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Ref: EN070008

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Dear Mr Wheadon

PLANNING ACT 2008 AND THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

APPLICATION BY CHRYSAOR PRODUCTION (UK) LIMITED ("THE APPLICANT") FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE PROPOSED VIKING CCS CARBON DIOXIDE PIPELINE PROJECT ("THE PROPOSED DEVELOPMENT")

REQUEST FOR INFORMATION: DRAFT DCO ARTICLE 44 (PLANNING LEGISLATION)

Following the submission of the Report and Recommendation by the Examining Authority on 5 December 2024, the Secretary of State issued a request for information on 28 January 2025. In paragraph 7 of the above letter: *It would assist the Secretary of State for Lincolnshire County Council to engage with the Applicant and provide its comments on any proposed amended wording and also on the potential deletion of paragraph (6).*

Lincolnshire County Council (LCC) has engaged with the Applicant regarding their proposed response and agree in principle with the Applicant's position. The Applicant provided the following draft response to the council on 28 January 2025.

"Paragraph (6) or Article 44 provides that development carried out pursuant to a planning permission following coming into force of the draft DCO would not result in breach of the Order, removing the risk of criminal liability pursuant to sections 160 and 161 of the 2008 Act in circumstances where a development which has been appropriately assessed and consented can be carried out on land within the Order limits, without impact on the Proposed Development. This includes any development authorised by a general development order as well as an express planning permission. The article has its basis on

provisions included in the Northampton Gateway Rail Freight Interchange Order 2019 (see Article 35(3)) and West Midlands Rail Freight Interchange Order 2020 (see Article 44(3)). The Applicant does not consider that this would operate to enable development that would otherwise normally require development consent to be authorised by planning permission under the Town and Country Planning Act. Sub-paragraph (6) would only apply to a permission that was lawfully granted under either a general development order or an express planning permission. It does not disapply section 31 of the Planning Act 2008, which sets out that development consent is required for development to the extent that the development is or forms part of a nationally significant infrastructure project. A lawful planning permission under the Town and Country Planning Act 1990 could not be granted for such development.

The Applicant considers that this article is desirable to bring clarity that other developments (with relevant planning permissions) can be undertaken within the Order limits without constituting a breach of the Order. The Applicant therefore respectfully submits that this sub-paragraph should not be deleted.”

LCC note the existing precedent in the *Northampton Gateway Rail Freight Interchange Order 2019 (Article 45(3))* and the *West Midlands Rail Freight Interchange Order 2020 (Article 44(3))*. LCC also notes that Article 44(6) would “bring clarity that other developments (with relevant planning permissions) can be undertaken within the Order limits without constituting a breach of the Order.”

As the Applicant is not proposing any amended wording, LCC has no comments to make in this regard.

At the same time, whilst LCC agrees in principle with the Applicant’s position, it would have no objections to the potential deletion of paragraph (6) by the Secretary of State.

Yours sincerely

Justine Foster

**for Neil McBride
Head of Planning**