

3 PLANNING POLICY CONTEXT RELEVANT TO THE PROJECT

3.1 INTRODUCTION

This chapter sets out the regulatory context for the Variation Application in respect of the Proposed Development; the main legislative changes since submission of the Original Application; Government's 2011 National Policy Statements (NPSs) for energy; the National Planning Policy Framework 2012 (NPPF); North Lincolnshire Council's (the Council) development plan and other adopted documents.

A Planning Statement, submitted as part of this application, considers relevant policies in more detail than this ES as well as presenting the need case for the Proposed Development.

3.2 REGULATORY CONTEXT FOR THE SECTION 36C VARIATION APPLICATION

In preparing this ES, consideration has been given to the regulatory context within which the application to vary the Original Consent under section 36 C of the Electricity Act 1989 (as amended) is made and the rationale for conducting the EIA.

On 10th September 1993, the Secretary of State for Trade and Industry ('the Secretary of State') granted section 36 consent ('the Original Consent') under the Electricity Act 1989 and directed that planning permission be deemed to be granted pursuant to section 90(2) of the Town and Country Planning Act 1990 for the construction and operation of a combined cycle gas turbine (CCGT) generating station of about 710 MW Keadby delineated red on drawing number 6517/SK100. The Consent authorised Keady Developments Limited its assigns and successors in title (the Company) to both construct and operate a generating station to be known as Keadby II.

This Original Consent was granted by the Secretary of State subject to conditions ('the Section 36 Conditions'). The Secretary of State also directed that planning permission be deemed to be granted for the generating station ('the Deemed Planning Permission'), subject to 60 conditions ('the Planning Conditions'). Material operations comprised in the development were carried out and North Lincolnshire Council ('the Council') confirmed that the development permitted by the Deemed Planning Permission had been commenced in 1998 for the purposes of section 56 of the Town and Country Planning Act 1990; accordingly the Consent and the Deemed Planning Permission are extant.

When considering the Company's notification of 30 April 1998 under section 14(1)(a) of the Energy Act 1976 in respect of its proposal to establish an electricity generating station (Keadby II) fuelled by natural gas, the Secretary of State advised that the notification was to be considered in the context of the White Paper Cm 4071 which indicated that the Government had adopted a stricter power stations consents policy. The Secretary of State therefore directed that the Consented Development should not proceed (Energy Act

1976 section 14(3)) with the proviso that it would be expected that the decision would be reviewed once the stricter power stations consents policy was relaxed. The Government subsequently lifted its stricter consents policy in 2000, but different market conditions to those prevailing in 1998 meant that the Company placed the Consented Development in abeyance.

SSE subsequently announced in February 2012 that against a background of higher costs associated with gas fired generation, the Company had decided to undertake a comprehensive programme of maintenance to support more flexible operations at its Keadby I power station from 2013 onwards, while suspending electricity generation with effect from 26th March 2012.

At the same time the Company also decided to continue with its Keadby II project (the Consented Development). This decision was made because in the intervening period since 1998 there had been significant advances in engineering design that would enable the development of more efficient gas fired generating plant, with resultant improvements in environmental and economic performance. The Section 36 Conditions and the Planning Conditions require the written agreement of the Secretary of State and the Council respectively, to any variation in design, construction or operation of the Development. In 2012, the Company proposed a process of screening the environmental effects of its amended proposals against the Consented Development ('the 2012 Screening Exercise'). Additional environmental studies were also commenced in order to address regulatory requirements that had been put in place since the Original Consent.

The 2012 Screening Exercise was superseded by the enactment of the Growth and Infrastructure Act 2013 (GIA 2013) and the making of The Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013 which provides the most up to date procedure for seeking to vary an extant section 36 consent, and the mechanism under which this application for the section 36 variation is made.

On 20 May 2015 following a comprehensive review of its coal-fired power stations SSE announced the closure of Ferrybridge C Power Station by 31 March 2016. It was stated that SSE will work closely with its employees to re-deploy them to other sites where possible with training including at its nearby Keadby 1 gas fired station which will be returned to service.

3.3 *LEGISLATIVE CHANGES BETWEEN THE APPLICATION FOR THE CONSENTED DEVELOPMENT AND THE PROPOSED DEVELOPMENT*

3.3.1 *Introduction*

On 2 September 1992 the Original Application was submitted under section 36 of the Electricity Act 1989 on behalf of Keadby Developments Limited for the construction and operation of a combined cycle gas turbine generating station of about 710 MW. The Environmental Assessment (EA) accompanying the 1992 Application referred to the requirement for the following additional consents and agreements:

- a) technical and commercial agreement with the National Grid Company and/or a public electricity supply company for use of the grid and distribution systems;
- b) the EA having been prepared in accordance with the European Community Directive 85/337/ECC as implemented by the Electricity and Pipe-line Works (Assessment of Environmental Effects) Regulations 1990;
- c) consent being required additionally from the Department of Energy to burn gas under section 14(1) and to enter into contractual or other arrangements for obtaining a supply of natural gas as fuel for an electricity generating station under section 14 (2) of the Energy Act 1976; and
- d) integrated pollution control being required under the Environmental Protection Act 1990 from Her Majesty's Inspectorate of Pollution.

Subsequent legislative changes referred to below include the Growth and Infrastructure Act 2013 (GIA 2013) which inserted section 36C in the Electricity Act 1989 and section 90 (2) and (2ZA) into the Town and Country Planning Act 1990 and repealed section 14 of the Energy Act 1976, followed by the Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013. Also introduced since the grant of the Original Consent were the Conservation of Habitats and Species Regulations 2010 (Habitats Regulations 2010); and amendments to the Wildlife and Countryside Act 1981; the Eels (England and Wales) Regulations 2009; the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000; the Water Environment (Water Framework Directive) and the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003; the Industrial Emissions Directive 2010; the Environmental Permitting (England and Wales) Regulations 2010; the Carbon Capture Readiness (Electricity Generating Stations) Regulations 2013.

3.3.2 Growth and Infrastructure Act 2013

Section 20 of the Act inserts section 36C into the Electricity Act 1989 which states as follows:

“36C Variation of consents under section 36

- (1) The person for the time being entitled to the benefit of a section 36 consent may make an application to the appropriate authority for the consent to be varied...*
- (4) On an application for a section 36 consent to be varied, the appropriate authority may make such variations to the consent as appear to the authority to be appropriate, having regard (in particular) to -*
 - (a) the applicant's reasons for seeking the variation;*
 - (b) the variations proposed;*
 - (c) any objections made to the proposed variations, the views of consultees and the outcome of any public inquiry...”*

Section 21 of the Act amends section 90 of the Town and Country Planning Act 1990 as set out in subsections (2) and (3). For subsection (2) it substitutes subsections (2) and (2ZA) to empower the Secretary of State on granting or varying a consent under sections 36 or 37 of the Electricity Act “*in relation to a generating station or electric line in England or Wales*” to give a direction to either vary an existing deemed planning permission and conditions or to deem a new planning permission granted.

Section 18 of the Act repeals section 14 of the Energy Act 1976 and the requirement to give notice to the Secretary of State of fuelling of power stations. The effect of this, is that it is no longer necessary to obtain consent from DECC to use gas for purposes of generating electricity.

The Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013 (‘the 2013 Regulations’) came into force on 31st July 2013.

Regulation 2 Interpretation (1) states:

“the EIA Regulations” means the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000(b);

“applicant” means a person who has the benefit of a section 36 consent and makes a variation application in respect of it;

“development” has the meaning given in section 55 of the Town and Country Planning Act 1990(c) (meaning of “development” and “new development”).

“environmental statement” has the meaning given in the EIA Regulations as modified by regulation 7.

“generating station” includes a proposed generating station

“proposed development” means:

- (a) the generating station, or extension of a generating station, which the applicant would be authorised to construct under a relevant section 36 consent if that consent were varied as requested in a variation application;*
- (b) the way in which a generating station so constructed or extended would be authorised to be operated under the relevant section 36 consent as so varied; and*
- (c) any section 90 development in respect of which section 36 consent is not required;*

“relevant section 36 consent” means the section 36 consent in respect of which a variation application is made;

“variation application” means an application to vary a section 36 consent made under section 36 C (1) of the Act.

Regulation 3 *Content of variation applications* states:

3-(1) A variation application must—

- (a) be made in writing;*
- (b) describe the location of the proposed development by reference to a map;*
- (c) state—*

- (i) *why it is proposed that the relevant section 36 consent should be varied;*
 - (ii) *what account has been taken of views expressed by persons who have been consulted by the applicant about the proposed variation;*
 - (d) *include—*
 - (i) *a draft of the variations which the applicant proposes should be made to the relevant section 36 consent; and*
 - (ii) *copies of any maps or plans not referred to in the relevant section 36 consent but which the applicant proposes that the relevant section 36 consent should refer to after it is varied...*
- (2) A variation application must include particulars of—
- (a) *the relevant section 36 consent, and, if that consent was not granted to the applicant, how the applicant has the benefit of that consent;*
 - (b) *where the appropriate authority is the Secretary of State, any section 90 direction given on granting the relevant section 36 consent;*
 - (c) *any permit, licence, consent or other authorisation (other than the relevant section 36 consent) given in connection with the construction or operation of the proposed development (a “relevant authorisation”), including any variation or replacement of a relevant authorisation; and*
 - (d) *any application that has been made for a relevant authorisation or variation of a relevant authorisation.*
- (3) Where the appropriate authority is the Secretary of State and the applicant requests the Secretary of State to make a section 90 direction on varying the relevant section 36 consent, the application must—
- (a) *identify the section 90 development in respect of which that request is made and describe its location by reference to a map;*
 - (b) *state—*
 - (i) *why it is proposed that the direction should be made; and*
 - (ii) *what account has been taken of views expressed by persons who have been consulted by the applicant about the proposed direction; and*
 - (c) *include—*
 - (i) *a draft of the proposed direction; and*
 - (ii) *copies of any maps or plans to which it is proposed that the section 90 direction should refer which are not—*
 - (aa) *referred to in the relevant section 36 consent or any section 90 direction given on granting the relevant section 36 consent; or*
 - (bb) *included in the application in accordance with paragraph (1)(d)(ii).*
- (4) *If, under the EIA Regulations as modified by regulation 7, an environmental statement has been prepared, or is required to be prepared, in relation to the proposed development, the environmental statement must accompany the application.*

Regulation 4 *Assessment of suitability for publication* requires the appropriate authority to conduct an initial assessment of whether the application is suitable for publication (as defined in regulation 4(8)) and to give the applicant an opportunity to make representations if the appropriate authority does not consider that the application is suitable for publication. If the appropriate authority considers that an application is suitable for publication, the application must be published, and its publication advertised in accordance with regulation 5.

Regulation 7 *Application the EIA Regulations with modifications* (1) states:

- (i) *“The EIA Regulations apply in relation to variation applications as they apply in relation to section 36 consents, with the modifications below.”*

The reference to the EIA Regulations is to the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000.

Regulation 7 (6) states:

“Part 2 of schedule 4 to the EIA Regulations is to be read as requiring the inclusion in a statement prepared pursuant to regulation 4(1) of the EIA Regulations of:

- (a) *the main respects in which the applicant considers that the likely significant effects on the environment of the proposed development would differ from those described in any environmental statement that was prepared in connection with the relevant section 36 consent and*
- (b) *a non-technical summary of the differences referred to in sub-paragraph (a)”*

The effect of Regulation 7 (6) is to require the ES to provide information in accordance with Schedule 4 of the EIA Regulations and to include a description of the main respects in which the applicant considers that the likely significant effects on the environment of the proposed development would differ from those described in any environmental statement that was prepared in connection with the relevant section 36 consent.

