

# The Drax Power (Generating Stations) Order

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

Written Summary of Drax Power Limited's ("the Applicant") Oral Case put at the Draft Development Consent Order Issue Specific Hearing – 6 December 2018  
(Submitted for Deadline 4)



The Planning Act 2008  
The Infrastructure Planning (Applications: Prescribed Forms and Procedure)  
Regulations 2009 – Regulation 5(2)(q)

## Drax Power Limited

Drax Repower Project

Applicant: DRAX POWER LIMITED  
Date: December 2018  
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**WRITTEN SUMMARY OF DRAX POWER LIMITED'S (THE "APPLICANT") ORAL CASE PUT AT THE  
DEVELOPMENT CONSENT ORDER ISSUE SPECIFIC HEARING – 6 DECEMBER 2018**

**1. INTRODUCTORY REMARKS**

- 1.1 The Issue Specific Hearing ("ISH") regarding the draft Development Consent Order ("DCO") was held at 10.00am on Thursday 6 December 2018 at the Goole Leisure Centre, North Street, Goole DN14 5QX.
- 1.2 The ISH took the form of running through the items listed in the agenda published by the Examining Authority ("ExA") on 27 November 2018 (the "Agenda"). The discussion on DCO matters predominantly focused on, the:
  - 1.2.1 definition of 'commence' in Article 2 and Requirement 2 in respect to Unit Y;
  - 1.2.2 definition of 'maintain/maintenance/maintaining' in Article 2; and
  - 1.2.3 Requirements in Schedule 2 with respect to Permitted Preliminary Works.
- 1.3 The format of this note follows that of the Agenda and refers to article numbers in the DCO submitted at Deadline 3 (REP3-007), except where made clear the reference is to the DCO submitted at Deadline 2 (REP2-014) (references to deadlines in this note are referred to as "D" with the relevant deadline number thereafter).
- 1.4 The Applicant's substantive oral submissions commenced at item 2 of the Agenda and therefore this note does not cover item 1 which was procedural and administrative in nature.

**2. AGENDA ITEM 2 - INTRODUCTION OF THE PARTICIPANTS**

- 2.1 The ExA: Richard Allen as the lead member of the panel and Menaka Sahai as a panel member.
- 2.2 The Applicant:-
  - 2.2.1 Speaking on behalf of the Applicant: Richard Griffiths (Partner at Pinsent Masons LLP).
  - 2.2.2 Present from the Applicant: Oliver Baybut (Environment and Governance Section Head at Drax Power Limited), Jim Doyle (Environmental Consents Officer at Drax Power Limited), Steve Austin (Drax Repower Technical Manager at Drax Power Limited) and Gary Preece (Lead Engineer at Drax Power Limited).
  - 2.2.3 The Applicant's consultants and legal advisors: Alexis Coleman (Senior Associate at Pinsent Masons LLP), Abigail Sweeting (Solicitor at Pinsent Masons LLP), Clare Hennessey (Technical Director, Infrastructure Planning Director at WSP and Project Director for Drax Repower), Lara Peter (Principal Consultant at WSP and Project Manager for Drax Repower), Dr Chris Taylor (Associate Director at WSP and EIA Lead for Drax Repower), and Dr Andrew Jackson (Associate at WSP and Gas Engineering Lead for Drax Repower).
- 2.3 North Yorkshire County Council ("NYCC") and Selby District Council ("SDC"): Sarah Morton (Senior Solicitor (Business and Environmental Services)), Michael Reynolds (Senior Policy Officer (Infrastructure)) and Paul Edwards (Principal Planning Officer).

**3. AGENDA ITEM 3 – MAIN DISCUSSION POINTS**

- 3.1 **The Definition of 'commence' in Article 2 and Requirement 2 in respect to Unit Y**
- 3.2 **The ExA** asked for some further information on the controls on commencing development of Unit Y. The ExA was concerned that Unit Y could be commenced at any time and as a result could be constructed and operated outside the period assessed in the Environmental Statement.

