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PINS Reference: EN010091

Examination Deadline 9 (“D9”)

The Drax Power (Generating Stations) Order

Dear Ms Gregory,

Please find enclosed documentation for Examination Deadline 9 from Drax Power Limited ("Drax") for a Development Consent Order ("DCO") in respect of the Drax Repower Project ("the Proposed Scheme"). This Deadline is the ninth of nine Deadlines for the Examination set out within the Rule 8 Letter published on 11 October 2018.

I set out below the documents submitted at this Deadline 9.

Full List of Submission Documents for Deadline 9

Submission documents for Deadline 9 of the Examination include:

Updated Application Documents

- 1.2 Application Guide
- 3.1 Draft Development Consent Order
- 3.2 Explanatory Memorandum

- 6.2.9.10 Environmental Statement – Volume 2 – Appendix 9.10 Biodiversity Net Gain Assessment
- 6.7 Outline Landscape and Biodiversity Strategy

Additional Examination Documents

- 8.1.5 Statement of Common Ground between Drax Power Limited and the Environment Agency (Final)
- 8.1.6 Statement of Common Ground between Drax Power Limited and Highways England (Final)
- 8.2.9 Schedule of Changes for Deadline 9
- 8.4.12 Applicant's Response to North Yorkshire County Council's and Selby District Council's Position on Landscaping
- 8.5.23 Note to Confirm Compliance with the Revised National Planning Policy Framework (2018 and 2019)
- 8.5.24 Closing submissions

The reasons for the submission of these documents are set out below.

Development Consent Order and Explanatory Memorandum

The final draft DCO and Explanatory Memorandum reflect the changes following receipt of the "*Schedule of ExA's recommended amendments to the Applicant's draft DCO*" at Deadline 7 (Examination Library Reference PD-016) and as set out in the "*Applicant's Response to the ExA's Proposed Schedule of Changes to the Draft Development Consent Order*" at Deadline 8 (Examination Document Reference REP8-013).

The draft DCO has also been updated to reflect agreement in relation to protective provisions as follows:

- Provisions for the protection of National Grid Electricity Transmission PLC and National Grid Gas PLC have been agreed and are set out in Parts 3 and 4 of Schedule 12 of the draft DCO. The side agreements with National Grid Electricity Transmission PLC and National Grid Gas PLC have also been agreed and are currently being engrossed or signature. Assuming these agreements are signed before Tuesday next week, we understand that National Grid Electricity Transmission PLC and National Grid Gas PLC will formally confirm the withdrawal of their objection. We will provide an update to the Examining Authority in this regard on or before 4 April 2019.
- Vodafone has agreed to the standard protective provisions in Schedule 12 of the draft DCO.
- Protective Provisions have been negotiated with Northern Powergrid (Yorkshire) Plc and Northern Powergrid Limited and are inserted into Part 5 of Schedule 12 of the draft DCO. The wording is agreed save that Northern Powergrid has requested that the

easement for the alternative apparatus be a permanent easement (paragraph 51 of Part 5 of Schedule 12). The Applicant considers that the insertion of “permanent” before “easement” in paragraph 51 is unnecessary given it is not clear at this stage whether all easements to be provided for any alternative apparatus would be required to be permanent and, in any event, any easement must be provided to the reasonable satisfaction of Northern Powergrid. This means that the Applicant and Northern Powergrid need to agree the easement. The Applicant’s position is that the wording in paragraph 51 is satisfactory and the PPs adequately protect Northern Powergrid. Should the ExA, or the Secretary of State, disagree with the Applicant, then the ExA, or the Secretary of State, is free to insert “permanent” before “easement” in paragraph 51 of Part 5 of Schedule 12.

The draft DCO has been validated, and the validation report is included with this submission.

Environmental Documents

The Outline Landscape and Biodiversity Strategy (Applicant’s document reference 6.7, now Rev 005) provides a minor update to the Strategy in terms of Biodiversity Net Gain, based on the updated Biodiversity Net Gain Assessment (Applicant’s document reference 6.2.9.10, now Rev 004) and following further engagement with land owners, Selby District Council and North Yorkshire County Council. The Outline Landscape and Biodiversity Strategy secures the minimum provision of biodiversity net gain as committed to by the Applicant, being 7% for area based habitats and 8% for linear based habitats.

