

The Drax Power (Generating Stations) Order

Land at, and in the vicinity of, Drax Power Station, near Selby, North Yorkshire

Statement of Common Ground between Drax Power Limited and
Natural England

(Submitted for Deadline 1)



The Planning Act 2008

Drax Power Limited

Drax Repower Project

Applicant: DRAX POWER LIMITED
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Author	Philip Davidson/Maritta Boden
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Glossary

Abbreviation	Description
AGI	Above Ground Installation
Applicant	Drax Power Limited (also referred to as Drax)
Application	Application made by Drax Power Limited for a Development Consent Order on 29 May 2018
Authorised Development	Development described in Schedule 1 of the draft Development Consent Order
CCGT	Combined Gas Turbine
OCGT	Open Cycle Gas Turbine
DCO	Development Consent Order
Drax	Drax Power Limited (also referred to as the Applicant)
ES	Environmental Statement
LA	Local Authority
NE	Natural England
NPS	National Policy Statement
NTS	National Transmission System
NYCC	North Yorkshire County Council
PA 2008	Planning Act 2008
PINS	Planning Inspectorate
Proposed Scheme	Drax Repower Project
SCR	Selective Catalytic Reduction
SDC	Selby District Council
SoCG	Statement of Common Ground
SoS	Secretary of State for Business, Energy and Industrial Strategy

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1 INTRODUCTION

1.1 Purpose of this Statement of Common Ground

- 1.1.1 This Statement of Common Ground ("SoCG") has been prepared by Drax Power Limited ("Drax" or "the Applicant") and Natural England ("NE") in relation to an application ("the Application") made by Drax for a Development Consent Order on 29 May 2018 to the Secretary of State for Business, Energy and Industrial Strategy ("the SoS"). The Application relates to the Drax Repower Project ("the Proposed Scheme") which is described in section 1.2 below.
- 1.1.2 For the purpose of this SoCG, Drax and NE will be referred to as the "Parties".
- 1.1.3 This Statement sets out the parties involved and goes on to explain the matters agreed and those remaining to be agreed, for the purposes of examination, providing the most up to date position between Drax and Natural England.
- 1.1.4 The purpose of this SoCG is to set out the agreement that has been reached between the Parties in respect of a number of matters relating to the Proposed Scheme, including:
- a) The need for the Proposed Scheme
 - b) The principle of development of the Proposed Scheme
 - c) Alternatives
 - d) Design Scope and Flexibility
 - e) Air quality (as pertains to biodiversity)
 - f) Noise and vibration (as pertains to biodiversity)
 - g) Biodiversity
 - h) Protected Species Licensing
 - i) Landscape and Visual matters
 - j) Habitats Regulations Assessment ("HRA").

- 1.1.5 It is agreed between the Parties that the matters set out above and included within this Statement of Common Ground are within the remit of NE. It is agreed between the parties that other topics presented within the application materials, in particular the Environmental Statement (ES) submitted with the DCO application fall outside the remit of NE; NE therefore has no comment or observation to make on these.
- 1.1.6 Section 2 records the consultation carried out between NE and Drax. Section 3 of the SoCG set out the areas of agreement in relation to the above matters.

1.2 The Proposed Scheme

- 1.2.1 Drax is proposing to repower up to two existing coal-fired units (known as unit 5 and unit 6) with gas – this means the existing coal-fired units would be decommissioned and replaced with newly constructed gas-fired units utilising some of the existing infrastructure. Each unit, which is a new gas fired generating station in its own right, would comprise combined cycle gas turbine (CCGT) and open cycle gas turbine (OCGT) technology. Each new gas generating unit would also use existing infrastructure, including the cooling system and steam turbines, and would each have a new capacity of up to 1,800 MW, replacing existing units each with a capacity of up to 660 MW. Each unit would have a battery storage capability of up to 100 MW (subject to technology and commercial considerations). Should both units be repowered, the new gas-fired units / generating stations would have a combined capacity of 3,600 MW and a combined battery storage capacity of 200 MW (totalling a capacity of up to 3,800 MW).
- 1.2.2 Drax is seeking consent for the flexibility to construct a single generating station with a 1,800 MW generating capacity and a 100 MW battery storage capacity or to construct two generating stations each with a 1,800 MW generating capacity and each with its own 100 MW battery storage capacity. The construction of each new gas fired generating station would repower either one or both of Unit 5 and Unit 6. The decision as to whether Drax constructs one or two gas fired generating stations and when, is a commercial decision that can only be taken post any consent being granted.
- 1.2.3 In order to repower to gas, a new Gas Pipeline needs to be constructed from Drax Power Station to the National Gas Transmission System (NTS). In addition, an Above Ground Installation (AGI), and Gas Receiving Facility (GRF) are required. A connection to the electrical network would be made via the existing National Grid Substation within the Existing Drax Power Station Complex. Other development includes construction laydown areas, a passing place to enable the construction of the Gas Pipeline and a temporary bridge during construction.
- 1.2.4 The development being applied for is called the "Proposed Scheme" and is more fully described in Schedule 1 of the draft Development Consent Order (where it is termed the "Authorised Development").
- 1.2.5 The Proposed Scheme includes the construction of a generating station with a capacity of more than 50 MW and accordingly meets the criteria given in the Planning Act 2008 (as amended) ("PA 2008") for being a Nationally Significant Infrastructure Project ("NSIP").
- 1.2.6 As a NSIP, the Proposed Scheme therefore requires a Development Consent Order ("DCO") from the SoS of State for Business, Energy and Industrial Strategy.

