

VARIATION OF CONSENT UNDER SECTION 36C OF THE ELECTRICITY ACT 1989
CONSTRUCTION AND OPERATION OF A COMBINED CYCLE GAS TURBINE ELECTRICITY
GENERATING STATION AT DRAKELOW, SOUTH DERBYSHIRE

The Secretary of State in exercise of the powers conferred on him by section 36C of the Electricity Act 1989 and section 90(2ZA) of the Town and Country Planning Act 1990 hereby varies the consent granted for the combined cycle gas turbine electricity generating station at Drakelow in the County of Derbyshire in accordance with the variations shown in underlined, italic text marked with a superscript of “4” in the Annex.

12 January 2018

Gareth Leigh
Head of Energy Infrastructure Planning
Department for Business, Energy and Industrial Strategy

VARIED BY LETTER DATED 9 APRIL 2010¹
VARIED BY LETTER DATED 11 OCTOBER 2011²
VARIED BY LETTER DATED 6 July 2016³
VARIED BY LETTER DATED 12 January 2018⁴

Our ref: GDBC/001/00230C

DEPARTMENT FOR BUSINESS, ENTERPRISE AND REGULATORY REFORM
ELECTRICITY ACT 1989
CONSTRUCTION AND OPERATION OF A COMBINED CYCLE GAS TURBINE
GENERATING STATION AT DRAKELOW, SOUTH DERBYSHIRE

1. Pursuant to section 36 of the Electricity Act 1989 the Secretary of State for Business, Enterprise and Regulatory Reform (“the Secretary of State”) hereby consents to the construction by ~~E.ON UK plc~~ Powersite DL Limited³ (“the Company”), on the area of land outlined red on Figure 1 of the Supplementary Environmental Information Report 2017-1⁴ of a combined cycle gas turbine generating station at Drakelow in the County of Derbyshire (“the Development”), and to the operation of that generating station.

2. Subject to paragraph 3(1), the Development shall *have an electricity generating capacity of up to ~~be about~~*⁴ 1,220 MW and comprise:

- (a) ~~one or more~~ 14 gas turbines;
- (b) one or more ~~heat recovery once through~~⁴ steam generators;
- (c) one or more steam turbines;
- (d) ancillary plant and equipment *including water storage tanks and gas receiving facility*⁴; and
- (f) the necessary buildings (including administration offices) and civil engineering works.

3. This consent is granted subject to the following conditions *as amended by the variation of 12 January 2018*⁴:

- (1) The Development shall be constructed and operated in accordance with the details contained in paragraph 2 of this consent.
- (2) The layout of the Development shall be such as to permit the installation of such plant as may reasonably be required to achieve the prevention of the discharge of carbon and its compounds into the atmosphere.
- (3) The commencement of the Development shall not be later than 12 January 2021 ~~three years from the date of this consent~~¹ 16 October

~~2012¹² 16 October 2015²³ 16 October 2018³~~, or such longer period as the Secretary of State may hereafter direct in writing^{3, 4}.

4. The Secretary of State in exercise of the powers conferred on him by section 90(2) and (2ZA)⁴ of the Town and Country Planning Act 1990 hereby directs that planning permission for the Development be deemed to be granted subject to the following conditions.

Definitions

- (1) In these Conditions unless the context otherwise requires -
"BS 4142 ~~20141997~~⁴" means British Standard 4142: ~~20141997~~
Methods⁴ for rating *and assessing*⁴ industrial *and commercial*
*sound noise affecting mixed residential and industrial areas*⁴;

"Bank Holiday" means a day that is, or is to be observed as, a Bank Holiday or a holiday under the Banking and Financial Dealings Act 1971;

"CHPQA Standard (issue 65⁴)" means the CHPQA Standard document issued in November 2013 which sets out definitions, criteria and methodologies for the operation of the UK's CHP Quality Assurance (CHPQA) programme, or any replacement document that contains a definition of Good Quality CHP scheme;³

