

# White Rose Carbon Capture and Storage (CCS) Project

Document Ref: 2.2 - Rev 3  
PINS Ref: EN10048

## The White Rose CCS (Generating Station) Order

### Drax Power Station, Selby, North Yorkshire

## Explanatory Memorandum

The Planning Act 2008

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 - Regulation 5(2)(c)



**Applicant: Capture Power Limited**  
**Date: June 2015**

---

## Document History

<b>Document Number</b>	2.2		
<b>Revision</b>	3 – Examination Update 1 (Deadline 2)		
<b>Author</b>	Pinsent Masons LLP		
<b>Signed</b>	Nick McDonald	<b>Date</b>	10.06.15
<b>Approved By</b>	JR		
<b>Signed</b>	JR	<b>Date</b>	10.06.15
<b>Document Owner</b>	Pinsent Masons LLP		

<b>Revision History</b>			
<b>Revision No.</b>	<b>Date</b>	<b>Reason for Revision</b>	<b>Authorised By</b>
1	14.11.14	Version for Submission	NM
2	08.04.15	Updates to Application	NM
3	10.06.15	Examination Update 1 – Deadline 2	NM

<b>Glossary of Abbreviations and Definitions</b>	
2008 Act	The Planning Act 2008 which is the legislation in relation to applications for NSIPs, including pre-application consultation and publicity, the examination of applications and decision making by the Secretary of State.
APFP Regulations	The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. Sets out detailed procedures that must be followed for submitting and publicising applications for Nationally Significant Infrastructure Projects.
Applicant	Capture Power Limited or CPL.
Application	The Application for a Development Consent Order made to the Secretary of State under Section 37 of the Planning Act 2008 in respect of the Project, required pursuant to Section 31 of the Planning Act 2008 because the Project is a Nationally Significant Infrastructure Project under Section 14(1)(a) and Section 15 of the Planning Act 2008 by virtue of being an onshore generating station in England or Wales of 50 Megawatts electrical capacity of more.
Application Site	The land corresponding to the Order Limits that is required for the construction and / or operation of the Project.
Associated Development	Defined under S.115(2) of The Planning Act 2008 as development which is associated with the principal development and that has a direct relationship with it. Associated development should either support the construction or operation of the principal development, or help address its impacts. It should not be an aim in itself but should be subordinate to the principal development.
Book of Reference	A reference document providing details of all land ownership interests within the Order Limits and linked to the Land Plan.
Capture Power Limited / CPL	The Applicant. A joint venture comprised of Drax CCS Limited, ALSTOM UK Holdings Limited and The BOC Group Limited.
CCS	Carbon capture and storage
Other Consents Required	A document setting out the other consents and licences that are required for the construction and operation of the Project that are not being included within the Order.
DCLG	Department of Communities and Local Government
DCO	A Development Consent Order made by the relevant Secretary of State pursuant to the Planning Act 2008 to authorise a NSIP. A DCO does or can incorporate or remove the need for a range of consents which would otherwise be required for a development. A DCO can also include powers of compulsory acquisition.
DECC	Department for Energy and Climate Change.
EIA	Environmental Impact Assessment. The assessment of the likely significant environmental effects of a development undertaken in accordance with the EIA Regulations.
EIA Regulations	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 setting out how the EIA of Nationally Significant Infrastructure Projects must be carried out and the procedures that must be followed.
ES	The Environmental Statement documenting the findings of the EIA.
existing Power Station site	All of the land comprised within the existing Drax Power Station site.
Explanatory Memorandum	This document – it explains the intended purpose and effect of a DCO and the authorisations and powers that it seeks.
ha	Hectares. A metric measurement of area.
Land Plan	A plan showing all of the land that is required for the Project and / or over which rights are to be sought as part of the DCO.
Limits of deviation	The lateral limits shown on the Works Plan(s) and the vertical limits (upwards and downwards) determined by reference to the section plan(s) submitted as part of the Application and within which the Project may occur.
MWe	Megawatts electrical. A measurement of power.
NSIP	A Nationally Significant Infrastructure Project that must be authorised by the making of a DCO under 2008 Act.