3.3.3 *The Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000*

The Electricity Works EIA Regulations 2000 revoked the Electricity and Pipeline works (Assessment of Environmental Effects) Regulations 1990 as amended by the (Amendment) Regulations 1996 and 1997, subject to savings in respect of applications for consent received prior to 1st September 2000. The Regulations implement Council Directive 85/337/EEC as amended by Council Directive 97/11/EC as it relates to applications for consent to construct, extend or operate a power station or install or keep installed overhead electricity lines under sections 36 and 37 of the Electricity Act 1989.

3.3.4

The Conservation of Habitats and Species Regulations 2010 (as Amended) (Habitats Regulations 2010) replaced the Conservation (Natural Habitats &c) Regulations 1994.

The Habitats Regulations 2010 provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites. A number of 'European Sites' in the locality of the Proposed Development have been designated since the Consent was granted in 1993.

Under regulation 9(3) of the Habitats Regulations 2010, a competent authority, in this case the Secretary of State, when determining an application for variation of the section 36 consent and an application for deemed planning permission has a duty to have regard to the requirements of the EC Habitats Directive so far as they may be affected by the exercise of those functions. The requirements of the Habitats Directive include Article 12 which gives protection to European Protected Species.

Under regulation 61 (Assessment of implications for European sites and European offshore marine sites) of the Habitats Regulations 2010, the Secretary of State, as competent authority, must before deciding to grant an application for variation of a section 36 consent and for deemed planning permission, consider whether the plan or project (in this case the Proposed Development) either alone or in combination with other plans or projects, is likely to have a significant effect on a European site, and if the risk or probability of such an effect cannot be excluded, must carry out an appropriate assessment of the implications for that site(s) in view of that site(s) conservation objectives.

The ES will include sufficient information to allow the Secretary of State to consider whether, on the basis of objective information, the risk or probability of a significant effect on a European site can be excluded. There are a number of designated ecological habitats within 15km of the application site that will have to be taken into account during the EIA. These sites are identified on *Figure 5.10* and include, Hatfield Moors Site of Special Scientific Interest ('SSSI'), Hatfield Moor Special Area of Conservation ('SAC'), Thorne Moor, Thorne Crowle and Goole Moors SSSI, Thorne Moor SAC and Thorne and Hatfield Moors Special Protection Area ('SPA'), Humber Estuary SPA, RAMSAR and SAC.

The Secretary of State is a section 28G authority as defined in section 28G(3)(a) of the Wildlife and Countryside Act 1981 as amended, and is under a duty in exercising his functions, so far as their exercise is likely to affect the flora, fauna or geological or physiographical features by reason of which a site is of special scientific interest, to take reasonable steps, consistent with the proper exercise of his functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest. The ES will provide sufficient information to allow the Secretary of State to discharge his section 28G duty.

3.3.5 *The Eels (England and Wales) Regulations 2009*

The Eels (England and Wales) Regulations afford powers to the Environment Agency to implement measures for the recovery of European eel stocks and have implications for the operators of abstractions and discharges. For power plant operations, particularly involving the abstraction of relatively large water volumes for cooling, a main implication is for intake design to include measures that prevent the entrainment of eels.

3.3.6 *Water Framework Directive 2000*

The current primary influences upon UK water policy followed the implementation of the EU Water Framework Directive, 2000/60/EC (WFD) in 2000 and its transposition into UK law through The Water Environment (Water Framework Directive) (England and Wales) Regulations 2003. Due to the WFD, many changes to water legislation have been, and will continue to be, implemented; the WFD has far reaching implications and assigns responsibilities over a range of existing water policies and parent Directives. Flood risk is referred to below in *Section 3.10.2*.

3.3.7 *Industrial Emissions Directive 2010*

Environmental legislation has required emissions from power stations to be reduced progressively over the years. On 6th January 2011, the *Directive on Industrial Emissions 2010/75/EU* (IED), recast a number of earlier Directives, including the *Large Combustion Plants Directive* (LCPD). The purpose of IED is to achieve a high level of protection of the environment as a whole from the effects of various industrial activities including power stations. The requirements of the IED were to be transposed into UK law by 6 January 2013 and implemented from that date in respect of any new installation and is therefore applicable to the Proposed Development. The IED is implemented in the UK through the Environmental Permitting (England and Wales) (Amendment) Regulations 2013.

The project, although in receipt of a section 36 consent, is classed under category 2 above and as a 'new installation post January 2013' will be required to meet the emission limits set out in the IED (Annex V, Part 2, 6). The emissions limits for the two gaseous pollutants of relevance to a natural gas-fired CCGT/OCGT are:

- CO – 100 mg m⁻³;
- NO_x – 50 mg m⁻³.

NO_x expressed as 50 mg m⁻³ does not readily convert to a ppm concentration as in practice it is a mixture of gases but on the worst-case basis that all the NO_x was NO₂ an approximate value of 26 ppm would apply.

3.3.8 *The Environmental Permitting Regulations 2010 (as amended)*

The Proposed Development will be required to comply with the Environmental Permitting Regulations 2010 (as amended). DECC requires a written indication from the Environment Agency (EA) that the EA can regulate the operational process prior to a section 36 variation decision being taken,

specifically in relation to atmospheric emissions, noise and discharges to water. The ES which is to accompany the variation application will contribute to informing the permit application.

3.3.9 *The Carbon Capture Readiness (Electricity Generating Stations) Regulations 2013*

Regulation 6 *Variations of section 36 consents: determination of carbon capture readiness and conditions to be imposed where CCR conditions are met*

Regulation 6(b) provides that the appropriate Authority must not (b) ...”*vary a relevant section 36 consent in such a way as to enable a combustion plant to increase its rated electrical output, unless the appropriate authority has determined whether the CCR conditions are met in relation to the combustion plant, as constructed or extended in accordance with the section 36 consent as so varied (“the modified plant”).*

3.4 *ENERGY POLICY*

3.4.1 *Planning Act 2008*

The Planning Act 2008 enables the Secretary of State to designate a statement as a national policy statement (NPS) if the statement is issued by the Secretary of State and sets out national policy in relation to one or more specified descriptions of development. When deciding an application for a nationally significant infrastructure project (“NSIP”); this includes the construction or extension of a generating station if:

- a) it is in England or Wales;
- b) it is not an offshore generating station, and
- c) its capacity is more than 50 megawatts ⁽¹⁾.

Section 104(2) of the 2008 Act provides that in deciding an application for a development consent order regard must be had to any relevant NPS which has effect in relation to development of the description to which an application relates namely:

- (a) *“any national policy statement which has effect in relation to development of the description to which the application relates (a “relevant national policy statement”)...;*
- (c) *any matters prescribed in relation to development of the description to which the application relates; and*
- (d) *any other matters which the Panel or Council thinks are both important and relevant to its decision”.*

(1) Planning Act 2008, Section 14(1) (a) and Section 15(2)

Although the requirements of section 104 of the Planning Act 2008 do not apply when determining section 36C Electricity Act 1989 applications, paragraph 24 of the Guidance Note on Varying Consents Under Section 36 of the Electricity Act 1989 for Generating Stations in England and Wales (July 2013), indicates that NPSs provide guidance on the issues which should be considered when determining whether from a planning/energy point of view a variation should be made.

3.4.2 National Policy Statements

General Considerations

Parliament approved six National Policy Statements (NPSs) for energy infrastructure on 18 July 2011 and the Secretary of State designated the NPSs under Section 5 of the Planning Act 2008 on 19 July 2011. These NPSs set out national policy, against which proposals for major energy infrastructure applications are to be determined. The NPSs considered most relevant to the Proposed Development are the Overarching National Policy Statement for Energy (EN-1) and National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (EN-2). If any works are required to gas pipelines regard will be had to the National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4) and in respect of overhead electric lines regard will be had to the National Policy Statement for Electricity Networks Infrastructure (EN-5).

NPS EN-1

The Overarching National Policy Statement for Energy (NPS EN-1) sets out national policy for defined types of energy infrastructure. This NPS combined with the relevant technology-specific NPSs, provides the primary basis for decisions i.e. (NPS EN-1, 1.1.1, NPS EN-2, 1.2.1). EN-1, 1.4 concerning the scope of the NPS, refers to the Planning Act 2008 thresholds for nationally significant infrastructure projects (NSIPs) in the energy sector, as including onshore generating stations of more than 50 MW (and 100 MW offshore), produced from fossil fuels, wind, biomass, waste and nuclear (NPS EN-1, 1.4.2). Other forms of energy NSIPs include electricity lines at or above 132 kV, large gas reception and liquefied natural gas (LNG) facilities, underground gas storage facilities, cross country gas / oil pipelines and gas transporter pipelines subject to specified thresholds.

NPS EN-1 Part 2 concerning Government policy on energy and energy infrastructure development states that “energy is vital to economic prosperity and social well-being and so it is important to ensure that the UK has secure and affordable energy” and that “producing the energy the UK requires and getting it to where it is needed necessitates a significant amount of infrastructure both large and small” (NPS EN-1, 2.1.2). There is a reminder that within a market based system and with constraints on public expenditure, the long term policy framework should facilitate investment by the private sector in necessary new infrastructure (NPS EN-1, 2.2.2). It is also stated that “the role of the planning system is to provide a framework which permits the construction of whatever Government - and players in the market responding to rules, incentives or signals from Government - have identified as the types of infrastructure we need in the places where it is acceptable in planning

terms” (NPS EN-1, 2.2.4). This NPS sets out how the energy sector can help deliver the Government’s climate change objectives and how the effects should be taken into account when developing and consenting infrastructure (NPS EN-1, 2.2.10/11).

NPS EN-1 Part 3 (The need for new nationally significant energy infrastructure projects) sets out the planning policy in respect of the Government’s need for new energy infrastructure projects ⁽¹⁾ (paragraph 2.2.26):

- *The UK needs all the types of energy infrastructure covered by this NPS in order to achieve energy security at the same time as dramatically reducing greenhouse gas emissions.*
- *It is for industry to propose new energy infrastructure projects within the strategic framework set by Government. The Government does not consider it appropriate for planning policy to set targets for or limits on different technologies.*
- *The [relevant authority] should therefore assess all applications for development consent for the types of infrastructure covered by the energy NPSs on the basis that the Government has demonstrated that there is a need for those types of infrastructure and that the scale and urgency of that need is as described for each of them in this Part.*
- *The [relevant authority] should give substantial weight to the contribution which projects would make towards satisfying this need when considering applications for consent.*

The introduction to Part 3 (section 3.2) refers to the essential nature of energy such as in our homes, transport, critical services and workplaces. It states that substantial weight should be given by the relevant authority to consideration of need and that the weight which is attributed to this in any given case “should be proportionate to the anticipated extent of a project’s actual contribution to satisfying the need for a particular type of infrastructure” (paragraph 3.2.3).

Section 3.3 concerning the need for new nationally significant electricity infrastructure project states that electricity meets a significant proportion of our Country’s overall energy needs and that our reliance on it is likely to increase (paragraph 3.3.1). The key reasons why “the Government believes there is an urgent need for new electricity NSIPs” which is addressed under the topics of meeting energy security and carbon reduction objectives; the need to replace closing electricity generating capacity; the need for more electricity capacity to support an increased supply from renewables; future increases in electricity demand; the urgency of the need for new electricity capacity; alternatives to new large scale electricity generation capacity by reducing demand, more intelligent use of electricity and interconnection of electricity systems (Section 3.3).