"the commencement of the Development" means the date on which the Development shall be taken to be initiated in accordance with section 56 of the Town and Country Planning Act 1990, as amended;

"the commissioning of the Development" means the date on which the Development first supplies electricity on a commercial basis;

"the Company" means ~~E.ON UK plc~~ Powersite DL Limited³ and its assigns and successors;

"the County Council" means Derbyshire County Council and its successors;

"creative conservation" means the establishment of areas which are capable of sustaining indigenous species of flora and fauna;

"the Development" means the combined cycle gas turbine generating station at Drakelow in the County of Derbyshire;

"the District Council" means the South Derbyshire District Council and its successors;

"emergency" means circumstances in which there is reasonable cause for apprehending imminent injury to persons, serious damage to property or danger of serious pollution to the environment;

"Environment Agency" means the Environment Agency and its successors;

"heavy commercial vehicle" has the meaning given by section 138 of the Road Traffic Regulation Act 1984;

"the main Development" means the construction work commencing with the placing of the first concrete for the main plant foundations of the Development;

"Natural England" means Natural England and its successors;

"operating weight" in relation to a goods vehicle has the meaning given by section 138 of the Road Traffic Act 1984;

"Open Mosaic Habitats on Previously Developed Land" means land of that description which meets the criteria of the UK Biodiversity Action Plan Priority Habitat³

"Permitted Preliminary Works" means:

- (i) landscaping and creative conservation, providing these do not require the delivery or removal of bulk filling materials to or from the Site;
- (ii) installation and diversion of utility services within the Site;
- (iii) surveys and geotechnical surveys;
- (iv) relocation of existing auxiliary plant and facilities on the Site;
- (v) provision of wheel cleansing facilities required pursuant to Condition (4); and
- (vi) provision for temporary contractors' facilities necessary for (i) to (v) above within the Site;

"the Site" means the area of land outlined red on Figure 1 ~~12~~⁴, annexed hereto.

The Site

- (2) The construction of the Development shall only take place within the boundary of the Site.

Reason: To ensure that no construction takes place beyond the boundary of the area which is the subject of this planning permission.

Time Limits

- (3) The commencement of the Development shall not be later than 12 January 2021,⁴ ~~the expiry of three years from the date of this consent, or such longer period as the Secretary of State may hereafter direct in writing. 16 October 2012¹ 16 October 2015² 16 October 2018³.~~⁴

Reason: To comply with the requirements of section 91 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004 and to reflect the time it may reasonably take to put in place the remaining and necessary pre-construction measures required for the Development, including discharge of planning conditions³.

Suppression of Dust and Dirt

- (4) Except for the Permitted Preliminary Works, the commencement of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with the District Council a scheme for the provision of wheel cleansing facilities for heavy commercial vehicles and any other vehicle which has an operating weight exceeding three tonnes. Such approved facilities shall be installed in accordance with a timescale to be approved in writing by the District Council and shall be maintained throughout the period of the construction of the Development unless any variation has been approved in writing by the District Council.
- (5) All heavy commercial vehicles and any other vehicle which has an operating weight exceeding three tonnes associated with the construction of the Development leaving the Site, other than those vehicles exclusively using tarmacadam or concrete roads, shall on each occasion, prior to leaving, pass through the wheel cleansing facilities provided pursuant to Condition (4).
- (6) Except for the Permitted Preliminary Works, the commencement of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with the District Council a scheme employing best practicable means for the suppression of dust during the period of the construction of the Development. The measures approved in the scheme shall be employed throughout the period of construction unless any variation has been approved in writing by the District Council.
- (7) All open bodied heavy commercial vehicles carrying dry loose aggregate, cement or soil into and out of the Site shall be sheeted.

Reason: To ensure that satisfactory measures are in force so as to alleviate any impact dust and dirt may have on the local environment.

Traffic

- (8) The commencement of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with the County Council a Traffic Management Plan. The approved Plan shall be adhered to throughout the period of the construction of the Development, unless any variation has been approved in writing by the County Council.

