The Drax Power (Generating Stations) Order

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

Applicant's Responses to Written Representations

(Submitted for Deadline 3)

The Planning Act 2008

Drax Power Limited

Drax Repower Project

Applicant:	DRAX POWER LIMITED
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Glossary and Abbreviations

The updated Glossary and Abbreviations for the Proposed Scheme are contained in Document Reference 1.6 submitted in November 2018 at Deadline 3 of the Examination.

Contents

1 INTRODUCTION

1.1 Purpose of this Document

1.1.1 On 29 May 2018, Drax Power Limited ("Drax" or "the Applicant") made an application ("the Application") for a Development Consent Order ("DCO") 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 Schedule 1 of the draft DCO (where it is termed the "authorised development"). The Proposed Scheme is described in detail in Chapter 3 (Site and Project Description) of the Environmental Statement (Examination Library reference APP-071), along with the Removal of Stage 0 (as set out in the Cover Letter submitted at Deadline 2 (Examination Library Reference REP2-003) pursuant to the non-material amendment application submitted at Deadline 2 and the application for non-material amendments made at Deadline 3 and set out in the Cover Letter and in the Assessment of Non-Material Amendments to Proposed Scheme (Applicant's Document Reference 8.4.8) submitted at Deadline 3.

1.1.2 The Application was accepted for Examination on 26 June 2018.

1.1.3 This document, submitted for Deadline 3 of the Examination, contains the Applicant's responses to Written Representations ("WRs") prepared by interested parties and submitted to the Examination for Deadline 2 on 08 November 2018.

1.1.4 WRs were submitted by the below parties:

- Environment Agency (Examination Library Reference REP2-041)
- National Grid Electricity Transmission plc & National Grid Gas plc (Examination Library Reference REP2-044)
- Biofuelwatch (Examination Library Reference REP2-001)
- ClientEarth (Examination Library Reference REP2-002)
- Friends of the Earth (Examination Library Reference REP1-016)
- 1 member of the public (Examination Library Reference REP2-043)

2 ENVIRONMENT AGENCY (EA)

2.1 Environmental Permits: Operation of the proposed power plant

Summary of Written Representation

- The EA believes the Proposed Scheme should be capable of being adequately regulated under the Environmental Permitting (England and Wales) Regulations 2016 (as amended) (EPR) and states that there are no obvious errors or issues which would prevent a permit being granted at this time.
- The EA confirms that under the EPR, an environment permit would be required before operations commenced and that they have received the Applicant's permit variation application and are in the process of carrying out a full technical assessment of this proposal. Therefore, the comments in the Written Representation are based on the DCO application only.
- The EA explains in its response that an assessment of Best Available Techniques (BAT) will be included in the determination of the environmental permit application.
- The EA confirms that it cannot grant a permit until it is satisfied that the operation of the process will not cause significant pollution to the environment or harm to human health.

2.2 Response to Written Representation

2.2.1 The Applicant notes the positive comments from the EA in relation to the Proposed Scheme being of the type and nature capable of being adequately regulated under the EPR and that the EA knows "*of no obvious errors or issues which would prevent a permit being granted*."

2.2.2 The Applicant is in discussion with the EA in relation to the environmental permit variation application that is under consideration by the EA for the Proposed Scheme. The permit will contain appropriate conditions to operate the plant in accordance with Best Available Techniques (BAT).

2.3 Environmental Permits: Combined heat and power ready requirements

Summary of Written Representation

- The EA states it is satisfied that the Applicant has precluded heat or steam production by following the guidance within Combined Heat and Power (CHP) Ready Guidance for Combustion and Energy from Waste Power Plants' V1.0 February 2013. All new combustion power plants that do not include CHP from the outset must be CHP-ready. The EA states that should a permit be issued to the operator, it will include a condition that stipulates that the operator must undertake a periodic CHP review.
- The EA states that it has received information from the Applicant in respect of demonstrating that there is sufficient space for future retrofit.
- The EA states that the selection of heat loads has not been agreed with the EA. The EA explains further revision of the CHP-R assessment will take place following completion of the detailed design and understands that the Applicant considers that it is likely that the heat load available from the Proposed Scheme would be the load

from a single CCGT unit without modification and that the other two CCGT units and /or the peaking plant could be used to improve redundancy in the system.

2.4 Response to Written Representation

2.4.1 The Applicant notes the positive comments from the EA in relation to being satisfied that the Applicant has precluded heat or steam production.

2.4.2 With respect to the further assessment requested by the EA on sufficient space and heat loads, the Applicant has provided updated documents to the EA to further describe its CHP plans. The Applicant received further comments on the documents from the EA on 16 November 2018 and these have been addressed in the revised CHP Report submitted at this Deadline 3 (Applicant's document ref 5.6). A CHP study was also submitted as part of the environmental permit variation and will be further considered through the determination process and as detailed design develops.

2.4.3 The Applicant notes and agrees with the EA's comment that the environmental permit will include a condition requiring the Applicant to review CHP every 4 years.

2.5 Environmental Permits: Carbon capture ready requirements

Summary of Written Representation

2.5.1 Regarding Carbon Capture ready requirements, the EA confirms that the space allocated to the CCP is sufficient to conclude that there are no foreseeable barriers to carbon capture in relation to space allocation. The EA confirms it will be reviewing the information provided by the Applicant in response to its Relevant Representation regarding no foreseeable barriers.

2.6 Response to Written Representation

2.6.1 The Applicant notes the positive comment from the EA in relation to space allocation for carbon capture.

2.6.2 With respect to the further information requested by the EA, the Applicant has provided updated documents to the Environment Agency to further describe its CCR plans. The Applicant has received no further comments on this information from the Environment Agency; however, a revised CCR Report is submitted at this Deadline 3 (Applicant's document ref. 5.7) covering the information requested by the EA in its Relevant Representation.

2.7 Environmental Permits: Flood risk activities

Summary of Written Representation

2.7.1 In relation to Flood Risk, the EA considers that the Applicant should acknowledge the requirement for Flood Risk Activity Permits in their 'Other consents and licences' document (Examination Library Reference REP2-020).

2.8 Response to Written Representation

2.8.1 As background, the Applicant has been in discussion with the EA regarding flood risk and water resources and has provided more detail regarding the assessment methodologies. The EA is satisfied that the Applicant has put forward a suitable approach. A surface water management plan has also been provided as part of the Application. The approach to flood risk and water quality was agreed with the EA in advance of the Application.

2.8.2 The EA has requested that Flood Risk Activity Permits are included in 'Other Consents and Licences' document (Examination Library Reference REP2-020). This document has been updated at Deadline 3 (Applicant's document ref 5.8) to reflect this; however, it is noted that the Applicant also seeks to disapply the requirement to seek a permit for flood risk activities in the draft DCO, and this is currently being discussed with the EA.

2.9 Environmental Permits: Discharges to surface water and groundwater

Summary of Written Representation

2.9.1 An environmental permit may be required if there are any discharges to surface water arising from dewatering activities as part of the construction phase. Early consultation with the EA's environmental management team is advised as these permits can take up to 3 months to determine. The EA request 'Others consent and licences' document (Examination Library Reference REP2-020) should be updated to reflect any permitting requirements in relation to discharges to surface water or groundwater.

2.10 Response to Written Representation

2.10.1 As background, groundwater and surface water protection will be managed through the Construction Environmental Management Plan through the construction phase. Ongoing protection of groundwater and surface water will be managed through the requirements of the environmental permit during the operational phase of the Proposed Scheme. The EA has confirmed that it is satisfied with the Outline Surface Water Drainage Strategy provided as part of the Application.

2.10.2 With respect to discharges to surface water, the Applicant does not anticipate that there will be significant discharges to surface water during the construction phase, however, the Applicant will apply for any necessary permits for activities such as de-watering in the construction phase (subject to any agreed disapplication of such requirements in the draft DCO). The Other Consents and Licences document has been updated at Deadline 3 (Applicant's document ref 5.8) to reflect this. Land drainage consents that may be required from the Internal Drainage Board are also included in the Other Consents and Licences document. However, the Applicant has agreed with Selby Area IDB that requirements for such consents may be disapplied in the draft DCO, as recorded in the Statement of Common Ground (Applicant's Document Ref: 8.1.9), section 3.2.

2.11 Environmental Permits: Waste

Summary of Written Representation

2.11.1 The EA states that if demolition waste requires treatment prior to being reused as part of the construction phase, a relevant exemption or environmental permit would be required. If stockpiles of demolition waste are anticipated to be in place for longer than 12 months, then an agreement from the EA should be sought.

2.12 Response to Written Representation

2.12.1 During the construction phase of the Proposed Scheme, waste will be managed under a Site Waste Management Plan, which will be part of the Construction Environmental Management Plan. The EA has confirmed that there is no additional requirement for the management of waste in the construction phase.

2.12.2 The Applicant does not anticipate significant quantities of demolition waste from the Proposed Scheme, however any arisings that are intended to be re-used will be permitted or an exemption applied for as required. Waste streams will be segregated and suitable guidance (such as 'The Definition of Waste: Development Industry Code of Practice (DoWCoP)) will be consulted in determining the waste status of any arisings prior to re-use.

2.12.3 Any stockpiles of demolition waste anticipated to be in place for longer than 12 months will be subject to agreement with the EA.

2.13 Water abstraction licence

Summary of Written Representation

2.13.1 The submitted 'Other consents and licences' document indicates that the Applicant will require a new surface water abstraction licence for temporary works during construction, further engagement is required with the EA specialist to further discuss water abstraction licence requirements.

2.14 Response to Written Representation

2.14.1 No further water abstraction licences will be required for operation of the Proposed Scheme as the conditions within the existing abstraction licences are suitable for the Proposed Scheme.

2.14.2 The Applicant is aware that any temporary pumping of groundwater in excavations will require a separate consent; however, the Applicant is also discussing with the EA whether that requirement can be disapplied from the draft DCO. The Applicant has also agreed with Selby Area Internal Drainage Board (SAIDB) that the requirement for a separate land drainage consent from SAIDB for the temporary pumping of groundwater in excavations may be disapplied, subject to all ground water discharges being filtered, restricted to 1.4 litres per second per hectare and in compliance with the Pollution Prevention Guidelines. This is recorded in the Statement of Common Ground (Applicant's Document Ref: 8.1.9), section 3.2

2.15 Draft DCO: Flood Risk

Summary of Written Representation

2.15.1 The EA confirms it is satisfied with the contents of the Flood Risk Assessment (FRA) and the mitigation measures proposed within. The DCO does not contain any requirements that ensure that the proposals are carried out as per the FRA and that any detailed design is submitted and signed off by the planning authority. The EA confirms it is satisfied with the wording in the draft Statement of Common Ground regarding an FRA requirement in the draft DCO.

2.16 Response to Written Representation

2.16.1 The Applicant welcomes the EA's position that it is satisfied with the contents of the Flood Risk Assessment (FRA) and the mitigation measures proposed within.

2.16.2 The revised draft DCO submitted at Deadline 2 (Examination Library Ref: REP2-014) includes requirement 13, which states that the "*authorised development must be carried out in accordance with the flood risk assessment*." Whilst this requirement has been included in response to the Environment Agency's relevant representations, the wording of the revised requirement is not exactly the same as that set out by the EA primarily because some of its suggested requirements are already requirements of the FRA itself, and compliance with such requirements is therefore secured by the requirement to carry out the development in accordance with the FRA. The Applicant is in discussion with the EA to confirm that the proposed wording is acceptable.

2.17 Draft DCO: Contaminated Land

Summary of Written Representation

2.17.1 The EA confirms it is satisfied with the summary of the Chapter 12 Water Resources, in principal, and does not have any significant comments to make. The EA also accepts the findings within Chapter 11 Ground Conditions. The EA recommended a ground investigation to assess the risks of groundwater given Chapter 11 identified that there is potential for site reconfiguration works and construction phase activity to potentially impact on controlled waters. The EA confirms the proposed updated wording of the Ground Conditions DCO requirement in the Statement of Common Ground is sufficient to protect controlled waters.

2.18 Response to Written Representation

2.18.1 The Applicant welcomes the EA's position that it is satisfied with the findings of Chapter 11 and Chapter 12 and that the proposed updated wording in the draft Statement of Common Ground is sufficient to protect controlled waters. The Applicant can confirm that the proposed measures are secured through requirement 14 of the draft DCO submitted at Deadline 2 (Examination Library Ref: REP2-014). Whilst substantially the same, the wording of the revised requirement is not exactly the same as that set out by the EA primarily in order for the requirement to "fit" into the style of a statutory instrument. The Applicant is in discussion with the EA to confirm that the proposed wording is acceptable.

2.19 Draft DCO: Surface Water Drainage

Summary of Written Representation

2.19.1 The EA welcomes the inclusion of the Surface Water Drainage requirement in the draft DCO.

2.20 Response to Written Representation

2.20.1 The Applicant notes the EA's agreement to the inclusion requirement 12, relating to surface water drainage, in the draft DCO submitted at Deadline 2 (Examination Library Ref: REP2-014).

2.21 Draft DCO: Construction Management Plan

Summary of Written Representation

2.21.1 The EA supports the inclusion of a requirement for submission of a construction environmental management plan (CEMP) and states it must consider appropriate bunding (at least 110% of the container sizes) for potentially hazardous liquids required during construction; production of silty water, especially during wet weather; stockpiling soil and aggregates and relevant emergency contacts for on-site in the event of emergency / spill / pollution at site.