2 CONSULTATION WITH NE

- 2.1.1 The consultation that has taken place with NE up to the date of this SoCG concerning the issues raised within this SoCG is presented in Table 1.0.

Table 1.0

Date and form of contact or type of correspondence	Summary of that contact and key outcomes and points of discussion
October 2017 (Scoping Consultation Response)	Advice relating to EIA scoping requirements relating to the ecology and biodiversity of the Site. Natural England summarise requirements to be implemented in the ES including an assessment of significant effects of the development on features of nature conservation interest. Natural England indicated an Appropriate Assessment should be completed should a Likely Significant Effect (LSE) on a European site be identified.
01 December 2017 (Meeting and Site Visit to review ecology)	<p>Key points covered in the meeting included:</p> <p>Agreement of the broad proposed scope of ecological surveys between the Applicant and Natural England.</p> <p>Discussion of potential air quality impacts on designated sites and the need for these to be considered in the Proposed Scheme.</p> <p>Habitats Regulations Assessment (HRA) and initial discussion of the approach to assessing the Proposed Scheme and cumulative air quality impacts. NE identified that should the Proposed Scheme contribute 1.5% or more of an air quality standard alone, or contribute 10% or more of an air quality standard in combination with other plans and projects, a detailed assessment of air quality impacts would be required.</p> <p>Discussion of the approach in relation to 'shadow' EPS licensing (if required) given the timing of ecological surveys in relation to the intended DCO submission date. Natural England agreed to discuss the approach internally with colleagues from the EPS licensing team.</p>
26 February 2018 (letter)	<p>Natural England responded through the Section 42 Consultation process stating that the proposal was not located within or in the vicinity of any nationally designated landscapes.</p> <p>Natural England supported the use of the Guidelines for Landscape and Visual Assessment (3rd edition) in carrying out the landscape and visual assessment.</p>
05 March 2018 (meeting)	<p>Key points discussed in this meeting included:</p> <p>A review of the emissions scenarios that might arise for the</p>

Date and form of contact or type of correspondence	Summary of that contact and key outcomes and points of discussion
	<p>Proposed Scheme and how these are being used in the air quality modelling for the Proposed Scheme. It was agreed that the worst-case scenario in terms of emissions scenarios would be presented in the assessment.</p> <p>Confirmation that designated sites for assessment in the air quality modelling should include SPA, SAC and Ramsar Sites within 15 km of the Proposed Scheme stack locations and SSSIs / NNRs within 5 km of the Proposed Scheme stack locations.</p> <p>Discussion of the use of the most appropriate critical loads for the assessment. It was agreed that the most sensitive habitat feature would be used unless robust evidence suggested this was not appropriate.</p> <p>Natural England confirmed that the use of the 1% of critical load threshold for operational emissions from the Proposed Scheme remained appropriate for screening out the potential for likely significant effects, with cumulative impacts of 10% appropriate for screening out the potential for in-combination likely significant effects.</p> <p>It was agreed between all parties that sensitivity testing should be used to support the in-combination assessment of air quality impacts. This would include sensitivity testing of the predicted improvements in baseline nitrogen deposition that would result from the forthcoming closure of the Eggborough coal-fired power station.</p>
27 March 2018 (email)	The Applicant issued a memo setting out the intended scope of surveys and sources of information to be used to support the DCO submission and associated ES.
13 April 2018	Natural England responded to the Applicant's email of 27 March 2018 to confirm that sources of information proposed by the Applicant to support the DCO submission and associated ES were appropriate.
12 June 2018 (email)	A copy of the DCO Application Submission HRA Report and Appendix 9.4 of the Environmental Statement (badger survey report) was issued to Natural England by The Applicant.

Date and form of contact or type of correspondence	Summary of that contact and key outcomes and points of discussion
26 June 2018 (meeting)	<p>Meeting held between the Applicant and Natural England to discuss the findings of the HRA Report (App-134) and badger survey report (App-110) submitted with the DCO Application.</p> <p>It was agreed that the Proposed Scheme would be unlikely to have any adverse effects on the integrity of any European Sites, as set out in the HRA Report. Natural England requested additional information in an update HRA Report on:</p> <ol style="list-style-type: none"> 1. The assessment of the Proposed Scheme's impact on ambient levels of Nitrous Oxides (NOx) over European Sites; and 2. The data that demonstrated the River Derwent SAC watercourse was likely to be Phosphate-limited in terms of it's nutrient status, and hence relatively insensitive to the impacts and effects of additional nutrient nitrogen inputs; <p>It was discussed that most impacts considered to have potential Likely Significant Effects on European Sites were taken through full Appropriate Assessment by the Applicant. It was agreed that this approach was appropriate following the People Over Wind judgement.</p> <p>Natural England advised that following their review of the badger survey report, that the proposed approach to mitigating impacts on badgers were likely to be acceptable, subject to confirmation that all reasonable avoidance measures had been taken and confirmation of the exact proposed location for artificial badger sett creation. The Applicant confirmed that this information was set out in other DCO Application documents, which Natural England would shortly be provided with.</p> <p>The Applicant confirmed that once any points of clarification had been resolved, they would be seeking a 'Letter of No Impediment' confirming there were no evident reasons why a badger licence could not be granted by Natural England.</p>

2.1.2 It is AGREED that Table 1.0 is an accurate record of the meetings and key correspondence between the Parties.

3 MATTERS AGREED AND MATTERS NOT AGREED

3.1 NE's REGULATORY POSITION.

The following is AGREED between the Parties:

