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Ref: EN010129

David Curry  
SSE Slough Multifuel Limited (SMF)  
No.1 Forbury Place  
43 Forbury Road  
Reading  
RG1 3JH

28 November 2023

Dear Mr Curry,

## **PLANNING ACT 2008**

### **APPLICATION FOR DEVELOPMENT CONSENT FOR THE SLOUGH MULTIFUEL EXTENSION PROJECT**

#### **1. Introduction**

- 1.1. I am directed by the Secretary of State for Energy Security and Net Zero (“the Secretary of State”) to advise you that consideration has been given to the Examining Authority’s (“the ExA”) report dated 11 September 2023. The ExA consisted of one examining inspector, Simon Warder. The ExA conducted an Examination into the application received on 30 September 2022 (“the Application”) by SSE Slough Multifuel Limited (“the Applicant”) for a Development Consent Order (“DCO”) (“the Order”) under section 37 of the Planning Act 2008 (“PA2008”) for the Slough Multifuel Extension and associated development (“the Proposed Development”).
- 1.2. The Application was accepted for Examination on 26 October 2022. The Examination began on 22 February 2022 and closed on 26 June 2023. The Secretary of State received the ExA’s Report on 11 September 2023. On 6 October 2023, the Secretary of State issued a letter requesting clarification on certain matters (“the Clarification Letter”). On 20 October 2023, the Secretary of State sought comments from Interested Parties (“IPs”) on the information the Applicant provided in response to the Clarification Letter.
- 1.3. The Order, as applied for, would grant development consent for works to increase the efficiency and output of a previously consented energy from waste generating station which has a capacity of up to 50 megawatts (“MW”). The previously consented generating station received planning permission under the Town and Country Planning Act 1990 (“TCPA1990”) (“the TCPA Consented Development”). The TCPA Consented Development was under construction at the time of the examination.
- 1.4. The Proposed Development would achieve a capacity of up to 60MW by carrying out the following physical works:
  - a boiler primary air preheating system comprising heat exchanger bundles, pipework, valves, pipe supports, thermal insulation, instrumentation, cabling and containment;

- a boiler secondary air preheating system comprising heat exchanger bundles, pipework, valves, pipe supports, thermal insulation, instrumentation, cabling and containment; and
  - mechanical modifications to the actuated stream turbine inlet control valve to allow steam capacity to be increased.
- 1.5. The works would be located predominately within the boiler house and the turbine hall of the TCPA Consented Development's Multifuel Facility which is already under construction. The Proposed Development's only external work would be a single pipe that runs between these two buildings. The Application does not seek powers of compulsory acquisition or temporary possession.
- 1.6. As the Proposed Development will increase the capacity of the TCPA Consented Development from 50MW to 60MW, the Proposed Development is above the threshold for which development consent is required under the PA2008.
- 1.7. Published alongside this letter on the Planning Inspectorate's National Infrastructure Planning website<sup>1</sup> is a copy of the ExA's Report of Findings and Conclusions and Recommendation to the Secretary of State ("the ExA's Report"). The ExA's findings and conclusions are set out in Chapters 4-6 of the ExA Report, and the ExA's summary of conclusions and recommendation is at Chapter 8. All numbered references, unless otherwise stated, are to paragraphs of the ExA's Report ["ER \*.\*.\*"].

## **2. Summary of the ExA's Report and Recommendation**

- 2.1. The principal issues considered during the Examination on which the ExA has reached conclusions on the case for development consent are set out in the ExA Report under the following broad headings:
- the principle of the development;
  - air quality, dust and odour;
  - biodiversity;
  - climate change;
  - noise and vibration;
  - traffic and transport;
  - other issues including flood risk, drainage and surface water, major accidents and disasters, and combined and cumulative effects;
  - the scope of the proposed development and Environmental Impact Assessment;
  - the Habitats Regulations Assessment ("HRA"); and
  - the draft Development Consent Order ("dDCO").
- 2.2. The ExA concluded that the Proposed Development meets the tests in section 104 of the PA2008 and recommended that the Secretary of State should make the Slough Multifuel Extension Order in the form attached at Appendix C of the ExA's Report [ER 8.3.1].

## **3. Summary of the Secretary of State's Decision**

- 3.1. Section 104(2) of the PA2008 requires the Secretary of State, in deciding an application, to have regard to any relevant National Policy Statement ("NPS"). Subsection (3) requires that

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<sup>1</sup> <https://infrastructure.planninginspectorate.gov.uk/projects/south-east/slough-multifuel-project/>

the Secretary of State must decide the application in accordance with the relevant NPS except to the extent that one or more of subsections (4) to (8) apply.

- 3.2. The Secretary of State has considered the ExA's Report and all other material considerations, including representations received after the close of the ExA's Examination, all of which are dealt with as appropriate in the decision letter below. The Secretary of State has also had regard to the Local Impact Report ("LIR") submitted by Slough Borough Council ("SBC") [REP2-015], environmental information as defined in regulation 3(1) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ("the EIA Regulations"), and to all other matters which are considered to be important and relevant to the Secretary of State's decision as required by section 104 of the PA2008 including relevant policy set out in the NPSs EN-1 and EN-3.
- 3.3. Five Relevant Representations ("RRs") were originally made in respect of the Application by statutory authorities, businesses, and non-governmental organisations. Cadent Gas Limited withdrew its RR on 03 March 2023 [AS-011]. Written Representations, responses to questions and oral submissions made during the Examination were also taken into account by the ExA. Royal Mail Group Limited withdrew its Written Representation ("WR") at Deadline 2 of the Examination, 24 May 2023. The ExA notes that the Applicant came to agreement with SEGRO plc [REP4-003] and that the other two RRs were neutral, meaning that there were no outstanding RRs or WRs at the close of Examination [ER 4.3.3].
- 3.4. On 6 October 2023, the Secretary of State issued the Clarification Letter requesting clarification from the Applicant on the biosecurity measures secured within the Construction Environmental Management Plan ("CEMP"). The Secretary of State then sought comments from IPs on the new information provided by the Applicant in response to the Clarification Letter, but no comments were received by the close of the consultation on 17 November 2023. The Secretary of State has reviewed the Applicant's response and considers that the new information does not affect her overall conclusions on the Application. However, as a result of the information and suggested drafting provided by the Applicant, the Secretary of State has decided to include an additional requirement in Requirement 3 of the Order which gives her confidence in the effectiveness of the applicant's biosecurity measures for the Proposed Development during construction.
- 3.5. The Secretary of State has considered the overall planning balance and, for the reasons set out in this letter, has concluded that the benefits associated with the Proposed Development outweigh the harm identified, and that development consent should therefore be granted. The Secretary of State has decided under section 114 of the PA2008 to make, with modifications, an Order granting development consent for the Proposed Development.
- 3.6. This letter is the statement of the reasons for the Secretary of State's decision for the purposes of section 116 of the PA2008 and the notice and statement required by regulations 31(2)(c) and (d) of the EIA Regulations. In making her decision, the Secretary of State has complied with all applicable legal duties and has not taken account of any matters which are not relevant.

#### **4. The Secretary of State's Consideration of the Application**

- 4.1. This letter is intended to be read alongside the ExA's Report. The Secretary of State agrees with the findings, conclusions and recommendations of the ExA, unless specifically stated otherwise, and any perceived difference in emphasis between the summaries in this letter and the ExA's Report should not be inferred as conveying disagreement with the ExA's Report.

## 5. Habitats Regulations Assessment

- 5.1. The Conservation of Habitats and Species Regulations 2017 (“the Habitats Regulations”) aim to ensure the long-term conservation of certain species and habitats by protecting them from possible adverse effects of plans and projects. Following the United Kingdom’s departure from the European Union, these domestic regulations continue to apply. The Habitats Regulations provide for the designation of sites for the protection of habitats and species of international importance. These sites are called Special Areas of Conservation (“SACs”). They also provide for the classification of sites for the protection of rare and vulnerable birds and for regularly occurring migratory species within the United Kingdom and internationally. These sites are called Special Protection Areas (“SPAs”). SACs and SPAs together form part of the UK’s National Site Network (“NSN”).
- 5.2. The Convention on Wetlands of International Importance 1972 (“the Ramsar Convention”) provides for the listing of wetlands of international importance (“Ramsar sites”). Government policy is to afford Ramsar sites in the UK the same protection as sites within the NSN (collectively with SACs and SPAs referred to in this decision letter as “protected sites”).
- 5.3. Regulation 63 of the Habitats Regulations provides that: *“...before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in-combination with other plans or projects), and (b) is not directly connected with or necessary to the management of that site, [the competent authority] must make an appropriate assessment of the implications for that site in view of that site’s conservation objectives.”*

And that: *“In the light of the conclusions of the assessment, and subject to regulation 64 (considerations of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).”*

- 5.4. The Proposed Development is not directly connected with, or necessary to the management of a protected site. Therefore, under regulation 63 of the Habitats Regulations, the Secretary of State is required (as Competent Authority) to consider whether the Proposed Development would be likely, either alone or in combination with other plans and projects, to have a significant effect on any protected site. If likely significant effects (“LSE”) cannot be ruled out, the Secretary of State must undertake an appropriate assessment (“AA”) addressing the implications for the protected site in view of its conservation objectives.
- 5.5. Where an adverse effect on the integrity (“AEoI”) of the site cannot be ruled out beyond all reasonable scientific doubt, regulations 64 and 68 of the Habitats Regulations provide for the possibility of a derogation which allows such plans or projects to be approved provided three tests are met:
- there are no feasible alternative solutions to the plan or project which are less damaging to protected sites;
  - there are imperative reasons of overriding public interest (“IROPI”) for the plan or project to proceed; and
  - compensatory measures are secured to ensure that the overall coherence of the NSN is maintained.

- 5.6. The Secretary of State may grant development consent only if it has been ascertained that the Proposed Development will not, either on its own or in-combination with other plans or projects, adversely affect the integrity of protected sites unless she chooses to continue to consider the derogation tests as above. The complete process of assessment is commonly referred to as a HRA.
- 5.7. The Applicant submitted a 'Habitat Regulations – No Significant Effects Report' ("NSER") [APP-067] with the Application and supporting Environmental Statement ("ES"). As no other evidence or comment against this was submitted by any other IP, the ExA considered that a Report on the Implications for European Sites ("RIES") would not be required.
- 5.8. The NSER considered the potential for LSE on protected sites within 15km of the Order Limits boundary, in line with Environment Agency guidance. Natural England considered in their Statement of Common Ground ("SoCG") [REP2-011], that the Applicant had identified the relevant protected sites and qualifying features on which LSE could occur as a result of the Proposed Development. These sites are:
- Burnham Beeches SAC, approximately 2.9km from the site;
  - Windsor Forest and Great Park SAC, approximately 6km from the site;
  - Southwest London Waterbodies SPA, approximately 7.6km from the site;
  - Southwest London Waterbodies Ramsar, approximately 7.6km from the site; and
  - Chilterns Beechwoods SAC, approximately 9.7km from the site.
- 5.9. Given the largely internal nature of the Proposed Development, as well as the distance between the Proposed Development and the identified protected sites, the only potential impact pathway identified for consideration of LSE was that of air quality impacts associated with stack emissions. No matters were raised by Natural England, the other IPs, or the ExA regarding the identification of other potential impact pathways on the five protected sites.
- 5.10. The Secretary of State has carefully considered the information presented before and during the examination, including the Environmental Statement, NSER, representations made by IPs, and the ExA's Report. The Secretary of State has considered the conservation objectives and qualifying features for each of the five protected sites against the potential effects of the Proposed Development:
- **Air quality impacts associated with stack emissions:** As there will be no additional stack emissions beyond those associated with the TCPA Consented Development, no significant effects on the qualifying features of the identified protected sites are likely from air quality impacts during the construction, operation, and decommissioning phases of the Proposed Development. The ExA noted that no IP disputed this conclusion.
  - **In-combination effects:** Other than the TCPA Consented Development, the Applicant identified no other plan or project that would act in combination with the Proposed Development. The in-combination effects considered to have the potential to result in LSE are the air quality impacts associated with stack emissions. The Proposed Development, in-combination with the TCPA Consented Development, are unlikely to result in significant effects on the qualifying features of the identified protected sites, as the in-combination air quality impacts would fall below the 1% of

the critical level/load threshold identified by Natural England as denoting an imperceptible impact. The ExA noted that no IP disputed this conclusion.

- 5.11. The Secretary of State considers, on the basis of the above, that the Proposed Development either alone or in combination with other plans or projects, is not likely to have a significant effect on any protected site and that an AA is therefore not required. This conclusion and its reasoning are consistent with the advice provided during the examination by Natural England, the Environment Agency, and the ExA's recommendation [ER 5.3.5].
- 5.12. The Secretary of State also agrees with the ExA that sufficient information has been provided for her to determine that an AA is not required, and to fulfil her duties under the Habitats Regulations.
- 5.13. The Secretary of State notes that mitigation measures have been proposed by the Applicant to avoid local environmental effects. She agrees with the inclusion of these measures, but whilst they strengthen the above conclusions they are not intended or necessary to avoid significant effects on protected sites, nor have they been considered when reaching the above conclusion.

## **6. Secretary of State's Consideration of the Planning Balance and Conclusions**

- 6.1. Where NPSs have effect, section 104 of the PA2008 requires the Secretary of State to have regard to a range of policy considerations including the relevant NPSs, Development Plans and LIRs prepared by local planning authorities in reaching a decision.
- 6.2. The Secretary of State agrees with the ExA's conclusions and the weight it has ascribed in the overall planning balance in respect of the following issues:
  - The need for the Proposed Development (substantially positive) [ER 4.5.15, ER 4.6.4, ER 4.7.2, ER 4.8.1];
  - Air quality, dust and odour (neutral) [ER 4.11.32];
  - Biodiversity (neutral) [ER 4.12.38];
  - Climate change (slightly positive) [ER 4.13.24];
  - Noise and vibration (neutral) [ER 4.14.25];
  - Traffic and transport (neutral) [ER 4.15.26]; and
  - Other matters including flood risk and major accidents and disasters (neutral) [ER 4.16.12, ER 4.16.19, ER 4.16.23].
- 6.3. The Secretary of State acknowledges that all Nationally Significant Infrastructure Projects ("NSIPs") are likely to give rise to adverse impacts. In the case of the Proposed Development, the potential impacts have been assessed by the ExA as being in accordance with NPS EN-1 and NPS EN-3 [ER 6.5.5] and the emerging draft NPSs [ER 3.3.5, ER 4.13.19, ER 4.13.22], subject in some cases to suitable mitigation measures being put in place to minimise or avoid impacts as required [ER 7.2.6 et seq., ER 7.2.14, ER 7.6.1, ER 8.2.7]. The Secretary of State also considers that the proposed mitigation measures have been appropriately secured.
- 6.4. Further, the Secretary of State agrees with the ExA that the Proposed Development will not give rise to LSE on European Sites, species or habitats as defined by the Habitats Regulations.

- 6.5. In reaching this decision, the Secretary of State confirms that regard has been given to the ExA's Report, the LIR submitted by SBC, the NPSs, draft NPSs, and to all other matters which are considered important and relevant to the Secretary of State's decision as required by section 104 of the PA2008. The Secretary of State confirms for the purposes of regulation 4(2) of the EIA Regulations that the environmental information as defined in regulation 3(1) of those Regulations has been taken into consideration.
- 6.6. The Secretary of State has considered the overall planning balance and the benefits associated with the Proposed Development, including its contribution to the urgent need for renewable electricity generation and to combined heat and power [ER 4.5.15]. The Secretary of State notes that there are no identified adverse impacts arising from the Proposed Development to be considered in the planning balance. As such, adverse impacts would not outweigh the benefits of the Proposed Development [ER 8.2.7]. The Secretary of State concludes that consent should be granted for the Proposed Development.

## 7. Other Matters

### Equality Act 2010 and Human Rights Act 1998

- 7.2. The Equality Act 2010 includes a public sector "general equality duty" ("PSED"). 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 Equality Act 2010; 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 partnerships<sup>2</sup>; pregnancy and maternity; religion and belief; and race.
- 7.3. In considering this matter, the Secretary of State (as decision-maker) must pay due regard to the aims of the PSED. This must include consideration of all potential equality impacts highlighted during the Examination. There can be detriment to affected parties but, if there is, it must be acknowledged and the impacts on equality must be considered.
- 7.4. The Secretary of State has had due regard to this duty and has not identified any parties with a protected characteristic that might be discriminated against as a result of the decision to grant consent to the proposed Development.
- 7.5. The Secretary of State is confident that, in taking the recommended decision, she has paid due regard to the above aims when considering the potential impacts of granting or refusing consent and can conclude that the Proposed Development will not result in any differential impacts on people sharing any of the protected characteristics. The Secretary of State concludes, therefore, that granting consent is not 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.
- 7.6. Noting that no compulsory acquisition or temporary possession powers are sought as part of the Application, the Secretary of State has no reason to believe that making the Order

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

would give rise to any unjustified interference with human rights so as to conflict with the provisions of the Human Rights Act 1998.

#### Natural Environment and Rural Communities Act 2006

- 7.7. The Secretary of State notes the “general biodiversity objective” to conserve and enhance biodiversity in England, section 40(A1) of the Natural Environment and Rural Communities Act 2006 and considers the application consistent with furthering that objective, having also had regard to the United Nations Environmental Programme Convention on Biological Diversity of 1992, when granting development consent.
- 7.8. The Secretary of State is of the view that the ExA’s Report, together with the Environmental Impact Assessment, considers biodiversity sufficiently to inform her in this respect. In reaching the decision to give consent to the Proposed Development, the Secretary of State has had due regard to conserving biodiversity.

#### Draft National Policy Statements

- 7.9. The Energy White Paper, *Powering Our Net Zero Future*, was published on 14 December 2020. It announced a review of the suite of energy NPSs but confirmed that the designated 2011 NPSs were not being suspended in the meantime. The transitional guidance in the consultation paper makes clear that the assessment of any decision-making about NSIP applications in progress should continue to be made with reference to the currently designated 2011 NPS suite which remains in force and therefore forms the basis of the Secretary of State’s consideration of the Application. Although the new NPSs are in draft form and have not been designated, the Secretary of State considers them to be important and relevant for the purpose of section 104 of PA2008. As such, the Secretary of State has had regard to the draft energy NPSs in deciding the Application but does not consider that there is anything contained within either versions of the relevant NPS documents that would lead her to reach a different decision on the Application.

#### The British Energy Security Strategy and Powering Up Britain

- 7.10. The Secretary of State has also had regard to the British Energy Security Strategy published on 7 April 2022, which outlined the steps to accelerate the government’s progress towards achieving Net Zero by 2050, and Powering Up Britain, announced on 30 March 2023, which set out the goal of reaching energy security through a low-carbon energy transition. The Secretary of State does not consider that there is anything within these policies which would lead her to reach a different decision on the Application.

### **8. Modifications to the draft Order**

- 8.1. Following consideration of the draft Order provided by the ExA, the Secretary of State has made the following modifications to the draft Order.
- 8.2. The Secretary of State has included a reference to condition 18 of the TCPA permission within Requirement 3(b), requiring the authorised development to be constructed in accordance with the fauna management plan approved pursuant to that condition. This is because the details in the fauna management plan include matters relating to construction.
- 8.3. The Secretary of State has inserted paragraphs (2) and (3) into requirement 3 (Construction). These new requirements relate to the construction biosecurity strategy and the draft



provision was provided by the Applicant in response to Clarification Letter referred to above (minor changes were made to the draft provision in the interests of clarity). This addition gives the Secretary of State confidence in the effectiveness of the Applicant's biosecurity measures for the proposed development during construction.

- 8.4. In addition to the above, the Secretary of State has made various changes to the draft Order which do not materially alter its effect, including changes to conform with the current practice for statutory instruments and changes in the interest of clarity and consistency and to achieve consistency with other DCOs.

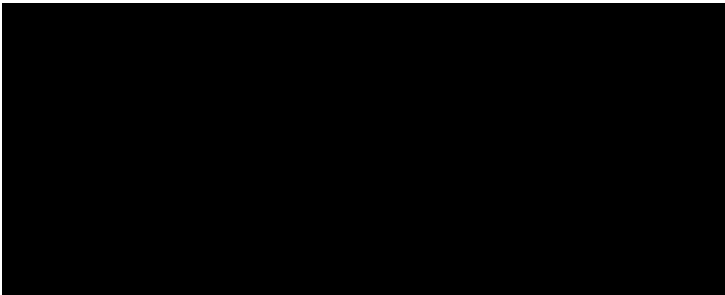
## **9. Challenge to decision**

- 9.1. The circumstances in which the Secretary of State's decision may be challenged are set out in the Annex to this letter.

## **10. Publicity for decision**

- 10.1. The Secretary of State's decision on this Application is being publicised as required by section 116 of the Planning Act 2008 and regulation 31 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

Yours sincerely,



**David Wagstaff OBE**

**Head of Energy Infrastructure Development**

**ANNEX A: 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 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 day after the day on which the Order or decision is published. The decision documents are being published on the date of this letter on the Planning Inspectorate website at the following address:

<https://infrastructure.planninginspectorate.gov.uk/projects/south-east/slough-multifuel-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).**

**ANNEX B: LIST OF ABBREVIATIONS**

<b>Abbreviation</b>	<b>Reference</b>
AA	Appropriate Assessment
AEoI	Adverse Effect on Integrity
BESS	British Energy Security Strategy
CA	Compulsory Acquisition
CHP	Combined Heat and Power
DCO	Development Consent Order
EA	The Environment Agency
EIA	Environmental Impact Assessment
ES	Environmental Statement
ExA	The Examining Authority
HRA	Habitats Regulations Assessment
IP	Interested Party
IROPI	Imperative Reasons of Overriding Public Interest
LIR	Local Impact Report
LSE	Likely Significant Effect
MW	Megawatt
NE	Natural England
NPS	National Policy Statement
NSN	National Site Network
NSIP	Nationally Significant Infrastructure Project
PSED	Public Sector Equality Duty
RIES	Report on the Implications for European Sites
RR	Relevant Representation
RSPB	The Royal Society for the Protection of Birds
SAC	Special Area of Conservation
SBC	Slough Borough Council
SoCG	Statement of Common Ground
SPA	Special Protection Area
PA2008	The Planning Act 2008
TP	Temporary Possession

The Planning Act 2008

## **Slough Multifuel Extension**

Examining Authority's Report  
of Findings and Conclusions

and

Recommendation to the Secretary of State for  
Energy Security and Net Zero

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Examining Authority

**Simon Warder** MA BSc(Hons) DipUD MRTPI

**September 2023**

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# OVERVIEW

File Ref: EN010129

The application, dated 29 September 2022, was made under section 37 of the Planning Act 2008 and was received in full by the Planning Inspectorate on 30 September 2022.

The applicant is SSE Slough Multifuel Limited.

The application was accepted for examination on 26 October 2022.

The examination of the application began on 22 February 2022 and was completed on 26 June 2023.

The development proposed comprises works to increase the efficiency and output of a previously consented energy from waste electricity generating station which has a capacity of up to 50 megawatts (MW). The facility was under construction at the time of the examination. The Proposed Development would achieve a capacity of up to 60MW by carrying out the following physical works:

- a boiler primary air preheating system comprising heat exchanger bundles, pipework, valves, pipe supports, thermal insulation, instrumentation, cabling and containment;
- a boiler secondary air preheating system comprising heat exchanger bundles, pipework, valves, pipe supports, thermal insulation, instrumentation, cabling and containment; and
- mechanical modifications to the actuated steam turbine inlet control valve to allow steam capacity to be increased.

The works associated with the Proposed Development would be located predominately within the boiler house and the turbine hall of the Multifuel Facility. The only external work would be a single pipe run between these two buildings.

Summary of Recommendation:

The Examining Authority recommends that the Secretary of State should make the Order in the form attached.

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# 1. INTRODUCTION

## 1.1. INTRODUCTION TO THE EXAMINATION

- 1.1.1. The Application for Slough Multifuel Extension (the Proposed Development) was submitted by SSE Slough Multifuel Limited (the Applicant) to the Planning Inspectorate (PINS) on 29 September 2022 under section 37 of the Planning Act 2008 (PA2008) and accepted for Examination under section 55 of the PA2008 on 26 October 2022 [PD-001]. Individual document references to the Examination Library in this report are enclosed in square brackets []. The final version of the Examination Library is at Appendix A.
- 1.1.2. The Proposed Development seeks to increase the efficiency and output of a previously consented energy from waste electricity generating station with a capacity up to 50 megawatts (MW), to achieve a capacity of up to 60MW. The generating station received planning permission under the Town and Country Planning Act 1990 (as amended), (TCPA) but the increase above 50MW capacity triggers the need for consent under the PA2008. The facility was under construction at the time of the Examination. Chapter 2 includes a fuller review of the planning history for the site. The application seeks consent to construct and operate the Proposed Development. The physical works comprise:
- a boiler primary air preheating system comprising heat exchanger bundles, pipework, valves, pipe supports, thermal insulation, instrumentation, cabling and containment;
  - a boiler secondary air preheating system comprising heat exchanger bundles, pipework, valves, pipe supports, thermal insulation, instrumentation, cabling and containment; and
  - mechanical modifications to the actuated stream turbine inlet control valve to allow steam capacity to be increased.
- 1.1.3. The works associated with the Proposed Development would be located predominately within the boiler house and the turbine hall of the Multifuel Facility currently under construction. The only new external works would be a single pipe run between these two buildings.
- 1.1.4. The location of the Proposed Development is shown on the Site Location Plan [APP-009] and Land Plan [APP-010]. The site lies within the administrative area of Slough Borough Council and is wholly in England.
- 1.1.5. The legislative tests for whether the Proposed Development is a Nationally Significant Infrastructure Project (NSIP) were considered by PINS on behalf of the Secretary of State for the then Ministry of Housing, Communities and Local Government in its decision to accept the application for Examination in accordance with section 55 of the PA2008.
- 1.1.6. Sections 14(1) and 15(1) of the PA2008 allow for the extension of generating stations and s15(2)(c) requires the capacity to be more than 50MW. The Proposed Development would meet these requirements.

- 1.1.7. Separately, the extended generating station would require an ancillary authorisation to operate at over 50MW pursuant to s36 of the Electricity Act 1989, and this is included within the Development Consent Order (DCO). Section 120(3) of the PA2008 allows a DCO to make provisions relating to, or to matters ancillary to the development for which consent is granted and Schedule 5, Part 1, paragraph 5 confirms that such matters include the operation of a generating station. This power is subject to s140 which states that a DCO may authorise the operation of a generating station only if the development is, or includes, the construction or extension of the generating station.
- 1.1.8. Section 235 of the PA2008 defines 'extension' by reference to section 36(9) of the Electricity Act 1989. It, in turn, refers to the "*use by the person operating the station of any land or areas of waters (wherever situated) for a purpose directly related to the generation of electricity*". As such, the term 'extension' in this context is not necessarily confined to the physical enlargement of a facility and the term can be properly applied to the Proposed Development.
- 1.1.9. On this basis, PINS agreed with the Applicant's view stated in the application form [APP-004] that the Proposed Development is an NSIP as it comprises the extension of a generating station which would take its capacity above 50MW. As such, the matters which fall to be examined are limited to impacts of that extension. The previously approved generating station is not subject to further approval.
- 1.1.10. The Proposed Development is therefore the extension alone. It meets the definition of an NSIP set out in s14(1)(a), s15(2), s120(3) and s140 of the PA2008 and requires development consent in accordance with s31 of the PA2008. The scheme currently under construction (the consented scheme) will continue to be implemented through approvals granted under the TCPA. Details of those approvals are set out in Section 2.2 of this Report and the interaction between the TCPA approvals and the DCO is reviewed in Chapter 7.

## **1.2. APPOINTMENT OF THE EXAMINING AUTHORITY**

- 1.2.1. On 11 November 2022, Simon Warder was appointed as the Examining Authority (ExA) for the application under s61 and s79 of the PA2008 [PD-004].

## **1.3. THE PERSONS INVOLVED IN THE EXAMINATION**

- 1.3.1. The persons involved in the Examination were persons who were entitled to be Interested Parties (IPs) because they had made a relevant representation (RR) or were a statutory party who requested to become an IP.

## **1.4. THE EXAMINATION AND PROCEDURAL DECISIONS**

- 1.4.1. The Examination began on 22 February 2023 and concluded on 26 June 2023. The principal components and events in the Examination are summarised below.

## **The Preliminary Meeting**

- 1.4.2. On 23 January 2023, the ExA wrote to all IPs, Statutory Parties and Other Persons under Rule 6 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) (The Rule 6 Letter) inviting them to the Preliminary Meeting (PM) [PD-005]. The letter outlined:
- the arrangements and agenda for the PM;
  - an Initial Assessment of the Principal Issues (IAPI);
  - the draft Examination timetable;
  - availability of RRs and application documents; and
  - the ExA's procedural decisions.
- 1.4.3. The PM took place on 21 February as a virtual event using Microsoft Teams. A recording [EV-001], transcript [EV-002] and a note of the meeting [EV-002a] were published on the [Planning Inspectorate National Infrastructure website](#).
- 1.4.4. The ExA's procedural decisions and the Examination Timetable took full account of matters raised at the PM. They were provided in the Rule 8 letter [PD-006], dated 28 February 2023.

## **Key Procedural Decisions**

- 1.4.5. Most of the procedural decisions set out in the Rule 8 Letter related to matters that were confined to the procedure of the Examination and did not bear on the ExA's consideration of the planning merits of the Proposed Development. Further, they were generally complied with by the Applicant and relevant IPs. The decisions can be obtained from the Rule 8 Letter [PD-006] and so there is no need to reiterate them here.

## **Site Inspections**

- 1.4.6. I conducted an Unaccompanied Site Inspection (USI) on 31 January 2023 in order to gain an understanding of the application site, its setting and other locations referred to in the RRs. A note of the USI appears at [EV-003].
- 1.4.7. I held an Accompanied Site Inspection (ASI) on 20 April 2023 in order to see the works then taking place on the site and their relationship to the Proposed Development. The itinerary of the ASI can be found at Annex B of the Rule 13 letter dated 24 March 2023 [PD-008]. A note of the ASI is provided at [EV-004].
- 1.4.8. I have had regard to the information and impressions obtained during the site inspections in all relevant sections of this Report.

## **Hearing Processes**

- 1.4.9. Hearings are held in PA2008 Examinations in two main circumstances:

- To respond to specific requests from persons who have a right to be heard. In this case the application does not involve Compulsory Acquisition or Temporary Possession and therefore requests for Compulsory Acquisition Hearings from Affected Persons did not arise. Nor did any IP request an Open Floor Hearing; and
- To address matters where the ExA considers that a hearing is necessary to inquire orally into matters under examination, typically because they are complex, there is an element of contention or disagreement, or the application of relevant law or policy is not clear.

1.4.10. The initial Examination Timetable included an Issue Specific Hearing to be held on 21 April 2023 and notification of the hearing was given on 24 March 2023 [PD-008]. However, I subsequently reviewed the submissions received at Deadline 3, in particular the responses to my written questions, the Statements of Common Ground (SoCG) and the Local Impact Report, and reached the view that a hearing was not necessary and that all matters could be adequately examined using the written processes. A Rule 8(3) letter [PD-010] to this effect was issued on 3 April 2023. The revised Examination timetable made corresponding alterations to subsequent deadlines.

### **Written Processes**

1.4.11. Examination under the PA2008 is primarily a written process, in which the ExA has regard to written material forming the Application and arising from the Examination. All of this material is recorded in the Examination Library (Appendix A) and published online. For this reason, this Report does not contain extensive summaries of all documents and representations, although full regard has been had to them in my conclusions. I have considered all important and relevant matters arising from them.

1.4.12. The key written sources are set out below.

### **Relevant Representations**

1.4.13. Five relevant representations (RRs) were received by PINS [RR-001 to RR-005]. However, the RR from Cadent Gas Limited [RR-002] was subsequently withdrawn [AS-011]. All makers of valid RRs received the Rule 6 letter and were provided with an opportunity to become involved in the Examination as IPs. I have considered all RRs and the issues they raise are considered in Chapter 4 of this Report.

### **Written Representations and Other Examination Documents**

1.4.14. The Applicant and IPs were provided with opportunities to:

- comment on the RRs (Deadline (D)1) and respond to comments received (D3);
- make written representations (WRs) (D2) and comment on responses received (D3);

- make other written submissions requested by the ExA (D2, D3, D4 and D5);
- comment on the Local Impact Report (D3); and
- comment on revisions to the draft DCO (D3, D4, D5 and D6).

1.4.15. All WRs and other examination documents have been fully considered and the issues that they raise are considered in Chapter 4 of this Report.

### **Local Impact Report**

1.4.16. A Local Impact Report (LIR) is a report made by a relevant local authority giving details of the likely impact of the Proposed Development on the authority's area (or any part of that area) that has been invited by, and submitted to, the ExA under s60 PA2008.

1.4.17. One LIR was received from Slough Borough Council (SBC) [REP2-015]. I have taken it fully into account in all relevant Chapters of this Report.