Reason: To reduce the impact of construction traffic on the local population.

Layout and Design

- (9) Except for the Permitted Preliminary Works, the commencement of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with, the District Council a scheme which shall include provisions for the:

- (i) details of the siting, design, external appearance and dimensions of all new or modified buildings and structures which are to be retained following the commissioning of the Development;
- (ii) details of the colour, materials and surface finishes in respect of those buildings and structures referred to in (i) above;
- (iii) details of vehicular circulation roads, parking, hardstandings, turning facilities and loading and unloading facilities on the Site;
- (iv) details of artificial lighting required during the operation of the Development;
- (v) details of all new or modified permanent fencing and gates required on the Site; and
- (vi) phasing of works included in the scheme.

- (10) The Development shall proceed only in accordance with the scheme referred to in Condition (9) subject to any variation as may be approved in writing by the District Council.

- (11) The commissioning of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with the District Council a scheme for the removal of all temporary buildings, structures and ancillary works connected with the construction of the Development. Such scheme shall include the timing and phasing of removal and details for the

reinstatement of the land. The measures approved in the scheme shall be employed throughout the period of removal unless any variation has been approved in writing by the District Council.

Reason: To enable the District Council to exercise reasonable and proper control over the design and appearance of the Development.

Construction and Construction Noise

- (12) All activities associated with the construction of the Development shall be carried out in accordance *with* :
– BS 5228-1:2009+AI:2014 ‘Code of practice for noise and vibration control on construction and open sites. Noise’
BS 5228-2:2009+AI:2014 ‘Code of practice for noise and vibration control on construction and open sites. Vibration’~~*with British Standard 5228, Parts 1 and 2: 1997 and Part 4: 1992: Noise and Vibration Control on Construction and Open Sites.*~~⁴
- (13) No construction work associated with the Development shall take place on the Site at any time on any Sunday or Bank Holiday nor on any other day except between the following times:
- | | |
|------------------|-------------|
| Monday to Friday | 0700 - 2200 |
| Saturday | 0730 – 1730 |
- unless such work -
- (a) is associated with an emergency; or
 - (b) is carried out with the prior written approval of the District Council.
- (14) In any instance where a time limitation referred to in Condition (13) is exceeded because of an emergency the Company shall as soon as possible notify the District Council and follow up the notification with a written statement detailing the nature of the emergency and the reason why the time limitation could not be observed.

Reason: To ensure reasonable and proper control to be exercised over the methods of construction of the Development and to reduce the number of traffic movements for the safety of other road users and pedestrians.

Operational Noise

- (15) The commissioning of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with, the District Council a programme for the monitoring of noise generated by the normal commercial operation of the

Development. The programme shall specify the locations from which noise will be monitored, the method of noise measurement (which shall be in accordance with BS 4142 ~~2014~~¹⁹⁹⁷⁴) and the maximum permissible levels of noise at each such monitoring location. The programme shall make provision for such noise measurements to be taken by the Company as soon as possible following requests by the District Council and such measurements shall be given to the District Council as soon as they are available.

- (16) In any instance where a noise level approved pursuant to Condition (15) is exceeded because of an emergency the Company shall as soon as possible, and at least within two working days, provide the District Council with a written statement detailing the nature of the emergency and the reason why the noise level and/or limitation could not be observed. If the emergency period is expected to be for more than twenty-four hours then the Company shall inform those residents affected by the emergency of the reasons for the emergency and the expected duration.

Reason: To ensure the proper control of noise during the operation of the Development.