- 3.1.1 In accordance with Schedule 1 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, Natural England (NE) must be consulted on all proposed applications for an order granting development consent likely to affect land in England.
- 3.1.2 As the Proposed Scheme is within England, this SoCG relates to matters concerning NE's responsibilities, authority and jurisdiction and it is agreed that:
- NE will be the sole statutory nature conservation body consulted in relation to the Proposed Scheme by the Applicant;
 - NE is the sole statutory nature conservation body under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017;
 - NE is the 'appropriate nature conservation body' for the DCO Application, in accordance with Regulation 5(1)(b) of the Conservation of Habitats and Species Regulations 2017, as regards Habitats Regulations Assessment ("HRA") and European Protected Species ("EPS");
 - NE is the sole consenting and licensing body in respect of protected species and operations with the potential to damage Sites of Special Scientific Interest ("SSSI"); and
 - All matters agreed below are within the scope of NE as signatory to this SoCG. For some topics covered, other technical and administrative matters relating to that topic may also be contained in other SoCGs, for example with The Environment Agency or North Yorkshire County Council. As noted above, other topics covered by the Environmental Statement and other application documents which are not covered in this SoCG are outside NE's remit.
- 3.1.3 The following sections 3.2 to 3.12 sets out agreement for those matters.

3.2 The Need for the Proposed Scheme

- 3.2.1 The statement and evidence of the need for the Proposed Scheme is set out in the Planning Statement, section 3 (Examination Library [APP-62](#)).

The following is AGREED between the Parties:

- 3.2.2 The Overarching National Policy Statement ("NPS") for Energy (EN-1) at Part 3 sets out the need for new energy infrastructure. Paragraph 3.1.3 states that applications for development consent for the types of infrastructure covered by the suite of energy NPSs (known as EN-1, EN-2, EN-3, EN-4, EN-5 and EN-6) should be assessed on the basis that the Government has demonstrated 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 Part 3 of EN-1. Paragraph 3.1.4 of EN-1 states that the Secretary of State should give substantial weight to the contribution that all proposed developments will make toward satisfying this need when considering applications for development consent.

- 3.2.3 The Government has committed to meeting the UK's legally binding target to cut greenhouse gas emissions by at least 80% by 2050, compared to 1990 levels. The Government, through EN-1, states that analysis done on possible 2050 pathways *“shows that moving to a secure, low carbon energy system is challenging, but achievable”* (paragraph 2.2.1).
- 3.2.4 Generating the energy the UK requires, and then supplying it, requires a significant amount of infrastructure and EN-1 Part 3 explains why the Government considers that, without significant amounts of new large-scale energy infrastructure, the objectives of its energy and climate change policy cannot be fulfilled.
- 3.2.5 Electricity meets a significant proportion of the UK's overall energy needs and EN-1 (paragraph 3.3.1) confirms the UK's reliance on it is likely to increase as the UK moves towards its 2050 greenhouse gas emission reduction goals. In order to secure energy supplies that enable the UK to meet its goals for 2050, EN-1, paragraph 3.3.15 confirms *“there is an urgent need for new (and particularly low carbon) energy NSIPS to be brought forward as soon as possible, and certainly in the next 10 to 15 years, given the crucial role of electricity as the UK decarbonises its energy infrastructure”*.
- 3.2.6 As set out in EN-1 the need exists for new electricity generating infrastructure and is not open to debate or interpretation.
- 3.2.7 The Applicant's objectives for the Proposed Scheme are to:
- Reduce the reliance of Drax Power Station on coal as a source of power for electricity generation and replace that source with one that meets the Government's aims of creating a diverse energy mix that maintains security of supply as well as providing flexible back up for intermittent renewable energy;
 - Ensure that Drax Power Station maintains its position as one of the UK's main power generators, playing an important role in helping the UK transition to a low carbon economy through the re-utilisation of as much existing infrastructure as possible (such as cooling systems, cooling towers and steam turbines) which would otherwise be potentially redundant despite the infrastructure remaining within its operating life and capable of contributing to more efficient energy production and a lower carbon footprint (given it is already constructed);
 - Utilise as much existing operational land within the Existing Drax Power Station Complex as possible so as to maximise the use and efficiency of existing infrastructure;
 - Maximise the efficiency of Drax Power Station; and
 - Increase the flexible, response generating capacity of Drax Power Station to meet increasing demand across the UK, by;
 - Providing additional support services to manage the stability of the National Grid, such as frequency response and inertia, to support weather-dependent renewables like wind and solar; and
 - Increasing reliable large scale capacity on the system (i.e. large amount of capacity that can be called on at any time.

- 3.2.8 It is agreed that these objectives are consistent with the need for new energy infrastructure and gas generation plants as identified by the relevant energy NPSs. It is agreed that the Proposed Scheme will provide an important role in supporting the transition to a low carbon economy whilst improving the security, diversity and resilience of the UK electricity supplies.
- 3.2.9 It is agreed Drax Power Station is a national asset and a significant driver of economic growth in the North of England and the Proposed Scheme will enhance Drax Power Station's flexible and responsive capability, make Yorkshire home to large scale battery technology and increase the Applicant's ability to provide the flexible generation and grid support services the UK's electricity system will need as coal and other large power stations are turned off.
- 3.2.10 It is agreed that the need for the Proposed Scheme is as set out in the NPSs for energy infrastructure, in particular EN-1 and the National Policy Statement for Fossil Fuel Generating infrastructure (EN-2), and as recorded in the Planning Statement (Examination Library Reference [APP-62](#)).