### **Statements of Common Ground**

1.4.18. A SoCG is a statement agreed between the Applicant and one or more IPs, recording matters that are agreed between them. By the end of the Examination, the following bodies had concluded SoCGs with the Applicant:

- SBC [REP2-009];
- Environment Agency (EA) [REP2-010];
- Natural England (NE) [REP2-011]; and
- Slough Trading Estate Limited [REP4-003].

1.4.19. These SoCGs have been taken fully into account by the ExA in all relevant Chapters of this Report. The Applicant submitted a draft SoCG with Royal Mail. That company declined to sign a completed SoCG, but did withdraw its written representation [REP5-033].

### **Written Questions**

1.4.20. I asked two rounds of written questions. The first written questions (ExQ1) [PD-007] were issued on 28 January 2023 and the second round (ExQ2) [PD-015] on 26 May 2023.

1.4.21. A request for further information and comments under Rule 17 of the EPR was issued on 5 May 2023 [PD-012.]

1.4.22. All responses to the ExA's written questions have been fully considered and taken into account in all relevant Chapters of this Report.

### **Requests to Join and Leave the Examination**

1.4.23. There were no requests to join the Examination by persons who were not already IPs at or after the PM.

- 1.4.24. During the Examination, as a consequence of discussions with the Applicant, Cadent Gas Limited wrote to confirm that its issues were settled and its representations were withdrawn [AS-011].

## **1.5. ENVIRONMENTAL IMPACT ASSESSMENT**

- 1.5.1. The Proposed Development is development for which an Environmental Impact Assessment (EIA) is required.
- 1.5.2. On 17 November 2021, the Applicant submitted a Scoping Report to PINS on behalf of the then Secretary of State for Business, Energy and Industrial Strategy, now Energy Security and Net Zero (SoS). The Scoping Report was submitted under Regulation 10 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (the EIA Regulations) in order to request an opinion about the scope of the Environmental Statement (ES) to be prepared (a Scoping Opinion) [APP-059].
- 1.5.3. It follows that the Applicant is deemed to have notified the Secretary of State under Regulation 8(1)(b) of the EIA Regulations that it proposes to provide an ES in respect of the Project.
- 1.5.4. On 23 December 2021 PINS provided a Scoping Opinion [APP-060]. Therefore, in accordance with Regulation 6(2)(a) of the EIA Regulations, the Proposed Development was determined to be EIA development, and the application was accompanied by an ES.
- 1.5.5. On 4 January 2023 the Applicant provided PINS with certificates confirming that s56 of the PA2008 [OD-002] and Regulation 16 of the EIA Regulations [OD-003] had been complied with.
- 1.5.6. Consideration is given to the adequacy of the ES and matters arising from it in Chapter 4 of this Report.

## **1.6. HABITATS REGULATIONS ASSESSMENT**

- 1.6.1. The Proposed Development is development for which a Habitats Assessment Regulations (HRA) Report has been provided. In this case the Report takes the form of a No Significant Effects Report [APP-067].
- 1.6.2. At the PM I sought the views of IPs on whether it was necessary to make provision in the timetable to prepare and consult on a Report on the Implications for European Sites (REIS). The Applicant considered that such provision was not necessary. Others, including NE and SBC did not express a view, although it is apparent from their SoCGs [REP2-009 and REP2-011] that they agreed with the Applicant's finding of no significant effects. Having regard to these views, and the evidence submitted, a REIS was not produced.
- 1.6.3. Nevertheless, consideration is given to the adequacy of the HRA Report, associated information and evidence and the matters arising from it in Chapter 5 of this Report.

## **UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS**

- 1.6.4. By the end of the Examination, the following bodies had entered into formal obligations with the Applicant that are important and relevant considerations for the SoS:
- Slough Borough Council Section 106 Agreement dated 4 May 2017 (the May 2017 Agreement) [APP-083] and Deed of Variation dated 17 November 2020 (the November 2017 DoV) [APP-084]; and
  - Slough Borough Council Section 106 Agreement Supplemental Deed of Variation dated 24 May 2023 (the May 2023 Supplemental) [REP5-029].
- 1.6.5. The May 2017 Agreement and the November 2020 DoV were entered into in connection with the Town and Country Planning Act permissions for the previously consented generating station (see Planning History review in Chapter 2). The May 2023 Supplemental is intended to ensure that the obligations in the May 2017 Agreement and November 2020 DoV bind on the Proposed Development under the PA2008. All of the agreements have been taken fully into account in all relevant Chapters of this Report.

## **1.7. OTHER CONSENTS**

- 1.7.1. The Application documentation and questions during this Examination have identified that the Proposed Development would need to be subject to an Environmental Permit (EP). An EP has been granted for the previously consented generating station and the Applicant and the EA have confirmed that this EP would apply to the Proposed Development subject only to administrative changes (SoCG with the EA [REP2-010]).
- 1.7.2. Therefore, and without prejudice to the exercise of discretion by future decision-makers, I have concluded that there are no apparent impediments to the implementation of the Proposed Development, should the SoS grant the application for development consent.
- 1.7.3. The controls provided by the EP are considered in the relevant sections of Chapter 4 of this Report.

## **1.8. STRUCTURE OF THIS REPORT**

- 1.8.1. The structure of this report is as follows:
- **Chapter 1** introduces the reader to the Application, the processes used to carry out the Examination and prepare this Report;
  - **Chapter 2** describes the site and its surroundings, the Proposed Development, its planning history and that of related projects;
  - **Chapter 3** records the legal and policy context for the SoS's decision;
  - **Chapter 4** sets out the planning issues that arose from the application and during the Examination;

- **Chapter 5** considers the effects on European Sites and the Habitats Regulations Assessment (HRA);
- **Chapter 6** sets out the balance of planning considerations arising from Chapters 4 and 5, in the light of the factual, legal and policy information in Chapters 1 to 3;
- **Chapter 7** considers the implications of the matters arising from the preceding chapters for the DCO; and
- **Chapter 8** summarises all relevant considerations and sets out the ExA's recommendation to the SoS.

1.8.2. This Report is supported by the following appendices:

- **Appendix A** – the Examination Library;
- **Appendix B** – List of Abbreviations; and
- **Appendix C** – the Recommended DCO.



## 2. THE PROPOSAL AND THE SITE

### 2.1. THE SITE AND SURROUNDINGS

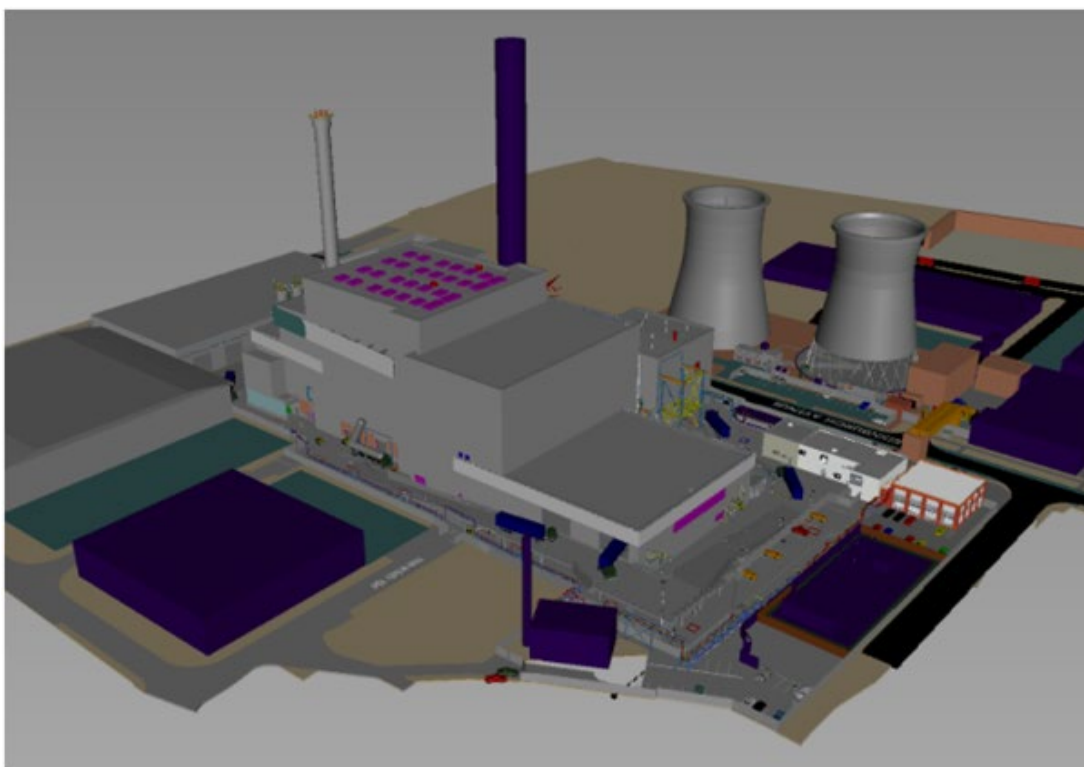
- 2.1.1. The application site extends to some 2.8 hectares (ha) and forms part of the Slough Heat and Power (SHP) site. It sits within the Slough Trading Estate (STE), which covers an area of around 158ha, and is located around 3km to the north west of Slough town centre. Surrounding uses include the SHP and various industrial, warehouse and retail businesses. The nearest of these are industrial units some 30m to the north and west of the site and 50m to the south. The closest residential properties are approximately 180m to the north at Bodmin Avenue.



**Figure 2.1 Site Location Plan**

- 2.1.2. The largest part of the application site lies to the south of Edinburgh Avenue and generally shares the boundaries of the previously approved generating station, although it also includes the retained Cooling Tower 8 which is to the north of the road. Inclusion of the Cooling Tower within the application site is intended to allow its use to be dedicated to the Proposed Development.
- 2.1.3. The site is essentially flat and its main part formerly comprised impermeable hardstandings, buildings and structures and various other ancillary plant associated with power generation. They were decommissioned and cleared in preparation for the construction of the previously approved generating station. Construction of that scheme started in May 2021 and handover to the operator is programmed for the final quarter of 2024.

2.1.4. The previously approved generating station, as illustrated below, will be made up of an enclosed tipping hall and fuel storage bunker, a turbine hall, a boiler house, a flue gas treatment plant and ash handling facilities. It will provide a multifuel generating station that will convert waste derived fuel (WDF) into low carbon electricity and heat, with an input of 480,000 tonnes of WDF, based on operating twenty-four hours per day, seven days per week. The scheme will have a generation capacity of just under 50MW. The components of the Proposed Development, which are the subject of the Examination, are set out in Section 2.3 below.



**Figure 2.2 Consented Scheme 3D model (extract from ES Plate 4.1)**

2.1.5. The site has a number of existing vehicular accesses which would continue to be used for the Proposed Development:

- the main heavy goods vehicle (HGV) access point in the northwest of the site which will have lockable gates and a barrier;
- delivery access off Greenock Road, to the south of the site;
- car access off Harwich Road located in the southeast corner of the SHP site;
- car access via 342 Edinburgh Avenue to the staff car park;
- an HGV exit to Edinburgh Avenue in the northeast of the Site. This will have an auto-activated gate; and
- a manually operated gate to access the Cooling Tower compound for either small lorries or pedestrians located at the mid-point between the two towers along Edinburgh Avenue.

- 2.1.6. Construction phase car parking is available at a 120-space offsite parking facility at Whitby Road with a bus service to the application site. There is also a parking facility for 25 cars at the northern end of Stirling Road some 330m from the site. This facility has a space for offloading mini-buses and would be used for the Proposed Development construction phase.

## 2.2. RELEVANT PLANNING HISTORY

- 2.2.1. The application site has a history of energy generation dating back to the 1920s and Chapter 2 of the Applicant's Planning Statement [APP-018] provides a brief review of the historic planning permissions. The most relevant permissions granted for the generating station currently under construction comprise:
- App ref: P/00987/024 dated 2 June 2017 '*Demolition of redundant plant and buildings and development of a multifuel combined heat and power (CHP) generating station of up to 50 megawatts including an enclosed tipping hall; fuel storage bunker and blending facility; boiler house with combustion grate/s, boiler/s and auxiliary equipment; flue gas treatment (FGT) plant/s; turbine hall with condensing steam turbine; ash and residue handling facilities; erection of a new south chimney stack (up to 90 metres height) or extension of existing south chimney stack (up to 85 metres height); plant, associated development and alterations to site access*' [APP-075]. This permission is subject to three planning agreements as set out in Section 1.7 above. It has also been the subject of two relevant permissions under section 73 of the Town and Country Planning Act (the 1990 Act) to vary its conditions:
    - App ref: P/00987/035 dated 3 March 2020 '*Variation to the wording of Condition 7 (Phase 3 Site Specific Remediation Strategy) & 9 (Controlled Waters Remediation Verification) of planning permission P/00987/024*' [APP-077]; and
    - App ref: P/00987/051 dated 1 February 2022 '*Variation to the wording of Conditions 2 (Approved plans) & 3 (Requirements for Details) of planning permission P/00987/035*' [APP-079]. App ref: P/00987/051 is defined in Article 2 of the dDCO as the 'TCPA Permission' and some of its conditions are cross referenced in the draft DCO (dDCO). Chapters 4 and 7 of this Report consider the relationship between the TCPA Permission conditions and the dDCO in more detail; and
  - App ref: P/00987/025 dated 2 June 2017 '*Demolition of existing fuel store and construction of a central site services building (containing staff facilities, stores / workshops and plant), installation of water treatment plant, provision of replacement car parking, and associated works along the eastern boundary of the site*' [APP-076]. This is defined in Article 2 of the dDCO as the 'further TCPA Permission' and some of its conditions are cross referenced in the dDCO. This matter is considered in more detail in Chapters 4 and 7 of this Report.

- 2.2.2. Other permissions granted in connection with the generating station include:
- App ref: P/00987/037 dated 10 January 2020 '*Non material amendment to planning application P/00987/024 dated 02/06/2017 (Approved Plans)*';
  - App ref: P/17998/000 dated 11 May 2020 '*Application for a temporary pedestrian bridge over Edinburgh Avenue for the construction period of the Slough Multifuel Project (42 Months)*';
  - App ref: P/00987/050 22 July 2022 '*Non material amendment to planning permission P/00987/035 (amendment to Condition 17 for temporary relaxation to noisy working hours)*';
  - App ref: P/00987/052 dated 4 May 2022 '*Planning permission for APCr emergency access, bottom ash enclosure and weighbridge gatehouse*';
  - App ref: P/00987/053 dated 22 June 2022 '*Non-material amendment to planning permission P/00987/025 to amend plans associated with Conditions 2, 3 and 6 to reflect a reduction to parking required at the site*';
  - App ref: P/19876/000 dated 5 August 2022 '*Planning permission for a revised section of site fencing which crosses over Greenock Road, an area under control of the applicant*'; and
  - App ref: P/20018/000 10 October 2022 '*Construction of an electrical house, acid tank, cooling tower access and underground infrastructure associated with Cooling Tower 8*'.
- 2.2.3. Taken together these permissions give approval under the 1990 Act for generating station currently under construction. I will refer to this as the 'consented scheme'.
- 2.2.4. The planning agreements in respect of App ref: P/00987/024 comprise those set out in Section 1.7 above. The May 2017 agreement places obligations on the developer to make a number of financial contributions prior to the commencement of development. Since the development under that permission has commenced and there is nothing to suggest that the contributions have not been made, they are not relevant to the Proposed Development.
- 2.2.5. The May 2017 agreement also requires the developer to submit for approval a draft Construction Environmental Management Plan (CEMP). The CEMP has been approved subsequently under condition 17 of the TCPA Permission and condition 17 is reproduced in Schedule 2 Requirement 1 of the dDCO. The relationship between the TCPA conditions and the dDCO and the mitigations provided by the CEMP are discussed in Chapters 4 and 7.
- 2.2.6. The May 2017 agreement places obligations on the developer to endeavour to retain connections to the existing heat infrastructure network, develop and expand the future heating infrastructure network and provide annual reports on those activities. Other obligations concern heavy goods vehicle (HGV) routing arrangements, controls over the number and timing of HGV

movements and requirements to prepare, implement and monitor a Travel Plan.

- 2.2.7. The November 2020 DoV varies the May 2017 agreement to update the definitions of an HGV movement and the 'Land' subject to the agreement. It also amends the number of permitted HGV movements from 50,000 to 100,000 per annum. The May 2023 Supplemental requires the developer to observe and perform the covenants, restrictions and obligations set out in the May 2017 agreement and November 2020 DoV as though they include reference to the DCO development. These matters are considered in Chapters 4 and 7 of this Report.

## **2.3. THE APPLICATION AS MADE**

### **The Proposal**

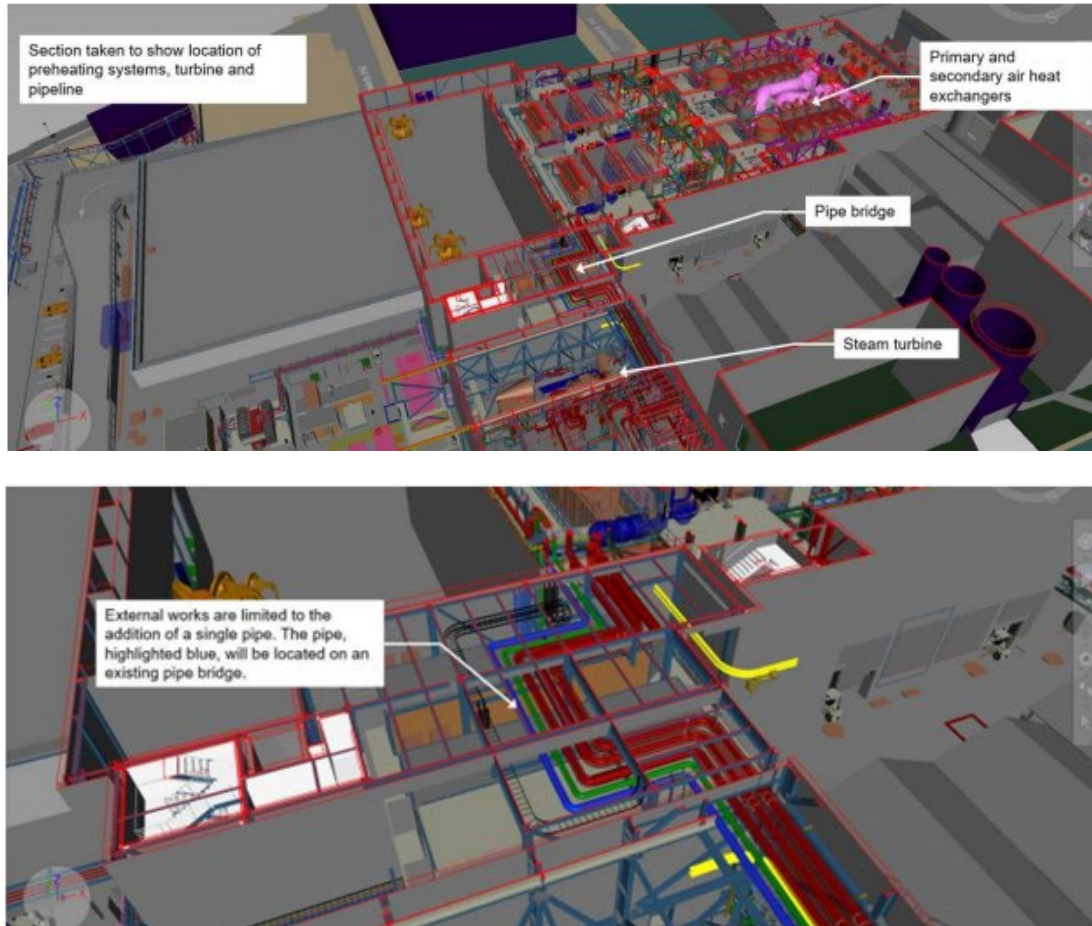
- 2.3.1. The Proposed Development would be an extension of the consented scheme in order to raise the efficiency and capacity of the consented generating station from 50MW to 60MW. The consented scheme currently under construction is not part of the proposal. The main changes to the consented scheme, and therefore the subject of the application for development consent, would be:

- a boiler primary air pre-heating system would be provided to increase the thermal efficiency of the generating station. The system would use low-pressure steam extracted from the steam turbine, fed through the heat exchangers, to raise the temperature of the primary air used for combustion. Condensate would be returned from the heat exchangers to the auxiliary condensate system. The new pre-heating system would comprise heat exchanger bundles, pipework, valves, pipe supports, thermal insulation, instrumentation, cabling, and containment;
- a boiler secondary air preheating system would be provided within the consented building envelope to increase the thermal efficiency of the generating station. The system would use low-pressure steam extracted from the steam turbine, fed through the heat exchangers to raise the temperature of the secondary air used for combustion. Condensate would be returned from the heat exchangers to the auxiliary condensate system. The new pre-heating system would comprise heat exchanger bundles, pipework, valves, pipe supports, thermal insulation, instrumentation, cabling, and containment;
- the actuated steam turbine inlet control valve would be mechanically modified to allow the steam capacity to be increased. This increase in steam capacity would allow the power capacity of the generating station to be increased; and
- the turbine control system and distributed control system software would be modified to account for the physical changes to the generating station and to allow for the increase in generating capacity.

- 2.3.2. Most of the work the subject of the application for development consent would be contained within the previously approved boiler house and turbine



building and the only externally visible element of the Proposed Development would be a 373mm overall diameter pipe running on a pipe rack between those buildings some 18m above ground level. There would be no other change to the external appearance of the consented scheme. Nor does the Proposed Development involve alterations to the throughput of waste, vehicle movements, emissions, or operating hours of the consented scheme.



**Figure 2.3 3D images of proposed internal works and external works (from ES Plates 2.1 and 2.2)**

- 2.3.3. Associated development would include temporary construction laydown areas, contractor facilities, vehicle parking and cycle storage facilities.

### **Electricity Export**

- 2.3.4. As set out in paragraph 1.1.7 above, the application also seeks consent to operate the generating station at over 50MW pursuant to s36 of the Electricity Act 1989. Electricity generated by the Proposed Development would be exported via a consented below ground connection to Slough South substation, which is located within the wider Slough Heat and Power site. There would be no change to the consented scheme electricity export connection.

## **Construction Activity**

- 2.3.5. The Applicant intends to commence work on the Proposed Development as soon as possible following the grant of development consent and the discharge of any requirements. The discharge of the requirements and their relationship with the existing planning permissions and planning agreements is considered in Chapter 7. The work is intended to be carried out in parallel with the construction programme of the consented scheme. The Applicant anticipates that the duration of that programme would not need to change. There would be an increase in construction staff of around 20 persons over the two-month installation period of the Proposed Development.
- 2.3.6. As part of the consented scheme construction programme, a dedicated off-site 120 space car park at Whitby Road, Slough has been provided for construction workers. A bus facility operates between the car park and site. There is also parking for 25 cars at Stirling Road and a space provided for off-loading minibuses. During the construction phase of the Proposed Development the temporary construction compound at Stirling Road, currently used for the construction of the consented scheme, would be used for temporary storage if required.
- 2.3.7. The Applicant estimates that there would be approximately 20 additional HGV deliveries over the two-month construction period (less than one HGV arrival per day on average). This would involve the delivery of a small amount of additional pipework and labour resources to install the Proposed Development over a two-month construction period. No abnormal weight deliveries or sized vehicles would be required.
- 2.3.8. Construction site management would be controlled by the approved CEMP [APP-062]. It describes the mitigation measures to be followed for the consented scheme and the Applicant advises that no changes are required for its use in the construction of the Proposed Development. The stated aims of the CEMP are to reduce nuisance impacts from:
- use of land for temporary laydown areas, accommodation and so on;
  - construction traffic (including parking and access requirements);
  - noise and vibration;
  - waste generation, segregation and disposal in accordance with the waste hierarchy; and
  - working hours, including a procedure for consenting exceptions.

## **Operational Phase**

- 2.3.9. The Proposed Development would not change the type of output from the consented facility. It would continue to export heat as either steam or hot water, depending on the requirements of the consumer to the SHP site via existing connections. There would continue to be 20MW of thermal energy available to export.

- 2.3.10. Cooling Tower 8 and its associated pumps would continue to be used although, in the Proposed Development, it would be connected exclusively to the generating station, rather than operated as shared infrastructure (with other energy generating activities on the SHP site). Cooling Tower 8 would be disconnected from the common cooling water system and refurbished to extend the life of the existing concrete shell, re-pack and replace the cooling water pumps and refurbish the existing cooling water underground pipework. These works are subject to separate planning permissions (Application references P/00987/054 and P/2018/000 – see paragraph 2.2.2).
- 2.3.11. The Proposed Development would use the same WDF as has been approved for the consented scheme and the maximum hourly fuel throughput would not increase. There would be no change to the volume of waste generated at the facility or changes in end destination, re-use or recycling options during the operation of the Proposed Development.
- 2.3.12. The Applicant expects that the Proposed Development would operate for approximately 8,000 hours per annum (to allow for offline periods for maintenance), which is the same as the consented scheme. However, for the purpose of the ES assessments, it has been assumed that the facility would operate continually, for twenty-four hours per day, seven days a week (that is, 8,760 hours a year) so that a ‘worst case scenario’ has been assessed. Nor would the number of operating staff change due to the proposal. There would be no change in the number of road traffic deliveries during the operational phase as a result of the Proposed Development compared with the consented scheme.

### **Decommissioning**

- 2.3.13. As with the consented scheme, the Proposed Development is expected to have a design life of at least 30 years with the possibility of extending this to 50 years. The Applicant anticipates that, at the end of operation, the plant would have some residual life remaining, and an investment decision would then be made based on the market conditions prevailing at that time. The most likely scenario is that the plant and all equipment would be shut down and removed from the site. The bulk of the plant and equipment is likely to have some limited residual value as scrap or recyclable materials.
- 2.3.14. Decommissioning of the consented scheme is addressed in the EP and condition 22 of the TCPA Permission. This condition would apply to the Proposed Development by virtue of Requirement 7 [REP6-003]. It requires a decommissioning and demolition scheme to be submitted to the planning authority for approval in advance of any of the associated works commencing.

## **2.4. THE APPLICATION AS EXAMINED**

- 2.4.1. PINS advice under S51 of the PA2008 sought clarification of the definition of the capacity of the extended generating station. In response, the Applicant amended the dDCO. Schedule 1 of the initial version described the extended generating station as having ‘a gross *installed generating capacity*



*of more than 50MW*'. In the submitted version this was changed to '*a gross installed generating capacity of up to 60MW*'. This matter was re-visited during the Examination and further changes to the dDCO were made by the Applicant, including in response to my suggestions. These are considered in Chapter 7 of the Report. There were no changes to the physical works proposed following acceptance of the application.

### **3. LEGAL AND POLICY CONTEXT**

#### **3.1. INTRODUCTION**

3.1.1. As understood by the Applicant, the legal and policy context for the Proposed Development is described primarily in the Planning Statement [APP-018].

#### **3.2. THE PLANNING ACT 2008**

3.2.1. The PA2008 provides different decision-making processes for Nationally Significant Infrastructure Project (NSIP) applications where a relevant National Policy Statement (NPS) has been designated (s104) and where there is no designated NPS (s105). Section 1.1 above establishes that the application is an energy related NSIP development. Consequently, it is an application to which s104 is applicable because it is subject to policy in the designated Overarching NPS for Energy (EN-1) and the NPS for Renewable Energy Infrastructure (EN-3). Therefore, the matters that the Secretary of State for Energy Security and Net Zero (SoS) must consider are:

- any NPS which has effect in relation to development of the description to which the application relates (a 'relevant National Policy Statement');
- the appropriate marine policy documents (if any), determined in accordance with s59 of the Marine and Coastal Access Act 2009;
- any Local Impact Report (LIR) (within the meaning given by s60(3) of the PA2008) submitted to the SoS before the specified deadline for submission;
- any matters prescribed in relation to development of the description to which the application relates; and
- any other matters which the SoS thinks are both important and relevant to the decision.

3.2.2. Section 104(3) of the PA2008 requires the SoS to decide the application in accordance with any relevant NPSs unless one or more of the exceptions in subsections (4) to (8) apply. The exceptions are that the SoS is satisfied that:

- deciding the application in accordance with any relevant NPS would lead to the United Kingdom (UK) being in breach of any of its international obligations;
- deciding the application in accordance with any relevant NPS would lead to the SoS being in breach of any duty imposed on her / him by or under any enactment;
- deciding the application in accordance with any relevant NPS would be unlawful by virtue of any enactment;
- the adverse impact of the Proposed Development would outweigh its benefits; and / or

- any condition prescribed for deciding an application otherwise than in accordance with a NPS is met.

3.2.3. Where the NPS applies, s104 creates a presumption in favour of NPS compliant development. Whether or not the Proposed Development complies with EN-1 and EN-3 is addressed in detailed terms, with references to individual paragraphs in the NPSs, in Chapter 4 of the report.

### **3.3. NATIONAL POLICY STATEMENTS**

3.3.1. EN-1 sets out the need for, and government's policies to control, the development of energy NSIPs in England. EN-3 expands on the policies applicable to, among other technologies, waste combustion energy generation. Together, they provide planning guidance for promoters of NSIPs and are the basis for the Examination by the Examining Authority (ExA) and decisions by the SoS. The NPSs were designated by the SoS for Energy and Climate Change (now the Department for Energy Security and Net Zero) on 19 July 2011.

3.3.2. The Energy White Paper, "Powering our Net Zero Future", was published in December 2020 and announced a review of the suite of energy NPSs. The government has subsequently published two further documents setting out relevant policy. The Net Zero Strategy: Build Back Greener (October 2021) sets out plans for reducing reliance on fossil fuels and making the transition to low carbon energy consistent with the government's net zero commitments. The British Energy Security Strategy (April 2022) seeks to accelerate the government's ambition to support the deployment of low carbon and renewable technologies. Updated draft NPSs were published for consultation in March 2023.

3.3.3. The SoS has decided that, for any application accepted for examination before designation of the updated energy NPSs, the original suite of energy NPSs should have effect for the purpose of s104 of the PA2008. Nevertheless, any emerging draft energy NPSs are potentially capable of being important and relevant considerations in the decision-making process. As such, I have had regard to them in deciding the Application and sought the views of the parties on the updated drafts of NPS EN-1 and EN-3 [PD-015 ExQ2.1.1].

3.3.4. The updated drafts reinforce the urgency of providing domestic energy production and, to that extent, support the Proposed Development. Updated draft EN-1 recognises that energy from waste (EfW) is only partially renewable due to the presence of fossil-based carbon in the waste (paragraph 3.3.42). However, this is of limited significance to the Proposed Development since it would not alter the nature or amount of waste input compared with the consented scheme. Furthermore, updated draft EN-3 continues to apply to EfW projects. Although the updated drafts include some changes to the assessment principles to be applied to energy NSIPs, in view of the nature and scale of the proposal, the changes do not materially affect the outcomes of the assessments in this case.

3.3.5. Overall therefore, I consider nothing contained within the updated drafts of the relevant NPS documents have a material bearing on my overall recommendation. No other NPSs are directly applicable to the Proposed Development.

### **Overarching NPS for Energy (EN-1)**

3.3.6. EN-1 sets out the government's policy for the delivery of major energy infrastructure projects. Paragraph 3.1.1 states *“the UK needs all the types of energy infrastructure covered by this NPS in order to achieve energy security at the same time as dramatically reducing greenhouse gas emissions”*. Moreover, applications for development consent should be assessed *“on the basis that the government has demonstrated that there is a need for those types of infrastructure”* (paragraph 3.1.3) and that the SoS *“should give substantial weight to the contribution which projects would make towards satisfying this need when considering applications for development consent under the Planning Act 2008”* (paragraph 3.1.4).

3.3.7. Paragraph 3.3.10 advises that the UK's need to diversify and decarbonise electricity generation includes increasing dramatically the amount of renewable generation capacity. It recognises that energy from waste may fall into this category. Paragraph 3.4.3 advises that the principal purpose of the combustion of waste is to reduce the amount of waste going to landfill in accordance with the Waste Hierarchy and to recover energy from that waste as electricity or heat. The energy produced from the biomass fraction of waste is renewable. Paragraph 3.4.5 identifies the urgency of bringing forward renewable energy projects.

3.3.8. Paragraph 4.1.2 advises that the SoS should start with a presumption in favour of granting consent for applications for energy NSIPs, and that the presumption applies unless any more specific and relevant policies set out in the relevant NPSs clearly indicate that consent should be refused. This presumption is subject to the requirements of PA2008 s104(3).

3.3.9. Account should be taken of the potential benefits of the proposed development to meet the need for energy infrastructure, job creation and any longer term or wider benefits. Account should also be taken of potential adverse impacts, including any long term and cumulative ones, as well as measures to avoid, reduce or compensate for them (paragraph 4.1.3).

3.3.10. The SoS may regard other policies, including those contained in the development plan, as important and relevant to the decision. Nevertheless, paragraph 4.1.5 is clear that NPSs have primacy for NSIPs and that, in the event of a conflict between NPS policies and those contained in any other document, the NPS policies prevail.

