicant has sufficiently demonstrated that the Proposed Development would not result in significant environmental impacts and agrees with the Applicant's assessment in this regard. In conclusion the Secretary of State has considered the information submitted by the Applicant along with submissions made by consultees and takes the view that there are no environmental matters that would require the Application to be refused.

## **6 SECRETARY OF STATE'S CONSIDERATION OF CARBON CAPTURE READINESS**

- 6.1 The Applicant provided a Carbon Capture Readiness ("CCR") Report and CCR information in Supporting Statement 1. On page 25, Supporting Statement 1 concluded that:

- "[The Applicant] does not currently own any other land near Great Yarmouth Power Station except the land within the red line boundary of the Development site. There is currently insufficient land available at Great Yarmouth Power Station site to install carbon capture technology.
- Regarding potential CO<sub>2</sub> storage areas/sites, it is considered that there are no major barriers to demonstrating potential CO<sub>2</sub> storage sites are available. The [CCR] report proposed that the Barque gas field, the current CO<sub>2</sub> storage location for the Development, has sufficient storage capacity for the anticipated carbon output over the station's operational life.
- An economic assessment conducted within the [CCR] report demonstrated that retrofitting a Carbon Capture Plant to an existing CCGT plant would be economically viable, subject to future carbon pricing and government support under the CCS Infrastructure Fund and the Dispatchable Power Agreement. However, in reaching such a conclusion, the assessment has not considered the potential costs associated with purchasing the land required to locate the carbon capture equipment."

- 6.2 The Applicant notes in the CCR Report that they will keep under review the carbon capture options. The Secretary of State notes the requirements of the Carbon Capture Readiness Regulations 2013 ("the CCR Regulations") including Regulation 6 which provides that an order varying a Section 36 consent to increase the rated output of a combustion plant may not be made until the Secretary of State has determined whether the CCR conditions set out in regulation 2 of the 2013 CCR Regulations are met. Having considered those conditions, the Secretary of State is satisfied that the CCR conditions have been fully considered but are not met. The Secretary of State notes that future policy instruments may emerge which could assist with the viability of installing carbon capture equipment and it could be the case that suitable land for carbon capture technology may become available in the future. The Secretary of State also notes that the Development was originally granted on 23 October 1997 before the 2013 CCR Regulations were in effect. The Secretary of State



considers the Applicant should continue to explore ways to have suitable land available and the economic viability to install carbon capture technology.

- 6.3 The Secretary of State is able to grant a consent for a variation of the Section 36 consent despite the CCR conditions not having been met in this case and the Secretary of State considers that the requested variation should not be refused on the basis of this issue.

## **7 SECRETARY OF STATE'S CONSIDERATION OF COMBINED HEAT AND POWER**

- 7.1 The 2011 Overarching National Policy Statement ("NPS") for Energy ("2011 EN-1") states "Under guidelines issued by DECC (then DTI) in 2006, any application to develop a thermal generating station under Section 36 of the Electricity Act 1989 must either include Combined heat and power ("CHP") or contain evidence that the possibilities for CHP have been fully explored [Paragraph 4.6.6]. The revised EN-1 published 17 January 2024 in section 4.8 also refers to the 2006 guidance.
- 7.2 On Page 28 the Applicants Supporting Statement 1 discusses that the possibility of integrating CHP technology at the Great Yarmouth Power Station has been considered as part of this variation Application and concludes there is no immediate opportunity for heat supply from Great Yarmouth Power Station to the surrounding area and the incorporation of CHP technology is not financially viable, practical or necessary. The Secretary of State is satisfied that the Applicant's conclusion on CHP precludes any immediate requirement for the necessary infrastructure to be put in place at the existing, operational facility (by way of retrofitting). The Secretary of State is of the view that he can grant a consent for a variation of the Section 36 consent despite CHP technology not currently viable and the Applicant has provided evidence that the possibilities for CHP have been fully explored.

## **8 THE SECRETARY OF STATE'S DECISION ON HOLDING A PUBLIC INQUIRY**

- 8.1 Regulation 8 of the Variation Regulations gives the Secretary of State discretion to hold a public inquiry into a variation application. In considering whether to hold a public inquiry, the Secretary of State should consider any representations made to the Secretary of State by a relevant planning authority or any other person where those representations are not withdrawn, and all other material considerations.
- 8.2 The Secretary of State notes that none of the representations raised any objection to the Application being granted and did not raise any other matters which are material to the Secretary of State's decision on whether to hold a public inquiry into the Application.
- 8.3 The Secretary of State has carefully considered the views of the relevant planning authorities and statutory advisers and all other material considerations. The Secretary of State notes that there were no requests for a public inquiry to be held and that no substantive comments were submitted in respect of any matters arising from the Application. The Secretary of State considers that there is no further information required to take a decision on the Application and that it is not, therefore, necessary to hold a public inquiry.

