

The Keadby Next Generation Power Station Project

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**The Keadby Next Generation Power Station Development
Consent Order [year]**

**Land at, and in the vicinity of, the Keadby Power Station
(Trentside, Keadby, Scunthorpe DN17 3EF)**

Explanatory Memorandum

Revision 3

The Planning Act 2008

**The Infrastructure Planning (Applications: Prescribed Forms and
Procedure Regulations) 2009**

Regulation 5(2)(c)

Applicant: Keadby Next Generation Limited

Date: June 2026

Glossary

Abbreviation	Definition
2008 Act	Planning Act 2008.
Access and rights of way plans	The access and rights of way plans which form part of the Applicant's application for the Order.
APFP Regulations	Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009
Applicant	Keadby Next Generation Limited.
Book of Reference	A reference document providing details of all land ownership interests within the Order Limits as identified on the land plans.
CCGT	Combined Cycle Gas Turbine – a highly efficient form of electricity generation technology. A gas turbine burns gas to drive a turbine to generate electricity. Surplus heat from the turbine is used to generate steam that is used to generate further electricity.
CCP	Carbon Capture Plant – plant used to capture carbon dioxide (CO ₂) emissions produced from the use of fossil fuels in electricity generation and industrial processes.
DCO	A Development Consent Order made by the relevant Secretary of State pursuant to the Planning Act 2008 to authorise a NSIP. A DCO does or can incorporate or remove the need for a range of consents which would otherwise be required for a development. A DCO can also include powers of compulsory acquisition
EIA	Environmental Impact Assessment. The assessment of the likely significant environmental effects of a development undertaken in accordance with the EIA Regulations.
EIA Regulations	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 setting out how the EIA of Nationally Significant Infrastructure Projects must be carried out and the procedures that must be followed.
ES	The Environmental Statement documenting the findings of the EIA.
Land Plans	A plan showing all of the land that is required for the Proposed Development and/or over which rights or temporary use are to be sought as part of the DCO.
Model Provisions	Infrastructure Planning (Model) Provisions (England and Wales) Order 2009 (now repealed).
NSIP	Nationally Significant Infrastructure Project.
Order	The Keadby Next Generation Power Station Development Consent Order 202[x] being the DCO that would be made by the Secretary

	of State authorising the Proposed Development, a draft of which has been submitted as part of the Application.
Order land	Land identified on the land plans to be acquired permanently, over which new rights are to be acquired, restrictive covenants imposed or for temporary use.
Order limits	The limits shown on the works and land plans within which the Proposed Development can be carried out as authorised by the Order.
Proposed Development	The proposed development to which the Application relates as listed in Schedule 1 to the Order
Site	The land corresponding to the Order limits and encompassing the Order land and which is required for the construction and operation of the Proposed Development.
Secretary of State	The Secretary of State being the decision maker for the Application and head of Government department. In this case the Secretary of State for the Department of Energy Security and Net Zero.
Requirements	The "requirements" at Schedule 2 to the Order that, amongst other matters, are intended to control the final details of the Proposed Development to be constructed, to control its operation and to ensure that it accords with the ES.
Works Plans	Plans showing the numbered works referred at Schedule 1 to the Order and submitted with the Application.

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1 Introduction

- 1.1 This Explanatory Memorandum (**Memorandum**) accompanies an application for development consent (the **Application**) by Keadby Next Generation Limited (company number 15866301) (the **Applicant**) and having its registered office at One Forbury Place, 43 Forbury Road, Reading, England TG13 3JH.
- 1.2 The Memorandum explains the purpose and effect of each article and Schedules to the draft Keadby Next Generation Power Station Order 202[x] (the **draft Order**) as required by regulation 5(2)(c) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (**APFP Regulations**) as amended.
- 1.3 Notwithstanding its repeal, the wording used in the draft Order has been derived from the Infrastructure Planning (Model) Provisions (England and Wales) Order 2009 (**Model Provisions**). The draft Order also draws from the drafting used in other orders for similar developments made under the Planning Act 2008 (the **2008 Act**), the Transport and Works Act 1992 and other Acts authorising development. Where this is done, the applicability of the drafting to the approach taken by the Applicant to the proposed development is explained.
- 1.4 Terms used in the draft Order submitted with the Application have the same meaning in this Memorandum unless otherwise specified.

2 The Purpose of the Order

- 2.1 The Applicant is a subsidiary of FTSE-listed SSE plc, one of the UK's largest and broadest based energy companies and a leading generator of renewable energy. The Proposed Development is being jointly funded and developed between SSE Thermal Energy Operations Limited (an SSE subsidiary company) and Equinor Low Carbon UK Limited (**Equinor**), a subsidiary of Equinor ASA. The Applicant will be responsible for the construction, operation, maintenance and decommissioning of the Proposed Development, with the exception of hydrogen and natural gas supply connection works, supply pipework, and electrical power export lines which will be the responsibility of those named beneficiaries.
- 2.2 The Order seeks authority under Section 37 of the 2008 Act for the construction and operation of a combined cycle gas turbine (**CCGT**) electricity generating station designed to run on 100% hydrogen and able to run on 100% natural gas or a blend of natural gas and hydrogen.
- 2.3 Pursuant to Sections 14(1)(a) and 15(2) of the 2008 Act, an onshore generating station in England or Wales having a capacity of more than 50MW is a nationally significant infrastructure project (**NSIP**). Section 31 of the 2008 Act provides that a development consent order is required under the Act to the extent that development is or forms part of a NSIP.
- 2.4 As the proposed generating station is an onshore generating station with a generating capacity of at least 50MW; it is a NSIP within the definition contained in sections 14 and 15 of the 2008 Act. The Proposed Development therefore falls within the remit of the Secretary of State, and the Applicant has made the Application of which the draft Order forms part.

The Site

- 2.5 The site for the Proposed Development (the **Site**) is located within the wider Keadby Power Station site, to the northwest of Keadby 2 Power Station, near Scunthorpe. The Keadby Power Station site currently encompasses the operational Keadby 1 Power Station and Keadby 2 Power Station. SSE also operates the Keadby Windfarm which lies to the north and south of the Site. The Site encompasses an area of approximately 77.1 hectares (ha), of which approximately 26.7 ha comprises the temporary construction laydown areas.

The Proposed Development

- 2.6 The Proposed Development is a "first of a kind" for this type of power station infrastructure project and could represent the UK's first hydrogen-fired power station. The Proposed Development would comprise a high efficiency gas fired power station with an electrical output capacity of up to 910 megawatts (MW) and associated buildings, structures and plant and other associated development defined in the Schedule 1 of the draft Development Consent Order (**DCO**) (**Application Document Ref. 3.1**) as Work Nos. 1-11 and shown on the Works Plans (**Application Document Ref. 2.3**).
- 2.7 In summary, the Proposed Development will include:
- (a) a new build CCGT electricity generating station fuelled by hydrogen and/or natural gas with a power output of up to 910MW (Work No. 1) including:
 - (i) a CCGT plant;
 - (ii) cooling infrastructure;

- (iii) natural gas and hydrogen blending equipment;
- (iv) supporting facilities including administration and control buildings, workshops, stores, raw water storage tank(s), demineralised water treatment plant including storage tanks and permanent laydown areas for operation and maintenance activities;
- (b) a hydrogen supply pipeline connection including a gas compound for the hydrogen supplier's apparatus and a hydrogen gas compound for the Applicant's apparatus (Work No. 2);
- (c) a natural gas supply pipeline connection including a compound for the natural gas supplier's apparatus and a natural gas compound for the Applicant's apparatus (Work No. 3);
- (d) electrical connection works for the export and import of electricity to and from the generating station and the existing 400kV National Grid Electricity Transmission (NGET) substation located adjacent to the Keadby Power Station site, including works within the substation (which would be undertaken by NGET) (Work No. 4);
- (e) water supply connection works to provide cooling and make-up water to the generating station, including intake structures and an underground and/or overground water supply pipeline running between the generating station and the Stainforth and Keadby Canal (Work No. 5);
- (f) connections to and use of an existing outfall and associated pipework for the discharge of used cooling water, surface water and treated effluent to the River Trent (Work No. 6);
- (g) public water connection pipeline from a new connection on Chapel Lane to provide potable water to the generating station (Work No. 7);
- (h) new permanent access to the generating station (Work No. 8), comprising:
 - (i) maintenance and improvement of an existing private access road from the A18, including replacement of a private bridge (Mabey Bridge) (Work No. 8A);
 - (ii) installation of layby and gatehouse with barriers, enclosures, drainage and lighting north of the A18 junction (Work No. 8B) and associated utilities connections (Work No. 8C); and
 - (iii) emergency access route comprising the maintenance and improvement of an existing private track running between the generating station and Chapel Lane and including new private bridge crossing over Glew Drain (Work No. 8D);
- (i) temporary construction and laydown areas (Work No. 9A);
- (j) maintenance and improvement of the existing access routes running between the A18 and construction laydown areas (Work No. 9B); and between Skew Bridge adjacent to the A18 and a temporary construction laydown area associated with Mabey Bridge replacement (Work No. 9C);

- (k) retention, maintenance and improvement and subsequent removal of existing temporary haul route from the Waterborne Transport Offloading Facility (Work No. 9D) and the inspection and repair of the existing wharf, and temporary placement of mobile cranes including the temporary oversailing of crane arms (Work No. 9E); and
 - (l) landscaping and biodiversity enhancement measures (Work No. 10); and
 - (m) an allocation of land to meet the requirements of the Carbon Capture Readiness (Electricity Generating Stations) Regulations 2013 (Work No. 11).
- 2.8 The Applicant will be responsible for the construction, operation (including maintenance) and eventual decommissioning of the Proposed Development including the on-site connections to electricity, cooling water, hydrogen and natural gas supplies.
- 2.9 The Proposed Development will be capable of operating 24 hours per day, 7 days per week with programmed offline periods for maintenance.
- 2.10 The route for the hydrogen supply pipeline to the Proposed Development has not yet been confirmed. The supply pipeline does not form part of the Proposed Development and will be progressed by the hydrogen supplier under a separate consent. In line with Government policy, it is recognised that developments such as the Proposed Development are needed to stimulate investment in the development of hydrogen production and supply infrastructure.
- 2.11 Further detail on the components of the Proposed Development is provided in ES Volume I Chapter 4: The Proposed Development in the ES Volume I (**Application Document Ref. 6.2.4**) provides further description of the Proposed Development. The areas within which each numbered Work (component) of the Proposed Development are to be built are defined by the coloured and hatched areas on the Works Plans (**Application Document Ref. 2.3**).

Ancillary Matters

- 2.12 The Order contains a number of ancillary matters required to facilitate the authorisation and carrying out of the Proposed Development within the Order limits.
- 2.13 The Order seeks to apply and modify statutory provisions in relation to the compulsory acquisition of land and rights. It is for this reason that under sections 117 and 120(5) of the 2008 Act the Order must be made by way of Statutory Instrument. The draft Order is therefore in that form.
- 2.14 Other ancillary matters include the alteration works to means of access and power to carry out street works and alterations to highway, together with landscaping and planting within the vicinity of the Proposed Development. The Order also makes provision for the application and disapplication of legislation.

