

RWE GENERATION UK PLC

THE HIGHWAYS ACT 1980

**THE OXFORDSHIRE COUNTY COUNCIL (DIDCOT GARDEN TOWN HIGHWAYS
INFRASTRUCTURE – A4130 IMPROVEMENT (MILTON GATE TO COLLETT
ROUNDAABOUT), A4197 DIDCOT TO CULHAM LINK ROAD, AND A415 CLIFTON
HAMPDEN BYPASS) SIDE ROADS ORDER 2022**

AND

**THE OXFORDSHIRE COUNTY COUNCIL (DIDCOT GARDEN TOWN HIGHWAYS
INFRASTRUCTURE – A4130 IMPROVEMENT (MILTON GATE TO COLLETT
ROUNDAABOUT), A4197 DIDCOT TO CULHAM LINK ROAD, AND A415 CLIFTON
HAMPDEN BYPASS) COMPULSORY PURCHASE ORDER 2022**

STATEMENT OF CASE OF

RWE GENERATION UK PLC

4 October 2023

GLOSSARY

1981 Act	the Acquisition of Land Act 1981
1980 Act	the Highways Act 1980
1989 Act	the Electricity Act 1989
1994 Rules	the Highways (Inquiries Procedure) Rules 1994
2007 Rules	the Compulsory Purchase (Inquiries Procedure) Rules 2007
Circular	Circular No.1/97 and/or No.2/97 (as relevant) issued by the Department for Transport
County Council	Oxfordshire County Council
CPO	a compulsory purchase order entitled the "Oxfordshire County Council (Didcot Garden Town Highways Infrastructure – A4130 Improvement (Milton Gate To Collett Roundabout), A4197 Didcot To Culham Link Road, and A415 Clifton Hampden Bypass) Compulsory Purchase Order 2022"
CPO Guidance	Guidance on Compulsory Purchase process and the Crichel Down Rules (July 2019)
DLUCH	the Department for Levelling Up, Housing and Communities
DESNZ	the Department for Energy Security and Net Zero
Orders	the CPO and the SRO
RWE	RWE Generation UK plc
Scheme	the scheme the subject of the Orders and as defined in the Statement of Reasons (with planning application reference R3.0138/21)
Statement of Reasons	the Statement of Reasons prepared by the County Council to accompany the Orders
SRO	a side roads order entitled the "Oxfordshire County Council (Didcot Garden Town Highways Infrastructure – A4130 Improvement (Milton Gate To Collett Roundabout), A4197 Didcot To Culham Link Road, and A415 Clifton Hampden Bypass) Side Roads Order 2022"

1. INTRODUCTION

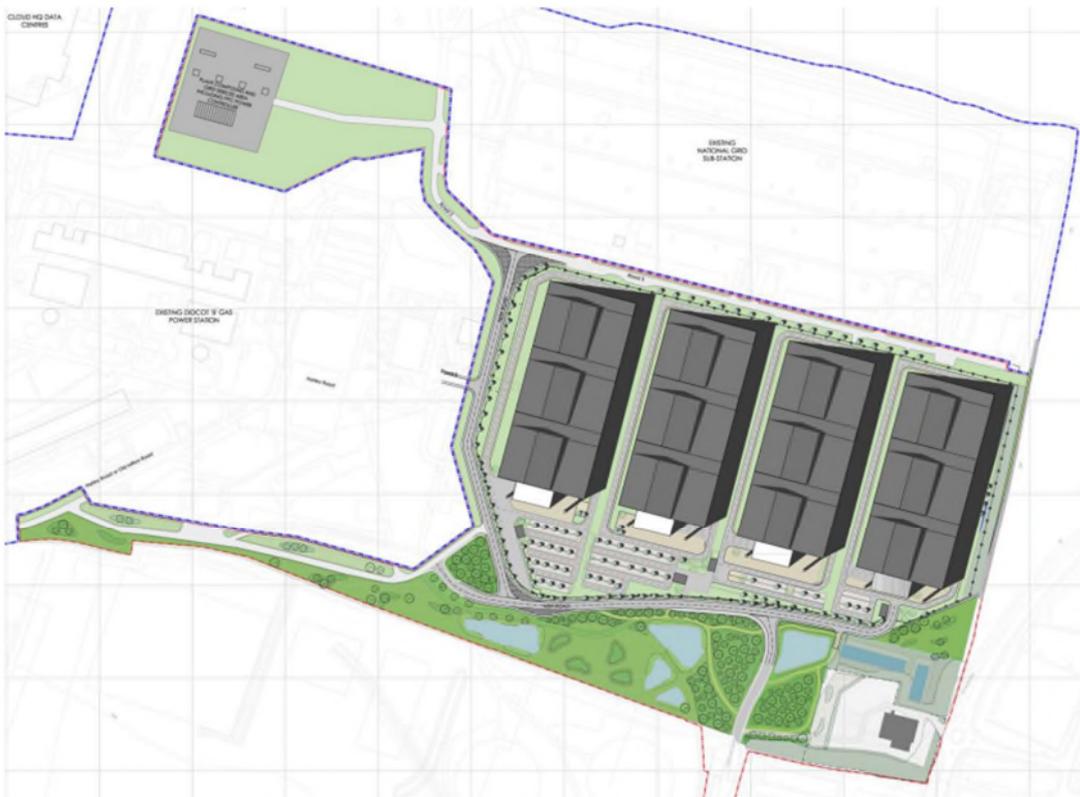
- 1.1 This is the Statement of Case of RWE relating to the Orders and supplements the representations made by RWE in response to the notification of the making of the Orders on 23 March 2023.
- 1.2 RWE is the holder of a generation licence under the 1989 Act and therefore a statutory undertaker for the purposes of the 1981 Act.
- 1.3 RWE does not object to the Scheme in principle. However, RWE needs to ensure that the Scheme, and the powers granted by the Orders, will not result in any serious detriment to RWE's undertaking.
- 1.4 In addition, RWE needs to ensure that the Scheme, and the powers granted by the Orders, are compatible with its development proposals for a data centre campus.

2. LAND AFFECTED BY THE ORDERS

- 2.1 The Didcot Power Station site is owned by RWE and is operational land.
- 2.2 Didcot B is an operational combined cycle gas power plant with a 1,440MW net capacity which supplies the National Grid with electricity.
- 2.3 Didcot B was commissioned in 1997. In 2011, RWE completed a project worth £60 million in order to increase efficiency of the power plant to more than 55%. This has also resulted in the power plant emitting less CO₂ per unit of generated electricity.
- 2.4 The operation of Didcot B is subject to conditions pursuant to a Section 36 Consent under the 1989 Act and an Environmental Permit. Apparatus, access routes, services (including sewerage and telemetry), drainage, lagoons and landscaping relating to the operation of Didcot B are located throughout the Didcot Power Station site.
- 2.5 Didcot A was a coal station, which opened in 1970 and was decommissioned in 2013 and later demolished in 2020.
- 2.6 Part of site previously used by Didcot A (circa 27 hectare) is now being proposed for redevelopment as a data centre campus (see indicative images below).
- 2.7 RWE has applied for planning permission (reference P22/V1857/O) for a data centre campus and it is anticipated that the application will be determined by officers before the end of 2023.
- 2.8 RWE has worked closely with the local planning authority on the planning application for the data centre campus. The local planning authority is supportive of the proposals and as such, RWE sees no reason why the application will not be approved subject to the completion of a section 106 agreement (see Section 7 below for further details).
- 2.9 Key planning application documents have been enclosed at Tab 5. The data centre campus proposals have been designed to be compatible with the Scheme once the Scheme has been constructed and is open to the public.