3.3 The Principle of Development

- 3.3.1 The statement and evidence regarding the principle of development of the Proposed Development is set out in the Planning Statement, section 4 (Examination Library Reference [APP-62](#)).

The following is AGREED between the Parties:

- 3.3.2 It is agreed that paragraph 4.1.2 of EN-1 applies in that it highlights the urgent need for the energy infrastructure covered by the energy NPSs and reiterates that there is a presumption in favour of granting development consent for energy NSIPs. The presumption applies unless any more specific and relevant policies set out in the relevant NPS clearly indicate that consent should be refused or any of the considerations referred to in Section 104 of the Planning Act 2008 apply.
- 3.3.3 It is agreed that in considering applications for energy NSIPs, and in particular when weighing their adverse impacts against their benefits, paragraph 4.1.3 of EN-1 states the Secretary of State should take into account both the potential benefits including the contribution to meeting the need for energy infrastructure, job creation and any long-term or wider benefits; and the potential adverse impacts, including any long-term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts.
- 3.3.4 It is agreed that within this context paragraph 4.1.4 states the Secretary of State should take into account environmental, social and economic benefits and adverse impacts nationally, regionally and locally. Section 7 of the Planning Statement provides an assessment of the key benefits and dis-benefits of the Proposed Scheme, demonstrating that the Proposed Scheme will have a number of substantial benefits and that these clearly outweigh its dis-benefits.

3.3.5 It is agreed that whilst paragraph 4.1.5 of EN-1 confirms that matters that the Secretary of State may consider both 'important and relevant' to decision making on energy NSIPs may include local development plan documents, the NPS as the primary policy document takes precedence in the event of a conflict between the NPS and other matters. With regard to local policy:

- The Site, including the parts comprised within the Existing Drax Power Station Complex, lies outside the defined 'development limits' as shown on the Proposals Map of the Selby Local Development Framework ("LDF") and within 'open countryside'.
- Paragraph 4.31 the Selby District Core Strategy (2013) notes that development in the countryside, outside defined development limits, whilst generally resisted, may be allowed for the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, well-designed buildings and proposals of an appropriate scale which will diversify the local economy.
- Policy EMP10 of the Selby Local Plan states that additional industrial and business development may be permitted at or close to the Existing Drax Power Station Complex provided proposals satisfy a number of criteria. These include that proposals are directly related to the process of generating electricity, either by making use of by-products from the existing power station or utilising a direct source of electricity, provided they are suitably linked to the highway and rail networks; will not affect residential amenity; create environmental problems; will be well screened; and will not harm nature conservation interests or archaeology.
- Chapter 6 'Promoting Economic Prosperity' of the Core Strategy acknowledges in paragraph 6.32 the importance of the energy sector to the District by highlighting that Drax Power Station is a major employer which contributes to national energy infrastructure as well as the local economy whilst having the potential for future development of renewable and local carbon energy. The Core Strategy states that there is a need for further investment in energy infrastructure in line with national policy and that supporting the energy sector will assist in reinvigorating, expanding, and modernising the District's economy.
- In addition, the Existing Drax Power Station Complex's private rail line system is identified as 'safeguarded transport infrastructure' to which Policy S04 'Transport infrastructure safeguarding' applies.

3.3.6 It is agreed that as there is scheme compliance with local planning policy, other policies contained within EN-1 and the other NPSs, particularly EN-2, there is therefore no conflict between the NPS(s) and other matters for the purposes of paragraph 4.1.5 of EN-1.

3.4 Alternatives

3.4.1 The assessment of alternatives is set out in the Planning Statement Section 5 (Examination Library Reference [APP-62](#)) and ES Volume 1 Chapter 4 'Consideration of Alternatives' (Examination Library Reference [APP-072](#)).

The following is AGREED between the Parties:

- 3.4.2 That the Applicant has studied the reasonable alternatives (including in relation to the location and route for the proposed gas pipeline and above ground infrastructure) to the Proposed Scheme, which are set out at ES Volume 1 Chapter 4 'Consideration of Alternatives' (Examination Library Reference [APP-072](#)). This is in accordance with Regulation 14(2)(d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, which states that an ES should include:

"A description of the reasonable alternatives studied by the applicant, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the development on the environment".

- 3.4.3 That the Proposed Scheme has gone through several iterations and evolutions in its design:

- A 'do nothing' scenario;
- Alternative development sites;
- Alternative layouts;
- Alternative technologies;
- Alternative emissions abatement;
- Alternative stack heights;
- Alternative fuels for electricity generation;
- Alternative options for the gas pipeline; and
- Alternative construction transport routes.

- 3.4.4 It is agreed that the 'Do Nothing' scenario is not appropriate given the established national need for new energy and clean lower carbon energy generation as set out in the Planning Statement, section 3 (Examination Library Reference [APP-62](#)) and ES Chapter 2, Planning Policy (Examination Library Reference [APP-070](#)).

- 3.4.5 It is agreed that given the objectives of the Proposed Scheme (as set out in paragraph 3.2.7 above), geographically distant alternative power station sites were not considered viable and the proposed location of the generating elements of the Proposed Scheme are appropriate.