2.22 Response to Written Representation

2.22.1 The Applicant welcomes the EA's support to the inclusion of a requirement for submission of a construction environmental management plan (CEMP). A revised outline CEMP was submitted at Deadline 2 (Examination Library Ref: REP2-025) that contains measures to address the issues raised by the EA.

2.23 Draft DCO: Waste management on site – construction wastes

Summary of Written Representation

2.23.1 The EA understands that the Site Waste Management Plan (SWMP) is to be included within the wording of the outline CEMP. Therefore, it accepts there is no additional requirement needed for the separate document.

2.24 Response to Written Representation

2.24.1 The Applicant welcomes the EA's agreement that no additional requirement is needed with respect to a Site Waste Management Plan, as this is included in the outline CEMP (Examination Library Ref: REP2-025).

2.25 Draft DCO: Design parameters (schedule 13)

Summary of Written Representation

2.25.1 Regarding Design parameters (schedule 13) the EA states is it yet to consider the permit application in detail and is unable to comment on the appropriateness of the thresholds set out in the DCO. It states it remains possible that the limits set out in the DCO may not be considered appropriate for the permit application.

2.26 Response to Written Representation

2.26.1 The Applicant notes that the EA is considering the application to vary the environmental permit for the Proposed Scheme, including a consideration of the parameters shown in Schedule 13 of the draft DCO (Examination Library Ref: REP2-014). The Applicant notes that it is seeking to make non-material amendments to some of the parameters in Schedule 13 of the draft DCO at this Deadline 3 (see Assessment of Non-Material Amendments to Proposed Scheme, Applicant's document ref 8.4.8). These revised parameters will be provided to the EA for review.

3 NATIONAL GRID ELECTRICITY TRANSMISSION PLC & NATIONAL GRID GAS PLC

3.1 Existing Apparatus

Summary of Written Representation

- National Grid Electricity Transmission plc ("**NGET**") & National Grid Gas plc ("**NGG**") (together, "**NG**") provides information on its apparatus likely to be affected by the Proposed Scheme, and that protective provisions (benefitting NGET and NGG respectively) will need to be included within the Order and/or within a confidential commercial agreement.
- NG mentions specifically Plot 5 and states that the use of heavy machinery and other similar construction apparatus within this area would need to be carefully regulated and the proposed method of works approved by NGET and NGG in advance
- NG reiterates that their rights to retain the Apparatus in situ and their rights of access to inspect, maintain, renew or repair such Apparatus located within or in close proximity to the Order limits should be maintained at all times and access to inspect such Apparatus must not be restricted during or after construction.

3.2 Response to Written Representation

3.2.1 The Applicant is in active discussions with NG in relation to Protective Provisions and/or a confidential commercial agreement with respect to the apparatus set out in NG's Written Representation. The Applicant anticipates agreement being reached before the end of the Examination and will update the Examining Authority as to progress.

3.3 Security of the Drax Substation

Summary of Written Representation

- NG states that that the DRAX4 (400kV) Substation has been designated as a Critical National Infrastructure (CNI) site and requests that the exercise of any powers pursuant to the Order which are likely to affect, or be undertaken within the vicinity of, the Drax Substation site be subject to appropriate restrictions so as to avoid interference with existing security measures.
- NG states it would be willing to engage with the Applicant in order to consider additional restrictions or other protective measures which are commensurate with the designation of the Drax Substation.

3.4 Response to Written Representation

3.4.1 The Applicant notes the security requirements in relation to the existing 400 kV Drax Substation. The Applicant would point out that it currently operates and maintains the exiting power station which co-exists with the Substation and therefore understands, and is aware of, the security requirements of the Substation given its location. If any additional security restrictions are required, then the Applicant expects that these will be covered in the discussions regarding the Protective Provisions and/or a confidential commercial

agreement. Again, the Applicant anticipates that the Applicant and NG will reach agreement on all interface issues during the course of the Examination.

3.5 Exercise of Compulsory Acquisition Powers over the Drax Substation

Summary of Written Representation

- NG states that it considers that the current geographical extent of both north-western 'limbs' of Plot No. 5 (as identified on Sheet 3 of the Land Plans) does not accurately reflect the outcome of commercial discussions between NGET and the Applicant.
- NG requests that the extent of both north-western 'limbs' of Plot 5 be reduced so as to avoid interference with NGET's existing operational assets.

3.6 Response to Written Representation

3.6.1 The Application seeks powers to compulsorily acquire new rights over Plot 5 (the existing 400 kV Drax Substation, the freehold of which is owned by NGET). The new rights are required by the Applicant in order to construct, operate and maintain the electrical connection from each of Units X and Y to the Drax Substation (Work No. 8 in Schedule 1 of the draft DCO). These works would be undertaken subject to the Protective Provisions or any other confidential commercial agreement entered into with NG, and would be undertaken without serious detriment to the carrying on of the undertaking (as the electrical connection in fact relies upon the continued operation of that undertaking). The Applicant is in active discussions with NG in relation to the protective provisions or any other agreement, and will continue to update the Examining Authority as to progress throughout the Examination.

3.6.2 Whilst the Applicant has entered into an Agreement to Vary the Bilateral Connection Agreement and a Construction Agreement with NGET, both in relation to the connection of Unit X in to the Drax 400 kV Substation (both completed on 12 July 2018, and as set out in the Applicant's Response to Written Questions, Examination Library Reference REP2-037), the Applicant intends to retain the powers to compulsory acquire the necessary rights within the draft DCO. This is accepted practice to protect an applicant in the event of a breach of contract or unforeseen/unknown circumstances that might arise at any stage in the project delivery process and ensure the nationally significant infrastructure project can be delivered and mitigated as proposed. However, such powers would be governed by the Protective Provisions for the benefit of NG and/or the confidential agreement with NG. Accordingly, the Secretary of State can be assured that there would be no serious detriment to NG's undertaking. Indeed, the co-existence of the Substation and the Applicant's existing power station, which also connects into the Substation, demonstrates just that.

3.6.3 A further Agreement to Vary the Bilateral Agreement and a Construction Agreement would be required for Unit Y and the Applicant intends to approach NG about these at the appropriate time given the need for Unit Y to follow consecutively, rather than concurrently, with Unit X. A further application (modification application) will be completed for Unit Y when the Applicant takes the final investment decision for Unit Y (as set out in the Applicant's Response to Written Questions, Examination Library Reference REP2-037). Powers are therefore similarly sought in relation to Plot 5 for the Unit Y connection, in order to ensure the delivery and mitigation of the Proposed Scheme. Again, such powers would be governed by the Protective Provisions for the benefit of NG and/or the confidential

agreement with NG. Accordingly, the Secretary of State can be assured that there would be no serious detriment to NG's undertaking. Indeed, the co-existence of the Substation and the Applicant's existing power station, which also connects into the Substation, demonstrates just that.

3.7 Exercise of Compulsory Acquisition Powers in Connection with Work No. 5

Summary of Written Representation

- In regards to Work No 5. NG is unclear what compulsory acquisition powers are being sought by the Applicant, and therefore has made a holding objection in respect of the proposed exercise of compulsory acquisition powers by the Applicant. NG requests that the Applicant engages in further discussions at the earliest opportunity in order to clarify the purpose and extent of the proposed compulsory powers relating to Work No.5.

3.8 Response to Written Representation

3.8.1 The Applicant can confirm that it seeks compulsory acquisition powers only in relation to NG land being Plot 5 and Plot 9a (in respect of subsoil up to half the width of the highway adjoining Plot 5). With respect to both plots, the Applicant seeks powers to compulsorily acquire new rights in the land only.

3.9 Objection to the Project

Summary of Written Representation

- NG states neither NGET nor NGG object to the Project in principle. However, as the proposed Order does not yet contain protective provisions expressed to be for the protection of the Apparatus which are satisfactory to NGET and NGG respectively, NGET and NGG wish to register a further holding objection to the Project to remain in force until such time as appropriate measures are agreed upon.

3.10 Response to Written Representation

3.10.1 The holding objection from NG is noted. The Applicant agrees with NG that the parties are currently engaged in discussions regarding the protection of the apparatus, and are continuing negotiations to seek to reach agreement in order to ensure adequate protection for NG's apparatus. The Applicant anticipates that agreement will be reached prior to the end of the Examination.

4 CLIENTEARTH

4.1 ClientEarth's Objection to the Proposed Development

Summary of Written Representation

- ClientEarth objects to the Proposed Scheme and disagrees with the Applicant that the Proposed Scheme's balance of public benefits and adverse impacts meets the relevant tests under the applicable legal framework. This is primarily due to:
  - An alleged lack of need for the Proposed Scheme; and
  - Alleged significant adverse impacts that would occur if the Proposed Scheme is built, including major adverse climate impact or alternatively the risk of it becoming redundant infrastructure.

4.2 Response to Written Representation

4.2.1 The section 'Need for the Proposed Scheme' below provides a detailed response to ClientEarth's objection on the need case for the Proposed Scheme.

4.2.2 The section 'Impacts resulting from the Proposed Scheme' below provides a detailed response to ClientEarth's objection on the adverse impacts that would occur if the Proposed Scheme is built.

4.3 The Legal Framework

Summary of Written Representation:

- Under this section ClientEarth sets out some of the relevant legislation and states that "*While there is a presumption in favour of granting consent under the NPSs, that presumption is subject to compliance with the other NPS policies. Moreover, there is no such presumption in the application of the exceptions under s 104 of the Act*."

4.4 Response to Written Representation

4.4.1 It is clear from this section that ClientEarth, rightly, accepts that the Proposed Scheme benefits from a policy presumption in favour of granting consent under the relevant national policy statements.

4.4.2 It is trite to say all presumptions are rebuttable. However, to say, as ClientEarth does, the "*presumption is subject to compliance with other NPS policies*" does not properly reflect paragraph 4.1.2 of EN-1 which makes clear the circumstances where the presumption would be rebutted, namely, where "*more specific and relevant policies set out in the relevant NPSs clearly indicate that consent should be refused*."

4.4.3 The reality is that ClientEarth's Written Representation does not identify the relevant policies within the NPS with which there is said to be clear conflict. In short, a basis for overturning the presumption in favour of the Proposed Scheme is not made out in ClientEarth's Written Representation.

4.4.4 It is, perhaps, for this reason that ClientEarth seeks to promote a novel approach to section 104(7) of the Planning Act 2008 under which it seeks to urge the Examining Authority / SoS to undertake a simple balancing exercise without regard to (a) the presumption and (b) the

policy direction to give substantial weight to the Proposed Scheme's ability to meet identified energy needs. This is addressed below.

4.4.5 ClientEarth further states that "*there is no such presumption in the application of the exceptions under s 104 of the Act*." It is not entirely clear what ClientEarth means by this. Section 104 places relevant national policy statements at the heart of the PA 2008 regime. The presumption here is contained within the main relevant national policy statement. The presumption properly analysed is, therefore, made a key consideration by section 104. If what ClientEarth means is that the presumption does not trump the exceptions to section 104(3) laid down in subsections (4)-(8), that is plainly correct and noted in the NPS itself (Paragraph 4.1.2). As set out above, ClientEarth's representations in relation to subsection 104(7) are addressed below.

4.5 The Assessment required by the NPS Framework and the low scale and urgency of new fossil fuel generation specified in the NPSs

4.5.1 Summary of Written Representation

- In its Written Representation, ClientEarth summarises the approach required under the NPS Framework as follows: the SoS must place substantial weight on the anticipated actual need for a project (taking into account the scale and urgency of the need for the particular type of infrastructure described in the NPSs), while balancing this against any adverse impacts.

4.6 Response to Written Representation

The correct approach to national policy statements

4.6.1 Policy statements should be interpreted objectively in accordance with the language used, read as always in its proper context (*Tesco Stores Limited v Dundee City Council* [2012] UKSC 13 at [18]).

The relevant policies in the national policy statements

4.6.2 With the correct legal approach to the interpretation of policy in mind, the following should be noted from the relevant national policy statements in so far as they address the need for fossil fuel generation:

- The UK economy is reliant on fossil fuels and they are likely to play a significant role for some time to come (EN-1, Paragraph2.2.5).
- Whilst the UK must reduce over time its dependence on fossil fuels, some fossil fuels will still be needed during the transition to a low carbon economy EN-1, Paragraph 2.2.23).
- The UK needs all the types of energy infrastructure covered in EN-1 in order to achieve energy security at the same time as reducing (dramatically) greenhouse gas emissions (EN-1, Paragraph 3.1.1). This includes fossil fuel generation.
- Fossil fuel generation has particular benefits: it can be brought on line quickly when there is high demand and shut down when demand is low, thus

complementing generation from nuclear and the intermittent generation from renewables (EN-1, Paragraph 3.3.4).