3.3.11. All proposals for projects that are subject to the European Environmental Impact Assessment Directive must be accompanied by an Environmental Statement (ES) which should cover the environmental, social and economic effects arising from pre-construction, construction, operation and decommissioning of the project (paragraphs 4.2.1 and 4.2.3). The ES should

provide information on how the effects of the proposal would combine and interact with the effects of other development, including projects for which consent has been sought or granted, as well as those already in existence (paragraph 4.2.5).

- 3.3.12. Paragraph 4.3.1 recognises the need, under the Habitats Regulations, to consider whether the project may have a significant effect on a European site, or on any site to which the same protection is applied as a matter of policy, either alone or in combination with other plans or projects. The NPS also notes the need to consider alternatives under the Habitats Regulations and in the ES.
- 3.3.13. Proposals should demonstrate the principles of good design in terms of functionality and sustainability as well as being attractive, durable and adaptive (paragraphs 4.5.1 and 4.5.3). Section 4.6 highlights the merits of Combined Heat and Power (CHP) and advises that “*substantial additional positive weight should therefore be given...to applications incorporating CHP*” (paragraph 4.6.8).
- 3.3.14. Paragraph 4.8.6 states that the SoS should be satisfied that applicants for new energy infrastructure have taken into account the potential impacts of climate change using the latest UK Climate Projections to ensure they have identified appropriate mitigation or adaptation measures.
- 3.3.15. With regard to pollution control, the SoS should focus on whether the development itself is an acceptable use of the land, and on the impacts of that use, rather than the control of processes, emissions or discharges themselves. It should be assumed that the relevant pollution control regime will be properly applied and enforced by the relevant regulator (paragraph 4.10.3). Where the proposal is subject to the Environmental Permitting (EP) regime, the relevant regulator will require the application to demonstrate that processes are in place to meet all relevant EP requirements (4.10.5). Consent should not be refused on the basis of pollution impacts unless there is good reason to believe that any relevant necessary operational pollution control permits or licences or other consents will not subsequently be granted (paragraph 4.10.8).
- 3.3.16. In relation to common law nuisance and statutory nuisance, it is important that possible sources of nuisance under section 79(1) of the Environmental Protection 1990 Act, and how they may be mitigated or limited, are considered at the application stage. This will allow appropriate requirements to be included in any subsequent order granting development consent (paragraph 4.14.2).
- 3.3.17. Part 5 of EN-1 deals with generic impacts. The relevant policy provisions are considered in Chapter 4 of this Report.

### **Renewable Energy Infrastructure (EN-3)**

- 3.3.18. EN-3 sets out policies specifically relating to renewable energy infrastructure, including energy from waste infrastructure with a capacity of more than

50MW (paragraph 1.8.1). Its policies are additional to those on generic impacts set out in EN-1 and do not replace them. The starting point for decisions is that the need for the infrastructure covered by EN-3 has been demonstrated (paragraph 2.1.2).

- 3.3.19. Paragraph 2.3.3 states energy from waste generating stations are likely to require significant water resources and should consider how the plant will be resilient to increased risk of flooding and increase risk of drought affecting river flows as part of their ability to adapt to climate change.
- 3.3.20. Section 2.4 deals with good design for energy infrastructure.
- 3.3.21. Paragraph 2.5.2 recognises that the recovery of energy from the combustion of waste will play an increasingly important role in meeting the UK's energy needs as well as forming an important element of waste management strategies in England. Paragraph 2.5.9 notes that waste to energy generating stations can take fuel (waste) that would otherwise be sent to landfill and this waste can come from municipal or commercial and industrial sources.
- 3.3.22. Although throughput volumes are not in themselves a factor in decision-making, any increase in traffic volumes, change in air quality, and any other adverse impacts as a result of the increase in throughput should be considered in accordance with the NPS and balanced against the net benefits of the proposal as described in paragraph 2.5.2 and in Section 3.4 of EN-1 (paragraph 2.5.13).
- 3.3.23. EN-3 identifies impact assessment principles specific to EfW generating stations. These largely overlap with the policies for the assessment of generic impacts set out in Part 5 of EN-1 and are considered in more detail in Chapter 4 of this Report.

## **3.4. EUROPEAN LAW AND RELATED UK REGULATIONS**

- 3.4.1. The UK left the European Union as a member state on 31 January 2020. The European Union (Withdrawal Agreement) Act 2020 provides for, amongst other things, EU law to be retained as UK law.
- 3.4.2. This Report has been prepared on the basis of retained law and references in it to European terms such as habitats have also been retained for consistency with the Examination documents. However, the SoS will note that the Environment Act 2021 received Royal Assent on 9 November 2021. It will therefore be a matter for the SoS to satisfy itself regarding the position on retained law and obligations at the point of the decision.

### **The Air Quality Standards Regulations 2010**

- 3.4.3. The Air Quality Standards Regulations 2010 give statutory effect to the Air Quality Directive (008/50/EC) (AQD) and transpose it into UK law. It requires the SoS, as the competent authority, to assess ambient air quality for the presence of sulphur dioxide (SO<sub>2</sub>), nitrogen dioxide (NO<sub>2</sub>) and mono nitrogen oxides (NO<sub>x</sub>), particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), lead, benzene and carbon

monoxide. It sets limit values (LVs) for compliance and establishes control actions where the LVs are exceeded.

- 3.4.4. The Applicant has included relevant assessments on air quality impacts as part of the ES [APP-033]. I consider these further in Section 4.11.

#### **Industrial Emissions Directive (IED)**

- 3.4.5. The IED (20/75/EU) applies to all incinerators and other EfW facilities. The directive has been implemented by the Environmental Permitting (England and Wales) Regulations 2016 (as amended) (EP Regulations). Incineration includes the use of waste as a fuel or for energy recovery. The Proposed Development would fall within the requirements of the IED, being greater than 50MW in capacity.
- 3.4.6. The IED sets operational limits and controls which plant must meet, including emission limit values (ELVs) for pollutant releases to air. In addition, European Best Available Technique (BAT) reference documents are published for each industrial sector regulated under the IED, and they include BAT-Achievable Emission Values to be met through the application of BAT. These values may be the same as those published in the IED, or they may be more stringent.
- 3.4.7. The Environment Agency (EA) is in the process of setting more stringent ELVs and I consider their implications for the Proposed Development in section 4.11 of this Report.

#### **The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017**

- 3.4.8. The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 give effect to Council Directive 2011/92/EU. The Regulations define the procedure by which information about the environmental effects of a project is collected and taken into account by the relevant decision-making body before consent is granted for a development. It sets thresholds for projects that require an EIA and outlines the impacts on the environment that need to be assessed.
- 3.4.9. Further consideration is given to EIA and the contents of the ES in Section 4.9 and 4.11 to 4.16 of this Report.

#### **Environmental Permitting (England and Wales) Regulations 2016**

- 3.4.10. The EP Regulations apply to installations of the type proposed and transpose the requirements of the IED into UK law. As the Proposed Development includes combustion activities falling within Part 2 of Schedule 1 of the EP Regulations, an EP would be required before the Proposed Development commences operation.
- 3.4.11. Under the EP Regulations, the operator of an installation such as the one proposed is required to employ the IED derived Best Available Techniques (BAT) for the prevention or minimisation of emissions, to ensure a high level

of protection for the environment. As noted in Chapter 1 above, the Applicant and the EA agree that the existing EP for the generating station would apply to the Proposed Development with only administrative amendments necessary. Further, the EA agrees that the appropriateness and effectiveness of the reliance on controls in the existing EP would be adequate for the purpose of the Proposed Development. [REP2-010]. I consider the controls provided by the EP in relevant parts of Chapter 4.

### **The Conservation of Habitats and Species Regulations 2017**

- 3.4.12. The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) came into force on 30 November 2017 and give effect to the Habitats Directive (92/43/EEC) and Wild Birds Directive (2009/147/EC).
- 3.4.13. Following the UK's departure from the EU, these were amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 in order to ensure they continue to operate effectively. Most of these changes involve transferring functions from the European Commission to the appropriate authorities in England and Wales. All other processes or terms in the 2017 Regulations remain unchanged.
- 3.4.14. The Applicant has provided a report under the Habitats Regulations which concludes that there would be no significant adverse effects from the Proposed Development. This matter is considered further in Chapter 5 of this Report.

### **Water Framework Directive and the Water Framework Directive Regulations 2017**

- 3.4.15. EU Directive 2000/60/EC includes objectives such as preventing and reducing pollution, environmental protection, improving aquatic ecosystems and mitigating the effects of floods. The Applicant has submitted a Flood Risk Assessment (ES Chapter 12 [APP-037] and Appendix 12A [APP-071]). These are considered in Section 4.16 of this Report.
- 3.4.16. The EIA Scoping Opinion [APP-060] agreed that construction phase effects on water resources could be scoped out and that operational phase effects could be scoped out subject to confirmation that water demand and any discharges are the same or less than the consented scheme. These confirmations are provided in Chapter 12 of the ES. As such, it is not necessary to consider matters under the Water Framework Directive.

### **Waste (England and Wales) Regulations 2011**

- 3.4.17. These Regulations transpose the Waste Framework Directive 2008/98/EC13 (rWFD) into UK law. Among other things, they apply the revised 'waste hierarchy', impose duties to improve the use of waste as a resource and impose duties on planning authorities when exercising planning functions in relation to waste management.



- 3.4.18. The EIA Scoping Opinion [APP-060] agreed that construction phase waste effects could be scoped out. With regard to the operational phase, the Scoping Opinion referred to an increase throughput of waste and expected that the project description and transport assessments would explain any changes in end destination / re-use / recycling options and assumptions (for example quantities and frequencies of deliveries).
- 3.4.19. The ES Project Description [APP-027] confirms that the maximum fuel throughput would not increase from the consented scheme. Further, that there would be no change to waste volume from the site (or changes in end destination / re-use / recycling options) during the operation of the Proposed Development compared with the consented scheme. Consequently, it is not necessary to consider waste management matters further.

## **3.5. OTHER LEGAL PROVISIONS**

### **Climate Change Act 2008**

- 3.5.1. The Climate Change Act 2008 sets legally binding targets for greenhouse gas (GHG) emission reductions in the UK against a 1990 baseline. The coming into force of the Climate Change Act 2008 (2050 Target Amendment) Order 2019 confirmed the government's commitment to cutting GHG to net zero by 2050 compared to 1990 levels and introduced a legally binding target of 100%.

### **The Paris Agreement**

- 3.5.2. The UK is a signatory to the Paris Agreement under the United Nations Framework Convention on Climate Change. This provides a framework to keep global warming below 2°C, pursuing efforts to limit the temperature increase to 1.5°C. Matters relating to Climate Change are considered further in Section 4.13.

### **Natural Environment and Rural Communities Act 2006**

- 3.5.3. The Natural Environment and Rural Communities Act 2006 makes provision for bodies concerned with the natural environment and rural communities. It includes a duty that every public authority must, in exercising its functions, have regard so far as is consistent with the proper exercising of those functions, to the purpose of conserving biodiversity. In complying with this duty, Ministers of the Crown and government departments must, in particular, have regard to the United Nations Environment Programme Convention on Biological Diversity 1992.

### **The Wildlife and Countryside Act 1981 (as amended (WCA))**

- 3.5.4. The WCA is the primary legislation which protects animals, plants, and certain habitats in the UK. The WCA makes provisions to protect wildlife, nature conservation and countryside protection. Its provisions are relevant in Section 4.12 on biodiversity.

## **Environmental Protection Act 1990**

- 3.5.5. Section 79(1) of the Environmental Protection Act 1990 identifies a number of matters which are considered to be statutory nuisance. In the version of the dDCO originally submitted [APP-006] Article 10 contained provisions relating to proceedings in respect of statutory nuisance. I questioned the need for this Article in ExQ1.2.5 [PD-007]. Following the Applicant's response [REP2-020], I suggested that the Article was not necessary [PD-014] and it was omitted in the Applicant's final submitted version of the dDCO [REP6-003]. It does not appear in my rDCO (Appendix C).

## **Equality Act 2010**

- 3.5.6. The Equality Act 2010 establishes a duty (the Public Sector Equality Duty (PSED)) to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. The PSED is applicable to the ExA in the conduct of this Examination and in reporting and to the SoS in terms of decision-making. I have had regard to the PSED in my consideration of the application and the preparation of this Report.
- 3.5.7. The application site is located in a commercial area and there is nothing to suggest that the construction of the Proposed Development would lead to particular effects on any protected group. The operation of the Proposed Development would increase the electrical capacity of the generating station which be fed into the electricity grid with no particular effect on any protected group. As such, there is nothing to indicate that its operation would have particular effects on any protected group.

## **3.6. OTHER RELEVANT POLICY STATEMENTS**

### **United Nations Environment Programme Convention on Biological Diversity 1992 ("the Convention")**

- 3.6.1. The UK government ratified the Convention in June 1994. Responsibility for the UK contribution to the Convention rests with the Department for the Environment, Food and Rural Affairs which promotes the integration of biodiversity into policies, projects and programmes within government and beyond.
- 3.6.2. As required by Regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010, I have had regard to the Convention in my consideration of the likely impacts of the Proposed Development and appropriate objectives and mechanisms for mitigation and compensation.

### **Noise Policy Statement for England**

- 3.6.3. The Noise Policy Statement for England (NPSE) seeks to clarify the underlying principles and aims in existing policy documents, legislation and guidance that relate to noise. The NPSE applies to all forms of noise, including environmental noise. The statement sets out the long-term vision of the government's noise policy which is to "*promote good health and a*

*good quality of life through the effective management of noise within the context of government policy on sustainable development”.*

- 3.6.4. The Explanatory Note within the NPSE provides further guidance on defining significant adverse effects and adverse effects using the concepts:
- No Observed Effect Level (NOEL) - the level below which no effect can be detected. Below this level no detectable effect on health and quality of life due to noise can be established;
  - Lowest Observable Adverse Effect Level (LOAEL) - the level above which adverse effects on health and quality of life can be detected; and
  - Significant Observed Adverse Effect Level (SOAEL) - the level above which significant adverse effects on health and quality of life occur.
- 3.6.5. When assessing the effects of the Proposed Development on noise matters, the aims of the development should firstly avoid noise levels above the SOAEL; and to take all reasonable steps to mitigate and minimise noise effects where development noise levels are between LOAEL and SOAEL.
- 3.6.6. The potential noise impacts of the Proposed Development are considered in Section 4.14 of this Report.

### **National Planning Policy Framework**

- 3.6.7. The National Planning Policy Framework (NPPF) sets out the government’s planning policies for England and how these are expected to be applied. The NPPF does not contain specific policies for NSIPs which are determined in accordance with the decision-making framework set out in the PA2008 and relevant NPS for major infrastructure, as well as any other matters that are considered relevant. This may include the NPPF.
- 3.6.8. The NPPF contains guidance on promoting sustainable transport; requiring good design; promoting healthier communities; conserving and enhancing the natural and historic environments; and meeting the challenges of climate change. I have had regard to it in my consideration of this application.

### **Development Plan**

- 3.6.9. Paragraph 4.1.5 of EN-1 states that planning policies outside of the NPS can be relevant considerations to the SoS’s decision and that these may include development plan documents or other documents in the local development framework.
- 3.6.10. The development plan for the proposal comprises:
- Slough Local Development Framework, Core Strategy 2006–2026, December 2008 (Slough Core Strategy);
  - Slough Local Development Framework Site Allocations Development Plan Document, November 2010);
  - Local Plan for Slough, March 2004; and

- Waste Local Plan for Berkshire, December 1998, Saved Policies September 2007.

### **3.7. MADE DEVELOPMENT CONSENT ORDERS**

- 3.7.1. There is nothing in the application documents or other submissions made to the Examination to indicate that the Proposed Development would substantively affect, or be affected by, other made DCOs in the area.
- 3.7.2. I deal with the question of the precedents from other made DCOs which have been relied on by the Applicant in the framing of the dDCO in Chapter 7 of this Report.

### **3.8. TRANSBOUNDARY EFFECTS**

- 3.8.1. On behalf of the SoS, PINS carried out a screening exercise on 24 January 2022 to determine whether the Proposed Development would result in any likely significant effects on the environment in another European Economic Area State.
- 3.8.2. Under Regulation 32 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (EIA Regulations) and based on the information provided by the Applicant, PINS considered that the Proposed Development would be unlikely to have a significant effect either alone or cumulatively on the environment in another European Economic Area State.
- 3.8.3. In reaching this conclusion PINS identified and considered the Proposed Development's likely impacts including potential pathways and the extent, magnitude, probability, duration, frequency and reversibility of the impacts. PINS considered that the likelihood of transboundary effects resulting from the Proposed Development is so low that it does not warrant completion of a formal transboundary screening matrix.
- 3.8.4. I have had regard to the ongoing duty of the SoS under EIA Regulation 32 to have regard to transboundary matters throughout the Examination. No new information came to light during the Examination which gives rise to the need to reconsider the PINS transboundary screening opinion.

### **3.9. LOCAL IMPACT REPORT (LIR)**

- 3.9.1. Section 104 of the PA2008 states that in deciding the application the SoS must have regard to any LIR within the meaning of s60(3).
- 3.9.2. There is also a requirement under s60(2) to give notice in writing to each local authority falling under s56A inviting them to submit LIRs. This notice was given in the Rule 8 letter dated 28 February 2023 [PD-006]. As set out in Section 1.4, an LIR was submitted by SBC. A summary of the matters raised in the LIR is set out in Section 4.4 of this report.

### **3.10. THE SECRETARY OF STATE'S POWERS TO MAKE A DCO**

- 3.10.1. Planning Act 2008: Guidance for the Examination of applications for development consent (March 2015), provides guidance at paragraphs 109 to 115 in relation to changing an application post acceptance. The view expressed by the government during the passage of the Localism Act was that s114(1) places the responsibility for making a DCO on the decision-maker and does not limit the terms on which it can be made.
- 3.10.2. Consideration has been given throughout the Examination to whether revisions to the application documents have changed the proposal to a point where it became a different application and, therefore, whether the SoS would have the power under s114 of the PA2008 to make a DCO having regard to the development consent applied for. There were no changes to the Proposed Development itself during the Examination and I consider that the amendments to the application documents were minor in nature and have not resulted in a significant change to the application as originally made. Consequently, I consider that the SoS has the power to make the DCO as recommended in Chapter 8 and provided in Appendix C of this Report.

## **4. THE PLANNING ISSUES**

### **4.1. INTRODUCTION**

- 4.1.1. This chapter considers the main planning issues in the Examination. First, it identifies the Initial Assessment of Principal Issues (IAP). The chapter then deals with topics in turn and sets out conclusions in relation to them. The only topics not dealt with in this chapter are the Habitats Regulations Assessment (HRA) and the Development Consent Order (DCO) which are dealt with in Chapters 5, and 7 respectively.
- 4.1.2. Throughout this chapter, where reference is made to dDCO Requirements, the numbering relates to the Applicant's final dDCO [REP6-003].

### **4.2. MAIN ISSUES IN THE EXAMINATION**

- 4.2.1. The IAP, prepared in accordance with s88 of the Planning Act 2008 (PA2008) and Rule 5 of the Infrastructure Planning (Examination Procedure) Rules 2010, was published with the letter inviting all Interested Parties (IPs) to the Preliminary Meeting (PM) [PD-005]. I had regard to the application documents, the relevant National Policy Statements (NPS) and any other relevant guidance together with Relevant Representations (RR) submitted by Interested Parties (IP).
- 4.2.2. It was made clear in Annex C of the letter that the list was not comprehensive or exhaustive and that regard would be had to all relevant matters in reaching a recommendation after the conclusion of the Examination.
- 4.2.3. The issues identified in that initial assessment are derived from the topic areas not scoped out of the ES. The scoping exercise (Applicant's Scoping Report [APP-059] and PINS's Scoping Opinion [App-060] identifies the topics where the consented scheme has the potential to lead to significant environmental effects. It was informed by input from the 'consultation bodies' in accordance with EIA Regulation 10(6). It is also relevant to note that, even within those topic areas, some detailed matters were scoped out. These are identified in my assessment of the topic area later in this chapter.
- 4.2.4. The IAP also included the provisions of the dDCO, in particular how the ES assessment and mitigations would be secured and its relationship with the planning permissions for the consented scheme. The issues are:
- air quality and emissions;
  - biodiversity and the natural environment;
  - climate change;
  - the draft Development Consent Order (dDCO);
  - noise and vibration;

- the scope of the Proposed Development and the Environmental Impact Assessment; and
- traffic and transport.

4.2.5. The IAPI was discussed at the PM and there were no objections to it from any of the parties. No other significant issues emerged during the Examination.

### **4.3. ISSUES ARISING IN WRITTEN SUBMISSIONS**

4.3.1. The application generated a small number of RRs (five in total) and local opposition was very limited. Royal Mail Group Ltd [RR-001] supported the proposal but sought to secure mitigations to protect its road-based operations during the construction phase. Following discussion with the Applicant, Royal Mail indicated [REP2-018] that it was content to rely on the provisions in the Construction Traffic Management Plan (CTMP) appended to the approved CEMP [APP-062]. It subsequently withdrew its written representation (WR) [REP5-033].

4.3.2. SEGRO plc, the owner of the Slough Trading Estate (STE), wished to ensure that the proposal would not adversely affect the trading estate or the businesses and people who work there [RR-004]. Its Statement of Common Ground (SoCG) [REP4-003] concluded compliance with the measures in the CEMP and CTMP would be sufficient to ensure that the construction and operational effects of the Proposal Development on the STE and its occupiers would be minimised.

4.3.3. The other RRs were either neutral (Canal and River Trust [RR-003]), supportive (UK Health Security Agency [RR-005]) or withdrawn (Cadent Gas Ltd [RR-002]). As such, there were no outstanding objections arising from RRs or WRs at the close of the Examination.

### **4.4. ISSUES ARISING IN THE LOCAL IMPACT REPORT**

4.4.1. The Council's LIR [REP2-015] gives a brief assessment of the Proposed Development with regard to socio-economic and community matters, landscape and historic features, local transport issues, biodiversity, air quality and noise and vibration. It raises no objections in respect of any of these matters.

4.4.2. The LIR goes on to consider the impact of the proposed provisions and requirements within the dDCO in connection with these matters and finds that they would be acceptable. Finally, it assesses the relative merits of the social, economic and environmental impacts of the proposal. It finds 'some positive' impact from job creation and energy generation which would lead to social and economic benefits. The LIR considers that harm from environmental impacts would be mitigated, therefore leading to a neutral effect on the environment.

4.4.3. The Applicant's response to the LIR [REP3-011] sought clarification of three points in the LIR and I asked the Council to comment on these matters in

ExQ2.1.2 [PD-015]. It confirmed that the LIR assessment was based on the Proposed Development (rather than the consented scheme), that it has no outstanding concerns regarding transport or environmental impacts and that no additional mitigation measures are required.

4.4.4. Overall, the Council supports the Proposed Development.

## **4.5. POLICY CONFORMITY**

### **Introduction**

4.5.1. This section deals with whether the Proposed Development complies, in principle, with the requirements of the NPSs, the development plan and other relevant policies. In doing so, it covers whether the need for the development has been established and whether alternatives to the submitted proposals and good design have been properly considered. Compliance or otherwise with detailed policies on specific topic areas is dealt with in subsequent sections of this chapter.

4.5.2. It is relevant to note here that the Proposed Development comprises a limited amount of physical works intended to increase the capacity of the consented scheme to 60MW for which development consent is required. The generating station currently under construction is not subject to review.

### **Conformity with NPS EN-1 and EN-3**

#### ***Need for the Proposed Development***

4.5.3. I found in Section 1.1 that the Proposed Development is an energy infrastructure NSIP. It is, therefore, subject to the general considerations in EN-1. Both EN-1 and EN-3 recognise that renewable energy infrastructure includes energy from waste facilities. Consequently, the Proposed Development is also subject to the technology-specific considerations in EN-3.

4.5.4. The Applicant assessed the performance of the Proposed Development against relevant policies in EN-1 and EN-3 within its Planning Statement [APP-018]. It finds that there is a need for the Proposed Development within the framework provided by the NPSs. This assessment was not disputed during the Examination.

4.5.5. EN-1 confirms the need for energy infrastructure NSIPs and paragraph 3.1.4 requires the SoS to give substantial weight to the contribution that all projects would make toward satisfying this need when considering applications under the PA2008. The NPS goes on to recognise the benefits of having a diverse mix of power generation to avoid over dependency on one type or source of fuel or power (paragraph 3.3.4). Paragraph 3.3.15 advises that there is an urgent need for new (and particularly low carbon) energy NSIPs to be brought forward as soon as possible, given the crucial role of electricity as the UK decarbonises its energy sector.

4.5.6. The Proposed Development would make a relatively small contribution to meeting the UK's energy needs. Nevertheless, it would help to diversify the



mix of power generation using a partly renewable source of fuel and could be brought into operation quickly. I consider, therefore, that the Proposed Development would meet the need for nationally significant energy infrastructure as defined in EN-1 and EN-3. As such, there is a presumption in favour of granting consent, subject to compliance with the detailed policies of the NPSs. I deal with those policies below and later in this chapter.

### ***Alternatives***

- 4.5.7. Although EN-1 does not contain a general requirement to consider alternatives to the proposed scheme, paragraphs 4.4.1 and 4.4.2 refer to specific requirements to consider alternatives as part of the ES and under the Habitats Regulations. Chapter 3 of the Applicant's ES [APP-028] reviews alternatives to the Proposed Development.
- 4.5.8. Since the proposal is an extension to the consented scheme, alternative locations were not considered. The ES reviews options for the size of the increase in the capacity of the generating station. It finds that an option of less than 60 megawatts (MW) would not deliver the full potential efficiency gain and would not be commercially viable. An option of more than 60MW capacity would require an increase in fuel throughput and consequently more HGV movements resulting in increases in emissions and traffic flows. It would also require more physical works at the site for which, the Applicant says, there is likely to be insufficient space.
- 4.5.9. There is no firm evidence to dispute the Applicant's assessment of alternatives. Having regard to the nature and scale of the Proposed Development, I am satisfied that adequate consideration has been given to alternative options.

### ***Good design***

- 4.5.10. EN-1 advises that good design is concerned with function and sustainability as well as appearance (para 4.5.1). It goes on to say that the SoS needs to be satisfied that energy infrastructure developments are sustainable and as durable and adaptable as they can be, while recognising that applicants may have limited choice in the physical appearance of the development (paragraph 4.5.3). EN-3 adds that good design that contributes positively to the character and quality of the area will go some way to mitigate adverse landscape and visual effects. (paragraph 2.5.50).
- 4.5.11. The Proposed Development would make more efficient use of the fuel input without generating additional vehicle movements during the operational phase. There is nothing to suggest that the proposed works would not be durable. To that extent, therefore, the Proposed Development would be sustainable.
- 4.5.12. The external work proposed is limited to a single external pipeline which would be located on an existing pipe tray along with other pipes. The Applicant advises that the material used for the pipe is driven by engineering constraints and that its colour would match the other pipes installed under the consented scheme. I saw on the ASI that the location of the proposed

pipeline is inconspicuous in public viewpoints. With these considerations in mind, I am content that the Proposed Development meets the requirement for good design so far as they are relevant to the development consent decision.

### **Combined Heat and Power (CHP)**

- 4.5.13. The government is committed to promoting Good Quality CHP in order to reduce emissions by using less fuel to generate the same amount of heat and power (EN-1 paragraph 4.6.3) and advises that substantial additional positive weight should therefore be given to applications incorporating CHP (paragraph 4.6.8).
- 4.5.14. The consented scheme supplies heat and power to the Slough CHP. The Proposed Development would lead to a more efficient CHP facility without increasing the throughput of waste compared with the consented scheme. This outcome therefore weighs in favour of the proposal.

### **Conclusion**

- 4.5.15. Subject to the topic specific considerations dealt with below, I find that the Proposed Development conforms with EN1 and EN-3. The urgent need for renewable electricity generation and the proposal's contribution to CHP weigh firmly in its favour.

## **4.6. CONFORMITY WITH THE DEVELOPMENT PLAN**

- 4.6.1. Policy EM7 of the Slough Local Plan and the Spatial Vision in the Core Strategy support business, general industrial and warehousing development on the STE. Since 1995 the STE has been a Simplified Planning Zone (SPZ) which allows for most types of business class development to take place without the need for planning permission. The site is not covered by other development plan designations. It is an established location for energy generation and the proposal would increase the efficiency of an existing facility serving businesses on the STE.
- 4.6.2. The Applicant's Planning Statement [APP-018] reviews the proposal against the Core Strategy spatial vision, strategic objectives and Policies 1 (Spatial Strategy), 5 (Employment), 7 (Transport), 8 (Sustainability and the Environment), 9 (Natural and Built Environment), 10 (Infrastructure) and 12 (Community Safety). It finds that the proposal would accord with each of the identified policies.
- 4.6.3. The LIR [REP2-015] refers to the approvals granted for the consented scheme and finds that the Proposed Development would not raise any additional concerns not addressed or mitigated under those approvals. It also lists a number of policies in each of the development plan documents cited in Section 3.6 above (except the Site Allocations Document). It does not identify any specific development plan policy concerns regarding the Proposed Development.

4.6.4. Having reviewed the relevant development plan policies and submitted evidence, I am content that the Proposed Development is in general conformity with the relevant development plan policies. Where policies require the consideration of specific aspects, I deal with them later in this chapter.

## **4.7. OTHER POLICY STATEMENTS**

4.7.1. The NPPF advises that applications for renewable and low carbon development should be approved if the impacts are (or can be made) acceptable and recognises that even small-scale projects provide a valuable contribution to cutting GHG emissions (paragraph 158). Insofar as the NPPF contains aspect specific policies relevant to the Proposed Development, I consider them later in this chapter. However, its broad thrust is supportive of the proposal.

4.7.2. No other National Policy Statements contain policies, guidance or information which has a material bearing on the 'in principle' consideration of this application.

## **4.8. THE PRINCIPLE OF THE DEVELOPMENT**

4.8.1. Taking into account my conclusions on the support for the Proposed Development provided by EN-1, EN-3 and the NPPF, as well as its compliance with the spatial vision in the development plan, I find that the principle of development is well-founded in relevant policy.

## **4.9. ENVIRONMENTAL IMPACT ASSESSMENT**

### **Policy and Legislative Context**

4.9.1. As set out in Chapter 3 above, the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (EIA Regulations) provide the legislative requirements for EIA development. Paragraph 4.2.1 of EN-1 confirms that projects which are subject to the EIA Directive must be accompanied by an ES describing the aspects of the environment likely to be significantly affected by the project. Specifically, the Directive refers to effects on human beings, fauna and flora, soil, water, air, climate, the landscape, material assets and cultural heritage, and the interaction between them.

4.9.2. Paragraph 4.2.2 of EN-1 further advises that it would be helpful to include information on likely significant social and economic effects and to show how any likely significant negative effects would be avoided or mitigated. In accordance with the EIA Regulations and the NPS, direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the project should be considered, as well as cumulative and combined effects.

## **The Application**

- 4.9.3. The application was accompanied by an ES, the scope of which had been previously agreed. The scoping opinion [APP-060] recognised the limited scale and nature of the proposal and accordingly a number of topic areas often covered in an ES were scoped out. Specifically, the scoping opinion found that there was no need to provide full assessments of:
- aviation;
  - cultural heritage;
  - landscape and visual;
  - ground conditions;
  - water;
  - waste;
  - human health; or
  - socio-economics.
- 4.9.4. Some elements of other topic areas were also scoped out and these are identified below in the respective sections of this chapter.
- 4.9.5. The ES text was presented in a Non-technical Summary [APP-024] and 14 detailed chapters [APP-025 to APP-039]. These were supported by figures [APP-040 to APP-057] and appendices [APP-058 to APP-071].
- 4.9.6. The Statements of Common Ground (SoCGs) with SBC [REP2-009], the EA [REP2-010] and Natural England (NE) [REP2-011] found that the baselines, methodology, assessments and conclusions, including cumulative effects, in the ES were acceptable and that the mitigation required would be secured through the Requirements in the dDCO. No other interested parties disputed these matters.
- 4.9.7. The air quality chapter of the ES [APP-033] relies in part on the controls provided by the EP. However, I have already noted in Section 3.3 above that EN-1 supports this approach and in Section 3.4 that the EA is content that the existing EP is adequate for this purpose.
- 4.9.8. I consider the detailed environmental effects of the Proposed Development later in this chapter. Here I conclude that, overall, the ES is sufficient to enable the SoS to take a decision in compliance with the EIA Regulations.

## **4.10. HABITATS REGULATIONS ASSESSMENT**

- 4.10.1. The Proposed Development gives rise to the potential for likely significant effects on European sites and hence is subject to HRA. A separate record of considerations relevant to HRA is set out in Chapter 5 of this Report.
- 4.10.2. However, at this stage I confirm that I have considered all documentation relevant to HRA as required by section 4.3 of EN-1 and have taken it into

account in the conclusions reached here and in the planning balance in Chapter 6. Further, project design and mitigation proposals included in the ES and secured in the dDCO have been fully considered for HRA purposes.