## **9 POLICY CONSIDERATIONS**

- 9.1 The Secretary of State has considered the ongoing need for the development. The Secretary of State notes that the 2011 EN-1 and the 2011 NPS for Fossil Fuel Electricity Generating Infrastructure ("2011 EN-2") both set out that in order for the UK to meet its energy and climate change objectives there is a continuing need for new gas-fired electricity generating stations given the contribution made by such projects to securing energy supply. Although the NPSs refer to new generating stations, we note that the Application is for additional

capacity and we consider that the policy support extends to such an Application. The Secretary of State notes that the 2011 NPSs were extant when the Applicant was made on 15 December 2023 and that the NPSs continue to form the basis for decision-making under the Planning Act 2008 and are important and material matters in considering applications to vary Section 36 consents.

9.2 Both 2011 NPS EN-1 and EN-2 provide policy support for the Development. 2011 EN-1 states:

*“The UK economy is reliant on fossil fuels, and they are likely to play a significant role for some time to come. The majority of homes have gas central heating, and on our roads, in the air and on the sea, our transport is almost wholly dependent” [Paragraph 3.8.19].*

*“Gas is the cleanest and most reliable fossil fuel. It is likely to continue to be a central part of GB’s energy mix during the transition to a low carbon economy.*

- *in the domestic (household) sector, where it remains the fuel of choice for cooking and heating;*
- *in the industrial sector, as a source of energy and as a feedstock;*
- *in the power generation sector, as a reliable source of flexible power generating capacity, to back-up intermittent renewables, so underpinning security of supply and price stability in the electricity market;*
- *gas demand for power generation could increase substantially due to the greater use of electricity for heat and transport;” [Paragraph 3.8.19].*

9.3 2011 EN-2 states:

*“Fossil fuel generating stations play a vital role in providing reliable electricity supplies and a secure and diverse energy mix as the UK makes the transition to a low carbon economy” [Paragraph 1.1.1].*

9.4 A new NPS suite came into force on 17 January 2024 after being approved by Parliament including the 2024 Overarching “NPS for Energy (“2024 EN-1”) and the 2024 NPS for Natural Gas Electricity Generating Infrastructure (“2024 EN-2”). The transitional guidance in the new 2024 EN-1 makes clear that in decision-making about Nationally Significant Infrastructure Projects applications accepted for examination before the 2024 designations of the 2024 NPS suite, the 2011 suite of NPSs should have effect. Therefore the 2011 NPSs forms the basis of the Secretary of State’s consideration of the Application. The Secretary of State considers the new NPSs to be important and relevant when in considering applications for variations of Section 36 consents. As such, the Secretary of State has had regard to the new energy NPSs in deciding the Application but does not consider that there is anything within them that would lead him to reach a different decision on the Application.

9.5 2024 EN-1 states:

*“The use of unabated natural gas and crude oil fuels for heating, cooking, electricity and transport, and the production of many everyday essentials like medicines, plastics, cosmetics and household appliances, will still be needed during the transition to a net zero economy. This will enable secure, reliable, and affordable supplies of energy as we develop the means to*

*address the carbon dioxide and other greenhouse gases associated with their use, including the development and deployment of low carbon alternatives” [Paragraph 2.3.10].*

9.6 2024 EN-2 states:

*“The majority of new generating capacity will need to be low carbon. But new unabated natural gas generating capacity will also be needed during the transition to net zero. This will ensure that the system remains reliable and affordable” [Paragraph 1.1.2].*

9.7 The Secretary of State also notes the Powering Up Britain 2022 report which sets out the Government’s plans to enhance energy security, seize the economic opportunities of energy transition, and deliver on the Government’s Net Zero commitments. It states:

*“We will be powered by renewables including wind and solar, hydrogen, power with carbon capture, usage and storage (CCUS) and new nuclear plants - while recognising the vital role that UK oil and gas will play in the transition” [Page 5].*

9.8 The Secretary of State notes that the British Energy Security Strategy 2022 recognises the importance of addressing our underlying vulnerability to international energy prices [and] ensure a domestic supply of clean, affordable, and secure power as we transition to net zero. The British Energy Security Strategy states:

*“Even as we reduce imports, we will continue to need gas to heat our homes and oil to fill up our tanks for many years to come – so the cleanest and most secure way to do this is to source more of it domestically. Net zero is a smooth transition, not an immediate extinction, for oil and gas” [Page 5].*

9.9 In conclusion, the Secretary of State notes the continuing need for gas fired electricity generating stations and the role these generating stations play in the transition to Net Zero as confirmed in the 2011 and 2024 NPSs, Powering Up Britain 2022 and British Energy Security Strategy 2022.

## **10 PUBLIC SECTOR EQUALITY DUTY**

10.1 The Equality Act 2010 requires public authorities to have due regard in the exercise of their functions to:

- the elimination of unlawful discrimination, harassment and victimisation and any other conduct prohibited by or under the Act;
- the advancement of equality of opportunity between people who share a relevant protected characteristic (e.g. age; gender; gender reassignment; disability; marriage and civil partnerships; pregnancy and maternity; religion and belief; and race.) and persons who do not share it; and
- the fostering of good relations between persons who share a relevant protected characteristic and those who do not share it.