- 3.3 **Richard Griffiths** provided an update on behalf of the Applicant as follows:-
- 3.3.1 The Applicant's drafting of the definition of "commence" is similar to other generating station Nationally Significant Infrastructure projects where there is more than one generating station submitted as part of the DCO application; for example, the Hornsea One Offshore Wind Farm Order 2014 and Hornsea Two Offshore Wind Farm Order 2016;
- 3.3.2 Notwithstanding the drafting point noted above, the Applicant has considered the ExA's concerns and proposes to include a phasing requirement in Schedule 2 of the DCO, requiring the submission of a construction phasing plan for Work Number 1 (Unit X), Work Number 2 (Unit Y) and Work Number 3 (the battery storage facilities) for SDC's approval. The phasing plan will be implemented as approved.
- 3.3.3 The Applicant will aim to include the revised Requirement in the DCO to be submitted at D5, and will first discuss this with NYCC and SDC.
- 3.4 **Sarah Morton** on behalf of SDC and NYCC confirmed the local authorities had no issue with the change and welcomed the submission of the phasing plan.
- 3.5 **The ExA** confirmed it would like to see what is agreed but the Applicant's proposal would address its concerns.
- 3.6 **The definition of 'Maintain/Maintenance/Maintaining' in Article 2**
- 3.7 **The ExA** noted that it was not entirely satisfied with the Applicant's response to question DCO 1.3 in the Applicant's Response to the Examining Authority's Written Questions (REP2-042)) in relation to the definition of "maintain". The ExA noted that the Applicant's answer to the written question sought to defend the need for maintenance activities and this was not being questioned by the ExA. The ExA's concern was that the definition as drafted is loose and does not tie the Applicant to the scope of the Environmental Statement ("**ES**"). The ExA also had concerns in relation to the words "materially new or materially different" and "not **replace the whole of**, the authorised development".
- 3.8 **Richard Griffiths** responded as follows:
- 3.8.1 The ES assessed maintenance and the DCO cannot prevent maintenance activities being carried out that arise as a result of technological advances or innovation in the way maintenance is undertaken, particularly as the Proposed Scheme has a lifespan of around 25 years. The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ("**EIA Regulations**") should also not lead to such a restrictive interpretation; the purpose of the EIA Regulations is to carry out an assessment based on the knowledge of likely maintenance works at the time the assessment is carried out;
- 3.8.2 There may be some unplanned maintenance and outages which by their very nature cannot be predicted and the DCO should allow for such maintenance events to be carried out;
- 3.8.3 The current drafting still links to the ES as follows: - "*...but insofar as such activities are unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement*" and therefore the ExA's concerns have been addressed; and
- 3.8.4 The drafting is for the benefit of everyone as it allows for improvements and innovation, limited to by the effects assessed in the ES.
- 3.9 **The ExA** confirmed it understands that technological advancements are possible and unplanned maintenance may be required. However, the ExA does not understand why the words "*provided that it does not go beyond the scope of what has been assessed in the ES*" cannot be added into the definition.