- 4.10.3. Overall therefore, I am satisfied that the information provided is adequate to allow the SoS to act as the competent authority to undertake an appropriate assessment.

## **4.11. AIR QUALITY, DUST AND ODOUR**

### **Policy Context**

- 4.11.1. EN-1 paragraph 5.2.1 advises that infrastructure development can have adverse effects on air quality. The construction, operation and decommissioning phases can involve emissions to air which could lead to adverse impacts on health, protected species and habitats, or the wider countryside. Air emissions include particulate matter (for example dust) as well as gases such as sulphur dioxide (SO<sub>2</sub>), carbon monoxide (CO) and nitrogen oxides (NO<sub>x</sub>). Levels for pollutants in ambient air are set out in the National Air Quality Strategy<sup>1</sup> which in turn embodies EU legal requirements.
- 4.11.2. Paragraph 5.2.9 states that air quality considerations will be important where substantial changes in air quality levels are expected, even if this does not lead to any breaches of national air quality limits. In all cases account must be taken of any relevant statutory air quality limits. Where a project is likely to lead to a breach of such limits the developers should work with the relevant authorities to secure appropriate mitigation measures to allow the proposal to proceed.
- 4.11.3. EN-3 paragraph 2.5.43 states that where a waste combustion facility meets the requirements of the Waste Incineration Directive (subsequently replaced by the Industrial Emissions Directive) and will not exceed local air quality standards the SoS should not regard the proposed waste generating station as having adverse impacts on health.
- 4.11.4. Paragraph 186 of the NPPF requires proposals to sustain and contribute to compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas.
- 4.11.5. Core Policy 8 of the SBC Core Strategy states that development shall not give rise to unacceptable levels of pollution including air pollution, dust or odour.

### **The Applicant's Approach**

- 4.11.6. The air quality assessment is set out in ES Chapter 8 [APP-033]. It is supported by Figures 8.1 Air Quality Study Area – Health Receptors and Monitoring [APP-052], Figure 8.2 Air Quality Study Area – Ecological

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<sup>1</sup> Department for Environment, Food and Rural Affairs (2011)

Receptors [APP-053] and Appendix 8.1 Air Quality Technical Appendix [APP-064].

### *Scope*

- 4.11.7. An EP has been issued for the consented scheme and the Proposed Development would use the consented scheme stacks. The ES states that dispersion modelling for this stack does not include a separate scenario to represent the Proposed Development emissions as these are nil. The future baseline dispersion model scenario is therefore considered to be fully representative of the combined emissions from the consented scheme and the Proposed Development.
- 4.11.8. The ES also determined that there was no need to update the Human Health Risk Assessment (HHRA) prepared for the consented scheme. The ES advises that emissions limit values (ELVs) for the consented scheme are due to be reduced in accordance with the EA's statutory review of permits in the industry sector for incineration. The magnitude of impacts from the emissions to air from the main stack would, therefore, be lower than the values used to inform that HHRA and consequently it is considered to overestimate the risk to health by an even greater margin. As the Proposed Development does not introduce additional emissions the ES concludes that no significant risk to public health would occur, without needing to update the HHRA. The expected ELVs have been modelled, but further discussion was expected at the time the assessment was prepared. This matter is addressed below under 'Issues in the Examination'.
- 4.11.9. The following matters were scoped out with the agreement of PINS acting on behalf of the SoS:
- two Local Nature Reserves (Haymill Valley and Cocksherd Wood) and three non-statutory sites (Haymill Valley, Cocksherd Wood and Boundary Copse Woodland Trust Reserve);
  - construction phase traffic emissions on local air quality; and
  - demolition and earthwork stages of the construction phase.

### *Methodology*

- 4.11.10. The ES assesses potential emissions to air from the construction and operational phases of the Proposed Development and key local receptors are identified, together with the current local ambient air quality. In brief, the ES uses Institute of Air Quality Management (IQAM) guidance for good practice qualitative assessment of the risk of dust emissions, construction and demolition activities and emissions from construction plant. IQAM assessment methodology is used to assess process emissions for the operation of the facility. Department for Environment, Food and Rural Affairs (Defra) and EA risk assessment methodology is used to assess effects on ecological receptors. Section 8.4 of the ES describes the methodologies used and the basis for evaluating the significance of effects in greater detail.

### *Baseline*

- 4.11.11. The ES uses the following information sources to evaluate the background and baseline ambient air quality in the area surrounding the site:
- identification of Air Quality Management Areas (AQMA). There are four AQMAs within 2km of the site;
  - review of Slough Borough Council's ambient monitoring data, specifically NO<sub>2</sub>;
  - review of data from Defra's Automatic Urban and Rural Network;
  - review of other monitoring undertaken in the area around the site; and
  - review of background data and site relevant Critical Loads from the Air Pollution Information System website.

- 4.11.12. The data for NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> is compared to the Air Quality Assessment Levels (AQAL) in ES tables 8.11 to 8.15 and for other pollutants in table 8.16. This comparison finds that for all pollutants except total polycyclic aromatic hydrocarbons (PAH) (represented as B[a]P, Arsenic and Chromium VI) the predicted concentrations for the future baseline scenario are well below the AQAL values.

#### *Odour*

- 4.11.13. Potential odour may result from the use of the waste derived fuel (WDF) and process residues. Chemicals and reagents which are required to mitigate operational stack emissions are also a potential source of odour if experienced at high concentrations. Odours from the storage of WDF would be contained within the main building as a result of the negative pressure maintained by drawing air from the fuel reception and WDF storage bunker. Air from within the building envelope is used as feed air to the combustion plant, which ensures the destruction of odorous compounds before they are emitted into the atmosphere.
- 4.11.14. The ES also advises that the Best Available Techniques (BAT) used in the consented scheme would continue to apply, together with staff training. It concludes that, under normal operations, the containment measures built into the building design mean that fugitive odour emissions from the consented scheme would be unlikely to be perceptible at locations outside of the site boundary and would not be significant. Further, that the Proposed Development would not introduce any new or different sources of odour emissions.

#### *Impacts and Mitigation*

- 4.11.15. The main source of embedded mitigation during the construction phase would be the CEMP ([APP-062] secured by dDCO Requirement 3) which sets out a range of good practice measures for the control of, for example, dust, construction plant and the storage of materials. During the operation phase, emissions to air would be required to comply with the ELVs specified in the IED and would be controlled through the EP.

- 4.11.16. The assessment considers construction phase impacts for dust and particulates for earthworks, construction and track-out activities. It finds that there would be low risks of impacts in terms of dust soiling and human health and considers that the risk to ecology is not applicable. As such no mitigation measures beyond those in place for the consented scheme would be necessary.
- 4.11.17. The ES assessment considers the main stack pollutants prescribed in the IED together with PAH, benzo[a]pyrene; ammonia (NH<sub>3</sub>) and particulate matter (PM<sub>2.5</sub>). It identifies the primary pollutant of interest in relation to the impacts due to emissions from the Proposed Development as NO<sub>2</sub>. The primary pollutant of concern for ecological impacts is identified as NH<sub>3</sub>.
- 4.11.18. Nevertheless, the combustion process for the consented scheme is more efficient than was envisaged at the time of the planning application for that development. The Proposed Development would not alter the temperature of exhaust gases at the point of release. As such, it would not introduce any new emissions nor change the exhaust gas parameters compared to the future baseline scenario. Therefore, the impact on all receptors would result in no change to long- or short-term concentrations for all human health and ecological receptors. The effect is assessed as neutral.
- 4.11.19. The ES considers that the Proposed Development would not introduce any new odour sources on site or change the intensity or nature of any predicted odour compared with the consented scheme. Consequently, would be no change with regard to odour as a result of the Proposed Development.
- 4.11.20. Decommissioning and demolition of the Proposed Development would be undertaken at the same time as the consented scheme and the ES advises that any effects would be indistinguishable. Mitigation of the effects of these processes would be provided in the Demolition Environmental Management Plan for the consented scheme which is secured by planning condition 22 of the TCPA permission and dDCO Requirement 7.

#### *Cumulative Effects*

- 4.11.21. No schemes within the study area, or that may have impacts within the study area, which may potentially lead to cumulative effects are identified in Chapter 6 of the ES (Environmental Impact Assessment Methodology [APP-031]). The Slough Trading Estate is a Simplified Planning Zone (SPZ) which allows some demolition and construction activities without planning permission. Nevertheless, the ES reports that since the Proposed Development is expected to have negligible effects or lead to no change in respect of air quality during the construction or operational phases, any impacts associated with SPZ schemes are not expected to create significant cumulative effects.

#### **Issues in the Examination**

- 4.11.22. No IPs raised any queries regarding the Applicant's assessment of air quality effects. The SoCG's with SBC [REP2-009], the EA [REP2-010] and NE



[REP2-011] confirm that those bodies were content with the assessment and findings.

- 4.11.23. In order to understand how the proposed increase in the capacity of the generating station would be achieved without increasing emissions to air, I sought clarification of the process. The Applicant's responded [REP2-020 ExQ1.3.1] that the Proposed Development would make no changes to the boilers supplied for the consented development, their fuel consumption, or emissions. The capacity of the boilers would be increased by low pressure steam being extracted from the steam turbine and fed to air heat exchangers. The steam fed to the air heat exchangers would increase the temperature of the combustion air being fed into the boilers which allows more steam to be produced for the same amount of fuel. As such, the proposal would recover energy which would otherwise have been wasted in the process. Appendix 1 of the Applicant's response illustrates the process.
- 4.11.24. I asked for more information on how the proposed national revisions to ELVs for waste incineration would affect the proposal and its EP. The Applicant responded [REP2-020 ExQ1.3.2] that the variation to the EP had not been received, but that it has replied to initial questions issued by the EA. The Applicant and the EA [REP-016 Ex Q1.3.2] considered that the Proposed Development would be able to meet the revised ELVs and comply with the associated BATs.
- 4.11.25. The EA added that the EP review would include further improvement conditions relating to reducing NOx emissions as well as the reporting of mercury content in the waste feed and dioxin emissions.
- 4.11.26. The Applicant considered that the revisions to the EP would not affect the proposal's ability to meet the aim of paragraph 5.2.7, EN-1 (July 2011) with regard to absolute emission levels [REP5-030 ExQ2.3.1].
- 4.11.27. The Applicant also provided satisfactory responses to my questions on:
- the effect of using fuel of different calorific values [REP2-020 ExQ1.3.3];
  - the effect of off-site construction traffic on air quality [REP2-020 ExQ1.3.4];
  - the significance of future baseline AQALs being exceeded for PAHs, B[a]P, Arsenic and Chromium VI. The assessment of the consented scheme demonstrated that the contribution of these emissions would not represent a significant risk to health [REP2-020 ExQ1.3.5];
  - the control of odours through an Odour Management Plan would be secured by dDCO Requirement 6(b) [REP2-020 ExQ1.3.6];
  - the inclusion of good practice measures for dust control and road cleanliness in the CEMP [REP2-020 ExQ1.3.7]; and
  - the effect of construction dust and particulates on ecology [REP2-020 ExQ1.3.8].

## **Conclusion**

- 4.11.28. No IPs raised concerns regarding air quality, dust or odour effects of the Proposed Development and the Applicant provided satisfactory responses to my queries. Consequently, I have no reason to doubt the Applicant's assessment and findings on this topic.
- 4.11.29. During the construction phase there would be low risks of impacts in terms of dust soiling and human health and the risk to ecology was found to be not applicable. During the operational phase, the Proposed Development would not introduce any new emissions to air and the combustion process for the consented scheme would be more efficient than was envisaged at the time of the planning application for that development. As such, the impact on all receptors would result in no change to long- or short-term concentrations for all human health and ecological receptors, leading to a neutral effect.
- 4.11.30. Nor would there be any change to the nature or intensity of odours at the site compared with the consented scheme. The decommissioning and demolition effects of the Proposed Development would also be indistinguishable from the consented scheme. Overall therefore, the Proposed Development would not lead to any cumulative effects in respect of air quality during the construction or operational phases. Such mitigation as is required to achieve these outcomes could be adequately secured through the DCO Requirements.
- 4.11.31. Consequently, the proposal would accord with EN-1 paragraph 5.2.1, EN-3 paragraph 2.5.43, NPPF paragraph 186 and SBC Core Policy 8. Since no significant changes to air quality are identified EN-1 paragraph 5.2.9 would not apply to the proposal.
- 4.11.32. Overall therefore, I find that air quality, dust and odour matters have a **neutral** weighting in the planning balance.

## **4.12. BIODIVERSITY**

### **Policy Context**

- 4.12.1. Paragraph 5.3.3 of EN-1 states that, where the development is subject to EIA, the Applicant should ensure that the ES clearly sets out any effects on internationally, nationally and locally designated sites of ecological or geological conservation importance, on protected species and on habitats and other species identified as being of principal importance for the conservation of biodiversity. The SoS should ensure that appropriate weight is attached to these matters. The applicant is also required to show how the project has taken advantage of opportunities to conserve and enhance biodiversity interests (paragraph 5.3.4).
- 4.12.2. Paragraph 5.3.7 advises that development should aim to avoid significant harm to biodiversity interests including through mitigation and consideration of reasonable alternatives.

- 4.12.3. EN-1 goes on to recognise that the most important sites for biodiversity are those identified through international conventions and European Directives, with the Habitats Regulations providing statutory protection for them. It also defines the relative importance of national and regional designated sites, habitats and species (paragraphs 5.3.9 to 5.3.17).
- 4.12.4. Paragraph 5.3.18 indicates that the applicant should include appropriate mitigation measures as an integral part of the proposed development. It should ensure that construction activities are confined to the minimum area required and that best practice is followed to minimise the risks of disturbance or damage to species or habitats.
- 4.12.5. NPPF paragraph 180 sets out the principles for considering biodiversity in planning decisions. These include avoiding significant harm and taking opportunities to improve biodiversity in and around developments by integrating it as part of the design, especially where this can secure measurable net gains for biodiversity.
- 4.12.6. SBC Core Strategy Policy 9 seeks to ensure that development enhances and preserves natural habitats and biodiversity, including corridors between biodiversity rich features.

### **The Applicant's Approach**

- 4.12.7. The Applicant's assessment of biodiversity issues is in ES Chapter 10 [APP-035]. This is supplemented by:
- Figure 10.1 - International Statutory Sites within 15km [APP-054];
  - Figure 10.2 – Non-statutorily designated sites within 2km [APP-055];
  - Figure 10.3 - Extended Phase 1 Habitat Map [APP-056];
  - Appendix 10A - SSE Phase 1 Habitat Report [APP-066];
  - Appendix 10B - No Significant Effects Report [APP-067];
  - Appendix 10C - SSE Bat Survey Report [APP-068];
  - Appendix 10D - EclA Methodology Technical Appendix [APP-069]; and
  - Appendix 10E - Confidential Peregrine Falcon Assessment [APP-070].

### *Scope and Methodology*

- 4.12.8. The assessment defines study areas for each receptor in accordance with its sensitivity and value. Its methodology refers to the Chartered Institute of Ecology and Environmental Management (CIEEM) 'Guidelines for Ecological Impact Assessment in the UK and Ireland - Terrestrial, Freshwater and Coastal' (2018) and aims to:
- identify relevant ecological features which may be impacted;
  - provide an objective and transparent assessment of the likely ecological impacts and resultant effects of the proposal;

- allow an objective and transparent determination of the consequences of the proposal in terms of relevant national, regional, and local policies; and
- set out the steps that would be taken to ensure compliance with the legal requirements relevant to the ecological features concerned.

4.12.9. The ES assessment draws on the Phase 1 Habitat Survey and Protected Species Appraisal undertaken for the consented scheme. This was updated with an Extended Phase 1 Habitat Survey in February 2022 and breeding bird, peregrine falcon and bat emergence surveys in the period from May 2018 to July 2021.

*Baseline*

4.12.10. The ES identifies 24 statutory sites designated for nature conservation within desk study areas extending to 15km for international and 5km for national sites. These include Burnham Beeches Special Area of Conservation (SAC), Windsor Forest and Great Park SAC, South-West London Waterbodies Special Protection Area (SPA) and Ramsar and Chiltern Beechwoods SAC together with 15 Sites of Special Scientific Interest (SSSI), one National Nature Reserve and four Local Nature Reserves. A further five non-statutory sites and two areas of Ancient Woodland fall within 2km of the application site.

4.12.11. Baseline surveys recorded a small number of semi-natural habitats in and around the site comprising introduced shrubs, species poor hedgerow, ephemeral/short perennial vegetation and poor semi-improved grassland. The consented scheme will largely retain these habitats. They would be reinforced by:

- a 'living wall' (some 42m wide and 1.8m high) on the north elevation of the staff facilities building;
- a pre-grown green screen system at the car park access ramp; and
- a biodiverse area to the south of the workshop, including species rich grass with a mix of native bulb and perennial planting.

4.12.12. The ES reports that the negligible value of the future baseline habitats means that there is no potential for the Proposed Development to generate significant effects and therefore effects on habitats was scoped out of the assessment.

4.12.13. The ES assesses the bird species assemblage (in terms of overall numbers and notable species) as being of local importance. That assessment excludes peregrine falcons which are addressed in a confidential appendix and are valued as being of county importance.

4.12.14. The value of the site for commuting, foraging and roosting bats is assessed as negligible. As such, impacts on bats are unlikely to generate significant effects and they have been scoped out of the assessment.

- 4.12.15. One invasive non-native species (wall cotoneaster) was recorded on the site. The ES finds that, given the small areas of this species and the low risk of spreading, there is no need for removal as it provides positive value for wildlife, but mitigation measures are proposed to prevent spreading.

*Embedded Mitigation*

- 4.12.16. Embedded mitigation during the construction phase would comprise the CEMP ([APP-062] secured by dDCO Requirement 3) and a fauna management plan approved and implemented as part of the consented scheme. During the operational phase, embedded mitigation would comprise compliance with the air quality ELVs (see Section 4.11).

*Assessment of Effects – Construction and Decommissioning Phases*

- 4.12.17. The ES finds that the construction and decommissioning phase effects on statutory and non-statutory designated sites and the ancient woodlands would be negligible adverse. This is because of the distance of the application site from the designations, the localised impacts of dust, noise, lighting, and human disturbance and the routeing and limited volume of construction traffic.
- 4.12.18. Construction and decommissioning phase effects on breeding birds (excluding peregrine falcons) are also found to be negligible adverse since the impacts and mitigation would not be significantly different from the consented scheme. This finding would not change even if the construction of the Proposed Development did not take place until up to five years after the completion of the consented scheme. This is because the works would take place over a short period (two months).
- 4.12.19. A fauna management plan has been approved under condition 18 of the TCPA permission. It details the requirements for pre-demolition checks of nesting bird as well as the potential for localised disturbance on nesting birds (primarily peregrine falcons) in the adjacent area while recognising nesting birds are habituated to the ongoing high levels of disturbance associated with the day-to-day operation of the SHP. The ES therefore considers that the Proposed Development would not lead to differing impacts on this nesting birds, including peregrine falcons. As such, there is no need to amend the fauna management plan to ensure the continued protection of peregrine falcons.
- 4.12.20. Schedule 9 of the WACA imposes a duty to avoid the spread of invasive non-native species such as wall cotoneaster into the wild. The ES finds that the risk of this invasive species being spread is very low due to its limited extent on site and the fact that the location will be subject to landscape works only as part of the consented scheme. Biosecurity measures would prevent the spread of the wall cotoneaster and the introduction of other invasive non-native species (see below for clarification of how these measures would be secured). On this basis, the ES finds that there would be no effect on invasive species as a result of the Proposed Development.

### *Assessment of Effects – Operational Phase*

- 4.12.21. Air quality effects on the nearest nationally and locally designated sites have been scoped out of the assessment (with the agreement of PINS on behalf of the SoS) due to distance and limited anticipated impact.
- 4.12.22. Internationally designated sites have been assessed within the Habitat Regulations Assessment No Significant Effects Report [APP-067]. It concludes that, even using the worst-case scenario (use of WDF with a calorific value of 10.5MJ/kg), the Proposed Development would not result in a likely significant air pollution effect on any modelled designated sites either alone or in combination with other projects and plans.
- 4.12.23. For those pollutants where the total pollutant concentration/deposition rate exceeds the critical level or load, the 'in combination' effect falls below the '1% of the critical level/load' threshold identified by NE as denoting an imperceptible impact. Moreover, even that dose arises from the consented scheme rather than the Proposed Development, which would have no emissions. The ES finds that there are no other potential impact pathways that would link the Proposed Development to any European site. Consequently, it concludes that operational emissions from the Proposed Development would have no effect on any designated site. Similarly, it would have no effect on the identified areas of Ancient Woodland.
- 4.12.24. There would be no change in the operational traffic generated by the Proposed Development compared with the consented scheme and therefore no effect on designated sites.
- 4.12.25. Given the limited extent and quality of habitats at the site and immediately surrounding area, and the limited extent of external physical work proposed, the Proposed Development is assessed as having a negligible effect on habitats.
- 4.12.26. The ES considers that there would be no effect on breeding birds during the operational phase as the disturbance effect would be equivalent to the future baseline. With the fauna management plan in place, the same would be true for the effect on peregrine falcons.
- 4.12.27. The ES finds that no other mitigation or enhancement measures would be necessary.

### *Residual and Cumulative Effects*

- 4.12.28. The ES concludes that there would be no significant residual biodiversity effects from the Proposed Development at the construction, operational or decommissioning phases. Consequently, it finds that there is no potential for cumulative effects when considering impacts from other nearby schemes.
- 4.12.29. The Habitat Regulations Assessment No Significant Effects Report [APP-067] finds that the Proposed Development would have no likely significant effects on air quality at European sites either alone or in combination with other plans and projects.

### **Issues in the Examination**

- 4.12.30. The SoCGs with SBC [REP2-009] and NE [REP2-011] confirm that those bodies had no concerns regarding the biodiversity effects of the Proposed Development. Nor did other IPs express concerns on this topic.
- 4.12.31. I sought justification of the ES finding that designated sites would not be impacted during the construction, operation or decommissioning phases of the Proposed Development. The Applicant responded [REP2-020 ExQ1.4.1] with additional information on:
- the distances between the application site and designated sites;
  - the localised impact of construction and decommissioning activity (limited to some 100m from the site);
  - the very small increase in construction traffic from the Proposed Development; and
  - the absence of additional noise impacts as the new plant would be located within the previously approved buildings see Section 4.14 below).
- 4.12.32. I also asked for clarification on how the biosecurity measures to prevent the spread of invasive non-native species would be secured. The Applicant confirmed that the single invasive species identified is located on the site. It would be subject to landscape works as part of the consented scheme only and would not be disturbed as part of the Proposed Development. The biosecurity measures are therefore addressed by the existing CEMP which is secured under DCO Requirement 3.
- 4.12.33. I am satisfied that the Applicant's responses address my queries on this topic.

### **Conclusion**

- 4.12.34. The nature of the Proposed Development and the characteristics of the surrounding environment means that a number of aspects of biodiversity were scoped out of the ES (Scoping Opinion [APP-060]). Of the remaining aspects, the ES clearly identifies them and provides satisfactory assessments in accordance with EN-1 paragraph 5.3.3.
- 4.12.35. The effects are found to be negligible adverse at worst (construction and decommissioning phases effects on national and local designated sites and breeding birds). There was found to be no likely significant effects on international sites and no effects on peregrine falcons or invasive species during the construction and decommissioning phases. Nor would there be effects during the operational phase. Therefore, no additional mitigation or enhancement measures would be considered necessary.
- 4.12.36. In summary, this amounts to no significant effects on biodiversity. Given the nature of the proposed external physical works (a single high-level pipe), I

accept the Applicant's view that the opportunity to provide biodiversity enhancement is not practical.

4.12.37. As such, the Proposed Development would comply with EN-1 paragraphs 5.3.4, 5.3.7, 5.3.9 to 5.3.18, NPPF paragraph 180 and SBC Core Strategy Policy 9 insofar as they require proposals to avoid harm to biodiversity interests.

4.12.38. Overall therefore, I find that biodiversity matters have a **neutral** weighting in the planning balance.

## **4.13. CLIMATE CHANGE**

### **Policy Context**

4.13.1. As noted in Section 3 of this Report the Climate Change Act 2008 as amended sets a legally binding target for the UK to reduce its net greenhouse gas (GHG) emissions from 1990 levels. This target is currently set at 100%.

4.13.2. EN-1 recognises the importance of a secure and reliable supply of electricity as the UK transitions to a low carbon economy. This requires sufficient capacity to meet demand at all times and ensuring a diverse mix of energy generating technologies (paragraph 2.2.20). This mix includes fossil fuels, although paragraph 2.2.23 goes on to require the UK's dependence on fossil fuels to reduce over time by, among other things, improving energy efficiency and the use of renewables.

4.13.3. Paragraph 4.8.5 advises that new energy infrastructure is a long-term investment and therefore that the applicant's ES must consider the impacts of climate change when planning its location, design, build, operation and, where appropriate, decommissioning. Assessments should use up to date UK Climate Projections. The decision-maker should be satisfied that there are not features of the design of new energy infrastructure critical to its operation which may be seriously affected by more radical changes to the climate beyond that projected in the latest set of UK Climate Projections (paragraph 4.8.8).

4.13.4. Updated draft EN-1 requires ESs for energy infrastructure proposals to include a GHG assessment (paragraph 5.3.4) which should be used to minimise such emissions as far as possible (paragraph 5.3.5). Nevertheless, construction, decommissioning and operational emissions are inevitable and operational emissions may have significant adverse effects. However, given the vital role energy infrastructure plays in the process of economy-wide decarbonisation and the range of non-planning policies that can be used to de-carbonise electricity generation, operational emissions are not reasons to prohibit the consenting of energy projects or to impose undue restrictions on them (paragraphs 5.3.10 and 5.3.11).

4.13.5. The NPPF advises that new development should avoid increased vulnerability to impacts arising from climate change and help to reduce GHG emissions (paragraph 154). Consideration of renewable and low carbon



developments should recognise that even small-scale projects provide a valuable contribution to cutting GHG emissions and approve applications if the impacts are (or can be made) acceptable (paragraph 158).

### **The Applicant's Approach**

- 4.13.6. The Applicant's assessment of climate change and sustainability is set out in ES Chapter 11 [APP-036]. The chapter provides a lifecycle GHG assessment and a climate change resilience assessment (CCRA). There are no supporting figures or appendices.

#### *GHG Assessment*

- 4.13.7. The GHG assessment draws on guidance from ISO 14064 (Carbon Footprint Verification), the Kyoto Protocol<sup>2</sup> and the IEMA's 'Environmental Impact Assessment Guide to Assessing Greenhouse Gas Emissions and Evaluating their Significance' (2022). It uses the global climate as the receptor and adopts the UK Carbon Budget as a proxy to establish the effect on the climate.
- 4.13.8. Rather than specific criteria for determining the significance of emissions, the assessment uses the approach in the IEMA guidance. As such, it considers whether emissions from the Proposed Development contribute *"to reducing GHG emissions relative to a comparable baseline consistent with a trajectory towards net zero by 2050"* and uses the level of mitigation to assess the significance of GHG emissions. Sources of GHG emissions are identified at the product stage, the construction process stage (including on-site activity, travel to the site and water use) and the operational stage. The construction phase would take place in the 4<sup>th</sup> UK carbon budget period (2023-2027) and the operation phase would extend from that period to beyond the 6<sup>th</sup> carbon budget.
- 4.13.9. Embedded mitigation would be provided by measures in the approved CEMP. Reference is also made to using locally sourced building materials to reduce emissions from transportation.
- 4.13.10. The assessment uses a mix of qualitative and quantitative consideration of available information to estimate GHG emissions in the product and construction phase as follows:
- product (embodied carbon in the 20m long pipeline) - 3.5 tonnes of carbon dioxide equivalent (tCO<sub>2e</sub>);
  - transport of construction materials to the site - 1.57 tCO<sub>2e</sub>; and
  - worker commuting - 5.70 tCO<sub>2e</sub>.

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<sup>2</sup> Specifically, the identification of carbon dioxide, methane, nitrous oxide, sulphur hexafluoride, hydrofluorocarbons, perfluorocarbons, and nitrogen trifluoride as the GHGs to be considered.

- 4.13.11. This gives a total of 10.77 tCO<sub>2e</sub> which equates to 0.000000552% of the 4<sup>th</sup> carbon budget<sup>2</sup>.
- 4.13.12. In the operational phase, the assessment finds that the Proposed Development would increase the amount of electricity generated from the same tonnage of WDF compared to the consented scheme. There would be no change in overall emissions from combustion of the WDF. However, operating the plant at higher combustion inlet air temperatures would result in a 20% improvement in output, which equates to a 5% increase in efficiency, thereby reducing the carbon intensity of the power generated.
- 4.13.13. Ultimately<sup>3</sup> the assessment finds that there would be a minor adverse effect from construction phase GHG emissions and a beneficial effect that is not significant during the operational phase. This is based on a comparison of the reduced carbon intensity of power generation by the plant with the Proposed Development in place compared with the carbon emission intensity of the alternative of generating power at a combined cycle gas turbine (which is considered to constitute the marginal generating capacity in the UK).
- 4.13.14. The GHG emissions that would be avoided due to the increased efficiency of the Proposed Development would offset the direct GHG emissions expected during construction, leading to an overall beneficial effect characterised as negligible and not significant.

#### *Climate Change Resilience Assessment*

- 4.13.15. The CCRA uses UK Climate Projections 2018 and a worst-case scenario based on Representative Concentration Pathway 8.5. The receptor is the site and associated users. Given the short construction period (two months), the CCRA only assesses the operational period. Strong wind events and sea level rises are scoped out. The ES describes the approach adopted as drawing on good practice from similar developments and studies and aligning with existing guidance such as that published by IEMA.
- 4.13.16. The CCRA finds that, given the nature and scale of the Proposed Development, significance criteria to review CCR measures have not been applied. There are considered to be no anticipated issues related to climate change resilience and further assessment is therefore not required.

#### *Cumulative Effects*

- 4.13.17. The ES concludes that the identified receptor is the global climate and all development results in GHG emissions. Effects are not geographically constrained which means that all development has the potential to result in a cumulative effect on GHG emissions. For this reason, it is considered not possible to define a study area and carry out a cumulative effects assessment for GHG emissions.

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<sup>3</sup> following clarifications provided in response to ExQ1.5.6 and ExQ2.4.2

## Issues in the Examination

- 4.13.18. No IPs raised concerns related to climate change matters and the SoCG with the EA [REP2-010] confirms that it is consent with the assessment findings on this topic.
- 4.13.19. I raised queries related to the relationship of the proposal to the existing Slough CHP system. The Applicant's responses confirm that the works necessary to refurbish Cooling Tower 8 are being undertaken separately from the Proposed Development. They also confirm the Proposed Development would provide a more robust source of steam to the CHP system and to that extent would support the aim of updated draft EN-1 Section 4.7 which promotes good quality CHP [REP2-020 ExQ1.5.1 to ExQ1.5.3].
- 4.13.20. I also sought clarification of details in the Applicant's climate change assessments [REP2-020 ExQ1.5.4 to 1.5.7 and REP5-031 ExQ2.4.1 and ExQ2.4.2]. The Applicant provided satisfactory responses which I have taken into account in the review of the Applicant's Approach above.

## Conclusion

- 4.13.21. The Proposed Development would offer a small addition to the UK's electrical supply capacity by making more efficient use of a partially renewable fuel source. It would, therefore, contribute to the aims of EN-1 paragraphs 2.2.20 and 2.2.23.
- 4.13.22. The Applicant's GHG assessment finds that the proposal would lead to a slightly beneficial effect on emissions as the increased efficiency in the use of energy at the operational stage would off-set the GHG emissions generated at the production and construction phases. This outcome would ensure that the Proposed Development would not undermine the UK's ability to meet its legally binding targets for reducing GHG emissions and is supported by updated draft EN-1 paragraphs 5.3.5, 5.3.10 and 5.3.11 as well as NPPF paragraphs 154 and 158.
- 4.13.23. The Applicant's CCRA is rather brief in its analysis. Nevertheless, having regard to the location, scale and characteristics of the Proposed Development, there is no reason to expect that it would be unduly vulnerable to foreseeable risks arising from climate change. As such, I am content that the assessment meets the requirements of EN-1 paragraphs 4.8.5 and 4.8.8.
- 4.13.24. Taking all these matters into consideration, I conclude that the effect of the proposal on climate change has a **slightly positive** weighting in the planning balance.

## 4.14. NOISE AND VIBRATION

### Policy Context

- 4.14.1. Paragraph 5.11.4 of EN-1 sets out the matters to be contained in the Applicant's noise assessment. These include a description of the noise generating aspects of the development, identification of noise sensitive

premises and noise sensitive areas, a prediction of how the noise environment will change and measures to be employed in mitigating noise. The assessment should be proportionate to the likely noise impact.

