Department for Business, Energy & Industrial Strategy

Department for Business, Energy & Industrial Strategy

1 Victoria Street
London
SW1H 0ET

Millbrook Power Limited
Drax Power Station
Drax
Selby
Yorkshire YO8 8PH

T: +44 (0) 300 068 5677
E: gareth.leigh@beis.gov.uk
W: www.gov.uk

Our Ref: EN010068

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Dear Sir or Madam,

PLANNING ACT 2008

APPLICATION FOR THE MILLBROOK GAS FIRED GENERATING STATION ORDER

1. Introduction

1.1 I am directed by the Secretary of State for Business, Energy and Industrial Strategy ("the Secretary of State") to advise you that consideration has been given to the report dated 13 December 2018 of the Examining Authority ("the ExA"), Jonathan Green, who conducted an examination into the application ("the Application") submitted on 23 October 2017 by Millbrook Power Limited ("the Applicant") for a Development Consent Order ("the Order") under section 37 of the Planning Act 2008 ("the 2008 Act") for the Millbrook open cycle gas fired ("OCGT") 'peaking' power station generating plant and associated development ("the proposed Development").

1.2 The Application was accepted for examination on 20 November 2017. The examination began on 13 March 2017 and was completed on 13 September 2018. A number of changes were made to the Application during the examination. The details of these changes were made available to interested parties and examined by the ExA [ER 2.4 and ER 3.3.8].

1.3 The Order, as applied for, would grant development consent for the construction and operation of an OCGT 'peaking' generating station of up to 299 megawatts ("MW") on land located on land at and in the vicinity of Rookery South pit located near Stewartby, Bedfordshire. The proposed Development would also include:

- one gas turbine generator with one exhaust gas flue stack and supporting components;
- a new purpose-built access road;
- a temporary construction compound;
- a new underground gas pipeline connection, approximately 1.8 km in length (the 'Pipeline') to bring natural gas from the National Transmission System (the "Gas Connection"). The Gas Connection also incorporates an Above Ground Installation ("AGI") at the point of connection to the National Transmission System; and
- a new underground electrical connection of approximately 500m in length ("the Electrical Connection") to export power from the generating equipment to the National Grid Electricity Transmission System's ("NETS") existing Sundon to Grendon transmission line.

1.4 Published alongside this letter on the Planning Inspectorate's website[1] is a copy of the ExA's Report of Findings and Conclusions and Recommendation to the Secretary of State ("the ExA Report"). The ExA's findings and conclusions are set out in Chapter 4 to 8 of the ExA Report, and the ExA's summary of conclusions and recommendation is at Chapter 9.

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:

- compulsory acquisition;
- design, layout and visibility;
- development consent order;
- economic and social impacts;
- environmental impact assessment;
- environmental issues;
- habitats, ecology and nature conservation;
- historic environment;
- impacts from the operation of the development; and
- transport and traffic.

[1] https://infrastructure.planninginspectorate.gov.uk/projects/eastern/millbrook-power/

2.2 For the reasons set out in the Summary of Findings and Conclusions (Chapter 9) of the ExA Report, the ExA recommends that the Order be made, as set out in Appendix D to the ExA Report [ER 9.2.1].

2.3 The Secretary of State notes that the application was amended during its consideration by the ExA, to take account of the fact that elements of the access road from Green Lane had already been completed by the owners of a neighbouring site in reliance upon the Development Consent contained in the Rookery South (Resource Recovery Facility) Order 2011. The Secretary of State agrees with the ExA, for the reasons he gives [ER 3.3.6 to 3.3.9], that these changes should be accepted as part of the proposed development.

3. Summary of the Secretary of State's Decision

3.1 The Secretary of State has decided under section 114 of the 2008 Act to make, with modifications, an Order granting development consent for the proposals in the Application. This letter is a statement of reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and the notice and statement required by regulation 23(2)(c) and (d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 ("2009 Regulations").

4. Secretary of State's Consideration of the Application

4.1 The Secretary of State's consideration of the ExA Report is set out in the following paragraphs. All numbered references, unless otherwise stated, are to paragraphs of the ExA Report.