- Applications should be assessed on the basis that the Government has demonstrated that there is a need for those types of infrastructure. Substantial weight should be given to the contribution that projects would make towards satisfying this need (EN-1, Paragraph 3.1.4). The weight which is attributed to considerations of need in any given case should be proportionate to the anticipated extent of a project's actual contribution to satisfying the need for a particular type of infrastructure (EN-1, Paragraph 3.2.3).
- The Government does not consider it appropriate for planning policy to set targets for or limits on different technologies (EN-1, Paragraph 3.1.2). This is in part because it is not possible to make accurate predictions about the size and shape of energy demand in the future (EN-1, Paragraph 3.3.18).
- Further, the larger the difference between available capacity and demand (i.e. the larger the safety margin), the more resilient the system will be (EN-1, Paragraph 3.3.3). Resilience is part of security of supply which is itself an aim of national energy policy.
- Further capacity is required to: provide energy security and meet carbon reduction objectives (EN-1,paras 3.3.2-3.3.6); to replace closing existing capacity (EN-1, paras 3.3.7-3.3.9) to support renewable energy generation (and, for this reason, fossil fuel plants may still have a role even when the sector is almost entirely decarbonised (EN-1, Paragraph 3.3.11)) (EN-1, paras 3.3.10-3.3.12); and to meet future increases in demand (in particular, from the electrification of sectors such as industry, heating and transport) (EN-1, paras 3.3.13-3.3.14).
- There is an urgent need for new energy NSIPs. This statement applies to all energy NSIPs (including fossil fuel generation) but EN-1 notes the particular urgent need for low carbon energy generation (EN-1, Paragraph 3.3.15).
- As to scale of the need, as at July 2011, the Government anticipated a need for 18 GW of new non-renewable generation capacity (EN-1, 3.3.22).
- EN-1, Paragraph 3.6.1 provides: *"Fossil fuel power stations play a vital role in providing reliable electricity supplies: they can be operated flexibly in response to changes in supply and demand, and provide diversity in our energy mix. They will continue to play an important role in our energy mix as the UK makes the transition to a low carbon economy, and Government policy is that they must be constructed, and operate, in line with increasingly demanding climate change goals."* (see also EN-2, paragraph 1.1.1)
- For this reason some of the new conventional generating capacity needed is likely to come from new fossil fuel generating capacity in order to maintain security of supply and to provide flexible back-up for intermittent renewable energy from wind (EN-1, paragraph 3.6.3).

- All commercial scale (at or over 300 MW) combustion power stations (including gas, coal, oil or biomass) have to be constructed Carbon Capture Ready ("CCR") (EN-1, Paragraph 3.6.6; EN-2, paras 1.1.1 – 1.1.2). Paragraph 4.7.10 is clear: consent must not be granted unless such a station is CCR (as defined in that paragraph). National policy, therefore, recognises the need for fossil fuel generating stations and a need to meet the UK's climate obligations. The balance is struck in national policy by requiring any application for a new fossil fuel generating station over 300MW to be refused if it is not CCR (see also paras 2.3.4 – 2.3.5 of EN-2).

- Paragraph 2.5.2 of EN-2 states: *"CO2 emissions are a significant adverse impact of fossil fuel generating stations. Although an ES on air emissions will include an assessment of CO2 emissions, the policies set out in Section 2.2 of EN-1 will apply, including the EU ETS. The [Secretary of State] does not, therefore need to assess individual applications in terms of carbon emissions against carbon budgets and this section does not address CO2 emissions or any Emissions Performance Standard that may apply to plant."* Section 2.2 of EN-1 describes how policy supporting new energy generation capacity sits alongside the UK's climate change obligations. In short, the need for fossil fuel generating stations is identified in the context of and with the aim of meeting the legally binding target contained in the Climate Change Act 2008 to cut greenhouse gas emissions by at least 80% by 2050 as compared to 1990 levels.

- EN-1, Paragraph 4.1.2 states: *"Given the level and urgency of need for infrastructure of the types covered by the energy NPSs set out in Part 3 of this NPS, the [Secretary of State] should start with a presumption in favour of granting consent to applications for energy NSIPs. That presumption applies unless any more specific and relevant policies set out in the relevant NPSs clearly indicate that consent should be refused. The presumption is also subject to the provisions of the Planning Act 2008 referred to at paragraph 1.1.2 of this NPS."*

Response to ClientEarth: Assessment required by the NPS Framework

4.6.3 ClientEarth summarises the above by saying that the national policy statements on Energy lay down an approach to decision-making that requires:

> *"The SoS must place substantial weight on the anticipated actual need for a project (taking into account the scale and urgency of the need for the particular type of infrastructure described in the NPSs), while balancing this against any adverse impacts."*

4.6.4 This does not properly reflect the NPS Framework which, for the reasons set out above, creates a presumption in favour of development precisely because the Government has identified a need for this form of development. Indeed, it is the Government's national policy that decisions should proceed on the basis that need for schemes such as that proposed here has been demonstrated (EN-1, Paragraph 3.1.3). The decision maker is told by policy to give substantial weight to the scheme's contribution towards satisfying the identified need, not as ClientEarth submit to the "actual need". EN-1, Paragraph 3.2.3 further states that the weight to be attributed to this consideration should be proportionate to the anticipated extent of a project's actual contribution to satisfying the need for a particular type of infrastructure.

Response to ClientEarth: The low scale and urgency of new fossil fuel generation specified in the NPSs

4.6.5 It is wrong to say that the need for fossil fuel generation is not urgent. The reasons for the need for substantial increases in generation capacity have been set out above. Paragraph 3.3.15 of EN-1 applies to all energy infrastructure covered by that national policy statement.

4.6.6 It is true that the emphasis in EN-1 is on bringing forward low carbon technology. However, the Government recognises the need for fossil fuel generation and supports it in the national policy statement (subject to it being CCR). It would have been quite easy for the Government to say either it will not permit new fossil fuel generation plants or that any such plants would have to have CCS or to limit the amount to be consented to a specific level of capacity. It did none of these things and, indeed, states that the need for plants including fossil fuel generation ought to be assumed. Any criticism that the Proposed Scheme is not low carbon, therefore, fails properly to reflect the national policy statements. The Government clearly views proposals such as this as necessary support in the move to a low carbon electricity sector and not separate to it.

4.6.7 Moreover National Grid's Future Energy Scenarios forecasts that 30.7 GW–31.7 GW of gas capacity will be required on the power grid in 2030 whilst at the same time staying on track to meet our carbon budget targets. There is no dispute that electricity generation demand is increasing and is set to increase to 2050. As NPS EN-1 at paragraph 3.3.14 makes clear, it is not the planning system's role to "*deliver specific amounts of generating capacity for each technology type*." To meet the urgent need established in NPS EN-1, therefore, there is a need for both Unit X and Unit Y.

4.6.8 As stated above, section 2.2 of EN-1 describes how policy supporting new energy generation capacity sits alongside the UK's climate change obligations. In short, the need for fossil fuel generating stations is identified in the context of and with the aim of meeting the legally binding target contained in the Climate Change Act 2008 to cut greenhouse gas emissions by at least 80% by 2050 as compared to 1990 levels. Section 104(4) is not triggered as the Application would not lead to the United Kingdom being in breach of any of its international obligations.

4.7 The Application of s104(7) of the Act

4.7.1 Summary of Written Representation

- ClientEarth states the requirement in the NPS framework to give substantial weight to anticipated actual contributions to need is of no practical effect given the lack of any need for the Proposed Scheme.

- This is addressed under 'The clear lack of need for the Proposed Scheme' below.

- It asserts that if the Examining Authority or the SoS assesses that there is a material need for the Proposed Scheme, this must also be balanced on an unweighted basis against the Proposed Scheme's adverse impacts under s 104(7). If the Proposed Scheme's adverse impacts outweigh its benefits to the public then consent should be refused (or be made subject to adequate conditions), irrespective of the assessment under the NPS framework.

4.8 Response to Written Representation

4.8.1 An application for development consent must be decided in accordance with a relevant national policy statement by virtue of section 104(3) of the PA 2008 which provides:

> *"The Secretary of State must decide the application in accordance with any relevant national policy statement, except to the extent that one or more of subsections (4) to (8) applies."*

4.8.2 National policy statements are, through this section, given primacy in decision making under the PA 2008. The exceptions laid down in subsections (4) to (8) identify circumstances where the Secretary of State is not obliged to decide an application in accordance with the relevant national policy statement. Broadly, subsections (4), (5), (6) and (8) relate to circumstances where doing so would lead to illegality or breach of international obligations.

4.8.3 Subsection (7) applies where the Secretary of State is satisfied that the adverse impact of the proposed development would outweigh its benefits. Through this subsection the statutory regime gives important flexibility to the decision maker (not unlike the ability for applications for planning permission under the Town and Country Planning regime to be determined other than in accordance with the development plan where 'material considerations indicate otherwise'). This flexibility is particularly important where some national policy statements set out to achieve development in a particular location (e.g. the Airports NPS and the runway at Heathrow).

4.8.4 Subsection (7) does not, however, mean that the contents of any relevant national policy statement must be put out of mind and assumed not to exist. The balance of benefits and dis-benefits can only properly be measured by taking full account of the Government's national policies relevant to the development in question, including any presumptions in relation to need (see Legal Framework above). To do otherwise would set an artificial test deliberately ignoring national policy. That is plainly not the intention of section 104(7).

4.8.5 ClientEarth states:

> *"The main difference between the assessment required by the NPS framework and that required by s104(7) of the Act is 104(7) does not place substantial weight on the need for the infrastructure in question. Instead, s104(7) requires a weighing of public benefits and impacts in general terms and without special weight being attributed to specific factors."*

4.8.6 Section 104(7) simply does not state that the balancing exercise should be made in "general terms and without special weight being attributed to specific factors." It leaves the question of weight entirely for the decision maker. In ascribing weight, the decision maker must take into account national policy as a relevant consideration. Accordingly, this balancing exercise does not effectively eradicate any policy in a relevant national policy statement that ascribes particular weight to individual factors such as in this case need. To do so would: (a) insert wording into section 104(7) which is simply not there and (b) undermine the architecture of the PA 2008 regime in which national policy statements are the key policy component.

4.8.7 It is noteworthy that Paragraph 4.1.3 of EN-1 states, immediately having drawn attention to the substance of section 104, including the exceptions, "*In considering any proposed development, and in particular, when weighing its adverse impacts against its benefits, the decision maker should take into account its potential benefits including its contribution to meeting the need for energy infrastructure…*"

4.9 The Clear Lack of Need for the Proposed Scheme

4.9.1 Summary of Written Representation

- ClientEarth states that the current Department of Business, Energy and Industrial Strategy (BEIS) projections show that there is no need for further gas generation given the amount of gas generation capacity that has already received development consent. The forecasts of the Department for Business, Energy and Climate Change are supported by analysis from Sandbag who find – on the basis of current government data and forecasts – that the UK does not need any new-build large gas power capacity to achieve energy security.

4.10 Response to Written Representation

4.10.1 As set out above, the national policy statements identify an urgent need for new generation capacity to: provide energy security and meet carbon reduction objectives (EN-1, paragraphs 3.3.2-3.3.6); to replace closing existing capacity (EN-1, paragraphs 3.3.7-3.3.9) to support renewable energy generation (and, for this reason, Fossil fuel plants may still have a role even when the sector is almost entirely decarbonised (EN-1, paragraph 3.3.11)) (EN-1, paragraphs 3.3.10-3.3.12); and to meet future increases in demand (in particular, from the electrification of sectors such as industry, heating and transport) (EN-1, paragraphs 3.3.13-3.3.14).

4.10.2 Further, the larger the difference between available capacity and demand (i.e. the larger the safety margin), the more resilient the system will be (EN-1, Paragraph 3.3.3) which is an aim of Government policy.

4.10.3 It is clear that the Government envisages an on-going role for fossil fuel generating stations to help maintain security of supply during periods of low intermittent renewable electricity generation and to move to the low carbon economy.

4.10.4 Yet, ClientEarth suggest that any required fossil fuel generation has already been met. However, the great majority of the gas plant capacity which ClientEarth makes reference to in its Written Representation has yet to commence construction.

4.10.5 There are two important points to address here. First, any reference to a "projected capacity" is just that, "projected." This must, and should, be distinguished from "need", which

is set out in the energy suite of National Policy Statements. "Projected capacity" is simply an estimate of what capacity may be required in the future, based on various scenarios that may or may not happen. It is not a "target" nor is it a prediction of "need". "Need" is the clear established need of new electricity generation based on the fact that the economy is decarbonising and therefore there will be an increase in electricity generation demand. NPS EN-1, therefore, makes it clear that there is an urgent need for new energy NSIPs. This statement applies to **all** energy NSIPs (including fossil fuel generation); it would be wrong, and a misinterpretation of EN-1, to say otherwise. The reasons for the need for substantial increases in generation capacity have been set out above, with paragraph 3.3.15 of EN-1 applying to all energy infrastructure covered by that national policy statement.

4.10.6 Secondly, there is no policy basis to treat *consented capacity* as *installed generation* capacity. To do so would be contrary to the Government's objectives of delivering a secure and resilient electricity supply by letting the market bring forward new generation.

4.10.7 Table 1 below lists the Combined Cycle Gas Turbine projects which have received consent in the UK since 1993 and their current status.