- 3.10 **Mr Griffiths** queried how the Applicant can have assessed unknown maintenance (for example, resulting from technological advances) in the ES. The DCO is a statutory instrument and the interpretation of "*in accordance with the ES*" may not allow for technological advances or maintenance of unexpected events, for example, outages.
- 3.11 **The ExA** asked who is going to assess if the maintenance works are going to have effects not materially new or materially different to those assessed in the ES, given it is the Applicant who is under an obligation to carry out the works. Mr Griffiths explained that SDC are the enforcing authority and the burden is on the Applicant to prove that the maintenance works have been carried out in accordance with the ES if SDC or NYCC have concerns and seek to enforce.
- 3.12 **The ExA** questioned how SDC and/or NYCC are going to know if maintenance works have been carried out and asked if the Applicant is going to notify SDC and NYCC each time it wants to carry out maintenance works. Mr Griffiths responded that this is too burdensome a requirement and the situation is no different to that in the Eggborough Gas Fired Generating Station Order 2018 ("**EPL DCO**"), as SDC would still need to monitor in order to know whether maintenance had been undertaken within the scope of what had been assessed in the ES, and the EPL DCO does not contain a requirement to notify SDC and NYCC each time the Applicant wishes to carry out maintenance works.
- 3.13 **Oliver Baybut**, the Applicant's Environment and Governance Section Head, confirmed there are examples of maintenance activities currently being carried out at Drax's existing power station that are voluntarily notified to SDC. Examples of such being FGD re-alignment works and major upgrades of the turbines. Mr Baybut did not believe this notification was subject to a condition or requirement that obliges it to notify SDC of these maintenance works but such occurs in accordance with standard liaison arrangements in place between SDC and the Applicant.
- 3.14 **Mr Griffiths** confirmed that the words "materially new or materially different" are familiar terms, being used in the EPL DCO, for example in Requirement 13 and in the definition of "permitted preliminary works" and therefore, it is assumed that SDC and NYCC were happy with this term, and in any event the ExA and Secretary of State clearly were.
- 3.15 **The ExA** directed that the words "*provided that it does not go beyond the scope of what has been assessed in the ES*" have been used in the Wrexham Gas Fired Generating Station Order 2017, rather than the wording being proposed by the Applicant. The ExA questioned why the Secretary of State should accept the wording proposed by the Applicant and why the Proposed Scheme is different.
- 3.16 **Mr Griffiths** responded that Wrexham is a new build power station and the Eggborough power station is being demolished and a new power station built out. The Proposed Scheme is a "repowering" - there is already a power station in operation, it is already being maintained and there is already a communication mechanism in place with the local authorities. These are all distinguishing factors to Wrexham and EPL.
- 3.17 **The ExA** asked why the term "*replace the whole of*" had been inserted in the definition of "maintain" in the DCO submitted at D2. Mr Griffiths confirmed that the amendment was for clarification to make clear that "maintain" does not prohibit the whole of the authorised development from being inspected. Mr Griffiths referred to the wording of the definition in the EPL DCO, and suggested that it was not clear if EPL had the ability to inspect the whole of the plant, which cannot have been the intention of the drafting and therefore clarification has been sought by the Applicant.
- 3.18 **Ms Morton** directed that she will confirm SDC's and NYCC's position on the insertion of the "*replace the whole of*" wording at D4.
- 3.19 **The requirements in Schedule 2 in respect to Permitted Preliminary Works**
- 3.20 **The ExA** wanted to clarify if the Applicant had placed too heavy a burden on itself due to the changes made to the DCO at D2 in relation to permitted preliminary works ("**PPW**"). The ExA confirmed that their Written Questions had not sought to remove the PPW from each of the Requirements.

- 3.21 **Richard Griffiths** clarified that issue was one of interpretation. Mr Griffiths explained that the definition of "commencement" itself expressly excludes the PPW which means there is no need to refer to the PPW again in each of the Requirements. Mr Griffiths explained that some of the Requirements include a reference to the PPW to direct that these works cannot be carried out before certain requirements have been satisfied, for example, Requirement 14 which provides that: *"No part of the numbered works comprising stage 1 must commence (including permitted preliminary works comprising demolition of existing structures, environmental surveys, geotechnical surveys and other investigations for the purpose of assessing ground conditions only)"* until a written strategy in relation to the identification and remediation of any risks associated with the contamination of the Order limits associated with that numbered work has been submitted to and approved by the relevant planning authority.
- 3.22 **Mr Griffiths** confirmed that the Applicant may be able to remove "demolition" from the definition of PPW following the ExA's confirmation that Stage 0 can be removed from the DCO. This will be confirmed at D5.
- 3.23 **Sarah Morton** confirmed the Councils are happy with the drafting.
- 3.24 **The ExA** also confirmed that the explanation provided on behalf of the Applicant had clarified its understanding.