The matters behind the key reasons listed in NPS EN-1, 3.3 are summarised in *Table 3.1*.

(1) EN-1, 3.1

Table 3.1 Key Reasons for the Urgent Need for New Electricity NSIPS

Topic	Explanation
Meeting energy security and carbon reduction objectives (NPS EN-1, 3.3.2 to 3.3.6)	<p>There needs to be sufficient electricity generating capacity to meet maximum peak demand with a safety margin or spare capacity; the larger the safety margin, the more resilient the system.</p> <p>There are benefits of having a diverse mix of all types of power generation:</p> <ul style="list-style-type: none"> • nuclear is a proven technology able to provide continuous low carbon generation, capable of responding to variations in demand but it is not as cost efficient used in this way compared to fossil fuel generation; • renewables offer a low carbon and proven fuel source but many technologies are intermittent; • fossil fuel generation can be brought on line quickly, complementing generation from nuclear and intermittent renewables but until “<i>fossil fuel generation can effectively operate with Carbon Capture and Storage (CCS), such power stations will not be low carbon</i>” (see EN-1, 3.3.4). <p>Government would like industry to bring forward many new low carbon developments (renewables, nuclear and fossil fuel generation with CCS) but it is for industry to propose what is viable, while decisions should be in accordance with the policy in NPS EN-1, 3.1.</p>
The need to replace closing electricity generating capacity (NPS EN-1, 3.3.7 to 3.3.9)	<p>EN-1 states that at least 22 GW of existing generating capacity in the UK “will need to be replaced in the coming years, particularly to 2020”, comprised of about 12 GW of coal / oil generating plant due to close as a result of the Large Combustion Plant Directive (LCPD) by the end of 2015 and 10 GW of nuclear over the subsequent 20 years with further closures resulting from the Industrial Emissions Directive (IED). Note: SSE Ferrybridge C 980MW (units 1 & 2) closed in April 2014; 980MW (units 3/4) will be closed by 31 March 2016.</p>
The need for more electricity capacity to support an increased supply from renewables (NPS EN-1, 3.3.10 to 3.3.12)	<p>EN-1 states that the Government is committed to increasing dramatically the amount of renewable generation; it will help to improve energy security, however, wind, solar, tidal energy are intermittent and cannot be adjusted to meet demand. Increased renewables will require additional back up capacity, and probably more total capacity than we have now with a proportion built mainly to perform back-up functions; even when electricity supplies are almost entirely decarbonised, fossil fuel power stations may still be required for short periods when renewable output is too low.</p>
Future increases in electricity demand (NPS EN-1, 3.3.13 / 3.3.14)	<p>Increasing the supply of low carbon electricity is an essential pre-requisite for the switch away from fossil fuels, which will further substantially increase demand for total electricity consumption (measured in terawatt hours over a year) which could double by 2050.</p>
The urgency of the need for new electricity capacity (NPS EN-1, 3.3.15 to 3.3.24)	<p>There is an urgent need for new (and particularly low carbon) energy NSIPs to be brought forward as soon as possible (note fossil fuel generation with CCS can be low carbon). NPS EN-1 refers to a potential larger amount of generating capacity being required, based on the Updated Energy and Emissions Projections (June 2010); the “<i>high fossil fuel and carbon price scenario</i>” would indicate that, by 2025, the UK might need at least 113 GW of total electricity capacity (compared to around 85 GW in 2011), of which some 59 GW would be new build. It was expected that the majority of new build capacity would be from renewable sources and the balance from non-renewable capacity.</p>
Alternatives to new large scale electricity generation capacity (NPS EN-1, 3.3.25 to 3.3.34)	<p>Government has considered means of reducing demand, more intelligent use of electricity and interconnection of electricity systems as alternatives to new large scale generating capacity. It has found that current policies will reduce electricity demand in certain areas but savings will be offset by increases in other areas; decentralised and community energy systems could lead to some reduction in demand, however, Government does not believe this will lead to significant</p>

Topic	Explanation
	<p>replacement of larger scale infrastructure, which offers economic and other benefits such as more efficient bulk transfer of power and enabling surplus generation capacity in one area to cover shortfalls elsewhere. It is expected that demand side response, storage and interconnection will play important roles in a low carbon electricity system but still envisages backup capacity being necessary to ensure security of supply until other storage technologies reach maturity. Increased investment in interconnection is unlikely to reduce the need for new infrastructure to any great extent. The Government believes that, while these measures should be actively pursued, their effect on the need for new large scale energy infrastructure will be limited, particularly given the likely increased need for electricity for domestic / industrial heating and transport.</p>

NPS EN-1, 3.6 concerning the role of fossil fuel electricity generation confirms that fossil fuel power stations play a vital role in providing reliable electricity supplies; they can be operated flexibly and contribute to the UK's energy mix as it makes the transition to a low carbon economy (NPS EN-1, 3.6.1). Gas will continue its important role in providing flexibility to support an increasing amount of low carbon generation and to maintain security of supply; also it is relevant that the UK gas market has diversified its sources of supply, supported by investment in LNG facilities (NPS EN-1, 3.6.2). Some of the conventional generation needed, is likely to come from new fossil fuel plants to provide flexible backup for intermittent renewable energy from wind. Although fossil fuels generate emissions of carbon dioxide, coal typically produces about twice as much per unit of electricity generated than gas (NPS EN-1, 3.6.3).

Carbon capture and storage (CCS) is described in NPS EN-1 as offering the potential to reduce CO₂ emissions by up to 90%; the complete chain of CCS has yet to be demonstrated at commercial scale on a power station, however there is a high level of confidence that the technology will be effective although less is known about the impact of CCS on the economics of power station operation (NPS EN-1, 3.6.4). It is a condition that on the consenting of fossil fuelled power stations "*all commercial scale (at or over 300 MW) combustion power stations (including gas, coal, oil or biomass) have to be constructed Carbon Capture Ready (CCR)...*" on which more information is set out in NPS EN-1 section 4.7 (NPS EN-1, 3.6.6/7).

On the matter of need for fossil fuel generation, attention is drawn to the requirement to close a number of fossil fuel generating stations by the end of 2015 and that some back-up capacity will be required when generation from intermittent renewable capacity is low, however it is important that such fossil fuel generating capacity should become low carbon through development of CCS in line with carbon reduction targets (NPS EN-1, 3.6.8). As stated earlier in this section a number of fossil fuel generating stations have to close by the end of 2015 e.g. Ferrybridge units 1 and 2, therefore there is a need for CCR fossil fuel generating stations and the need for CCS demonstration projects is urgent (NPS EN-1 3.6.8). EN-1, 3.7 concerning the need for new electricity infrastructure highlights the fact that much of the infrastructure required will be in places where there is no existing network infrastructure. Whereas that is not the case here, it is still important that the relevant authority "*should consider that the need for any given proposed new connection or reinforcement has been demonstrated if it represents an efficient and economical means of*

connecting a new generating station to the transmission or distribution network..." (EN-1, 3.7.10).

NPS EN-1 Part 4 (Assessment Principles) sets out certain general policies with which applications for energy infrastructure are to be decided other than need (covered in Part 3) or particular physical impacts of its constructional operation (covered in Part 5) and the relevant technology specific NPSs. It is restated that "*given the level and urgency of need for infrastructure of the types covered by the energy NPSs set out in Part 3*" decision making should start with a presumption in favour of granting consent to applications for energy NSIPs unless more specific and relevant policies indicate that consent should be refused (NPS EN-1, 4.1.2). The decision maker should also take into account potential benefits, including the contribution to meeting the need for energy infrastructure, job creation, long term or wider benefits, and potential adverse/cumulative impacts as well as any measures to avoid, reduce or compensate for any adverse impacts; account should also be taken of environmental, social and economic benefits and any adverse impacts (NPS EN-1, 4.1.3 / 4.1.4). It is further explained that development plan documents or other documents in the local development framework may be considered both important and relevant to decision making but in the event of conflict with an NPS, the NPS prevails for purposes of decision making given the national significance of the infrastructure (NPS EN-1, 4.1.5).

Part 4 addresses general points; environmental statement; the Conservation of Habitats and Species Regulations 2010; alternatives; criteria for good design for energy infrastructure; consideration of Combined Heat and Power (CHP); carbon capture and storage (CCS) and carbon capture readiness (CCR); climate change adaptation; grid connection; pollution control and other environmental regulatory regimes; safety; hazardous substances; health; common law nuisance and statutory nuisance; security considerations.

Section 4.2 (Environmental Statement) notes that all proposals for projects subject to the European Environmental Impact Assessment Directive must be accompanied by an Environmental Statement (ES) describing the aspects of the environment likely to be significantly affected by the project, which are presented in the ES and accompanying documents (NPS EN-1, 4.2).

Section 4.3 (Habitats and Species Regulations) points to the fact that prior to granting a consent the relevant authority must be satisfied that the requirements of the EIA Directive have been adhered to and the question of whether a project may have a significant effect on a European designated site (or on any site to which the same protection is applied as a matter of policy), either alone or in combination with other plans or projects has been considered (EN-1, 4.3.1). The course adopted in this case has been to provide the information required to enable Secretary of State as competent authority, to undertake appropriate assessment.

Section 4.4 (Alternatives) explains that the NPS does not contain any general policy requirement to consider alternatives, or to establish whether the proposed project represents the best option; however applicants are obliged to include in their ES information about the main alternatives studied, including the main reasons for their choice, taking into account the environmental, social and economic effects, including where relevant, technical and commercial

feasibility (NPS EN-1, 4.4.1/4.4.2). It is also noted that in some circumstances there are specific legislative requirements to consider alternatives i.e. the Habitats Directive and also in the case of relevant energy NPSs.

Section 4.5 (Criteria for 'good design' for energy infrastructure) states that in considering criteria (NPS EN-1, 4.5), the relevant authority needs to be satisfied that the development will produce sustainable infrastructure sensitive to place, efficient in the use of natural resources and energy, matched by appearance that demonstrates good aesthetics as far as possible, although "*the nature of much energy infrastructure development will often limit the extent to which it can contribute to the enhancement of the quality of the area*" (NPS EN-1, 4.5.1). Good design is also a means by which policy objectives can be met, for example good design in terms of siting and technologies can help mitigate adverse impacts such as noise (EN-1, 4.5.2). Other considerations are whether the development is as "*attractive, durable and adaptable*" as it can be and that "*the applicant has taken into account both functionality including fitness for purpose, sustainability and aesthetics*" (NPS EN-1, 4.5.3).

Section 4.6 (Consideration of Combined Heat and Power (CHP) notes that CHP may either supply steam direct to customers or capture waste heat for low pressure steam, hot water or space heating after it has been used to drive electricity generating turbines and that it can be used to drive absorption chillers to provide cooling (NPS EN-1, 4.6.1); it is noted that to be economically viable as a CHP plant, a generating station needs local heat demand (NPS EN-1, 4.6.1/5). NPS EN-1, 4.6.6/7 refers to DECC's December 2006 guidelines (or any successor to it) to power station developers to maximise the use of CHP where feasible.