- 4.14.2. Good design should be used to minimise noise emissions and consent should not be granted unless the development avoids significant adverse noise impacts on health and quality of life and mitigates or minimises other noise impacts. Where possible proposals should contribute to improvements to health and quality of life through effective noise management and control (EN-1 paragraphs 5.11.8 and 5.11.9).
- 4.14.3. Mitigation, including engineering, lay-out and administrative measures should be considered for construction and operational phase noise impacts and secured by requirements (EN-1 paragraphs 5.11.11 and 5.11.12).
- 4.14.4. EN-3 supplements this guidance by requiring waste combustion proposals to consider further matters including the delivery and movement of fuels and the impacts of continuous operating gas and steam turbines (paragraph 2.5.53).
- 4.14.5. NPPF paragraph 174 requires planning decisions to prevent development from contributing to unacceptable levels of noise pollution among other things. Paragraph 185 seeks to mitigate, and reduce to a minimum, potential adverse impacts from noise and to avoid noise giving rise to significant adverse impacts on health and the quality of life.
- 4.14.6. The Noise Policy Statement for England builds on these aims and defines 'significant adverse effects' and 'adverse effects' using the concepts of No Observed Effect Level (NOEL), Lowest Observable Adverse Effect Level (LOAEL) and Significant Observed Adverse Effect Level (SOAEL) (see paragraph 3.6.4 for definitions of these concepts).
- 4.14.7. Slough Core Strategy Policy 8 and Slough Local Plan Policy EMP2 have aims similar to the NPPF provisions set out above.

### **The Applicant's Approach**

- 4.14.8. The Applicant's Noise and Vibration assessment is set out in ES Chapter 9 [APP-034] and supported by Appendix 9A - Noise Survey Results [APP-065].

#### *Scope and Methodology*

- 4.14.9. The assessment considers noise from construction, construction traffic and the operation of the Proposed Development. As agreed with PINS on behalf of the SoS, noise effects on biodiversity and heritage as well as construction and operational vibration and noise from operational road traffic and decommissioning activities were scoped out. The study area is defined by reference to the relevant British Standard<sup>4</sup> for construction noise and Design Manual for Roads and Bridges (DMRB) for construction traffic. The LOAEL

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<sup>4</sup> BS 5228-1 'Code of practice for noise and vibration control on construction and open sites. Noise' for construction

(assessed to be 500m from the site) is used to define the study area for operational noise. Baseline noise survey locations are based on those identified in the assessment of the consented scheme and comprised nine residential locations at distances of between 230m and 490m from the application site.

4.14.10. The assessment of construction noise equates BS 5228-1 Category A criteria with LOAEL and Category C criteria with SOAEL. It cites High Speed 2 and the DCO applications for A14 Cambridge to Huntingdon and Thames Tideway as precedents for this approach. On this basis, the threshold for potential effects from construction noise are set at:

	LOAEL (LAeq,T dB)	SOAEL (LAeq,T dB)
Daytime and Saturday AM	65	75
Evening and Weekends (Sat PM and Sunday)	55	65
Night	45	55

4.14.11. Construction road traffic noise thresholds are set based on DMRB guidance as follows:

	LOAEL (LAeq,T dB)	SOAEL (LAeq,T dB)
0700 to 2300	50	63
2300 to 0700	40	55

4.14.12. Again, using DRMB guidance, the assessment defines effects due to changes in construction traffic noise as

- Major - 5.0dB or more;
- Moderate 3.0 to 4.9dB;
- Minor 2.0 to 2.9dB; and
- Negligible 0.1 to 0.9dB.

4.14.13. Major and moderate effects are considered to be significant, except where the absolute noise level exceeds the SOAEL and the increase in noise level is greater than 1dB.

4.14.14. Operational noise is assessed using guidance in BS 4142 'Methods for Rating and Assessing Industrial and Commercial' to compare the rating level of noise emissions from activities with the background level of the pre-development noise climate. Adjustments are made for the acoustic features of the sound. The resulting criteria for the difference between rating level and background level are:

- Approximately 0dB – LOAEL; and
- Approximately +10dB – SOAEL.

- 4.14.15. Dominant sources of baseline noise in the area are the SHP plant and other activities at the STE together with traffic noise. The full monitoring results are presented in [APP-034]. In summary, they show that the noisiest location (R7 Montrose Avenue) experiences levels ranging from 66LAeq,T dB during the day to 56LAeq,T dB at night. At the quietest location (R9 Northborough Avenue), the levels are 50LAeq,T dB and 43LAeq,T dB respectively. The future baseline would include the consented scheme and any increase in road traffic volumes. However, due to uncertainty about possible increases in traffic, the assessment does not predict the future baseline level. It therefore relies on the current baseline which is considered to be a precautionary approach.

#### *Embedded Mitigation and Effects*

- 4.14.16. Embedded mitigation for construction activity would be through the approved CEMP [APP-062] secured under dDCO Requirement 3. The measures include control over working hours, the specification and maintenance of plant and equipment and the management of vehicle movements, deliveries and unloading. The assessment finds that the predicted construction noise levels would be below LOAEL at all nine receptor locations. As such the effect would not be significant.

- 4.14.17. The assessment of the consented scheme identified a worst-case increase in construction traffic noise of 0.8 dB at Buckingham Avenue East during the peak period. The assessment finds that the additional construction traffic for the Proposed Development would not result in a material change in noise for a typical day and, therefore, the change in road traffic noise would be no worse than the consented scheme. Construction traffic noise effects are therefore assessed as negligible and not significant.

- 4.14.18. During the operational stage no mitigation measures in addition to those in place for the consented scheme are considered necessary. New noise generating plant in the Proposed Development would be located within the consented building and would not produce more noise than the consented scheme. Further, all new plant would be required to comply with the noise limit of 60dB LAeq,T at the site boundary as set out in the EP. Consequently, there would be no change from the noise emissions of the consented scheme, which were identified as negligible and not significant. This equates to a noise effect that is below the LOAEL.

#### *Cumulative Effects*

- 4.14.19. Although the ES does not identify specific schemes elsewhere which may lead to cumulative effects, the application site is within a SPZ and so there is potential for schemes to come forward without the need for express planning permission. Nevertheless, the assessment considers that, because the Proposed Development would have no significant noise effects, any impacts associated with possible SPZ schemes would not be expected to create significant cumulative effects.

## Issues in the Examination

- 4.14.20. None of the IPs raised noise and vibration concerns. The SoCGs with SBC [REP2-009] and the EA [REP2-010] confirm that those bodies are content with the Applicant's assessment and that the mitigation measures proposed would be effective.
- 4.14.21. I sought clarification regarding the Applicant's assertion that noise at the LOAEL would not be experienced at a distance of 500m or more from the site [PD-007 ExQ1.6.1]. The Applicant explained that the 500m distance for operational noise was based on experience from assessing the consented scheme and accounts for the urban location of the site and sensitive receptors. The current construction noise assessment finds that the LOAEL is achieved at receptors as close as 180m (R2 at Bodmin Avenue) [REP2-020].
- 4.14.22. I also asked the Applicant to provide further justification of its choice of baseline noise monitoring locations and its consideration of non-residential uses [PD-007 ExQ1.6.2]. The Applicant's response [REP2-020] refers to the historic development of the STE of which the SHP and its attendant noise effect is part, to the presence of other noise generating activities and noise from HGV movements in the area. It therefore considers that *'it is only really at night that noise can be sensitive'* which is why its focus was on residential receptors. The response also refers to guidance on noise assessment for non-residential uses in BS 8233:2014 and finds that the highest predicted noise level (at the Edinburgh Avenue site boundary) is below the non-residential assessment criterion.

## Conclusion

- 4.14.23. Taking into account the Applicant's responses to my questions, I am content with its assessment of noise and vibration. There is nothing to suggest that the proposal would cause material vibration effects. The necessary noise mitigation measures would be provided in the CEMP, secured through dDCO Requirement 3 and the EP. The assessment and mitigation therefore accord with EN-1 paragraphs 5.11.4, 5.11.11 and 5.11.12.
- 4.14.24. The works for the Proposed Development would represent a minor addition to the noise generating activity of the construction of the consented scheme and the number of HGV movements. During the operational phase, the noise generating elements of the proposal would be located within buildings constructed as part of the consented scheme. As such, the noise effects of the Proposed Development at the construction and operational phases would be very limited and not significant. This outcome is consistent with EN-1 paragraphs 5.11.8 and 5.11.9, EN-3 paragraph 2.5.53, NPPF paragraphs 174 and 185 as well as Slough Core Strategy Policy 8 and Slough Local Plan Policy EMP2.
- 4.14.25. Therefore, noise and vibration matters weigh **neutrally** in the planning balance.

## **4.15. TRAFFIC AND TRANSPORT**

### **Policy Context**

- 4.15.1. Paragraph 5.13.1 of EN-1 recognises that the transport of materials, goods and personnel to and from a development during all project phases can have a variety of impacts on the surrounding transport infrastructure. Developments likely to have significant transport implications should include a transport assessment using the NATA/WebTAG methodology and be subject to consultation with the relevant highway authorities (paragraph 5.13.3).
- 4.15.2. The decision maker should ensure that the Applicant has sought to mitigate transport impacts, including during the construction phase of the development. Applicants may also be willing to enter into planning obligations for funding infrastructure and otherwise mitigating adverse impacts (paragraph 5.13.6).
- 4.15.3. DCO Requirements can be used to control the number, routing and timing of HGV movements during the construction period, make provision for HGV parking and ensure satisfactory arrangements for reasonably foreseeable abnormal loads (paragraph 5.13.11).
- 4.15.4. EN-3 also recognises the potential of energy from waste schemes to generate transport movements (paragraph 2.5.24) and requires proposals to incorporate suitable access leading off from the main highway network (paragraph 2.5.25).
- 4.15.5. NPPF paragraph 110 requires proposals to, among other things, ensure safe and suitable access to the site can be achieved for all users and any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Core Policy 7 of the Slough Core Strategy seeks to ensure that development is accessible, sustainably located, improves road safety and improves the environmental impact of travel.

### **The Applicant's Approach**

- 4.15.6. The Applicant's transport and access assessment is at ES Chapter 7 [APP-032]. It is supported by a Transport Statement at Appendix 7A [APP-063].

### *Scope, Methodology and Baseline*

- 4.15.7. The assessment advises that, during the operational phase, the fuel tonnage used at the site would not increase compared with the consented development and so there would be no change to the number of deliveries to the site. The overall number of HGV movements is capped at 100,000 per year in the planning agreements (May 2017 and November 2020). The May 2023 Supplemental ensures that this cap also applies to the Proposed Development. Nor would there be a change in staff numbers during the operational phase compared with the consented development. Therefore, it



was agreed with PINS on behalf of the SoS that transport effects during the operational phase could be scoped out of the assessment.

- 4.15.8. The assessment anticipates that there will be approximately 150 to 200 construction staff working on-site during the construction phase of the consented scheme. An additional 20 staff are expected to be required to construct the Proposed Development which would be constructed outside of the peak construction phase of the consented scheme. By this time, the combination of the construction staff for the consented scheme and the Proposed Development would be less than the number of construction staff on site at the peak construction activity for the consented scheme.
- 4.15.9. The assessment considers that, due to the low level of traffic generation during the construction phase, it was not necessary to undertake traffic surveys and a qualitative approach to the assessment of the magnitude of change and significance of effects was taken.
- 4.15.10. It was also agreed with PINS on behalf of the SoS that transport effects during decommissioning could be scoped out since these works would be carried out simultaneously with the consented scheme.
- 4.15.11. The construction phase assessment uses IEMA Guidelines<sup>5</sup> and defines a study area including Edinburgh Avenue, Fairlie Road, A355 Farnham Road, Liverpool Road, Buckingham Avenue, Leigh Road, Burnham Lane and Whitby Road. For the most part this comprises the STE and local distributor roads. The baseline describes the study area highway network, strategic links to the M4, pedestrian and cycle and public transport facilities. The area is considered to be of medium sensitivity.
- 4.15.12. The IEMA Guidelines require severance, driver delay, pedestrian delay, pedestrian and cycle amenity, fear and intimidation and accidents and safety to be assessed.

*Embedded Mitigation and Effects*

- 4.15.13. Mitigation would include the measures set out in the Construction Traffic Management Plan (CTMP) which is Appendix 1 of the approved CEMP [APP-062) and secured by dDCO Requirement 3. In addition, the May 2017 agreement and May 2023 Supplemental require an operational Travel Plan to be prepared and implemented which would apply to the consented scheme and the Proposed Development.
- 4.15.14. The construction phase of the Proposed Development is expected to run in parallel with the construction of the consented scheme. However, even if it occurs afterwards, the assessment considers that its conclusions would still be valid because undertaking the works in parallel would represent the worst-case scenario.

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<sup>5</sup> Institute of Environmental and Management Assessment 'Guidelines for the Environmental Assessment of Road Traffic' (1994).

- 4.15.15. The assessment adopts assumptions used in the CTMP to estimate that the Proposed Development would require an additional five staff vehicles per day for two months. Assuming that the works occur in parallel, these vehicles would be required to use the temporary car park at Whitby Road and, as with the consented scheme, shuttle buses would drop-off staff at a point close to the application site. It is estimated that an additional one or two shuttle bus movements per day would be required for the Proposed Development, although these movements would occur outside of the peak construction period and therefore there would not be an increase on the overall maximum number of daily movements.
- 4.15.16. If the works occur after the consented scheme, the staff cars would park on-site as the consented scheme would not be in operation at that time.
- 4.15.17. The assessment estimates that a total of 20 additional HGV movements would be required for the construction of the Proposed Development. Spread over the two-month construction period, this equates to less than one two-way movement per day. These movements would be subject to the controls in the CTMP which seek to avoid morning and evening peak hour travel.
- 4.15.18. The assessment finds that the Proposed Development would lead to a very low magnitude of change on the effects that the IEMA Guidelines require to be assessed (see paragraph 4.15.12 of this Report). As such it concludes that the construction phase effects would be negligible and short-term.
- 4.15.19. The ES has not identified other schemes which may result in cumulative transport effects. Even if unforeseen schemes within the SPZ take place, given that the transport effects of the Proposed Development would be negligible and short-term, the interaction would not lead to significant cumulative effects.

#### **Issues in the Examination**

- 4.15.20. The RR by Royal Mail expressed concern regarding the potential for traffic generated by the Proposed Development to affect its operations [RR-001] and sought changes to the CTMP [REP2-018]. However, following dialogue with the Applicant, Royal Mail's concerns were addressed and its written representation was withdrawn [REP-033]. No other IPs raised transport-related concerns and SBC confirmed that it was content with the Applicant's assessment and mitigation proposals for this matter [REP2-009].
- 4.15.21. I sought clarification on a number of transport matters. In response, the Applicant [REP2-020]:
- provided a Supplemental Deed of Variation (the May 2023 Supplemental) to ensure that the HGV movement cap stipulated in the May 2017 agreement and November 2020 DoV applies to the Proposed Development (ExQ1.7.1 and [REP2-013]).

- clarified the development plan policies relevant to transport matters. The most relevant is Slough Core Strategy Core Policy 7 which is included in the Policy Context review above (ExQ1.7.2);
- clarified that the reference to ‘future baseline’ at ES paragraph 7.6.1 should allow for construction of the Proposed Development in parallel with, as well as following, completion of the consented scheme. The assessment covers both scenarios (ExQ1.7.3). Even if the construction work follows the consented scheme its short duration would not lead to significant effects (ExQ1.7.6);
- provided further information on the capacity of the Whitby Road car park to cater for the Proposed Development construction staff. At its peak some 700<sup>6</sup> staff worked in the consented scheme. That figure dropped to some 500 by March 2023, a decrease far greater than the 20 additional staff required for the Proposed Development (ExQ1.7.4 and ExQ1.7.7); and
- advised that there is no need to update the CEMP or CTMP to take into account the Proposed Development (ExQ1.7.5).

4.15.22. I also sought the views of SBC on ExQ1.7.1 and ExQ1.7.2. Its response was to agree with the responses from the Applicant [REP2-014].

### **Conclusion**

4.15.23. Nothing emerged during the Examination to suggest that operational and decommissioning phase traffic and transport effects should form part of the assessment.

4.15.24. The assessment of transport effects is fairly brief and takes a largely qualitative approach. However, this is proportionate with the very limited degree of change in travel movements resulting from the Proposed Development. Moreover, this change is smaller than, and would take place after, the fall off from the peak construction activity for the consented scheme.

4.15.25. As such, I am satisfied that the Applicant has provided an adequate assessment of transport effects which complies with the aims of EN-1 paragraphs 5.13.1 and 5.13.3. Adequate mitigation in the form of the CTMP would be secured through dDCO Requirement 3 and the planning agreements<sup>7</sup> to ensure that the finding of a negligible effect is robust. On this basis, the transport effects of the Proposed Development would accord with EN-1 paragraph 5.13.6 and 5.13.11, EN-3 paragraphs 2.5.24 and 2.5.25, NPPF paragraph 110 and Slough Core Strategy Core Policy 7.

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<sup>6</sup> I note that this actual figure is larger than the 500 staff expected when assessment was prepared. However, there is nothing to suggest that the higher number of staff employed to construct the consented scheme led to unacceptable traffic and transport effects.

<sup>7</sup> See Section 1.7 of this Report.

- 4.15.26. Overall therefore, I conclude that traffic and transport matters have a **neutral** weighting in the planning balance.

## **4.16. OTHER ISSUES**

### **Introduction**

- 4.16.1. This section deals with planning matters not covered in the preceding sections of this chapter, but which were not scoped out of the ES. They are flood risk, drainage and surface water and major accidents and disasters which are dealt with in ES Chapter 12 [APP-037] and Appendix 12A - Flood Risk Assessment [APP-071]. The section also provides a brief summary of combined and cumulative effects.

### **Flood risk, drainage and surface water**

#### *Policy Context*

- 4.16.2. Paragraph 5.7.4 of EN-1 requires a Flood Risk Assessment (FRA) to be submitted for projects which, as in this case, fall within EA Flood Zone 1 and are greater than 1 ha in area. The FRA should be proportionate to the risk and, among other things, consider both the risk of flooding arising from the project and the risk of flooding on the project, take into account the effects of climate change, consider and quantify the different types of flooding and identify flood risk reduction measures and be supported by appropriate data and information (paragraph 5.7.6).
- 4.16.3. NPPF paragraph 167 advises that planning decisions should ensure that flood risk is not increased elsewhere and, where appropriate, applications should be supported by a site-specific FRA.

#### *The Applicant's Approach*

- 4.16.4. The ES advises that the application site is not at risk of tidal flooding and that there is a low risk of fluvial flooding. The site is drained via conventional methods and surface water discharges to the public surface water sewers or to ground via soakaways. There would be no change to the existing system as a result of the Proposed Development.
- 4.16.5. The FRA [APP-071] is said to consider all potential sources of flooding and takes into account the effects of climate change. As 'essential infrastructure' for the purposes of the Sequential Test<sup>8</sup> the Proposed Development is appropriate in Flood Zone 1.
- 4.16.6. EA mapping indicates that the site is at medium risk of surface water flooding and this would increase with increase rainfall intensity as a result of climate change. The consented scheme would lead to a minimal increase in that risk, but the Proposed Development would have no additional effect. The drainage infrastructure for the consented scheme is considered to be adequate to cope with the predicted climate change effects and no further

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<sup>8</sup> As set out in the Planning Practice Guidance on flood risk and coastal change

mitigation measures would be required in relation to the Proposed Development.

- 4.16.7. The ES considers that the risk of flooding from artificial sources and drainage infrastructure to be low and, given the limited data available on groundwater levels at the site, the assessment of flooding from groundwater sources is considered to be a low risk. The drainage system for the consented scheme is designed to ensure that out of sewer flooding does not occur in any part of the site during a 1 in 100-year storm event.
- 4.16.8. Externally, the Proposed Development consists of a pipe located 18m above ground level. There would be no additional water consumption or water discharge compared with the consented scheme. Therefore, the ES finds that the Proposed Development would have a negligible effect on flood risk, surface water and drainage matters which is not significant.

#### *Issues in the Examination*

- 4.16.9. None of the IPs raised concerns on this matter. The SoCGs with SBC [REP2-009] and the EA [REP2-010] confirm that those bodies are content with the Applicant's assessment and findings.
- 4.16.10. In response to my query [PD-007 ExQ1.8.1] the Applicant confirmed that nothing has emerged since the FRA was produced to indicate that it needs to be updated and its conclusions remain valid [REP2-020].

#### *Conclusion*

- 4.16.11. I consider that the Applicant's FRA is proportionate to the potential flood risk and provides an adequate assessment. For the most part the risk of flooding at the site is low. Although the EA mapping indicates a medium risk of surface water flooding, this has been taken into account in the assessment of the consented scheme and appropriate drainage infrastructure is proposed. I have no reason to doubt its effectiveness.
- 4.16.12. Importantly the external elements of the Proposed Development would be at high level and therefore not be directly at risk of flooding and would not add to the flood risk and so no further mitigation would be necessary. As such, the Proposed Development would accord with EN-1 paragraphs 5.7.4 and 5.7.6 and NPPF paragraph 167. Flood risk, surface water and drainage matters therefore carry a **neutral** weighting in the planning balance.

#### **Major accidents and disasters.**

##### *The Applicant's Approach*

- 4.16.13. The Applicant refers to the requirement in EIA Directive 2014/52/EU to assess significant adverse effects of the project on the environment deriving from the vulnerability of the project to risks of major accidents and/or natural disasters. Reference is also made to EU Commission and IEMA guidance on the preparation of EIAs.

- 4.16.14. The ES advises that the assessment adopts a proportionate approach based on professional judgement. The identification of risk has been adapted from national disaster planning and takes into account the vulnerability of the project to risks of major accidents and / or disasters and any consequential changes in the predicted effects on environmental topics. Receptors include residential and commercial properties, transport connections, ecological receptors and underground infrastructure.
- 4.16.15. There is considered to be a low risk of a major incident at the site or its spread to surrounding areas. With regard to fire, the consented scheme includes dedicated firewater tanks, fire water cannons and thermal imaging in the waste bunker area. Staff will receive fire training and the EP requires a Fire Prevention Plan to be produced. Other embedded mitigation includes:
- compliance with all relevant health, safety, and environmental legislation;
  - regular maintenance and inspections;
  - a site-specific Health and Safety Plan produced by the contractor covering the works, commissioning and operation of the Proposed Development; and
  - a Site Emergency Plan in accordance with an EP requirement.
- 4.16.16. The ES finds that the risk of a major accident associated with the consented scheme, while realistic, is very unlikely. The Proposed Development would not increase the risk of a major accident occurring, including fire risk from the increased temperature of the combustion gas. Nor would the Proposed Development increase the vulnerability of the facility to natural disasters including climate change effects, such as rising temperatures, storms or flooding. As such, the ES concludes that the effect of the Proposed Development with regard to major accidents and disasters would be no change and therefore not significant.

*Issues in the Examination*

- 4.16.17. None of the IPs raised concerns on this matter. The SoCGs with SBC [REP2-009] and the EA [REP2-010] confirm that those bodies are content with the Applicant's assessment and findings.
- 4.16.18. I sought clarification on how the mitigation measures for this topic would be secured in the DCO. The Applicant responded [REP2-020 ExQ1.9.1] that:
- it is required to comply with all relevant health, safety and environmental legislation as a matter of law. Paragraph 4.10.3 of EN-1 advises that the decision-maker should work on the assumption that the relevant control and regulatory regimes would be properly applied. Consequently, they need not be further secured;
  - the construction of the Proposed Development would accord with good industry practice which is secured through compliance with the CEMP ([APP-062] secured by dDCO Requirement 3); and

- the EP provides a further layer of control including a Site Emergency Plan incorporating a fire strategy, appropriate training and procedures detailing the responsibilities, actions and communication channels for operational staff on how to deal with emergencies.

### *Conclusion*

- 4.16.19. I am content that the Applicant has undertaken a proportionate assessment of the risks associated with major accidents and disasters. The likelihood of such events is low, but not non-existent. The measures needed to mitigate these risks would be largely secured by means other than the DCO. Nevertheless EN-1 allows for this approach and there is nothing to suggest that the necessary measures would not be in place and effective. Accordingly, the risks associated with major accidents and disasters weigh **neutrally** in the planning balance.

### **Combined and cumulative effects**

- 4.16.20. The ES uses a future baseline which includes the consented scheme and its assessment of combined and cumulative effects considers the effects of the Proposed Development (that is, the extension) only.
- 4.16.21. Combined direct or indirect effects may arise from the Proposed Development giving rise to more than one effect on a single receptor. The Applicant's assessment of combined effects is at Table 13.2 [APP-038]. In essence, it concludes that the findings of low, negligible or no effects in each of the topic areas assessed means that they would not lead to combined effects on any single receptor.
- 4.16.22. The ES has considered the effects of proposed or potential developments in the vicinity of the application site interacting with the effects of the Proposed Development. These cumulative effects have been considered as part of each ES topic area and, based on the information available at the time of the assessment, it concludes that there is no potential for significant cumulative effects.
- 4.16.23. I am content that the Applicant has made an adequate assessment of combined and cumulative effects and that its finding of no potential for such significant effects is robust and meets the requirements of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

## 5. FINDINGS AND CONCLUSIONS ON HABITATS REGULATIONS ASSESSMENT

### 5.1. INTRODUCTION

5.1.1. This chapter sets out my analysis and conclusions relevant to the Habitats Regulations Assessment (HRA). This will assist the Secretary of State for Energy Security and Net Zero (SoS), as the Competent Authority, in performing its duties under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).

5.1.2. This chapter is structured as follows:

- Section 5.2: Findings in relation to Likely Significant Effects (LSE);
- Section 5.3: HRA conclusions.

5.1.3. In accordance with the precautionary principle embedded in the Habitats Regulations, consent for the Proposed Development may be granted only after having ascertained that it will not adversely affect the integrity of European site(s)<sup>9</sup> and no reasonable scientific doubt remains.<sup>10</sup>

5.1.4. Policy considerations and the legal obligations under the Habitats Regulations are described in Chapter 3 of this Report.

5.1.5. I have been mindful throughout the Examination of the need to ensure that the SoS has such information as may reasonably be required to carry out its duties as the Competent Authority. I have had regard to the submissions of Natural England (NE) as the Appropriate Nature Conservation Body (ANCB) and other relevant IPs in this regard.

#### **RIES and Consultation**

5.1.6. The Applicant set out its assessment in ES Volume 3, Appendix 10B – No Significant Effects Report [APP-067]. NE's submission, accepted at the discretion of the ExA [AS-010], stated agreement with the Applicant's conclusions with regard to the European sites assessed and their qualifying features. Furthermore, the SoCG between the Applicant and NE [REP2-011] confirmed that NE was satisfied that the Applicant had identified the correct European sites and qualifying features on which LSE could occur as a result of the Proposed Development.

5.1.7. No other evidence or comment against this was submitted by any other party, and therefore I decided that a Report on the Implications for

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<sup>9</sup>The term 'European sites' includes Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), proposed SACs, potential SPAs, Ramsar, proposed Ramsar, and any sites identified as compensatory measures for adverse effects on any of the above.

<sup>10</sup> CJEU Case C-127/02 Waddenzee 7 September 2004, Reference for a preliminary ruling from the Raad van State (Netherlands) in the proceedings: Landelijke Vereniging tot Behoud van de Waddenzee and Nederlandse Vereniging tot Bescherming van Vogels v Staatssecretaris van Landbouw, Natuurbeheer en Visserij



European Sites (RIES) compiling HRA-relevant information would not be required.

### **Proposed Development Description and HRA Implications**

- 5.1.8. The Proposed Development is described in Chapter 2 of this Report.
- 5.1.9. The spatial relationship between the Order Limits of the Proposed Development and European sites is shown in Figure 4.5: Statutory or Non-Statutory Sites or Features of Nature Conservation Plan [APP-013].
- 5.1.10. The Proposed Development is not directly connected with, or necessary to, the management of a European site (paragraph 1.5 of [APP-067]). Therefore, the SoS must make an ‘appropriate assessment’ (AA) of the implications of the Proposed Development on potentially affected European sites in light of their Conservation Objectives.
- 5.1.11. The Applicant did not identify any LSE on non-UK European sites in European Economic Area (EEA) States in its HRA Report [APP-067]. Only UK European sites are addressed in this Report. No such impacts were raised for discussion by any IPs during the Examination.
- 5.1.12. The Applicant’s assessment of effects is presented in the following application documents:
- ES Appendix 8A – Air Quality Technical Appendix [APP-064]; and
  - ES Appendix 10B - No Significant Effects Report [APP-067] (the HRA Report).
- 5.1.13. No further documents or updated documents were provided regarding the HRA assessment.

## **5.2. FINDINGS IN RELATION TO LIKELY SIGNIFICANT EFFECTS (LSE)**

- 5.2.1. Under Regulation 63 of the Habitats Regulations the Competent Authority must consider whether a development will have LSE on a European site, either alone or in combination with other plans or projects. The purpose of the LSE test is to identify the need for an ‘appropriate assessment’ (AA) and the activities, sites or plans and projects to be included for further consideration in the AA.
- 5.2.2. The HRA report [APP-067] identified European sites to include in the screening exercise based on guidance in the Environment Agency (EA) document: ‘Air Emissions Risk Assessment for your environmental permit’ (updated March 2023). European sites within 15km of the Proposed Development were modelled in line with the EA Guidance.
- 5.2.3. Five European sites were identified for inclusion within the assessment. These are listed below in Table 5.1 together with their qualifying features:

**Table 5.1: European Sites and Qualifying Features**

<b>European Site Name</b>	<b>Qualifying Features</b>
Burnham Beeches Special Area of Conservation (SAC)  2.9km from site.	<ul style="list-style-type: none"> <li>▪ Atlantic acidophilous beech forest</li> </ul>
Chilterns Beechwoods SAC  9.7km from site.	<ul style="list-style-type: none"> <li>▪ <i>Asperulo-Fagetum</i> beech forests</li> <li>▪ Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites)</li> <li>▪ Stag beetle (<i>Lucanus cervus</i>)</li> </ul>
Southwest London Waterbodies Special Protection Area (SPA)  7.6km from site.	<ul style="list-style-type: none"> <li>▪ Gadwall</li> <li>▪ Shoveler</li> </ul>
Southwest London Waterbodies Ramsar  7.6km from site.	<ul style="list-style-type: none"> <li>▪ Gadwall</li> <li>▪ Shoveler</li> </ul>
Windsor Forest and Great Park SAC  6km from site.	<ul style="list-style-type: none"> <li>▪ Atlantic <i>acidophilous</i> beech forest</li> <li>▪ Old <i>acidophilous</i> oak woods</li> <li>▪ Violet click beetle <i>Limoniscus violaceus</i></li> </ul>

5.2.4. Due to the nature of the Proposed Development, it was considered that the only impact pathways to European sites could be through the concept of critical level (for pollutants in atmosphere) and critical load (for nitrogen and acid deposition) from the air quality impacts associated with stack emissions. The pollutants which were assessed are: oxides of nitrogen (NOx), ammonia, hydrogen fluoride, nitrogen deposition and acid deposition.

5.2.5. The Applicant's HRA Report [APP-067] sets out the methodology applied to determining what would constitute a 'significant effect'. The criteria used to identify LSEs relate to exceedance of 1% of the critical level for ammonia and 1% of the critical load for nitrogen and acid deposition.

5.2.6. No matters were raised by NE or other IPs regarding the overall screening, sites identified or impact pathways.

**LSE from the Proposed Development Alone**

5.2.7. The Applicant's assessment did not identify any LSE from the Proposed Development alone and therefore the HRA Report focusses on the potential for 'in combination' effects of the Proposed Development together with the consented scheme.

### **LSE from the Proposed Development In Combination**

- 5.2.8. The Applicant addressed potential in-combination effects arising from the Proposed Development within the HRA Report [APP-067]. It states that no other plans or projects have been identified which would act 'in combination' with the Proposed Development, apart from the consented scheme. Therefore, the in-combination assessment is that of the Proposed Development together with the consented scheme.
- 5.2.9. The impacts considered in the HRA Report to have the potential to result in LSE during construction and operation are air quality impacts resulting from stack emissions. No in-combination LSE have been identified for the sites and qualifying features.

### **LSE Assessment Outcomes**

- 5.2.10. The HRA Report concludes that no LSE would occur from either the Proposed Development alone or in combination with other plans and projects on any of the five sites identified in Table 5.1 above.
- 5.2.11. The submitted document by NE [AS-010] in January 2023 stated that NE had no objections to the Proposed Development and considers that the Proposed Development would not give rise to any LSE on any European sites. This view was confirmed in the SoCG between the Applicant and NE [REP2-011].
- 5.2.12. The Applicant's conclusions of no LSE on the European sites and their qualifying features considered were not disputed by any IPs during the Examination.
- 5.2.13. I am satisfied, on the basis of the information provided, that the correct impact-effect pathways on each site have been assessed and am satisfied with the approach to the assessment of alone and in-combination LSEs.