#### 4. **AGENDA ITEM 4 – "MATTERS FOR CLARIFICATION"**

##### **The removal of consent requirements under Article 8**

- 4.1 **The ExA** noted that Article 8 (Application and modification of statutory provisions) seeks to dis-apply a number of consents; however some of these consents (including the requirement for an environmental permit for a flood risk activity) require the relevant regulators to consent to the removal of the statutory provisions. The ExA therefore sought clarification from the Applicant as to whether such consent had been obtained.
- 4.2 **Richard Griffiths** confirmed:
- 4.2.1 The Applicant does have the consent of the relevant authority, the Selby Area Internal Drainage Board ("IDB") for the dis-application of:
- (a) Article 8(3)(a) (section 23 (prohibition of obstructions, etc. in watercourses) of the Land Drainage Act 1991) - the Applicant is seeking to dis-apply this requirement for consent in relation to the culvert over Dickon Field Drain. The IDB has agreed to dis-apply this section which is set out at paragraph 3.5.1 of the Statement of Common Ground reached with the IDB issued at D3 (REP3-018); and
  - (b) Article 8(3)(b) (the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991) – the byelaw that the Applicant is seeking to dis-apply is byelaw 10, which requires consent in relation to actions within 7 metres of a watercourse (or similar). The dis-application has been agreed with the IDB at paragraph 3.2.1 of the Statement of Common Ground reached with the IDB at D3 (REP3-018).
- 4.2.2 Article 8(3)(c) relates to Section 24 of the Water Resources Act 1991. Recent regulations (the Water Abstraction and Impounding (Exemptions) Regulations 2017) have removed the exempt abstractions procedure and therefore for any abstractions over a certain level that would have ordinarily been exempted are not exempt. Therefore the Applicant is seeking to dis-apply this provision; and
- 4.2.3 Article 8(3)(d) relates to regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016 in respect of a flood risk



activity only. This may be relevant to temporary stockpiles of materials and the Applicant is seeking to dis-apply this Regulation.

- 4.3 **Mr Griffiths** explained that the consent of the Environment Agency is required with respect to the proposed dis-applications in Article 8(3)(c) and (d) and this has not yet been obtained. The Applicant is in discussions with the Environment Agency but before it can give its consent, the Environment Agency requires protective provisions to be agreed which are currently being progressed. Should agreement be reached with the Environment Agency, the Statement of Common Ground will record this. If agreement is not reached with the Environment Agency, then the Applicant agrees with the ExA that Article 8(3)(c) and (d) would have to be removed from the DCO. Mr Griffiths confirmed we are still three months away from the close of the Examination and hopefully agreement can be reached before then.
- 4.4 **Mr Griffiths** confirmed that the Applicant will update the ExA regularly and is happy to receive a written question from the ExA on the progress with the Environment Agency.
- 4.5 **Sarah Morton** noted that she was seeking confirmation from colleagues that NYCC was not the relevant regulator for the purposes of the consents in Articles 8(3)(a) and (b). Mr Griffiths explained that as the legislation referred to the "relevant drainage board", the Applicant's understanding was that this referred to the IDB, but noted that the Applicant would liaise with NYCC on this point.
- 4.6 **The powers contained within Article 19**
- 4.7 **The ExA** sought clarification that there is no "white land" within the Order Land (that is, land over which no powers of compulsory or temporary possession are sought, and which is therefore is shown white on the land plans). Richard Griffiths confirmed that all the plots in the Order Land have a colour, and therefore the various Articles in Part 5 of the DCO will apply to all plots in the Order Land. Mr Griffiths clarified that the position is different from the EPL DCO which had "white land" on the land plans.
- 4.8 **The ExA** was happy with the response.
- 4.9 **The deletion of Article 39 and replacement by Schedule 15**
- 4.10 **The ExA** asked why the list of documents have been removed from Article 39 and replaced by Schedule 15 (now Schedule 14 in the draft DCO submitted at D3).
- 4.11 **Richard Griffiths** confirmed this was as a result of experience at other recent examinations where Examining Authorities had found it clearer on the face of the Order to include the list of documents to be certified in a separate Schedule. There are going to be revisions to these documents throughout the DCO process and to keep changing the definitions would become convoluted, therefore it is easier to deal with the documents in a separate Schedule.
- 4.12 **The ExA** confirmed it had no particular concerns with the approach.
- 4.13 **Sarah Morton** noted that the plans must be in substantial accordance with outline plans. Ms Morton raised particular concerns with this wording in Requirement 8 (Public rights of way diversions). She stated that there is work to do with the Applicant to make sure the local authorities are happy with the outline plans (in particular the outline public rights of way management plan referred to in Requirement 8) and SDC and NYCC shall continue to work with the Applicant to secure this.
- 4.14 **Richard Griffiths** confirmed that Article 39 is not deleted; it is just the list of plans that have been moved to the Schedules. The words "substantially in accordance with" allow some flexibility, which would benefit the Councils. Mr Griffiths confirmed that agreement had been reached on most of the outline plans, as recorded in the draft Statement of Common Ground with SDC and NYCC.
- 4.15 **The ExA** confirmed it would want the words "substantially in accordance with" to be retained. The Applicant and Councils agreed to provide an update at a future deadline on their discussions.
- 4.16 **The substantial changes to Article 41 and its drafting**