Source: www.didcotdatacampus.co.uk



Source: Design and Access Statement



Source: www.didcotdatacampus.co.uk

2.10 Overlap with the CPO land

- 2.11 The CPO land includes land within the operational Didcot Power Station site.
- 2.12 Table 1 in the Schedule to the CPO lists RWE as having an interest in plots 4/3a-c (freehold), 5/2a-l (freehold), 5/3a-b (leasehold), 6/1a-l (freehold) and 13/6a-c (freehold).
- 2.13 The Statement of Reasons states the following in relation to these plots:
- 2.13.1 Plots 4/3a - this plot comprises of 2151 sqm of a length of the Private Road and verge of the Private Road to Didcot B Power Station and the site of former Didcot A Power Station, required for construction working space/use land, as access to a works compound.
 - 2.13.2 Plots 4/3b (Rights 1, 3, 4, 7 and 8) and 4/3c (Rights 1, 2, 4 and 7) – rights over plot 4/3b are required for installing temporary safety fencing for site, egress access, construction signing, protecting, and diverting existing services. Plot 4/3c requires right for oversailing to get the Bridge Deck and structure in place over Milton Road including protecting and diverting existing services.
 - 2.13.3 Plots 5/2a, 5/2b, 5/2c, 5/2d, 5/2e, 5/2f, 5/2g, 5/2h, 5/2i, 6/1a, 6/1b, 6/1c, 6/1d, 6/1e, 6/1f, 6/1g, 6/1h, 6/1i, 6/1j, 6/1k, 6/1l, and 13/6a - these plots comprise of 29,182 sqm of grassland, industrial buildings intersecting private access roads, required for a length of the new A4130, mitigation of adverse effects of the new highway upon its surroundings, for the improvement and development of frontages to the new highway, including the provision of a new water retention lagoon on the frontage land, new private means of access to premises and construction working space/use land.
 - 2.13.4 Plots 5/3a, 5/3b and 5/3c - these plots comprise of 1012 sqm of hard standing and outbuildings of the site of the former Didcot A Power Station and part of the Purchas Road private access road, required for the construction of a length of the new A130 and construction working space/use land.
 - 2.13.5 Plot 13/6c (Rights 2 and 10) - rights over this plot is required for oversailing to get the Bridge Deck and structure in place over the River Thames.
- 2.14 In addition, Table 2 in the Schedule to the CPO lists RWE as having an interest in plots 4/5a-j, 5/1a-k, 5/2c, 5/2g-l and 6/1a-d.

3. HISTORY OF OBJECTIONS / REPRESENTATIONS

- 3.1 On 30 April 2020, RWE responded to the County Council's consultation on the Scheme – see Tab 1.
- 3.2 On 14 April 2022, RWE objected to the planning application for the Scheme – see Tab 2.
- 3.3 On 22 March 2023, RWE objected to the CPO and SRO – see Tab 3 and Sections 4 and 6 below. This Statement of Case highlights the serious detriment that would result from the powers granted in the CPO.
- 3.4 On 26 September 2023, RWE submitted representations supporting the planning application for the Scheme (which has been called-in) but reiterated its concerns and objection in respect of the Orders – see Tab 4.

4. OBJECTION MAINTAINED

- 4.1 Whilst RWE is not opposed to the principle of the Scheme, RWE continues to object to the Orders for the reasons set out in its objection letter and this Statement of Case, namely that:
 - 4.1.1 the CPO land in which RWE has an interest, is operational land for the purposes of RWE's undertaking and in the absence of any agreement between RWE and the County Council, the powers sought in the CPO would result in serious detriment to RWE's undertaking;
 - 4.1.2 there are alternatives to the use of compulsory purchase powers given RWE has offered (but the County Council has yet to accept or secure) the appropriate transfer/rights over/use (as relevant) of the relevant CPO land by voluntary agreement;
 - 4.1.3 the County Council has failed to make "reasonable attempts" to acquire RWE's interests by agreement (in particular taking into account RWE's undertaking and development proposals) such that the making of the CPO is not a "last resort"; and
 - 4.1.4 the County Council's planning committee resolved to refuse planning permission for the Scheme, creating an impediment to the delivery of the Scheme (although it is noted that the planning application has been called-in by the Secretary of State and is the subject of a conjoined planning inquiry).
- 4.2 As such, RWE considers that as at the date of this Statement of Case:
 - 4.2.1 the appropriate Minister cannot be satisfied that the CPO land in which RWE has an interest can be purchased and not replaced without serious detriment to RWE's undertaking; and
 - 4.2.2 the County Council has failed to fully comply with the CPO Guidance and Circulars in the preparation and making of the CPO and SRO.
- 4.3 In the absence of any agreement between RWE and the County Council ensuring adequate protections for RWE's undertaking and RWE's development proposals for the data centre campus are in place, RWE therefore considers that the Orders should not be confirmed by the Secretary of State for Transport or should be modified to exclude land in which RWE has an interest.

5. SPECIAL CATEGORY LAND

- 5.1 RWE, as an electricity licence holder under the 1989 Act, is entitled to exercise the powers conferred by Schedule 3 of the 1989 Act and is a statutory undertaker for the purposes of the 1981 Act by virtue of paragraph 2(2) of Schedule 16 to the 1989 Act - see Tab 6.
- 5.2 The CPO land in which RWE has an interest, is operational land for the purposes of its undertaking and necessary for the day-to-day operation of Didcot B power station.
- 5.3 A copy of this Statement of Case is being served simultaneously on DESNZ, the department responsible for such undertaking and therefore the appropriate Minister for the purposes of section 16 of the 1981 Act.
- 5.4 The protections within section 16 of the 1981 Act therefore apply such that the CPO cannot be confirmed without a minister for DESNZ providing a certificate to state it is satisfied that RWE's land/rights over its operational land:
- 5.4.1 can be purchased and not replaced without serious detriment to the carrying on of the undertaking; or
- 5.4.2 that if purchased, can be replaced by other land belonging to, or available for acquisition by, the undertaker (i.e. RWE) without serious detriment to the carrying on such undertaking.
- 5.5 In the absence of a voluntary agreement ensuring adequate protections for RWE's undertaking are in place, RWE considers that neither of the above scenarios apply in this instance for the reasons set out in Section 6 below.