Statements of Common Ground

Final Statements of Common Ground (SoCGs) with the following parties are submitted at Deadline 9:

- Environment Agency (Applicant’s document reference 8.1.5); and
- Highways England (Applicant’s document reference 8.1.6).

The abovementioned SoCGs set out the areas of agreement, and any areas of disagreement between the Parties. They reflect the final position between the Parties.

The SoCG with North Yorkshire County Council and Selby District Council is in agreed form and is in the process of being signed. The SoCG reflects that the Applicant has reached agreement with SDC with respect to the outstanding issue, relating to landscape and visual effects (there are, therefore, no outstanding issues with SDC). The extent of the offsetting of landscape effects remains the only area of disagreement between Drax and North Yorkshire County Council. The signed SoCG will be submitted to the Examination on or before 4 April 2019.

With regard to the SoCG with the Environment Agency, since the submission of the first draft SoCG at Deadline 4 (Examination Library Reference REP4-007), second draft at Deadline 7 (Examination Library Reference REP-009) and third draft at Deadline 8 (Examination Library Reference REP8-007), Drax has engaged further with the Environment Agency on matters relating to protective provisions to the DCO. This matter is now resolved and the final position is stated in the final, signed SoCG submitted at Deadline 9.

There are no points remaining under discussion with Highways England. Since the submission of the first draft SoCG with Highways England at Deadline 2 (Examination Library Reference REP2-028) and the second draft at Deadline 7 (Examination Library Reference REP7-010), the final SoCG was submitted at Deadline 8 (Examination Library Reference REP8-008), however, the Parties were unable to obtain signatures on time for the submission at Deadline 8. The final, signed SoCG is now submitted at Deadline 9.

Other Documents

The “*Note to Confirm Compliance with the Revised National Planning Policy Framework (2018 and 2019)*” (Applicant’s document reference 8.5.23) is submitted due to the revised National Planning Policy Framework having been adopted since the Application was accepted for Examination on 26 June 2018. This document considers the effect of the changes to the NPPF on the Applicant’s Application and Examination documentation and concludes that where those documents cite the NPPF, carry out an assessment in accordance with the NPPF, or carry out an assessment against the policies in the NPPF, the statements or findings in those documents remain valid.

The “*Applicant’s Response to North Yorkshire County Council’s and Selby District Council’s Position on Landscaping*” (Applicant’s document reference 8.4.12, Rev 002), is a revised version of the note submitted by the Applicant at Deadline 8 (REP8-011). The revisions reflect the agreement reached with SDC that the Applicant will fund a package of offsetting projects, and the Applicant’s response to the landscape proposals submitted by NYCC at Deadline 8 (REP8-015).

The Applicant has also submitted “*Closing Submissions*” (Applicant’s document reference 8.5.24) which draw together the Applicant’s submissions made to the Examining Authority during the course of the Examination. This document sets out the Applicant’s case in the context of the requirements of section 104 of the Planning Act 2008 and provides cross references to where its submissions have been made in more detail. We hope that this is of assistance to the Examining Authority.

With respect to the Schedule of Negotiations, since Deadline 8 agreements have been exchanged with Mr and Mrs Holgreaves and Mr Wild (in addition to agreements that were previously reported as having exchanged by Deadline 8 with Ms Bingley, and Mr and Mrs Cooper). The agreement with T.W. Falkingham Limited is expected to exchange shortly, and the updated Schedule of Negotiations will be submitted to the Examination on or before 4 April 2019 to reflect all exchanged agreements.

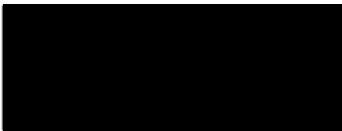
With respect to the legal agreement pursuant to section 106 of the Town and Country Planning Act 1990 (“S106 Agreement”), the terms of the S106 Agreement are agreed with NYCC and SDC. The draft of the agreement is currently being finalised and the completed agreement will be submitted to the Examination on or before 4 April 2019. The S106 Agreement contains obligations with respect to landscape offsetting. Those obligations are not agreed with NYCC. As a consequence, the approach agreed with NYCC and SDC is that the landscaping obligations are only between Drax and SDC.

The Schedule of Changes for Deadline 9 (Applicant’s document reference 8.2.9) sets out key changes to updated submission documents. The revision numbers for each document are set out in the updated Application Guide (document reference 1.2, Rev 13).



Please do not hesitate to contact me should you have any queries regarding the enclosed submissions.

Yours sincerely



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Environmental Consents Officer
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