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Our Ref: 14278d

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Erere Abel Unokan
Energy Infrastructure Planning
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Sent via email to: Erere.Abel-Unokan@energysecurity.gov.uk, Kerry.Crowhurst-Kozlova@energysecurity.gov.uk and energyinfrastructureplanning@energysecurity.gov.uk

Dear Erere Abel-Unokan and Kerry Crowhurst-Kozlova,

THE ELECTRICITY ACT 1989 – SECTION 36C ‘VARIATION OF CONSENTS UNDER SECTION 36’

SPALDING ENERGY EXPANSION LIMITED – SPALDING ENERGY EXPANSION, SPALDING POWER STATION, WEST MARSH ROAD, SPALDING

We write on behalf of Spalding Energy Expansion Limited (‘SEEL’) (‘the Company’), a wholly owned subsidiary of InterGen, in connection with the consent granted 31st January 2018 under Section 36C of the Electricity Act 1989 (‘Section 36 Consent’) and the direction under Section 90 of the Town and Country Planning Act 1990 (‘Deemed Planning Permission’) for the construction and operation of a Combined Cycle Gas Turbine (‘CCGT’) unit and/or Open Cycle Gas Turbine (‘OCGT’) generating station, located at Spalding Power Station, West Marsh Road, Spalding (hereafter referred to as ‘the Variation Application’).

By this letter and accompanying documents, SEEL, being the person entitled to the benefit of the Section 36 Consent, applies to the Secretary of State for Energy, Security and Net Zero (‘the Secretary of State’) pursuant to Section 36C of the 1989 Act for the consent to be varied. In addition, SEEL also requests that the Secretary of State pursuant to his powers under Section 90 (2ZA) of the Town and Country Planning Act 1990 (‘TCPA 1990’) directs that the Deemed Planning Permission also be varied.

Background

Spalding Energy Expansion (‘SEE’) involves the development of land adjacent to the existing Spalding Power Station for energy development.

An application was submitted by SEEL in March 2009 for SEE under Section 36 of the Electricity Act 1989 (‘the Act’). In addition, a direction was sought for deemed planning permission under Section 90 of the TCPA 1990. These are together referred to as the ‘Original Consent Application’. Consent was granted on 11th November 2010 and approved ‘about 900 MW capacity’.

A variation to the Original Consent Application was subsequently granted under the Act on 30th October 2015, and a direction that the conditions of the 2010 Deemed Planning Permission be varied was made (‘the Varied Consent and 2015 Deemed Planning Permission’). Condition 2 of the Varied Consent states:

‘The development shall be up to 945 MW capacity and comprise:

- a. *either:*
 - i. *up to two CCGT [combined cycle gas turbine] unit(s) including for each CCGT unit a gas turbine, a heat recovery system generator (HRSG), a steam turbine and associated equipment with a total rated electrical output of up to 945 MW; or*
 - ii. *one CCGT unit including a gas turbine, a heat recovery system generator (HRSG), a steam turbine with a rated electrical output of up to 645 MW with open cycle gas turbine (OCGT) unit(s) and associated equipment with a total rated electrical output of less than 300 MW.*
- b. *one or more transformers;*
- c. *air cooled condensers;*
- d. *a 400 kV electrical sub-station;*
- e. *ancillary plant and equipment;*
- f. *the necessary buildings (including administration offices) and civil engineering works.'*

Condition 4(2) of the Varied Consent and Condition 53 of the 2015 Deemed Planning Permission required that SEEL notify the Secretary of State and South Holland District Council ('SHDC') which of the gas turbine technology options in Condition 2(a) has been selected and provide details of the capacity of each gas turbine technology prior to the commencement of SEE. SEEL notified the Secretary of State of 7th June 2017 that the gas turbine technology option selected for SEE comprises that set out at part (iii), namely:

'One CCGT unit including a gas turbine, a heat recovery system generator (HRSG), a steam turbine with a rated electrical output of up to 645 MW with open cycle gas turbine (OCGT) unit(s) and associated equipment with a total rated electrical output of less than 300 MW.'