## **5.3. HRA CONCLUSIONS**

- 5.3.1. The Proposed Development is not directly connected with, or necessary to, the management of a European site, and therefore the implications of the Proposed Development with respect to adverse effects on potentially affected sites must be assessed by the SoS.
- 5.3.2. Five European Sites and their qualifying features were considered in the Applicant's assessment of LSE:
- Burnham Beeches SAC
  - Chilterns Beechwoods SAC
  - Southwest London Waterbodies SPA
  - Southwest London Waterbodies Ramsar
  - Windsor Forest and Great Park SAC

- 5.3.3. Potential LSEs were identified for all five sites from air quality impacts from stack emissions from the Proposed Development in-combination with the consented scheme.
- 5.3.4. I am satisfied that the correct European sites and qualifying features have been identified for the purposes of assessment, and that all potential impacts which could give rise to significant effects have been identified.
- 5.3.5. My findings are that LSE from the Proposed Development when considered alone or in-combination with other plans or projects can be excluded for the impact-effect pathways assessed. As such, there is, no need to proceed to the consideration of the implications of the Proposed Development for the integrity of any European site.

## **6. CONCLUSIONS ON THE CASE FOR DEVELOPMENT CONSENT**

### **6.1. INTRODUCTION**

6.1.1. This chapter sets out my reasoning and conclusions on whether there is a case for the making of a Development Consent Order (DCO) for the Proposed Development. My conclusions are based on the provisions of the recommended DCO (rDCO) (Appendix C), the drafting of which is discussed in Chapter 7.

6.1.2. Relevant legislation and policy are identified in Chapter 3. Conformity with policy, including the need for the Proposed Development is considered in Section 4.5 and its potential effects in Sections 4.11 to 4.16. Chapter 5 sets out my findings in relation to the Habitats Regulations Assessment.

6.1.3. Following this introduction, this chapter considers:

- the matters to be taken into account as required by the Planning Act 2008 (PA2008) and other relevant legislation and policy;
- the need case for the Proposed Development;
- the likely impacts of the Proposed Development by topic; and
- the planning balance and conclusions.

### **6.2. MATTERS TO BE TAKEN INTO ACCOUNT**

6.2.1. Section 104 of the PA2008 states that the designated National Policy Statement (NPS) provides the primary basis for making decisions on development consent applications in England by the Secretary of State for Energy Security and Net Zero (SoS). This provision is subject to the exceptions set out in paragraph 3.2.2 above. For energy Nationally Significant Infrastructure Projects (NSIPs), the relevant NPS is the Overarching NPS for Energy (EN-1) supplemented for renewable schemes by the NPS for Renewable Energy Infrastructure (EN-3).

6.2.2. EN-1 paragraph 4.1.2 creates a presumption in favour of granting consent for energy NSIPs that clearly meet the need for such infrastructure established in the NPS. Paragraph 4.1.3 requires the SoS and Examining Authority, to weigh the adverse impacts and benefits of the proposal. My conclusions on the case for making a DCO are reached within the context of the policies contained in EN-1 and EN-3. Also, as indicated in Chapters 3 and 4, I have taken all other relevant law and policy into account.

6.2.3. I have had regard to all of the evidence presented to the Examination, including the application, the Relevant Representations and Written Representations, the Local Impact Report received from Slough Borough Council (SBC) the responses to my written questions, as well as all other representations made during the course of the Examination. I have also taken into account the findings from the unaccompanied and accompanied

site visits. Throughout this process I have had regard to the Public Sector Equality Duty to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not.

### **6.3. THE NEED CASE FOR THE PROPOSED DEVELOPMENT**

- 6.3.1. The Applicant's need case for the Proposed Development and the benefits arising from it are primarily set out in the Planning Statement [APP-018]. I consider the need case in Section 4.5 of this report.
- 6.3.2. The Proposed Development would increase the capacity of a consented energy generation site at a long-established location for such uses and within a large commercial area. As such it would be well located.
- 6.3.3. The proposal would make a relatively small contribution to meeting the UK's energy needs. Nevertheless, it would help to diversify the mix of power generation using a partly renewable source of fuel and, importantly, could be brought into operation quickly. It would also reinforce support for the Slough Combined Heat and Power system, which accords with the aims of EN-1 section 4.6. These outcomes would make a positive contribution to meeting the government's net zero by 2050 target.
- 6.3.4. None of the parties to the Examination questioned the need case put forward by the Applicant. Indeed, the Statement of Common Ground (SoCG) with SBC [REP2-009] states that the Proposed Development would help to deliver the urgent need for low carbon electricity.
- 6.3.5. I consider, therefore, that the Proposed Development would meet the need for nationally significant energy infrastructure as defined in EN-1 and EN-3. As such, there is a presumption in favour of granting consent, subject to compliance with the detailed policies of the NPSs. This finding carries a firmly positive weighting in the planning balance.

### **6.4. LIKELY IMPACTS OF THE PROPOSED DEVELOPMENT**

#### **Introduction**

- 6.4.1. This section summarises my conclusions on each ES topic in Chapters 4 and 5, taking into account the Applicant's assessment, the key issues considered during the Examination, the adequacy of mitigation measures and how they are secured, compliance with EN-1 and EN-3 and relevant legislation as well as other national policies and the development plan.

#### **Environmental Impact Assessment**

- 6.4.2. I consider that the ES [APP-024 to APP-071] and associated information submitted by the Applicant during the Examination provide an adequate overall assessment of the environmental effects of the Proposed Development. It is, therefore, satisfactory for the purposes of decision making in accordance with the requirements of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. Nothing came to

light during the Examination to indicate that the matters scoped out of the assessment needed to be revisited.

6.4.3. I have found that the Applicant has adequately defined the Proposed Development and that sufficient controls would be secured by the rDCO (Appendix C), the EP and other applicable legislation to appropriately mitigate the effects identified. Alternatives to the Proposed Development and the question of good design have been adequately addressed.

6.4.4. In terms of Transboundary impacts, I agree with the screening opinion of the Planning Inspectorate on behalf of the then Secretary of State for Business Energy and Industrial Strategy that the Proposed Development would be unlikely to have a significant effect either alone or cumulatively on the environment in another European Economic Area State. No information came to light during the Examination to alter this conclusion.

#### **Habitats Regulations Assessment (HRA)**

6.4.5. I am satisfied that the evidence indicates that the Proposed Development would not be likely to give rise to any adverse significant effects on the UK national site network and European sites due to the lack of effective pathways. I am also satisfied that the SoS has sufficient information available to discharge their obligations on this matter under the Conservation of Habitats and Species Regulations 2017.

#### **Air Quality, Dust and Odour**

6.4.6. During the construction phase there would be low risks of impacts in terms of dust soiling and human health and the risk to ecology was found to be not applicable. During the operational phase, the Proposed Development would not introduce any new emissions to air and the combustion process for the consented scheme would be more efficient than was originally envisaged. As such, the impact on all receptors would result in no change to long- or short-term concentrations for all human health and ecological receptors, leading to a neutral effect.

6.4.7. Nor would there be any change to the nature or intensity of odours at the site compared with the consented scheme. The decommissioning and demolition effects of the Proposed Development would also be indistinguishable from the consented scheme. There would be no cumulative effects in respect of air quality. Such mitigation as is required to achieve these outcomes could be adequately secured through the DCO Requirements and the Environmental Permit (EP).

6.4.8. No IPs raised concerns regarding air quality, dust or odour effects of the Proposed Development and the Applicant provided satisfactory responses to my queries. Taking all these factors into account, the proposal would accord with EN-1 paragraph 5.2.1, NPS EN-3 paragraph 2.5.43, NPPF paragraph 186 and SBC Core Policy 8. Overall, air quality, dust and odour matters have a neutral weighting in the planning balance.

## **Biodiversity**

- 6.4.9. I consider that the biodiversity effects of the Proposed Development have been properly assessed. The effects would be negligible adverse at worst (construction and decommissioning phases effects on national and local designated sites and breeding birds). There was found to be no likely significant effects on international sites and no effects on other plants or species during the construction phase and no effects at all at the operational phase. Therefore, no additional mitigation or enhancement measures are considered necessary. This amounts to no significant effects on biodiversity.
- 6.4.10. Given the nature of the proposed external physical works (a single high-level pipe), I accept the Applicant's view that the opportunity to provide biodiversity enhancement is not practical.
- 6.4.11. As such the Proposed Development would comply with EN-1 paragraphs 5.3.4, 5.3.7, 5.3.9 to 5.3.18, NPPF paragraph 180 and SBC Core Strategy Policy 9 insofar as they require proposals to avoid harm to biodiversity interests. As such, biodiversity matters have a neutral weighting in the planning balance.

## **Climate Change**

- 6.4.12. The Proposed Development would offer a small addition to the UK's electrical supply capacity by making more efficient use of a partially renewable fuel source. It would have a slightly beneficial effect on emissions as the increased efficiency in the use of energy at the operational stage would off-set the greenhouse gas (GHG) emissions generated at the production and construction phases.
- 6.4.13. As such, the Proposed Development would not undermine the UK's ability to meet its legally binding targets for reducing GHG emissions. The proposal therefore supports the aims of EN-1 paragraphs 2.2.20, 2.2.23, 5.3.5, 5.3.10 and 5.3.11.
- 6.4.14. Although the Applicant's climate change resilience assessment is rather brief, given the location, scale and characteristics of the Proposed Development, there is no reason to expect that it would be unduly vulnerable to risks arising from climate change. As such, I am content that the assessment meets the requirements of EN-1 paragraphs 4.8.5 and 4.8.8.
- 6.4.15. Taking all these matters into consideration, I conclude that the effect of the proposal on climate change has a slightly positive weighting in the planning balance.

## **Noise and Vibration**

- 6.4.16. I am content with the Applicant's assessment of noise and vibration. There is nothing to suggest that the proposal would cause material vibration effects.
- 6.4.17. Construction of the Proposed Development would add slightly to the noise generating activity of the construction of the consented scheme and the



number of HGV movements. The necessary noise mitigation measures would be provided in the CEMP, secured through dDCO Requirement 3.

- 6.4.18. During the operational phase, the noise generating elements of the proposal would be located within buildings constructed as part of the consented scheme. As such, the noise effects of the Proposed Development at the construction and operational phases would be very limited and not significant.
- 6.4.19. The proposal would, therefore, accord with EN-1 paragraphs 5.11.4, 5.11.8, 5.11.9, 5.11.11 and 5.11.12, EN-3 paragraph 2.5.53, NPPF paragraphs 174 and 185, Slough Core Strategy Policy 8 and Slough Local Plan Policy EMP2. Noise and vibration matters weigh neutrally in the planning balance.

### **Traffic and Transport**

- 6.4.20. The assessment of transport effects is fairly brief and takes a largely qualitative approach. However, this is proportionate with the very limited degree of change in travel movements resulting from the Proposed Development. Moreover, this change is smaller than, and would take place after, the fall off from the peak construction activity for the consented scheme.
- 6.4.21. As such, I am satisfied that the Applicant has provided an adequate assessment of transport effects which complies with the aims of EN-1 paragraphs 5.13.1 and 5.13.3. Adequate mitigation in the form of the CTMP would be secured through dDCO Requirement 3 and the planning agreements<sup>11</sup> to ensure that the finding of a negligible effect is robust. On this basis, the traffic and transport effects of the Proposed Development would accord with EN-1 paragraph 5.13.6 and 5.13.11, EN-3 paragraphs 2.5.24 and 2.5.25, NPPF paragraph 110 and Slough Core Strategy Core Policy 7.
- 6.4.22. Overall therefore, I conclude that traffic and transport matters have a neutral weighting in the planning balance.

### **Other Matters**

- 6.4.23. The Applicant's Flood Risk Assessment is proportionate to the potential flood risk. For the most part, the risk of flooding at the site is low. Although there is a medium risk of surface water flooding, this has been taken into account in the assessment of the consented scheme and appropriate drainage infrastructure is proposed.
- 6.4.24. The external element of the Proposed Development would be at high level and therefore not be directly at risk of flooding and would not add to the flooding risk and no further mitigation would be necessary. As such the Proposed Development would accord with EN-1 paragraphs 5.7.4 and 5.7.6

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<sup>11</sup> See Section 1.7 of this Report

and NPPF paragraph 167. Flood risk, surface water and drainage matters therefore carry a neutral weighting in the planning balance.

- 6.4.25. The Applicant has undertaken a proportionate assessment of the risks associated with major accidents and disasters. The likelihood of such events is low, but not non-existent. The measures needed to mitigate these risks would be largely secured by means other than the DCO. Nevertheless EN-1 allows for this approach and there is nothing to suggest that the necessary measures would not be in place and effective. Accordingly, the risks associated with major accidents and disasters weigh neutrally in the planning balance.

### **Combined and Cumulative Effects**

- 6.4.26. The ES uses a future baseline which includes the consented scheme and its assessment of combined and cumulative effects considers the effects of the Proposed Development (that is, the extension) only.
- 6.4.27. I have found that the Proposed Development would result in low, negligible or no significant effects in each of the topic areas assessed. As such, I consider that they would not lead to combined effects on any receptor.
- 6.4.28. The effects of proposed or potential developments in the vicinity of the application site interacting with the effects of the Proposed Development has been considered as part of each ES topic area. Based on the information available at the time of the assessment, there is no potential for significant cumulative effects.

## **6.5. THE PLANNING BALANCE**

- 6.5.1. A number of topic areas were scoped out of the ES and others were limited in their extent. Nothing came to light during the Examination to indicate that the scope of the submitted ES needed to be extended. Consequently, I consider that the environmental information submitted by the Applicant, including the ES and other environmental information submitted during the Examination and information relevant to the HRA, is adequate in terms of statutory and policy purposes for decision-making. I have taken it into account, along with all other submissions made to the Examination, in reaching my recommendation and consider that the SoS can rely on it in determining the case for making the DCO.
- 6.5.2. I have found that the Proposed Development would not lead to significant effects on:
- air quality, dust and odour;
  - biodiversity;
  - noise and vibration;
  - traffic and transport; and
  - other matters including flood risk and major accidents and disasters.

- 6.5.3. The climate change effect of the proposal would be slightly positive.
- 6.5.4. The Applicant's No Significant Effects Report and the comments of Natural England indicate no likely significant effects on European Sites, species or habitats would arise from the Proposed Development. I see no reason for HRA matters to prevent the making of the DCO.
- 6.5.5. I have found that the need for the Proposed Development has been established in accordance with the requirements of EN-1 and that it would be appropriately located. Overall therefore, the Proposed Development accords with the policies of EN-1 and EN-3 and this weighs firmly in its favour.
- 6.5.6. For the reasons set out in the preceding chapters and summarised above, I find that the Proposed Development is acceptable in planning terms. Therefore, the case for making the DCO for the Proposed Development has been made, and I recommend accordingly.

## **7. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS**

### **7.1. INTRODUCTION**

- 7.1.1. This chapter provides an overview of the Applicant's changes to the Draft Development Consent Order (dDCO) during the Examination, and my consideration of the Applicant's final dDCO [REP6-003] to arrive at the recommended Development Consent Order (rDCO) (Appendix C of this Report).
- 7.1.2. The dDCO submitted with the application [APP-006] was amended in response to S51 advice post acceptance (see paragraph 2.4.1 above) at deadline 3 [REP3-003]. An Explanatory Memorandum (EM) [APP-007] was submitted as part of the application. The EM describes the purpose of the dDCO and each of its articles and schedules. The Applicant submitted 'clean' and 'tracked' versions of the subsequent iterations of the dDCO and EM.
- 7.1.3. While the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009, (the model provisions) are no longer prescribed by the SoS, the applicant's dDCO draws on the model provisions as well as precedent set by other made DCOs under the Planning Act 2008 (PA2008). These are referenced in the EM. The application dDCO and subsequent iterations are in the form of a Statutory Instrument as required by s117(4) of the PA2008.
- 7.1.4. The following sections of this chapter:
- describe the structure and functions of the dDCO;
  - summarise the processes used to examine the dDCO and its iterations during the Examination;
  - report on the consideration of the dDCO and relevant submissions made by the Applicant and other parties during the Examination;
  - set out the changes made to the dDCO during the Examination; and
  - provide my recommended changes leading to the rDCO (Appendix C).

### **7.2. STRUCTURE AND FUNCTION OF THE DRAFT DCO**

- 7.2.1. Each iteration of the Applicant's dDCO contains articles and schedules including Requirements. These are preceded by a preamble which briefly explains the key legislative provisions and the process of Examination, reporting and decision making.
- 7.2.2. The articles are contained in three parts, which are briefly described here and in more detail in the final EM [REP6-006] submitted to the Examination. The rDCO (Appendix C) has the same structure as the final dDCO.

- 7.2.3. Part 1 contains the preliminary provisions providing for citation, commencement and terms used in the dDCO. Part 2 sets out the principal powers and provides for the grant of development consent for the Proposed Development. It includes provisions dealing with the authorisation of the operation and maintenance of the generating station, the benefit of the Order and the power to transfer that benefit. It also covers the interaction of the Order with any future grant of planning permission under the Town and Country Planning Act 1990 (the 1990 Act).
- 7.2.4. Part 3 provides supplemental powers relating to the certification of plans and documents, the process for arbitration in the event of disputes over the provisions of the Order and requirements for the service of notices under the Order. The submitted dDCO [APP-006] included an article dealing with statutory nuisance. However, this was deleted during the Examination (see below).
- 7.2.5. The schedules provide a description of the authorised development (Schedule 1), the Requirements which apply to the authorised development and the procedure for approval under the Requirements (Schedule 2).
- 7.2.6. The consented scheme is being constructed in accordance with the planning permissions and planning agreements set out in section 2.2 of this Report. The Applicant submitted a Planning Conditions and DCO Requirements Tracker (updated version at [REP3-008]) (the Tracker) which reviews each of the conditions attached to the relevant planning permissions<sup>12</sup> and considers whether they should be included as a Requirement in the dDCO. The Applicant's approach is based on asking the following questions:
- can the TCPA condition still be complied with in full despite the Proposed Development?;
  - should a similar condition apply to the Proposed Development?; and
  - is anything additional required (such as additional mitigation, additions or changes to approved plans) as a result of the Proposed Development?
- 7.2.7. The Tracker concludes that only condition 17 of permission reference P/00987/051 (defined in dDCO Article 2 as the TCPA permission) should be replicated in full in the DCO as it is the only condition that provides substantive mitigation measures related to the ES assessment. Condition 17 requires the submission and approval of a Construction Environmental Management Plan (CEMP). A CEMP for the consented development has been approved by Slough Borough Council (SBC) under condition 17 of the relevant planning permission [APP-062]. Requirement 3 of the dDCO requires the Proposed Development to be constructed in accordance with the CEMP.

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<sup>12</sup> Section 73 permission P/00987/51 dated 1 February 2022 (defined in dDCO Article 1 as the TCPA permission); P/00987/025 dated 2 June 2017 (defined in dDCO Article 1 as the further TCPA permission); P/00987/052 dated 4 May 2022; and P/19876/000 dated 5 August 2022.

- 7.2.8. The Applicant considers that there is no need to amend the approved CEMP in order for it to provide the necessary construction phase mitigation measures for the Proposed Development. None of the IPs disputed this approach and it is endorsed in the Statements of Common Ground (SoCGs) with SBC [REP2-009] and the Environment Agency [REP2-010]. I have considered the mitigation measures provided by the CEMP in Chapter 4 of this Report and I am satisfied that they are adequate to deal with the construction phase likely significant effects of the Proposed Development.
- 7.2.9. The Tracker also identifies other conditions attached to the relevant planning permissions which the Proposed Development should be subject to. In contrast to condition 17, which secures mitigation measures, the Applicant considers that reference to these conditions in the dDCO Requirements is necessary only to ensure consistency between the controls applicable to the consented scheme and the Proposed Development [REP2-020 ExQ1.2.2 ]. As such, the final dDCO refers to, but does not reproduce, these conditions. Compliance with them would be secured by Requirements 3 (construction phase), 4 (local liaison group), 5 (commissioning), 6 (operation) and 7 (decommissioning).
- 7.2.10. In accordance with paragraph 4.1.7 of EN-1, I have considered whether these Requirements are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise, and reasonable in all other respects. I have also considered whether other conditions attached to the relevant permissions should be included in the Requirements. As a result, the conditions included in the Requirements were amended during the Examination (see below). I consider that approach to the referencing of the TCPA and further TCPA permission conditions in the Applicant's final dDCO [REP6-003] and the rDCO (Appendix C) is satisfactory and meets the tests of EN-1 paragraph 4.1.7. Together with the CEMP, the EP and the planning agreements (see below), they would provide adequate mitigation of the likely significant effects of the Proposed Development.
- 7.2.11. The Applicant's final dDCO and the rDCO also include (in Part 2 of Schedule 2) Requirements setting out procedures for the approval of any variation in the planning conditions following the grant of the DCO and the approval of details and revisions required under those conditions. Part 3 of Schedule 2 sets out the procedure for the discharge of the Requirements.
- 7.2.12. The consented scheme is also subject to two planning agreements (the May 2017 agreement and the November 2020 DoV). Their provisions are set out in section 2.2 above. A third planning agreement (the May 2023 Supplemental) ensures that the covenants, restrictions and obligations of the earlier two planning agreements apply to the Proposed Development.
- 7.2.13. The May 2017 agreement requires the developer to submit for approval a draft Construction Environmental Management Plan (CEMP). As explained above, this has been done and secured in the dDCO. Other obligations of the May 2017 agreement and the November 2020 DoV concern heavy goods vehicle (HGV) routing arrangements, controls over the number and timing of HGV movements and requirements to prepare, implement and monitor a

Travel Plan. These obligations are relevant to my consideration of the transport effects of the Proposed Development and I have taken them into account in Section 4.15 of this Report. However, by virtue of the May 2023 Supplemental, they bind on the Proposed Development without the need to reproduce their provisions in the DCO.

- 7.2.14. Throughout the Examination I have considered the interaction of the dDCO and the controls and mitigation that would be provided through the Environmental Permitting regime. I am satisfied that these two legislative provisions would not overlap and would operate to provide effective controls over the Proposed Development as required by the Overarching National Policy Statement for Energy (EN-1) paragraphs 4.10.1 to 4.10.3 and 4.10.5 to 4.10.8.

### **7.3. CHANGES DURING THE EXAMINATION**

#### **Examination process**

- 7.3.1. The dDCO was examined through written questions and requests including the following main written responses:
- First written questions [PD-007]: responses – Applicant [REP2-020], SBC [REP2-014];
  - Rule 17 Request for further information [PD-012]: responses – Applicant [REP5-003] and [REP5-004]; and
  - ExA schedule of proposed changes to the dDCO [PD-014]: responses – Applicant [REP6-003 to REP6-011].
- 7.3.2. The Applicant submitted the following iterations of the dDCO and EM:
- dDCO Rev 3.0 - [REP3-003] (Clean), [REP3-004] (Tracked);
  - EM Rev 3.0 - [REP3-005] (Tracked), REP5-006 (Clean);
  - dDCO R17 Discussion Draft - [REP5-003] (Clean), [REP5-004] (Tracked);
  - dDCO Rev 4.0 - [REP6-003] (Clean), REP6-004 (Tracked against Deadline 3 version), [REP6-005] (Tracked against original submission version); and
  - EM Rev 4.0 – (REP6-006] (Clean), [REP6-007] (Tracked against Deadline 3 version), [REP6-008] (Tracked against original submission version).
- 7.3.3. The Applicant's deadline 6 submissions also included a schedule of changes to the dDCO [REP6-009] and a DCO Validation Report 19 June 2023 [REP6-010].

### **7.4. EXAMINATION OF THE DRAFT DCO**

- 7.4.1. This section does not report on every change made to the dDCO during the Examination, as some were as a result of drafting or typographical errors or were revisions that I feel are not controversial. It concentrates on those

changes made during the Examination considered to be significant because of their effect or because they gave rise to several submissions.

***"Materially new or materially different environmental effects" and the interaction of the dDCO with the relevant planning permission conditions***

- 7.4.2. I initially raised these matters in ExQ1.2.2 and ExQ1.2.6 [PD-007]. The questions sought clarification of how an assessment would be made that the DCO provisions would not give rise to "any materially new or materially different environmental effects" from those identified in the environmental statement. This concern was compounded because the then current version of the dDCO contained no provisions to discharge the Requirements. Furthermore, the dDCO contained no provision to approve variations to, or approvals required under, the TCPA and further TCPA permissions conditions referred to in dDCO Requirements 1, 3, 5, 6, 7 and 8.
- 7.4.3. The Applicant's initial response [REP2-020] considered it unlikely that the CEMP (the subject of Requirement 1) would need to be updated, that it would be unnecessarily onerous on SBC and could lead to inconsistencies if the DCO required a further or amended CEMP to be approved. It would be for the Applicant to determine whether any amendments to the CEMP approved by SBC following the grant of the DCO gave rise to any materially new or materially different environmental effects in accordance with the then Requirement 4. If any amendment did have such an effect, the Applicant would need to continue to implement the original CEMP for the construction of the Proposed Development or face the possibility of enforcement action. Nevertheless, the Applicant's response did hold out the possibility of amending the wording of the then Requirement 4.
- 7.4.4. The Applicant also considered that precedents in made DCOs supported its definition of 'maintenance' in Article 2 to include the phrase "provided that such works do not give rise to any materially new or materially different environmental effects".
- 7.4.5. These matters were revisited in the Rule 17 request for further information [PD-012] when I drew attention to the PA2008 and the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations) requirements for significant effects to be taken into account in the examination process and expressed concern that the DCO as then drafted would instead rely on determinations under section 73 of the 1990 Act.
- 7.4.6. In response, the Applicant submitted a discussion draft version of the dDCO [REP5-003] which:
- amends Article 2 to define an 'approved variation' of the TCPA and further TCPA permissions; define the CEMP as the version certified in Article 11, amends the definitions of TCPA and further TCPA permissions to refer to 'approved variations' and omit reference to variations under s73 of the 1990 Act;



- amends Article 11 to require amended versions of the TCPA and further TCPA permissions to become certified documents under the Order;
- amends Requirement 1 to define ‘details approved’ as ‘details approved’ pursuant to conditions attached to the TCPA and further TCPA permissions as of 26 May 2023; and
- omits Requirement 4 and adds a new Requirement 8 with the aim of introducing a procedure for the approval of variations and revisions to the matters covered by the planning permission conditions referred to in the DCO Requirements.

7.4.7. In order to, among other things, properly meet the legislative requirements referred to above, my suggested changes to the DCO [PD-014] sought further amendments to the Applicant’s discussion draft version of the DCO to:

- amend Article 2 to provide a definition of ‘requirement consultee’ to be consulted on the discharge of a Requirement;
- omit Article 10 which provided for a defence against proceedings for statutory nuisance;
- include a new Part 2 of Schedule 2 to clearly set out the process for the approval of variations and any revisions to approved details under the TCPA and further TCPA permission conditions;
- include a new Part 3 to deal with the discharge of Requirements with a procedure to appeal to the SoS in the event that the Applicant disagrees with the relevant planning authority’s decision; and
- make consequential updates to the numbering of the Articles and Requirements.

7.4.8. The Applicant’s final dDCO [REP6-003] adopts those suggestions with only minor variations to the wording in my suggested changes. It also amends Article 2 to include definitions of “approved generating station plans” and “land ownership and interests schedule” as documents to be certified under Article 10 of the Order (formerly Article 11). No other responses were received to my suggested changes.

7.4.9. This version ensures that, as of 26 May 2023, any variations to the TCPA and further TCPA conditions or approval of details required under those conditions must also be approved under the DCO. It also sets out the mechanisms for seeking such approvals including requiring any application to not give rise to any materially new or materially different environmental effects from those identified in the environmental statement.

7.4.10. This is intended to ensure compliance with the PA2008 and EIA Regulations 2017. It does so by requiring the assessment of any changes to the Proposed Development, as considered in the ES, to be subject to control under the Order itself rather than being reliant on the process under section 73 of the 1990 Act.

### **Other DCO Matters**

7.4.11. I raised a number of other queries in my first written questions [PD-007]. The Applicant's responses [REP2-020] were in summary:

- the judgement in *Hillside Parks Ltd v Snowdonia National Park Authority* [2022] UKSC 30 (concerning successive permissions at the same site) is not relevant to the Proposed Development. This is because the works proposed are located within a relatively small self-contained area of the site and are additions to the works already being implemented under the TCPA permissions. There is no 'physical incompatibility' or inconsistency between the Proposed Development and the consented scheme and the Proposed Development could be constructed in parallel with or following on from the consented scheme (ExQ1.2.1);
- Article 2 has been updated to define Slough Borough Council (SBC) as the 'relevant planning authority' (ExQ1.2.3);
- Article 4 does not need to be amended to cap the operation of the generating station at 60MW. The Applicant considers that, as drafted, the Article is consistent with the language used in section 36 of the Electricity Act which deals with the operation of generating stations and that other made Orders do not impose a similar cap. Rather those Orders rely on the definition of the authorised works (ExQ1.2.4a);
- the dDCO caps the authorised development at 60MW and the design and output of the plant means that there is no potential for it to operate at more than that capacity. Consequently, there is no need to assess the effects of the generating station operating at more than 60MW (ExQ1.2.4b and d);
- the generating station would continue to be able to export 20MW of thermal energy to the Slough Combined Heat and Power system. The electrical output would reduce accordingly and the overall output would not exceed 60MW (ExQ1.2.4c);
- notwithstanding that (former) Article 10 provides a defence against statutory nuisance proceedings under section 79(1)g of the Environmental Protection Act 1990 (noise emitted from premises so as to be prejudicial to health or a nuisance), the ES noise assessment [APP-034] finds that there would be no additional noise over and above that of the consented scheme. As such, the Applicant would not have particular concerns if Article 10 were removed (ExQ1.2.5);
- the Planning Conditions Tracker [APP-023] has been reviewed and condition 20 of the TCPA permission (noise levels) has been added to dDCO Requirement 3. The Applicant confirmed that, following consultation with SBC, it considered that it was not necessary to add other conditions to the Requirements (ExQ1.2.7);
- a supplemental deed of variation (the May 2023 Supplemental) has been provided. It ensures that the obligations in the May 2017 agreement and the November 2020 DoV bind on the Proposed Development (ExQ1.2.8);

- additional documents associated with the TCPA and further TCPA permissions have been submitted to the Examination. They comprise:
  - 2017 Slough Multifuel Planning Permission (P/00987/024) – Red Line Boundary Plan;
  - 2017 Further Development Planning Permission (P/00987/025) – Red Line Boundary Plan;
  - 2022 Gatehouse, Silo Frame and Enclosure Planning Permission (P/00987/052) – Red Line Boundary Plan; and
  - 2022 Greenock Road Fence Permission – Red Line Boundary; and
- other planning permission documents relevant to the site have been submitted for completeness. They comprise Cooling Tower 8 and Associated Infrastructure Planning Permission (P/20018/000) and the Red Line Boundary Plan.

## **7.5. RECOMMENDED DCO**

- 7.5.1. The Applicant’s final draft DCO[REP6-003] largely adopts my suggested changes and there were no other comments on my suggested changes. I have reviewed the document and consider that a further change is needed to the definition of ‘approved variation’ in Article 2. The rDCO adds the words ‘*conditions referred to in requirements 3, 4, 5, 6 and 7*’ after ‘further TCPA permission’. This is intended to ensure that the approval process required under the DCO applies only to those conditions relevant to the DCO and not to other conditions attached to the TCPA and further TCPA permissions.
- 7.5.2. In the event that the conditions referred to in Requirements 3, 4, 5, 6 and 7 were varied so substantially that they no longer fulfilled the function for which they were included in the DCO it may be necessary to amend the DCO. However, there is no evidence that the Applicant intends such variations and, given the advanced stage of construction of the consented scheme, this any such variation seems highly unlikely.

## **7.6. CONCLUSION**

- 7.6.1. I have had regard to all matters relating to the application and put before me in the Examination, including the iterations of the dDCO. I am satisfied that the rDCO adequately defines the scope of the consent being granted, that it secures the necessary controls and mitigation measures consistent with the assessments provided in the ES and that it is compatible with the completion of the consented scheme in accordance with the TCPA and further TCPA permissions.
- 7.6.2. I consider that the rDCO only includes Requirements that are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise, and reasonable in all other respects. As such, they accord with paragraph 4.1.7 of EN-1.
- 7.6.3. If the Secretary of State for Energy Security and Net Zero is minded to make the DCO, it is recommended to be made in the form set out in Appendix C.

## **8. SUMMARY OF FINDINGS AND CONCLUSIONS**

### **8.1. INTRODUCTION**

- 8.1.1. This chapter summarises the conclusions arising from the Report as a whole and sets out my recommendation to the Secretary of State for Energy Security and Net Zero (SoS).

### **8.2. SUMMARY AND CONCLUSIONS**

- 8.2.1. My conclusions are based on the provisions of the recommended Development Consent Order (rDCO) at Appendix C of this Report. In relation to s104(2) and (3) of the Planning Act 2008 (PA2008), I conclude that making the rDCO would be in accordance with the Overarching National Policy Statement for Energy (EN-1) and National Policy Statement for Renewable Energy Infrastructure (EN-3), relevant development plans and other relevant policy, all of which have been taken into account in this Report. Furthermore, I have had regard to matters arising from the Local Impact Report from Slough Borough Council, relevant legislation and to all matters that I consider to be both important and relevant in reaching my conclusions.