- 3.4.6 It is agreed that the selected repowering fuel (gas) and battery storage is in line with national planning policy as described in the Planning Statement (Examination Library Reference [APP-62](#)) and ES Volume 1, Chapter 2 'Planning Policy' (Examination Library Reference [APP-070](#)).

- 3.4.7 It is agreed that following the selection of two routes from an original six for technical reasons, that the main pipeline options were those referred to as A and B as included in the non-statutory and statutory consultation. Further, on the basis of environmental information, Option A with a connection to Feeder 7 and Option B were discounted. The original route for Option B had a greater potential to impact on the environment including impacting on bats, historic assets and the visual character of the area. Option A with a connection to Feeder 7 was discounted due to an engineering preference to connect to Feeder 29.

3.4.8 It is agreed that once the part of the pipeline route that was the same for either Option A or B had been amended to avoid a woodland protected by a Tree Preservation Order along the disused railway south of Carr Lane and other ecological constraints, the most appropriate final route selection was Option A which connected to feeder 29.

3.4.9 Additional detail and agreement on these matters is also set out below in section 7, Design Scope and Flexibility.

3.5 Design Scope and Flexibility

3.5.1 The assessment of design parameters, scope and flexibility is set out in the Planning Statement, section 1 (Examination Library Reference [APP-62](#)) and ES Volume 1, Chapter 4 'Alternatives' (Examination Library Reference [APP-072](#)).

The following is AGREED between the Parties:

3.5.2 The Applicant is seeking consent for the flexibility to either construct a single generating station (known as Unit X) with 1,800 MW generating capacity and a 100 MW battery storage capacity, or to construct two generating stations (Unit X and unit Y) each with a 1,800 MW generating capacity and each with its own 100 MW battery storage capacity. The construction of each new gas fired generating station would repower either one or both of Unit 5 and Unit 6. It is agreed that once Unit X and Unit Y are both operating, there would be no coal fired units operating at Drax Power Station.

3.5.3 It is agreed that for the purposes of the environmental assessment a suitable application of the 'Rochdale Envelope' approach has been adopted, meaning reasonable maximum parameters have been provided. It is agreed that the draft Development Consent Order (Examination Library Reference [AS-012](#)) secures the relevant parameters.

3.6 Air Quality

The following is AGREED between the Parties:

3.6.1 The assessment of air quality effects for the Proposed Scheme is set out at Chapter 6 of the ES (Examination Library Ref: [APP-074](#)).

3.6.2 It is agreed that the baseline information used in the air quality assessment is appropriate. The baseline conditions as set out in Section 6.4 of Chapter 6 are agreed.

3.6.3 It is agreed that Table 6-2 of Chapter 6 of the ES records relevant engagement with NE in relation to the scope and methodology of the air quality assessment.

3.6.4 The policy, legislation and guidance for the assessment of air quality is set out in section 6.2 of Chapter 6 of the ES and is agreed to be relevant to the assessment.

3.6.5 It is agreed that the scope and methodology set out in Chapter 6 of the ES is appropriate. This includes the scoping out of construction and operation traffic, the selected background and meteorological data, the identified sensitive receptors, the extent of the study area and the significance criteria.

3.6.6 The primary and embedded mitigation set out in paragraphs 6.3.15 and 6.3.16 of Chapter 6 of the ES is agreed.

- 3.6.7 The assessment of likely significant effects set out in Section 6.5 of Chapter 6 is agreed. It is agreed that effects considered to be insignificant for the purposes of the air quality assessment are as set out in paragraph 6.2.2 of Chapter 6 of the ES.
- 3.6.8 The assessment of potential adverse effects on the integrity of European Sites is detailed in the Habitats Regulations Assessment (HRA) Report (Examination Library Ref: [APP-134](#)) (and Appendix 3 to that report, Examination Library Ref: AS-015). The HRA Report is discussed in Section 12 of this SoCG ('Habitats Regulations Assessment').
- 3.6.9 It is agreed that, taking account of proposed mitigation, including that set out in the outline CEMP, which would be secured by Requirement 16 of Schedule 2 of the draft DCO (Examination Library Ref: [AS-012](#)), the Proposed Scheme would not result in unacceptable air quality impacts upon ecological receptors alone or cumulatively with other relevant development proposals either during construction or operation.
- 3.6.10 It is agreed that no further direct mitigation of air emissions is necessary beyond the embedded mitigation of setting an appropriate stack height and either:
- The inclusion of NO_x emissions control by combustion control; or
 - The inclusion of NO_x and ammonia emissions control by the use of SCR with an annualised ammonia emissions budget. (Section 6.6 Chapter 6).
- 3.6.11 It is agreed that operational emissions from the Proposed Scheme would be controlled through the Environmental Permitting regime that is administered by the EA.

3.7 Noise and Vibration

The following is AGREED between the Parties:

- 3.7.1 The assessment of noise and vibration effects from the Proposed Scheme is assessed in ES Volume 1, Chapter 7 Noise and Vibration of the ES (Examination Library Ref: [APP-075](#)).
- 3.7.2 The summary of consultation activities set out in Table 7-1 of Chapter 7 of the ES is agreed.
- 3.7.3 The policy, legislation and guidance set out in Section 7.2 of Chapter 7 of the ES is agreed to be relevant to the assessment.
- 3.7.4 The method of baseline data collection set out in paragraphs 7.4.12 – 7.4.19 is agreed. The baseline conditions identified in Section 7.5 of Chapter 7 of the ES are agreed.
- 3.7.5 The scope of the assessment as set out in Section 7.3 of Chapter 7 of the ES in relation to biodiversity is agreed. The assessment methodology and significance criteria set out in Section 7.4 of Chapter 7 of the ES is agreed.
- 3.7.6 It is agreed that the assessment of noise and vibration effects on biodiversity is set out in sections 9.7 and 9.8 of Chapter 9 of the ES (Examination Library Ref: [APP-077](#)), which is considered under section 10 (Biodiversity) of this SoCG.