SEEL commenced the development of SEE in phases, of which the first phase entailed the commencement of the development of the OCGT unit(s) of less than 300 MW and associated equipment.

To allow for the phasing of the development of the SEE, an application was made to SHDC under Section 96A of the TCPA 1990 to make non-material changes to the Conditions of the 2015 Deemed Planning Permission. The non-material changes sought to allow for details to be submitted prior to the commencement of a specified phase of the Proposed Development. The application was approved on 7th August 2017 under application ref: H16-0605-17.

Subsequently, the 2017 Variation Application was submitted on 11th August 2017 to amend Condition 2(a)(ii) of the Varied Consent such that the Proposed Development shall be up to 945 MW capacity and comprise:

- a. *(1) one CCGT unit (including: a gas turbine; a heat recovery steam generator (HRSG); steam turbine plant; and associated equipment with a rated electrical output of up to 645 MW ("the CCGU unit); (2) a BESS (including: batteries; associated enclosures; control and protection systems; temperature control systems; and, power conversion systems) having a total rated electrical output of up to 175 MW; and (3) OCGT unit(s) (including for each OCGT unit: a gas*

turbine; and, associated equipment) with a total rated electrical output of less than 300 MW. The total combined electrical output of (1), (2) and (3) shall be up to 945 MW.

- b. one or more transformers;*
- c. air cooled condensers;*
- d. a 400 kV electrical sub-station;*
- e. ancillary plant and equipment; and,*
- f. the necessary buildings (including administration offices) and civil engineering works.*

The 2017 Variation also amended the wording of Condition 3 ‘Time Limits’ to require that the development must commence no later than 31 October 2020, replacing the previous 5 year time limit.

No change was proposed to the generating capacity.

The 2017 Variation Application was approved on 31st January 2018 (‘the 2017 Variation Application’).

A further non-material amendment application to the conditions to allow for minor on-site civils works to be re-sequenced was approved by SHDC on 3rd September 2021 under application ref: H16-0847-21.

Battery Storage proposals of over 50 MW were taken out of the national planning regime by the Infrastructure Planning (Electricity Storage Facilities) Order 2020 (‘the 2020 Regulations’) in November 2020. Around this time, SEEL’s requirement for the BESS changed and it was decided that a larger capacity BESS would be required. Subsequently, in December 2021, Spalding Energy Park Ltd. (‘SEPL’) submitted an application to SHDC under the TCPA 1990 for:

‘Construction and operation of an unmanned Battery Energy Storage System (‘BESS’) with a power capacity of up to 550 megawatt (‘MW’) with associated works including control and protection systems, power conversion systems (and associated transformers), temperature regulation systems, a main step-up transformer(s) and switchgear, welfare facilities, electrical cabling and electrical connection and other associated works.’

This planning application was approved on 14th June 2023 under application ref: H16-1327-21 (‘2023 BESS Planning Consent’). The approved 550MW BESS development is located partly on the area previously consented for the CCGT development as part of SEE under S36.

As noted above, the S36 Consent in 2010 incorporated flexibility in the wording to allow the construction and operation of either an OCGT unit having a total rated electrical output of up to 300 MW and/or a CCGT unit of up to 645 MW.

2025 Proposed Variation

The purpose of this is application to reintroduce flexibility into the consent because SEEL wish to have the ability to choose whether to deploy the up to 645MW CCGT or the 2023 BESS Planning Consent on the land adjoining the extant OCGT taking relevant account of market conditions.

A second purpose of the application is to introduce a second beneficiary, so that either Spalding Energy Expansion Limited or Spalding Energy Park Limited may construct and operate the development, or each may construct and operate distinct parts. Multiple beneficiaries are preceded in the Planning

Act 2008 regime: the Net Zero Teesside Order 2024 has twin applicants, and many generating station DCOs assign benefit of distinct parts of the DCO for construction and operation by, for example, National Grid.