Section 4.7 (Carbon Capture and Storage (CCS) and Carbon Capture Readiness (CCR)) addresses matters which are addressed in the SSE Carbon Capture Readiness Report 2015. The Government's policy requires that "*to ensure no foreseeable barriers exist to retro fitting carbon capture and storage (CCS) equipment on combustion generating stations, all applications for new combustion plant which are of generating capacity at or over 300MW and of a type covered by the EU's Large Combustion Plant Directive (LCPD) should demonstrate that the plant is "Carbon Capture Ready" (CCR) ready before consent may be given.*" (NPS EN-1, 4.7.10) The guidance requires:

- "*that sufficient space is available on or near the site to accommodate carbon capture equipment in the future;*
- "*the technical feasibility of retrofitting their chosen carbon capture technology;*
- "*that a suitable area of deep geological storage offshore exists for the storage of captured CO₂ from the proposed combustion station;*
- "*the technical feasibility of transporting the captured CO₂ to the proposed storage area; and*
- "*the economic feasibility within the combustion station's lifetime of the full CCS chain, covering retrofitting, transport and storage.*"

The required technical feasibility study and economic assessment requirements are to be considered by the relevant authority in association with advice from the EA as to the suitability of the space set aside on or near the

sites for CCS equipment to ascertain that there are currently no known technical barriers to subsequent retrofit of the declared capture technology. If granted consent, operators of the power station will be required to (NPS EN-1, 4.7.17):

- *“retain control over sufficient additional space on or near the site on which to install the carbon capture equipment and the ability to use it for that purpose;*
- *submit update reports on the technical aspects of its CCR status to the Secretary of State for DECC. These reports will be required within 3 months of the commercial operation date of the power station (so avoiding any burden on the operator with an unimplemented consent) and every two years thereafter. Should CCS equipment be retrofitted to the full capacity of the plant, the obligation to provide such reports will lapse.”*

Section 4.8 (Climate change adaptation) provides advice on how applicants and the relevant authority should take the effects of climate change into account when planning the location, design, build, operation and decommissioning of new energy infrastructure; there should be no features of the design critical to its operation which may be seriously affected by more radical changes to the climate beyond that in the latest set of UK climate projections (NPS EN-1, 4.8.1/5/8). If any adaption measures give rise to consequential impacts, the relevant authority should consider the impact in relation to the application as a whole and the impact guidance set out in Part 5 of this NPS (NPS EN-1, 4.8.10).

Section 4.9 (Grid Connection) emphasises that it is for the applicant to ensure that the necessary infrastructure and capacity will be available to the proposed generating plant when required. Where the applicant has not received or accepted a formal offer of a grid connection this is a commercial risk for the applicant. EN-1 advises that in such circumstances the applicant must ensure it provides sufficient information to comply with the EIA Directive including the indirect, secondary and cumulative effects associated with grid connections and the relevant authority must be satisfied that there are no obvious reasons why the necessary approvals are likely to be refused (EN-1, 4.9.3).

Section 4.10 (Pollution control and other environmental regulatory regimes) emphasises the separate but complementary nature of planning and pollution control and the role of the latter in preventing pollution, ensuring that ambient air and water quality meet standards that guard against impacts to the environment or human health, focus on whether the development is an acceptable use of land and the impacts of that use while working on the assumption that the relevant Pollution Control regime will be properly applied and enforced. The relevant authority should be satisfied, before granting consent, that the pollution control authority is also satisfied that potential releases can be adequately regulated under the pollution control framework and that cumulative effects of pollution would not make the development unacceptable (NPS EN-1, 4.10.7). Accordingly, the relevant authority should not refuse consent on the basis of pollution impacts, unless it has good reason to believe that any necessary operational pollution control permits or licences, or other consents will not subsequently be granted (NPS EN-1, 4.10.8).

Additional considerations of safety, hazardous substances, health, common law nuisance and statutory nuisance and security considerations are not an issue for purposes of the Variation Application (NPS EN-1, 4.11 to 4.15).

Section 4.11 (Safety) refers to the Health and Safety Executive (HSE) being responsible for a range of occupational health and safety legislation of which some is relevant to construction, operation and decommissioning of energy infrastructure.

Section 4.12 (Hazardous Substances) requires establishments wishing to hold stocks of hazardous substances above specified thresholds to consult with HSE and to obtain hazardous substances consent.

Section 4.13 (Health) refers to the potential of energy production to impact on human beings and that the ES should assess these effects and identify measures to avoid, reduce or compensate for these impacts as appropriate and whereas health concerns are unlikely to constitute a reason for refusal, the relevant authority will want to take account of any concerns when settling conditions.

Section 4.15 (Security considerations) applies across all national infrastructure sectors; overall responsibility for security of the energy sector lies with DECC, working closely with Government security agencies including the Centre for the Protection of National Infrastructure (CPNI). The applicant is required to provide only sufficient information as is necessary to enable the relevant authority to examine the consent issues, allowing it to make a properly informed decision.

EN-1, Part 5 sets out generic impacts to be considered, namely air quality and emissions; biodiversity and geological conservation; civil and military aviation and defence interests; coastal change; dust, odour, artificial light, smoke, steam, insect infestation; flood risk; historic environment; landscape and visual impacts; land use including open space, green infrastructure and Green Belt; noise and vibration; socio-economic; traffic and transport; waste management; water quality and resources. Most of these generic impacts are relevant to the application and are referred to below, however there is further detail in respect of impacts which are considered to be of particular relevance to applications for fossil fuel electricity generating infrastructure referred to in 3.4.2.2 below.

Section 5.2 (Air quality and emissions) noted that infrastructure development can have adverse effects on air quality. It is stated that the impact of CO₂ emissions cannot be totally avoided, even with a full development of CCS technology, however taking into account policies aimed at decarbonising electricity generation it has been determined that CO₂ emissions are not a reason to prohibit the consenting of such projects and that the relevant authority does not need to assess individual applications in terms of carbon emissions (EN-1, 5.2). Reference is made to eutrophication as being capable of affecting plant growth and functioning, impacting for example on biodiversity and ecosystems (EN-1, 5.2). Attention is drawn to the interface between planning and pollution control (EN-1, 4.10). The relevant authority is directed to consider whether mitigation measures are needed both for operations and construction emissions and it is suggested that a construction management

plan may be of assistance and may refer to the condition and advice in the Air Quality Strategy or any successor to it (EN-1, 5.2.11/12).

Section 5.3 (Biodiversity and geological conservation) requires that EIA development clearly sets out any effects on internationally, nationally and locally designated sites of ecological or geological conservation importance, on protected species and on habitats and other species of principal importance for the conservation of biodiversity, and the applicant should show how the project has taken advantage of opportunities to conserve and enhance biodiversity and geological conservation interests (paragraphs 5.3.3/4).

Section 5.4 (Civil and military aviation and defence interests) advises that where such sites may be affected by new energy development, the applicant should provide an assessment in the ES of potential effects, having previously consulted with parties such as the MOD, CAA, NATS and any aerodrome (paragraphs 5.4.1/10/11).

Section 5.6 (Dust, odour, artificial light, smoke, steam and insect infestation) refers to potential effects during the construction, operation and decommissioning of energy infrastructure that could have a detrimental impact on amenity, or cause a common law or statutory nuisance under Part III of the Environmental Protection Act 1990 (paragraph 6). It is noted that mitigation may include engineering, layout and/or administrative measures (paragraph 5.6.11).

Section 5.7 (Flood Risk) – EN-1, 5.7 advises that flood risk from all sources should be taken into account to avoid inappropriate development in areas at risk of flooding and to direct development away from areas of highest risk. Where new energy infrastructure is exceptionally necessary in such areas, policy aims to make it safe without increasing flood risk elsewhere and, where possible by reducing flood risk overall (EN-1, 5.7.3). Applications for energy projects in Flood Zones 1-3 should be accompanied by a flood risk assessment (FRA) (EN-1, 5.7.4.8), and in determining an application, the relevant authority should be satisfied, among various considerations that the Sequential and Exception Test Requirements have been met (EN-1, 5.7.12).

Section 5.8 (Historic environment) states that as part of the ES the applicant should provide a description of the significance of the heritage assets affected by the proposed development and the contribution of their setting to that significance (EN-1, 5.8.8).

Section 5.9 (Landscape and visual) states that the landscape and visual effects of energy projects will vary according to the type of development, its location and landscape setting. Attention is drawn to the potential for plumes in the case of thermal generating stations and that direct cooling and hybrid cooling systems will generally not exhibit visible steam plumes except in exceptional circumstances (EN-1, 5.9.2/3). Apart from the applicant undertaking a landscape and visual impact assessment, it is stated that virtually all nationally significant infrastructure projects will have effects on the landscape i.e. National Parks, the Brooks and AONB (EN-1, 5.9.9). Developments in other areas with policies based on landscape character assessment should be paid particular attention. In considering potential

impact the relevant authority should consider whether the Project has been carefully designed taking account of environmental effects on the landscape (EN-1, 5.9.14/17). When considering visual impact the relevant authority will have to judge whether effects on sensitive receptors e.g. local residents, other receptors, visitors to the area outweigh the benefits of the Project and it is suggested that attention is drawn to similar projects, taking into account landscape and visual impacts of visible plumes (5.9, 18-20). It is suggested in the policy that apart from reducing the scale consideration is given where appropriate to colours, materials and landscaping (EN-1, 5.9.21-23).

Section 5.10 (Land use including open space, green infrastructure and Green Belt) recognises that the re-use of previously developed land can make a major contribution to sustainable development, however this may not be possible for many forms of energy infrastructure.

Section 5.11 (Noise and vibration) refers to the Government's policy on noise set out in the Noise Policy Statement for England 2010 promoting good health and quality of life through effective noise management; similar considerations apply to vibration; both effects are also applicable to the effects of proposed development on ecological receptors (EN-1, 5.11.1/2). It is expected that a noise assessment will be produced, with the nature and extent of the assessment proportionate to the likely noise impact (EN-1, 5.11.4). Operational noise with respect to human receptors should be assessed using the principles of the relevant British Standards and other guidance with examples of mitigation strategies (EN-1, 5.11.6). The project should demonstrate good design through selection of the quietest cost-effective plant available, with optimisation of plant layout and the use of bunds or barriers where possible to reduce noise transmission. The relevant authority should not grant consent unless it is satisfied that the proposals will meet specified aims and should consider the inclusion of measurable requirements or specifying mitigation measures to ensure that noise levels do not exceed limits specified in the consent (EN-1, 5.11.10). Mitigation may include engineering, layout and administrative measures and only when these have been exhausted, it may be appropriate to consider mitigation through improved sound insulation to dwellings (EN-1, 5.11.12/13).

Section 5.12 (Socio-economic) states that where the project is likely to have socio-economic impacts at local and regional levels, the applicant should provide an assessment as part of the ES, which may include the creation of jobs/training opportunities; the provision of local services, infrastructure and educational/visitor facilities; effects on tourism and local businesses; the impact of a changing influx of workers; cumulative effects if other major projects were occurring in a similar timeframe and how these correlate with local policies (EN-1, 5.12.2-5). The relevant authority should consider any relevant positive provisions for example through planning obligations and by or mitigating any adverse impacts through high quality design (EN-1, 5.12.8/9).

5.13 (Traffic and transport) refers to the potential for transportation impacts, particularly noise and emissions and that the applicant may require a transport assessment, which should include consideration of measures to mitigate transport impacts and provide details of measures including public transport, walking and cycling (EN-1, 5.13.1/4).

Section 5.14 (Waste Management) refers to sustainable waste management being implemented through the “waste hierarchy”; accordingly the applicant should set out the arrangements proposed for managing any waste produced and prepare a site waste management plan (EN-1, 5.14.2/6). Where the project will be subject to the environmental permitting regime arrangements during operations will be covered by the permit and the considerations set out in EN-1, 4.10.