6. **POTENTIAL DETRIMENT TO RWE'S UNDERTAKING AND DEVELOPMENT PROPOSALS**

- 6.1 RWE raised a number of general and plot specific concerns with both the CPO and SRO in its objection letter (see Tab 3). In summary, RWE's main concerns relate to:
- 6.1.1 the need to maintain uninterrupted access to its operational land (including access for heavy goods and wide load vehicles through the Didcot Power Station site and access to the National Grid substation) 24/7 for operational and safety reasons;
- 6.1.2 the lagoons being adversely affected if the proposed replacement lagoon is not implemented at the appropriate time thereby affecting RWE's ability to comply with its Environmental Permit; and
- 6.1.3 RWE's existing security gatehouse being segregated making it obsolete and removing RWE's ability to control access into its operational land. It is noted that a replacement gatehouse is proposed but RWE has not received any commitments from the County Council as to how and when the replacement gatehouse will be delivered.
- 6.2 In addition to the operational concerns set out above, RWE is also concerned that the construction phase of the Scheme will unnecessarily prevent, restrict and/or prejudice the ability to either (depending on when the Scheme comes forward) simultaneously construct and/or operate the data centre campus, with the data centre campus potentially being "landlocked" during the construction period for the Scheme. RWE therefore needs to ensure that:
- 6.2.1 there is sufficient capacity within any junction design for the Scheme to accommodate future development, including RWE's proposed data centre campus;

- 6.2.2 the land assembly / construction phase of the Scheme does not prevent, restrict and/or prejudice RWE's ability to simultaneously construct the proposed data centre campus; and
- 6.2.3 the land assembly / construction phase of the Scheme does not prevent, restrict and/or prejudice RWE's ability to operate the proposed data centre campus (should the proposed data centre campus be delivered in advance of the land assembly / construction phase for the Scheme).
- 6.3 RWE considers that its concerns can adequately be dealt with in an agreement and indeed the County Council has given comfort that some of RWE's concerns can be addressed in its correspondence with RWE to date. However, a number of RWE's concerns, in particular relating to impacts during the construction phase, are still to be resolved.
- 6.4 In the absence of such agreement being entered into (and very little progress having been made by the County Council to date – see further below), RWE's concerns remain.
- 6.5 The implementation of the Orders and Scheme would therefore result in serious detriment to RWE's undertaking and would also have a negative effect on its development proposals.

7. **CPO NOT USED AS A LAST RESORT**

- 7.1 As set out in its objection letter (see Tab 3), the County Council has been in discussions with RWE on the Scheme since 2020.
- 7.2 However up until RWE lodged its objection to the Orders, no efforts had been by the County Council to seek the acquisition/use (as relevant) of RWE's land/rights by agreement. Since then, whilst some discussions have been had, very little effort has been made by the County Council to progress the terms of the voluntary agreement.
- 7.3 RWE is very keen to enter into an agreement with the County Council to address its concerns (as raised above), ensure adequate protections for RWE's undertaking are in place and to avoid the need for the use of the Orders' powers over RWE's land.
- 7.4 As part of the planning application for the data centre campus, RWE is required to enter into a section 106 agreement to provide a number of planning obligations. Although the County Council has yet to provide heads of terms or detailed drafting for the section 106 agreement, it is anticipated that a number of those planning obligations will overlap with the land/rights sought pursuant to the Orders.
- 7.5 In particular, RWE and the County Council have agreed in principle for the section 106 agreement to secure the voluntary acquisition of appropriate land/rights, that it would otherwise need to seek powers for in the Orders, include provisions to address its concerns (as raised above) in relation to the Scheme and to ensure adequate protections for RWE's undertaking are in place.
- 7.6 This mechanism has been adopted elsewhere too, namely for a mixed use development to be located on another part of the site previously used by Didcot A pursuant to planning permission and section 73 consent reference P15/V1304/O and P15/S1880/O, and so is an established and effective mechanism.
- 7.7 Despite RWE making it clear to the County Council's land agents that it is willing to enter into a section 106 agreement to secure the voluntary acquisition of the appropriate land/rights, RWE is yet to receive draft heads of terms for the section 106 agreement or a draft agreement from the County Council.
- 7.8 RWE acknowledges that some of the delay to meaningful engagement on the section 106 agreement may have been a result of the planning application for the Scheme being

delayed following the resolution of the planning committee to refuse the application and subsequent call-in. However, given the potential serious detriment to RWE's undertaking, and given the public inquiry is less than 3 months away, RWE is very concerned that matters will not be progressed in time to enable such agreement to be completed prior to the public inquiry.

7.9 Until such agreement (or any equivalent agreement) is completed, RWE has no choice but to maintain its objection to the Orders.

7.10 RWE therefore considers that the County Council's efforts to acquire RWE's land/rights currently fall short of being "reasonable" and that the CPO is therefore not being promoted as a "last resort".

8. **PLANNING STATUS**

8.1 RWE notes that the planning committee at the County Council resolved to refuse the planning application for the Scheme and the application has been subsequently called-in by the Secretary of State for DLUCH such that the determination of that planning application will be heard at a conjoined inquiry with the Orders.

8.2 The absence of a planning consent at this point in time, and the uncertainty of it being granted, presents an impediment to the delivery of the Scheme which should be taken into account when determining whether the CPO should be confirmed.

8.3 RWE notes that Circular 2/97 states that it is *"[the Secretary of State for Transport's] practice not to confirm a CPO until he is satisfied that the planning permission aspect of the scheme, to which the order relates, has been granted"*.

9. **CONCLUSION**

9.1 RWE does not object to the Scheme in principle. However, RWE needs to ensure that the Scheme, and the powers granted by the Orders, will not result in any serious detriment to RWE's undertaking.

9.2 RWE considers that as at the date of this Statement of Case:

9.2.1 the appropriate Minister cannot be satisfied that the CPO land in which RWE has an interest can be purchased and not replaced without serious detriment to RWE's undertaking; and

9.2.2 the County Council has failed to fully comply with the CPO Guidance and Circulars in the preparation and making of the CPO and SRO.

9.3 In addition, the implementation of the Scheme would also have a negative effect on RWE's development proposals for the data centre campus, particularly during the construction phase.

9.4 In the absence of any agreement between RWE and the County Council ensuring adequate protections for RWE's undertaking are in place, RWE therefore considers that the Orders should not be confirmed by the Secretary of State for Transport or should be modified to exclude land in which RWE has an interest.

10. **FURTHER INFORMATION**

10.1 This Statement of Case has been provided pursuant to the 1994 rules and 2007 rules in advance of the public inquiry.

10.2 If you have any queries on the contents of this document, please contact:

10.2.1 Matthew Trigg via email at matthew.trigg@rwe.com; or

10.2.2 Claire Brodrick at Pinsent Masons LLP via email at
claire.brodrick@pinsentmasons.com.

10.3 The documents enclosed and listed below may be referred to or put in evidence at the public inquiry. RWE reserves the right to add to this list.

DOCUMENTS ENCLOSED / TO BE REFERRED TO AT INQUIRY	
1.	RWE's consultation response dated 30 April 2020
2.	RWE's objection letter to the planning application for the Scheme dated 14 April 2022
3.	RWE's objection letter to the CPO & SRO dated 22 March 2023
4.	RWE's representations in relation to the called-in planning application for the Scheme dated 26 September 2023
5.	Key planning application documents for RWE's data centre campus (reference P22/V1857/O): <ul style="list-style-type: none"> a. Application form b. Site plan c. Location plan d. Design and Access statement e. Planning Statement f. Transport Assessment
6.	RWE's Generation Licence pursuant to the 1989 Act
<i>The below documents may also be referred to / relied on at inquiry but have not enclosed as the County Council and SoS will have copies</i>	
7.	Guidance on Compulsory Purchase process and the Crichel Down Rules (July 2019)
8.	Circulars No.1/97 and 2.97
9.	the Acquisition of Land Act 1981
10.	the Highways Act 1980
11.	the Highways (Inquiries Procedure) Rules 1994
12.	the Compulsory Purchase (Inquiries Procedure) Rules 2007
13.	the Electricity Act 1989

TAB 1
RWE'S CONSULTATION RESPONSE DATED 30 APRIL 2020

Didcot and Surrounding Area Infrastructure Improvement Update Consultation



Matthew.Trigg@rwe.com
To: HP1@pcc@oxfordshire.gov.uk

Reply Reply All Forward
Thu 10/04/2015 12:47

Dear Sir/Madam,

RWE Generation UK plc (RWE) writes in response to the Didcot and Surrounding Area Infrastructure Improvement Update online consultation. RWE owns Didcot Power Station which is directly affected by the Science Bridge proposal (Scheme B). RWE is generally supportive of the Science Bridge proposal but it remains concerned about the need for further engagement from Oxfordshire County Council (the Council) as well as the impact of the road alignment on its existing landholding. In particular:

1. The impact on RWE's existing access to Didcot A Power Station which also accommodates heavy and wide loads for Didcot B Power Station and the National grid substation;
2. The loss of the security gatehouse at the entrance to Didcot A Power Station;
3. The loss of one or both of Didcot A's settling lagoons which form an integral part of Didcot A power station's Environmentally Permitted site drainage system; and,
4. The segregation of RWE's Technical Support Centre from the Didcot A site by the proposed road.