- 8.2.2. I have had regard to the findings of the Applicant's Habitats Regulations Assessment Screening Report and the comments of Natural England. While the SoS is the competent authority under the Habitats Regulations and will make the definitive assessment, I conclude that the Proposed Development would not be likely to have significant effects on the UK national site network and European sites, species or habitats and I have taken this finding into account in reaching my recommendation.

- 8.2.3. I am also satisfied that the SoS has sufficient information available to discharge its obligations on this matter under the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations). I see no reason for Habitats Regulation Assessment matters to prevent the making of the Development Consent Order.

- 8.2.4. As required by Regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010, I have had regard to the United Nations Environmental Programme Convention on Biological Diversity 1992. I am content that the Proposed Development accords with those aims. There are no identified conflicts with the Natural Environment and Rural Communities Act 2006 and I have fulfilled the required biodiversity duty.

- 8.2.5. Similarly, I am content that due consideration has been given to the relevant requirements of the Wildlife and Countryside Act 1981, the Air Quality Standards Regulations 2010, the Industrial Emissions Directive Environmental Permitting (England and Wales) Regulations 2016 and the Climate Change Act 2008 as amended.

- 8.2.6. I have had regard to the Public Sector Equality Duty throughout the Examination. I find that the Proposed Development would not harm the

interests of persons who share a protected characteristic or have any adverse effect on the relationships between such persons and persons who do not share a protected characteristic. This is because the application site is located in a commercial area and there is nothing to suggest that the construction of the Proposed Development would lead to particular effects on any protected group. The operation of the Proposed Development would increase the electrical capacity of the generating station. This would be fed into the electricity network with no particular effect on any protected group. As such, there would be no breach of the Public Sector Equality Duty.

8.2.7. In relation to s104(7) of the PA2008, with the mitigation proposed through the rDCO and the controls provided through the Environmental Permits, I have found that there are no identified adverse impacts arising from the Proposed Development. As such, they would not outweigh its benefits.

8.2.8. There is nothing to indicate that the application should be decided other than in accordance with NPSs EN-1 and EN-3. I have had regard to all other matters and representations received but have found no relevant matters that would individually or collectively lead to a recommendation other than that set out below.

### **8.3. RECOMMENDATION**

8.3.1. My findings and conclusions on important and relevant matters are set out in this Report. I consider that the Proposed Development meets the tests in s104 of the PA 2008. On that basis, I recommend that the SoS makes the Slough Multifuel Extension Order in the form attached at Appendix C of this Report.

## **APPENDIX A: EXAMINATION LIBRARY**

# **Slough Multifuel Project Examination Library Updated –**

**27 June 2023**

This Examination Library relates to the Slough Multifuel Project application. The library lists each document that has been submitted to the examination by any party and documents that have been issued by the Planning Inspectorate. All documents listed have been published to the National Infrastructure's Planning website and a hyperlink is provided for each document. A unique reference is given to each document; these references will be used within the Report on the Implications for European Sites and will be used in the Examining Authority's Recommendation Report. The documents within the library are categorised either by document type or by the deadline to which they are submitted.

Please note the following:

- This is a working document and will be updated periodically as the examination progresses.
- Advice under Section 51 of the Planning Act 2008 that has been issued by the Inspectorate, is published to the National Infrastructure Website but is not included within the Examination Library as such advice is not an examination document.
- This document contains references to documents from the point the application was submitted.
- The order of documents within each sub-section is either chronological, numerical, or alphabetical and confers no priority or higher status on those that have been listed first.

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<p>(OFH)</p> <ul style="list-style-type: none"> <li>• Notification by Statutory Parties and Local Authorities who wish to be considered as an IP</li> <li>• Any further information requested by the ExA under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010(EPR)</li> <li>• Comments on any further information/submissions accepted by the ExA</li> </ul>	
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<ul style="list-style-type: none"> <li>• Comments on WRs</li> <li>• Responses to comments on RRs</li> <li>• Comments on any LIRs</li> <li>• Comments on responses to ExQ1</li> <li>• Comments on any revised draft DCO from the Applicant, if submitted</li> <li>• Progressed SOCG and Statement of Commonality</li> <li>• An updated version of the draft Development Consent Order(dDCO)in clean, tracked and word versions</li> <li>• Schedule of Changes to the dDCO</li> <li>• Any further information requested by the ExA under Rule 17 of the EPR</li> <li>• Comments on any further information requested by the ExA and received by Deadline 2</li> <li>• Requests by Interested Parties to attend the ASI</li> </ul>	
REP3-001	<a href="#">SSE Slough Multifuel Limited</a> Deadline 3 Submission - Cover Email

REP3-002	<a href="#">SSE Slough Multifuel Limited</a> Deadline 3 Submission - 1.2 - Application Guide - Rev. 4.0
REP3-003	<a href="#">SSE Slough Multifuel Limited</a> Deadline 3 Submission - 2.1 - Draft Development Consent Order (Clean) - Rev. 3.0
REP3-004	<a href="#">SSE Slough Multifuel Limited</a> Deadline 3 Submission - 2.1 - Draft Development Consent Order (Tracked) - Rev 3.0
REP3-005	<a href="#">SSE Slough Multifuel Limited</a> Deadline 3 Submission - 2.2 - Explanatory Memorandum (Tracked) - Rev. 3.0
REP3-006	<a href="#">SSE Slough Multifuel Limited</a> Deadline 3 Submission - 2.2 - Explanatory Memorandum (Clean) - Rev. 3.0
REP3-007	<a href="#">SSE Slough Multifuel Limited</a> Deadline 3 Submission - 2.3 - Schedule of Changes to draft Development Consent Order
REP3-008	<a href="#">SSE Slough Multifuel Limited</a> Deadline 3 Submission - 5.7 - Planning Conditions and DCO Requirements Tracker (Clean) - Rev. 2.0
REP3-009	<a href="#">SSE Slough Multifuel Limited</a> Deadline 3 Submission - 5.7 - Planning Conditions and DCO Requirements Tracker (Tracked) - Rev. 2.0
REP3-010	<a href="#">SSE Slough Multifuel Limited</a> Deadline 3 Submission - 8.4 - Draft Statement of Common Ground with Royal Mail
REP3-011	<a href="#">SSE Slough Multifuel Limited</a> Deadline 3 Submission - 9.4 - Applicant's Comments on Written Representations, Responses to ExQ1 and Local Impact Report
<p><b>Deadline 4 – 27 April 2023</b></p> <p>Deadline for receipt by ExA of:</p> <ul style="list-style-type: none"> <li>• Written summaries of oral contributions at hearings</li> <li>• Post-hearing submissions requested by the ExA</li> <li>• Responses to comments on WRs</li> <li>• Responses to comments on LIRs</li> <li>• Comments on any revised dDCO</li> <li>• Revised dDCO from the Applicant in clean, tracked and word versions</li> <li>• An updated Schedule of Changes to the dDCO</li> <li>• An updated Guide to the Application</li> <li>• Progressed SOCG and updated Statement of Commonality (if required)</li> <li>• Comments on any additional information/submissions received by Deadline 3</li> <li>• Any further information requested by the ExA under Rule 17 of the EPR</li> </ul>	
REP4-001	<a href="#">SSE Slough Multifuel Limited</a> Deadline 4 Submission - Cover Email
REP4-002	<a href="#">SSE Slough Multifuel Limited</a> Deadline 4 Submission - 1.2 - Application Guide - Rev. 5.0
REP4-003	<a href="#">SSE Slough Multifuel Limited</a> Deadline 4 Submission – 8.5 - Statement of Common Ground with Slough Trading Estate Limited - Final (signed)

## Deadline 5 – 26 May 2023

Deadline for receipt by the ExA of:

- Responses to ExQ2
- Comments on any revised dDCO
- Final SOCG and Statement of Commonality of SOCG
- Final signed and dated section 106
- Comments on any additional information/submissions received by Deadline 4
- Any further information requested by the ExA under Rule 17 of EPR

REP5-001	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - Cover Email
REP5-002	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 1.2 - Application Guide - Rev. 6.0
REP5-003	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 2.1a - Draft Development Consent Order R17 Discussion Draft (Clean)
REP5-004	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 2.1a - Draft Development Consent Order R17 Discussion Draft (Tracked)
REP5-005	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 7.3 Condition 4 - Landscape & Planting Scheme - Fencing
REP5-006	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 7.4.2 Condition 3 - Cycle Parking
REP5-007	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 7.4.3 Condition 4 - Living Wall - Maintenance & Planting Info
REP5-008	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 7.4.4 Condition 4 - Living Wall - Landscape Layout
REP5-009	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 7.4.5 Condition 4 - Living Wall - Architectural Visualisation
REP5-010	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 7.4.6 Condition 4 - Living Wall - Staff Facilities & Workshop
REP5-011	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 7.4.7 Condition 4 - Living Wall - Virtual Samples Board
REP5-012	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 7.4.8 Condition 6 - Parking Spaces - Non material amendments
REP5-013	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 7.7.1 Condition 4 - Landscape & Planting Scheme - Site Layout
REP5-014	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 7.7.2 Condition 4 - Landscape & Planting Scheme - Landscaping
REP5-015	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 7.7.4 Condition 4 - Landscape & Planting

	Scheme - Staff
REP5-016	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 7.7.5 Condition 4 - Landscape & Planting Scheme - Planting
REP5-017	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 7.7.6 Condition 4 - Landscape & Planting Scheme - Shrub
REP5-018	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 7.7.7 Condition 4 - Landscape & Planting Scheme - Specimen
REP5-019	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 7.7.8 Condition 13 - Odour Management Plan
REP5-020	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 7.7.9 Condition 18 - Fauna Management Plan
REP5-021	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 7.7.10 Condition 21 - TCC - Traffic and Transport Management Plant
REP5-022	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 7.7.11 Condition 21 - TCC - Construction Site Layout Temporary Buildings
REP5-023	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 7.7.12 Condition 21 - TCC - Construction Site Layout Temporary Buildings
REP5-024	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 7.7.13 Condition 21 - TCC - Construction Delivery Routes and Footpaths
REP5-025	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 7.7.14 Condition 21 - TCC - Construction Site Layout Temporary Illuminations
REP5-026	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 7.7.15 Condition 21 - TCC - Construction Site Layout Demolition Method Statement
REP5-027	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 7.7.16 Condition 21 - TCC - Stirling Road Pre-Assembly and Construction Laydown
REP5-028	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 7.7.17 Condition 22 - Decommissioning and Demolition Plan
REP5-029	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 9.3 - S106 Supplemental Deed of Variation - Revision 2.0
REP5-030	<a href="#">SSE Slough Multifuel Limited</a> Deadline 5 Submission - 9.5 - Applicant's Response to ExQ2
REP5-031	<a href="#">Slough Borough Council</a> Deadline 5 Submission - Responses to ExQ2
REP5-032	<a href="#">Slough Borough Council</a> Deadline 5 Submission - Comments on any revised dDCO
REP5-033	<a href="#">Royal Mail Group Limited</a> Deadline 5 Submission - Withdrawal of Deadline 2 Written Representation in respect of the DCO application

## Deadline 6 – 19 June 2023

Deadline for receipt by the ExA of:

- Comments on the ExA's proposed schedule of changes to the dDCO
- Comments on any additional information/submissions received by Deadline 5
- Final draft DCO to be submitted by the Applicant in clean, tracked, word versions and in the statutory Instrument (SI) template with the SI template validation report
- An updated Schedule of Changes to the dDCO
- Final Navigation Document/Guide to the application

REP6-001	<a href="#">SSE Slough Multifuel Limited</a> Deadline 6 Submission - Cover Email
REP6-002	<a href="#">SSE Slough Multifuel Limited</a> Deadline 6 Submission - 1.2 - Application Guide - Rev. 7.0
REP6-003	<a href="#">SSE Slough Multifuel Limited</a> Deadline 6 Submission – 2.1 - Draft Development Consent Order (Clean) - Revision 4.0
REP6-004	<a href="#">SSE Slough Multifuel Limited</a> Deadline 6 Submission - 2.1b - Draft Development Consent Order (Tracked against Deadline 3 version)
REP6-005	<a href="#">SSE Slough Multifuel Limited</a> Deadline 6 Submission - 2.1c -Draft Development Consent Order (Tracked against original submission version)
REP6-006	<a href="#">SSE Slough Multifuel Limited</a> Deadline 6 Submission - 2.2 - Explanatory Memorandum (Clean) - Revision 4.0 (PDF, 510KB)
REP6-007	<a href="#">SSE Slough Multifuel Limited</a> Deadline 6 Submission - 2.2a - Explanatory Memorandum (Tracked against Deadline 3 version)
REP6-008	<a href="#">SSE Slough Multifuel Limited</a> Deadline 6 Submission - 2.2b - Explanatory Memorandum (Tracked against original submission version)
REP6-009	<a href="#">SSE Slough Multifuel Limited</a> Deadline 6 Submission - 2.3a - Schedule of Changes to Draft Development Consent Order
REP6-010	<a href="#">SSE Slough Multifuel Limited</a> Deadline 6 Submission - Development Consent Order Validation Report 19 June 2023
REP6-011	<a href="#">SSE Slough Multifuel Limited</a> Deadline 6 Submission - Validation Success Email 19 June 2023
<b>Other Documents</b>	
OD-001	<a href="#">SSE Slough Multifuel Limited</a> Section 56 Notice
OD-002	<a href="#">SSE Slough Multifuel Limited</a> Certificate of Compliance with Section 56 of the Planning Act 2008
OD-003	<a href="#">SSE Slough Multifuel Limited</a> Certificate of Compliance with Regulation 16 Notice

## **APPENDIX B: LIST OF ABBREVIATIONS**



## APPENDIX B LIST OF ABBREVIATIONS

1990 Act	Town and Country Planning Act 1990 (as amended)
AQAL	Air Quality Assessment Level
AQD	Air Quality Directive
AQMA	Air Quality Management Area
ASI	Accompanied Site Inspection
BAT	Best Available Technique
BS	British Standard
CCRA	Climate Change Resilience Assessment
CEMP	Construction Environmental Management Plan
CIEEM	Chartered Institute of Ecology and Environmental Management
CHP	Combined Heat and Power
CTMP	Construction Traffic Management Plan
D	Deadline
dB	decibel
DCO	Development Consent Order
dDCO	draft Development Consent Order
Defra	Department for Environment, Food and Rural Affairs
DfT	Department for Transport
DLUHC	Department for Levelling Up, Housing and Communities
DMRB	Design Manual for Roads and Bridges
DoV	Deed of Variation
EA	Environment Agency
EEA	European Economic Area
EPR	Infrastructure Planning (Examination Procedure) Rules 2010
EfW	energy from waste
EIA	Environmental Impact Assessment
ELV	emission limit value
EM	Explanatory Memorandum
EN-1	Overarching National Policy Statement for Energy
EN-3	National Policy Statement for Renewable Energy Infrastructure
EP	Environmental Permit
EP Regulations	Environmental Permitting (England and Wales) Regulations 2016
ES	Environmental Statement
EU	European Union
ExA	Examining Authority
ExQ1	Examining Authority's first written questions
ExQ2	Examining Authority's further written questions
FGT	Flue gas turbine
FRA	Flood Risk Assessment
FZ	Flood Zone
GHG	greenhouse gas
ha	hectare
HGV	heavy goods vehicle

HHRA	Human Health Risk Assessment
HRA	Habitats Regulation Assessment
HSE	Health and Safety Executive
IAP1	Initial Assessment of Principal Issues
IAQM	Institute of Air Quality Management
IED	Industrial Emissions Directive
IEMA	Institute of Environmental Management and Assessment
IP	Interested Party
ISH	Issue Specific Hearing
km	kilometre
LAeq, (1h)	Equivalent Continuous Sound Level (1 hour)
LIR	Local Impact Report
LOAEL	Lowest Observed Adverse Effect Level
LSE	Likely Significant Effects
LV	limit value
m	metre
m <sup>3</sup>	cubic metre
MW	megawatt
NE	Natural England
NNR	National Nature Reserve
NO <sub>2</sub>	nitrogen dioxide
NOEL	No Observed Effect Level
NO <sub>x</sub>	(combined total of) nitrogen oxides and dioxides
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NPSE	Noise Policy Statement for England
NSER	No Significant Effects Report
NSIP	Nationally Significant Infrastructure Project
PA2008	Planning Act 2008
PAH	polycyclic aromatic hydrocarbons
PINS	Planning Inspectorate
PM	Preliminary Meeting
PM <sub>10</sub>	particulate matter up to 10 micrometres (µm) diameter
PM <sub>2.5</sub>	particulate matter up to 2.5 micrometres (µm) diameter
PSED	public sector equality duty
RIES	Report on the Implications for European Sites
RR	Relevant Representation
SAC	Special Area of Conservation
SBC	Slough Borough Council
SHP	Slough Heat and Power
SNCB	statutory nature conservation body
SO <sub>2</sub>	sulphur dioxide
SoCG	Statement of Common Ground
SOAEL	Significant Observed Adverse Effect Level
SoS	Secretary of State for Energy Security and Net Zero
SPA	Special Protection Area
SPZ	Simplified Planning Zone

SSSI	Site of Special Scientific Interest
STE	Slough Trading Estate
tCO <sub>2</sub> e	tonnes of carbon dioxide equivalent
UK	United Kingdom
USI	Unaccompanied Site Inspection
WCA	Wildlife and Countryside Act 1981 (as amended)
WDF	waste derived fuel
WR	Written Representation

## **APPENDIX C: THE RECOMMENDED DCO**

**2023 No. 0000**

**INFRASTRUCTURE PLANNING**

**THE SLOUGH MULTIFUEL EXTENSION ORDER 202[ ]**

*Made* - - - - - \*\*\*

*Laid before Parliament* \*\*\*

*Coming into force* - - - \*\*\*

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PART 1 - REQUIREMENTS

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An application has been made to the Secretary of State under section 37 of the Planning Act 2008 **(a)** (“the 2008 Act”), in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009**(b)** for an Order granting development consent.

The application was examined by the Examining Authority appointed by the Secretary of State pursuant to Chapter 3 of Part 6 of the 2008 Act and carried out in accordance with Chapter 4 of Part 6 of the 2008 Act and with the Infrastructure Planning (Examination) Procedure Rules 2010**(c)**. The Examining Authority has submitted a report to the Secretary of State under section 83(1) of the 2008 Act.

The Secretary of State has considered the report and recommendation of the Examining Authority, has taken into account the environmental information in accordance with regulation 4 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017**(d)**, and, as a national policy statement has effect in relation to the proposed development, has had regard to the documents and matters referred to in section 104(2)**(e)** of the 2008 Act.

The Secretary of State, having decided the application, has determined to make an Order giving effect to the proposals comprised in the application on terms that in the opinion of the Secretary of State are not materially different from those proposed in the application.

The Secretary of State, in exercise of the powers conferred by sections 114, 115 and 120**(f)** of the 2008 Act, makes the following Order—

- 
- (a)** 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c. 20).
- (b)** S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2014/469, S.I. 2014/2381, S.I. 2015/377, S.I. 2015/1682, S.I. 2017/524, S.I. 2017/572, S.I. 2018/378, S.I. 2020/764, 2020/1534, 2021/978 and 2022/634.
- (c)** S.I. 2010/103. This instrument was amended by S.I. 2012/635.
- (d)** S.I. 2017/572, amended by S.I. 2017/1012, S.I.2018/695, S.I. 2018/834, S.I. 2018/942, S.I. 2018/904, S.I. 2018/1232 and S.I. 2020/1534.
- (e)** Section 104(2) was amended by Schedule 13, paragraph 49 to the Localism Act 2011 and s58(5) of the Marine and Coastal Access Act 2009 (c.23).
- (f)** Section 114 was amended by paragraph 55 of Part 1 of Schedule 13 to the Localism Act 2011, section 115 was amended by paragraph 56 of Part 2 of Schedule 13 and Part 20 of Schedule 25 to the Localism Act 2011 and section 160(2) to (6) of the Housing and Planning Act 2016 (c. 22) and section 43 of the Wales Act 2017 (c.4), and section 120 was amended by section 140 and paragraph 60 of Part 1 of Schedule 13 of the Localism Act 2011.

# PART 1

## Preliminary

### Citation and commencement

1. This Order may be cited as the Slough Multifuel Extension Order 202[ ] and comes into force on [Insert Date].

### Interpretation

2.—(1) In this Order—

“the 1980 Act” means the Highways Act 1980(a)

“the 1989 Act” means the Electricity Act 1989(b);

“the 1990 Act” means the Town and Country Planning Act 1990(c);

“the 1991 Act” means the New Roads and Street Works Act 1991(d)

“the 2008 Act” means the Planning Act 2008(e);

“address” includes any number or address for the purposes of electronic transmission;

“approved generating station plans” means the plans certified as the approved generating station plans named as the (i) East Elevation of Consented Development and Proposed Project and (ii) Plan and East Elevation of Consented Development and Project by the Secretary of State for purposes of this Order and submitted with the application on 29 September 2022;

“approved variation” means any variations to the TCPA permission or further TCPA permission conditions referred to in requirements 3, 4, 5, 6 and 7 granted by the relevant planning authority pursuant to section 73 or section 96A of the 1990 Act and in accordance with requirements 8 and 9;

“authorised development” means the development and associated development described in Schedule 1 (authorised development) and any other development authorised by this Order which is development within the meaning of section 32 (meaning of development) of the 2008 Act;

“building” includes any structure or erection or any part of a building, structure or erection;

“commence” means beginning to carry out any material operation, as defined in section 155 of the 2008 Act (when development begins), forming part, or carried out for the purposes, of the authorised development;

“construction environmental management plan” means the document certified as the construction environmental management plan by the Secretary of State for the purposes of this Order and submitted with the application on 29 September 2022 including all appendices thereto;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order and submitted with the application on 29 September 2022 including all appendices thereto;

“existing generating station” means a generating station within the Order limits comprised of development authorised by planning permission issued pursuant to the 1990 Act including the TCPA permission and further TCPA permission;

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(a) 1980 c.66.  
(b) 1989 c.29.  
(c) 1990 c.8.  
(d) 1991 c.22.  
(e) 2008 c.29.

“extended generating station” means a generating station within the Order limits which includes (i) the extension of a generating station comprised of the authorised development and (ii) the existing generating station;

“further TCPA permission” means planning permission granted by Slough Borough Council with reference P/00987/025 dated 2 June 2017, and any approved variations thereto ;

“land ownership and interests schedule” means the document certified as the land ownership and interests schedule by the Secretary of State for the purposes of this Order and submitted with the application on 29 September 2022 including all appendices thereto;

“land plan” means the plan certified as the land plan by the Secretary of State for the purposes of this Order;

“maintain” in relation to any part of the authorised development includes inspect, upkeep, repair, adjust, alter, remove, improve, refurbish, reconstruct and replace provided such works do not give rise to any materially new or materially different environmental effects to those identified in the environmental statement, and any derivative of “maintain” is to be construed accordingly;

“the Order limits” means the limits shown on the works plan within which the authorised development may be carried out;

“relevant planning authority” means Slough Borough Council;

“requirement consultee” means any body or authority named in a requirement as a body to be consulted by the relevant planning authority in discharging that requirement;

“requirements” means, or a reference to a numbered requirement is to, those matters set out in Schedule 2 (requirements) to this Order;

“TCPA permission” means planning permission granted by Slough Borough Council with reference P/00987/051 dated 1 February 2022, and any approved variations thereto;

“undertaker” means SSE Slough Multifuel Limited (company number 11271136) or any person who has the benefit of this Order in accordance with articles 6 (Benefit of the Order) and 7 (Consent to transfer benefit of the Order);

“works plan” means the plan certified as the works plan by the Secretary of State for the purposes of this Order;

(2) All distances, directions, capacities and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development shall be taken to be measured along that work.

(3) Any reference in this Order to a work identified by the number of the work is to be construed as a reference to the work of that number authorised by this Order and shown on the Works plan.

(4) The expression “includes” is to be construed without limitation unless the contrary intention appears.

(5) References in this Order to any statutory body includes that body’s successor bodies as from time to time have jurisdiction over the authorised development.

## PART 2

### Principal powers

#### **Development consent etc. granted by the Order**

3. Subject to the provisions for this Order and to the requirements in Schedule 2 the undertaker is granted development consent for the authorised development to be carried out within the Order limits.



### **Authorisation of the operation of the extended generating station**

4.—(1) Subject to the provisions of this Order and the requirements in Schedule 2 the undertaker is authorised to operate the extended generating station.

(2) Paragraph (1) does not relieve the undertaker of any requirement to obtain any permit or licence under any legislation other than section 36 of the 1989 Act.

### **Power to maintain the authorised development**

5. The undertaker may at any time maintain the authorised development, except to the extent that this Order or an agreement made under this Order provides otherwise.

### **Benefit of the Order**

6. Subject to article 7 (consent to transfer the benefit of the order), the provisions of this Order conferring power on the undertaker have effect solely for the benefit of the undertaker.

### **Consent to transfer benefit of the Order**

7.—(1) Except where paragraph (4) applies, the undertaker may with the written consent of the Secretary of State—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; and/or
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed between the undertaker and the lessee.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraphs (5) and (6), shall include references to the transferee or lessee.

(3) Where the undertaker has transferred any benefit, or for the duration of any period during which the undertaker has granted any benefit, under paragraph (1) —

- (a) the benefit transferred or granted (“the transferred benefit”) shall include any rights that are conferred, and any obligations that are imposed, by virtue of the provisions to which the benefit relates;
- (b) the transferred benefit shall reside exclusively with the transferee or, as the case may be, the lessee and the transferred benefit shall not be enforceable against the undertaker; and
- (c) the exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(4) The consent of the Secretary of State is required for the exercise of powers under this article, except where the transferee or lessee is the holder of a licence under section 6 of the 1989 Act.

(5) Where the consent of the Secretary of State is not required under paragraph (4) the undertaker must provide written notification to the Secretary of State and the relevant planning authority at least 14 days prior to transferring and/or granting any benefit pursuant to this article.

(6) A notice required under paragraphs (5) must—

- (a) state—
  - (i) the name and contact details of the person to whom the benefit of the provisions will be transferred or granted;
  - (ii) the date on which the transfer will take effect;
  - (iii) the provisions to be transferred or granted;

- (iv) the restrictions, liabilities and obligations that will apply to the person exercising the powers transferred or granted; and
- (b) be accompanied by a copy of the document effecting the transfer or grant signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted.

### **Planning permission**

**8.**—(1) If planning permission is issued pursuant to the 1990 Act for development any part of which is within the Order limits following the publication of this Order that is—

- (a) not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; and
- (b) required to complete or enable the construction, use or operation of any part of the development authorised by this Order or of the extended generating station;

then the carrying out, use, operation or decommissioning of such development pursuant to the terms of the planning permission is not to constitute a breach of the terms of this Order.

(2) Anything done by the undertaker in accordance with this Order does not constitute a breach of any planning permission issued pursuant to the 1990 Act.

### **Existing powers and duties of the undertaker**

**9.** Except as previously provided, nothing in this Order is to prejudice the operation of, and the powers and duties of the undertaker under the 1980 Act, the 1991 Act and the Town and Country Planning (General Permitted Development) (England) Order 2015(a).

## **PART 3**

### **Supplemental powers**

#### **Certification of plans and documents, etc.**

**10.**—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the land ownership and interests schedule;
- (b) the land plan;
- (c) the works plan;
- (d) the environmental statement;
- (e) the approved generating station plans named as follows:
  - (i) East Elevation of Consented Development and Proposed Project; and
  - (ii) Plan and East Elevation of Consented Development and Project;
- (f) the TCPA permission granted by Slough Borough Council with reference P/00987/051 dated 1 February 2022;
- (g) the further TCPA permission granted by Slough Borough Council with reference P/00987/025 dated 2 June 2017; and
- (h) the construction environmental management plan;

for certification that they are true copies of the documents referred to in this Order.

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(a) S.I. 2015/596.

(2) Where the construction environmental management plan, TCPA permission or the further TCPA permission are amended, the undertaker must submit a copy of that amended plan or document, as soon as practicable after the approval of the amendment, to the Secretary of State to be certified under paragraph (1).

(3) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

(4) Where a plan or document certified under paragraph (1)—

- (a) refers to a provision of this Order (including any specified requirement) when it was in draft form; and
- (b) identifies that provision by number, or combination of numbers and letters, which is different from the number, or combination of numbers and letters by which the corresponding provision of this Order is identified in the Order as made;

the reference in the plan or document concerned must be construed for the purposes of this Order as referring to the provision (if any) corresponding to that provision in the Order as made.

### **Arbitration**

**11.—**(1) Any difference under any provision of this Order, unless otherwise provided for in this Order and unless otherwise agreed in writing between the parties, shall be referred to and settled in arbitration by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

(2) For the avoidance of doubt, any matter for which the consent or approval of the Secretary of State is required under any provision of this Order shall not be subject to arbitration.

### **Service of notices**

**12.—**(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (6) to (8), by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978 (a)(references to service by post) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address and otherwise—

- (a) in the case of the secretary or clerk of that body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at that time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having an interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by the description of “owner”, or as the case may be “occupier” of the land (describing it); and

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(a) 1978 c.30.

- (b) either leaving it in the hands of the person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within seven days of receipt that the recipient requires a paper copy of all or any part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of an electronic transmission by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than seven days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

Signed by authority of the Secretary of State for Energy Security and Net Zero

Date

*[Name]*  
Head of Energy Infrastructure Planning  
Department for Energy Security and Net Zero

# SCHEDULES

## SCHEDULE 1

Article 3

### AUTHORISED DEVELOPMENT

#### **In the County of Berkshire**

A nationally significant infrastructure project as defined in sections 14(1)(a) and 15 of the 2008 Act and associated development within the meaning of s115(2) of the 2008 Act—

**Work No. 1** - An extension to the Slough Multifuel combined heat and power generating station with the effect that, once extended, the extended generating station will have a gross installed generating capacity of up to 60MW, comprising the following works—

- (a) a boiler primary air preheating system comprising heat exchanger bundles, pipework, valves, pipe supports, thermal insulation, instrumentation, cabling and containment;
- (b) a boiler secondary air preheating system comprising heat exchanger bundles, pipework, valves, pipe supports, thermal insulation, instrumentation, cabling and containment; and
- (c) mechanical modifications to the actuated steam turbine inlet control valve to allow steam capacity to be increased.

#### **Associated development**

Associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act in connection with and in addition to Work No. 1 including temporary construction laydown areas, contractor facilities, vehicle parking and cycle storage facilities, to the extent that it does not otherwise form part of that work, as (i) may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and (ii) falls within the scope of the works assessed in the environmental statement.

**PART 1**  
**REQUIREMENTS**

**Interpretation**

1.—(1) In this Schedule –

“condition 17 of the certified TCPA permission” means condition 17 as it appears in the TCPA permission certified pursuant to article 10(1) which states-

17. Prior to the commencement of development, a Construction Environmental Management Plan shall be submitted to, approved in writing by, and deposited with the Local Planning Authority. The statement shall include provision for:

- (a) the parking of site operatives and visitors vehicles;
- (b) loading and unloading of plant and materials;
- (c) management of construction traffic and access/haul routes and controlled hours of delivery including:
  - 1) Any alterations to existing points of access between the application site and the highway shall be formed, laid out and constructed in accordance with specifications and with sightlines to be submitted in further detail and approved by the Local Planning Authority before the scheme commenced on site.
  - 2) Specification of haul route(s) and of any temporary signage to be provided to identify the route and promote its safe use,
  - 3) Identification of the times when major items of plant and equipment are to be transported to and from the site.
  - 4) Identification of the routing strategy and procedures for the notification and conveyance of an abnormal or indivisible load authorised by the Highways Agency pursuant to the Road Vehicles (Authorisation of Special Types) (General) Order 2003.
  - 5) Wheel washing facilities and arrangements for removal of mud from public highway.
  - 6) Proposals for communicating information with its terms, subject to any variation which has prior written approval of the Local Planning Authority in conjunction with the Highways Agency and Thames Valley Police.
- (d) Storage of plant and materials to be used.
- (e) A scheme for recycling /disposal of waste from demolition and construction works.
- (f) Before the site works and construction of the development commences, details of all temporary external lighting shall be submitted to and approved in writing by the Local Planning Authority and shall be carried out in accordance with the approved details.
- (g) Noise and Vibration Management and Monitoring Plan with quarterly reporting to the Local Planning Authority that covers all demolition and construction activity during construction phase. Noise monitoring locations and noise limits are required to be agreed with the Local Planning Authority prior to the construction phase to safeguard adjacent neighbouring properties from significance annoyances in accordance with British Standard:6472-1 and 5228.
- (h) Dust Management and Monitoring Plan with quarterly reporting to the Local Planning Authority that covers all demolition and construction activity during construction phase. Dust monitoring locations and dust limits are required to be agreed with the Local Planning Authority prior to the construction phase.