Section 5.15 (Water quality and resources) records that infrastructure development can have adverse effects on the water environment including groundwater, leading to increased demand for water discharges and cause adverse ecological effects, along with increased risk of spills and pollutants, leading to adverse impacts on health, protected species and habitats and result in surface waters, groundwater or protected areas failing to meet environmental objectives under the Water Framework Directive (EN-1, 5.15.1). Where the project is likely to have effects, the applicant should undertake an assessment of the existing status and impacts on water quality and resources and physical characteristics as part of the ES (EN-1, 5.15.2/3). In decision making the relevant authority will have regard to the interface between planning and pollution control (Section 4.10) but will generally need to give impacts on the water environment more weight if the development would have an adverse effect on the achievement of the environmental objectives under the Water Framework Directive and should consider the need for planning obligations to mitigate adverse effects on the water environment (EN-, 5.15.4-7). It is recommended by way of mitigation that a construction management plan may assist (EN-1, 5.15.8).

NPS EN-2

National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (NPS EN-2) Part 1 Introduction states that this NPS, with NPS EN-1, provides the primary basis for decisions on applications for “*nationally significant fossil fuel electricity generating stations*” as defined in EN-2, 1.8 and that applications should be consistent with instructions and guidance in this NPS, EN-1 and any other NPSs relevant to the application (NPS, EN-2, 1.2.1/1.2.2). NPS, EN-2 covers electricity generating infrastructure over 50 MW namely a) coal-fired, b) gas-fired, c) integrated coal gasification combined cycle and d) oil-fired (NPS, EN-2 1.8.1).

Part 2 Assessment and technology-specific information notes that the policies set out in this NPS are additional to those on generic impacts in NPS EN-1, in which it concludes that there is “*a significant need for new major energy infrastructure*” and that, in the light of this, the need for the infrastructure covered by this NPS has been demonstrated (NPS EN-2, 2.1.2). EN-2 refers to the factors influencing site selection by developers as land use, transport infrastructure, water resources and grid connection (NPS EN-2, 2.2.1 to 2.2.11). These include advice (a) on land use that the site will need to be big enough to conform to Government policy on CCR and CCS set out in EN-1, 4.7 and EN-2 2.2.2/3; (b) on transport infrastructure providing accessibility for the delivery/removal of construction materials, fuel, waste, equipment etc., with suitable access leading off from the main highway network (EN-1, 5.13 and EN-2, 2.2.5/6); (c) provision for sufficient water resources and if adequate supply is not available, then an alternative means of cooling such as air-

cooled condensers will be required (EN-1, 5.15 and EN-2, 2.2.7-9) and (d) whether the capacity of the grid connection is sufficient to accept the likely electricity output, together with the voltage and distance of the connection and whether there are any particular environmental issues likely to arise from the proposed connection (EN-1, 4.9, EN-2, 2.2.10/11 and EN-5).

On the matter of “*Government policy criteria for fossil fuel generating stations*” the following must be met before consent can be given, namely combined heat and power (CHP); carbon capture readiness (CCR); carbon capture and storage for coal fired generating stations (CCS) (not relevant to this application); climate change adaptation; consideration of “*good design*” for energy infrastructure (NPS EN 2.3.1-16). The following additional points from section 2.3 are relevant:

- (a) The Government’s strategy for CHP requires that in accordance with EN-1, 4.6 applicants must either include CHP or present evidence in the application that the possibilities have been fully explored. Consent should not be given unless CHP is included or that opportunities have been fully explored; where there is reason to believe that opportunities to supply heat through CHP may arise in the future, a condition may be imposed requiring that the station is CHP ready and configured to allow heat supply at a later date (EN-2, 2.3.2/4, EN-1, 4.4);
- (b) The Government’s policy and criteria for CCR for new generating stations with a capacity at or over 300MW requires an application to demonstrate that CCR has been assessed, without which consent should not be given unless the appropriate authority is satisfied that the proposed development meets all the criteria for CCR (EN-2, 2.3.4/5, EN-1 4.7);
- (c) Carbon Capture and Storage for coal-fired generating stations is not relevant to this application (EN-2, 2.3.6-12).
- (d) The Government’s energy and climate change strategy including policies for mitigating climate change contained in EN-1 Part 2 sets out generic considerations to be taken into account to help ensure that fossil fuel generating infrastructure is resilient to climate change, which should be assessed in the ES accompanying an application (EN-2, 2.3.13/14, EN-1, 4.8).
- (e) Section 10 (3)(b) of the Planning Act 2008 requires the Secretary of State in designating an NPS to have regard to the desirability of good design in all energy infrastructure; applicants should demonstrate good design particularly in respect of landscape and visual amenity and in design, to mitigate impacts such as noise, vibration, transport and emissions to air (EN-1, 4.5, EN-2, 2.3.15/16, 2.6.3).

Other “*impacts of fossil fuel generating stations*” refers to EN-1 Part 5, which contains policies for assessing potential impacts of energy infrastructure projects i.e. “*generic impacts*” of which it is noted in EN-2 that “*all of the generic impacts covered in EN-1 are likely to be relevant*”, whereas EN-2 has additional policies relevant to this application in respect of air quality and

emissions; landscape and visual; noise and vibration; water quality and resources (EN-1, 4.2 and Part 5, EN-2, 2.4.1/2).

Section 2.5 (Air quality and emissions) states that generic air emission impacts other than CO₂ are addressed in EN-1 and while EN-2 refers to additional specific considerations applicable to fossil fuel generating stations. CO₂ emissions are described as “*a significant adverse impact of fossil fuel generating stations*”, however the decision maker does not need to assess individual applications in terms of carbon emissions against carbon budgets as the policies in EN-1, 2.2 will apply (EN-1, 2.2, EN-2, 2.5.1/2). It is noted that the applicant should consult with the EA and other statutory authorities and take into account views received from the EA in scoping, while the relevant authority should take account of likely impacts resulting from air emissions in the case of SO_x, NO_x and particulates following the advice in EN-1 on interaction with the EA’s regulatory process and should be satisfied that any adverse impacts have been described in the ES and taken into account (EN-1, 4.2, 5.2, EN-2, 2.5.5-8).

Section 2.6 (Landscape and visual) states that generic landscape and visual impacts are covered in EN-1, 5.9 but that specific considerations apply to fossil fuel generating stations (EN-2, 2.6.1). The applicant should include a landscape and visual impact assessment as part of the ES (EN-1, 4.2) and should consider the design of the plant including the materials to be used and the visual impact of the stack in the context of local landscape (EN-1, 5.9). It is recognised that it is not possible to eliminate visual impacts and that mitigation is to reduce visual intrusion of the “buildings” through design “*with the aim of providing the best fit with the existing local landscape*” (EN-2 2.6.5-7). The relevant authority needs to be aware of the statutory and technical requirements that inform plant design; if the location is appropriate for the project and it has been designed sensitively, “the visibility of a fossil fuel generating station should be given limited weight (EN-2, 2.6.9/10).

Section 2.7 (Noise and vibration) refers to generic information on the assessment of noise and vibration impacts and that the ES should include a noise assessment, taking into account the extent to which operational noise will be controlled by the EA; accordingly the relevant authority should not grant consent unless it is satisfied that the proposal will meet the aims of EN-1, 5.11.9 (EN-1, 5.11, EN-2, 2.7.1-4). It is noted that noise from gas turbines should be mitigated by attenuation of exhausts to reduce any risk of low frequency noise transmission (EN-2, 2.7.5).

Section 2.10 (Water quality and resources) refers to the design of water cooling systems for fossil fuel generating stations having additional impacts on water quality abstraction and discharge and that in such cases the applicant should undertake an assessment to the satisfaction of the relevant authority (EN-1, 5.15, EN-2, 2.10.1-3).

NPS EN-4

National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (NPS EN-4) Part 1 states that this NPS, with NPS EN-1, provides the primary basis for decisions under the Planning Act 2008 on applications

for gas supply infrastructure and gas and oil pipelines defined in EN-4, 1.8 (NPS EN-4, 1.2.1).

NPS EN-5

National Policy Statement for Electricity Networks Infrastructure (EN-5), Part 1 states that this NPS, with NPS EN-1, provides the primary basis under the Planning Act 2008 for decisions on applications for electricity networks infrastructure defined at EN-5, 1.8.

3.5 NATIONAL PLANNING POLICY FRAMEWORK

3.5.1 Overview

The NPPF, which came into effect on 27 March 2012 sets out the Government's planning policies for England and how they are to be applied. The NPPF re-states the legal position that planning law requires applications for planning permission must be determined in accordance with the development plan (Section 38(6) Planning and Compulsory Purchase Act 2004 and Section 70(2) Town and Country Planning Act 1990) unless material considerations indicate otherwise. Although Section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply to consideration of a direction to grant deemed planning permission in connection with Electricity Act 1989 consents ⁽¹⁾, the development plan will nonetheless be an important material consideration.

There are no specific policies for NSIPs in the NPPF. Such applications are to be determined in accordance with the Planning Act 2008 and relevant NPSs for major infrastructure, "*as well as any other matters that are considered both important and relevant*" (which may include the NPPF). NPSs "*form part of the overall framework of national planning policy and are a material consideration in decisions on planning applications*" (paragraph 3).

The following part of the section comments on achieving sustainable development; the presumption in favour of sustainable development; core planning principles; building a strong competitive economy; promoting sustainable transport; meeting the challenge of climate change; enhancing the historic environment; flooding and coastal change; conserving and enhancing the natural environment; conserving and enhancing the habitats environment; using a proportionate evidence base; policies revoked/replaced by the NPPD.

3.5.2 Achieving Sustainable Development

On the matter of achieving sustainable development, it is stated that "policies in paragraphs 18 to 219 taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system" (paragraph 6). The three dimensions to sustainable development are defined as "economic, social and environmental"; an economic role refers to building a strong, responsive, competitive economy, including the provision of

(1) R: On the application of Samuel Smith Old Brewery (Tadcaster) v Secretary of State for Energy and Climate Change [2012] EWHC 46 (Admin).

infrastructure; a social role includes supporting strong, vibrant and healthy communities; an environmental role refers to contributing, protecting and enhancing the natural, built and historic environment, using natural resources prudently; minimising waste and pollution and mitigating / adapting to climate change including moving to a low carbon economy. Low carbon technologies are defined as those that can help reduce emissions, compared to conventional use of fossil fuels (paragraph 7, Annex 2).

3.5.3 *The Presumption in favour of Sustainable Development*

The NPPF constitutes guidance for LPAs and decision takers both in respect of plan preparation and as a material consideration in determining applications (paragraph 13). There is a presumption in favour of sustainable development, which means LPA's approving development without delay where it accords with the development plan. In cases where the development plan is absent, silent or out of date, permission should be granted unless adverse impacts would significantly/demonstrably outweigh the benefits when assessed against policies in the NPPF, taken as a whole or if specific policies indicate development should be restricted, e.g. sites protected under the Birds and Habitats Directives and/or Sites of Special Scientific Interest (SSSI), etc. (paragraph 14, footnote 9 and paragraph 119).

3.5.4 *Core Planning Principles*

Among twelve core planning principles, these selected eight matters are relevant to this Application (paragraph 17):

- proactively drive and support sustainable economic development to deliver, among others, “*infrastructure*” that the country needs;
- always seek to secure high quality design and a good standard of amenity;
- take account of the different roles and character of different areas and promote vitality of the main urban areas;
- support the transition to a low carbon future in a changing climate, taking full account of flood risk and encouraging the reuse of existing resources;
- contribute to conserving and enhancing the natural environment and reducing pollution;
- encourage the effective use of land that has been previously developed;
- conserve heritage assets appropriate to their significance; and,
- focus significant development in locations which are / can be made sustainable.