RWE retains land at Didcot A Power Station for future power generation development. RWE is a holder of an electricity generation licence under Section 8 of the Electricity Act 1989 and a deemed statutory undertaker under the Planning Act 2016. RWE, therefore, requests that its operational land interests at Didcot A and B Power Station sites are protected and that alternatives are fully explored by the Council in order to minimise impacts to RWE. RWE also requires protection to ensure it retains the ability to maintain unimpeded access and operations at its Power Station sites and to develop the Didcot A site in the short to medium term for power generation and other development uses. This requires the Science Bridge scheme to ensure that future access arrangements to the Didcot A site are equivalent to those that already exist in terms of heavy and wide loads and that there is sufficient capacity within any junction design to accommodate development on the Didcot A site.

A suitable replacement for the existing security gatehouse at Didcot A will also need to be provided because the proposed road alignment will require its removal. The current security gatehouse also accommodates telecommunication and electricity services for the Didcot A and Technical Support Centre sites which will need to be replaced without disruption to the security of RWE's site and to the functioning of that Centre.

The Didcot A site is still operated/managed under an Environment Agency (EA) Environmental Permit and any changes to the drainage system are likely to require EA approval and formal variation of the site permit. The current proposal crosses Didcot A's settling lagoons which form an integral part of the Didcot A site drainage system and are required for the foreseeable future. A suitable alternative drainage system will need to be provided to both RWE's and the EA's satisfaction to maintain the site's drainage and compliance needs.

RWE's Technical Support Centre forms part of the Didcot A Power Station site and is used for operational purposes relevant to Didcot and wider Company business. The proposal will segregate the Technical Support Centre from the main site and potentially make it unsuitable for its current purpose. RWE requires continued use of its Technical Support Centre and invites the Council to engage in discussions with RWE without delay so that suitable alternatives or possible replacement land can be agreed.

It is requested that the Council continues to engage with RWE to ensure that the development of the Science Bridge scheme suitably accommodates the ongoing operational and development needs of the Power Station sites (in particular the most affected, Didcot A) and to ensure the impacts on RWE's land are kept to an absolute minimum by consideration of suitable alternatives, appropriate protection and compensation.

If you have any queries please do not hesitate to contact me.

Kind regards

Matthew Trigg
Development Planning Manager
RWE Generation UK plc
Electron
Windmill Hill Business Park
Whitehill Way
Surrenden
SMS 698
tel: 01753 893184

TAB 2
RWE'S OBJECTION LETTER TO THE PLANNING APPLICATION FOR THE SCHEME
DATED 14 APRIL 2022



Stantec UK Limited
Caversham Bridge House
Waterman Place
Reading RG1 8DN

14th April 2022

Project/File: HIF1 Application (R3.0138/21)

Emily Catcheside
Oxfordshire County Council
Planning Department
County Hall
New Road
Oxford
OX1 1ND

Dear Emily,

Reference: R3.0138/21

I am writing on behalf of our client RWE Generation UK in response to the Science Bridge proposals submitted by Oxfordshire County Council (OCC) as part of the Didcot Garden Town Infrastructure project (planning app. ref. no. R3.0138/21) (known as 'HIF1').

The proposed Science Bridge Road Link (SBRL), which forms part of the HIF1 application, runs through RWE's Didcot Power Station Site, located to the northwest of Didcot. As your colleagues are aware from the pre-application discussion RWE is currently finalising a hybrid planning application for the proposed redevelopment of the element of the wider site that historically accommodated the former Didcot A Power station site, known as Didcot Data Campus. For the avoidance of doubt, a plan showing the location of the proposed Didcot Data campus site and wider RWE site has been appended to this letter.

Our comments are based on a review of the following application documents:

- Didcot Garden Town Housing Infrastructure Fund (HIF1) Transport Assessment – hereafter referred to as 'TA';
- Road Safety Audit Stage 1 – hereafter referred to as 'RSA'; and
- Application Drawings:
 - Highways General Arrangement Sheets 5 and 6 out of 19;
 - Visibility Splays Sheets 5 and 6 of 19; and
 - Highways Swept Path Analysis Sheet 17 of 39.

General comments on the Transport Assessment (TA)

Based on our review of the submitted TA, it is unclear whether the former Didcot A Power Station has been accounted for in the baseline assessment and whether the proposed SBRL scheme allows for the currently permitted operations or the continued use of the site as an element of the nationally important power generation infrastructure.

Reference: R3.0138/21

The base junction capacity assessments presented in Table 3.4 of the TA appear to be based upon traffic surveys carried out in 2016 and 2017, when the active use of Didcot A had ceased, and the demolition of Didcot A Power Station had already started. With the information provided, it is clear that unfortunately no consideration has been given to traffic flows with the Didcot A Power Station site operating under its permitted development rights, which allow for the following:

RWE Generation UK Plc (“RWE”) holds an electricity generation licence under Section 6(1) of the Electricity Act 1989 and is entitled to exercise powers conferred by Schedules 3 and 4 of that Act. As such, RWE is a statutory undertaker as defined in S262(6) of the T&CPA 1990. RWE holds its interest in the site of Didcot A Power Station for the purposes of its statutory undertaking and as such the Didcot A Power Station site is classed as operational land in accordance with S263 of the T&CPA. The site predates 1968 and has been subject of specific planning consents for the purposes of energy generation for several decades. Schedule 2, Part 15, Class B of the T&CP (GPD) (England) Order 2015, as amended, sets out the permitted development rights that exist in relation to RWE’s undertaking at Didcot A. These rights are wide ranging and allow for many types of development uses. Consequently, the Didcot A site has the ability to generate traffic movements without the need for planning permission. The 2011 surveys provide a reasonable reflection of traffic flows with the site operating under its permitted use.

In our view, for the baseline assessment to be robust it is critical that the 2011 surveys should be incorporated into the Paramics model in order to accurately reflect the baseline operational performance of local junctions around Didcot A Power Station. Without consideration to these, the results of the base junction capacity assessments are an underrepresentation of the current operation of the road network around the site, and therefore inappropriate for the purpose of carrying a net impact assessment. We therefore request that an updated assessment is carried out using the 2011 survey data, which can be made available to OCC upon request.