4.2 The Secretary of State has had regard to the Local Impact Reports ("LIR") submitted by Central Bedfordshire Council ("CBC") and Bedford Borough Council ("BBC") [ER 3.2 and ER 4.2.1], the Development Plan [ER 3.3], environmental information as defined in Regulation 2(1) of the 2009 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 2008 Act. In making the decision, the Secretary of State has complied with all applicable legal duties and has not taken account of any matters which are not relevant to the decision.

4.3 The Secretary of State notes 20 relevant representations were made by statutory authorities, non-statutory authorities and local residents and businesses. Written Representations, responses to questions and oral submissions made during the Examination were also taken into account by the ExA. Except as indicated otherwise in the paragraphs below, the Secretary of State agrees with the findings, conclusions and recommendations of the ExA as set out in the ExA Report, and the reasons for the Secretary of State's decision are those given by the ExA in support of his conclusions and recommendations.

Need for the Proposed Development and Examination of Alternatives

4.4 After having regard to the comments of the ExA set out in Chapter 3 (ER 3.1.3 - 3.1.12] of the ExA Report, and in particular the conclusions on the principle of the

proposed Development in ER 4.3.12 – 4.3.13, the Secretary of State is satisfied that in the absence of any adverse effects which are unacceptable in planning terms, making the Order would be consistent with energy National Policy Statements ("NPS") EN-1 (the Overarching NPS for Energy), EN-2 (the NPS for Fossil Fuel Electricity Generating Infrastructure), EN-4 (the NPS for Gas Supply Infrastructure and Gas and Oil Pipelines) and EN-5 (the NPS for Electricity Networks Infrastructure). Taken together, these NPSs set out a national need for development of new nationally significant electricity generating infrastructure of the type proposed by the Applicant. The Secretary of State notes that the ExA is satisfied that the Applicant has given consideration to design and to alternatives to the proposed Development, and that the requirements of NPS EN-1 in this regard have been met [ER 4.3.13].

Carbon Capture Readiness ("CCR")

4.5 As set out in NPSs EN-1 and EN-2, all commercial scale fossil fuel generating stations with a generating capacity of 300MW or more have to be 'Carbon Capture Ready'. Applicants are required to demonstrate that their proposed development complies with guidance issued by the Secretary of State in November 2009[2] or any successor to it.

The Secretary of State's Conclusion

4.6 As this Application seeks consent for a generating station with an output of no more than 299MW, the Secretary of State is satisfied that this is not a development to which the CCR requirement applies.

Combined Heat and Power ("CHP")

4.7 NPS EN-1 requires that applications for thermal generation stations under the Planning Act 2008 should either include CHP, or evidence that opportunities for CHP have been explored where the proposal is for a generating station without CHP. The Secretary of State notes that the Application was accompanied by a CHP Assessment which concludes that there is no existing regional heat market and no suitable heat users of the right scale nor heat users who would be able to accept the supply of heat available now or in the future. The CHP assessment also concluded that the intermittent and peaking modes of operation of an OCGT were incompatible with the likely demands of heat users for continuous supply, and that here was no need to undertake further investigation of CHP and that the proposed Development should not be required to be constructed to be 'CHP ready'. The Secretary of State also notes that no suggestions for the use of the heat from the proposed Development were put forward by any interested parties.

The Secretary of State's Conclusion

4.8 The Secretary of State is satisfied with the ExA's conclusion that the intermittent and peaking modes of operation of the proposed Development are incompatible with any demands for a continuous supply of heat, and that the plant should therefore not be required to be constructed so as to be 'CHP ready' [ER 4.3.12].

[2] Carbon Capture Readiness A guidance note for Section 36 Applications URN09D/810 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/43609/Carbon_capture_readiness_-_guidance.pdf

Traffic

4.9 The Secretary of State notes that during the examination, Marston Moreteyne Parish Council ("the Parish Council") requested that consideration be given to ensuring construction traffic exits the A421 at Marsh Leys interchange and not Beancroft Road roundabout at Marston Moreteyne to protect local residents from vibration and noise and to ensure that there is no disruption to local traffic. In response, the Applicant amended the requirement for a Construction Traffic Management Plan ("CTMP") so that the Parish Council is consulted on routing before the CTMP is submitted to the relevant planning authorities for approval.