3.5.5 *Building a Strong Competitive Economy*

An important element of delivering sustainable development is building a strong competitive economy, to be achieved by the following:

- securing economic growth to create jobs and prosperity, building on the country's inherent strengths and meeting the twin challenges of global competition and a low carbon future (paragraph 18);
- the planning system doing everything it can to support / encourage sustainable economic growth (paragraph 19); and,

- LPAs planning proactively to meet the development needs of business (paragraph 20).

The NPPF requires that investment in business should not be over-burdened by the combined requirements of planning policy expectations (paragraph 2.1).

3.5.6 Promoting Sustainable Transport

Government recognises that transport solutions will vary from urban to rural areas (paragraph 29). All developments that generate significant amounts of movement should be supported by a transport statement or a transport assessment taking account of whether:

- opportunities for sustainable transport modes have been taken up depending on the nature and location of the site;
- safe and suitable access to the site for all people;
- development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe (paragraph 32).

All developments which generate significant amounts of movement should provide a travel plan (paragraph 36).

3.5.7 Requiring Good Design

The Government attaches great importance to the design of the built environment and good design is a key aspect of sustainable development (paragraph 56), however it is also the case that LPAs “should not refuse planning permission for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing townscape” (paragraph 65).

3.5.8 Meeting the Challenge of Climate Change, Flooding and Coastal Change

Among its many roles, planning is required to support the delivery of “renewable and low carbon energy and associated infrastructure”, which is central to the economic, social and environmental dimensions of sustainable development (paragraph 93). LPA’s should have a positive strategy to maximise renewable / low carbon energy and should consider identifying suitable areas (paragraph 97). When determining applications, LPA’s should “not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy” (paragraph 98).

On the matter of flood risk, there is advice that “Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere”; it is noted that NPPF Technical Guidance on Flood Risk sets out how the policy should be implemented (paragraph 100, footnote 19). The NPPF explains that a Sequential Test should first be applied to steer new development to areas with the lowest probability of flooding (paragraph 101); however, if, following application of the Sequential Test it is not possible, consistent with wider sustainability

objectives to locate development in zones with a lower probability of flooding, the Exception Test can be applied if appropriate (paragraph 102). It must be demonstrated that the Development provides wider sustainability benefits to the community which outweigh flood risk (informed by the strategic flood risk assessment), and that the development will be safe for its lifetime, taking account of the vulnerability of its user without increasing flood risk elsewhere and where possible will reduce flood risk overall (paragraph 102).

The Technical Guidance to the NPPF was archived and replaced by the National Planning Practice Guidance (NPPG) launched on 6 March 2014. The NPPG on Flood Risk includes Table 2: Flood Risk Vulnerability Classification which defines essential utility infrastructure as that “*which has to be located in a flood risk area for operational reasons, including electricity generating power stations and grid and primary substations*”. Additional Flood Risk Information with various mitigating measures is addressed in the 2015 Flood Risk Assessment accompanying the Variation Application (ES Annex D3).

3.5.9 *Conserving and Enhancing the Natural Environment*

The planning system is required to contribute to and enhance the natural and local environment by protecting/enhancing valued landscapes, geological conservation interests and soils; the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains where possible; preventing development from contributing to unacceptable levels of soil, air, water or noise pollution or land instability; remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land where appropriate (paragraph 109). Policies and decisions should encourage re-use of previously developed land (paragraph 111). Criteria based policies should distinguish between the hierarchy of international, national and locally designated sites (paragraph 113, note 24 circular 06/2005, also “great weight should be given to conserving landscape and scenic beauty” of the highest status along with the conservation of wildlife and cultural heritage (paragraph 115). When determining applications, LPAs should aim to conserve and enhance biodiversity in accordance with specified principles (paragraph 118). To prevent unacceptable risks from pollution and land instability, decisions should ensure that new development is appropriate for its location, and whether the development is an acceptable use of land, while aiming to avoid adverse impacts and recognising that existing businesses should not have unreasonable restrictions placed on them because of changes in nearby land uses (paragraphs 120/122-124). Through good design, planning decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation (paragraph 125).

3.5.10 *Conserving and Enhancing the Historic Environment*

LPAs should adopt a positive strategy for the conservation and enjoyment of the historic environment, taking into account the significance of heritage assets and the wider benefits of conservation etc., requiring applicants to describe the significance of any heritage assets affected, while the level of detail required should be “proportionate to the asset’s importance” (paragraphs 126/128); where development will lead to less than substantial harm to the significance of a designated heritage asset, this should be weighed against the public benefits of the proposal (paragraph 134).

3.5.11 **Using a Proportionate Evidence Base**

Each LPA should ensure its local plan is based on adequate, up-to-date and relevant evidence, in which LPA's "should have a clear understanding of business needs within the economic markets operating in and across their area" (paragraph 160). Separately, on the matter of infrastructure, LPAs should work with other authorities and providers to assess the quality and capacity of infrastructure such as "energy (including heat)", while taking "account of the need for strategic infrastructure including nationally significant infrastructure within their areas", which is relevant to this NSIP application (paragraph 162).

3.5.12 **Policies Revoked/replaced**

Annex 3 refers to a list of policy documents revoked and replaced by the NPPF. The majority of policies replaced by the NPPF post-dated 2000 but some were older including planning policy guidance (PPG) 14: Development on Unstable Land (1990); PPG16 Coastal Planning 1992; PPG 24 Planning and Noise (1994).

3.6 **NATIONAL PLANNING PRACTICE GUIDANCE**

On 6 March 2014, DCLG launched its National Planning Practice Guidance website (available at <http://planningguidance.planningportal.gov.uk>) which replaced the guidance referred to in Annex 3.

Table 3.2 identifies relevant topics in National Planning Practice Guidance and the corresponding sections in this Variation Application.

Table 3.2 National Planning Practice Guidance and Environmental Statement Chapter

<i>Topics in the National Planning Practice Guidance</i>	<i>Environmental Statement Section</i>
Climate change; Flood risk and coastal change; Land affected by contamination; Land stability; Water supply, waste water and water quality.	Chapter 6 – Land and Water
Natural environment; light pollution.	Chapter 7 – Ecology and Nature Conservation
Noise	Chapter 8 – Noise and Vibration
Air quality	Chapter 9 – Air Quality
Conserving and enhancing the historic environment	Chapter 10 – Cultural Heritage
Transport evidence bases; travel plans, transport assessments and statements in decision taking	Chapter 11 – Traffic and Transport
Viability	Chapter 12 – Socio-Economic Characteristics
Natural Environment; Landscape	Chapter 13 – Landscape and Visual

3.7 DEVELOPMENT PLAN

3.7.1 Introduction

The development plan documents relevant to the Proposed Development are the saved policies of the North Lincolnshire Local Plan 2003 (the NLLP) and the North Lincolnshire Local Development Framework Core Strategy June 2011 (the Core Strategy). Other relevant local policy sources are the emerging Housing and Employment Land Allocations Development Plan Document (DPD) and the emerging Lincolnshire Lakes Area Action Plan. However it should be noted that whereas section 38(6) of the Planning and Compulsory Purchase Act 2004 applies to the determination of applications for planning permission by an LPA or the Secretary of State, it has been decided at law that section 38(6) is not applicable in the case of a direction that planning permission be deemed to be granted pursuant to section 90 of the Town and Country Planning Act 1999 in connection with an application for consent made under the Electricity Act 1989 ⁽¹⁾. Nevertheless the Council's scoping advice in its letter of 7 May 2015 is that "*local planning policies should be considered in the assessment of this scheme*" and although DECC's scoping opinion of 24.07.15 does not address planning policy, it suggests that account is taken of comments from consultees.

3.7.2 North Lincolnshire Local Plan

Overview

The NLLP was adopted in May 2003. The introduction explains that North Lincolnshire Council (NLC) was established as a unitary authority on 1 April 1996, comprising the former districts of Scunthorpe, Glanford and the Isle of Axholme part of Boothferry which were previously part of the County of Humberside (paragraph 19). The NLLP records that the Boothferry Local Plan Deposit Draft 1992 had been through a local plan public inquiry but the Council resolved in November 1996 not to continue with the Plan (paragraph 1.16 and footnote 4).

After the commencement of the Planning and Compulsory Purchase Act in September 2004 policies in the NLLP were saved for an initial period of three years. On 27 September 2007 the Secretary of State issued a direction that certain policies were to be saved until replaced by new policies in the Local Development Framework (LDF), also a number of policies were deleted. Appendix 3 to the Core Strategy 2011 further identifies a number of policies in the NLLP which have been superseded. The NPPF states that following the 12 month period from publication of the NPPF (2012), "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework*", and similarly when considering policies in emerging plans (NPPF paragraphs 215, 216).

Policies in the NLLP relevant in varying degrees to the Proposed Development include policies T1, T2, T6, T8, T14, T19, T24; R5; LC1, LC2, LC4, LC5, LC6, LC7, LC11, LC12, LC14; HE5, HE8, HE9; W11; DS1, DS3,

(1) R – on the application of Samuel Smith Old Brewery (Tadcaster) v Secretary of State for Energy and Climate Change [2012] EWHC 46 (Admin)

DS7, DS11, DS12, DS13, DS14, DS15, DS16, DS17. The abridged references to these policies below indicate mostly that they are compatible with the Proposed Development.

Industry and Employment (Chapter 5)

Keadby with Althorpe is illustrated in the NLLP Figure 5 as being within the Scunthorpe travel to work area. It is stated that Scunthorpe and Bottesford is the main urban area in North Lincolnshire which has always provided work for the majority of its own residents.” (NLLP paragraph 5.3).

The Plan refers to North Lincolnshire as having two primary river frontages namely the River Humber and the River Trent, providing a number of wharves, among which Keadby operated by P D Ports is on the west bank of the Trent, accessible to the A18 west of Scunthorpe (NLLP paragraph 5.60). The application site is not designated for development, however the plan refers to the characteristics of North Lincolnshire’s industrial land as including allocations, extant planning permissions and sites where development has started. These characteristics are also evident in the case of the Application Site (NLLP paragraph 5.13).

Transportation (Chapter 9)

The NLLP refers to integration of land use, development and transport, in which it is stated that the Plan “seeks to reduce trip length, achieve a modal shift to sustainable modes of travel and makes the best use of existing transport infrastructure”. Also it refers to industrial developers being encouraged to make use of rail, water and air freight and development at sites identified in the Plan served by these modes being supported (NLLP 9.15). Relevant policies are referred to briefly below.

Policy T1 – Location of Development

Development which generates significant volumes of traffic will be permitted provided it is located in specified urban areas such as Scunthorpe and Bottesford; where there is good access to rail, water and air transport or to the North Lincolnshire Strategic Road Network and where there is good foot, cycle and public transport provision/opportunities.

Policy T2 - Access to Development

All development must be provided with a satisfactory access and in larger developments it should be served adequately by a choice of transport modes; existing public transport services/infrastructure; or additions/extensions linked directly to the development; and the existing highway network.

Policy T6 - Pedestrian Routes and Footpaths

Major new developments will be required to include links to nearby existing or proposed pedestrian routes.

Policy T8 – Cyclists and Development

New developments will be required to include cycle links with existing/proposed routes where opportunities exist, and ensure that provision of cycle parking facilities accords with the standards required in Appendix 2.

Policy T14 – The North Lincolnshire Strategic Road Network (NLSRN)
The Council will manage the use of roads within North Lincolnshire by the establishment of the area's Strategic Road Network, whereby traffic will be concentrated onto these roads, whose main purpose will be to carry traffic of more than local significance (see inter-urban road hierarchy Figure 8 and NLSRN Figure 9).