- 4.17 **Richard Griffiths** confirmed the changes to Article 41 have been made in line with the Planning Inspectorate's Advice Note 15. This recommends that DCOs include a mechanism to deal with disagreements between the Applicant and the discharging authorities. Mr Griffiths explained that Article 41 had therefore been amended so that it does not just apply to the relevant planning authority.
- 4.18 **Sarah Morton** confirmed she did not have any comments on behalf of SDC and NYCC.
- 4.19 **Whether Works No 3A and 3B (battery storage) are 'electricity generation works' or 'associated development'**
- 4.20 **The ExA** identified that Mr Griffiths had provided a helpful summary in the Issue Specific Hearing on Environmental Issues on 5 December 2018 on the changes to the battery storage facility. Mr Griffiths was asked to explain on behalf of the Applicant why the output requirements have been removed from Schedule 1 for the purposes of those persons who were not present yesterday.
- 4.21 **Richard Griffiths** confirmed:
- 4.21.1 That Work Number 3 previously referred to a "building" to house the battery storage cells and the definition of building included a reference to a structure. The Applicant however felt that the reference to building was disingenuous because the battery is not going to be housed in a physical building (with a roof) primarily for the reasons of cooling. The battery cells will be housed in a structure similar to a shipping container with some form of protection over them. The Applicant therefore felt it was clearer on the face of the DCO to refer to a "structure" rather than "building". This has also resulted in an amendment to Requirement 6 which sets out that the Applicant must provide the local authority with details of the colour and materials of the structure.
- 4.21.2 The parameters of the battery storage facility have not changed.
- 4.21.3 The Applicant has added a reference to the "structure" into Work Number 3B (battery storage for Unit Y). As previously drafted, the building would already have been built out as part of Work Number 3A (during Stage 1); however the construction of the structure surrounding the battery cells would be erected as the cells are installed and so would be erected in both Stages 1 and 2.
- 4.21.4 The megawatt capacity has been removed from Work Number 3 as it would be confusing given battery does not operate on a megawatt basis; it operates on an hourly basis. In any event, the capacity is capped by the overarching maximum capacity for the authorised development.
- 4.22 **The ExA** asked whether the battery should be considered to be a 'generating station' or 'associated development'. The ExA identified that Government commentary indicates that it should be treated as a generating station. However, Section 15 of the Planning Act 2008 has not been amended to include reference to a battery. The ExA identified that it was unlikely that the Secretary of State would go against his own advice, however the Applicant was asked to explain why (in the absence of an amendment to the definition in Section 15 of the Planning Act 2008) battery storage is a generating station rather than associated development.
- 4.23 **Mr Griffiths** confirmed the Applicant's position that the battery storage facilities are 'generating stations' and therefore Nationally Significant Infrastructure Projects. Mr Griffiths explained that there could be an argument that the Applicant could be prevented from building out the battery storage under the DCO if it is consented as associated development in the DCO, and Section 15 is subsequently amended to include battery storage within the definition of a Nationally Significant Infrastructure Project.
- 4.24 **Gary Preece**, the Applicant's Lead Engineer, confirmed that the battery storage facility delivers both active and reactive power and also absorbs power and should very much be considered a generating station.
- 4.25 **Sarah Morton** on behalf of SDC and NYCC confirmed she had no comments.