Table 1 - Gas fired projects (CCGT) which have received planning consent and current status

Project	Capacity	Date gained consent*	Construction Status
Trafford Power CCGT	1800	1 April 2010	Reneged on CM contract
Damhead Creek 2 CCGT	1730	28 July 2014	Not started
Knottingley Unit 1 and 2	1658	10 March 2015	Not started
Thorpe Marsh **CCGT**	1600	3 March 2016	Not started
Willington C CCGT	1530	4 March 2011	Not started
Gateway Energy Centre	1217	4 August 2011	Not started
Keadby 2	852	10 September 1993	Commenced in May 2018
King's Lynn B	844	05 February 2009	Not started
Spalding **energy Expansion**	530	11 November 2010	Not started
CGEN Killingholme	522	11 September 2014	Not started
Eggborough	2500	20 September 2018	Not started

*Date consent originally granted for the development – A number of developments have submitted multiple variations to the original consent which has modified the parameters of

the development; however, what is pertinent is the original date which the scheme received planning consent and the progress made toward operation and commercial generation.

4.10.8 ClientEarth includes a list of projects in its submission (excluding Eggborough) and argues that it is evidence that the UK has too many consented gas projects in the pipeline. However, since 1993 not one (with the single exception below) of these projects has been constructed and/or is in commercial operation. The exception, Keadby 2, has recently commenced construction and represents a capacity of 852 MW.

4.10.9 In its submission, ClientEarth also references BEIS's annual document - '2017 Update Energy & Emissions Projects' – which forecasts deployment rates for different technologies out to 2035. These forecasts take into consideration both government policy and commercial intelligence from the private sector. The latest edition of the forecast, published in January 2018, estimates that 5 – 10 GW of new gas generation is added to the national transmission system by 2025, subject to a range of assumptions, replacing aging and less efficient existing plant. It is important to recognise that this is only a *forecast* from BEIS and does not preclude additional capacity being built. As stated above, the forecast is not a "target" nor is it a prediction of "need". Furthermore, as Table 2-1 vividly illustrates, it would be incorrect to assume that consented capacity automatically translates into constructed capacity. Relying on consented capacity alone would run counter to the NPS's aim of ensuring security of supply.

4.10.10 The analysis undertaken by Sandbag, referenced in the ClientEarth submission, suggests the UK does not need any new gas build on the basis that it can be replaced by a mix of alternative technologies such as interconnectors, storage and demand-side response. However, this analysis fails to recognise the important role thermal power stations play in supporting the stability of the power grid.

4.10.11 In addition to balancing supply and demand in real time, National Grid is responsible for ensuring that the national transmission system is operated within a number of defined technical limits to ensure its safety and stability. It does this by procuring a number of 'system needs', including:

- **Frequency response**: The national transmission system must maintain a stable system frequency of 50 Hz. Frequency response is an automatic change in generation or demand to counteract changes in system frequency.
- **Inertia**: Inertia determines how quickly frequency will change when there is an imbalance between generation and demand; the greater the inertia on the system, the slower the change in frequency. Thermal generators can contribute to inertia and hence support the stability of the grid.
- **Voltage control**: Reactive power (measured in Mvar) is used to control voltage. Generation, demand and network equipment (such as transformers, overhead lines and cables) can either generate or absorb reactive power. These contributions need to be kept in balance to keep the voltage at the right level. Voltage is a local property of the system so requirements vary from one region to another.
- **Black start**: Black start is the service used to restore the system in the unlikely event of a partial or total shut down. To restore power, National Grid needs generation capable of starting up without external power supplies, energising the transmission system and supporting the reconnection of demand – only thermal generation can do this.

4.10.12 National Grid as the system operator has for many decades been reliant on thermal generation to provide these services, specifically coal or gas-fired power stations. These power stations are 'dispatchable' in that they can increase or decrease their electrical output in response to the demands of the transmission system, making them particularly useful sources of flexibility when needed at short notice.

4.10.13 In contrast, intermittent renewables such as wind and solar are reliant on the weather to generate their electricity. As a result, they cannot adjust their output when required and therefore cannot provide a full suite of controllable, dispatchable system services. Nuclear power stations, meanwhile, are technically capable of providing some level of flexible operation but for commercial reasons generally operate at full capacity.

4.10.14 Therefore, as the power sector continues to decarbonise, it is crucial that Britain's power system retains and replaces a degree of flexible, dispatchable thermal generation alongside the continued deployment of low carbon technologies. This is consistent with National Grid's own analysis in its 2018 Future Energy Scenarios document, which states:

> *"Increasing intermittent generation from renewable sources can lead to a greater need for flexible gas-fired generation and flexible supplies from the [gas] National Transmission System. Interaction between the gas and electricity systems will need to increase as more renewable generation is connected." (pg.92)*

4.10.15 In the absence of dispatchable thermal plant, National Grid would be reliant on storage solutions to support system balancing. However, current storage solutions can (generally speaking) only deliver energy for a limited number of hours due to technical limits on the amount of power they can store, reducing their useful operation during protracted weather events spanning multiple days. This is illustrated by the make-up of likely storage projects coming forward, with only 95 MW of capacity able to supply electricity for more than four hours:

Storage type	**Volume of capacity (de-rated)**
Duration < 30 mins	49.6 MW
Duration < 1 hour	528.3 MW
Duration < 2 hours	381.9 MW
Duration < 4 hours	344.9 MW
Duration < 7 hours	95.3 MW

4.10.16 Current storage solutions remain expensive to scale. For example, the biomass domes at Drax Power Station can store 300,000 tonnes of sustainably-sourced compressed wood pellets – equivalent to 600 GWhs worth of electricity. Currently, batteries cost £350 per kWh, meaning at present prices it would cost £210 billion to replace the capacity of all four of Drax's biomass domes using battery power.

4.10.17 Analysis undertaken by Aurora Energy Research, referenced in the ClientEarth submission, suggests that as little as 1 GW of new gas could be added to the system. Again, this is a forecast of deployment rates rather than a statement of need. Furthermore, the Aurora scenario – referred to as 'Aurora subsidy-free RES' in the ClientEarth document annex – is predicated on the UK Government bringing forward a new policy at some point in the future to support further build-out of intermittent renewables such as wind and solar. Therefore, the scenario is not based on current government policy.

4.10.18 This is the context in which the national policy statements conclude that there is an ongoing role for fossil fuel generation.

4.11 The Lack of Any Public Benefit Resulting from the Proposed Scheme

4.11.1 Summary of Written Representation

- ClientEarth challenges the benefit of the Proposed Scheme, in terms of security of supply, employment, and net gain of habitats.

4.12 Response to Written Representation

4.12.1 As outlined previously, the Proposed Scheme would make a significant contribution to the country's security of supply as a source of thermal generation that can provide a range of system services to support National Grid in managing the stability of the national electricity transmission system.

4.12.2 ClientEarth's approach to benefits is to say that there is no need and as such benefits are "*at best marginal and quite possibly non-existent*." For the reasons set out above, ClientEarth's approach to need is flawed in particular as it ignores the national policy statements' clear position that the determination of applications for schemes such as this should proceed on the basis that need has been demonstrated and, further, the erroneous equivalence drawn between consented capacity and installed capacity in a market-based system.

4.12.3 The Socio-Economic chapter of the Environmental Statement (Chapter 14, Examination Library Reference APP-082) clearly outlines the positive economic impact the Proposed Scheme would have in terms of direct, indirect and induced employment opportunities across the multiple phases of the Proposed Scheme.

4.12.4 The updated Biodiversity Net Gains assessment and report (Examination Library Reference REP2-023) demonstrates that, with the proposed mitigation, there is a clear net gain in biodiversity and habitats. ClientEarth make reference to the scenario where Units 5 and 6 simply close down. If this happened and the Proposed Scheme did not take place, then the assumption would be that the baseline (in terms of habitats and biodiversity) would remain the same as the current situation. It is unclear, therefore, why ClientEarth do not recognise the net gain identified as being a clear benefit associated with the Proposed Scheme compared with the Proposed Scheme not progressing and the metric of biodiversity and habitats remaining the same.

4.12.5 If the inference from ClientEarth is that without the Proposed Scheme taking place, the land on which the infrastructure associated with Units 5 and 6 is located would become habitat, then that is incorrect. The brownfield site on which the infrastructure currently sits would most likely be developed to support the continued operation of Units 1, 2, 3 and 4 (in line with Selby District Local Plan policies EMP10 and SP13) and hence the suggestion of some form of biodiversity gain without the Proposed Scheme is unsubstantiated and fails to recognise the effects of extant development plan policies at best.

4.12.6 It is important to state that a signed SoCG with Natural England (Examination Library Reference REP1-004) recognises the clear net gain in biodiversity and the methodology used to generate the associated data.

4.12.7 The other considerable benefit which seems to have been ignored by ClientEarth but acknowledged by the Local Planning Authorities is the impact on employment of not repowering the two remaining coal units at Drax and replacing the capacity which would be lost by simply closing Units 5 and 6. Part of the response taken from the Joint Local Impact Report (REP2-047) which specifically references Selby District Council's Policy SP13 is provided below:

> "*It is considered that the proposed development accords with SP13 in the development of existing employment sites in the rural community. The proposed development is expected to create sustainable employment opportunities and may contribute to the wider economic growth of the area (as detailed further below).*"

4.13 The Significant Adverse Impacts Resulting from the Proposed Scheme

4.13.1 Summary of Written Representation

- ClientEarth asserts that the adverse impacts include (i) biodiversity loss; (ii) noise and vibration; (iii) increased local traffic and transport disruption; and (iv) public subsidy / decommissioning cost risk.
- ClientEarth states that in the event that the Proposed Scheme is used to a significant extent – and displaces low-carbon energy capacity – a primary adverse impact (in addition to (i)-(iii) above) is a major increase in greenhouse gas emissions resulting from operation of the Proposed Scheme. Such emissions, it is said by ClientEarth, would significantly undermine the UK's ability to meet its obligations under the Climate Change Act 2008 and the Paris Agreement 2015.

4.14 Response to Written Representation

4.14.1 ClientEarth, in paragraphs 30-31 of its Written Representation, identify a number of adverse impacts associated with the Proposed Scheme.

4.14.2 The first set of impacts is said to arise in circumstances where the Proposed Scheme is constructed but not used to any significant extent or is used and displaces other existing gas-fired capacity. These impacts relate to: biodiversity loss; noise and vibration; increased local traffic and transport disruption; and public subsidy / decommissioning risk.

4.14.3 The Applicant’s response to each is set out below:

Biodiversity

4.14.4 The Chapter 9 (Biodiversity) of the Environmental Statement (Examination Library Reference APP-077) concludes that no significant effects will result from the Proposed Scheme in terms of biodiversity loss.

4.14.5 Further, an amended Biodiversity Net Gain Assessment was submitted for Deadline 2 (Examination Library Reference REP2-023) which demonstrates that in line with the updated Outline Landscape and Biodiversity Strategy (Examination Library Reference REP2-026), under the worst case scenario modelled, the Proposed Scheme would achieve a net gain of 5% for area based habitats and a 6% net gain for linear habitats.

4.14.6 Requirement 7 of the draft DCO (Examination Library Reference REP2-014, revision 3 of which is submit at Deadline 3) secures a detailed landscape and biodiversity strategy to be submitted substantially in accordance with the Outline Landscape and Biodiversity Strategy. The Applicant therefore considers that the effects of the Proposed Scheme in terms of biodiversity would be acceptable.

4.14.7 A signed SoCG with Natural England (Examination Library Reference REP1-004) recognises the clear net gain in biodiversity and the methodology used to generate the associated data.

Noise and Vibration

4.14.8 It is not correct to suggest that there would be adverse effects from noise or vibration as a result of construction activities.

4.14.9 Chapter 7 (Noise and Vibration) of the Environmental Statement (Examination Library Reference APP-075) considered the potential impact in terms of noise and vibration, and found no significant adverse effects at any stage of the Proposed Scheme. ClientEarth has provided no technical evidence which contradicts these conclusions.

4.14.10 The assessment methodologies and baseline data used for the assessment of the noise and vibration effects have been discussed in-depth with Selby District Council and specific discussions have been had with the Environmental Health Officer with regard to Noise and Vibration.

4.14.11 Further, Selby District Council and North Yorkshire County Council have agreed that the scope of assessment, assessment of effects and proposed mitigation are appropriate, as recorded in the draft Statement of Common Ground submitted at Deadline 1 (Examination Library Ref REP1-006, see in particular paragraph 3.13.6 which sets out the Councils' agreement that the effects of the Proposed Scheme are acceptable).

4.14.12 ClientEarth refer to Table 7-16 of the Environmental Statement (Examination Library Ref: APP-075) as evidence of noise and vibration impacts. However, paragraph 7.6.17 states that the effects shown in that table will be of negligible significance.

4.14.13 Noise and vibration effects during construction will be managed by the Construction Environmental Management Plan. An updated Outline Construction Environmental Management Plan (Examination Library Reference REP2-025) was submitted within the Applicant's Deadline 2 submission which sets out the proposed measures to effectively mitigate against noise and vibration impacts on sensitive human receptors during construction.

4.14.14 Requirement 16 of the draft DCO (Examination Library Reference REP2-014) secures the submission and approval of a final Construction Environmental Management Plan. Any disturbance and nuisance from noise generated by construction activities would, therefore, be adequately mitigated.

Increased local traffic and transport disruption

4.14.15 Chapter 5 (Transport) of the Environmental Statement (Examination Library Reference APP-073) considered potential impacts on traffic and transport. The ES found that there would be temporary significant effects from construction during stages 1 and 2 of the Proposed Scheme but no significant effects during the operation of the Proposed Scheme.