Policy T19 – Car Parking Provision and Standards
Provision will be made for car parking where it would meet the operational needs of business, or be essential to the viability of a new development, or improve the environment or safety of streets, or meet the needs of people with disabilities and comply with Appendix 2 – Parking Provision Guidelines.

Policy T24 – Road Freight
“In settlements where heavy goods vehicles endanger safety, cause community severance or environmental intrusion, and alternative routes exist, the movement and parking of those vehicles will be restricted.” The environmental impact of moving freight by road will be reduced by measures including concentrating lorries onto the NLSRN; banning heavy goods vehicles from sensitive areas etc.

Leisure and Recreation (Chapter 10)
Leisure and recreational facilities in North Lincolnshire are important in maintaining quality of life and health for people living and working in the area (paragraph 10.1).

Policy R5 – Recreational Paths Network
In determining planning applications, existing rights of way will be protected from development and should not prejudice public access unless specific arrangements are made for suitable alternative linkages.

Landscape and Conservation (Chapter 12)

Sites of International Importance within reasonably close proximity to the Proposed Development include the Humber Estuary site of Special Scientific Interest (SSSI), Special Area of Conservation (SAC) and Ramsar sites. DECC is the competent authority under the term of the Conservation of Habitats and Species Regulations 2010 as amended and has required the Applicant (Keadby Developments Limited) to provide sufficient information to inform any Habitats Regulation Assessment (DECC Scoping Opinion 24.07.15). Policies to be considered include LC1, LC2, LC4, LC5, LC6, LC7, LC11, LC12, LC14, subject to the findings of ES Chapters 7 Ecology and Nature Conservation; 10 Cultural Heritage; 13 Landscape and Visual.

Policy LC1 – Special Protection Areas, Special Areas of Conservation and Ramsar sites
The policy refers to proposals for development which may affect sites of international importance, including Special Protection Areas (SPAs), Special Areas of Conservation (SACs) and Ramsar Sites, to be assessed according to their implications for the site's conservation objectives.

Policy LC2 Sites of Special Scientific Interest and National Nature Reserves

Proposals for development in or likely to affect Sites of Special Scientific Interest (SSSI) and National Nature Reserves will be subject to special scrutiny, with particular regard to the implications for the site's conservation objectives and its relative biodiversity importance.

Policy LC4 – Development Affecting Sites of Nature Conservation

Any development likely to have an adverse impact on a Local Nature Reserve (LNR), a Site of Importance for Nature Conservation (SINC) or a Regionally Important Geological Site, will not be approved unless it can be clearly demonstrated that there are reasons for the proposal which outweigh the need to safeguard the intrinsic nature conservation value of the site or features.

Policy LC5 – Species Protection

Development or land-use changes which would have an adverse impact on badgers or other protected species will not be granted planning permission.

Policy LC6 – Habitat Creation

Provision will be made for the creation of nature reserves and new wildlife habitats both in rural and urban areas, including where appropriate when granting planning permission.

Policy LC7 – Landscape Protection

Where development is permitted in rural settlements or countryside, special attention will be given to the protection of the scenic quality and the distinctive local character of the landscape.

Policy LC11 – Areas of Amenity Importance

In important amenity areas development will only be permitted where it will not adversely affect the open character, visual amenity or wildlife value or compromise the gap between conflicting land uses and if permitted, development should where necessary make a positive contribution to such areas.

Policy LC12 – Protection of Trees, Woodland and Hedgerows

Proposals for all new development will, wherever possible ensure the retention of trees, woodland and hedgerows.

Policy LC14 – Area of Special Historic Landscape Interest

The Isle of Axholme is designated as an area of Special Historic Landscape Interest, within which development should not adversely affect the character, appearance or setting of the historic landscapes.

The Historic Environment (Chapter 14)

The Plan aims to maintain and enhance the quality of the historic environment NLLP (paragraph 14.1). It refers to the higher than average proportion of Grade I listed buildings and to the number of conservation areas and Scheduled Ancient Monuments and it notes particularly the Isle of Axholme's unique character of largely reclaimed land and the associated network of dykes. These features are also recognised by Historic England's advice (May 2015) in scoping on the merits of producing a zone of theoretical visibility (ZTV), the relative proximity of a scheduled monument Keadby Lock and the

Grade I listed building of St Oswald, Althorpe and the church of St Oswald, Crowle.

Policy HE5 – Development Affecting Listed Buildings

Proposals which damage the setting of a listed building will be resisted.

Policy HE8 – Ancient Monuments

Development proposals which would result in an adverse effect on Scheduled Ancient Monuments and other nationally important monuments, or their settings, will not be permitted (NLLP paragraph 14.2).

Policy HE9 – Archaeological Evaluation

Development proposals affecting sites of known or suspected archaeological importance will require archaeological assessment prior to determination of an application, and where in situ preservation is not justified, there should be adequate provision for excavation/recording.

Waste (Chapter 16)

Policy W11 – Processing of Waste Materials

Proposals for temporary facilities for the recovery, separation and where appropriate, processing of waste materials generated by on-site demolition/construction works will be permitted, provided that such materials are not imported; will not give rise to unacceptable impacts; and the facilities are removed on completion of the project.

Development Standards (Chapter 17)

The Plan includes a number of planning issues that do not fit easily into any of the broader topics outlined earlier, which are relevant to more than one type of development; to avoid repetition in individual chapters these are grouped under the heading of Development Standards (NLLP paragraph 17.2).

DS1 – General Requirements

A high standard of design is expected in all developments in both built up areas and in the countryside which will be considered against quality of design; amenity; conservation; resources; utilities and services.

DS3 – Planning Out Crime

New development should take into account personal safety and the security of people and property.

DS7 - Contaminated Land

Permission will only be granted on contaminated land where a detailed site survey has been submitted and a scheme of remedial measures agreed to overcome existing contamination.

DS11 – Polluting Activities

Planning permission for development will only be permitted where it can be demonstrated that the levels of potentially polluting emissions ⁽¹⁾ do not pose a danger by way of toxic release; result in land contamination; threaten

(1) The reference to emissions includes effluent, leachate, smoke, fumes, gases, dust, steam, smell and noise

underground water resources; create adverse environmental conditions likely to affect nearby developments and adjacent areas.

DS12 – Light Pollution

Applications involving light generating development, including floodlighting, will only be permitted where it can be demonstrated that there would be no adverse impacts on local amenities.

DS13 – Groundwater Protection and Land Drainage;

All development must take account of the need to secure effective land drainage measures and ground water protection to control the level of water in the land drainage system.

DS14 Foul Sewage and Surface Water Drainage

Satisfactory provision must be made for the disposal of foul and surface water from new development.

DS15 – Water Resources

Development should not adversely affect the quality/quantity of water resources or adversely affect nature conservation, fisheries and amenity, by pollution from the development or water abstraction.

DS16 – Flood Risk

Development will not be permitted within floodplains unless adequate protection or mitigation measures are undertaken.

DS17 – Overhead Power Lines and High Powered Electrical Installations

The Council will seek to minimise the environmental effects of proposals for overhead power lines of 132kV or above and will not support such development where it would have a detrimental effect on SPAs, SACs and Ramsar sites; SSSIs or other statutory nature conservation sites; conservation areas, buildings of historic/archaeological interest; existing committed or allocated housing areas.

3.7.3 North Lincolnshire Core Strategy

The introduction to the Core Strategy (2006-2026) (CS) refers to North Lincolnshire as being in a unique position "to be at the heart of the growing low carbon and green economy – a renewable energy capital" and "significant interest in the area to develop various forms of green energy generation facilities" in which Lincolnshire Lakes could become an exemplar for CHP. Other opportunities include wind energy and carbon capture and storage and the presence of steel production, power generation and petrochemical industries within and adjacent to the area (CS paragraph 1.6).

Chapter 4 A Spatial Vision for North Lincolnshire incorporates ten spatial objectives, including the following:

- Spatial Objective 1: An Area Wide Renaissance
- Spatial Objective 2: Delivering the Global Gateway
- Spatial Objective 4: Creating Greater Economic Success
- Spatial Objective 5: Creating Thriving Towns and Villages
- Spatial Objective 6: Protecting and Enhancing the World Class

Environment

- Spatial Objective 7: Efficient Use and Management of Resources
- Spatial Objective 9: Connecting North Lincolnshire
- Spatial Objective 10: Creating a High Quality Environment

Spatial Objectives 3 and 8 are not relevant.

Chapter 5 Spatial Strategy for North Lincolnshire describes the settlement hierarchy as comprising:

- Major sub-regional town – Scunthorpe;
- Market towns - includes Crowle and Epworth west of the River Trent;
- Rural Settlements – of which one is Keadby;
- Rural Settlements in the Countryside.

The spatial strategy includes the following policies relevant to the Proposed Development (CS1; CS2; CS3; CS5; CS6; CS11; CS13; CS16; CS17; CS18; CS19; CS20; CS25 CS27.

Policy CS1: “*Spatial Strategy for North Lincolnshire*” focusses on delivering an urban renaissance in Scunthorpe and supporting its role as a major sub regional town, including opportunities for economic development within existing established employment locations as well as on additional sites, focussed on the town centre, areas to the north of the urban area, a range of sites to meet business needs with the overall aim of diversifying the economy and a high quality business park developed in combination with Lincolnshire Lakes. Also c) supporting thriving rural communities and a vibrant countryside, with the proviso that development in rural settlements will be limited, taking into account levels of local service provision, infrastructure capacity and accessibility and that development should be in keeping with the character and nature of the development. The policy concludes that all future growth regardless of location should contribute to sustainable development (particularly in respect of the criteria in policy CS2); this includes managing change in an environmentally sustainable way by “*avoiding/minimising or mitigating development pressure on the area’s natural and built environment, its existing utilities and associated infrastructure and areas at risk of flooding Where development unavoidably has an environmental impact adequate mitigation measures should be used for the development to be acceptable.*”

Policy CS2: “*Delivering more Sustainable Development*” states that in supporting the delivery of the spatial strategy in policy CS1 and in meeting development needs in North Lincolnshire, a sequential approach will be adopted, with development focussed on previously developed land and buildings within the Scunthorpe area, within the defined development limits of market towns, and small scale developments within the defined development limits of rural settlements to meet identified local needs. It is emphasised that a sequential approach will be applied, directing development where possible to areas with the lowest probability of flooding and that all development will be required to contribute towards achieving sustainable development including:

- locating development that will minimise the need to travel and where possible utilising walking, cycling and public transport;

- making the best use of existing transport infrastructure and capacity;
- maximising the use of rail and water transport where large freight movements are involved;
- contributing towards achieving sustainable economic development to support a competitive business and industrial sector;
- ensuring appropriate provision of infrastructure to meet the needs of the development;
- increasing the use of renewable energy and achieving a high standard of design.

All changes should be managed in an environmentally sustainable way.

Policy CS3: “*Development Limits*” will be applied to the Scunthorpe urban area, the Market Towns and Rural Settlements (but not to rural settlements in the countryside). In applying development limits the following will be taken into account:

- Existing development patterns - the development limit will be drawn around the main built up area of the settlement; where possible limits should follow clearly defined features or constraints such as roads;
- Capacity the ability of the settlement to accommodate future development based on existing and proposed infrastructure, access to facilities, services and public transport including the availability of previously developed land;
- Existing planning consents for development – where development has been implemented;
- Character - the limit will be drawn to reflect the need to protect and enhance settlement character;

Development limits will be defined in the Housing & Employment Land Allocations DPD.

Development limits in the existing NLLP are strongly supported in ensuring development in sustainable locations, protected from inappropriate development and uncontrolled expansion.