3 The draft Order and Tailored Articles

3.1 A full, technical explanation of the Proposed Development is contained in Chapters 3 and 4 of the Environmental Statement (ES) (**Application Document Ref. 6.2**) accompanying the Application. In devising the Proposed Development in the application documents, the Applicant has had careful regard to Planning Inspectorate's Nationally Significant Infrastructure Projects - Advice Note Nine: "Rochdale envelope" (**Advice Note 9**).

3.2 Advice Note 9 recognises that the approach known as the Rochdale envelope may be useful in considering applications for development consent under the 2008 Act, especially where there are good reasons why the details of the whole project are not available when the application is submitted. The conclusion of the Advice Note is:

"The challenge for applicants is to ensure that where uncertainty exists and flexibility is sought the following is achieved:

- *that the statutory consultation and publication requirements under the PA2008 (sections 42, 47 and 48) have been complied with;*
- *that the likely significant environmental effects from the Proposed Development have been properly assessed and presented in the ES; and*
- *that there is a consistent approach to the description of the development addressing the uncertainty and necessary flexibility across all relevant application documents."*

3.3 In order to facilitate the Proposed Development, the application and draft Order provide some flexibility, an "optional" approach has been adopted for Work No.4 to allow for the option of the 400kilovolt electricity cable to be installed at the National Grid substation being installed along a northern (Work No. 4B) or southern (Work No. 4A) route. The final route will be determined once detailed site investigation works have taken place.

3.4 In relation to both options, the Applicant is obliged, in settling the detailed design of these elements to confirm the options to be built pursuant to Requirement 5(4). A specific provision has been drafted to be included within Article 25 (compulsory acquisition of rights and restrictive covenants) to ensure that new rights are confirmed as not being required once the applicable option has been confirmed. Pursuant to Article 25(3) the Applicant is obliged, following compliance with the relevant Requirements, to serve notices on those owners or individuals with interests in land affected by the option. Such notice is to confirm to the owner/occupied that their land is no longer required for that relevant Work.

3.5 An additional novel Article has been included in the draft Order to respond to previous construction requirements and construction requirements of the Proposed Development - Article 40 (interaction with the Keadby CCS Order). The Proposed Development includes a temporary haul road used for the Keadby 2 Power Station (**Keadby 2**) to deliver abnormal loads from the waterborne transport offloading area. The planning permissions for the Keadby 2 haul road imposed planning conditions requiring its restoration within specific time frames. The Keadby 3 (Carbon Captured Equipped Gas Fired Generating Station) Order 2022 (**Keadby CCS Order**) essentially extended the time frame within which the haul road could be retained before restoration works need to take place. Article 40 (interaction with the Keadby CCS Order) allows for this route to be maintained as a temporary haul route, used and restored following completion of the construction of the Proposed Development.

- 3.6 A laydown area south of Stainforth and Keadby Canal and west of North Pilfrey Bridge includes a small area used for Keadby 2 Power Station known as the Pilfrey laydown area. This area is also to be used for the Proposed Development. As with the haul road, The Keadby CCS Order essentially extended the time frame within which the Pilfrey laydown area could be retained beyond the lifetime of the planning permission. Article 40 (interaction with the Keadby CCS Order) of the Order allows for this laydown area to be retained, used and restored following completion of the construction of the Proposed Development.
- 3.7 Article 40 (interaction with the Keadby CCS Order) therefore provides for the unlikely scenario that if works have not commenced on the Proposed Development by the expiry date of the consent and the temporary works have not been restored, the haul road and Pilfrey laydown area (as defined in the draft Order) are required to be restored in accordance with details to be submitted to and approved by the relevant planning authority.
- 3.8 Article 40 (interaction with the Keadby CCS Order) also proposes an amendment to Article 36 (restoration works) of the Keadby CCS Order to ensure that if works are not commenced within the lifetime of the Keadby CCS Order, then provided the undertaker under the Keadby CCS Order confirms that works are intended to commence under this Order, the requirement under the Keadby CCS Order to reinstate the haul road and Pilfrey laydown areas does not have effect. The timing for the reinstatement of the haul road and Pilfrey lay down areas will then be governed by this Order.
- 3.9 There is also an existing construction compound on site. On 17 May 2023, North Lincolnshire Council approved a scheme pursuant to condition 16 of the Keadby 2 permission, which allowed for the ongoing retention of certain temporary buildings and structures (ref: PA/2023/0467). Article 40 (interaction with the Keadby CCS Order) includes wording which requires the removal of the retained temporary buildings and structures in event that neither the development permitted by the Keadby CCS Order or the Proposed Development are implemented.
- 3.10 In relation to Schedule 5 (new rights and restrictive covenants) and Schedule 7 (land of which temporary possession may be taken), the plots over which powers of compulsory acquisition are sought, are identified by the relevant Work numbers. As there is an overlap of works, it means that some of the plots are identified more than once in relation to the applicable works, thereby confirming that certain plots are required for more than one Work area comprised in the authorised development.
- 3.11 It should be noted the Proposed Development is located on land owned by the Applicant's parent company SSE Plc (**SSE**) or other SSE subsidiary companies and already accommodates two other power generating stations and infrastructure related to Keadby 1 and Keadby 2. This means that the Site is less sensitive to the development proposed and the proximity to Keadby 1 and 2 Power Stations affords additional benefits via the sharing of existing infrastructure, including for example the existing cooling water discharge pipeline(s) and outfall structures. Flexibility sought by the Applicant is therefore appropriate and justified.

4 The Purpose and Structure of this Document

- 4.1 This Explanatory Memorandum is prepared to explain the purpose and effect of each article of, and Schedules to, the draft Order, as required by Regulation 5(2)(c) of the APFP Regulations.
- 4.2 It also seeks to identify and explain departures from the Model Provisions together with any particular novel provisions contained within the draft Order.
- 4.3 The draft Order consists of 49 operative provisions, each referred to as Articles, and 11 Schedules. This part of the Explanatory Memorandum refers to the "undertaker" as defined in the Order (see further below).
- 4.4 The Order contains a number of provisions to enable the construction, maintenance and operation of the Proposed Development. These are briefly described below and then considered in more detail in the following sections:
- (a) Part 1 (Preliminary): Article 1 sets out what the Order may be cited as and when it comes into force. Article 2 sets out the meaning of the various terms used in the Order.
 - (b) Part 2 (Principal Powers): Articles 3 to 8 provide development consent for the Proposed Development and allows it to be constructed, maintained and operated. Articles 6 and 7 set out who has the benefit of the powers of the Order and who will be responsible for maintenance of the authorised development. Article 7 sets out how the powers contained within the Order can be transferred. Article 8 confirms which statutory provisions are modified and their subsequent application in the context of exercising powers under the Order.
 - (c) Part 3 (Streets): Articles 9-16 provide for the undertaker to carry out street works to and within streets, to create or improve access and the ability to alter street layouts. Article 16 provides for the undertaker to temporarily regulate traffic for the purposes of or in connection with construction of the authorised works.
 - (d) Part 4 (Supplemental Powers): Articles 17-21 set out supplemental powers relating to the discharge of water, authority to survey land, ability to temporarily interfere with the canal and public rights of navigation and the use of private roads for construction.
 - (e) Part 5 (Powers of Acquisition): Articles 22-35 provide for the undertaker to compulsorily acquire the Order land, and create rights over/within it, impose restrictive covenants and to be able to temporarily use parts of the Order land for the construction or maintenance of the Proposed Development. The provisions for compensation to be payable to affected persons in respect of affected persons (if not covered elsewhere) and also powers in relation to the equipment of statutory undertakers.
 - (f) Part 6 (Operations): Articles 36-38 provide confirmation that Crown Rights are not affected by the compulsory acquisition powers provided for in the Order, powers in relation to trees which need to be removed or lopped in relation to the Proposed Development and any protective works to buildings.
 - (g) Part 7 (Miscellaneous and General): Articles 39-49 contain various general provisions in relation to the Order:
 - (i) Article 39 provides protection for statutory undertakers through the protective provisions set out in Schedule 9 (protective provisions);

- (ii) Article 40 makes provision for the restoration of certain works required as part of the Keadby 2 consents in the event that the Proposed Development is not implemented within the timescales for commencement;
 - (iii) Articles 41 to 49 include provisions such as the application of statutes relating to leases, that the Order land will be "operational land", the status of planning permissions, a defence to proceedings for statutory nuisance; procedure for approvals required under the Order, certification of documents, arbitration in the case of dispute, notices served under the Order; and guarantees in respect of payment of compensation.
- (h) There are 11 Schedules to the Order, as follows:
- (i) Authorised Development (Schedule 1);
 - (ii) the Requirements (Schedule 2);
 - (iii) Streets Subject to Street Works (Schedule 3);
 - (iv) Access – Those Parts of the Access to be Maintained at the Public Expense (Schedule 4);
 - (v) New Rights and Restrictive Covenants (Schedule 5);
 - (vi) Modification of Compensation and Compulsory Purchase Enactments for the Creation of New Rights and Imposition of Restrictive Covenants (Schedule 6);
 - (vii) Land of Which Temporary Possession May Be Taken (Schedule 7);
 - (viii) Procedure for Discharge of Requirements (Schedule 8);
 - (ix) Protective Provisions (Schedule 9);
 - (x) Design Parameters (Schedule 10); and
 - (xi) Documents and Plans to be Certified (Schedule 11).

5 Provisions of the Order

Part 1 – Preliminary

- 5.1 **Article 1 (*Citation and commencement*)** provides for the way in which the Order should be cited and when it takes effect.
- 5.2 **Article 2 (*Interpretation*)** – the purpose of Article 2 is to define various terms used in the Order. Definitions for documents submitted with the Application and which are referred to in the Order have been added (e.g. environmental statement, design principles statement, combined heat and power assessment, etc.). The majority of the definitions are standard definitions which can be found in other DCOs. Some definitions worth explaining are:
- (a) "*finished ground level*" has been defined to provide clarity regarding the ground level against which the height of certain structures forming parts of the Proposed Development will be measured for the purposes of flood mitigation requirements pursuant to Requirement 13.
 - (b) "*haul road*", "*haul road plans*" and "*haul road planning permission*" - these definitions are required for Article 40 (interaction with the Keadby CCS Order). Requirement 19 requires the restoration of areas used as haul roads to assist with the construction following completion of the authorised works.
 - (c) "*hydrogen provider*" has been defined widely as it is uncertain at present which entity will be the hydrogen provider to the authorised development on completion of the authorised development. There are aspects of works which may be more appropriate to be carried out by the hydrogen provider and this approach has been utilised for Article 5 (benefit of the Order) for Work No. 2A and accordingly, is exempted from the need to obtain Secretary of State consent to transfer the benefit of the Order in relation to those works as set out in Article 7 (consent to transfer benefit of the Order).
 - (d) "*maintain*" has been defined to be clear what activities are authorised under Article 6 (maintenance of authorised development) during the operation of the authorised development; importantly it does not permit the undertaker to undertake such maintenance works if they will give rise to any materially new or different environmental effects to those assessed and identified in the ES.
 - (e) "*permitted preliminary works*" has been defined to allow certain specified types of activities to be carried out without compliance with various pre-commencement requirements (those with a saving for permitted preliminary works as listed in Schedule 2 (Requirements)) in order to support the efficient construction of the authorised development. The definition comprises early site set up and clearance activities that potentially represent works of development, but which are de minimis in planning terms and would not have materially new or different environmental impacts to those assessed and identified in the ES.
 - (f) "*Pilfrey laydown area*", "*Pilfrey laydown plans*" and "*Pilfrey laydown planning permission*" – these definitions are required for Article 40 (interaction with the Keadby CCS Order). Requirement 21 requires the restoration of areas used as a laydown area following completion of commissioning.