4.14.16 The Outline Construction Traffic Management Plan (Examination Library Reference REP2-022) seeks to mitigate construction impacts to ensure they are acceptable. The document has been revised following further discussions with North Yorkshire County Council, Highways England and Newland Parish Council and is considered to adequately address construction traffic impacts. Agreement on this point is recorded in Statements of Common Ground with North Yorkshire County Council and Selby District Council (draft, Examination Library Ref REP1-006), Highways England (draft, Examination Library Ref REP2-028 and Newland Parish Council (Applicant's Document Ref 8.1.10).

4.14.17 Further, the Outline Construction Worker Travel Plan (Examination Library Reference REP2-021) includes measures to reduce construction traffic by encouragement of shared worker trips to address potential impacts on sensitive human receptors. Agreement on this point is recorded in Statements of Common Ground with North Yorkshire County Council and Selby District Council (draft, Examination Library Ref REP1-006), Highways England (draft, Examination Library Ref REP2-028 and Newland Parish Council (Applicant's Document Ref 8.1.10).

4.14.18 Requirements 17 and 18 of the draft DCO (Examination Library Reference REP2-014) secure the submission and approval of a Construction Traffic Management Plan and Construction Worker Travel Plans which would mitigate against impacts during the construction phase.

Public subsidy / decommissioning costs risk

4.14.19 In response to ClientEarth's comment that the Proposed Scheme may require public subsidies for operation and/or decommissioning, it is noted that the updated Funding Statement (Examination Library Reference REP2-016) submitted for Deadline 2 provides full details of the ability of Drax to finance and deliver the Proposed Scheme, using a combination of cash reserves and debt finance in order that the Proposed Scheme can be delivered commercially without public subsidy.

4.14.20 The ClientEarth Written Representation then proceeds to identify further adverse effects in circumstances where the Proposed Scheme is used to a significant effect and displaces low-carbon energy capacity.

4.14.21 The scenario proposed by ClientEarth, whereby new gas generation could displace low carbon capacity, is unrealistic. It ignores the underlying economics of the power sector. Low carbon sources of electricity, such as onshore wind or solar, have low operating costs, reflecting the fact that once constructed and operational they use 'free' natural resources such as the wind and sun to generate electricity, rather than traditional power stations that must purchase a fuel supply.

4.14.22 As a result, these cheaper sources of power will almost always be called upon to generate electricity to meet national demand ahead of higher cost alternatives, such as gas generation. Therefore, the likely scenario is that the Proposed Scheme will displace aging and less efficient gas power stations. This is known as the 'merit order effect' and is a fundamental economic driver that underpins the wholesale electricity market in Great Britain.

GHG Emissions

4.14.23 The particular impact that ClientEarth refers to in this context is an increase in Greenhouse gas emissions. The focus of ClientEarth's submission is on the fact that the Proposed Scheme would generate considerable more GHG emissions than the baseline because it generates more electricity (173% more). This is acknowledged to be a major effect, as ClientEarth notes in paragraph 33, in Chapter 15.

4.14.24 However, the reality is that that point goes nowhere where the Government have identified a need for more electricity generation including from fossil fuels.

4.14.25 The important point – that ClientEarth does not grapple with adequately – is that the Proposed Scheme is materially more efficient.

4.14.26 Chapter 15 of the ES (Climate) (Examination Library APP-083) concludes that in terms of the GHG emissions intensity per unit of electricity output, the Proposed Scheme results in a significant positive effect on climate. It generates much 'cleaner' electricity than the baseline scenario. Indeed, whilst it increases the generation capacity by 173%, it produces only 90% more GHGs (Table 15-3). The ES concludes this is a moderate positive impact (Table 15-16).

4.14.27 Further, this assessment does not take into account the potential for indirect reductions in GHG emissions (at the wider National level) which will be enabled by the additional electricity generation capacity provided by the Proposed Scheme. The Government's Overarching National Policy Statement for Energy EN-1 (Ref. 15.1) is clear on the need for a major increase in (double or triple) electricity generation capacity in order to enable the switching of industry, transport and building heating to electrical energy. The use of electrical energy in these sectors will typically result in less GHG emissions than traditional fossil-fuel sources of energy and therefore this switching represents a very material indirect benefit of the Proposed Scheme i.e. a reduction in GHG emissions compared to the baseline scenario. It is this switching that will help enable the UK meet its legally binding climate change targets.

4.14.28 Nor does the assessment take into account, the fact that the NPS is also clear on the need for some future capacity to continue to come from non-renewable sources in order to cope with the intermittency of most renewable generation technologies (e.g. wind, solar) and to provide security of supply (as well as to support the integrity of the National Grid as set out above).

4.14.29 The Government is clear, therefore, that generation capacity needs to increase markedly (either by two or three times) and part of that will be generation from fossil fuels. This increase in capacity is part of the package of measures by which the Government intends to meet its climate change obligations.

4.14.30 It would be misleading simply to compare the Proposed Scheme with the baseline without an understanding of the context in which the increase in generation sits.

Baseline

4.14.31 ClientEarth suggests, in paragraphs 34 and 35 of its written representation, that the baseline against which the environmental effects in relation to GHG emissions has been assessed in the Appellant's ES is misleading.

Baseline scenario in the ES

4.14.32 The baseline scenario in the ES takes account of the Government's intention to end unabated coal generation after October 2025 so that coal generation could only continue if a reduced concentration-based limit on GHG emissions can be met of 450g CO2/kWh which is roughly equivalent to the emissions intensity of gas-powered generation.

4.14.33 The existing coal-powered generation from units 5 and 6 at the Existing Drax Power Station Complex far exceeds this limit and therefore the baseline scenario assumes this will only continue until October 2025.

4.14.34 After that date it is assumed that one of the following would occur:

- Coal powered generation at Units 5 and 6 would be adapted to meet this new emission limit of 450 gCO2/kWh and this would continue until 2050 (the lifetime of the Proposed Scheme).
- Alternatively, coal generation at Drax would end after 2025 with units 5 and 6 decommissioned and no replacement generation capacity provided at the site. Since this would result in a loss of 1,320 MW of generation capacity, there would be a requirement to replace this type of capacity elsewhere on the national grid.
- While this sub-scenario is not considered in detail, it is assumed that such replacement generation capacity would be similar in scale and nature and of a similar emissions intensity (450gCO2/kWh).

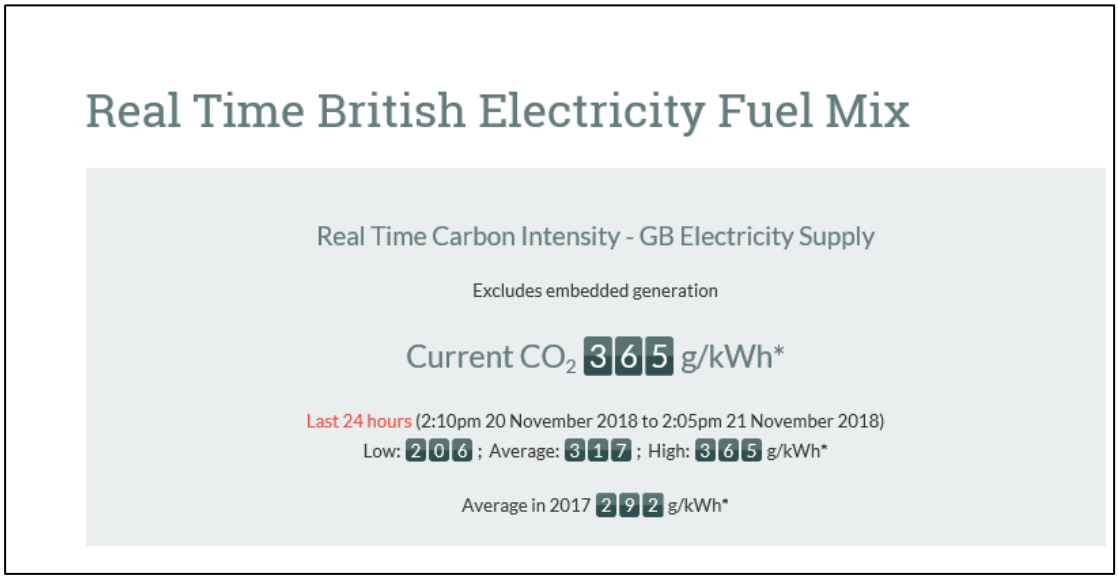
ClientEarth's criticism of the baseline in the ES

4.14.35 ClientEarth suggest that this baseline is misleading because:

- There is no evidence that coal-fired generation can be achieved economically at an emissions intensity below 450g CO2/kWh, In this regard ClientEarth refer to co-firing and CCS; and
- There is no reason why the Unit 5 and 6 capacity would be replaced by capacity with a carbon intensity of 450gCO2/kWh. ClientEarth suggest it would more likely reflect the average carbon intensity of the grid (being 292gCO2/kWh in 2017).

4.14.36 ClientEarth have compared the baseline scenarios and emissions performance standard of 450g CO2/kWh against an overall carbon intensity for the national grid and quoted a figure of 292g CO2/kWh for 2017 which appears to be an average for 2017. By definition, this carbon intensity is an average which must include plant with a higher carbon intensity, e.g. coal and a lower carbon intensity, e.g. wind. Hence, to conclude that any replacement capacity must be at the average of 292 g CO2/kWh is somewhat contrived and represents the average of a range of generating technologies, e.g. from 0 g CO2/kWh to 950g CO2/kWh for example). It is therefore worth bearing in mind that this figure will increase or decrease on an hourly basis as different generating technologies start-up and shut down.

4.14.37 Below is a screen shot showing current average CO2 intensity at 365g/kWh demonstrating that the use of an average carbon intensity over-simplifies the issue and fails to recognise the complexities of maintaining a secure and flexible electricity generating and distribution network.



Clearly no unabated fossil fired plant, gas or otherwise, can meet the 292 g CO2/kWh figure including all the consented plant Client Earth have referenced. This raises the question, what is the relevance of this number. Quite clearly the average carbon intensity of electricity generation has decreased over time demonstrating the shift from fossil fuel generation to more renewable generation. However, a fundamental part of this continuation of lowering the carbon intensity of electricity generation requires more flexible and efficient generating plant (gas and biomass) on the system in order to allow for more intermittent renewable capacity onto the system. All four of National Grid's Future Energy Scenarios have increased new gas generating capacity as part of the mix. Returning to the carbon intensity quoted by Client Earth as some kind of threshold, this threshold would preclude any fossil plant from generating and hence would remove almost all flexible generating plant (aside from biomass) from the generating system.

(1) The feasibility of coal-fired generation at 450gCO2/kWh: co-firing

4.14.38 Co-firing is a proven method of generation. In 2017 the average carbon intensity of Drax's biomass operations was 130g CO2/kWh (conversion from Drax Annual Report, 2017). Therefore, it would be feasible to co-fire biomass at a specific ratio (roughly in a ratio of 4:3 or around 57% biomass) with coal whilst adhering to the 450g CO2/kWh emissions intensity limit. Indeed, co-firing took place at low levels, 5% biomass in 2003 which has steadily been increased across all six of Drax's generating units prior to Drax pursuing full coal-to-biomass conversions of individual boilers. There is no question about the feasibility of generating electricity by co-firing.

4.14.39 For this reason, ClientEarth appear to suggest that it is not economic. Economics depend on the end price of electricity and accordingly it is not possible to be definitive about the economics of any generation method in 2025. However, it is clearly reasonably likely that co-firing will be economic post 2025.

4.14.40 First, Drax has initiated a programme to reduce the cost of generating biomass electricity at Drax Power Station by a third between now and 2027 precisely to enable it to continue to operate when the renewable support for its biomass generating units ends. This could include upgrading turbines to obtain more power from each tonne of wood pellets, as well as reducing the costs of the wood pellets themselves. These cost reduction measures would also improve the economics of co-firing biomass with coal.

4.14.41 Secondly, the Carbon Price Support, which is a tax on fossil fuels used by electricity generators, was introduced by the UK Government in 2013 and penalises the use of fossil fuels and incentivises investment in renewable generation. The current CPS level of £18/tonne has made coal generation in the UK increasingly uneconomical; co-firing with high levels of biomass could enable Unit 5 & Unit 6 to continue to operate. As set out above, the precise economics will depend on the level of the wholesale electricity price.

4.14.42 The third aspect to consider is that units 5 and 6 could also enter a (T-1) capacity market contract in order to offset the cost of co-firing biomass. Hence there are a number of clear economic drivers toward supporting converting units 5 and 6 to co-firing units meeting 450g CO2/kWh.

4.14.43 Taking the above into account, it is reasonable to assume that co-firing will remain economically feasible.

(2) The feasibility of coal-fired generation at 450gCO2/kWh: CCS

4.14.44 Drax has extensive experience in the area of CCS. Through the Capture Power consortium, Drax was previously involved in the White Rose CCS project, which would have seen a new build coal-fired CCS demonstration project built on land at Drax Power Station. The joint venture ended in 2015 when the Government decided to withdraw funding for a £1bn commercialisation programme, in which White Rose was one of two projects shortlisted.