Additionally, we are concerned about the following issues with regard to the A4130/ Science Bridge Junction (referred to as ‘SCH6’ in the TA) Assessment:

HIF1 TA Results	Comments
<p>The applicant suggests that there is an alternative route via the Southmead industrial estate (turning into Hawksworth Road) for traffic heading north or east, with capacity to accommodate re-routing traffic.</p>	<p>Although it is accepted that the improved A4130/ New Thames River Crossing/ Collet roundabout (SCH7) has spare capacity to accommodate re-routing traffic, no evidence is presented in the TA to suggest that the Hawksworth Road/ Collet junction can accommodate this traffic. Without testing this, it is not possible to understand whether traffic would route this way or would carry on using the SCH6 and potentially impact traffic along the SBLR and the former Didcot A Power site (or possible future Didcot Data Campus) access.</p>
<p>The applicant’s view is that one of the main ways to prioritise mainline flow is by discouraging traffic from using the existing A4130 between the Mendip Heights and Purchas Road roundabouts by creating a priority junction instead of a roundabout where the existing A4130 meets the new A4130 (SCH3).</p>	<p>The effects of a priority junction at SCH3 instead of roundabout on the SBLR junctions have not been tested.</p>

Reference: R3.0138/21

HIF1 TA Results	Comments
The Paramics model assumptions account for 400 dwellings at the former coal yard for the Didcot A site. However, it is understood that this is no longer likely, therefore, if the 400 units do not come forward, the model is assuming too many trips in the area.	It is accepted that a residential development at Didcot A site would assume too many general traffic movements in the area. A sensitivity test should be carried to understand the capacity/operational benefits of testing Amazon and Cloud HQ data centres, which have now been permitted and are under construction.

Comments on Road Safety Audit (Stage 1)

Additionally, there are a number of concerns with regard to issues raised in the RSA Stage 1 that could have an impact on the operation and safety users of the former Didcot A Power Site, if left unresolved:

- The change of speed limit to the east of the TOUCAN crossing should be implemented at least at the desirable minimum sight stopping distance (SSD) for the lower speed limit from the crossing, in line with the RSA.
- Side road junctions along the SBLR:
 - Give way line should be moved back to the bottom of the raised entry treatment ramp and visibility splays checked.
 - Junction warning signs with sub-plates bearing the legend “give way to cyclists” should be provided.
- Warning signs should be located closer to the parallel crossings.
- Upright signs should be provided for the segregated cycleway/ footways along SBLR.
- Street lighting should be provided to the west of the Old A4130 junction, only at the junction and approaches.

We would appreciate confirmation that the above will be addressed as part of the detailed design stage and RSA Stage 2.

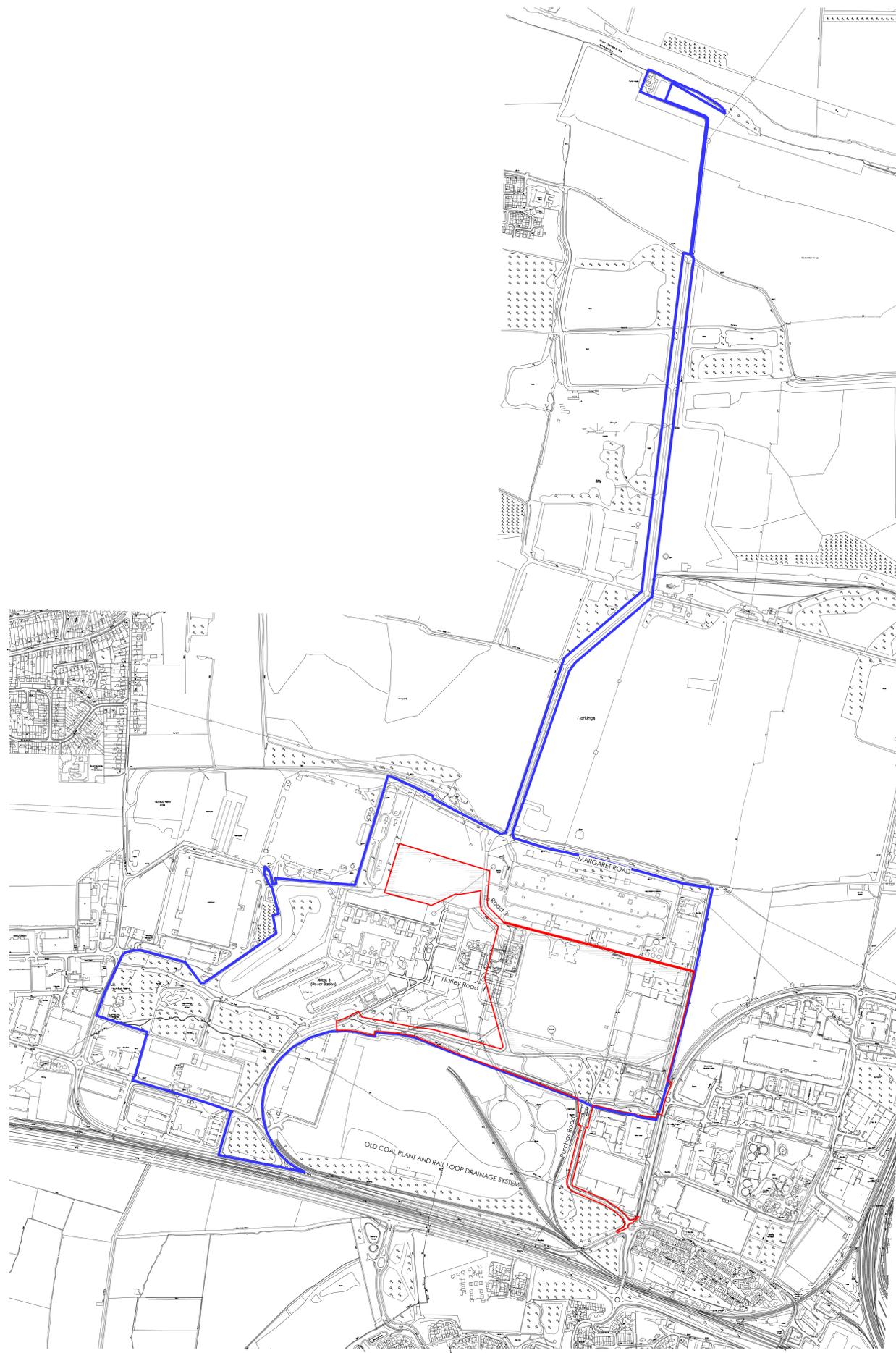
Sincerely,

Sarah Matthews

Director Transport Planning
Sarah.matthews@stantec.com

Attachment: [Attachment]

NOTES:
 1. All rights reserved. All drawings and written material appearing herein constitute original and confidential works of ARCC/MC. Copying, use or disclosure without written consent.
 2. All dimensions shown are in millimeters.
 3. This drawing shall be read in conjunction with all Specifications and schedules.
 4. All dimensions shall be checked by Contractor prior to any work commencing on site.
 5. The contractor shall be responsible for all relevant health, safety, and environmental matters of practice, methods of working, and good practice.
 6. Dimensions and/or levels shall be taken from the drawing and the contractor shall be responsible for obtaining all dimensions and levels on site for the actual setting out of the works.