NYCC	North Yorkshire County Council.
Order	The White Rose (CCS Generating Station) Order, being the DCO that would be made by the Secretary of State authorising the Project, a draft of which has been submitted as part of the Application.
Order Limits	The limits of the land to which the Application for the DCO relates and shown on the Land Plan and Works Plans within which the Project must be carried out and which is required for its construction and operation.
PINS	The Planning Inspectorate. A Government agency responsible for receiving and administering the acceptance and examination of applications for NSIPs on behalf of the Secretary of State.
Project	The development to which the Application relates and which requires a DCO, and as listed at Schedule 1 to the Order.
Requirements	The 'requirements' at Schedule 2 to the draft Order that, amongst other matters, are intended to control the final details of the Project as to be constructed and also to control its operation, amongst other matters to ensure that it accords with the EIA and does not result in unacceptable impacts.
Selby DC	Selby District Council.
SoS	The Secretary of State. The decision maker for DCO applications and head of Government department. In this case the SoS for the Department of Energy and Climate Change.
Statement of Reasons	A statement setting out the reasons and justification for the compulsory acquisition of land or rights in land within the Order Limits.
Works Plan	Plans showing the numbered works referred to at Schedule 1 to the Order and submitted with the Application.

---

## CONTENTS

1.0	SUMMARY.....	1
2.0	INTRODUCTION.....	3
3.0	PURPOSE OF THE ORDER .....	4
4.0	PROVISIONS OF THE ORDER .....	5

## 1.0 SUMMARY

- 1.1 This Explanatory Memorandum has been prepared in support of Capture Power Limited's ('the Applicant's') application ('the Application') for a Development Consent Order ('a DCO') that has been made to the Planning Inspectorate ('PINS') under Section 37 of The Planning Act 2008 (the 2008 Act).
- 1.2 A DCO is required as the Project falls within the 2008 Act definition of a 'Nationally Significant Infrastructure Project' ('a NSIP'). Before a NSIP can be constructed an application must be submitted to PINS for examination, and ultimately, approval by the relevant Secretary of State ('the SoS').
- 1.3 The Application seeks a DCO for the construction, operation and maintenance of a new up to 448 Megawatt electrical ('MWe') gross, ultra supercritical coal-fired power plant, with the ability to co-fire biomass, that will be fitted with CCS technology, and associated development ('the Project'). The Project will include a connection to the National Grid Carbon Limited ('NGCL') CO<sub>2</sub> pipeline for the onward transport of CO<sub>2</sub> for permanent storage beneath the North Sea. That pipeline and the storage of the CO<sub>2</sub> are not part of the Project, and are being separately promoted by NGCL.
- 1.4 This Explanatory Memorandum is prepared to explain the purpose and effect of each article of, and the Schedules to, the draft White Rose CCS (Generating Station) Order ('the Order'), as required by Regulation 5(2)(c) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (SI 2264).
- 1.5 The Order is based on the model provisions (see paragraph 2.6 below for further information on these), and on DCOs that have been made in relation to other projects, and where necessary departs from the model provisions / other DCOs. Where there is a significant departure from the model provisions, an explanation of this is provided in Section 4 below.
- 1.6 The Order includes a number of provisions to enable the construction, maintenance and operation of the Project:
- Part 1: Article 1 sets out what the Order may be cited as and when it comes into force and article 2 sets out definitions of various terms used in the Order;
  - Part 2: Articles 3 to 5 provide development consent for the Project, and allow it to be constructed, maintained and operated. Articles 6 and 7 set out who has the benefit of the powers of the Order (Capture Power Limited), and how those powers can be transferred. Article 8 provides a defence to proceedings in statutory nuisance;
  - Part 3: Articles 9 to 14 provide for the undertaker to be able to carry out works to and within streets, to create/improve accesses, to temporarily stop up streets and to be able to divert and stop up public rights of way;
  - Part 4: Articles 15 to 18 set out four supplemental powers relating to discharge of water, protective work to buildings, authority to survey land and removal of human remains;
  - Part 5: Articles 19 to 33 provide for the undertaker to be able to compulsorily acquire the Order land and rights over/within it, and to be able to temporarily use parts of the Order land for the construction or maintenance of the Project. The provisions provide for compensation to be payable to affected persons in respect of these powers, where that is not already secured elsewhere. These articles also provide for powers in relation to equipment of statutory undertakers;
  - Part 6: Article 34 provides powers in relation to trees which need to be removed or lopped in relation to the Project;
  - Part 7: Articles 35 to 42 include various general provisions in relation to the Order, such as application of statutes relating to leases, that the Order land will be 'operational land', procedures for approvals required under the Order, certification of documents relevant to the Order, arbitration in case of disagreements under the Order, notices served under the Order, protective provisions for statutory undertakers and provision in respect of Crown land.