4.14.45 Building on its experience on the White Rose project, earlier this year Drax announced it would be commissioning a new pilot CCS project in Q4 2018. The project, which will cost £400,000, will see Drax apply a proprietary organic solvent developed by technology company C-Capture to the flue gas emissions from one of its existing biomass generating units, capturing one tonne of carbon per day in the process. The pilot will operate for six to nine months and if successful, will demonstrate that CCS technology could be deployed on biomass units at Drax Power Station. Following the trial, Drax intends to undertake further

engineering work to consider how it could scale up the project by repurposing the existing flue gas desulphurisation equipment installed on the biomass boilers. Subject to further technical work and a supportive policy framework, Drax could deliver a scalable biomass CCS solution at the power station by the mid-2020s, which in turn would abate the carbon emissions from other generating units on site.

4.14.46 The stated aim of deploying a CCS project at Drax Power Station in the mid-2020s is also consistent with government policy. The 2017 Clean Growth Strategy states:

> *"We will build on the success of the Offshore Wind Cost Reduction Taskforce172 and convene a CCUS Cost Challenge Taskforce to deliver a plan to reduce the cost of deploying CCUS. This will then underpin a deployment pathway for CCUS in 2018, setting out the steps needed to meet our ambition of deploying CCUS at scale during the 2030s, subject to costs coming down sufficiently". (pg. 70)*

4.14.47 The CCUS Cost Challenge Task Force has subsequently produced a report, published earlier this year, which strongly advocates for at least two CCS 'clusters' being developed in the UK by the mid-2020s, to enable the UK Government to scale up during the 2030s. The report also recognises the important role biomass CCS will play in the future as a negative emissions technology that can offset carbon emissions in other areas of the economy.

4.14.48 Thus the Government would expect to see CCS plant coming on-stream at demonstration phase in the 2020s and scaling up in the 2030s, hence the concept of Units 5 and 6 operating beyond 2025 is a justifiable one.

4.14.49 Indeed, there are already a number of large-scale carbon capture and storage plant operating commercially around the world and hence CCS technology exists and continues to develop in scale. The suggestion that CCS is not technically or economically feasible is not necessarily correct as demonstrated above.

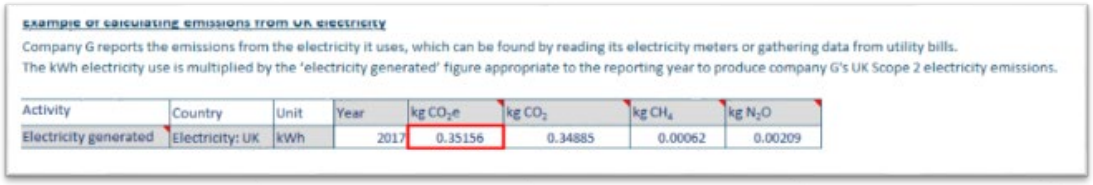
(3) Average carbon intensity across the grid

4.14.50 There are two aspects to answering this point: (a) to identify the average carbon intensity across the grid and (b) to address the point as to whether baseline should have adopted the average grid intensity as ClientEarth suggest

A. Average carbon intensity

4.14.51 The latest GHG emissions factor published by the Government (BEIS, 2017) for average UK grid electricity generation is 407.61 gCO2e/kWh (comprising of emissions at the point of generation and 'Well to Tank' emission – see reference to tables below); 'Well-to-Tank' emissions factors, also known as upstream or indirect emissions, is an average of all the GHG emissions released into the atmosphere from the production, processing and delivery of a fuel.

4.14.52 GHG emissions for electricity generation (average UK grid electricity) 351.56 gCO2e/kWh (note conversion from kg to g of CO2e).

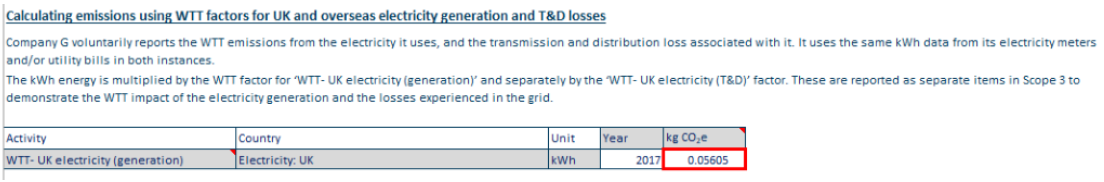


Example of calculating emissions from UK electricity

Company G reports the emissions from the electricity it uses, which can be found by reading its electricity meters or gathering data from utility bills.
The kWh electricity use is multiplied by the 'electricity generated' figure appropriate to the reporting year to produce company G's UK Scope 2 electricity emissions.

Activity	Country	Unit	Year	kg CO_2e	kg CO_2	kg CH_4	kg N_2O
Electricity generated	Electricity: UK	kWh	2017	0.35156	0.34885	0.00062	0.00209

4.14.53 'Well to Tank' GHG emissions for electricity generation (average UK grid electricity) 56.05 gCO2e/kWh



Calculating emissions using WTT factors for UK and overseas electricity generation and T&D losses

Company G voluntarily reports the WTT emissions from the electricity it uses, and the transmission and distribution loss associated with it. It uses the same kWh data from its electricity meters and/or utility bills in both instances.
The kWh energy is multiplied by the WTT factor for 'WTT- UK electricity (generation)' and separately by the 'WTT- UK electricity (T&D)' factor. These are reported as separate items in Scope 3 to demonstrate the WTT impact of the electricity generation and the losses experienced in the grid.

Activity	Country	Unit	Year	kg CO_2e
WTT- UK electricity (generation)	Electricity: UK	kWh	2017	0.05605

4.14.54 Total GHG emissions for electricity generation (average UK grid electricity) would equal 407.61 gCO2e/kWh.

4.14.55 This is also set out in the reference list: Ref.15.6 Department for Business, Energy & Industrial Strategy (2017) Greenhouse gas conversion factors for company reporting. The cited factors can be found by following the link listed here: https://www.gov.uk/government/collections/government-conversion-factors-for-company-reporting

4.14.56 One would expect that as more renewable technology and low carbon generating capacity is developed, then the intensity of carbon emissions associated with electricity generation will continue to fall as, toward 2050, unabated fossil plant generation is curtailed.

4.14.57 NPS EN-1 and NPS EN-2 recognises the need for fossil-fired plant which inherently will have a greater carbon intensity than the average intensity across the entire grid and hence the comparison is somewhat academic since, if relevant, would have precluded any further gas plant being consented through the Planning Act 2008. National Policy Statements do not set a carbon intensity for fossil-fired generating technology to meet.

4.14.58 Although the comparison to National Grid's carbon intensity is believed to be somewhat distracting, it may be beneficial to make comparison to Drax Power Station as a whole since the biomass fired units, units 1-4, would have a carbon intensity of 130gCO2/kWh for carbon lifecycle emissions), hence for a combined capacity of 5.58GW (3 x 660MW and 2 x 1800MW – note only 3 biomass units would operate at any one time) resulting in an overall carbon intensity for Drax Power Station of 291.2gCO2/kWh and hence lower than the metric quoted by ClientEarth of 292g CO2/kWh.

B. Reasonableness of baseline

4.14.59 ClientEarth's points in relation to co-firing and CCS do not undermine the baseline in the ES. This is because the likely capacity which would fill the gap left by units 5 and 6 would be other flexible fossil plant and most likely existing gas plant with a carbon intensity of around 450g CO2/kWh.

4.14.60 National Grid's capacity market framework is designed to deliver secure supplies of electricity at the lowest cost to the consumer. The most likely price takers by 2024 (T-1 auctions) would be gas plant since they will likely be nearing their end of operational life.

4.14.61 The other aspect to consider is that intermittent renewables are just that, intermittent. Hence during periods of low generation from wind and solar (regardless of the level of installed capacity), e.g. calm, overnight periods, National Grid will utilise flexible plant to meet demand. A gas plant provides that flexibility and therefore gas generation assists in moving to a low carbon economy.

4.14.62 ClientEarth's position would result in units 5 and 6 being decommissioned resulting in a baseline of 0g CO2/kWh for Drax units 5 and 6; however, this carbon intensity will almost certainly be filled elsewhere by other flexible, secure means of generation which currently can only be met by existing gas generating capacity at an intensity of around 450g CO2/kWh; this being the case and from a carbon intensity perspective, whether units 5 and 6 are decommissioned will not materially change the overall carbon intensity of electricity generation across the grid.

4.14.63 As a result, the baseline in the ES is not at all misleading but realistic.

4.15 Carbon Lock-In Risk

4.15.1 Summary of Written Representation

- ClientEarth argues that allowing the Proposed Scheme to be built risks undermining the UK's ability to meet its domestic climate targets due to carbon lock-in.

4.16 Response to Written Representation

4.16.1 The Climate Change Act 2008 introduced a legally binding target to reduce greenhouse gas emissions by at least 80% below the 1990 baseline by 2050. The Act also introduced "carbon budgets", which set the trajectory to ensure the targets in the Act are met. These budgets represent legally-binding limits on the total amount of greenhouse gases that can be emitted in the UK for a given five-year period.

4.16.2 Carbon budgets are economy-wide rather than sector-specific targets. That notwithstanding, the Committee on Climate Change (CCC) in its role as the Government's independent advisor has targeted an overall carbon intensity level of 50-100 gCO2/kWh for the entire power sector by 2030.

4.16.3 In its dedicated power sector analysis for the Fifth Carbon Budget, published in 2016, the CCC stated:

> *"Even if low-carbon generation could cost-effectively meet the entire generation gap in the 2020s, it is likely to require supporting deployment of flexible gas plants (see Chapter 3). How much capacity is needed will depend on the shape of demand, the mix of low-carbon capacity and the success with expanding flexibility from demand-side response, interconnectors and storage."*

4.16.4 The key point from the above quote is that the future shape of the UK's electricity demand is, in effect, an unknown as the country moves towards decarbonisation and higher electricity demand. There are so many variables to answering that question, that it cannot be answered with any degree of certainty. The planning system's role is to ensure there are consented plants that can provide the necessary security of supply required by Government. In its 2018 Progress Report to Parliament, the CCC published the latest version of its power sector scenarios for 2030, taking into consideration a range of different technology mixes that would be compatible with a carbon intensity of 100 gCO2/kWh. Across all scenarios there is a significant role for gas generation:

	Central Renewables scenario	Central CCS scenario	Central Nuclear scenario	High Low-Carbon scenario	High Renewables scenario
Level of gas generation (TWhs)	96	94	96	51	49
Gas as % electricity demand (low / high)	29% / 24%	28% / 24%	29% / 24%	15% / 13%	15% / 7%

4.16.5 It is important to recognise that the Drax Repower project, being high efficiency, flexible plant and including the provision for battery technology is designed to continue the transition toward a low-carbon economy. As technology continues to develop in the areas of battery storage and carbon capture, the Repower project will be capable of taking advantage of these developments.

4.16.6 By 2050 both units X and Y will be in the decommissioning phase of the development and will have likely taken advantage of the technological developments; the project is fundamentally designed to enable more intermittent renewable technology to enter onto the system whilst offering secure flexible generating capacity at a far lower carbon intensity than current gas plant. This does not therefore represent a carbon lock in and indeed should be considered in the round with the decarbonisation of other industrial sectors such as well as facilitating the move towards the electrification of the transport network. The suggestion that a single project represents the tipping point for a target which will require fundamental shifts from both industry and society is simple unreasonable.

4.16.7 In conclusion it is clear from independent expert analysis that the UK will need gas generation in the future from a power system management perspective; and that having a quantum of gas generation on the power grid would not prevent the UK achieving its target of an average power grid emissions intensity level of 100g CO2/kWh or compliance with the Climate Change Act 2008 target.

4.17 It Is Not Possible to Rely On Other Regulation to Prevent the Proposed Scheme's Risks and Adverse Impacts

4.17.1 Summary of Written Representation

- ClientEarth argues that the planning system is the "only effective means" of regulating gas-fired generation off the system, either now or in the future.

4.18 Response to Written Representation

4.18.1 It is current policy that must be applied to the Proposed Scheme and not some future as yet undefined policy and, as set out above, the national policy statements are clear: even in the context of the need to decarbonise there is a need for fossil fuel generation and a consequent presumption in favour of the Proposed Scheme.

4.18.2 Of course, Governments can legislate as they wish, subject to Parliamentary approval, and so if in the future the Government decided that policy should be no fossil fuel generating stations, then it would up to the Government to amend NPS EN-1 and NPS EN-2 accordingly. This is in the gift of the Government, but this is not the position before the Examining Authority or the Secretary of State in respect of the Proposed Scheme.

4.19 The Proposed Scheme Should Not Be Granted Development Consent Whether Under the NPSs or Under s 104(7) of the Act

4.19.1 Summary of Written Representation

- ClientEarth states development consent should be refused for the Proposed Scheme whether on the basis of the terms of the NPS framework or on the basis of its failure to provide a net benefit to the public.

4.20 Response to Written Representation

4.20.1 This is a summary paragraph. The substance of the points are addressed above.

4.21 Conditions to the DCO

Summary of Written Representation

- ClientEarth states if the Examining Authority is minded to recommend the grant of development consent, that the draft Development Consent Order (dDCO) be amended to include a carbon capture and storage (CCS) condition designed to mitigate the Proposed Scheme's major climate impacts and redundant infrastructure risks.