The Secretary of State's Conclusion

4.10 The Secretary of State agrees with the ExA that the amendment to the requirement for a CTMP addresses the concerns raised by the Parish Council on construction traffic at Marston Moreteyne, and that there would be no significant adverse effects arising from traffic during construction and operation of the proposed development in this respect [ER5.7.22]. The Secretary of State notes that BBC and CBC, the relevant planning authorities, in their Statement of Common Ground with the Applicant, confirmed that the assessment of traffic and transport effects in the ES was adequate and that the mitigation measures proposed were appropriate.

Planning Balance

4.11 The ExA recorded that the proposed development would have adverse effects on noise during construction, landscape and visual impacts and on the setting of historic assets, and that these impacts cannot be fully addressed by the proposed mitigation measures within the Order [ER 5.12.4].

- *Construction Noise*

  The ExA concluded that noise levels will exceed existing daytime background levels during the construction phase and that there would be adverse effects on two properties nearest to the proposed development [ER5.3.17].

- *Landscape and Visual Impacts*

  The ExA concluded that there would be adverse landscape and visual impacts from the proposed Development on its own and from the cumulative impact with the Covanta RRF at seven viewpoints, and out of these three would be affected on completion of the proposed development and would only partly be offset by new planting over a number of years.

- *Historic Assets*

  The ExA concluded that there would be adverse effects, classified as less than substantial, on the setting of historic assets at Houghton House, Ampthill Park and Ampthill Park House both from the proposed Development on its own and in combination with the Covanta RRF.

The Secretary of State's Conclusion

4.12 In the context of EN-1, these are considerations that the Secretary of State must weigh in the planning balance. The Secretary of State agrees with the ExA's conclusion that a high weighting should be given to the established need for the

development of electricity generating facilities, and that these local adverse effects do not outweigh the benefits of new fossil fuel generation identified in EN-1. Furthermore, the Secretary of State notes that: 1) neither BBC or CBC raised any objections to the proposed Development on Landscape and Visual impacts; 2) provisions governing the control of noise during construction and operation are included as requirements in the Order, and these provisions have been accepted as adequate by CBC; and 3) BBC did not object to the proposed development on heritage grounds, CBC noted that representations had been made concerning impacts on heritage assets but agreed in its Statement of Common Ground with the Applicant that the assessment of effects on the historic environment were adequate and that the embedded and other mitigation measures were appropriate and adequate to address potential historic environment effects, and following the close of the examination, Historic England have confirmed that it had no further comments to make on the Order.

5. Biodiversity and Habitats

5.1 The Conservation of Habitats and Species Regulations 2017 (as amended) ("the Habitats Regulations") require the Secretary of State to consider whether the project would be likely, either alone or in combination with other plans and projects, to have a significant effect on a European site, as defined in the Habitats Regulations. If likely significant effects cannot be ruled out, then an Appropriate Assessment ("AA") must be undertaken by the Secretary of State pursuant to regulation 63 of the Habitats Regulations to address potential adverse effects on site integrity. The Secretary of State may only agree to the project if he has ascertained that it will not adversely affect the integrity of a European site.

5.2 There are no statutory designated European sites within at least, 10km of the Project site. The nearest European sites are the Chiltern Beechwoods Special Area of Conservation, approximately 27km to the south west and the the Upper Nene Valley Gravel Pits Special Protection Area/Ramsar Site which is 28km to the north west of the Development site. The nearest nationally designated site is Cooper's Hill Site of Specific Scientific Interest (approximately 1.2km to the south-east of the Development site) which is also designated as a Local Nature Reserve.

There are no statutory designated European sites within at least, 10km of the Project site. The nearest European sites are the Chiltern Beechwoods Special Area of Conservation , approximately 27km to the south west and the Upper Nene Valley Gravel Pits Special Projection Area/Ramsar Site which is 28km to the north west of the Development site. The nearest nationally designated site is Cooper's Hill Site of Specific Scientific Interest (approximately 1.2km to the south-east of the Development site) which is also designated as a Local Nature Reserve.

5.3 Evidence was presented in the Applicant's 'Environmental Statement' ("ES") which concludes that given the distances of these statutory designated sites from the Development site, no direct or indirect impacts are anticipated on any statutory designated sites and therefore the proposed development does not qualify under regulation 63(1) of the Habitats Regulations as requiring an Appropriate Assessment ("AA").