The varied wording seeks to remove the 175MW BESS which we understand cannot form part of a S36 consent or variation consent issued following the introduction of the 2020 Regulations.

The varied wording also seeks to delete Condition 3 ‘Time Limits’ of the consent to reflect that the development commencement has been undertaken in accordance with Condition 3 via the construction and operation of the OCGT prior to the 31 October 2020. The OCGT commenced operations on 1 July 2019¹.

Proposed Development

The Variation Application requests that the Secretary of State in the exercise of his powers under Section 36C of the Electricity Act 1989 and Section 90 (2ZA) of the TCPA 1990 varies the Section 36 Consent and Deemed Planning Permission in order to amend the consent to reintroduce flexibility to allow the construction and operation of one OCGT unit and/or one CCGT unit having a total rated electrical output of up to 945 MW; to vary the definition of ‘the Company’ so that both Spalding Energy Expansion Limited and Spalding Energy Park Limited are beneficiaries and either, or both, may construct and operate the development; and to delete Condition 3 ‘Time Limits’ to reflect that the approved development has commenced with the construction and the operation of the OCGT. No change is proposed to the maximum electrical output.

The application also seeks, in order to comply with the 2020 Regulations, to remove the permitted up to 175MW BESS components.

The proposed Variation Application would not result in the potential for new or additional significant environmental effects as it maintains consistency with (or even a slight reduction to) the scale of built form and the associated emissions profiles previously assessed and approved for development, and does not increase the overall approved operating capacity of the approved plant. Therefore, the Variation Application does not need to be accompanied by an EIA Screening Request or further environmental information, as confirmed by a letter dated 17 December 2024 prepared by Ramboll.

Content of the Variation Application

The Variation Application comprises the following documents, which provide the information required under Regulation 3 of the Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013 ‘the 2013 Variation Regulations’).

1. Variation Application Covering Letter (this Document);
2. Compliance Schedule;
3. Proposed Consultee Schedule;
4. Location Plan;
5. Application Site Plan;

¹ Spalding Energy Expansion, <https://www.intergen.com/our-assets/spalding-energy-expansion/>

6. The Existing Consent;
7. Proposed Changes to the Existing Consent (Track Changes Version);
8. Proposed Changes to the Existing Consent (Clean Version);
9. Draft Explanatory Memorandum; and
10. Ramboll Letter confirming no EIA Screening (17 December 2024).
11. Associated Authorisations:
 - Pipeline Consent 2010
 - Environmental Permit 2018
 - SEPL Generation Licence 2021
 - SEEL Generation Licence 2012
 - Gas Network Exit Agreement 2019
 - SEEL Electrical Connection Agreement for 400kV Substation, including:
 - o Original Bilateral Connection Agreement (2008)
 - o Agreement to Vary Bilateral Connection Agreement (2022)

In accordance with the July 2013 Guidance Note on varying consents under Section 36 for generating stations in England and Wales, no fee is payable for an application to vary a Section 36 consent.

On 13 March 2025 the Secretary of State notified that the Variation Application is suitable for publication, in accordance with Regulation 4(6). As such, we will comply with the publicity and advertising requirements set out at Regulation 5 of the 2013 Variation Regulations.

In accordance with the 2013 Variation Regulations, the Variation Application can viewed on the application website: <https://www.intergen.com/our-assets/spalding-expansion-planning-documents/>

The Company will notify the consultees listed in Document 3 that the Variation Application has been accepted as suitable for publication and place a notice in the London Gazette, and notices for two consecutive weeks in The Spalding Voice.

I trust the above information is sufficient; however, should you require any further information or wish to discuss the proposals, please do not hesitate to contact Colin Turnbull at the details below or Chloe Desgrand at chloe.desgrand@dwd-ltd.co.uk / 020 7355 0336.

Yours sincerely,

Colin Turnbull MRTPI

Director, DWD

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