- (g) "*undertaker*" is defined as Keadby Next Generation Limited who has the benefit of the provisions of the Order pursuant to Article 5 (benefit of the Order) and Article 7 (consent to transfer benefit of the Order).
- (h) "*works plans*" the definition of Works Plans confirms that the limits of deviations have been incorporated within the works areas identified on the Works Plans.

Part 2 – Principal Powers

- 5.3 **Article 3 (Development consent etc granted by the Order).** This grants development consent for the authorised development within the Order limits authorising the construction of the authorised development. The authorised development means the development under Sections 14(1)(a) and 15(2) of the 2008 Act and as described in Schedule 1 (authorised development) of the Order. The authorised development is split into different work numbers. The areas within which each work must be constructed are identified on the works plans.
- 5.4 **Article 4 (Operation of authorised development).** This permits the operation and use of the generating station comprised in the authorised development. It is included for the avoidance of doubt and in accordance with section 120(3) and is a matter specifically identified in paragraph 5 of Schedule 5 to the 2008 Act which relates to the operation of a generating station. It also reflects Section 140 of the 2008 Act which states that a DCO may include provision authorising the operation of a generating station where the order relates to the construction of the generating station. Article 4(2) specifically preserves the need for the undertaker to obtain any operational consents that may be needed for the generation station in addition to the Order.
- 5.5 **Article 5 (Benefit of the Order).** This overrides Section 156(1) of the 2008 Act and provides that the benefit of the Order is for the undertaker rather than anyone with an interest in the land. Due to the nature of the authorised development, it is entirely appropriate that this power under the Order is only exercised by the undertaker and not any person having an interest in the land.
- 5.6 Certain Works have been identified as being also for the benefit of other parties, namely the future hydrogen provider, National Grid Electricity Transmission and National Gas Transmission plc, as these elements of the works may be carried out by the relevant party. Overriding Section 156(1) is common in DCOs that have been made, including The Hinkley Point C (Nuclear Generating Station) Order 2013, The North Killingholme (Generating Station) Order 2014, The Drax Power (Generating Stations) Order 2019, and The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022.
- 5.7 **Article 6 (Maintenance of authorised development)** provides for the maintenance of the authorised development. Article 6 is clear that maintenance must be in accordance with the provisions of the Order except to the extent any other provisions in the Order or any agreement made under the Order provides otherwise.
- 5.8 **Article 7 (Consent to transfer benefit of the Order).** This makes provision for the transfer of the benefit of the Order. The consent of the Secretary of State is needed before the undertaker can transfer the benefit of the Order or grant a lease to another person, except where the transferee or lessee is (1) the holder of an electricity generating licence (2) a gas transporter; (3) a highway authority responsible for the highways within the Order limits or (4) the hydrogen provider. Consent is also not required where the time limit for claiming for compensation has expired and no claims have been paid, have been withdrawn, or have been settled or determined.

- 5.9 **Article 8 (*Application and Modification of Statutory Provisions*)**. This article dis-applies provisions of the Neighbourhood Planning Act 2017. This application provides that the temporary possession provisions in that enactment will not take effect in operating the temporary possession provisions contained in this Order. The rationale for this is that the wording of the temporary possession provisions within the Order is well established and the relevant provisions relating to the temporary possessions within the Neighbourhood Planning Act 2017 are currently untested and regulations required to provide more detail on the operation of the regime have yet to be made. There is a precedent for this approach in The Drax Power (Generating Stations) Order 2019, The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022, and The Rampion 2 Offshore Wind Farm Order 2025.

Part 3 – Streets

- 5.10 **Article 9 (*Application of the 1991 Act*)**. This provides for the application of the New Roads and Street Works Act 1991. Although not included in the model provisions, there is precedent for these provisions in previous orders, including The A38 Derby Junctions Development Consent Order 2023 and The A122 (Lower Thames Crossing) Development Consent Order 2025.
- 5.11 **Article 10 (*Street Works*)**. This provides that the undertaker may enter any of the streets specified in Schedule 3 (streets subject to permanent street works), within the Order limits, to undertake the activities listed for the purposes of the authorised development. The right given by the Article is a statutory right for the purposes of Section 48(3) (Street Works and Undertakers) and Section 51(1) (Prohibition of Unauthorised Street Works) of the New Roads and Street Works Act 1991. Where the power is proposed to be exercised in relation to a street which is not named in Schedule 3 (Streets Subject to Street Works), but is within the Order limits, the undertaker is first required to secure the consent of the appropriate street authority. If within 42 days the highway authority fails to respond, then consent is deemed to have been given. The provision for deemed consent after 42 days avoids unnecessary delays to the authorised works - the time period has been increased from 28 days to accommodate the consultation response of North Lincolnshire Council. The approach has precedent in The Rampion 2 Offshore Wind Farm Order 2025.
- 5.12 **Article 11 (*Power to alter layout etc., of streets*)**. This has been included to provide the right to alter the layout of a street in the case of permanent alterations and works specified in Schedule 3. Paragraph (5) of this Article imposes a time limit for the highway authority to provide consent, if the undertaker is required to apply for such consent pursuant to paragraph (3) of the Article. If within 42 days the highway authority fails to respond, then consent is deemed to have been given. The provision has been increased by 28 days to 42 days at the request of North Lincolnshire Council. This has precedent in the Transport and Works Act Orders of The Network Rail (East West Rail) (Bicester to Bedford Improvements) Order 2020 (S.I.2020 No.114), The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022, and The Rampion 2 Offshore Wind Farm Order 2025.
- 5.13 **Article 12 (*Temporary restriction of use of streets*)**. This Article allows for the temporary closure, alteration, diversion or restriction of streets for the purposes of the Proposed Development. It is required because the use of certain streets will become incompatible with the construction of the authorised development at certain stages. Reasonable access must be provided for pedestrians. This article has precedent in The A122 (Lower Thames Crossing) Development Consent Order 2025.

- 5.14 Paragraph 2 differs from the Model Provisions and confers a power on the Applicant where the use of a street has been temporarily closed under this article to use it as a temporary working site. This provision has precedent in a number of DCOs including The A19/A184 Testo's Junction Alteration Order 2018, The A30 Chiverton to Carland Cross Development Consent Order 2020, The Great Yarmouth Third River Crossing Development Consent Order 2020, and The M25 Junction 28 Development Consent Order 2022.
- 5.15 Paragraph 3 requires the Applicant to provide reasonable access to pedestrians going to or from premises abutting a street affected by the exercise of powers under paragraph (1) of this article where there would otherwise be no such access.
- 5.16 Paragraph 4 provides that the consent of the street authority is required before the power conferred by paragraph 1 of this article may be exercised. The street authority may attach reasonable conditions to its consent but may not unreasonably withhold or delay consent.
- 5.17 Paragraph 5 provides that a person who suffers loss as a result of the suspension of any private right of way under the power conferred by paragraph 1 of this article is entitled to compensation.
- 5.18 Paragraph 6 states that where a street authority which fails to notify the Applicant of its decision in respect of an application for consent within 28 days of the application being made is deemed to have given its consent. It is considered necessary to remove the possibility for delay and provide certainty that the authorised development can be delivered by the Applicant in a timely fashion.
- 5.19 **Article 13 (Construction and maintenance of new or altered means of access).** Provides that new or altered means of access are to be constructed to a particular standard and maintained at the expense of the undertaker for a year. Any part of the new or altered means of access which are proposed to be public highway (as set out in the Access and Rights of Way Plan) and described in Schedule 4 (Access – those part of the access to be maintained at the public expense) will then be maintained by the Highway Authority. Paragraph 1 of Article 13 reflects the same wording used in The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022 which was tailored to respond to North Lincolnshire Council's request that highway works to be maintained at public expense should be subject to inspection and sign off of such works. Accordingly, the highway authority is not obliged to be responsible for the maintenance of those works until it is satisfied with the standard of the works, including any remedial works it may require be carried out to ensure the highway works are up to the required standard. The same wording has been adopted in this article based on that precedent.
- 5.20 Paragraph 2 mirrors the defence in Section 58 of the Highways Act 1980 where the undertaker is subject to an action for damages and has taken such care as was reasonably required in the circumstances to secure that the street was not dangerous to traffic. This Article and the incorporation of defence in particular is similar to Article 19 in The Hinckley Point C (Nuclear Generating Station) Order 2013 and The Drax Power (Generating Stations) Order 2019.
- 5.21 **Article 14 (Access to works).** This Article provides that the undertaker may form and layout other means of access not specified in the Order, with the approval of the relevant planning authority after consultation with the relevant highway authority. As with Article 11 (Power to alter layout, etc., of streets), a time limit has been included for the highway authority to provide its consent, with such consent being deemed if consent is not forthcoming after 28 days or, if refused, proper reasons have not been given for such refusal. This has precedent in the recent Transport and Works Act Orders of The Network Rail (East West Rail) (Bicester to Bedford Improvements) Order 2020 (S.I.2020 No.114), The Network Work Rail (Cambridge South

Infrastructure Enhancements) Order 2022, and The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022.

- 5.22 **Article 15 (Agreements with street authorities)**. This authorises street authorities and the undertaker to enter into agreements relating to the construction of a street or the carrying out of works on the street and the alteration diversion of the street. It also provides for such agreements to deal with the strengthening, improvement or repair of any streets. Such a provision was included in The Progress Power (Gas Fired Station) Order 2015, The Drax Power (Generating Stations) Order 2019, and The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022.
- 5.23 **Article 16 (Temporary Traffic Regulation)**. The purpose of this Article is to provide the Applicant with powers to make traffic regulation orders so that it can implement traffic management measures (e.g. restrictions on the use of roads) necessary to construct the authorised development. The traffic management measures are required to ensure the safe and efficient construction of the authorised development; this may include the need for speed restrictions along the A18. The article draws on the approach taken in article 16 of The A63 (Castle Street Improvement, Hull) Development Consent Order 2020, article 18 of The M25 Junction 28 Development Consent Order 2022 and article 24 of The Sizewell C (Nuclear Generating Station) Order 2022.