5.4 Natural England has agreed the proposed development is unlikely to result in any significant effects on the integrity of the special interest of any European Site and that an AA is not required.

5.5 The Secretary of State agrees with the ExA's conclusion that there is sufficient evidence that no likely significant effects have been identified and that no mitigation measures are required to conclude that the proposed Development is unlikely to have significant effects on any European site or their features, either alone or in combination with other plans and projects [ER 6.3]. The Secretary of State also agrees with the ExA that there is sufficient evidence to determine that an AA is not required and that there are no HRA matters which would prevent the granting of the Order.

6. Other Matters

Environmental Permit

6.1 It is noted from the Environment Agency's ("EA") Statement of Common Ground [REP4-003] submitted at Examination Deadline 4 that the proposed Development would be subject to the Environmental Permitting regime under the Environmental Permitting Regulations 2016 ('EPR') covering operational emissions from the generating station.

6.2 The Secretary of State must be satisfied that potential emissions from the Proposed Development can be adequately regulated under the EPR, as outlined in paragraph 4.10.7 of NPS EN-1. The Secretary of States notes that the Environment Agency ("EA"), having considered the general content of the ES for the proposed Development, is satisfied and agrees that it is of a type and nature that should be capable of being adequately regulated under EPR. The Secretary of State also notes that the EA is not aware of anything that would preclude the granting of an Environmental Permit.

The Secretary of State's Conclusion

6.3 In the circumstances, the Secretary of State considers there are no reasons to believe the Environmental Permit will not be granted in due course.

6.4 Similarly, the Secretary of State notes there are various other consents, licences and permits that are likely to be required to construct and operate the proposed Development [ER 1.1.12] and has no reason to believe that the relevant approvals would also not be forthcoming.

Section 106 Agreement

6.5 The ExA recorded that a section 106 Agreement ("Planning Agreement") was put in place under the Town and Country Planning Act 1990 to secure a financial contribution for offsite tree planting and to ensure measures to maximise local employment and opportunities for education.

6.6 The Secretary of State notes that the Applicant is not able to confirm details of tree planting for the proposed Development until it has finalised its Landscape and Ecological Management Strategy ("LEMS"), and that the Planning Agreement secures

a financial contribution from the Applicant for off-site tree planting should the LEMS show that there would not be sufficient land on the site of the proposed Development to meet the 39% planting target for new developments located within the Forest of Marston Vale.

6.7 The Secretary of State also notes the ExA's consideration of the socio-economic impact of the proposed development [ER 5.9.1 to 5.9.12] and in particular CBCs request for a local employment plan to ensure that as much of the employment benefit as possible is retained in the local community.

The Secretary of State's Conclusion

6.8 The Secretary of State considers that the planning agreement is relevant to consideration of the landscape and socio-economic impacts of the proposal. The Secretary of State is also of the view that the proposed Development should be considered in the context of contributing to local employment and wider benefits such as those that will be delivered through the local educational programme. The Secretary of State is satisfied that this is in keeping with EN-1 which states that the Secretary of State should, when considering a proposed development, consider potential benefits such as job creation and other long-term or wider benefits as well as any potential adverse impacts (EN-1, paragraph 4.1.3).

6.8 The Secretary of State agrees with the ExA's that the Planning Agreement is necessary to make the proposed Development acceptable in planning terms, and that the provisions in the Planning Agreement directly relates to the proposed Development and are fair and reasonably relate in scale and kind to the proposed Development [ER 5.11.3 and ER 5.12.7].

Covanta Rookery South Limited

6.7 The Secretary of State notes that article 38 of the Order provides for the amendment of the Rookery South (Resource Recovery Facility) Order 2011 ("the Rookery South Order") to address overlaps between the Rookery South Order and this Order to ensure that works can be carried out concurrently or simultaneously without prohibiting or causing any adverse impacts to the other project. Schedule 11 to the Order inserts a new Part 2 into Schedule 7 to the Rookery South Order which, together with Part 6 of Schedule 10 of the Order, regulates the overlapping operation of the powers in this Order and the Rookery South Order, principally in respect of the access road. The new Part 2 of Schedule 7 to the Rookery South Order also makes the exercise of powers in specified articles of the Rookery South Order subject to the prior written consent of the Applicant and ensures cooperation between the parties.