3.8 Biodiversity

The following is AGREED between the Parties:

- 3.8.1 The assessment of the Proposed Scheme upon Biodiversity is set out in Chapter 9 of the ES (Examination Library Ref: [APP-077](#)).
- 3.8.2 The policy, legislation and guidance set out in section 9.2 of Chapter 9 is agreed to be relevant to the assessment.
- 3.8.3 The summary of consultation activities set out in Table 9-1 in Chapter 9 of the ES is agreed.
- 3.8.4 The assessment methodology and significance criteria set out in section 9.5 is appropriate and agreed. It is agreed that the assessment methodology has had due regard to the CIEEM Guidelines for Ecological Impact Assessment (Terrestrial and Freshwater).
- 3.8.5 The method of baseline data collection and baseline conditions set out in section 9.6 and subsequent supplemental environmental information is appropriate and agreed. It is agreed that all Important Ecological Receptors relevant to the assessment have been identified.
- 3.8.6 The assessment of likely significant impacts and effects set out in Section 9.7 of chapter 9 of the ES is appropriate and agreed.
- 3.8.7 Avoidance, mitigation and enhancement measures are set out in section 9.8 of chapter 9 of the ES. A programme of measures has been devised to address predicted impacts upon biodiversity and is adequately secured by requirements 8 (Provision of Landscape and Biodiversity Mitigation), 10 (External lighting during construction and operation) and 13 (Surface Water Drainage Strategy) of the draft DCO (Examination Library Ref: AS-012).
- 3.8.8 It is also agreed that biodiversity impact avoidance, mitigation and enhancement measures are set out in the outline Landscape and Biodiversity Strategy (Examination Library Ref: [APP-135](#)). The approach taken to the biodiversity elements of the outline Landscape and Biodiversity Strategy is broadly agreed by the Parties, although some points of clarification remain. The Parties intend to work towards full agreement in relation to the outline Landscape and Biodiversity Strategy following reissue of an updated version and further discussion between The Parties, as required.
- 3.8.9 It is agreed that NE defer comment on the biodiversity offsetting assessment presented in the Biodiversity Net Gain report (Examination Library Ref: [APP-116](#)) to North Yorkshire County Council (NYCC) Ecology Service. The Parties agree that NE does not intend to provide detailed comments on the assessment presented in the Biodiversity Net Gain Report submitted with the Application, or on any subsequent iterations that may be issued.
- 3.8.10 It is agreed that, with the proposed avoidance, mitigation and compensation measures in place, there will be no likely significant effects on biodiversity as a result of the Proposed Scheme.
- 3.8.11 The Parties agree that matters relating to Habitats Regulations Assessment pursuant to the Conservation of Habitats and Species Regulations(2017 are considered in the HRA Report submitted with the Application (Examination Library Ref: [APP-134](#)).

3.9 Protected Species Licensing and Mitigation Measures

- 3.9.1 The assessment of effects on badgers is set out in ES Volume 2, Appendix 9.4 'Badger Survey' (Examination Library Reference APP-110). Due to the sensitivity of badger records and associated animal welfare concerns, details of the badger assessment are not presented in the publicly available ES biodiversity chapter (Chapter 9 of ES Volume 1). Appendix 9.4 has been provided to Natural England, North Yorkshire County Council Ecology Service and the Examining Authority, and will be provided to any additional consultees (via PINS) as deemed appropriate.

The following is AGREED between the Parties:

- 3.9.2 The level of badger survey undertaken by the Applicant is suitable and sufficient to support the assessment of impacts and effects on badgers. It is agreed that the interpretation of the survey results, as presented in Section 3.2 of Appendix 9.4, provides a suitable basis to assess the effects of the Proposed Scheme on the local badger population.
- 3.9.3 Construction of the Proposed Scheme would necessarily require the closure and destruction of one or more badger setts, including one main sett (i.e. a sett that forms the main place of shelter for a social group of badgers). It is also agreed that the Proposed Scheme could result in the disturbance and / or damage of other setts, depending on the final detailed design selected. The currently proposed mitigation measures, as set out in Section 4 of Appendix 9.4 to the ES are proportionate and appropriate to the predicted effects of the Proposed Scheme on the local badger population. It is agreed (subject to detailed design), that the proposed location and design principles of any artificial sett(s) proposed provide suitable compensation for the predicted loss of a main sett, as set out in Section 4.2 of Appendix 9.4¹.
- 3.9.4 On the basis of the information provided in Appendix 9.4, Natural England confirms and the Applicant agrees that there is no impediment to Natural England granting a licence under The Protection of Badgers Act (1992), in relation to the Proposed Scheme. It is agreed that any licence application under this legislation would be accompanied by a suitably detailed mitigation strategy, building on and refining the mitigation proposals as set out in Appendix 9.4 of the ES.
- 3.9.5 The Applicant has completed a number of surveys to support the ecological impact assessment, as set out in ES Volume 1, Chapter 9 'Biodiversity' (Examination Library Reference APP-077). These have included surveys for European Protected Species (i.e. those species protected under UK law via their inclusion under Schedule 2 of the Conservation of Habitats and Species Regulations 2017) that could occur at the Site – namely bats, otters *Lutra lutra*, and great crested newts *Triturus cristatus*.