SITE BOUNDARY ————
 OWNERSHIP RWE BOUNDARY ————

REV	DATE	REASON FOR COMMENT	BY	CHK

STATUS: WORK IN PROGRESS

ARC:MC
 140-142 St John Street, London EC1V 4UB T 020 34112571
 REGISTERED IN ENGLAND COMPANY REG. NO. 7883297

CLIENT: **RWE**

PROJECT: DIDCOT CAMPUS
 LAND EAST OF SUTTON COURTENAY LANE AND
 WEST OF DIDCOT POWER STATION, SUTTON
 COURTENAY
 PROJECT NO: L3118.00
 DESCRIPTION: Site Location Plan

SCALE: As Indicated @ A0
 DRAWING NO: RWE-ARC-ZZ-ZZ-DR-A-1001
 REVISION: #

1 LOCATION PLAN -SITE PLAN
 1 : 5500

TAB 3
RWE'S OBJECTION LETTER TO THE CPO & SRO DATED 22 MARCH 2023



Secretary of State for Transport
National Transport Casework Team
Tyneside House,
Skinnerburn Road,
Newcastle upon Tyne, NE4 7AR

By email only to nationalcasework@dft.gov.uk

22 March 2023

THE OXFORDSHIRE COUNTY COUNCIL (DIDCOT GARDEN TOWN HIGHWAYS INFRA-STRUCTURE - A4130 IMPROVEMENT (MILTON GATE TO COLLETT ROUNDABOUT), A4197 DIDCOT TO CULHAM LINK ROAD, AND A415 CLIFTON HAMPDEN BYPASS) SIDE ROADS ORDER 2022 ("THE SIDE ROADS ORDER") and,

THE OXFORDSHIRE COUNTY COUNCIL (DIDCOT GARDEN TOWN HIGHWAYS INFRA-STRUCTURE-A4130 IMPROVEMENT (MILTON GATE TO COLLETT ROUNDABOUT), A4197 DIDCOT TO CULHAM LINK ROAD, AND A415 CLIFTON HAMPDEN BYPASS) COMPULSORY PURCHASE ORDER 2022 ("THE COMPULSORY PURCHASE ORDER")

Dear Sir / Madam,

RWE Generation UK plc (RWE) writes to object to The Side Roads Order and The Compulsory Purchase Order referenced above in so far as it relates to apparatus and land owned by RWE at Didcot A and B Power Stations (Didcot Power Station). RWE is the freehold owner and operator of Didcot Power Station.

RWE is the holder of an electricity generation licence under Section 6 of the Electricity Act 1989 (entitled to exercise the powers under Schedule 3 of the Act) and a deemed statutory undertaker under section 8(1) of the Acquisition of Land Act 1981. RWE is also a statutory undertaker under section 262(6) of the Town and Country Planning Act 1990 and Didcot Power Station is operational land as defined under section 263 of that Act.

Although RWE is generally supportive of the Housing Infrastructure Fund (HIF1) improvements proposed at Didcot it objects, as a statutory undertaker, to the use of compulsory acquisition powers to acquire land and rights either temporarily or permanently across RWE's Didcot Power Station. RWE has previously responded to the HIF 1 planning application (attached) and a consultation undertaken by Oxfordshire County Council (OCC) in 2020 (attached) raising concerns about the potential impacts on its land at Didcot, particularly in relation to new access and drainage arrangements.

Although OCC has developed the HIF 1 scheme to take account of the majority of the access and drainage requirements for Didcot Power Station, there are still elements that have not been agreed and which will, if not managed properly, have a detrimental impact on RWE's statutory

undertaking. RWE requires access to Didcot Power Station on a 24 hours and 7 day a week basis for operational and safety reasons. Access through the Didcot A Power Station site entrance is also required for heavy goods and wide loads on a 24/7 basis. Additionally, Didcot A Power Station's drainage system will be adversely affected if the proposed replacement drainage pond is not implemented at the appropriate time. These matters which primarily relate to sequencing and agreement of temporary closure of roads at agreed times are better dealt with through private agreement rather than the through the compulsory acquisition of land and rights.

The Compulsory Purchase Order (CPO) seeks to acquire land and temporary and permanent rights on land across the following plots: 5/2a, 5/2b, 5/2c, 5/2d, 5/2e, 5/2f, 5/2g, 5/2h, 5/2i, 6/1a, 6/1b, 6/1c, 6/1d, 6/1e, 6/1f, 6/1g, 6/1h, 6/1i, 6/1j, 6/1k, 6/1l and 13/6a. It also seeks to acquire rights on Plot 4/3a, 4/3b, 4/3c and 13/6c. RWE is the freehold owner of all of those plots.

Compulsory purchase should only be used as a last resort, when negotiations have failed. The Guidance on Compulsory purchase process and The Crichel Down Rules (2018) clearly specifies, at paragraphs 17-19, the need for early engagement on negotiations with private landowners. However, although RWE has been in consultation with OCC since 2020 about the design of the HIF 1 scheme, there has been no discussions or negotiations in relation to the land rights needed for its delivery. RWE is willing to enter into an appropriate negotiated agreement with OCC and consequently the use of compulsory purchase powers and direct interference with RWE's land rights is not justified.

In addition to the in-principle objection to the use of compulsory purchase powers over its land and apparatus, RWE also objects in relation to the impacts of the acquisition and proposed works. RWE has detailed comments on the land plans, as follows:

1. Plot 4/3a – This is the main access point to Didcot B Power Station and construction traffic should be kept to a minimum.
2. Plot 5/2d – The permanent acquisition should end as a bell mouth by Plot 5/2c. This road will form the private access to Didcot Power Station and should not be adopted, there will be a requirement for a security gate and gatehouse;
3. Plot 5/2h - This plot should be extended South to include the whole of RWE's interest to the boundary south of the Moor Ditch otherwise RWE will be left with an unmanageable strip of land;
4. Plot 6/1d – RWE has no objection to OCC being granted a permanent right of access but this access will also be permanently used by RWE to access its retained land, it is likely to be secured and appropriate control measures need to be agreed;
5. Plot 6/1 e, f and h - RWE needs to maintain the remaining drainage lagoon for operational purposes and co-ordination between OCC and RWE will be required to ensure appropriate access is provided;
6. Plot 6/1 l – It is not clear from the proposals why this land is required for the HIF 1 scheme;
7. Plot 6/1 j – This land is the access to RWE's Technology Support Centre which is an office and training facility. This access must be maintained and should not be needed by OCC for the construction of its scheme.
8. RWE is also concerned about its apparatus or utility services that is located under the roads to be stopped up and that serve Didcot Power station. Those should be fully protected to ensure there is no disruption or operational impacts to the power station.

RWE also notes a number of inaccuracies on the acquisition documents, in particular on the table included on the proposed plans showing the "Land Take Requirement" which doesn't

coincide with the colouring of the plans for the following parcels (resulting in confusion about whether they relate to permanent or temporary acquisitions):

- Plot 5/2b is shown green on the plan, but the table on the plan states “permanent”; RWE thinks this should be shown as “temporary” and seeks such clarification.
- Plot 6/1a shown green on the plan, but the table on the plan states “permanent”; RWE thinks this should be shown as “temporary” and seeks such clarification.
- Plot 6/1c shown green on the plan, but the table on the plan states “permanent”; RWE thinks this should be shown as “permanent” and seeks such clarification.
- Plot 6/1f shown green on the plan, but the table on the plan states “permanent”; RWE seeks confirmation that this is correct.
- Plot 6/1h shown green on the plan, but the table on the plan states “permanent”; RWE thinks this should be shown as “temporary” and seeks such clarification.

The land affected in **The Side Roads Order** is defined on Site Plan 5 (5/d, 5/e and 5/1 to 5/7) and Site Plan 6 (6/1, 6/2 and 6/3). It should be noted that the stopping up of private roads and the granting of compulsory rights will segregate RWE’s existing security gatehouse (South of stopped up road 5/1, Site Plan 5) making it obsolete and removing RWE’s ability to control access into Didcot Power Station. The stopping up of private roads and the grant of new rights for the benefit of OCC should not be approved until a voluntary agreement has been signed with RWE for the development of the HIF 1 scheme across its Didcot Power Station site. The proposed exercise of compulsory purchase powers in relation to land owned by RWE is disproportionate and unnecessary in light of the strong likelihood that a private agreement will be reached with OCC.