The Secretary of State's Conclusion

6.8 The Secretary of State agrees with the ExA and the Applicant that section 120(5) does provide an appropriate mechanism for a new Development Consent Order to amend an existing Development Consent Order and that the provisions in article 38 and Schedule 11 are necessary and expedient as they will ensure that the proposed Development can be constructed, operated and maintained without impediment. The Secretary of State agrees with the ExA that the alternative proposal of an interface agreement is not sufficient. Such an agreement could regulate the relationship

between the parties to it, but there is no certainty that it would be able to regulate the relationships if there were a change of ownership.

Low Level Restoration Scheme

6.9 The land within the Rookery is subject of an ongoing low level restoration scheme ("LLRS") to restore the former clay workings to low level agricultural land and includes measures to enhance biodiversity and landscape. The Secretary of State notes that the LLRS is being undertaken by the landowner, O&H Limited, under planning permission BC/CM/2000/8 ("the LLRS planning permission"). The Secretary of State notes that while the LLRS is independent from the proposed Development, there is a five year (extendable to seven years) option agreement between the Applicant and O&H Limited to ensure that elements of the LLRS are completed prior to the commencement of the proposed Development.

6.10 Article 44 has been included to ensure that where there might be a conflict between the requirements of the LLRS planning permission and the Order, the Applicant shall not be in be in breach of any condition contained in the LLRS planning permission by complying with the Order.

The Secretary of State's Conclusion

The Secretary of State notes that CBC has agreed the terms of Article 44 and is satisfied that it is necessary and expedient to include this provision to ensure that both the proposed Development and the remaining LLRS works can be completed.

7. Consideration of Compulsory Acquisition and Related Further Representations

7.1 The Secretary of State notes that the Applicant is seeking compulsory acquisition ("CA") powers to acquire land, new rights over land and to temporarily possess ("TP") land.

Adequacy of Funding

7.2 The Ministry of Housing, Communities and Local Government guidance requires that an application for a Development Consent Order is accompanied by a statement explaining how both the acquisition of land and the implementation of the proposed development would be funded and that the funding would be available in a timely fashion within the time limits for implementation set by the Development Consent Order. A Funding Statement was submitted with the Application and examined by the ExA. The ExA noted that while the Funding Statement refers to the resources of the Drax Group plc being available to fund the Development, the Order did not include a provision to ensure payment is provided. At the request of the ExA, the Applicant included a new article, article 43 to provide security that funds will be available to pay compensation for compulsory acquisition.

7.3 The Secretary of State is satisfied that the Applicant's Funding Statement, together with article 43, provides an adequate means of securing the funding for all CA compensation costs of the proposed Development, and that they support the

existence of a compelling case for the grant of compulsory acquisition powers in the public interest.

Human Rights Act 1998

7.4 The Secretary of State has considered the potential infringement of human rights in relation to the European Convention on Human Rights by the proposed Development and the compulsory purchase powers contained in the draft Order. The Secretary of State notes that: the Examination ensured a fair and public hearing; any interference with human rights arising from implementation of the proposed Development is proportionate and strikes a fair balance between the rights of the individual and the public interest; and that compensation would be available in respect of any quantifiable loss. The Secretary of State is therefore satisfied that there is no disproportionate or unjustified interference with human rights so as to conflict with the provisions of the Human Rights Act 1998.

The Secretary of State's Conclusion on Compulsory Acquisition and Temporary Possession

7.5 Having considered the ExA's analysis of CA and temporary possession including the examination and the representations received, the Secretary of State agrees that the proposed Development for which the land and rights are sought would be in accordance with national policy as set out in the relevant NPSs and that there is a national need for electricity generating capacity, including capacity from gas combustion. He is satisfied that the need to secure the land and rights required to construct the proposed Development within a reasonable commercial timeframe represent a significant public benefit. The Secretary of State is content that the private loss to those affected is mitigated through the choice of the Application land, and the limitation to minimum extent possible of the rights and interests proposed to be acquired. He agrees that the Applicant has explored all reasonable alternatives to the CA of the land, rights and interests sought and there are no better alternatives. The Secretary of State is content that adequate and secure funding would be available to enable CA within the statutory period following the Order being made and there would be no disproportionate or unjustified interference with human rights of individuals. In conclusion, the CA powers are justified and there is a compelling case in the public interest for land and interests to be compulsorily acquired and the proposed Development would comply with the relevant sections of the Planning Act 2008.