4.22 Response to Written Representation

4.22.1 The Applicant considers that draft DCO Schedule 2 Requirements 21 and 22 (Examination Library Reference REP2-014, revision 3 is submitted at Deadline 3) are sufficient to safeguard the Carbon Capture Readiness reserve space for future carbon capture and storage equipment and that these Requirements are in accordance with NPS EN-1 paragraph 4.7.17.

4.22.2 There is precedent for the requirements proposed (i.e. Secretary of State endorsement of these requirements (in the same policy context)), most recently in The Eggborough Gas Fired Generating Station Order 2018 (Requirements 31 and 33).

4.22.3 Draft DCO Requirements 21 and 22 require the following:

"Carbon capture readiness reserve space

21.—(1) Following commencement of the authorised development and until such time as the authorised development is decommissioned, the undertaker must not, without the consent of the Secretary of State—

(a) dispose of any interest in the carbon capture readiness reserve space; or

(b) do anything, or allow anything to be done or to occur,

which may reasonably be expected to diminish the undertaker's ability, within two years of such action or occurrence, to prepare the carbon capture readiness reserve space for the installation and operation of carbon capture equipment, should it be deemed necessary to do so.

Carbon capture readiness monitoring report

22.—(1) The undertaker must make a report ('carbon capture readiness monitoring report') to the Secretary of State—

(a) on or before the date on which three months have passed from the date of Work No. 1A full commission; and

(b) within one month of the second anniversary, and each subsequent even-numbered anniversary, of that date.

(2) Each carbon capture readiness monitoring report must provide evidence that the undertaker has complied with requirement [21]—

(a) in the case of the first carbon capture readiness monitoring report, since commencement of the authorised development; and

(b) in the case of any subsequent report, since the making of the previous carbon capture readiness monitoring report, and explain how the undertaker expects to continue to comply with requirement [21] over the next two years.

(3) Each carbon capture readiness monitoring report must state whether the undertaker considers the retrofit of carbon capture technology is feasible explaining the reasons for any such conclusion and whether any impediments could be overcome."

5 BIOFUELWATCH

5.1 Planning Scope

Summary of Written Representation

- Biofuelwatch outline in its Written Representation that the Drax Repower proposal is not sustainable development due to lock-in of additional and cumulative GHG emissions.
- Biofuelwatch also states that the Proposed Scheme does not satisfy the conditions of sustainable development as the capacity of the Proposed Scheme is surplus to the Government's predicted need, and it is therefore not necessary to "*meeting the needs of the present*" (in relation to the definition of sustainable development in the NPPF).

5.2 Response to Written Representation

5.2.1 As a general point, the National Planning Policy Framework "*does not contain specific polices for nationally significant infrastructure projects*" (paragraph 5), although the Applicant recognises that the NPPF may be an important and relevant consideration in the Secretary of State's determination.

5.2.2 However, the Applicant does not agree that the Proposed Scheme is not a sustainable development. The Proposed Scheme is necessary to meeting the needs of the present, and will play a role in facilitating the transition to a low carbon economy in order that future generations are able to meet their own needs.

5.2.3 NPS EN-1 makes clear that the policies contained in EN-1 and indeed through all the suite of energy NPSs, have been developed taking into account sustainable development. NPS EN-1 paragraph 2.2.19 confirms that the NPS policies reflect the principles of sustainable development:

> *"Whatever incentives, rules or other signals developers are responding to, the Government believes that the NPSs set out planning policies which both respect the principles of sustainable development and are capable of facilitating, for the foreseeable future, the consenting of energy infrastructure on the scale and of the kinds necessary to help us maintain safe, secure, affordable and increasingly low carbon supplies of energy."*

5.2.4 Whilst paragraph 2.2.27 of NPS EN-1 sets out how sustainable development applies with respect to energy:

> *"The Government's wider objectives for energy infrastructure including contributing to sustainable development and ensuring that our energy infrastructure is safe. Sustainable development is relevant not just in terms of addressing climate change, but because the way energy infrastructure is deployed affects the well-being of society and the economy. For example, the availability of appropriate infrastructure supports the efficient working of the market so as to ensure competitive prices for consumers. The regulatory framework also encourages the energy industry to protect the more vulnerable."*

5.2.5 Paragraph 2.2.28 goes on to confirm that the achievement of sustainable development has been tested through the Appraisal of Sustainability (for all the energy NPSs):

> *"The planning framework set out in this NPS and the suite of energy NPSs takes full account of the objective of contributing to the achievement of sustainable development and this has been tested through the AoS. The AoS has examined whether the NPS framework for the development of new energy infrastructure projects is consistent with the objectives for sustainable development, including consideration of other Government policies such as those for the environment, economic development, health and transport (See Section 1.7 of this NPS for the AoS)"*

5.2.6 Accordingly, it is clear that the policies of the energy NPSs are specifically designed to achieve sustainable development. Section 104(3) of the PA 2008 ensures that any application for development consent is determined by reference to these policies. In this way, the PA 2008 regime ensures the delivery of infrastructure that the Government regards as sustainable development and has been tested as such in the underlying Appraisal of Sustainability.

5.2.7 The Proposed Scheme falls within the remit of NPS EN-1 and NPS EN-2 and is therefore of a type that is sustainable development. Pursuant to section 104 of the PA 2008, the SoS must determine the application before him in accordance with the NPSs unless one of the exceptions applies, which the Applicant contends they clearly do not.

5.2.8 With respect to meeting the needs of the present, Biofuelwatch suggests that the Proposed Scheme is surplus to the government's predicted need. The policies contained in NPS EN-1 and NPS EN-2 make it clear that there is a continuing role for fossil fuel generation in the energy sector. NPS EN-1 paragraph 3.6.8 provides:

> *"As set out in paragraph 3.3.8 above, a number of fossil fuel generating stations will have to close by the end of 2015. Although this capacity may be replaced by new nuclear and renewable generating capacity in due course, it is clear that there must be some fossil fuel generating capacity to provide back-up for when generation from intermittent renewable generating capacity is low and to help with the transition to low carbon electricity generation. It is important that such fossil fuel generating capacity should become low carbon, through development of CCS, in line with carbon reduction targets. Therefore there is a need for CCR fossil fuel generating stations and the need for the CCS demonstration projects is urgent."*

5.2.9 This paragraph is important for the following reasons. First, there is reference to replacing aging fossil fuel stations with "new nuclear", yet given recent developments in the nuclear new build sector (being the, at best, delay in a nuclear new build at Moorside) the Government's aim of replacing the aging fleet with new nuclear is under severe pressure. Secondly, paragraph 3.6.8 makes it very clear what the future role of fossil fuel generating capacity is envisaged to be and how it will maintain security of supply during periods of low intermittent renewable electricity generation. Third, new fossil fuel generating stations should be able to deploy as carbon capture plants, and the Proposed Scheme is such a plant.

5.2.10 With respect to the "need" for the Proposed Scheme and being surplus to Government requirements, please see the response to ClientEarth at 4.10, which we do not repeat to avoid duplication as the response equally applies here.

5.3 Climate Change Impacts of the Development

Summary of Written Representation

- Biofuelwatch states that the ES shows that the Proposed Scheme will "*represent a significant net increase in greenhouse gas emissions and have therefore negative climate impacts.*" Biofuelwatch quotes the resulting gas emissions and compares against the BEIS estimates, concluding that the Proposed Scheme represents a bad investment of government subsidies locking the UK in to high-carbon electricity.
- The Representation asserts that Drax Repower is not low-carbon electricity and permitting the development will result in the UK being locked-in a system of high carbon, making it difficult to meet the UK's carbon reduction targets.

5.4 Response to Written Representation

5.4.1 With respect to the point made by Biofuelwatch in relation to greenhouse gas emissions please see the response to ClientEarth's WR at 4.14, which we do not repeat to avoid duplication as the response equally applies here.

5.4.2 Biofuelwatch WR paragraph 11 makes reference to NPS EN-1 paragraph 2.2.22 and the need for almost exclusively low carbon technology. The full paragraph provides:

> *'Looking further ahead, the 2050 pathways show that the need to electrify large parts of the industrial and domestic heat and transport sectors could double demand for electricity over the next forty years. It makes sense to switch to electricity where practical, as electricity can be used for a wide range of activities (often with better efficiency than other fuels) and can, to a large extent, be scaled up to meet demand. To meet emissions targets, the electricity being consumed will need to be almost exclusively from low carbon sources. Contrast this with the first quarter of 2011, when around 75% of our electricity was supplied by burning gas and coal.'*

5.4.3 By 2050, Unit X will have been decommissioned and Unit Y will be nearing decommissioning. By 2050, one would assume that there would be very little unabated fossil fuel operation and would indeed be almost exclusively low carbon. The meaning of paragraph 2.2.22 is clearly not to prevent the development of gas-fired generating stations now (such as Eggborough, Knottingley and Thorpe Marsh which have all achieved planning consent under the Planning Act, 2008 and in line with National Policy Statements). Proceeding with the Proposed Scheme would allow time for, and support to, other low carbon energy generation to be developed, thus facilitating the transition. This is precisely the policy set out in the energy suite of NPSs; to help transition to a low carbon economy now. Indeed, section 2.2 of NPS EN-1 describes how policy supporting new energy generation capacity sits alongside the UK's climate change obligations. In short, the need for fossil fuel generating stations is identified in the context of and with the aim of meeting the legally binding target contained in the Climate Change Act 2008 to cut greenhouse gas emissions by at least 80% by 2050 as compared to 1990 levels. Accordingly, the energy NPSs and the Proposed Scheme will support the transition to a decarbonised power sector.

5.5 Misrepresenting Carbon Emissions from the Development

Summary of Written Representation

- Biofuelwatch refutes various claims of the Applicant regarding carbon emissions.
- Biofuelwatch states that to be economically viable, the development would require government investment in the form of subsidies. The development - if built and operated - would lock-in high-carbon generation until 2047.

5.6 Response to Written Representation

5.6.1 Biofuelwatch's points in relation to the continued operation of coal Units 5 and 6, and the likelihood of those units continuing in operation beyond 2025, please see the Applicant's response to ClientEarth's WR at 4.14.

Need for the Development

Summary of Written Representation

- Biofuelwatch states that the Proposed Scheme should be judged (according to EN-1) against current government projections of need. The Proposed Scheme is surplus to projected need.

5.7 Response to Written Representation

5.7.1 As demonstrated, in the Applicant's response to ClientEarth's WR at 4.10 it is clear that the reference to 15GW of already consented plant bears no relation to how much of this consented capacity will actually be constructed; bearing in mind that since receiving its original Section 36 planning consent, Keadby 2 has commenced construction 25 years later. Of the list of gas projects which Biofuelwatch appear to be referencing, Keadby 2 represents around 5.5% of the 15GW of consented plant. Indeed, one of the projects referenced and included within the 15GW, Trafford Power CCGT, is now unlikely to proceed following the development withdrawing from a capacity market contract.

5.7.2 In addition, the recent decision of Toshiba to withdraw its interest in the 3.4 GW Moorside Nuclear Development in Cumbria further demonstrates how rapidly the future energy landscape can change and how future capacity which was expected and programmed to be available can suddenly not be forthcoming.

5.7.3 Reference to specific paragraphs from the NPS EN-1 with regard to the planning framework within which the Secretary of State will operate are highlighted below:

5.7.4 EN-1 Paragraph 2.2.4 states:

> *"Not all aspects of Government energy and climate change policy will be relevant to [Secretary of State] decisions or planning decisions by local authorities, and the planning system is only one of a number of vehicles that helps to deliver Government energy and climate change policy. The role of the planning system is to provide a framework which permits the construction of whatever Government – and players in the market responding to rules, incentives or signals from Government – have identified as the types of infrastructure we need in the places where it is acceptable in planning terms. It is important that, in doing this, the planning system ensures that*

development consent decisions take account of the views of affected communities and respect the principles of sustainable development."

5.7.5 From NPS EN 1 Paragraph 3.3.23 and 3.3.24 provide:

> *"To minimise risks to energy security and resilience, the Government therefore believes it is prudent to plan for a minimum need of 59 GW of new electricity capacity by 2025.*
>
> *It is not the Government's intention in presenting the above figures to set targets or limits on any new generating infrastructure to be consented in accordance with the energy NPSs. It is not the [Secretary of State's] role to deliver specific amounts of generating capacity for each technology type. The Government has other mechanisms to influence the current delivery of a secure, low carbon, affordable electricity mix. Indeed, the aim of the Electricity Market Reform project (see Part 2 of this NPS for further details) is to review the role of the variety of Government interventions within the electricity market."*

5.7.6 Paragraphs 2.2.4, 3.3.23 and 3.3.24 from NPS EN-1 clearly demonstrate that it is not the role of the Examining Authority in its recommendation, or the Secretary of State in his decision on a development consent order, to decide or determine how much generating technology of any given type should be consented under the Planning Act 2008.

5.7.7 National Grid in its capacity as the operator of the national electricity system publishes its Future Energy Scenarios report every year, which considers how the energy sector in the UK could evolve through to 2050 across four illustrative pathways. These pathways take into consideration a range of sensitivities including behavioural change from consumers and innovation in technology. These pathways are rigorously tested, reviewed and developed with input from stakeholders across the energy sector to ensure they are robust, credible and reflect the changing energy landscape.