Part 4 – Supplemental Powers

- 5.24 **Article 17 (Discharge of water)** provides that the undertaker can use and connect into (either directly or through) additional infrastructure any existing watercourse, public sewer or drain within the Order limits for the purposes of the authorised development. Article 17(3) provides that before the undertaker can discharge any water into any watercourse, public sewer or drain, it must first obtain the consent of the owner, who may impose reasonable terms and conditions on the discharge.
- 5.25 Article 17(6) prevents the undertaker from carrying out any works that damage or interfere with the beds or banks of watercourses forming part of a main river without the Environment Agency's consent.
- 5.26 Article 17(7) confirms that the right to discharge does not remove the requirement to obtain environmental permits in respect of any discharges to water or groundwater.
- 5.27 **Article 18 (Authority to survey and investigate the land)** authorises the undertaker to enter onto any land within the Order limits or which may be affected by the authorised development to undertake various survey and investigative works including trial holes. The power is subject to a number of conditions, including a requirement for 14 days' notices to be given and is subject to the payment of compensation.
- 5.28 **Article 19 (Temporary interference with canal and public rights of navigation)**. This Article provides that during the construction process there will be a need to construct the temporary cofferdam and possibly interfere with other vessels navigating the canal. This article has been included to allow the undertaker to temporarily interfere with other users' rights as set out in the article, it is subject to the protective provisions agreed with the Canal & River Trust at Part 3 of Schedule 9. Paragraph (3) makes provision for payment of compensation for any loss suffered by reason of interference with any private rights of navigation. The provisions reflect those included in The Eggborough Gas Fired Generating Station Order 2018 and The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022.

- 5.29 **Article 20 (Use of private roads).** This Article permits the undertaker to use private roads within the Order limits for the purposes of constructing and maintaining the authorised development, the extent of private roads is identified on the Access and Rights of Way Plan. Whilst most of these private roads are within SSE plc ownership (or subsidiary company ownership) and necessary rights are being sought to use these roads as part of the Order, it has been considered appropriate to include this power out of prudence. There is precedent for this provision in The HyNet Carbon Dioxide Pipeline Order 2024.
- 5.30 **Article 21 (Maintenance of Drainage Works).** This Article ensures the maintenance of any works connected with the drainage of land.

Part 5 – Powers of Acquisition

- 5.31 **Article 22 (Compulsory acquisition of land).** This article provides the undertaker with the powers to compulsorily acquire any land within the Order limits where that land is required for purposes in connection with or ancillary to the authorised development. This power is necessary to ensure that the undertaker can have exclusive possession and control of land that is required for the authorised development. This article is subject to article 25 (compulsory acquisition of rights and restrictive covenants) article 31 (temporary use of land for carrying out the authorised development), article 33 (statutory undertakers) and article 36 (crown rights).
- 5.32 **Article 23 (Statutory authority to override easements and other rights).** This provides that by virtue of Section 158 of the 2008 Act; in carrying out or using the development authorised by the Order, the undertaker may interfere with any easement, liberty, privilege, rights or advantage annexed to such land and affecting other land. This will include any natural right to support, breach of any restriction as to use of the land arising by virtue of contract. By virtue of Section 152 of the 2008 Act compensation may be payable under Section 10 of the Compulsory Purchase Act 1965 for any such interference or breach. This provision has been previously authorised in for example The Wrexham Gas Fired Generating Station Order 2017 and The HyNet Carbon Dioxide Pipeline Order 2024.
- 5.33 **Article 24 (Time limit for exercise of authority to acquire land compulsorily).** This Article provides a limit of seven years beginning on the day on which this Order is made to exercise the powers of compulsory acquisition of land and reflects the time period within which the authorised development can be commenced pursuant to Requirement 2. This time limit reflects that in The Rampion 2 Offshore Wind Farm Order 2025.
- 5.34 **Article 25 (Compulsory acquisition of rights and restrictive covenants).** Article 25 enables the undertaker to acquire rights over land including new rights and existing rights if applicable and/or impose restrictive covenants. Schedule 5 (new rights and restrictive covenants) identifies the new rights and restrictions sought in relation to certain plots of the Order land, in connection with the relevant work area. The use of such powers is consistent with The Rampion 2 Offshore Wind Farm Order 2025.
- 5.35 As identified above, the authorised development currently include options in relation to Work Nos. 4A and 4B. Paragraph (3) requires, following confirmation of the Work No. 4A or B option pursuant to requirement 5, that the undertaker serve notice on all parties with interests in the relevant plots not affected by the confirmed Work No.4 option, such notice is to confirm that their land is no longer required. Such an approach has precedent in The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022.
- 5.36 The Article introduces Schedule 6 (modifications of compensation and compulsory purchase enactments for creation of new rights and restrictive covenants) which amends existing

compensation legislation in the case of compulsory acquisition under the Order or a right by the creation of a new right or the imposition of a restriction. Schedule 6 does not affect their entitlement to compensation but generally ensures the compensation code applies. The Article also provides for the transfer of power to acquire new rights to a statutory undertaker with the consent of the Secretary of State to allow for the creation of easements in favour of statutory undertakers in respect of their apparatus which would not otherwise be possible as the undertaker would not be the dominant tenement.

- 5.37 **Article 26 (*Private rights*)**. This has the effect of extinguishing private rights and restrictions over land where (1) the land is subject to compulsory acquisition (2) the private right is inconsistent with the right being compulsorily acquired or (3) the land is owned by the undertaker. The Article also suspends private rights for as long as the undertaker is in temporary possession of land under the Order. This Article follows the approach in The Drax Power (Generating Stations) Order 2019 and The Rampion 2 Offshore Wind Farm Order 2025.
- 5.38 **Article 27 (*Application of the 1981 Act and Part 1 of the 1961 Act*)**. This applies the vesting procedures in the Compulsory Purchase (Vesting) Declarations Act 1981 to the exercise of powers of compulsory acquisition pursuant to the Orders. It gives the undertaker the option to acquire land via the process set out in the 1981 Act rather than via the notice to treat/notice to entry process. The Article has been updated to incorporate and reflect changes brought about by the Housing and Planning Act 2016.
- 5.39 A new provision has been added at paragraph 11 to modify the application of Part 1 of the Land Compensation Act 1961 so that it applies in relation to all disputes which may arise in relation to all circumstances which give rise to compensation payable pursuant to the provisions of this Order. This provision allows for any dispute as to compensation to be referred to the Upper Tribunal and not only in circumstances where a dispute arises for land acquisition.
- 5.40 **Article 28 (*Acquisition of sub-soil or airspace only*)**. This permits the undertaker to acquire only the sub-soil or airspace of land which is to be compulsorily acquired or the sub-soil of rights or air rights over land which may be created and gives the undertaker the ability to minimise the extent of interests acquired from owners. This Article is appropriate in the context of cables or pipes to be laid underground and the construction/replacement of bridges as part of the authorised development where the acquisition of the entire freehold may not be necessary.
- 5.41 **Article 29 (*Modification of Part 1 of the 1965 Act*)**. This modifies the provisions of Part 1 of the Compulsory Purchase Act 1965 as applied to the Order by Section 125 of the 2008 Act. This provision reflects changes introduced by the Housing and Planning Act 2016. Paragraphs 1 to 3 amend the Compulsory Purchase Act 1965 so they are consistent with the terms of the Order and paragraph 4 makes a clear that the notice period introduced by the Housing and Planning Act 2016 does not apply to the temporary possession or use of the land under Article 31 (temporary use of land for carrying out the authorised development), 32 (temporary use of land for maintaining the authorised development) or 39 (protective provisions) of this Order. These modifications have broad precedent in Schedule 14 to The High Speed Rail (London–West Midlands) Act 2017, The Wrexham Gas Fired Generating Station Order 2017, and The Rampion 2 Wind Farm Order 2025.
- 5.42 **Article 30 (*Rights under or over streets*)**. This is adapted from the Model Provision to allow the undertaker to enter on and appropriate interests within streets where required for the purpose of the authorised development without being required to acquire that land. Provision is made for payment of compensation in certain circumstances. This wording has precedent in

The Progress Power (Gas Fire Power Station) Order 2015 and The Rampion 2 Wind Farm Order 2025.

- 5.43 **Article 31 (Temporary use of land for carrying out the authorised development).** This Article enables the undertaker in connection with the carrying out of the authorised development to take temporary possession of the land as listed in column 2, Schedule 7 (Land of which temporary possession may be taken). It also permits land to be temporarily occupied relating to any area within the Order limits. It imposes time limits for the occupation of land acquired temporarily. The undertaker must give at least 28 days' notice of its intended date to enter onto land pursuant to this article and to restore the land following the temporary works.
- 5.44 **Article 32 (Temporary use of land for maintaining the authorised development).** This allows any land within the Order land to be temporarily used for maintaining the authorised development. However, in order to carry out and comply with the landscape and biodiversity management and enhancement plan to be approved pursuant to Requirement 6, the maintenance period has been extended to reflect such maintenance period as will be established as part of Requirement 6. A similar provision was included in The North Wales Windfarm Connection Order 2016 and The Drax Power (Generating Stations) Order 2019.
- 5.45 **Article 33 (Statutory undertakers).** This allows for the acquisition of land belonging to statutory undertakers within the Order land and includes the power to move apparatus of those statutory undertakers and extinguish their rights. This article is subject to the Protective Provisions (see Article 39 below) included at Schedule 9 of the Order. Similar wording has been used in Orders including The Wrexham Gas Fire Generating Station Order 2017 and The Drax Power (Generating Stations) Order 2019.
- 5.46 **Article 34 (Apparatus and rights of statutory undertakers of streets).** This makes provision in respect of apparatus and rights of statutory undertakers in streets which are temporarily altered or diverted or where use is temporarily prohibited or restricted under Articles 10 (street works), 11 (Power to alter layout etc., of streets), 13 (Construction and maintenance of new or altered means of access) and 14 (Access to works) including provision as to the relocation of apparatus.
- 5.47 **Article 35 (Recovery of costs of new connections).** This provides that persons who have to create a new connection following the exercise of powers under Article 33 may recover costs of new connections from the undertaker.

Part 6 – Operations

- 5.48 **Article 36 (Crown Rights).** This article prevents protects Crown Land from any compulsory acquisition unless the Crown gives written consent. For the purposes of completeness, those plots in which the Crown has an interest are included in (as applicable) in Schedule 5 (new rights and restrictive covenants) and Schedule 7 (land of which temporary possession may be taken), however the Crown interests are excluded in the Book of Reference and also have the benefit of Article 36, in that powers of compulsory acquisition cannot be used against any Crown interest without the consent of the Crown.
- 5.49 **Article 37 (Felling or lopping of trees and removal of hedgerow).** This provides that the undertaker may fell or lop or cut back the roots of any trees or shrub near the part of the authorised development to the extent needed for the purposes of constructing, operating or decommissioning the authorised development or any apparatus used in connection with the authorised development. Compensation is provided for if loss or damage is caused.

- 5.50 **Article 38 (Protective Works to buildings).** This allows the undertaker to carry out protective works to buildings within the Order limits subject to a number of conditions including the serving of 14 days notices (except in the case of emergency) and payment of compensation.