The following is AGREED between the Parties:

- 3.9.6 The level of survey undertaken by the Applicant in relation to European Protected Species (EPS) is sufficient and suitable to support the assessment of effects on EPS set out in ES Volume 1, Chapter 9 'Biodiversity' (Examination Library Reference APP-077).
- 3.9.7 Great crested newts are likely to be absent from the site of the Proposed Scheme and surrounding areas, such that they will not be impacted by the Proposed Scheme.

¹ Locations of existing and proposed badger setts have not been included in public DCO documents to minimise the risk of persecution of the local badger population, in accordance with standard practice.

- 3.9.8 The survey data collected indicates it is unlikely that any bat roosts are present within or adjacent to the site of the Proposed Scheme. As such, no significant effects on roosting bats or bat roosts are expected to arise from the Proposed Scheme.
- 3.9.9 Otters are likely to intermittently use minor watercourses on the route of the Gas Pipeline and the River Ouse to the north of the Proposed Scheme. It is agreed that otters are unlikely to use other parts of the site of the Proposed Scheme. It is also agreed that places of shelter used by otters are unlikely to be subject to significant adverse effects as a result of the Proposed Scheme.
- 3.9.10 It is agreed that on the basis of the survey information gathered by the Applicant to date, as set out in ES Volume 1, Chapter 9 'Biodiversity' (Examination Library Reference [APP-077](#)), that no EPS derogation licences will be required to support construction and operation of the Proposed Scheme.

3.10 Habitats Regulations Assessment

- 3.10.1 The assessment of effects on European Sites is set out in ES Volume 1, Chapter 9 'Biodiversity' (Examination Library Reference [APP-077](#)) and explored in detail in the Habitats Regulations Assessment Report (Examination Library Reference [APP-134](#)).

The following is AGREED between the Parties:

- 3.10.2 For the purposes of this SoCG, 'European Sites' shall be taken to include sites designated in England pursuant to the requirements of the Conservation of Habitats and Species Regulations 2017 and/or the Ramsar Convention on Wetlands of International Importance especially as Waterfowl Habitat (1971).
- 3.10.3 European Sites up to 15km from the Proposed Scheme require consideration during screening for Likely Significant Effects under Regulation 61 of the Conservation of Habitats and Species Regulations 2017. Beyond 15km there are no conceivable impact pathways by which the Proposed Scheme could negatively affect European Sites.
- 3.10.4 The following European Sites are located within 15km of the Proposed Scheme and therefore require consideration during screening for Likely Significant Effects as part of the HRA process:
- Lower Derwent Valley SAC (5.0km);
 - Lower Derwent Valley SPA (5.0km);
 - Lower Derwent Valley Ramsar (5.0km);
 - River Derwent SAC (0.8km);
 - Humber Estuary SPA (terrestrial and marine components) (6.4km);
 - Humber Estuary SAC (terrestrial and marine components) (6.4km);
 - Humber Estuary Ramsar (6.4km);
 - Skipwith Common SAC (8.4km);
 - Thorne and Hatfield Moors SPA (9.3km); and
 - Thorne Moor SAC (9.3km).
- 3.10.5 That no other European Sites are relevant to the Habitats Regulations Assessment for the Proposed Scheme.

- 3.10.6 That the screening for Likely Significant Effects on European Sites arising from the Proposed Scheme has been carried out in accordance with the latest legal position on screening (the European Court of Justice judgment of 12 April 2018 in *People Over Wind, Peter Sweetman -v- Coillte Teoranta*) and has identified the following potentially significant effects:
- Disturbance to qualifying features in functionally-linked habitat (light/noise/vibration/visual);
 - Hydrological changes to European Site habitats and functionally-linked habitat (quality/flow); and
 - Air quality changes.
- 3.10.7 The Proposed Scheme is not predicted to lead to any other Likely Significant Effects on any European Site, either alone or in combination with other plans and projects.
- 3.10.8 With the implementation of avoidance and mitigation measures as set out in section 3.2, and sections 5.3.16 to 5.3.21 of the HRA Report (Examination Library Reference [APP-134](#)), between paragraphs 4.4.1 to 4.4.5 of the Construction Environment Management Plan (CEMP) (Examination Library Reference [APP-133](#)) (the surface water drainage scheme is to be secured by Requirements 13 and the CEMP by Requirement 16 in the draft DCO (Examination Library Reference [AS-012](#))), and the outline Landscape and Biodiversity Strategy (secured by Requirement 8 of the draft DCO), there would be no adverse effects on the integrity of any European Site resulting from likely significant effects (disturbance and hydrological impacts) on functionally linked habitats, as set out in Section 5.3.23 of the HRA Report (Examination Library Reference [APP-134](#)).
- 3.10.9 With the implementation of either one of the avoidance and mitigation measures as set out generally in section 3.2, and specifically between paragraphs 6.3.24 and 6.3.26 of the HRA Report (Examination Library Reference [APP-134](#)) (being combustion control or use of SCR with an annualised ammonia budget), which are included as part of the Proposed Scheme, and which will be assessed further (in terms of likely emissions) via the Environmental Permitting process for the Proposed Scheme under The Environmental Permitting (England and Wales) Regulations 2016, there would be no adverse effects on the integrity of any European Site resulting from air quality impacts, as set out in Section 6.3 of the HRA Report (Examination Library Reference [APP-134](#)).