RWE must retain the ability to maintain uninterrupted access and operations at its Didcot Power Station site. This requires the HIF 1 scheme to ensure that future access arrangements to the Didcot A and B sites are equivalent to those that already exist in terms of heavy and wide loads and that there is sufficient capacity within any junction design to accommodate future development. RWE wishes to enter into a suitable voluntary agreement to achieve this objective.

On the basis that the land affected is operational land, that operational lagoons and drainage system remains *in situ*, that services run under land to be acquired or stopped up and the land is also required by RWE for continuous and permanent access to Didcot A and Didcot B Power Stations for operational reasons, and there are alternatives to the proposed compulsory acquisition by way of private agreement, RWE does not accept that a compelling case in the public interest has been demonstrated by OCC.

Yours sincerely

Matthew Trigg

Matthew Trigg
Development Planning Manager
RWE Technology UK Ltd
Trigonos
Windmill Hill Business Park
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TAB 4
RWE'S REPRESENTATIONS IN RELATION TO THE CALLED-IN PLANNING APPLICATION
FOR THE SCHEME DATED 26 SEPTEMBER 2023

We refer to the forthcoming Oxfordshire County Council Extraordinary meeting of 27 September to discuss the timetabled HIF call-in inquiry in December 2023.

RWE are the owners of the Didcot Power station site and its immediate hinterland. Part of the existing power station's operational land was formerly occupied by Didcot A Power Station and is included in the proposed alignment of the new Science Bridge Road which forms part of the HIF1 scheme. In this regard we wish to place on the public record the following points:

1. For a number of years RWE has been working in good faith with OCC officers to develop a data centre proposal on the site of the former Power Station A site. This joint working has been undertaken in parallel with the evolution and design of the HIF1 scheme. Indeed, the data centre proposals are designed to be entirely compatible with and complementary to HIF1 and are capable of being delivered with, or without, the Science Bridge Road element of the HIF1 scheme.
2. On 22 March 2023 RWE formally submitted representations to The Side Roads Order and The Compulsory Purchase Order relating to the HIF1 scheme. In RWE's view, the compulsory purchase of RWE's operational land in the absence of a more detailed agreement is not the appropriate approach to securing the parts of RWE's operational land required for HIF1 and as such the proposed compulsory purchase is detrimental to RWE's undertaking. RWE are seeking to negotiate a S106 obligation with officers, associated with the data centre application, which will deliver the land necessary to develop OCC's HIF1 scheme in a way that is compatible with RWE's operational requirements and the data centre proposals. RWE supports the principle of the HIF1 development and is happy to further its engagement with OCC to agree suitable obligations to support and enable HIF1 as needed through a voluntary agreement.
3. RWE is progressing the previously well-established positive dialogue with officers and OCC's land agent to resolve and agree the requirements under S106 which will provide for a more efficient and effective mechanism to deliver works as needed on the RWE's operational land.

In conclusion RWE is supportive of OCC's aspirations to deliver the Science Bridge Road, will follow the determination of the HIF1 scheme with interest, and will continue to support officers as appropriate / needed through the inquiry process.

Matthew Trigg
Development Planning Manager
RWE Technology UK Ltd
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Windmill Hill Business Park
Whitehill Way
Swindon
SN5 6PB
mob: 07866 625588

TAB 5
KEY PLANNING APPLICATION DOCUMENTS FOR RWE'S DATA CENTRE CAMPUS
(REFERENCE P22/V1857/O):

- A. APPLICATION FORM**
- B. SITE LOCATION PLAN**
- C. DESIGN AND ACCESS STATEMENT**
- D. PLANNING STATEMENT**
- E. TRANSPORT ASSESSMENT**

TAB 6
RWE'S GENERATION LICENCE PURSUANT TO THE 1989 ACT

**SCHEME MADE PURSUANT TO PARAGRAPH 18 OF SCHEDULE 7 TO THE UTILITIES ACT
2000 IN RESPECT OF THE ELECTRICITY GENERATION LICENCE OF INNOGY PLC**

MADE ON 28TH SEPTEMBER 2001

Clause	Subject matter	Page
1.	Interpretation.....	1
2.	Amendment and restatement	2
3.	New standard conditions	2
4.	Continuing effect	2
Annex	The Electricity Generation Licence	3
	Part I: The Terms of the licence.....	4
	Part II: The Standard Conditions	5
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THE SCHEME

Pursuant to paragraph 18 of Schedule 7 to the Utilities Act 2000 ("the 2000 Act"), the Secretary of State hereby makes the following Scheme:

RECITALS

WHEREAS:

1. Innogy Plc (company registered no. 03892782)(the "Company") holds an electricity generation licence under section 6(1)(a) of the Electricity Act 1989 (the "Existing Generation Licence").
2. Paragraph 18 of Schedule 7 to the Utilities Act 2000 ("Schedule 7") applies to the Company as the holder of the licence referred to in recital 1 above.
3. The purpose of this Scheme which is made by the Secretary of State pursuant to paragraph 18 of Schedule 7 is to provide for the Existing Generation Licence to be amended and as so amended to have effect on and after the determination day as an electricity generation licence granted under section 6(1)(a) of the Electricity Act 1989 on the terms of this Scheme held by the Company ("the Electricity Generation Licence").

1. INTERPRETATION

- 1.1 In this Scheme, unless the context otherwise requires, the following expressions shall bear the meanings ascribed to them below:

"the Authority" means the Gas and Electricity Markets Authority established pursuant to section 1 of the 2000 Act;

"determination day" means the date on which the standard conditions of electricity generation licences (determined by virtue of section 33(1) of the 2000 Act) take effect.

- 1.2 Without prejudice to sections 11 and 23(1) of the Interpretation Act 1978, this Scheme shall be interpreted and construed in like manner as an Act of Parliament passed after the commencement of the Interpretation Act 1978.
- 1.3 Unless the context otherwise requires, words and expressions used in Part I of the Electricity Act 1989 (as in force immediately before the determination day, or as the context requires, as in force from the determination day) shall bear the same meaning in this Scheme.

2. AMENDMENT AND RESTATEMENT

On the determination day, the Existing Generation Licence shall be amended and restated as set out in the Annex hereto.

3. NEW STANDARD CONDITIONS

Each condition of the standard conditions determined and published by the Secretary of State under section 33(1) of the 2000 Act as standard conditions for the purposes of electricity generation licences under section 6(1)(a) of the Electricity Act 1989 shall on the determination day be incorporated in Part II of the Electricity Generation Licence in substitution for the licence conditions in the Existing Generation Licence immediately prior to the determination day.

4. CONTINUING EFFECT

4.1 Anything done under or by virtue of the Existing Generation Licence which is in effect immediately before the determination day shall have continuing effect under or by virtue of the Electricity Generation Licence in so far as it is permitted by or in pursuance of the new standard conditions.

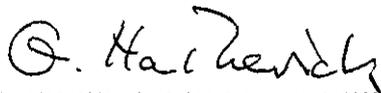
4.2 Without prejudice to the generality of sub-clause 4.1 above,

- (a) every statement, code or other document prepared pursuant to an obligation in the Existing Generation Licence; and
- (b) every direction, consent, determination or other instrument made by the Authority in relation to the Existing Generation Licence,

which in each case is in effect immediately before the determination day, shall have continuing effect pursuant to or under the Electricity Generation Licence in so far as it is permitted by or in pursuance of the new standard conditions.