Part 7 – Miscellaneous and General

- 5.51 **Article 39 (Protective provisions).** This provides for Schedule 9 (protective provisions) which protects the interests of certain statutory undertakers, to have effect.
- 5.52 **Article 40 (Interaction with the Keadby CCS Order)** This article is specific to the authorised development. As part of the Keadby 2 development construction works, temporary laydown areas (Pilfrey laydown area) and a haul road were installed to assist with its construction, as well as a construction compound. The Keadby 2 planning permissions required that the haul road and Pilfrey laydown areas be re-instated and restored following completion of the Keadby 2 development and the removal of temporary buildings and structures before commissioning could take place.
- 5.53 The Keadby CCS Order took effect on 29 December 2022 and pursuant to Article 36 within that Order, authorised the retention of the haul road and Pilfrey laydown area until the expiry of the time period for commencing the Keadby 3 development. Article 31 of that order also provided for the restoration of land used temporarily for construction, however the wording in that Article did not expressly address the need to remove any temporary buildings and structures permitted to be retained under planning permission reference PA/2023/0467. North Lincolnshire Council has been consulted on this Article in advance of the Application being submitted and confirmed it accepts the approach proposed in Article 40 (Restoration Works).
- 5.54 In the event that the authorised development is not commenced before the expiry of the development consent (i.e. 7 years) there may still be a need to restore these areas. Article 40 therefore secures the restoration of the haul road, Pilfrey laydown area, and construction compound in those circumstances. This approach has precedent in the Keadby CCS Order.
- 5.55 Paragraph (3) has been included to modify the Keadby CCS Order to ensure that the restoration obligations under that order do not have effect where the time period for commencement has expired and the undertaker has given notice that the authorised development under this Order is to be commenced. The ability to amend related DCOs has precedent in numerous previously made orders including The Rampion 2 Offshore Wind Farm Order 2025 which amends The Rampion Offshore Wind Farm Order 2014; The A19 Downhill Lane Junction Order 2020 which amends The A19/A184 Testo's Junction Alteration Order 2018; and The Millbrook Gas Fired Generating Station Order 2019 which amends The Rookery South (Resource Recovery Facility) Order 2011.
- 5.56 Paragraph (5) amends Article 20 (time limit for exercise of authority to acquire land compulsorily) of the Keadby CCS Order to bring the periods for the exercise of compulsory acquisition powers under both Orders (i.e. the Keadby CCS Order and the Keadby Next Generation DCO) into alignment. It also amends Requirement 2 (commencement of the authorised development) of the Keadby CCS Order to bring the period for commencement into alignment with the period for commencement of the Keadby Next Generation DCO. As explained in the Application documents, the Keadby 3 scheme and the Proposed Development are alternative projects that occupy substantially the same site. The Applicant will in due course decide which project will be built out but may not be in a position to make that decision by December 2027, which is the current time limit in Article 20 of the Keadby 3 DCO. This amendment ensures the Applicant has a reasonable period following the grant of consent for

the Proposed Development (which should consent be granted is expected to be in December 2026) within which to make that decision.

- 5.57 There is substantial precedent in previously made orders for time limits for compulsory acquisition of more than five years. Precedents can be found in article 45 of the Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 which provides for a ten year period, article 21 of the National Grid (Hinkley Point C Connection Project) Order 2016 which provides for an 8 year period, article 27 of The A122 (Lower Thames Crossing) Development Consent Order 2025 which provides for an 8 year period, article 26 of The London Luton Airport Expansion Development Consent Order 2025 which provides for a 10 year period and article 18 of The Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024 which provides for a 7 year time period.
- 5.58 The Applicant notes that in relation to article 19 of The Hornsea Three Offshore Wind Farm Order 2020, which provides for a 7-year time period, that the Secretary of State agreed with the extension on the basis that 7 years would allow more time for HVDC technology to advance. In this case, an extended period would allow more time for the carbon capture transport and storage network to advance.
- 5.59 The compelling case in the public interest that existed when compulsory powers were granted in the Keadby CCS Order continues to exist. If anything, the level of national policy support has increased since that Order was made. The Applicant emphasises that although the compulsory powers in that Order are necessary, they are relatively limited: in particular, very few plots are subject to outright acquisition under the Keadby CCS Order. The Applicant also emphasises that because the projects occupy substantially the same site, much of the same land will be subject to compulsory powers under the Keadby Next Generation DCO, should it be granted. In the Applicant's view an extension of time for the exercise of CA powers under the Keadby CCS Order to match the Keadby Next Generation DCO would not therefore represent an unacceptable worsening of position for those with an existing interest in the land. The Applicant notified landowners of the proposed DCO amendment and has received no objections to this provision.
- 5.60 **Article 41 (Application of landlord and tenant law).** This Article overrides the application of landlord and tenant laws so far as it may prejudice the operation of any agreement for leasing the whole or part of the authorised development or the rights to operate the same agreement entered into by the undertaker for the construction, maintenance, use or operation of the authorised development.
- 5.61 **Article 42 (Operational land for the purposes of the 1990 Act).** This Article provides that the development consent granted by this Order shall be treated as a specific planning permission for the purposes of Section 264(3) of the Town and Country Planning Act 1990 (cases in which land is to be treated as operational land for the purposes of that Act).
- 5.62 **Article 43 (Defence to proceedings in respect of statutory nuisance).** This Article provides that no one should be able to bring statutory nuisance proceedings under the Environmental Protection Act 1990 in respect of noise if the noise is created in the course of constructing or maintaining the authorised project and for which a notice under Section 60 has been given or consent obtained under Section 61 or 65 of the Control of Pollution Act 1974 or which cannot reasonably be avoided as a consequence of the authorised development. The Article also relates to other forms of statutory nuisance under Section 79(1)(b), (c), (d), (e), (fb) (g) or (h) which covers issues such as nuisance created by dust, artificial light, fumes, other emissions or effluvia. The Statement of Statutory Nuisance submitted in support of the DCO application

(**Application Document Ref: 5.3**) which identifies the assessment undertaken regarding possible significant effects that could constitute a statutory nuisance and concludes that the proposed development will not give rise to statutory nuisance during construction or operational stages; accordingly it is appropriate to include a defence against statutory proceedings with the Order in the form proposed. This approach is consistent with The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022.

- 5.63 **Article 44 (Planning Legislation).** This deals with the interaction between the DCO and implementation of further planning permissions otherwise authorised.
- 5.64 The effect of paragraph (1) of this Article is that the land within the Order limits is to be treated as the operational land of a statutory undertaker for the purposes of the Town and Country Planning Act 1990. Although section 264 of the 1990 Act is entitled “cases in which land is to be treated as not being operational land”, subsection (3) sets out cases in which land is to be treated as operational land. This article is necessary to ensure that development is correctly classified under the Town and Country Planning Act 1990 and benefits from the appropriate permitted development rights.
- 5.65 Paragraph (2) of this Article permits certain development authorised by way of a planning permission which has been initiated prior to the commencement of the project, to continue to be implemented despite physical incompatibility with the authorised development.
- 5.66 Paragraphs (2) to (5) address inconsistencies between the order and implementation of the project and developments previously consented under the planning regime which have already been implemented.
- 5.67 These provisions seek to address any overlap with other planning conditions and planning obligations, and to provide clarity (to the extent there is inconsistency) in terms of enforcement and which consent has effect.
- 5.68 This article ensures that the Supreme Court’s ruling in *Hillside Parks Ltd v Snowdonia National Park Authority 2022 UKSC [30]* is addressed appropriately. That judgment relates to planning permissions granted under the Town and Country Planning Act 1990. It holds that, unless there is an express provision otherwise, where development has taken place under one permission, whether another planning permission may lawfully be implemented depends upon whether it remains physically possible to carry out the development authorised by the second permission considering what has already been done under the first permission. This wording has recently been permitted in The Viking CCS Carbon Dioxide Pipeline Order 2025.
- 5.69 **Article 45 (Certification of plans etc.).** This provides for the submission of the various documents referred to in the Order (such as the Book of Reference, works plans and Environmental Statement) to the Secretary of State so that they could be certified as being true copies. The list of documents to be certified is set out in Schedule 11 (documents and plans to be certified) of the Order.
- 5.70 **Article 46 (Service of notices).** This deals with the service of notices pursuant to the Order. These provisions are based on those appearing in the Transport and Works (Model Provisions to Railways and Tramways) Order 2006.
- 5.71 **Article 47 (Procedure in relation to certain approvals etc.).** This provides procedures in relation to consents and approvals required pursuant to the Order. Schedule 8 (procedure for the discharge of requirements) contains the process for discharge.

- 5.72 **Article 48 (Arbitration)**. This is a general arbitration provision which provides for differences under the Order should be settled by arbitration unless means of resolving a dispute is provided for in the Order. It has been amended to carve out that any consent or approval from the Secretary of State shall not be subject to arbitration.
- 5.73 **Article 49 (Guarantees in respect of payment of compensation)**. This restricts the undertaker from exercising powers confirmed under Articles 22 (compulsory acquisition of land), 25 (compulsory acquisition of rights and restrictive covenants), 26 (private rights), 30 (rights under or over streets), 31 (temporary use of land for carrying out the authorised development), 32 (temporary use of land for maintaining the authorised development), and 33 (statutory undertakers) until it has either put in place a guarantee or other security approved by the Secretary of State in respect of liabilities of the undertaker to pay compensation under the Order. The guarantee or alternative form of security is not required to be in place for more than 15 years from the date on which the relevant power is exercised.
- 5.74 **Article 50 (No double recovery)**. This article provides that compensation is not payable under both the Order and other compensation regimes for the same loss or damage. In addition, the article provides that there is to be no double recovery under two or more different provisions of the Order. The principle of equivalence, namely that a claimant in a compulsory purchase matter shall be compensated for no more and no less than their loss, is long established and no part of the compensation code conflicts with this principle.
- 5.75 This article has precedent in Article 56 of the M42 Junction 6 Development Consent Order 2020, Article 49 of the M25 Junction 28 Development Consent Order 2022 and Article 67 of the A122 (Lower Thames Crossing) Development Consent Order 2025.

6 Schedule 1 - Authorised Development

6.1 **Schedule 1** describes the authorised development in detail, split into "work numbers", each of which represents a different element of the authorised works. The areas within each work can be constructed is shown on each of the referenced work plans.