5.7.8 In the 2018 version of the Future Energy Scenarios report (National Grid "Future Energy Scenarios" July 2018), all four of National Grid's scenarios show that electricity demand is forecast to rise from 2030 onwards. This is due to a range of factors, including the electrification of the transport system in all scenarios and then the electrification of heat in some scenarios. Compared to electricity demand of 297 TWh today, this rise ranges from 25% (373 TWh, Two Degrees Scenario) to 48% (441 TWh, Community Renewables Scenario for 2050). Taking into consideration this expected increase in the demand, alongside the expected decommissioning of a number of aging coal and nuclear power stations throughout the 2020s, it is clear that additional new build thermal generation is required on the system to ensure national electricity demand and supply can continue to be balanced in real time.

The response to ClientEarth's WR at 4.10 responds more fully on the question of "need" for the Proposed Scheme, including with respect to capacity and security and stability of supply.

5.8 'Delivering Secure Energy'

Summary of Written Representation

- Biofuelwatch states the Proposed Scheme does not support the government's policy for 'delivering secure energy' as it increases demand for gas, which may in turn

increase demand for gas from Russia and/or increase the justification and demand for fracked gas.

Response to Written Representation

5.8.1 The response from Biofuelwatch under the title 'Delivering Secure Energy' is somewhat confusing; on the one hand it makes reference to the UK's increasing imports of gas supplies from Russia and in the same paragraph increasing gas demand but concerns over indigenous supplies of shale (fracked) gas which the Government has identified (Ministry of Housing, Communities and Local Government "Permitted development for shale gas exploration" July 2018) as a source of 'safe, secure and affordable supply of energy'.

5.8.2 First, it may be salient to identify that Biofuelwatch makes reference to NPS EN1 para 2.2.25 and the reference to 'two main security of supply challenges'; Biofuelwatch appears to have omitted the second challenge which is also included in para 2.2.25 which is provided below:

> *The requirement for substantial and timely private sector investment over the next two decades in power stations, electricity networks and gas infrastructure.*

5.8.3 Clearly the Proposed Scheme meets the challenge outlined in the second bullet point and within the timescales identified.

5.8.4 In terms of reference to shale gas, current Government policy is to pursue the extraction of shale gas.

5.8.5 The text below is taken from the BEIS website:

https://www.gov.uk/government/publications/about-shale-gas-and-hydraulic-fracturing-fracking/developing-shale-oil-and-gas-in-the-uk

> *Offshore gas production has been in decline since the year 2000 which has meant that the UK has gone from being a net exporter of gas to importing over half (53%) of gas supplies in 2017 and estimates suggest we could be importing 72% of our gas by 2030.*
>
> *We believe that it is right to utilise our domestic gas resources to the maximum extent, and to explore further the potential for onshore gas production from shale rock formations in the UK, where it is economically efficient, and where environmental impacts are robustly regulated.*
>
> *Every scenario proposed by the Committee on Climate Change (CCC) setting out how the UK could meet its legally-binding 2050 emissions reduction target includes demand for natural gas. Shale gas has the potential to be a safe, secure and affordable supply of energy with carbon emissions levels that are consistent with the carbon budgets defined in our Climate Change Act and our international obligations.*

5.8.6 The Applicant has sought a Network Exit Agreement (NEXA) and Planning and Advanced Reservation of Capacity Agreement (PARCA) with respect to the Proposed Scheme with National Grid Gas, the owner and operator of the National Transmission System (NTS). The Applicant, as a customer of National Grid Gas, has no control or influence regarding where National Grid Gas sources its gas capacity from. It is for National Grid to source its gas and supply that gas to the Applicant and to its other customers.

5.8.7 The Government has made it clear in the NPS EN-1 that gas will be a vital part of the UK's energy generation mix. This is reiterated by the Government in the quote above, that "*every scenario proposed by the Committee on Climate Change (CCC) setting out how the UK could meet its legally-binding 2050 emissions reduction target includes demand for natural gas.*"

5.8.8 UK Government decisions on planning policy with respect to the use of unconventional gas sources will be subject to separate scrutiny, including environmental and sustainability assessments. Similarly, projects to extract and supply the gas will be subject to their own approval process to ensure they are consistent with Government policies. It follows that consideration of gas sources for the Proposed Scheme are outside the scope of the Examination of the Application.

6 FRIENDS OF THE EARTH

6.1 Environmental Impact

Summary of Written Representation

- Friends of the Earth's (FotE) Written Representation provides an overview of why the organisation objects to the Proposed Scheme and the Applicant's environmental impact assessments.
- FotE argues against the need for the scheme stating the Department for Business Energy and Industrial Strategy has made a decision to reduce forecasts on how many gas-powered plants are required by 2035. In addition, it states the UK has 16.2GW of gas fired power station built, approved or awaiting approval and this doesn't include the Proposed Scheme.
- FotE states Drax needs to drastically reduce its size and impact because it is the biggest polluter in the UK, relies too much on subsidies, its operations has a detrimental effect on the health of the local population and it "manipulated the local council to the detriment of the local community".
- FotE argues against the use of biofuel as a renewable and clean energy. It states the process being promoted will damage the government's climate change targets and the health and wellbeing of the planet.
- FotE raises concerns about the impact on the local population, in relation to air quality and sunlight. FotE states the cumulative impact on the local area needs to be considered.
- The Proposed Scheme should not be benchmarked against a baseline based on continued operation of Units 5 and 6, but should instead be based on a baseline that would "allow the local population a reprieve from the current excessive levels of pollution".

6.2 Response to Written Representation

With respect to FotE's claims in relation to the need for the scheme, please see the response to ClientEarth's WR at 4.10.

With respect to the comment about reliance on subsidies, this is responded to below and in the response to ClientEarth's WR at 4.14.

With respect to FotE's claims in relation to the impact of the Proposed Scheme on meeting the Government's climate change targets, please see the response to ClientEarth's WR at 4.16.

With respect to FotE's comments about the baseline against which the Proposed Scheme has been assessed, and the continued operation of Units 5 and 6, please see the response to ClientEarth's WR at 4.14.

With respect to the claim that the Applicant has manipulated the local council, the Applicant has been working effectively with both Selby District Council and North Yorkshire County Council to agree the mitigation required for the Proposed Scheme (as reflected in the draft

Statement of Common Ground with SDC and NYCC (Examination Library Ref REP1-006), SDC's and NYCC's joint Local Impact Report (Examination Library Ref REP2-047), and the Applicant's Response to the Local Impact Report (submitted at Deadline 3, Applicant's document ref 8.5.11). The Applicant also notes it has entered into a Planning Performance Agreement (PPA) with the Councils, as set out in the Planning Inspectorate's Advice Note Two (Planning Inspectorate "The role of local authorities in the development consent process" 2015).

With respect to FotE's concerns about the impact of the local population in relation to air quality, light and public health, the Applicant responded to these issues in the Applicant's Responses to Relevant Representations (Examination Library Ref REP1-013), paragraph 1.2.2.

6.3 Company and Government Subsidies

Summary of Written Representation

- FotE questioned that the proposal is a means to acquire subsidies. It states that any proposal taken forward must help "*meet the government's climate change commitments and pave the way for radical green thinking.*"
- FotE commented on Drax's financial operation and questioned it use of subsidiary businesses.

6.4 Response to Written Representation

6.4.1 The Applicant has provided a detailed Funding Statement (Examination Library Reference REP2-016) that demonstrates it has access to appropriate funding to carry out the Proposed Scheme without subsidy if it chose to. Furthermore, Drax Power Limited's parent company Drax Group plc is listed on the London Stock Exchange and has extensive corporate governance in place to ensure that the financial integrity of the business is regularly monitored and independently audited.

Please also refer to the response to ClientEarth's WR at 4.14.

6.5 Covert Expansion Plans

Summary of Written Representation

6.5.1 FotE state the Proposed Scheme forms part of a wider strategy from the Applicant to expand operations at Drax Power Station by stealth. FotE specifically cites the reference to co-firing during the Open Floor Hearing as an example of this.

6.6 Response to Written Representation

6.6.1 Since announcing the Proposed Scheme, the Applicant has undertaken an extensive programme of consultation with the local community and relevant national and local stakeholders on its proposals. This has included details on how the Applicant intends to re-use existing coal-based infrastructure at the Drax Power Station to deliver the Proposed Scheme in the most efficient and cost-effective way possible. The Applicant's preliminary environmental information, which formed part of the consultation materials, also made clear that there was the potential for the 'Do Nothing' scenario to also comprise Drax's existing coal fired units remaining in operation. In any event, continued operation of Units 5 and 6 and co-firing with biomass would not require any consent. The Applicant's response in

relation to why the continued operation of Units 5 and 6 represents a realistic “do nothing” scenario is set out in response to ClientEarth’s WR at 4.14.

7 JULIAN MAY

Summary of Written Representation

- Mr May queries in his Written Representation the assumptions from chapter 15 of the ES in relation to equivalent generation capacity being provided elsewhere on the grid and in relation to the continued operation of Units 5 and 6.
- Mr May's WR focuses on the impact on climate change and the Applicant's environmental impact. The response provides extracts from reports by the IPCC, the WHO and the Commission on Climate Change.
- The WR mentions the impact climate change has on habitats, migration, sea levels, food security and health worldwide and flooding, water scarcity affecting farming, heat waves and biodiversity in the UK.
- Mr May goes on to state that he agrees that building gas fired power station seems at present a sensible solution to overcome seasonal shortcomings of an intermittent renewable energy supply, but climate change requires truly carbon neutral operations as soon as possible.

7.1 Response to Written Representation

7.1.1 Mr May's response and Written Representation is welcomed. In particular his agreement that "*building gas fired power stations seems at present a sensible solution to overcome seasonal shortcomings of an intermittent renewable energy supply*…"

7.1.2 Mr May queries why the 450g CO2/kWh has been used as the metric for a scenario which involves Units 5 and 6 operating post 2025 or indeed other fossil capacity operating post 2025. The intensity limit of 450g CO2/kWh, which is sometimes defined as the Emissions Performance Standard, is defined in legislation and is a pivotal part of the Electricity Market Reform (EMR). Mr May raises an important nuance regarding load factors and what has been assessed, however, the EIA has assumed that the Proposed Scheme will operate at full load for its operational lifetime. This may be considered unlikely, however, an assessment of any less than this would lead to potential criticism of the assessment methodology not assessing a worst case scenario. The response to ClientEarth's WR at 4.14 responds further to the point made about the assumptions in relation to the baseline in Chapter 15 of the ES.

7.1.3 Mr May also raises a number of other issues associated with the impacts of climate change which, with respect, are seen as global and policy issues and not related to the assessment of an individual application for a Development Consent Order. The Proposed Scheme is intended to support the future development and security of electricity generation and supply in line with National Policy. Indeed, as set out in the response to Biofuelwatch, NPS EN-1 makes clear that the policies contained in EN-1 and indeed through all the suite of energy NPSs, have been developed taking into account sustainable development. NPS EN-1 para 2.2.19 confirms that the NPS policies reflect the principles of sustainable development:

> *"Whatever incentives, rules or other signals developers are responding to, the Government believes that the NPSs set out planning policies which both respect the principles of sustainable development and are capable of facilitating, for the foreseeable future, the consenting of energy infrastructure on the scale and of the kinds necessary*

to help us maintain safe, secure, affordable and increasingly low carbon supplies of energy."

7.1.4 Whilst paragraph 2.2.27 of NPS EN-1 sets out how sustainable development applies with respect to energy:

"The Government's wider objectives for energy infrastructure including contributing to sustainable development and ensuring that our energy infrastructure is safe. Sustainable development is relevant not just in terms of addressing climate change, but because the way energy infrastructure is deployed affects the well-being of society and the economy. For example, the availability of appropriate infrastructure supports the efficient working of the market so as to ensure competitive prices for consumers. The regulatory framework also encourages the energy industry to protect the more vulnerable."

7.1.5 Paragraph 2.2.28 goes on to confirm that the achievement of sustainable development has been tested through the Appraisal of Sustainability (for all the energy NPSs):

"The planning framework set out in this NPS and the suite of energy NPSs takes full account of the objective of contributing to the achievement of sustainable development and this has been tested through the AoS. The AoS has examined whether the NPS framework for the development of new energy infrastructure projects is consistent with the objectives for sustainable development, including consideration of other Government policies such as those for the environment, economic development, health and transport (See Section 1.7 of this NPS for the AoS)"

7.1.6 Accordingly, it is clear that the policies of the energy NPSs are specifically designed to achieve sustainable development.

7.1.7 The Proposed Scheme falls within the remit of NPS EN-1 and NPS EN-2 and is therefore of a type that is sustainable development. In addition, please see the response to Biofuelwatch's WR at 5.6.

7.1.8 The response to ClientEarth's WR at 4.16 in relation to domestic climate targets is also relevant.

7.1.9 With respect to the "possible solutions" set out in Mr May's WR, the Applicant has provided a response with respect to synthetic gas and biogas in response to the Examining Authority's written question ANC 1.3 in the document, Applicant's Response to Written Questions, submitted at Deadline 2 (Examination Library Ref REP2-035).