3.11 Landscape and Visual Amenity Matters

- 3.11.1 The assessment of effects on the landscape resource and visual amenity is set out in ES Volume 1, Chapter 10 “Landscape and Visual Amenity” ([APP-078](#)) and supported by a review of relevant policies (Examination Library Ref: [App-117](#)), Consultations with LPAs (Examination Library Ref: [APP-118](#)), LVIA Methodology (Examination Library Ref: [APP-119](#)), Landscape and Visual Baseline (Examination Library Ref: [APP-120](#)) and Landscape Character (Examination Library Ref: [APP-120](#)). This included a review of landscape character and visual receptors within a 10 km radius of the Proposed Scheme and is supported by zones of theoretical visibility, representative viewpoints and photomontages. Mitigation measures are referred to within the Outline Landscape and Biodiversity Strategy (Examination Library Ref: [APP-135](#)), secured by Requirement 8 to the draft DCO (Examination Library Reference [AS-012](#)).

- 3.11.2 It is agreed that NE would defer comment on the Outline Landscape and Biodiversity Strategy (Examination Library Ref: APP- 135) to North Yorkshire County Council (NYCC) Landscape Service. The Parties agree that NE does not intend to provide detailed comments on the Outline Landscape and Biodiversity Strategy submitted with the Application, or on any subsequent iterations that may be issued.

The following is AGREED between the Parties:

- 3.11.3 The scope of the assessment is agreed. The assessment considers the potential significant effects on landscape character and visual amenity of visual receptors within and surrounding the study area during construction and operation. The latter relates to the construction of the Units, associated structures and infrastructure as well as the AGIs. Landscape and visual amenity effects relating to the construction of the gas pipeline were deemed insignificant and scoped out.
- 3.11.4 The methodology (Examining Library Ref: [APP-119](#)) adopted for the assessment of landscape and visual effects, including representative viewpoints and photomontages is acceptable and in accordance with the Guidelines for Landscape and Visual Impact Assessment (3rd Edition). It was agreed as requested in response to the Section 42 consultation on the PEIR that the broader approach of assessing the range of effects based on a radius of 1 km, 1 to 3 km and 3 to 10 km was acceptable.
- 3.11.5 The Proposed Scheme is not located within or in the vicinity of any nationally designated landscapes. The baseline information gathered was appropriate and sufficient to inform the identification of impacts and assessment of landscape and visual effects (Examining Library Ref: [APP-120](#) and [APP-121](#)).
- 3.11.6 There would be significant adverse effects on landscape character (including on LCT 23 Levels Farmland, LCT 24 River Floodplains, LCT 4 River Corridors including LCA 4A Derwent Valley, LCA 4B River Ouse Corridor and LCA 4D River Aire Corridor, local landscape character and the Lower Derwent Important Landscape Area. Such effects would be more pronounced within 3 km of the Site and would diminish with distance. For local landscape features, and subject to proposed mitigation, some effects would diminish once planting has matured (by 15 years post Stage 3).
- 3.11.7 There would be significant adverse effects on visual amenity and more specifically on visual receptors within 3 km of the Proposed Scheme, namely local residents, users of the Trans Pennine Trail and National Cycle Network as well as users of education facilities /places of worship and local road users who would have a direct view of the Proposed Scheme. Effects on other visual receptors would be less based on proximity, orientation, intervening vegetation and built form.
- 3.11.8 That the design of the Proposed Scheme is constrained by the existing footprint of the Power Station and associated infrastructure as well as engineering constraints relating to location, technology and stack heights.

3.12 Agriculture and Soils


- 3.12.1 The assessment of effects on soils and agricultural land is set out in ES Volume 1, Chapter 11 “Ground Conditions” (APP-079) and Chapter 14 “Socio-economics” (APP-082).


The following is AGREED between the Parties:

- 3.12.2 The land within and surrounding the Power Station Site and the Pipeline Area (APP-082 Figure 14-1) is classified as 'Best and Most Versatile' agricultural land (defined as Grade 1, 2 and 3a). The permanent loss of agricultural land due to the Proposed Scheme during Stage 1 is 6.03 ha (associated with the Gas Receiving Facility and Above Ground Installation). Given this loss is less than 20 ha, it is considered to be insignificant.
- 3.12.3 The area of temporary disturbance for the construction of the Gas Pipeline and passing place at the Rusholme Lane Area will cover an area of approximately 26.57 ha for the 4-month construction period. The existing agricultural land within this area will be reinstated to former condition and there will be no significant impact on significant effect on Best and Most Versatile agricultural land.
- 3.12.4 During the construction phase a Soil Management Plan will be implemented in order to maintain the integrity of the soil. This is included in the outline Construction Environmental Management Plan (APP-133).
- 3.12.5 Taking account of proposed mitigation, including that set out Requirement 14 of Schedule 2 of the draft DCO (Examination Library Ref: AS-012) and the outline CEMP, which would be secured by Requirement 16, the Proposed Scheme would not result in significant impacts on agriculture and soils.

4 AGREEMENT ON THIS SOCG

4.1.1 This SoCG has been jointly prepared and agreed by

Name: Oliver Bondit
Signature: 
Position: ENVIRONMENT & GOVERNANCE SECTION HEAD.
On behalf of: Drax Power Ltd.
Date: 8/10/2018

Name: James Walsh
Signature: 
Position: Lead adviser
On behalf of: Natural England
Date: 4/10/18