Prevention of Contamination of Watercourses

- (17) Except for the Permitted Preliminary Works, the commencement of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with the District County Council, in consultation with the *County Council Environment Agency*⁴, a scheme showing the method and working of drainage facilities on the Site. Such facilities shall be put in place in accordance with the approved scheme.
- (18) The scheme referred to in Condition (17) shall include:
- (i) measures to ensure that no leachate or any contaminated surface water from the Site shall be allowed at any time to enter directly or indirectly into any watercourse or underground strata or onto adjoining land;
 - (ii) provision so as to ensure that all existing drainage systems continue to operate and that riparian owners upstream and downstream of the Site are not adversely affected;
 - (iii) provision for trapped gullies in car parks, hardstandings and roadways;
 - (iv) measures to ensure that all foul sewage must drain to an approved foul sewerage and/or sewage disposal system;

- (v) provisions to distinguish between temporary and permanent parts of the works; and
 - (vi) phasing of works.
- (19) Any surface water contaminated by hydrocarbons which are used during the construction of the Development shall be passed through oil/grit interceptor(s) prior to being discharged to any public sewer or watercourse or to any other surface water disposal system approved by the Environment Agency.
- (20) All facilities required for the storage of hydrocarbons, process chemicals or similar liquids which are used during the construction of the Development must be sited on impervious bases and surrounded by impervious bund walls. The size of the bunded compound(s) shall be at least equivalent to the capacity of the largest tank plus 10%. All filling points, vents and sight glasses must be located within the bund and there must be no drain through the bund floor or walls.
- (21) All bunded compound(s) referred to in Condition (20) in which acids, alkalis or sulphides in addition to being contained in suitable facilities shall have appropriate protective lining applied to the inner walls of the bunds.

Reason: To ensure proper drainage of the Site and that proper containment facilities are built.

Archaeology

- (22) The commencement of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with, the County Council, a scheme of archaeological investigation and an associated implementation programme.
- (23) The scheme approved pursuant to Condition (22) shall provide for:
- (i) any person nominated by the County Council to be permitted safe access to the part of the Site where the find is made;
 - (ii) finds of national importance to be evaluated and, where practicable, preserved in situ; and
 - (iii) phasing of works.
- (24) Any further investigations and recording of such finds as are considered necessary by the County Council shall be undertaken prior to the construction of any part of the Development on that part of the Site where such finds are identified, and in the case of

finds of national importance in accordance with the phasing of works approved pursuant to Condition (23)(iii), unless otherwise approved in writing by the County Council.

Reason: To allow the surveying of the site for archaeological artefacts and the recovery of any important archaeological discovery before construction of the main Development begins.

Contaminated Waste

- (25) The commencement of the Development shall not take place until the Company has carried out an investigation to assess the degree of ground contamination of the Site and submitted a written report of the findings to the District Council and the Environment Agency. The investigation shall include testing for hydrocarbons and other contaminants, together with leachability testing. The survey shall include the leachability test results along with the locations at which they were sampled. Any groundwater encountered during the survey shall also be tested for contaminants, in order to assess the mobility of any contaminants encountered.
- (26) No work associated with the construction of the Development shall take place until the District Council, in consultation with the Environment Agency, has approved in writing the report produced pursuant to Condition (25).
- (27) The commencement of the Development shall not take place until a scheme of any necessary remedial measures and monitoring has been submitted to, approved in writing by, and deposited with, the District Council, in consultation with the Environment Agency.
- (28) The scheme approved pursuant to Condition (27) shall be adhered to during the construction of the Development, unless any variation has been approved in writing by the District Council, in consultation with the Environment Agency.
- (29) Should contaminated materials be found on any area of the Site which had been identified as being free of contaminants pursuant to Condition (25) then such area shall be subject to the remedial and monitoring scheme approved pursuant to Condition (27).
- (30) Contaminated material arising from the construction of the Development shall be treated on the Site in accordance with a scheme to be submitted to, approved in writing by, and deposited with, the District Council, in consultation with the Environment Agency, or shall be disposed of to licensed disposal facilities.

Reason: To ensure that contaminated waste found on the Site is disposed of properly.

