

Your ref: EN010092

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Letter to Examining Authority

National Infrastructure Directorate
The Planning Inspectorate
Temple Quay House
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Dear Sir,

Thurrock Flexible Generation Plant – Procedural Deadline C Letter – Cultural Heritage

This letter accompanies documents submitted to the Examining Authority at Procedural Deadline C in response to your Procedural Decision Letter of 02 November 2020. This letter pertains to Cultural Heritage only.

We would respectfully request that you consider the arguments set out in detail in EN10092 Historic Environment Updated Baseline and Significance of Effect Report, which has been produced as supplemental information to respond to the Relevant Representations made by Historic England and Thurrock Council. This letter seeks to address the concerns raised by the stance taken by Historic England, and echoed in the letter of 02 November 2020, and is intended to assist as a non-technical summary of the issues.

It is not disputed that the application site lies within a highly sensitive area for the historic environment. It is indeed with this understanding in mind that the Applicant has pursued a 'no harm' approach where possible, to avoid unnecessary damage to this finite and irreplaceable resource. Non-intrusive geophysical survey has been undertaken across the whole site, where practicable, and these results demonstrate that the application site lies within a reclaimed landscape of considerable time-depth, which is already well understood from the existing archaeological record as set out in the submitted ES.

We would urge you to consider in particular what information is required to "adequately understand" the baseline historic environment character of the application site and its surrounds, and we assert that the current baseline is robust and more than adequate against which to assess the proposed development.

The perceived "lack of surveys", which Historic England and Thurrock Council request be addressed via extensive archaeological trial trench evaluation, does not equate to a lack of sufficient and proportionate information to be able to accurately and professionally assess the significance of effect of the proposed development on the historic environment resource, including archaeological remains where such are present. We would suggest that Historic England and Thurrock Council have taken a

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fall-back policy position rather than adopting a proportionate and pragmatic approach to the decision-making process, which should be applied on a case-by-case basis.

Governmental guidance emphasises that planning authorities should take a proportionate approach with EIAs focusing on a proposed development's likely significant environmental effects, rather than any potential impacts. In order to follow the proportionality principle, the information required to assess cultural heritage impacts should reflect the facts and circumstances of the proposals, including the desk-based work to determine whether field work is required. It is not proportionate to require extensive field work on a purely precautionary basis.

NPS EN-1 provides that for heritage assets the *“level of detail should be proportionate to the importance of the heritage assets and no more than is sufficient to understand the potential impact of the proposal on the significance of the heritage asset”* (emphasis added). EN-1 sets out that where there is potential to affect heritage assets with an archaeological interest, field evaluation is only required where a desk based assessment is not sufficient to properly assess the interest.

For local planning policies, the NPPF at paragraph 188 reiterates the general EIA principle that the authority should seek a *“level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal”*. Field evaluations should only be required where desk based assessments are not sufficient, this should be considered on a case by case basis and field assessments should not be presumed to be required in all greenfield sites or all parts of a site.

In this case, a disproportionate level of work is being sought, including extensive trial trenching and borehole investigations in areas where no data has indicated points of interest which required further investigation at this stage. Further, the Applicant cannot lawfully carry out such work as to do so would breach the Commons Act 2006. As has been previously submitted, section 38(2)(c) of the Commons Act specifically provides that *“the digging of ditches and trenches”* falls within the definition of restricted works which are prohibited without consent being obtained. The grounds for gaining consent for such works are that they must be in the interest of the commons; trial trenching for development is not considered to meet that test. Once the common land is deregistered, the restriction will no longer apply and intrusive investigation can be carried out as provided for in the Outline Written Scheme of Investigation.

The Outline Written Scheme of Investigation sets out a comprehensive set of staged archaeological works and should be welcomed as a firm commitment to undertake the necessary offsetting works at an appropriate stage, i.e. post-consent and pre-commencement, as a requirement within the DCO. This approach is one commonly adopted on other large infrastructure projects, where it is a matter of weighing the balance of the harm caused by pre-determination intrusive investigations (particularly in this case where common land is concerned) against the potential gain of further information obtained from a random percentage sampling strategy, and what else this information might add in terms of reaching a reasoned assessment of the worse-case significance of effect.

It is important to note that the impact assessment undertaken as part of the ES accompanying the DCO submission applied the principle of the maximum design envelope, i.e. the worst-case scenario, in assessing the significance of effect of the Proposed Development. Accordingly, professional judgement was applied in terms of determining the significance of the probable and potential buried archaeological resource, which has allowed a robust assessment of the significance of potential effects.

While it is accepted that important palaeoenvironmental deposits are likely to be present at depth, these are not of schedulable quality, and no other archaeological deposits worthy of scheduling or designation of any kind are predicted across the proposal site. Moreover, any additional information gleaned from having undertaken additional intrusive field surveys would not alter the significance of effect as assessed in the submitted ES: a precautionary professional judgement in the ES was that there could be a significant adverse effect on (potential) buried archaeological resource and therefore a written strategy for investigating and recording this resource was developed. The Outline WSI

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provides assurance that at every stage of the project the archaeological resource will be suitably investigated, following discussion and agreement with the relevant stakeholders.

The legal limitations on intrusive investigations within what is presently designated Common Land (where the main flexible generation plant development structures would be situated) have already been well documented. In addition to the geophysical survey of this land we have been able to take borehole samples which allowed the development of a geoarchaeological deposit model that has been valuable to more fully understand the palaeoenvironmental baseline, as Historic England has now acknowledged.

Intrusive archaeological evaluation in Zone C via trial trenching can be most appropriately targeted at pre-construction stage when the final pipeline route is confirmed, and this will be informed by the results of the geophysical survey. Horizontal Directional Drilling is available as a mitigation technique (and will be used for watercourse crossings) should pre-construction investigation indicate that this is required. Low-impact road construction (e.g. surface or floating tracks constructed on the existing ground surface using geogrid and aggregate layers) is also available as a mitigation technique.

There is ongoing archaeological investigation by the Lower Thames Crossing project in the area surrounding the Thurrock Flexible Generation Plant project and indeed within its Order Limits in Zone D (part of the gas pipeline route). Data emerging from this investigation will continue to add to an understanding of the baseline when available, and clearly it would not be right to duplicate this work by excavating trenches on the same land twice.

A revised Settings Assessment (with regard to designated heritage assets) has also been produced in response to the issues raised in the Relevant Representations. A non-intrusive (i.e. no-harm) geophysical survey has also been completed for the whole application site. The baseline character has been updated accordingly.

We would respectfully request that that ExA considers this supplementary information and agrees that it allows for an adequate understanding of the historic environment baseline and proportionate approach to the assessment of effects, which are well understood.

Your sincerely,
for RPS

Dr Nikki Cook MCIfA
Director – Historic Environment