10.2 The Secretary of State has considered the potential impacts of granting or refusing the Application in the context of the general equality duty and has concluded that it is not likely to result in any significant differential impacts on persons sharing any of the protected characteristics and sees no evidence which suggests that such differential impacts are likely in the present case.

10.3 The Secretary of State does not, therefore, consider that the grant of the Application is likely to result in a substantial impact on equality of opportunity or relations between those who

share a protected characteristic and others or unlawfully discriminate against any particular protected characteristics.

## **11 HUMAN RIGHTS ACT 1998**

11.1 The Secretary of State has also considered the potential infringement of human rights in relation to the European Convention on Human Rights, by the Varied Development. The Secretary of State considers that the grant of a consent in respect of the Varied Development would not violate any human rights as enacted into UK law by the Human Rights Act 1998.

## **12 NATURAL ENVIRONMENT AND RURAL COMMUNITIES ACT 2006**

12.1 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 a variation to a Section 36 consent.

12.2 The Secretary of State is satisfied there has been due regard to conserving biodiversity and considers that the matters specified in paragraph 1(2) of Schedule 9 to the Act have been adequately addressed by the information that the Applicant submitted to the Secretary of State with the Application.

## **13 THE SECRETARY OF STATE'S DECISION ON THE PROPOSED DEVELOPMENT**

13.1 The Secretary of State has taken into consideration the Variation Guidance Note which discusses that a variation application is appropriate where there are no major changes in the environmental impact and no physical extension of the generating station, relocation of generating plant, or the installation of new equipment, and the Secretary of State considers this is the case for the Proposed Development. The Secretary of State considers that the Proposed Development would not be fundamentally different in character or scale from the existing Development operating under the existing consent. The Secretary of State is satisfied that the changes are of a kind that is reasonable to authorise by means of the variation procedure in section 36C of the Act.

13.2 The Secretary of State notes the continuing need for gas fired electricity generating stations as confirmed in the 2011 and 2024 NPSs, Powering Up Britain 2022 and British Energy Security Strategy 2022. The Secretary of State considers that the ongoing need for the Development is established and it is appropriate and necessary.

13.3 The Secretary of State has considered the planning balance and has weighed the benefits of the Proposed Development against the harms associated with it. The Secretary of State notes the continuing need for gas fired electricity generating stations and the role these generating stations play in the transition to Net Zero. Improvements to this existing gas fired generating station have made it more efficient, enabling an increase in its generating capacity. Increasing existing capacity reduces the need to build new gas power plants which can result in more land and resources used and potential negative impacts.

13.4 On the basis of the information provided and in the absence of any views to the contrary from consultees, the Secretary of State considers that the Proposed Development will not have any likely significant effects on any sites designated as part of the National Site Network or other protected sites either alone or in-combination with other plans or projects.

13.5 The Secretary of State notes that the Proposed Development would lead to increased atmospheric emissions. However, the Applicants AQIA, PEA, Ambient Conditions Report

and Supporting Statement 1, provide evidence to demonstrate that the effects would not be significant. The Secretary of State considers that the Applicant has sufficiently demonstrated that the Proposed Development would not result in significant environmental effects.

13.6 On balance, the Secretary of State concludes that the benefits of the Proposed Development outweigh the potential harms resulting from the increase in generating capacity which have been outlined above. The Secretary of State is satisfied that the information provided in the Application accords with the requirements of the Variation Regulations. The Secretary of State has considered the information submitted by the Applicant along with submissions made by consultees and takes the view that there are no matters that would require him to refuse the Variation Application. The Secretary of State, having regard to all relevant matters, has decided to make a variation to the existing consent pursuant to section 36C of the Act. The Section 36 consent as varied is provided with this decision letter and is subject to the conditions set out in the varied consent.

13.7 I accordingly enclose the Secretary of State's variation of consent.

## **14 GENERAL GUIDANCE**

14.1 The validity of the Secretary of State's decision may be challenged by making an application to the High Court for leave to seek a judicial review. Any such application must be made as soon as possible. Parties seeking further information as to how to proceed, including the relevant time limits for making an application, should seek independent legal advice from a solicitor or legal adviser, or alternatively may contact the Administrative Court at the Royal Courts of Justice, Strand, London WC2 2LL (General Enquiries 020 7947 6025/6655).

14.2 This decision does not convey any approval or consent or waiver that may be required under any enactment, by-law, order or regulation other than sections 36 and 36C of, and Schedule 8 to, the Electricity Act 1989 and section 90 of the Town and Country Planning Act 1990.

Yours sincerely,

**John Wheadon**

**Head of Energy Infrastructure Planning Delivery**