Chapter 7 highlights the need to drive up design standards while maintaining enhancing the area’s built and historic environment. Policy CS5: “*Delivering Quality Design in North Lincolnshire*” requires all new development to be well designed and appropriate for its context, contributing to creating a sense of place. The Council will encourage contemporary design providing it is appropriate for its location and is informed by its surrounding context. Among various requirements, new development should contribute towards creating a positive and strong identity; take account of existing built heritage; incorporate the principles of sustainable development ; create safe and secure environments; consider the relationship between any buildings and spaces around them and the function of buildings in terms of appropriateness and context; create attractive, accessible, easily distinguished public/private spaces that complement the built form; provide flexibility to respond to future needs; be easily accessible to all users via recognisable routes and ensure the principles of inclusive design are reflected; incorporate appropriate landscaping/planting which enhances bio diversity; integrate car parking provision within the existing public realm and other pedestrian/cycle routes.

Policy CS6: “*Historic Environment*” promotes the effective management of North Lincolnshire’s historic assets through safeguarding the nationally significant medieval landscapes of the Isle of Axholme; preserving/enhancing North Lincolnshire’s archaeological heritage. The Council will seek to protect, conserve and enhance North Lincolnshire’s historic environment, the character and setting of buildings and areas of acknowledged importance. All new development must respect/enhance the local character/distinctiveness of the area in which it is to be situated, particularly in areas with high heritage value; proposed development should provide archaeological assessments where appropriate.

Chapter 9 Delivering Greater Economic Success in North Lincolnshire states that “*a thriving economy and strong skills base is key in helping to grow and compete in an ever-changing economy*” and it identifies “energy” as one of the main business sectors i.e. clusters (paragraph 9.1, 9.11). Policy CS11 “*Provision and Distribution of Employment Land*” states that the Council “*will support the continued expansion and improvement of North Lincolnshire’s economy in order to create a step change “in the area’s role”, achieved through the identification and allocation in the Housing and Employment Land Allocations DPD to accommodate both traditional land uses and key priority growth sectors. As well as identifying strategic employment sites, general provisions include supporting development “elsewhere within North Lincolnshire that meet local employment needs and maximises other special locations”. In considering all employment development proposals, “regard should be given to making all locations accessible by a range of transport modes in particular by public transport, cycling and walking” for which travel plans will be required “setting out how employment locations will be linked to settlements in the area.” In a related area “businesses in North Lincolnshire have identified skills as a key factor in remaining competitive”, therefore the Council considers it vital to support educational and training development to ensure the workforce is equipped with the necessary skills to meet demands from local employers (paragraph 9.50. Policy CS13: “*Lifelong Skills and Learning*” advises that “the Council will support improvements in education provision to enable everyone to share in North Lincolnshire’s growing prosperity...”*”

Chapter 11 Environment and Resources states that as well as bringing social and economic benefits to its communities, “it is vital to recognise the need to increase, improve and enhance North Lincolnshire’s biodiversity and varied land and waterscapes, along with consideration of climate change, sustainable resources including renewable energy and flood risk (paragraph 11.1) In considering sustainable resource use and climate change the aim includes reducing consumption of natural and non-renewable resources where possible, reducing carbon emissions, reducing pollution levels, improving air, land and water quality, reducing contributions and adapting to climate change, reducing the use of non-renewable energy and flood risk planning (paragraph 11.20). However where non-renewable resources continue to be used “*it will be essential to use the best available clean technologies and abatement measures including developing carbon capture methods to help reduce carbon emissions*” (paragraph 11.21). It further states that “*the overall aim of reducing North Lincolnshire’s carbon footprint can be achieved in part by the promotion of renewable energy generation and low carbon energy, including... by maximising improvements to energy efficiency...*” (paragraph 11.21). It is

further specifically noted that “*existing energy generation sites such as Keadby Power Station are supported*” and it is expected that existing Power stations in North Lincolnshire will continue to play an important role in energy production and will continue to be a major contributor in North Lincolnshire’s power generation supply to the national grid” (paragraph 11.22).

Policy CS16: North Lincolnshire’s Landscape, Greenspace and Waterscape states that the Council “*will protect, enhance and support a diverse and multi-functional network of landscape, greenspace and waterscape*” which “*will be secured by a range of measures, including... developer contributions to create, improve and maintain green infrastructure assets where appropriate*”.

Policy CS17: “Biodiversity” advises that the Council “*will promote effective stewardship of North Lincolnshire’s wildlife*” e.g. through various measures including:

- 1) safeguarding national and international protected sites...;
- 2) appropriate consideration being given to European and nationally important habitats and species;
- 3) monitoring and promoting a network of local wildlife sites;
- 4) ensuring development retains, protects and enhances features of biological/geological interest with provision for the appropriate management of these features;
- 5) ensuring development seeks to produce a net gain in biodiversity and ensuring any unavoidable impacts are appropriately mitigated;

Policy CS18: “*Sustainable Resource Use and Climate Change*” promotes development that utilises natural resources as efficiently and sustainably as possible including:

- 1) meeting high water efficiency standards and incorporating new technologies to recycle/conservate water resources;
- 2) requiring the use of sustainable urban drainage systems (SUDS) where practicable;
- 3) supporting necessary improvement of flood defences and surface water infrastructure against climate change and preventing development in high flood risk areas where practicable/possible;
- 4) meeting required national reductions of predicted CO₂ emissions;
- 5) ensuring building design reduces energy consumption;
- 6) re use or recycling of materials and making the best use of existing buildings and infrastructure;
- 7) minimising waste and facilitating recycling and use waste for energy where appropriate;
- 8) ensuring that development close to the Humber Estuary and rivers responds appropriately to the character of the area;
- 9) reducing the need to travel for people using the development;
- 10) ensuring development helps to protect people/the environment from unsafe, unhealthy and polluted environments;
- 11) supporting renewable sources of energy in appropriate locations where possible and maximising the use of CHP;
- 12) supporting new technology and development for carbon capture and best available, clean/efficient technology to help reduce CO₂ emissions;
- 13) promote greenspace strategy and a green infrastructure plan where

applicable to help reduce the effects of climate change

Policy CS19: “*Flood Risk*” states that the Council will support development proposals that avoid areas of flood risk and not increasing the risk of flooding elsewhere which requires a risk based sequential approach. Development in areas of high flood risk will only be permitted where:

it can be demonstrated that the development will provide wider sustainability benefits that outweigh flood risk;
the development should be on previously used land;
a flood risk assessment should demonstrate that the development will be safe without increasing flood risk elsewhere by integrating water management methods;

Development will be required where practicable to incorporate SUDS to manage surface water drainage.

Chapter 12 “*Sustainable Waste Management*” sets out a framework to guide sustainable waste management, treatment and recovery and refers to broad locations which could accommodate strategic facilities for example Keadby Power Station where there is a significant opportunity for extra electricity generation (paragraph 12.19). Policy CS20: “*Sustainable Waste Management*” states the Council will consider new and enhanced facilities for the treatment and management of waste in various broad strategic areas including power station sites and other high energy installations connecting North Lincolnshire.

Chapter 15 “*Transport and Communication*” refers to North Lincolnshire’s vision of needing to maximise transport opportunities offered by the area as including a number of Wharf complexes along the River Humber and the River Trent for example at Keadby and Gunness, which are an important part of the local economy and provide opportunities for shipping (paragraph 15.13). Policy CS25 “*Promoting Sustainable Transport*” states that the Council will “*support and promote a sustainable transport system in North Lincolnshire that offers a choice of transport modes and reduces the need to travel*”. Transport demand management includes a requirement that “*transport provision is integrated into the design of all development from the start of any development project.*”

Chapter 16 “*Delivering and Implementing Development in North Lincolnshire,*” in policy CS27 “*Planning Obligations*” refers to development proposals that generate an identified “*need for additional infrastructure*” for which the Council may seek to ensure that the development meets the reasonable costs of new infrastructure made necessary by the proposal and/or impact/s of the development; and/or offsets the loss of any significant amenity and/or provides for the ongoing maintenance of facilities provided.

3.7.4 North Lincolnshire Local Development Framework – Housing and Employment Land Allocations Revised Submission Draft Development Plan Document (DPD)

The Council advised in its scoping opinion of 7 May 2015 that regard should be had to the emerging North Lincolnshire Housing and Employment Land Allocations Development Plan Document (DPD) along with major

developments in the local area including the planned Lincolnshire Lakes development, described in the Lincolnshire Lakes Area Action Plan Submission Draft 2014.

The DPD together with representations and supporting documentation was submitted for independent examination on 31 July 2014. The independent examination ran from 13 to 22 January 2015. Since then the Council has prepared a number of Proposed Main Modifications to the DPD at the request of the planning inspector who had examined the document. The Proposed main modifications were published for consultations from 10 June to 22 July 2015. It is anticipated that the Housing and Employment Land Allocations DPD will be adopted with final versions published during March/April 2016. The DPD sets out where sites for housing and employment development are to be located and what size they will be.

Chapter 2 of the DPD includes a policy PSI "*Presumption in favour of Sustainable Development*" which states as follows:

- "When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.
- Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.
- Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:
- Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or
- Specific policies in that Framework indicate that development should be restricted."

Chapter 6 addresses development limits in which it refers to the Core Strategy policy CS3: Development Limits as follows.

"Development limits will be applied to the Scunthorpe urban area, the Market Towns and Rural Settlements. They will not be applied to rural settlements in the countryside" however the policy CS3 is applicable to Keadby in its capacity as a rural settlement.

The settlement Development limits include site 34 Keadby.

The Lincolnshire Lakes Area Action Plan (AAP) submission Draft 2014 was subject to consultations from 30 October to 6 December 2014. The AAP together with representations was submitted for independent examination on 19 March 2015 and an independent examination between 13-15 and 20 October. Following the closure of the independent examination, the council proposed a number of Proposed Main Modifications which it has been consulting on between 18 December 2015 and 12 February 2016.

The AAP is part of the Council's development plan; it sets out how a new sustainable community at Lincolnshire Lakes is to be achieved and is to be read alongside the adopted Core Strategy and emerging Housing and Employment Land Allocation DPD (CS paragraph 2.7). It is stated that "*the AAP is consistent with the NPPF and promotes a policy framework which will enable the delivery of sustainable development*" (paragraph AAP 2.49 and policy SS1). Also it is confirmed that given the nature, diversity and scale of development proposed at Lincolnshire Lakes, the majority of issues covered by the NPPF are relevant, particularly detailed guidance on flood risk and the preparation of Local Plan (paragraph 2.52).

While recognising the requirement for flood risk management and surface water drainage (CS policy SS4) as a constituent of development limits it is stated that Lincolnshire Lakes is entirely within Flood Zones 2 and 3 and that all development in such zones is required by NPPG to demonstrate that there are no reasonably available sites in locations subject to lower flood risk (AAP paragraph 4.75). The Council's "*Sequential Test of the Flood Risk of Potential Development Site's Final Report*" (2010) concluded that in line with the then required PPS25, only a limited supply of land is available for development in Flood Zone 1 and that in order to meet housing needs, "*there is a requirement for development in the Lincolnshire Lakes area*" (AAP paragraph 4.76).

Lincolnshire Lakes is described in the AAP as comprising some 2,000 hectares of land, predominantly in agricultural use; it is located in a Strategic Flood Risk Assessment Flood Zone 2/3, currently defended by mainly soft raised defences along the River Trent. It is planned to create 6,000 new homes, recreation and sports facilities and commercial floorspace, will one of its objectives as being "to explore innovative approaches to delivering energy and waste solutions (see policy SD1). It is noted that a number of overhead power lines extend from Keadby Power Station.