6.2 **Work No. 1** – A high efficiency electricity generating station with a net output capacity of up to 910 megawatts (MWe) designed to run on hydrogen, natural gas or a blend of hydrogen and natural gas comprising -

- (a) **Work No. 1A** – a combined cycle gas turbine plant, comprising—
 - (i) a gas turbine with air intake filters;
 - (ii) a steam turbine;
 - (iii) gas turbine hall and steam turbine hall and associated buildings (including generator hall);
 - (iv) heat recovery steam generator and associated buildings;
 - (v) emissions stack;
 - (vi) transformers;
 - (vii) feed water pump house buildings;
 - (viii) nitrogen oxide emissions control equipment and chemical storage;
 - (ix) chemical dosing and sampling plants and buildings;
 - (x) fuel conditioning compound;
 - (xi) fuel blending equipment;
 - (xii) gas vents; and
 - (xiii) continuous emissions monitoring system.
- (b) **Work No. 1B** – Water treatment and Cooling infrastructure comprising—
 - (i) hybrid cooling towers;
 - (ii) cooling water connection to Work No.1A;
 - (iii) cooling water pumps, plant and buildings;
 - (iv) cooling water dosing and sampling plant and buildings; and
 - (v) water treatment plant.
- (c) **Work No. 1C** – generating station supporting uses, comprising—
 - (i) administration and control buildings;

- (ii) storage buildings;
 - (iii) vehicle parking;
 - (iv) gatehouse;
 - (v) operation and maintenance facilities; and
 - (vi) chemical storage facilities.
- (d) In connection with and in addition to Work Nos. 1A, 1B, and 1C—
- (i) hydrogen supply connection works and supply pipework
 - (ii) natural gas supply connection works and supply pipework
 - (iii) administration and control buildings;
 - (iv) auxiliary plant, buildings, enclosures and structures;
 - (v) auxiliary boiler and associated stack;
 - (vi) emergency diesel generators and bunded diesel fuel storage tank(s);
 - (vii) chemical storage facilities;
 - (viii) demineralised water treatment plant, including storage tank;
 - (ix) firefighting equipment and building;
 - (x) fire water storage tank(s);
 - (xi) fire water retention basin;
 - (xii) gatehouses;
 - (xiii) mechanical, electrical, heating and process gas, telecommunications and water networks, pipework, pipe runs, cables, racks, infrastructure (including pumps and skids), instrumentation and utilities including connections between Work Nos 2, 3, 4, 5, 6, 7 and 8, and parts of Work Nos. 1A, 1B and 1C;
 - (xiv) permanent laydown area(s) for operation and maintenance activities;
 - (xv) effluent treatment facilities;
 - (xvi) workshops; and
 - (xvii) storage buildings and facilities,

and associated development within the meaning of section 115(2) of the 2008 Act in connection with the nationally significant infrastructure project referred to in Work No. 1, comprising—

6.3 **Work No. 2** – a hydrogen supply pipeline connection for the transport of hydrogen to Work No. 1, comprising a high pressure steel pipeline, including cathodic protection posts and marker posts and above ground installation, comprising—

(a) **Work No. 2A** – a compound for the hydrogen supplier's apparatus comprising—

- (i) a connection from the hydrogen supply network;
- (ii) above and below ground valves, flanges and pipework;
- (iii) hydrogen gas equipment and buildings;
- (iv) instrumentation, telemetry and electrical kiosks;
- (v) pipeline inspection gauge launchers, receivers and traps;
- (vi) interface equipment between Work Nos. 2A & 2B;
- (vii) gas metering, conditioning and pressure regulation equipment; and
- (viii) gas vents.

(b) **Work No. 2B** – a compound for the undertaker's apparatus, comprising—

- (i) above and below ground valves, flanges and pipework;
- (ii) interface equipment between Work Nos. 2A & 2B;
- (iii) hydrogen gas pressure regulation equipment and maintenance buildings
- (iv) pipeline inspection gauge launchers, receivers and traps;
- (v) instrumentation, telemetry and electrical kiosks;
- (vi) gas metering, conditioning and pressure regulation equipment; and
- (vii) gas vents.

6.4 **Work No. 3** – a natural gas supply pipeline connection for the transport of natural gas to Work No. 1, comprising a high pressure steel pipeline, including cathodic protection posts and marker posts and above ground installation, comprising—

(a) **Work No. 3A** – a compound for the natural gas supplier's apparatus, comprising—

- (i) a connection from the natural gas transport and storage network;
- (ii) above and below ground valves, flanges and pipework;
- (iii) natural gas equipment and buildings;
- (iv) instrumentation, telemetry and electrical kiosks;
- (v) pipeline inspection gauge launchers, receivers and traps;

- (vi) interface equipment between Work Nos. 3A & 3B;
 - (vii) gas metering, conditioning and pressure regulation equipment; and
 - (viii) gas vents.
- (b) **Work No. 3B** – a compound for the undertaker’s apparatus, comprising—
- (i) above and below ground valves, flanges and pipework;
 - (ii) natural gas equipment and buildings;
 - (iii) interface equipment between Work Nos. 3A & 3B;
 - (iv) pipeline inspection gauge launchers, receivers and traps;
 - (v) instrumentation, telemetry and electrical kiosks;
 - (vi) gas metering, conditioning and pressure regulation equipment; and
 - (vii) gas vents.
- 6.5 **Work No. 4** – electrical connection works for the export and import of electricity to and from national electricity transmission networks, comprising—
- (a) **Work No. 4A** – up to 400 kilovolt overground and/or underground electrical cables and control systems cables running from Work No. 1A to the south-east of the existing National Grid Electricity Transmission sub-station, including works within the sub-station; or
 - (b) **Work No. 4B** – alternative up to 400 kilovolt overground and/or underground electrical cables and control systems cables running from Work No. 1A to the north-west of the existing National Grid Electricity Transmission sub-station, including works within the sub-station.
- 6.6 **Work No. 5** – water supply connection works to provide cooling and make-up water and other water to Work No. 1, comprising—
- (a) water abstraction and pumping station including-as necessary, fish returns systems, a temporary cofferdam structure, plant, buildings, enclosures, intake structures screens and other structures, temporary moorings and temporary repositioning of existing moorings;
 - (b) underground and/or overground water pipeline connection works;
 - (c) underground and/or overground electrical pipeline connection works;
 - (d) access works, vehicle parking, security, screening, lighting, and signage;
 - (e) utility service crossings works; and
 - (f) instrumentation, telemetry and electrical kiosks.

- 6.7 **Work No. 6** – works to connect Work No. 1B and the effluent treatment facilities to be constructed in Work No. 1 to the existing cooling water and treated wastewater comprising works to the existing outfall structures within the River Trent for the discharge of used cooling water, surface water and treated effluent including, as necessary, new, upgraded or replacement pipelines, plant, enclosures, utility service crossings works and other structures and cables.
- 6.8 **Work No. 7** – public water supply pipeline to supply potable water to Work No.1 from the supply point east of Chapel Lane including works to the existing public water supply pipelines, replacement and new pipelines, plant, enclosures and structures, utility service crossings works and other structures and cables.
- 6.9 **Work No. 8** – New permanent accesses to Work Nos. 1 to 7 comprising—
- (a) **Work No. 8A** – access route comprising the maintenance and improvement, surfacing works and signage of an existing private track running between A18 and Work No. 1 together with the westernmost existing private bridge crossing (Mabey Bridge);
 - (b) **Work No. 8B** –installation of gatehouse building and laybys, road improvements, barriers, enclosures, drainage and lighting;
 - (c) **Work No. 8C** – local utilities connection works to gatehouse building, signage and lighting in the vicinity of the junction with the A18; and
 - (d) **Work No. 8D** – emergency access route comprising the installation of a bridge crossing of an existing drainage channel, the maintenance and improvement of an existing private track running between Work No. 1 and Chapel Lane, surfacing and strengthening works, drainage, enclosures, signage, and lighting.
- 6.10 **Work No. 9** – Temporary construction and laydown areas and temporary and permanent accesses, comprising—
- (a) **Work No. 9A** – temporary construction and laydown areas comprising hard standing, earthworks and levelling, laydown and open storage areas, contractor compounds and construction staff welfare facilities, surface water drainage and gatehouse and weighbridge;
 - (b) **Work No. 9B** – construction access to temporary construction laydown areas including the maintenance and improvement of the existing private tracks connecting the existing junctions with the A18 with Work No. 9A, including the replacement, widening, improvement and maintenance of the westernmost existing private bridge crossing (Mabey Bridge), surfacing, drainage and strengthening works, barriers and enclosures;
 - (c) **Work No. 9C** – temporary construction and laydown area in association with the replacement of the westernmost existing private bridge crossing of the Hatfield Waste Drain, comprising laydown and open storage areas, hard standing, and the placement of mobile cranes;
 - (d) **Work No. 9D** – temporary haul route comprising the maintenance and improvement of the existing temporary paved haul route and ditch crossings and their subsequent removal; and

- (e) **Work No. 9E** – wharf and crane offloading facilities for waterborne transport on land east of the Keadby Power Station site and the Stainforth and Keadby Canal and at the River Trent comprising-
- (i) the inspection and repair of the existing wharf, and temporary placement of mobile cranes including the temporary oversailing of crane arms above the River Trent;
 - (ii) use of river bed of the River Trent for the mooring of vessels and craft at the waterborne transport offloading area at lower tide; and
 - (iii) access to and use of wharf to South of Stainforth and Keadby Canal at Keadby Lock for the mooring of vessels and craft at the waterborne transport offloading area.

6.11 **Work No. 10** – Soft landscaping including planting and biodiversity enhancement measures.

6.12 **Work No. 11** – an area reserved for carbon capture readiness infrastructure.

6.13 **Ancillary Works**

In connection with and in addition to Works Nos. 1 to 11, further associated development including—

- (a) surface water drainage systems, storm water attenuation systems including storage basins, oil water separators, including channelling and culverting and works to existing drainage systems;
- (b) electrical, gas, hydrogen, potable water supply, foul water drainage and telecommunications infrastructure connections and works, and works to alter the position of such services and utilities connections;
- (c) hard standings and hard landscaping;
- (d) soft landscaping, including bunds, embankments and planting;
- (e) biodiversity enhancement measures;
- (f) fencing, gates, boundary treatment and means of enclosure;
- (g) external lighting, including lighting columns;
- (h) closed circuit television cameras and columns and other security measures;
- (i) fire protection, prevention and detection facilities, apparatus and structures;
- (j) site establishment and preparation works, including site clearance (including vegetation removal, demolition of existing buildings and structures); earthworks (including soil stripping and storage and site levelling and formation of embankments) and excavations; the creation of temporary construction access points; the alteration of the position of services and utilities; and works for the protection of buildings and land;

- (k) temporary construction laydown areas and contractor facilities, including materials and plant storage and laydown areas; generators; concrete batching facilities; vehicle and cycle parking facilities; pedestrian and cycle routes and facilities; offices and staff welfare facilities; security fencing and gates; external lighting; roadways and haul routes; wheel wash facilities; and signage;
- (l) vehicle parking and cycle storage facilities;
- (m) accesses, roads and pedestrian and cycle routes;
- (n) tunnelling, boring and drilling works;
- (o) demolition;
- (p) temporary works associated with the maintenance of the authorised development including laydown for outages, contractor facilities, offices and staff welfare facilities; security fencing and gates; external lighting; wheel wash facilities; and signage; and
- (q) to the extent that it does not form part of such works, further associated development comprising such other works (i) as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and (ii) which fall within the scope of the works assessed in the environmental statement.

7 Schedule 2 – Requirements

- 7.1 Schedule 2 (Requirements): sets out the requirements which apply to the carrying out and operation of the authorised development. The Requirements closely relate to the mitigation referred to within the Environmental Statement (**ES**) (**Application Document Ref. 6.2**) and listed in the schedule of mitigation commitments in ES Volume III (**Application Document Ref. 6.4**). The majority of the Requirements reflect those which were included as part of the Keadby 3 (Carbon Capture Equipped Generating Station) Order 2022. A total of 39 Requirements are proposed as part of the draft Order.
- 7.2 **Requirement 1 (Interpretation):** this provides definitions for certain terms used in the requirements. It also clarifies the extent of consultation required with parties identified as consultees in the requirements.
- 7.3 **Requirement 2 (Commencement of the authorised development):** This requirement is based upon the model provisions and requires that the authorised development can only be commenced within 7 years of the date of the Order coming into force. The 7 year period is considered appropriate given that the delivery of hydrogen projects is largely untested and this will be the first project of its kind in the UK, alongside the ongoing Connections Reform process being led by National Energy System Operator which presents uncertainty regarding the development's predicted connection to the grid. The undertaker is required to give the relevant planning authority at least 14 days' notice of its intention to commence the authorised development.
- 7.4 **Requirement 3 (Notice of commencement and completion of commissioning):** This is not a model provision. It requires the undertaker to give notice to the relevant planning authority and Ministry of Defence of the intended start prior to such start or within 14 days from the date that commissioning is started and prior to the completion of commissioning or within 7 days from the date that commissioning is completed. These are points in the construction programme at which certain articles and requirements are triggered, and it is therefore appropriate for the relevant planning authority to be notified of when they occur.
- 7.5 **Requirement 4 (Notice of commencement of commercial use):** This is not a model provision. It requires the undertaker to notify the relevant planning authority of the intended start of commercial use of the authorised development prior to such start and in any event within 14 days from the date that commercial use commences. This is required for the same reason as Requirement 2.
- 7.6 **Requirement 5 (Detailed Design):** This is based on a model provision. It requires the specific design details for each Work number to be submitted to and approved by the relevant planning authority before commencement, save for the permitted preliminary works. The model provision has been modified in order to specify the appropriate details for each numbered Work, which vary according to the nature of the development comprised within the work. The specified details generally include external appearance, materials, siting, levels and heights, and access and circulation.
- 7.7 Additional consultation requirements have been added in relation to works where particular stakeholders have an interest in engagement on design details when submitted to the relevant local planning authority. For example, the Canal & River Trust are to be consulted on the details of Work No. 5.