Landscaping and creative conservation

- (31) The commencement of the Development shall not take place until a scheme of landscaping and creative conservation which should enhance landscape character has been submitted to, approved in writing by, and deposited with, the District Council, in consultation with Natural England and the Environment Agency.
- (32) Existing trees and woodland within the Site, as shown on Drg no: DRD-DRG-0000102 attached, shall be managed in accordance with a scheme that has the prior written approval of the District Council. The scheme shall be submitted and approved prior to commencement as notified under the terms of Condition (31) and which shall be implemented as approved by the District Council. The management scheme shall be in accordance with British Standard 5837: 2012~~05~~⁴ “Trees in relation to *design, demolition and* construction – Recommendations” and include details of the following matters;
- (i) planting;
 - (ii) management of existing and new planted areas including protection of existing planting during construction;
 - (iii) restoration of areas affected by construction works;
 - (iv) details of grass seed mix for areas of the Site to be restored to grassland;
 - (v) details of the height, type, size and species of the shrubs and trees to be planted;
 - (vi) details of the measures to be taken to create new flora and fauna habitats and of the management of such new habitats; and
 - (vii) phasing of works included in the scheme.
- (33a) The landscaping and planting, including grass sowing, shall take place in accordance with the phasing of works specified in Condition (32)(vii) and no later than the appropriate planting or sowing season following the completion of the construction of the Development and shall be carried out in accordance with the scheme approved under Condition (31). All trees, shrubs and grassed areas planted in accordance with approved schemes shall be maintained in accordance with the principles of good forestry and husbandry (including weed control, fertilising and mowing) and maintained and replaced as necessary for the period of five

years following the first planting of any landscaped area. For the purposes of this Condition the District Council shall consider replacement planting to be necessary each planting season, with the same species or such alternative species as may be approved by the District Council in writing, in the event of trees or shrubs dying, or becoming seriously damaged, diseased or missing.

Reason: To ensure appropriate landscaping for the Development.

Protection and Mitigation for Birds

- (33b) In any instance where any nesting site is identified as that belonging to a species protected under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended) or listed under Annex 1 of the EC Directive on the Conservation of Wild Birds (EC 79/409/EEC), then no tree felling, removal of hedgerows or any other works associated with the Development shall take place on that part of the Site identified, during the breeding season of the species in question or between the period of 1 March to 31 July inclusive if nesting sites identified relate to more than one species.

Reason: To cause the least interference possible to breeding birds.

Protection of Reptiles

- (34) The commencement of the Development shall not take place until the Company has undertaken, in consultation with Natural England Standing Advice,³ and the Environment Agency,⁴ a comprehensive investigation to establish whether reptiles are resident on the Site.
- (35) Should the investigation undertaken pursuant to Condition (34) identify that reptiles are resident on the Site, then there shall be submitted to, approved in writing by, and deposited with, the District Council, in consultation with Natural England and the Environment Agency,⁴ a scheme ensuring that the habitats of the reptiles are protected or are not infringed without full and proper mitigation.

Reason: For the protection of reptiles which are protected under the Wildlife and Countryside Act 1981 (as amended).

Protection of Great Crested Newts

- (36) The commencement of the Development shall not take place until the Company has undertaken, in consultation with Natural England Standing Advice,³ and the Environment Agency,⁴ a comprehensive investigation to establish whether great crested newts are resident on the Site.

- (37) Should the investigation undertaken pursuant to Condition (36) identify that great crested newts are resident on the Site, then there shall be submitted to, approved in writing by, and deposited with, the District Council, in consultation with Natural England and the Environment Agency⁴, a scheme ensuring that the habitats of the great crested newts are protected or are not infringed without full and proper mitigation.

Reason: For the protection of great crested newts which are protected under the Wildlife and Countryside Act 1981 (as amended).

Protection of Badgers

- (38) The commencement of the Development shall not take place until the Company has undertaken, in consultation with Natural England Standing Advice,³ a comprehensive investigation to establish whether badgers are resident on or use the Site
- (39) Should the investigation undertaken pursuant to Condition (38) identify that badgers are resident on or use the Site there shall be submitted to, approved in writing by, and deposited with, the District Council, in consultation with Natural England a scheme ensuring that the badgers are protected or a full and proper mitigation package is put in place.