4.3 For the purpose of paragraph 1 of standard condition 14 (Compulsory Acquisition of Land etc) of electricity generation licences, as incorporated and in effect in the Electricity Generation Licence, the specified date shall be the date the Electricity Generation Licence expires or is revoked.

On this the 28th day of September 2001



.....
An official of the Department of Trade and Industry authorised to act on behalf of the Secretary of State.

LEOFFREY
HATHERICK

ANNEX

**ELECTRICITY ACT 1989
SECTION 6(1)(a)**

ELECTRICITY GENERATION LICENCE

FOR

INNOGY PLC

PART 1. TERMS OF THE LICENCE

1. This licence, treated as granted under section 6(1)(a) of the Electricity Act 1989 ("the Act"), authorises Innogy Plc (a company registered in England and Wales under company number 03892782) ("the licensee") whose registered office is situated at Windmill Hill Business Park, Whitehill Way, Swindon, Wiltshire, SN5 6PB to generate electricity for the purpose of giving a supply to any premises in the area specified in Schedule 1 or enabling a supply to be so given during the period specified in paragraph 3 below, subject to -
 - (a) the standard conditions of electricity generation licences referred to in -
 - (i) paragraph 1 of Part II below, which shall have effect in the licence; and
 - (ii) paragraph 2 of Part II below which shall only have effect in the licence if brought into effect in accordance with the provisions of the standard conditions,

subject to such amendments to those conditions, if any, as are set out in Part III below (together "the conditions");
 - (b) the special conditions, if any, set out in Part IV below ("the special conditions");
 - (c) such Schedules hereto, if any, as may be referenced in the conditions, the special conditions or the terms of the licence.
2. This licence is subject to transfer, modification or amendment in accordance with the provisions of the Act, the special conditions or the conditions.
3. This licence, unless revoked in accordance with the terms of Schedule 2, shall continue until determined by not less than 25 years' notice in writing given by the Authority to the licensee, such notice not to be served earlier than a date being 10 years after the 9th March 2000.
4. The provisions of section 109(1) of the Act (Service of documents) shall have effect as if set out herein and as if for the words "this Act" there were substituted the words "this licence".
5. Without prejudice to sections 11 and 23(1) of the Interpretation Act 1978, Parts I to IV inclusive of, and the Schedule to this licence shall be interpreted and construed in like manner as an Act of Parliament passed after the commencement of the Interpretation Act 1978.
6. References in this licence to a provision of any enactment, where after the date of this licence -
 - (a) the enactment has been replaced or supplemented by another enactment, and
 - (b) such enactment incorporates a corresponding provision in relation to fundamentally the same subject matter,shall be construed, so far as the context permits, as including a reference to the corresponding provision of that other enactment.

PART II. THE STANDARD CONDITIONS

1. Standard conditions in effect in this licence

Section A	Section B
Standard condition 1	Standard condition 5
Standard condition 2	Standard condition 6
Standard condition 3	Standard condition 7
Standard condition 4	Standard condition 8
	Standard condition 9
	Standard condition 10
	Standard condition 11
	Standard condition 12
	Standard condition 13
	Standard condition 14
	Standard condition 15
	Standard condition 16
	Standard condition 16A
	Standard condition 17
	Standard condition 17A
	Standard condition 18
	Standard condition 19

2. Standard conditions not in effect in this licence

Section C	Section D
Standard condition C1	Standard condition D1
Standard condition C2	Standard condition D2
Standard condition C3	Standard condition D3
Standard condition C4	Standard condition D4
	Standard condition D5

Note: A copy of the current standard conditions of electricity generation licences can be inspected at the principal office of the Authority. The above lists are correct at the date of this licence but may be changed by subsequent amendments or modifications to the licence. The authoritative up-to-date version of this licence is available for public inspection at the principal office of the Authority.

PART III. AMENDED STANDARD CONDITIONS

There are no amendments to the standard conditions

PART IV. SPECIAL CONDITIONS

There are no special conditions

SCHEDULE 1

SPECIFIED AREA

Great Britain

SCHEDULE 2

REVOCATION

1. The Authority may at any time revoke the licence by giving no less than 30 days' notice (24 hours' notice, in the case of a revocation under sub-paragraph 1(f)) in writing to the licensee:
 - (a) if the licensee agrees in writing with the Authority that the licence should be revoked;
 - (b) if any amount payable under standard condition 4 (Payments by the Licensee to the Authority) is unpaid 30 days after it has become due and remains unpaid for a period of 14 days after the Authority has given the licensee notice that the payment is overdue - provided that no such notice shall be given earlier than the sixteenth day after the day on which the amount payable became due;
 - (c) if the licensee fails:
 - (i) to comply with a final order (within the meaning of section 25 of the Act) or with a provisional order (within the meaning of that section) which has been confirmed under that section and (in either case) such failure is not rectified to the satisfaction of the Authority within three months after the Authority has given notice in writing of such failure to the licensee - provided that no such notice shall be given by the Authority before the expiration of the period within which an application under section 27 of the Act could be made questioning the validity of the final or provisional order or before the proceedings relating to any such application are finally determined; or
 - (ii) to pay any financial penalty (within the meaning of section 27A of the Act) by the due date for such payment and such payment is not made to the Authority within three months after the Authority has given notice in writing of such failure to the licensee - provided that no such notice shall be given by the Authority before the expiration of the period within which an application under section 27E of the Act could be made questioning the validity or effect of the financial penalty or before the proceedings relating to any such application are finally determined;
 - (d) if the licensee fails to comply with:
 - (i) an order made by the Secretary of State under section 56, 73, 74 or 89 of the Fair Trading Act 1973; or
 - (ii) an order made by the court under section 34 of the Competition Act 1998.
 - (e) if the licensee:
 - (i) has ceased to carry on the generation business;
 - (ii) has not commenced carrying on the generation business within 5 years of the date on which the licence comes into force;

- (f) if the licensee:
- (i) is unable to pay its debts (within the meaning of section 123(1) or (2) of the Insolvency Act 1986, but subject to paragraphs 2 and 3 of this schedule) or has any voluntary arrangement proposed in relation to it under section 1 of that Act or enters into any scheme of arrangement (other than for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Authority);
 - (ii) has a receiver (which expression shall include an administrative receiver within the meaning of section 251 of the Insolvency Act 1986) of the whole or any material part of its assets or undertaking appointed;
 - (iii) has an administration order under section 8 of the Insolvency Act 1986 made in relation to it;
 - (iv) passes any resolution for winding-up other than a resolution previously approved in writing by the Authority; or
 - (v) becomes subject to an order for winding-up by a court of competent jurisdiction; or
- (g) if the licensee is convicted of having committed an offence under section 59 of the Act in making its application for the licence.

2. For the purposes of sub-paragraph 1(f)(i), section 123(1)(a) of the Insolvency Act 1986 shall have effect as if for "£750" there was substituted "£100,000" or such higher figure as the Authority may from time to time determine by notice in writing to the licensee.
3. The licensee shall not be deemed to be unable to pay its debts for the purposes of sub-paragraph 1(f)(i) if any such demand as is mentioned in section 123(1)(a) of the Insolvency Act 1986 is being contested in good faith by the licensee with recourse to all appropriate measures and procedures or if any such demand is satisfied before the expiration of such period as may be stated in any notice given by the Authority under paragraph 1.