- 7.8 In respect of Work Nos. 1A and 1B, the submitted details must comply with the parameters set out in Schedule 10, since Schedule 10 contains parameters for these works only. The parameters in Schedule 10 match the parameters used in the Environmental Statement to assess the authorised development. The authorised development must be constructed in accordance with the approved details. In addition, Work Nos. 1, 5, 8A, 8B, 9B and 10 must be constructed in accordance with the design principles statement. Work Nos. 1, 2, 3, 4, 5, 6, 7, 8A, 8B, 8D 9A, 9B, 9C, 9D and 9E and 10 must be carried out and maintained in accordance with the detailed approved pursuant to Requirement 5.
- 7.9 **Requirement 6 (Landscape and biodiversity management and enhancement plan):**
- 7.9.1 Sub-paragraphs (1) and (2) require the undertaker to submit a landscaping and biodiversity management and enhancement plan to the relevant planning authority prior to commencing the authorised development of that part which the plan relates to. The plan must set out a series of details, including measures to undertake and manage new tree and shrub planting, enhance and maintain trees and shrubs to be retained, maintain access for nocturnal wildlife, and wider biodiversity enhancement measures including the submission of a BNG strategy.
- 7.9.2 Sub-paragraph (4) requires the undertaker to ensure that the submitted plan is substantially in accordance with the principles of the outline landscape and biodiversity management and enhancement plan report and indicative landscape and biodiversity plan, together with an explanation of, where planting adjoins the Order limits, that it has been subject to consultation with Keadby and Althorpe Parish Council, and where any replanting of trees falls adjacent to the water abstraction forming part of Work No.5, consultation with the Canal & River Trust.
- 7.9.3 Sub paragraph (5) secures the implementation and maintenance of the approved plan for the duration of the operation of the authorised development.
- 7.10 **Requirement 7 (External Lighting):** This requires the undertaker to submit details of all external lighting to be installed during construction to the relevant planning authority for approval before the authorised development may commence, save for the permitted preliminary works. Sub-paragraph (2) contains an equivalent provision for the operation of the authorised development which requires the scheme to be submitted prior to commissioning. Sub-paragraph (3) requires that any schemes submitted under requirement 7 will be substantially in accordance with the outline lighting strategy and include measures covering the construction, commissioning and operation stages that minimise and mitigate light emissions.
- 7.11 **Requirement 8 (Means of enclosure):** This requires that no part of the authorised development may commence, save for the permitted preliminary works until details of all temporary means of enclosure have for that part been submitted to and approved by the relevant planning authority, including a programme for the removal of such temporary means of enclosure. It also requires that the authorised development may not be brought into commercial use until the permanent means of enclosure has been first consulted on with the Environment Agency in respect of any accesses to main rivers, and subsequently approved by the relevant planning authority, and completed.
- 7.12 **Requirement 9 (Site Security):** This requires that no part of the authorised development must be brought in to use until a scheme detailing security measures to minimise the risk of crime has been approved by the relevant planning authority. The approved scheme must be implemented throughout the operation of authorised development.
- 7.13 **Requirement 10 (Fire prevention):** This provides that no part of Works Nos. 1 or 8 may commence until details of accesses for the use of fire appliances have been submitted to and

approved by the relevant planning authority. The authorised development must be implemented in accordance with the approved details and maintained at all times throughout the operation of the authorised development.

- 7.14 **Requirement 11 (Surface water drainage):** This requirement is split into securing details for temporary surface water drainage systems during construction and then details for the permanent surface water drainage system to be implemented and maintained during operation of the authorised development. Sub-paragraph (1) states that no part of the authorised development may commence, save for the permitted preliminary works, until details of the temporary surface water drainage systems for that part, substantially in accordance with the outline construction environmental management plan, and a management and maintenance plan, have been submitted to and approved by the relevant planning authority in consultation with the Environment Agency and remain operational during construction. The systems must be constructed and maintained in accordance with the approved details. In response to stakeholder representations, the undertaker is required to consult with the lead local flood authority, relevant internal drainage board, and the Environment Agency in relation to the detailed permanent surface water drainage system and timetable for its implementation.
- 7.15 Sub-paragraph (3) requires equivalent details for the permanent systems, and the relevant planning authority must consult the lead local flood authority and the relevant internal drainage board. The details submitted must be substantially in accordance with the indicative surface water drainage plan (**Application Document Ref. 2.12**). Sub-paragraph (5) requires that the systems are implemented as approved and maintained throughout the operation of the authorised development.
- 7.16 **Requirement 12 (Foul water drainage):** This is split out into securing details for temporary foul water drainage systems and one for permanent foul water drainage systems. Sub-paragraph (1) provides that no part of the authorised development may commence, save for the permitted preliminary works, until details of the temporary foul water drainage systems for that part, substantially in accordance with the outline construction environmental management plan, and a management and maintenance plan, have been submitted to and approved by the relevant planning authority, who must consult the Environment Agency and Severn Trent Water before giving approval. The systems must be constructed in accordance with the approved details.
- 7.17 Sub-paragraph (3) requires equivalent details for the permanent systems and requires the relevant planning authority to consult both Severn Trent Water and the Environment Agency, being relevant consultees for Work No. 6, if this option for the discharge of foul water drainage is selected by the undertaker. Sub-paragraph (4) requires that the systems are implemented as approved and maintained throughout the operation of the authorised development.
- 7.18 **Requirement 13 (Flood risk mitigation):** Sub-paragraph (1) provides that no part of the authorised development, save for the permitted preliminary works, may commence until a scheme for the mitigation of flood risk during operation for that part, been submitted to and approved by the relevant planning authority, after having consulted the lead local flood authority, Canal & River Trust, Environment Agency and internal drainage board. Sub-paragraph (2) requires that the scheme submitted must provide a finished ground level of 3.0m AOD for those areas of Work Nos. 1, 2 and 3 which contains critical infrastructure or buildings intended for occupation. Sub-paragraph (6) requires that the authorised development is not commissioned until a scheme for the mitigation of flood risk during the operational stage has been implemented and a flood emergency response and contingency plan has been submitted to the relevant planning authority, after having consulted the lead local flood authority. The

details approved must be implemented as approved and maintained as part of the authorised development.

- 7.19 The schemes submitted under sub-paragraphs (1) and (3) must each be substantially in accordance with the flood risk assessment (**Application Document Ref. 6.3.16**). Sub-paragraphs (6) and (7) secure the approval and implementation of a flood emergency response and contingency plan and make clear that the lead local flood authority must be consulted by the relevant planning authority before such approval is given.
- 7.20 **Requirement 14 (Contaminated land and groundwater):** This provides that no part of the authorised development may commence save for investigations to assess ground conditions until a scheme to deal with the contamination of land has (including groundwater), for that part, been submitted to and approved by the relevant planning authority following consultation with the Environment Agency. It requires that the submitted scheme must include a risk assessment and must be substantially in accordance with the Environmental Statement (**Application Document Ref.6.2**) and must be included in the construction environmental management plan submitted pursuant to Requirement 16. Sub-paragraph (4) requires that the authorised development, and any remedial measures that were identified as necessary, are implemented and maintained as approved.
- 7.21 **Requirement 15 (Archaeology):** This provides that no part of the authorised development may commence until a scheme of archaeological investigation for that part has been submitted to and approved by the relevant planning authority after consultation with an archaeologist appointed by North Lincolnshire Council. The scheme submitted and approved must be substantially in accordance with the outline written scheme of investigation (**Application Document Ref. 7.7**). Furthermore, any archaeological investigations must be carried out in accordance with the approved scheme and by a suitably qualified person or organisation approved by the relevant planning authority after consultation with the relevant archaeology body.
- 7.22 **Requirement 16 (Construction environmental management plan):** This is a modified version of the model provision on 'Code of Construction Practice'. It requires a Construction Environmental Management Plan, substantially in accordance with the outline construction environmental management plan (**Application Document Ref. 7.4**) to have been submitted to and approved by the relevant planning authority in consultation with Natural England, the Environment Agency, and the Canal & River Trust in relation to any details submitted in relation to Work No.5, before commencement of the authorised development, save for the permitted preliminary works. The plan should include all of the details set out in sub-paragraph (2) including a soil management plan and a site waste management plan and a fish management plan. Sub-paragraph (3) requires that all construction works associated with the authorised development must be carried out in accordance with the approved Construction Environmental Management Plan.
- 7.23 **Requirement 17 (Protection of highway surfaces):** This requires details of the condition surveys (including any post-construction surveys) which are to be carried out on the public highways to be used during construction to be approved by the relevant planning authority prior to commencement of the authorised development, save for the permitted preliminary works. The surveys must then be carried out in accordance with the approved details, and a schedule of repairs including an implementation timetable must be submitted to and approved by the relevant planning authority, in consultation with the highway authority. The schedule of repairs must be implemented as approved.