Reason: For the protection of badgers which are protected under the Badgers Act 1992.

Protection of Bats

- (40) The commencement of the Development shall not take place until the Company has undertaken, in consultation with Natural England Standing Advice,³ and the Environment Agency⁴, a comprehensive investigation to establish whether bats are resident on the Site.
- (41) Should the investigation undertaken pursuant to Condition (40) identify that bats are resident on the Site, then there shall be submitted to, approved in writing by, and deposited with, the District Council, in consultation with Natural England and the Environment Agency⁴, a scheme ensuring that the habitats of the bats are protected or are not infringed without full and proper mitigation.

Reason: For the protection of bats which are protected under the Wildlife and Countryside Act 1981 (as amended).

Use of Waste Combined Heat and Power

- (42) (a) At least 4 months prior to the commissioning of the Development, the Company must submit to the District Council a report on Combined Heat and Power (CHP) feasibility assessing potential commercial opportunities for the use of heat from the Development.
- (b) The report must provide for ongoing monitoring and full exploration of potential commercial opportunities to use heat from the Development as part of a Good Quality CHP scheme (as defined in CHPQA Standard (issue 65⁴)) and for the provision of subsequent reviews of such opportunities as necessary.
- (c) The commissioning of the Development must not take place until the report has been approved by the District Council in writing, and the report must be implemented as approved.
- (d) The commissioning of the Development must not take place until sufficient plant and equipment has been installed to facilitate the future supply of heat to the boundary of the Site if opportunities to supply heat are identified pursuant to paragraph (b).

Reason: To ensure that waste heat is available for use to the benefit of the local domestic, commercial and industrial users when the demand arises.

~~The commissioning of the Development shall not take place until the Company has installed the necessary plant and pipework to supply waste heat to the boundary of the Site.~~

~~Reason: To ensure that waste heat is available for use to the benefit of the local community.³~~

Default of Agreement

- ~~(43) Where any matter is required to be agreed or approved by the District Council or the County Council under any of the foregoing Conditions that matter shall in default of agreement or approval be determined by the Secretary of State for Business, Enterprise and Regulatory Reform.³~~

Council Variations

- (44) Where the words, “unless otherwise approved”, “unless any variation has been approved” or “subject to any variation as may be approved” appear, approval for a variation may be given only in relation to non-material changes where it has been demonstrated to the satisfaction of the County Council or District Council, as the case may be, that the approval will not give rise to any new or

materially different environmental effects from those assessed in the Environmental Statement of September 2005, ~~and~~ as revised by the Environmental Update Report of July 2015 and as revised by the Supplementary Environmental Information Report of July 2017.⁴

Reason: To make clear that where provision is made for the County Council or District Council to agree to variations to the conditions, the scope of any such variations will be limited to non-material changes which do not alter the environmental impact of the Development.³

Protection of Open Mosaic Habitats on Previously Developed Land

(45) (a) The commencement of the Development must not take place until the Company has undertaken, in consultation with Natural England and the Environment Agency, a comprehensive investigation to establish the presence of Open Mosaic Habitats on Previously Developed Land on the Site.

(b) If the investigation undertaken pursuant to paragraph (a) shows an intensification of Open Mosaic Habitats on Previously Developed Land on the Site, the commencement of the Development must not take place until a scheme, prepared by the Company after consultation with Natural England and the Environment Agency, the purpose of which to ensure that such habitats and those priority species reliant upon them are protected or are not infringed without full and proper mitigation, has been submitted to and approved in writing by the District Council.

(c) The scheme must be implemented as approved.

Reason: to ensure appropriate mitigation of the Open Mosaic Habitats on Previously Developed Land and those species supported by it.³

Date: 16 October 2007

Richard Mellish
Director
Electricity Consents
Department for Business, Enterprise
and Regulatory Reform