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Your Ref:

Our Ref: EN010048

Date: 7 September 2015

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Dear Sir/Madam

## **Planning Act 2008 (as amended) and The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended)<sup>1</sup> – Rule 17**

### **Application by Capture Power Ltd for an Order Granting Development Consent for the White Rose Carbon Capture and Storage Project**

#### **Notification of procedural decision and request for further information**

In accordance with the examination timetable, I have now issued the Report on Implications for European Sites ([RIES](#)) and a draft Development Consent Order ([DCO](#)). These can be found on our website.

<http://infrastructure.planningportal.gov.uk/projects/yorkshire-and-the-humber/white-rose-carbon-capture-and-storage-project/>

I should stress that at this point in the proceedings I have not come to any view as to whether to recommend the application for approval or refusal. The queries and comments throughout the draft DCO are to ensure that the draft Order is refined as far as is practicable before preparation of my Examining Authority (ExA) report, assessment and recommendation.

#### **Changes in the ExA's preferred DCO**

For ease of reference, below are the changes I have made to the applicant's draft DCO submitted for Deadline V.

- i. Article (A) 39 and Schedule 11. A39(2) has a changed period of 8 weeks to reflect the periods given in Hirwaun and Progress consents.
- ii. Requirement (R) 30. Footnotes added to give the full reference to the relevant Acts.
- iii. R33. "by" is replaced by "with" to reflect the wording of other requirements.

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<sup>1</sup> <http://www.legislation.gov.uk/ukxi/2010/103/contents/made>

- iv. R35 - Interpretation. A rewording has been suggested for the definition of “permitted preliminary works” to prevent conflict with requirements like R14 and R15, which might otherwise allow such things as site clearance before adequate assessment of contaminated land or archaeological investigations had taken place.

In addition, I have also decided to issue a request for further information, as set out below.

The deadline for comments on these documents, and responses to the requests set out in this letter, is **Wednesday 23 September 2015** (Deadline VII) as set out in the examination timetable.

## **Request for further information**

### **1. Noise**

The following questions are directed to **the Applicant** and **Selby District Council**.

- 1.1 What progress has been made in negotiations between the parties to resolve areas of disagreement and the necessary requirements, should the DCO be granted? Is there a final signed SoCG?
- 1.2 Requirement 23 needs to be drafted in a way that makes it reasonable and enforceable to comply with the 6 tests for planning conditions. Can agreement be reached between the parties about appropriate target level ratings in this requirement to allow a requirement that is both reasonable and enforceable in this respect?

The following questions are directed to **Selby District Council**.

- 1.3 Has the applicant adopted all the necessary and appropriate mitigation in terms of noise? If this has not been possible, have the reasons been fully explained?
- 1.4 Having seen the applicant’s explanation of their approach to the noise assessment and proposed mitigation, including the need to optimise plant design in terms of noise emissions? Has the applicant’s statement at Deadline VI that they consulted on the use of an absolute level for night time and a 30dB cut off for daytime been accepted, since no alternative methodology has been put forward by SDC?

### **2. Draft Development Consent Order**

The following question is directed to **North Yorkshire County Council**.

- 2.1 A3/ Work 3 – Barlow Mound. Should the Secretary of State adopt the alternate drafting of the DCO (which would duplicate the conditions attached to the existing planning permission for Barlow Mound at Schedule 2 of the DCO), this would require a s73 application under the TCPA to vary condition 8. Although noting that this is not NYCC’s preferred approach to the drafting of the DCO on this matter, is the Council still content with the alternate approach?

**The Applicant** is requested to ensure that they submit:

- 2.2 A word version, of their original acceptance submission of the DCO in the form of the current Statutory Instrument template;
- 2.3 A word version, of their preferred draft DCO in the form of the current Statutory Instrument template, together with a SI Validation report;
- 2.4 A word version showing track changes from the original acceptance submission of the DCO to the applicant's preferred draft DCO; and
- 2.5 PDF versions of items 2.3 and 2.4 above.

Yours faithfully

*Elizabeth Hill*

Elizabeth Hill  
**Examining Authority**

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the National Infrastructure Planning website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.