- 7.24 **Requirement 18 (Temporary haul road (traffic management and protection)):** This is based on a condition on the haul road planning permission (defined in Article 2 by reference to its local authority reference) and requires that the haul road (Work No. 9D) is retained and maintained in accordance with the plans approved under the haul road planning permission (reproduced in **Application Document Ref. 2.16**) and appropriate traffic management measures are put in place at Trentside, a public highway, and thereafter implemented.
- 7.25 **Requirement 19 (Temporary haul road (removal and restoration)):** This is based on a condition on the haul road planning permission and requires that no later than 36 months from commencement of Work 1, a scheme for the removal of the haul road (Work No. 9D) and timetable for implementation shall be submitted to and approved by the relevant planning authority. Such approved scheme to be implemented in full.
- 7.26 **Requirement 20 (Pilfrey laydown area (design)):** This is based on a condition on the Pilfrey laydown planning permission and requires that the laydown area (that part of Work No. 9A lying in the area indicated in the Pilfrey laydown plans, which are the plans approved under the Pilfrey laydown planning permission and reproduced in **Application Document Ref. 2.17**) is retained and maintained in accordance with the same plans.
- 7.27 **Requirement 21 (Pilfrey laydown area (removal and restoration)):** This is based on a condition on the Pilfrey laydown planning permission and requires that a scheme for the restoration of the laydown area (that part of Work No. 9A lying in the area indicated in the Pilfrey laydown plans) to its former condition is submitted to and approved in writing by the relevant planning authority within 3 months of the completion of commissioning, and thereafter implemented in full.
- 7.28 **Requirement 22 (Construction traffic management plan):** This requires a construction traffic management plan to be submitted to and approved by the relevant planning authority, following consultation with National Highways and the highway authority, before commencement, save for permitted preliminary works. It also requires notices to be erected and maintained throughout the construction period at every entrance to and exit from the construction site, indicating the approved routes for traffic entering and leaving the site. The plan submitted and approved must be substantially in accordance with the outline construction traffic management plan (**Application Document Ref. 7.5**). Sub-paragraphs (3)(b), (d) and (e) make particular provisions to promote and control water freight and abnormal indivisible load transport within Work No. 9, and include controls currently contained in conditions forming part of the haul road planning permission. Sub-paragraph (c) requires the provision of a wharf management plan substantially in accordance with the framework wharf management plan; this has been included at the request of the Canal & River Trust in order to minimise abnormal load deliveries which temporarily obstruct Keadby Lock outside of notified timings; the Canal & River Trust is to be consulted on the wharf management plan. The approved construction traffic management plan must be implemented within 3 months of commencement of the authorised development and maintained throughout construction.
- 7.29 **Requirement 23 (Construction worker travel plan):** This requires a travel plan for construction workers to be submitted to the relevant planning authorities following consultation with the highway authority prior to commencement of the authorised development, save for the permitted preliminary works. The plan must include measures to encourage sustainable transport; details of the responsibility for and timetable for implementation of those measures; details of parking for construction personnel, and a monitoring and review regime. The approved plan must be implemented within three months of the commencement of the authorised development, save for the permitted preliminary works. The plan submitted and

approved must be substantially in accordance with the outline construction workers travel plan (**Application Document Ref. 7.6**).

- 7.30 **Requirement 24 (Construction hours):** This specifies the hours in the day within which all construction work and deliveries associated with the authorised development must be carried out. The restrictions do not apply to work that does not exceed a specified noise limit, is approved in advance by the relevant planning authority or is associated with an emergency.
- 7.31 The restricted hours for construction under sub-paragraph (1) and the delivery of materials under sub-paragraph (2) do not apply where they do not exceed a noise level first agreed in writing with the relevant planning authority or are prior approved by the relevant planning authority, or which relate to an emergency. The restricted hours for the delivery of materials under sub-paragraph (2) do not apply to the delivery of abnormal indivisible loads where this is associated with an emergency or carried out with the prior approval of the relevant planning authority.
- 7.32 The requirement also permits 30-minute start-up and shut-down periods at the beginning and the end of the construction hours and the maintenance at any time of plant and machinery engaged in the construction of the authorised development.
- 7.33 **Requirement 25 (Control of noise and vibration – construction):** This requires a scheme for the monitoring and control of noise and specified methodologies for identifying receptor locations, for noise measurement, and for the setting of noise levels, to be submitted and approved prior to the commencement of the authorised development.
- 7.34 **Requirement 26 (Control of noise – operation):** This requires that no part of the authorised development must be brought into commercial use until a scheme for the management and monitoring of noise during operation has been submitted to and approved by the planning authority. The noise level is to be determined with reference to BS4142:2014+A1:2019. Following representations received, paragraph (5) has been amended to include a process for investigating and responding to noise complaints.
- 7.35 **Requirement 27 (Piling and penetrative foundation design):** This requires that no part of Work Nos. 1, 2, 3, 5, 8B or 9B can commence until a piling and penetrative foundation design method statement, informed by a risk assessment, has been submitted to and approved with by the planning authority. It requires that the planning authority must consult with the Environment Agency on the method statement before giving such approval.
- 7.36 **Requirement 28 (Restoration of land used temporarily for construction):** This prevents the authorised development being brought into commercial use until the scheme for the restoration of any land within the Order limits which has been used temporarily for construction has been submitted to and approved by the relevant planning authority. It stipulates that the land must be restored within three years of the authorised development being brought into commercial use (or such other period as may be approved by the relevant planning authority), in accordance with the restoration scheme and the outline landscape and biodiversity management and enhancement plan (**Application Document Ref. 5.10**).
- 7.37 **Requirement 29 (Combined heat and power):** This is not a model provision. It is based, with drafting modifications, on requirement 34 of the North Blyth Biomass Power Station Order 2013 and requirement 39 of the Ferrybridge Multifuel 2 Power Station Order 2014. It requires the relevant planning authority to give notice, before first commercial use of the authorised development, that it is satisfied that the authorised development includes space and routes through the later provision of heat pass-puts for off-site users of process or space heating and

its later connection to such systems. The undertaker must maintain such space and routes for the lifetime of the authorised development and must submit a CHP review to the planning authority 12 months after first commercial use. The undertaker must submit an updated CHP review to the planning authority every 5 years.

- 7.38 **Requirement 30 (Aviation warning lighting):** This requires details of the aviation warning lighting to be installed for the construction and operation of Work No. 1 to be submitted to the relevant planning authority prior to commencement of development on Work No. 1. It requires the planning authority to consult with the Civil Aviation Authority and Ministry of Defence Safeguarding on the submitted details before giving such approval.
- 7.39 **Requirement 31 (Air safety):** This requires details of the information required by the Defence Geographic Centre of the Ministry of Defence to be submitted to and approved by the planning authority before commencement of the authorised development.
- 7.40 **Requirement 32 (Community liaison group):** This requires that before the authorised development commences, (save for Work No. 9) the undertaker must amend the terms of reference for the existing Community Liaison Group to liaise with local residents and organisations to keep them informed about matters relating to the authorised development. Nearby parish councils, relevant interest groups and the planning authority must also be invited, and a representative of the undertaker must be in attendance. The committee must meet every other month, starting in the month prior to commencement of the authorised development throughout construction. A yearly meeting during operation is also provided for.
- 7.41 **Requirement 33 (Employment, skills and training plan):** This requires that a plan detailing arrangements to promote employment, skills and training development opportunities for local residents during construction, and employment opportunities during operation, of the authorised development has been submitted to and approved by the relevant planning authority. The plan must be approved prior to the commencement of the authorised development, save for permitted preliminary works. The plan approved must be implemented and maintained during the construction and operational phases of the authorised development.
- 7.42 **Requirement 34 (Decommissioning):** This is not a model provision. It requires the undertaker to submit a decommissioning environmental management plan, to include specified details including an implementation timetable to the relevant planning authorities within 12 months of it deciding to decommission the authorised development. The undertaker must consult the Environment Agency on measures relating to the water environment prior to submitting the plan to the relevant planning authority. The relevant planning authority must approve the scheme before any decommissioning works are carried out and the scheme must be implemented and maintained as approved.
- 7.43 **Requirement 35 (Requirement for written approval):** This is based on a model provision and confirms that the relevant planning authority's approval or agreement must be given in writing.
- 7.44 **Requirement 36 (Approved details and amendments to them):** This is not a model provision. It requires that all details submitted to the relevant planning authority for approval must be in accordance with the parameters in the Environmental Statement and reflect the principles of the documents submitted for certification (in accordance with article 45 (Certification of plans etc.)). It expressly states that "approved details" includes any amendments which may be subsequently approved by the relevant planning authority.
- 7.45 **Requirement 37 (Amendments agreed by the relevant planning authority):** This is a modified model provision. This clarifies that where the phrase "unless otherwise agreed"

appears in requirements, it does not permit changes which could give rise to any materially new or materially different environmental effects than those assessed in the Environmental Statement. It also makes clear that where the requirement requires consultation with another body, then any approval or agreement to any amendments must not be given without the relevant planning authority having first consulted with that body.

8 Schedules 3 – 11

- 8.1 **Schedule 3** (*Streets and Street Works*). This sets out those streets which are to be subject to street works as per Article 10 (Street works)
- 8.2 **Schedule 4** (*Access – Those Parts of the Access to Be Maintained at the Public Expense*). This sets out details of access works which are to be maintained at public expense once constructed in accordance with the provisions of the Order.
- 8.3 **Schedule 5** (*New Rights and Restrictive Covenants*). This sets out details of land in relation to which new rights and restrictive covenants may be acquired and sets out the purpose of the new rights and restrictions sought over identified plots.
- 8.4 **Schedule 6** (*Modification of Compensation and Compulsory Purchase Enactments for the Creation of New Rights and Imposition of Restrictive Covenants*). This sets out changes to the operation of legislation related to compulsory purchase insofar as it relates to the acquisition of new rights.
- 8.5 **Schedule 7** (*Land of Which Temporary Possession May Be Taken*). This sets out details of such land that may be occupied under temporary powers, it identifies the land by plot reference and the relevant works together with the purpose of the temporary use.
- 8.6 **Schedule 8** (*Procedure for Discharge of Requirements*). This sets out the process for approvals pursuant to the Order.
- 8.7 **Schedule 9** (*Protective Provisions*). This sets out protective provisions for statutory undertakers affected by the authorised development, the purpose is to provide adequate protection for the relevant statutory undertaker's apparatus and equipment during the construction of the authorised development. Protective Provisions in favour of specific undertakers are under discussion with the relevant undertaker, and it is anticipated that final agreed provisions will be provided in an updated draft Order. There are 6 parts to Schedule 9 (protective provisions) which are as follows:
- 8.7.1 Part 1 For the Protection of National Grid Electricity Transmission Plc as Electricity Undertaker
- (a) These protective provisions are based on standard form protective provisions for this statutory undertaker.
- 8.7.2 Part 2 for the Protection of National Gas Transmission Plc as Gas Undertaker
- (a) These protective provisions are based on standard form protective provisions for this statutory undertaker.
- 8.7.3 Part 3 For the Protection of The Canal & River Trust
- (a) These protective provisions are based on standard form protective provisions for this statutory undertaker and have been agreed with the Trust.
- 8.7.4 Part 4 For the Protection of Electricity, Gas, Water and Sewerage Undertakers
- (a) These protective provisions are based on standard form protective provisions and are generic in form.

- 8.7.5 Part 5 For the Protection of Operators of Electronic Communications Code Networks
- (a) These protective provisions are based on standard form protective provisions for this statutory undertaker and are generic in form.
- 8.7.6 Part 6 For the Protection of Railway Interests
- (a) These protective provisions are based on standard form protective provisions for this statutory undertaker.
- 8.7.7 Part 7 for the Protection of Northern Powergrid (Yorkshire) PLC
- (a) These protective provisions are based on standard form protective provisions for this statutory undertaker.
- 8.8 **Schedule 10** (*Design parameters*). This sets out the development envelope in terms of maximum parameters. This has been updated to reflect the updated parameters comprised in the scheme change application (as assessed in the Environmental Statement (**Application Document Ref. 6.2**)). The parameters are secured by Requirement 5(11) in Schedule 2 (Requirements).
- 8.9 **Schedule 11** (*Documents and Plans to Be Certified*). This sets out the documents and plans to be certified by the Secretary of State in authorising the Order.