- 4.26 **The additional works required in Work No 6A in Schedule 1**
- 4.27 **The ExA** identified that through the Issue Specific Hearing on 5 December 2018 and the Accompanied Site Inspection it had received clarification on a number of its queries but wanted to seek clarification on the additional works in Work Number 6A.
- 4.28 **Richard Griffiths** explained that the changes are a new addition at Work Number 6A(viii) which relates to the creation of a permanent access track south of Dickon Field drain to enable the landowner to access his field south of the AGI. These changes have been proposed as a result of compulsory acquisition discussions with the relevant landowner who have confirmed they would like this access. As a result of this access, the Applicant needs to create a culvert over Dickon Field drain. All these additional works have been reflected in Work Number 6A.
- 4.29 **Mr Griffiths** confirmed that nothing extends outside the red line. There has been an Additional Land Application, however, the Applicant is not seeking to acquire any new land. As the Applicant is increasing the interests sought from the "creation of rights" to "acquisition of freehold" in some areas, this is classed as an "additional land".
- 4.30 **The ExA** asked where the new access is shown. Mr Griffiths confirmed the access is not shown on a Works Plan as it forms part of Work Number 6A. The Applicant also does not need to acquire the freehold for the access as the access will be for the freehold owner – the Applicant just needs to acquire the right to construct it for the freehold owner. The access goes through Plot 62 and Plot 65 on the Land Plans. The Indicative Plant Layout – Gas Pipeline Route, Sheet 8 of 9 submitted at D3 (REP3-004) is the appropriate plan that shows the culvert at Dickon Field drain.
- 4.31 **Dr Andrew Jackson**, the Applicant's Pipeline Engineer, confirmed that the farmer's track will cross the culvert but would not form part of the access for the Proposed Scheme. Dr Jackson explained that the access road in to the AGI had been widened to respond to National Grid and the Applicant's operational and emergency requirements, to ensure access for both the farmer and National Grid vehicles.
- 4.32 **Sarah Morton** confirmed she had no comments on behalf of SDC and NYCC.
- 4.33 **The wording of Requirement 10 (lighting) of the dDCO**
- 4.34 **The ExA** asked for clarity if temporary and permanent lighting should be dealt with in one Requirement or separately. The ExA also sought confirmation that temporary lighting related to construction and permanent lighting related to the operation of the Proposed Scheme.
- 4.35 **Richard Griffiths** confirmed the Applicant would consider this for D5.
- 4.36 **Paul Edwards** on behalf of SDC / NYCC stated that he saw the benefit of dealing with these requirements separately as there could be different triggers for temporary and permanent lighting. Mr Griffiths explained that as the Proposed Scheme will be constructed sensitively, there is an inherent design process meaning the operational lighting will need to be designed and approved at an early stage to allow it to be integrated into the Proposed Scheme during construction, so the triggers may not be that different.
- 4.37 **The deletion of Requirement 21 in respect to Combined Heat and Power**
- 4.38 **The ExA** queried the removal of the combined heat and power Requirement and asked the Applicant for confirmation of similar energy generating schemes that do not include this Requirement. Richard Griffiths confirmed that he will take away second point.
- 4.39 **Mr Griffiths** noted that the Environment Agency are very clear that if it grants a permit, it will include a condition to undertake a Combined Heat and Power review and there should not be duplication between the condition imposed by the Environment Agency and any Requirement in the DCO as they could include different specifications which could lead to confusion.