- (i) Spillage Plan to be submitted to the Local Planning Authority that will cover all construction and demolition activities to protect the environment from pollution. The commencement of site construction works shall not take place until a scheme detailing the method to be used for pile driving has been submitted to and approved by the Local Planning Authority.
- (j) Noise Control During Construction - During the course of the site preparation, demolition and construction phase of the project there shall be a clear plan to control noisy activities during the daytime period. Noisy activities are those that are likely to give rise to noise levels in excess of 100dB(A) sound power level at the source.

There shall be no noisy activities, unless otherwise approved with Slough Borough Council, between the hours of 6:00pm and 7:00am Monday to Friday and at no time during the weekend.

The following plant/activities are listed by way of example of those tools or operations likely to be included in those restricted to daytime period only:

- impact wrenches;
- sheet piling (auger piling would be acceptable);
- concrete scabbling; and
- concrete jack hammering.

In addition any site preparation, demolition or construction activity that may be audible at the nearest residential receptors shall be carried out as far as is reasonably practicable during daytime periods (any day). Any known periods of prolonged out of hours activity that are necessary, e.g. a prolonged concrete pour, that may give rise to noise shall, if approved by Slough Borough Council, be communicated to local residents in advance of the activity taking place.;

“certified construction environmental management plan” means the details approved pursuant to condition 17 of the certified TCPA permission and certified pursuant to article 10(1);

“details approved” means details approved pursuant to conditions of the TCPA permission and further TCPA permission as at 26 May 2023, or subsequently in accordance with requirement 9;

(2) references to “development”, “authorised development” and “plant” in the conditions attached to the TCPA permission or further TCPA permission identified in this Schedule shall as the context requires be interpreted as including the authorised development and references to “construction”, “commissioning”, “use”, “operation” and “decommissioning” shall as the context requires be interpreted as including the construction, commissioning, use, operation and decommissioning of the authorised development.

### **Commencement of the authorised development**

2. The authorised development must commence within five years of the date on which this Order comes into force.

### **Construction**

3.—(1) The authorised development shall be constructed in accordance with –

- (a) the requirements of conditions 11 (prevention of pollution), 20 (noise levels), 24 (access) and 26 (drainage) of the TCPA permission; and
- (b) the details approved, including any revisions approved, pursuant to conditions 17 (construction environmental management plan) and 21 (construction compound details) of the TCPA permission.



### **Local liaison group**

4. The local liaison group which was established and operates in accordance with condition 16 of the TCPA permission shall incorporate the authorised development within its remit.

### **Commissioning**

- 5.—(1) The authorised development shall not be commissioned unless the requirements of:
- (a) conditions 9 (contaminated land mitigation and remediation strategy verification report), 29 (noise monitoring programme), 36 (highways scheme) and 37 (pest scheme) of the TCPA permission; and
  - (b) condition 6 (parking spaces) of the further TCPA permission

have been satisfied.

### **Operating**

- 6.—(1) The authorised development shall be operated in accordance with -
- (a) the requirements of conditions 20 (noise levels), 23 (acceptable fuel type), 28 (dust), 30 (fuel deliveries), 31 (fuel deliveries), 33 (sound systems), 34 (waste hierarchy) and 35 (waste transfer operations) of the TCPA permission;
  - (b) the details approved, including any revisions approved, pursuant to conditions 4 (landscaping and tree planting scheme), 9 (contaminated land mitigation and remediation strategy verification report), 10 (surface water drainage), 13 (odour management plan), 18 (fauna management plan), 29 (noise monitoring programme), 36 (highways scheme) and 37 (pest scheme) of the TCPA permission; and
  - (c) the details approved, including any revisions approved, pursuant to conditions 3 (cycle parking) and 4 (living wall) of the further TCPA permission.

### **Decommissioning**

7. The authorised development shall be decommissioned in accordance with the requirements of condition 22 (decommissioning) of the TCPA permission.

## **PART 2**

### **PROCEDURE FOR APPROVAL OF VARIATIONS AND DETAILS AND REVISIONS TO DETAILS APPROVED**

#### **Approved variation**

8.—(1) The undertaker must submit to the relevant planning authority any application for an approved variation in accordance with this requirement.

(2) When submitting an application to the relevant planning authority for an approved variation, the undertaker must provide written confirmation that the application does not give rise to any materially new or materially different environmental effects to those identified in the environmental statement in respect of the authorised development.

(3) The relevant planning authority may only positively determine an application for an approved variation if it is satisfied with the undertaker's confirmation under sub-paragraph (2).

#### **Approved details and revisions to details approved**

9.—(1) With regard to any details requiring approval pursuant to the TCPA permission or further TCPA permission, the undertaker must not submit to the relevant planning authority for

approval any details or revisions to details approved otherwise than in accordance with this requirement.

(2) When submitting an application to the relevant planning authority in accordance with sub-paragraph (1), the undertaker must provide written confirmation that the application does not give rise to any materially new or materially different environmental effects to those identified in the environmental statement in respect of the authorised development.

(3) The relevant planning authority may only positively determine an application for approval pursuant to this requirement if it is satisfied with the undertaker's confirmation under sub-paragraph (2).

(4) Following any approval by the relevant planning authority of any revisions to any details approved pursuant to the TCPA permission or the further TCPA permission, the details approved are taken to include the revisions approved pursuant to this requirement.

## PART 3

### DISCHARGE OF REQUIREMENTS

#### **Applications made under requirements**

**10.**—(1) Where an application has been made to the relevant planning authority for any agreement or approval required pursuant to a requirement included in this Order, the relevant planning authority must give notice to the undertaker of their decision, including the reasons, on the application, within a period of 8 weeks beginning with -

- (a) the day immediately following that on which the application is received by the relevant planning authority; or
- (b) such longer period as may be agreed by the undertaker and the relevant planning authority.

#### **Further information**

**11.**—(1) Where an application has been made under paragraph 10 the relevant planning authority has the right to request such reasonable further information from the undertaker as is necessary to enable it to consider the application.

(2) If the relevant planning authority considers further information is needed, and the requirement does not specify that consultation with a requirement consultee is required, it must, within 14 days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the requirement indicates that consultation must take place with a consultee the relevant planning authority must issue the consultation to the requirement consultee within 5 working days of receipt of the application. Where the consultee requires further information they must notify the relevant planning authority in writing specifying the further information required within 14 days of receipt of the consultation. The relevant planning authority must notify the undertaker in writing specifying any further information requested by the consultee within 5 working days of receipt of such a request.

(4) In the event that the relevant planning authority does not give such notification as specified in sub-paragraph (2) or (3) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

### **Provision of information by requirement consultees**

12.—(1) Any requirement consultee who receives a consultation under paragraph 11(3) must respond to that request within 21 days from receipt unless sub paragraph (2) of this paragraph applies.

(2) Where any requirement consultee requests further information in accordance with the timescales set out in paragraph 11(3) then they must respond to the consultation within 10 working days from the receipt of the further information requested.

### **Fees**

13.—(1) Where an application is made to the relevant planning authority for agreement or approval in respect of a requirement the fee for the discharge of conditions as specified in the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012(a) (or any regulations replacing the same) is to be paid by the undertaker to the relevant planning authority in accordance with these regulations.

(2) Any fee paid under this Schedule must be refunded to the undertaker within 4 weeks of the application being rejected as invalidly made.

### **Appeal**

14.—(1) The undertaker may appeal in the event that -

- (a) the relevant planning authority refuses an application for any consent, agreement or approval required by a requirement included in this Order or grants it subject to conditions; or
- (b) the relevant planning authority does not give notice of its decision to the undertaker within the time period specified in paragraph 10.

(2) The appeal process is to be as follows—

- (a) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the relevant planning authority and any requirement consultee required to be consulted pursuant to the requirement which is the subject of the appeal (together with the undertaker, these are the “appeal parties”);
- (b) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person (“the appointed person”) to determine the appeal and must notify the appeal parties of the identity of the appointed person and the address to which all correspondence for their attention should be sent, the date of such notification being the “start date” for the purposes of this sub-paragraph (2);
- (c) the relevant planning authority and any requirement consultee required to be consulted pursuant to the requirement which is the subject of the appeal must submit written representations to the appointed person in respect of the appeal within ten working days of the start date and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
- (d) the appeal parties must make any counter-submissions to the appointed person within ten working days of receipt of written representations pursuant to sub-paragraph (2)(c); and
- (e) the appointed person must make their decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable and in any event within thirty working days of the deadline for the receipt of counter-submissions pursuant to sub-paragraph (2)(d).

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(a) S.I. 2012/2920.

(3) The appointment of the person pursuant to sub-paragraph (2)(b) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(4) In the event that the appointed person considers that further information is necessary to consider the appeal, the appointed person must notify the appeal parties in writing specifying the further information required and the date by which the information is to be submitted and the appointed person must make any notification and set the date for the receipt of such further information having regard to the timescales in sub-paragraph (2).

(5) Any further information required under sub-paragraph (4) must be provided by the appeal party from whom the further information was requested to the appointed person and other appeal parties, the relevant planning authority and any consultee required to be consulted pursuant to the requirement the subject of the appeal on the date specified by the appointed person (the “specified date”) on or before that day. The revised timetable for the appeal must require submission of written representations to the appointed person within ten working days of the specified date but otherwise is to be in accordance with the process and time limits set out in sub paragraphs (2)(c) to (2)(e).

(6) On an appeal under this subparagraph, the appointed person may—

(a) allow or dismiss the appeal; or

(b) reverse or vary any part of the decision of the relevant planning authority (whether the appeal relates to that part of it or not).

(7) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the relevant time limits.

(8) The appointed person may proceed to a decision even though no written representations have been made within the relevant time limits, if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case and may deal with the application as if it had been made to the appointed person in the first instance.

(9) The decision of the appointed person on an appeal is to be final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.

(10) If an approval is given by the appointed person pursuant to this article, it is to be deemed to be an approval for the purpose of Schedule 2 as if it had been given by the relevant planning authority. The relevant planning authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) is not to be taken to affect or invalidate the effect of the appointed person’s determination.

(11) Save where a direction is given pursuant to sub-paragraph (12) requiring the costs of the appointed person to be paid by the relevant planning authority, the reasonable costs of the appointed person must be met by the undertaker.

(12) On application by the relevant planning authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to Planning Practice Guidance: Appeals (March 2014) or any circular or guidance which may from time to time replace it.

#### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order authorises SSE Slough Multifuel Limited (referred to in this Order as the undertaker) to construct and maintain an extension to the existing Slough multifuel generating station and to operate a generating station within the Order limits at a capacity of over 50MW (up to 60MW). This Order imposes requirements in connection with the authorised development.

**2023 No. 0000**

**INFRASTRUCTURE PLANNING**

**THE SLOUGH MULTIFUEL EXTENSION ORDER 2023**

*Made* - - - - *28th November 2023*

*Coming into force* *20th December 2023*

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**SCHEDULES**

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PART 1 — REQUIREMENTS

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SCHEDULE 3 — DISCHARGE OF REQUIREMENTS

An application has been made to the Secretary of State under section 37 of the Planning Act 2008(a) (“the 2008 Act”) and in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009(b) for an Order granting development consent.

The application was examined by the Examining Authority appointed by the Secretary of State pursuant to Chapter 3 of Part 6 of the 2008 Act and carried out in accordance with Chapter 4 of Part 6 of the 2008 Act and with the Infrastructure Planning (Examination) Procedure Rules 2010(c). The Examining Authority has submitted a report to the Secretary of State under section 83(1) of the 2008 Act.

The Secretary of State has considered the report and recommendation of the Examining Authority, has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(d) and, as a national policy statement has effect in relation to the proposed development, has had regard to the documents and matters referred to in section 104(2)(e) of the 2008 Act.

The Secretary of State, having decided the application, has determined to make an Order granting development consent for the development described in the application on terms that in the opinion of the Secretary of State are not materially different from those proposed in the application.

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 120(f) and 140 of the 2008 Act, makes the following Order—

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- (a) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of, and Part 1 of Schedule 13 to, the Localism Act 2011 (c. 20).
- (b) S.I. 2009/2264.
- (c) S.I. 2010/103, amended by S.I. 2012/635.
- (d) S.I. 2017/572.
- (e) Section 104(2) was amended by section 58(5) of the Marine and Coastal Access Act 2009 (c. 23) and by Schedule 13, paragraph 49 to the Localism Act 2011 (c. 20).
- (f) Section 114 was amended by paragraph 55 of Part 1 of Schedule 13 to the Localism Act 2011 (c. 20). Section 115 was amended by paragraph 56 of Part 1 of Schedule 13 and Part 20 of Schedule 25 to the Localism Act 2011 (c. 20), section 160(2) to (6) of the Housing and Planning Act 2016 (c. 22) and section 43 of the Wales Act 2017 (c. 4). Section 120 was amended by section 140 and paragraph 60 of Part 1 of Schedule 13 to the Localism Act 2011 (c. 20).

# PART 1

## Preliminary

### Citation and commencement

1. This Order may be cited as the Slough Multifuel Extension Order 2023 and comes into force on 20th December 2023.

### Interpretation

2.—(1) In this Order—

“the 1990 Act” means the Town and Country Planning Act 1990(a);

“the 2008 Act” means the Planning Act 2008(b);

“address” includes any number or address for the purposes of electronic transmission;

“application” means the application made under section 37 of the 2008 Act for an order granting development consent for the authorised development;

“approved generating station plans” means the plans named as the (i) East Elevation of Consented Development and Proposed Project and (ii) Plan and East Elevation of Consented Development and Project certified as the approved generating station plans by the Secretary of State for purposes of this Order and submitted with the application;

“approved variation” means any variations to the TCPA permission conditions or further TCPA permission conditions referred to in requirements 3, 4, 5, 6 and 7 granted by the relevant planning authority pursuant to section 73 or section 96A of the 1990 Act and in accordance with requirements 8 and 9;

“authorised development” means the development and associated development described in Schedule 1 (authorised development) and any other development authorised by this Order which is development within the meaning of section 32 (meaning of “development”) of the 2008 Act;

“building” includes any structure or erection or any part of a building, structure or erection;

“commence” means beginning to carry out any material operation, as defined in section 155 of the 2008 Act (when development begins), forming part, or carried out for the purposes, of the authorised development;

“construction environmental management plan” means the document certified as the construction environmental management plan by the Secretary of State for the purposes of this Order and submitted with the application including all appendices thereto;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order and submitted with the application including all appendices thereto;

“existing generating station” means the generating station within the Order limits comprised of development authorised by planning permission issued pursuant to the 1990 Act including the TCPA permission and further TCPA permission;

“extended generating station” means a generating station within the Order limits which includes—

- (a) the extension of a generating station comprised of the authorised development; and
- (b) the existing generating station;

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(a) 1990 c. 8.  
(b) 2008 c. 29.

“further TCPA permission” means planning permission granted by Slough Borough Council with reference P/00987/025 dated 2 June 2017, and any approved variations thereto;

“land ownership and interests schedule” means the document certified as the land ownership and interests schedule by the Secretary of State for the purposes of this Order and submitted with the application including all appendices thereto;

“land plan” means the plan certified as the land plan by the Secretary of State for the purposes of this Order;

“maintain” in relation to any part of the authorised development includes inspect, upkeep, repair, adjust, alter, remove, improve, refurbish, reconstruct and replace provided such works do not give rise to any materially new or materially different environmental effects to those identified in the environmental statement, and any derivative of “maintain” is to be construed accordingly;

“Order limits” means the limits shown on the works plan within which the authorised development may be carried out;

“relevant planning authority” means Slough Borough Council;

“requirement consultee” means any body or authority named in a TCPA permission condition referred to in the requirements in Schedule 2 as a body to be consulted by the relevant planning authority in discharging the TCPA permission condition;

“requirements” means, or a reference to a numbered requirement is to, those matters set out in Schedule 2 (requirements) to this Order;

“TCPA permission” means planning permission granted by Slough Borough Council with reference P/00987/051 dated 1 February 2022, and any approved variations thereto;

“undertaker” means SSE Slough Multifuel Limited (company number 11271136) or any person who has the benefit of this Order in accordance with articles 6 (benefit of the Order) and 7 (consent to transfer benefit of the Order);

“works plan” means the plan certified as the works plan by the Secretary of State for the purposes of this Order.

(2) All distances, directions, capacities and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development shall be taken to be measured along that work.

(3) Any reference in this Order to a work identified by the number of the work is to be construed as a reference to the work of that number authorised by this Order and shown on the works plan.

(4) The expression “includes” is to be construed without limitation unless the contrary intention appears.

(5) References in this Order to any statutory body includes that body’s successor bodies as from time to time have jurisdiction over the authorised development.

## PART 2

### Principal powers

#### **Development consent etc. granted by the Order**

3. Subject to the provisions for this Order and to the requirements in Schedule 2 the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

#### **Authorisation of the operation of the extended generating station**

4.—(1) Subject to the provisions of this Order and the requirements in Schedule 2 the undertaker is authorised to operate the extended generating station.



(2) Paragraph (1) does not relieve the undertaker of any requirement to obtain any permit or licence under any other legislation that may be required from time to time to authorise the operation of the extended generating station.

#### **Power to maintain the authorised development**

5. The undertaker may at any time maintain the authorised development, except to the extent that this Order or an agreement made under this Order provides otherwise.

#### **Benefit of the Order**

6. Subject to article 7 (consent to transfer benefit of the Order), the provisions of this Order have effect solely for the benefit of the undertaker.

#### **Consent to transfer benefit of the Order**

7.—(1) Except where paragraph (4) applies, the undertaker may with the written consent of the Secretary of State—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; or
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed between the undertaker and the lessee.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (3), include references to the transferee or lessee.

(3) Where the undertaker has transferred any benefit, or for the duration of any period during which the undertaker has granted any benefit, under paragraph (1)—

- (a) the benefit transferred or granted (“the transferred benefit”) includes any rights that are conferred, and any obligations that are imposed, by virtue of the provisions to which the benefit relates;
- (b) the transferred benefit resides exclusively with the transferee or, as the case may be, the lessee and the transferred benefit is not enforceable against the undertaker; and
- (c) the exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(4) The consent of the Secretary of State is not required where the transferee or lessee is the holder of a licence under section 6 of the Electricity Act 1989(a).

(5) Where the consent of the Secretary of State is not required under paragraph (4) the undertaker must provide written notification to the Secretary of State and the relevant planning authority at least 14 days prior to transferring or granting any benefit pursuant to this article.

(6) A notice required under paragraph (5) must—

- (a) state—
  - (i) the name and contact details of the person to whom the benefit of the provisions will be transferred or granted;
  - (ii) the date on which the transfer will take effect;
  - (iii) the provisions to be transferred or granted; and

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(a) 1989 c. 29.

- (iv) the restrictions, liabilities and obligations that will apply to the person exercising the powers transferred or granted; and
- (b) be accompanied by a copy of the document effecting the transfer or grant signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted.

**Planning permission**

**8.**—(1) If planning permission is issued pursuant to the 1990 Act for development any part of which is within the Order limits following the publication of this Order that is—

- (a) not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; and
- (b) required to complete or enable the construction, use or operation of any part of the development authorised by this Order or of the extended generating station,

then the carrying out, use, operation or decommissioning of such development pursuant to the terms of the planning permission is not to constitute a breach of the terms of this Order.

(2) Anything done by the undertaker in accordance with this Order does not constitute a breach of any planning permission issued pursuant to the 1990 Act.

## PART 3

### Miscellaneous and general

**Certification of plans and documents, etc.**

**9.**—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the land ownership and interests schedule;
- (b) the land plan;
- (c) the works plan;
- (d) the environmental statement;
- (e) the approved generating station plans named as follows—
  - (i) East Elevation of Consented Development and Proposed Project; and
  - (ii) Plan and East Elevation of Consented Development and Project;
- (f) the TCPA permission granted by Slough Borough Council with reference P/00987/051 dated 1 February 2022;
- (g) the further TCPA permission granted by Slough Borough Council with reference P/00987/025 dated 2 June 2017; and
- (h) the construction environmental management plan,

for certification that they are true copies of the documents referred to in this Order.

(2) Where the construction environmental management plan, TCPA permission or the further TCPA permission are amended, the undertaker must submit a copy of that amended plan or document, as soon as practicable after the approval of the amendment, to the Secretary of State to be certified under paragraph (1).

(3) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

(4) Where a plan or document certified under paragraph (1)—

- (a) refers to a provision of this Order (including any specified requirement) when it was in draft form; and

- (b) identifies that provision by number, or combination of numbers and letters, which is different from the number, or combination of numbers and letters by which the corresponding provision of this Order is identified in the Order as made,

the reference in the plan or document concerned must be construed for the purposes of this Order as referring to the provision (if any) corresponding to that provision in the Order as made.

### **Arbitration**

**10.**—(1) Any difference under any provision of this Order, unless otherwise provided for in this Order or unless otherwise agreed in writing between the parties, shall be referred to and settled in arbitration by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

(2) For the avoidance of doubt, any matter for which the consent or approval of the Secretary of State is required under any provision of this Order shall not be subject to arbitration.

### **Service of notices**

**11.**—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (6) to (8), by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978(a) (references to service by post) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at that time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having an interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier” of the land (describing it); and
- (b) either leaving it in the hands of the person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;

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(a) 1978 c. 30.

- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or any part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of an electronic transmission by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

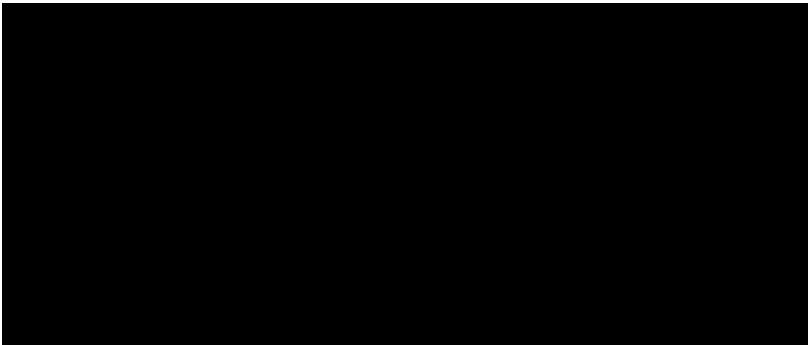
- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

#### **Procedure in relation to discharge of requirements**

12. Schedule 3 (discharge of requirements) has effect in relation to all consents, agreements or approvals required, granted, refused or withheld in relation to the requirements.

Signed by authority of the Secretary of State for Energy Security and Net Zero



Deputy Director Energy Infrastructure Planning

28th November 2023

Department for Energy Security and Net Zero

## SCHEDULES

### SCHEDULE 1

Article 2

#### AUTHORISED DEVELOPMENT

##### **In the County of Berkshire**

A nationally significant infrastructure project as defined in sections 14(1)(a) and 15 of the 2008 Act and associated development within the meaning of section 115(2) of the 2008 Act—

##### **Work No. 1**

An extension to the Slough Multifuel combined heat and power generating station with the effect that, once extended, the extended generating station will have a gross installed generating capacity of up to 60MW, comprising the following works—

- (a) a boiler primary air preheating system comprising heat exchanger bundles, pipework, valves, pipe supports, thermal insulation, instrumentation, cabling and containment;
- (b) a boiler secondary air preheating system comprising heat exchanger bundles, pipework, valves, pipe supports, thermal insulation, instrumentation, cabling and containment; and
- (c) mechanical modifications to the actuated stream turbine inlet control valve to allow steam capacity to be increased.

##### **Associated development**

Associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act in connection with and in addition to Work No. 1 including temporary construction laydown areas, contractor facilities, vehicle parking and cycle storage facilities, to the extent that it does not otherwise form part of that work, as (i) may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and (ii) falls within the scope of the works assessed in the environmental statement.

### SCHEDULE 2

Article 2

#### REQUIREMENTS

##### PART 1

##### REQUIREMENTS

##### **Interpretation**

1.—(1) In this Schedule, “details approved” means details approved pursuant to conditions of the TCPA permission and further TCPA permission as at 26 May 2023, or subsequently in accordance with requirement 9.

(2) References to “development”, “authorised development” and “plant” in the conditions attached to the TCPA permission or further TCPA permission identified in this Schedule shall as the context requires be interpreted as including the authorised development and references to “construction”, “commissioning”, “use”, “operation” and “decommissioning” shall as the context requires be interpreted as including the construction, commissioning, use, operation and decommissioning of the authorised development.

## **Commencement of the authorised development**

2. The authorised development may not be commenced after the expiration of 5 years from the date this Order comes into force.

## **Construction**

3.—(1) The authorised development shall be constructed in accordance with—

- (a) conditions 11 (prevention of pollution), 20 (noise levels), 24 (access) and 26 (drainage) of the TCPA permission; and
- (b) the details approved, including any revisions approved, pursuant to conditions 17 (construction environmental management plan), 18 (fauna management plan) and 21 (construction compound details) of the TCPA permission.

(2) In the event that works involving the removal or anticipated disturbance of any wall cotoneaster vegetation are required in connection with the construction of any part of the authorised development, works may not commence in respect of the construction of that part until a biosecurity strategy detailing measures to prevent the spread of wall cotoneaster during the construction of that part has been submitted to and approved by the relevant planning authority.

(3) Where a biosecurity strategy is approved pursuant to paragraph (2) above, that biosecurity strategy must be implemented as approved.

## **Local liaison group**

4. The local liaison group which was established and operates in accordance with condition 16 of the TCPA permission shall incorporate the authorised development within its remit.

## **Commissioning**

5. The authorised development shall not be commissioned unless—

- (a) conditions 9 (contaminated land mitigation and remediation strategy verification report), 29 (noise monitoring programme), 36 (highways scheme) and 37 (pest scheme) of the TCPA permission; and
- (b) condition 6 (parking spaces) of the further TCPA permission,

have been satisfied.

## **Operating**

6. The authorised development shall be operated in accordance with—

- (a) conditions 20 (noise levels), 23 (acceptable fuel type), 28 (dust), 30 (fuel deliveries), 31 (fuel deliveries), 33 (sound systems), 34 (waste hierarchy) and 35 (waste transfer operations) of the TCPA permission;
- (b) the details approved, including any revisions approved, pursuant to conditions 4 (landscaping and tree planting scheme), 9 (contaminated land mitigation and remediation strategy verification report), 10 (surface water drainage), 13 (odour management plan), 18 (fauna management plan), 29 (noise monitoring programme), 36 (highways scheme) and 37 (pest scheme) of the TCPA permission; and
- (c) the details approved, including any revisions approved, pursuant to conditions 3 (cycle parking) and 4 (living wall) of the further TCPA permission.

## **Decommissioning**

7. The authorised development shall be decommissioned in accordance with condition 22 (decommissioning) of the TCPA permission.

## PART 2

### PROCEDURE FOR APPROVAL OF VARIATIONS AND DETAILS AND REVISIONS TO DETAILS APPROVED

#### Approved variation

8.—(1) The undertaker must submit to the relevant planning authority any application for an approved variation in accordance with this requirement.

(2) When submitting an application to the relevant planning authority for an approved variation, the undertaker must provide written confirmation to the relevant planning authority that the application does not give rise to any materially new or materially different environmental effects to those identified in the environmental statement in respect of the authorised development.

(3) The relevant planning authority may only positively determine an application for an approved variation if it is satisfied with the undertaker's confirmation under sub-paragraph (2).

#### Approved details and revisions to details approved

9.—(1) With regard to any details requiring approval pursuant to the TCPA permission or further TCPA permission, the undertaker must not submit to the relevant planning authority for approval any details or revisions to details approved otherwise than in accordance with this requirement.

(2) When submitting an application to the relevant planning authority in accordance with sub-paragraph (1), the undertaker must provide written confirmation to the relevant planning authority that the application does not give rise to any materially new or materially different environmental effects to those identified in the environmental statement in respect of the authorised development.

(3) The relevant planning authority may only positively determine an application for approval pursuant to this requirement if it is satisfied with the undertaker's confirmation under sub-paragraph (2).

(4) Following any approval by the relevant planning authority of any revisions to any details approved pursuant to the TCPA permission or the further TCPA permission, the details approved are taken to include the revisions approved pursuant to this requirement.

## SCHEDULE 3

Article 12

### DISCHARGE OF REQUIREMENTS

#### Applications made under requirements

1. Where an application has been made to the relevant planning authority for any consent, agreement or approval required pursuant to a requirement included in this Order, the relevant planning authority must give notice to the undertaker of their decision, including the reasons, on the application, within a period—

- (a) of 8 weeks beginning with the day immediately following that on which the application is received by the relevant planning authority; or
- (b) such longer period as may be agreed by the undertaker and the relevant planning authority.

#### Further information

2.—(1) Where an application has been made under paragraph 1 the relevant planning authority has the right to request such reasonable further information from the undertaker as is necessary to enable it to consider the application.

(2) If the relevant planning authority considers further information is needed, and consultation with a requirement consultee is not required, it must, within 14 days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If consultation with a requirement consultee is required, the relevant planning authority must issue the consultation to the requirement consultee within 5 working days of receipt of the application. Where the consultee requires further information they must notify the relevant planning authority in writing specifying the further information required within 14 days of receipt of the consultation. The relevant planning authority must notify the undertaker in writing specifying any further information requested by the consultee within 5 working days of receipt of such a request.

(4) In the event that the relevant planning authority does not give such notification as specified in sub-paragraph (2) or (3) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

### **Provision of information by requirement consultees**

3.—(1) Any requirement consultee who receives a consultation under paragraph 2(3) must respond to that request within 21 days from receipt unless sub-paragraph (2) of this paragraph applies.

(2) Where any requirement consultee requests further information in accordance with the timescales set out in paragraph 2(3) then they must respond to the consultation within 10 working days from the receipt of the further information requested.

### **Fees**

4.—(1) Where an application is made to the relevant planning authority for consent, agreement or approval in respect of a requirement, the fee for the discharge of conditions as specified in the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012(a) (or any regulations replacing the same) is to be paid by the undertaker to the relevant planning authority in accordance with these regulations.

(2) Any fee paid under this Schedule must be refunded to the undertaker within 4 weeks of the application being rejected as invalidly made.

### **Appeal**

5.—(1) The undertaker may appeal in the event that—

- (a) the relevant planning authority refuses an application for any consent, agreement or approval required by a requirement included in this Order or grants it subject to conditions; or
- (b) the relevant planning authority does not give notice of its decision to the undertaker within the time period specified in paragraph 1.

(2) The appeal process is to be as follows—

- (a) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the relevant planning authority and any requirement consultee required to be consulted pursuant to the requirement which is the subject of the appeal (together with the undertaker, these are the “appeal parties”);
- (b) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person (“the appointed person”) to determine the appeal and must notify

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(a) S.I. 2012/2920.



the appeal parties of the identity of the appointed person and the address to which all correspondence for their attention should be sent, the date of such notification being the “start date” for the purposes of this sub-paragraph (2);

- (c) the relevant planning authority and any requirement consultee required to be consulted pursuant to the requirement which is the subject of the appeal must submit written representations to the appointed person in respect of the appeal within 10 working days of the start date and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
- (d) the appeal parties must make any counter-submissions to the appointed person within 10 working days of receipt of written representations pursuant to sub-paragraph (2)(c); and
- (e) the appointed person must make their decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable and in any event within 30 working days of the deadline for the receipt of counter-submissions pursuant to sub-paragraph (2)(d).

(3) The appointment of the person pursuant to sub-paragraph (2)(b) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(4) In the event that the appointed person considers that further information is necessary to consider the appeal, the appointed person must notify the appeal parties in writing specifying the further information required and the date by which the information is to be submitted and the appointed person must make any notification and set the date for the receipt of such further information having regard to the timescales in sub-paragraph (2).

(5) Any further information required under sub-paragraph (4) must be provided by the appeal party from whom the further information was requested to the appointed person and other appeal parties on or before the date specified by the appointed person (the “specified date”). Any written representations concerning matters contained in the further information must be submitted to the appointed person within 10 working days of the specified date.

(6) On an appeal under this paragraph, the appointed person may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the relevant planning authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it has been made to the appointed person in the first instance.

(7) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the relevant time limits.

(8) The appointed person may proceed to a decision even though no written representations have been made within the relevant time limits, if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(9) The decision of the appointed person on an appeal is to be final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.

(10) If an approval is given by the appointed person pursuant to this article, it is to be deemed to be an approval for the purpose of Schedule 2 (requirements) as if it had been given by the relevant planning authority. The relevant planning authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) is not to be taken to affect or invalidate the effect of the appointed person’s determination.

(11) Save where a direction is given pursuant to sub-paragraph (12) requiring the costs of the appointed person to be paid by the relevant planning authority, the reasonable costs of the appointed person must be met by the undertaker.

(12) On application by the relevant planning authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on

which it is to be made, the appointed person must have regard to Planning Practice Guidance: Appeals (March 2014) or any circular or guidance which may from time to time replace it.

#### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order authorises SSE Slough Multifuel Limited (referred to in this Order as the undertaker) to construct and maintain an extension to the existing Slough Multifuel combined heat and power generating station and to operate a generating station within the Order limits at a capacity of over 50MW (up to 60MW). This Order imposes requirements in connection with the authorised development.