8. General Considerations

Equality Act 2010

8.1 The Equality Act 2010 includes a public sector "general equality duty". This requires public authorities to have due regard in the exercise of their functions to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited under the Act; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not in respect of the following "protected characteristics": age; gender; gender reassignment;

disability; marriage and civil partnerships[3]; pregnancy and maternity; religion and belief; and race. This matter has been considered by the Secretary of State who has concluded that there was no evidence of any harm, lack of respect for equalities, or disregard to equality issues.

Natural Environment and Rural Communities Act 2006

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

8.3 The Secretary of State is of the view that the ExA's report, together with the environmental impact analysis, considers biodiversity sufficiently to inform him 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.

9. Secretary of State's conclusions and decision

9.1 For the reasons given in this letter, the Secretary of State considers that there is a compelling case for granting development consent. Given the national need for the proposed Development, as set out in the relevant National Policy Statements referred to above, the Secretary of State does not believe that this is outweighed by the proposed Development's potential adverse local impacts, as mitigated by the proposed terms of the Order.

9.2 The Secretary of State has therefore decided to accept the ExA's recommendation to make the Order granting development consent [ER 9.2.1] to include modifications set out below in 10.1. In reaching this decision, the Secretary of State confirms regard has been given to the ExA's Report, the joint LIR submitted by CBC and BBC 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 2008 Act. The Secretary of State confirms for the purposes of regulation 3(2) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 that the environmental information as defined in regulation 2(1) of those Regulations has been taken into consideration.

10. Modifications to the Order by the Secretary of State

10.1 The Secretary of State has made the following modifications to the Order:

- The definition of National Grid in Article 2 has been amended to give clarity as to the identity of the undertaker in the Order. National Grid Electricity Transmission plc and National Grid Gas plc are two separate private companies. Defining them as a single undertaker gives insufficient clarity;

[3] In respect of the first statutory objective (eliminating unlawful discrimination etc.) only.

- A compensation provision has been inserting into Article 11. It is presumed that this was omitted in error. This provision is included in the model clauses and the Applicant's Explanatory Memorandum suggests that the intention was to include it;
- The funding provision, Article 42, has been amended to add Article 19 to the provisions listed in paragraph (2). This is to ensure that when the Applicant provide a funding guarantee or security it covers all forms of compensation resulting from the compulsory acquisition;
- The time limit for the Secretary of State to appoint an arbitrator has been removed from Article 41 and schedules 10 and 11. There is no evidence that the Secretary of State has previously failed to appoint an arbitrator on request; and
- The provisions in relation to human remains and burial grounds have been removed. There are no know burial grounds within the Order limits. Provision for any archaeological remains should be included in the written scheme of archaeological investigation.

10.2 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 (for example, modernisation of language), changes in the interests of clarity and consistency and changes to ensure that the Order has the intended effect.

11. Challenge to decision

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

12. Publicity for decision

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

12.2 Section 134(6A) of the Planning Act 2008 provides that a compulsory acquisition notice shall be a local land charge. Section 134(6A) also requires the compulsory acquisition notice to be sent to the Chief Land Registrar, and this will be the case where the order is situated in an area for which the Chief Land Registrar has given notice that they now keep the local land charges register following changes made by Schedule 5 to the Infrastructure Act 2015. However where land in the order is situated in an area for which the local authority remains the registering authority for local land charges (because the changes made by the Infrastructure Act 2015 have not yet taken effect), the prospective purchaser should comply with the steps required

by section 5 of the Local Land Charges Act 1975 (prior to it being amended by the Infrastructure Act 2015) to ensure that the charge is registered by the local authority.

Yours sincerely

Gareth Leigh

Gareth Leigh
Head of Energy Infrastructure Planning

ANNEX

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the 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 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/eastern/millbrook-power/

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)