- 4.40 **Mr Griffiths** confirmed, in response to a question from the ExA, that this Requirement was included in the first draft of the DCO as the Applicant was not in discussions with the Environment Agency on the permit at that point. Now they have discussed the permit with the Environment Agency and the Environment Agency has confirmed (in its Relevant Representation and Written Representation) that a condition relating to Combined Heat and Power will be imposed on the permit, the Applicant is seeking to avoid duplication and confusion by removing the CHP Requirement.
- 4.41 **The ExA** asked the Applicant if the Secretary of State were to impose the Combined Heat and Power Requirement, without prejudice would the original wording be acceptable to the Applicant.
- 4.42 **Mr Griffiths** confirmed the Applicant would go away and discuss this with the Environment Agency and consider what condition the Environment Agency would request. The Applicant will then issue a revised, without prejudice draft Requirement they would be happy to accept should the Secretary of State impose the Requirement.
- 4.43 **Statutory Undertakers in respect to Vodafone and Northern Powergrid**
- 4.44 **Vodafone – Richard Griffiths** confirmed:-
- 4.44.1 The Applicant has been in communication with Vodafone since Spring 2018. Vodafone originally said it did not have apparatus that was affected by the Proposed Scheme and then reversed this position.
- 4.44.2 Vodafone is not caught by Section 127 of the Planning Act 2008. In any event, Schedule 12, Part 2 of the DCO would protect Vodafone if the Applicant does not receive a response from Vodafone on the protective provisions. The Applicant will continue to chase Vodafone to reach agreement.
- 4.45 **National Powergrid Limited – Mr Griffiths** confirmed:-
- 4.45.1 The Applicant has been in communication with Northern Powergrid since Spring 2018.
- 4.45.2 Northern Powergrid Limited is caught by Section 127 of the Planning Act 2008 but the Secretary of State can be satisfied that Schedule 12, Part 1 protects Northern Powergrid Limited if the Applicant does not receive a response from them on the protective provisions in circulation. The Applicant will continue to chase Northern Powergrid Limited for a response.
- 4.46 **National Grid – Mr Griffiths** confirmed:-
- 4.46.1 The Applicant is discussing the protective provisions with National Grid alongside a confidential side agreement.
- 4.46.2 There is a 400KV substation belonging to National Grid within Drax's Power Station complex and therefore a number of existing documents need to be amended which are expected to be agreed by the end of the Examination.
- 4.46.3 The Applicant will include a working draft of the protective provisions with National Grid in the DCO submitted at D5.
- 4.47 **Protective provisions agreed – Mr Griffiths** confirmed that protective provisions have been confirmed with Yorkshire Water and BT/Openreach.
- 4.48 **Update on design parameters in Schedule 13 (in reference to WQ DCO 1.27)**
- The ExA confirmed it had no questions on this in light of the explanation from the previous day's Issue Specific Hearing.
- 4.49 **Soil Management Plan**

- 4.50 This was not on the agenda but the ExA asked for clarification if the soil management plan has been referenced in the Requirements and if not, should this be referred to specifically.
- 4.51 **Richard Griffiths** stated that this would be unnecessary as the Construction Environment Management Plan, which is a certified document secured by a Requirement, contains the reference to securing the soil management plan and therefore, a separate reference is unnecessary.
- 4.52 **Sarah Morton** on behalf of SDC and NYCC confirmed that the local authorities do not require a separate reference to the soil management plan.