- 
- Schedules: there are 12 schedules to the Order, providing for the description of the Project (Schedule 1), the requirements (a form of control) applying to it (Schedule 2), matters in relation to streets and rights of way (Schedules 3 to 7), land in which only rights may be acquired (Schedule 8), amendments to statutes to ensure appropriate compensation is payable where new rights over land are acquired under the Order (Schedule 9), land which may be used temporarily for the Project (Schedule 10), the procedure for discharging requirements (Schedule 11) and provisions protecting statutory undertakers and their apparatus (Schedule 12).

## 2.0 INTRODUCTION

### BACKGROUND TO WHITE ROSE CCS PROJECT

- 2.1 The White Rose CCS Project is one of two projects being supported by the UK Government's £1 billion CCS Commercialisation Programme, with around £100 million of that funding underpinning the consenting, engineering design and development for the projects. It is anticipated that, subject to the relevant consents being in place, final investment decisions will be taken on the projects around the end of 2015, with the Government then potentially investing the remainder of the £1 billion to support their construction.

### THE APPLICANT

- 2.2 The Applicant, Capture Power Limited ('CPL') is a joint venture that has been formed by Drax CCS Limited, ALSTOM UK Holdings Limited and The BOC Group Limited.

### THE PROJECT SITE

- 2.3 The Project site (also known as the 'Order Limits' in the Order and this document) comprises of land at and adjacent to the boundary of the Drax Power Station site, Selby, North Yorkshire and is within the administrative areas of Selby District Council and North Yorkshire County Council.

### THE PROJECT

- 2.4 The Application seeks a DCO for the construction, operation and maintenance of a new thermal generating station (an ultra-supercritical, oxy-fuel, coal-fired power plant of up to 448 megawatts (MWe) gross with the ability to co-fire biomass), that will be fitted with CCS technology, and associated development ('the Project'). The Project will include a connection to the National Grid Carbon Limited ('NGCL') CO<sub>2</sub> pipeline for the onward transport of CO<sub>2</sub> for permanent storage beneath the North Sea. That pipeline and the storage of the CO<sub>2</sub> are not part of the Project, and are being separately promoted by NGCL.

### THE PURPOSE AND STRUCTURE OF THIS DOCUMENT

- 2.5 This Explanatory Memorandum explains the purpose and effect of each article of, and the Schedules to, the draft White Rose CCS (Generating Station) Order ('the Order'), as required by Regulation 5(2)(c) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (SI 2264).
- 2.6 It also seeks to identify and explain departures from the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009 ('the model provisions'). Whilst the power for the Secretary of State to designate, and the requirement to have regard to, model provisions have been removed by the Localism Act 2011, the Applicant considers it is still relevant to note and explain variations made in the Order compared to the model provisions.
- 2.7 The remainder of this document includes the following sections:
- Section 3 – Purpose of the Order
  - Section 4 – The provisions of the Order, including its articles and Schedules

### 3.0 PURPOSE OF THE ORDER

- 3.1 The Applicant is making the Application to the Secretary of State for a development consent order for the construction and operation of the White Rose CCS Generating Station in the District of Selby ('the Project', referred to in the Order as 'the authorised development').
- 3.2 The Order refers to the person authorised to exercise the powers in the Order as 'the undertaker', and defines the undertaker as Capture Power Limited.
- 3.3 As the Project is an onshore generating station with a capacity of over 50 MW, in England, it is a 'nationally significant infrastructure project' ('NSIP') under sections 14(1)(a) and 15 of the 2008 Act. The Applicant therefore requires development consent under the 2008 Act in order to construct and operate the Project. Development consent may only be granted by order, following an application to the Secretary of State (section 37 2008 Act).
- 3.4 In addition to providing for the construction and operation of the authorised development, the Order will, in accordance with section 122 and section 120(3) / Schedule 5 of the 2008 Act, authorise the acquisition of land and rights over land, and the extinguishment of, or interference with, interests in or rights over land. The Book of Reference (Document 3.1) sets out what land / rights are to be acquired and what other rights and interests will be affected. The Order and the Book of Reference should be read together with the Statement of Reasons (Document 3.2) which accompanies the Application and which sets out the justification for the acquisition or interference with the Order land. The plots of land listed in the Book of Reference are shown on the Land Plans (Document 4.2).
- 3.5 The matters for which development consent is sought are summarised below at paragraph 4.4, with the formal description provided in Schedule 1 to the Order.
- 3.6 Section 115(1) of the 2008 Act provides that development consent may be granted for "(a) development for which development consent is required, or (b) associated development". The Secretary of State must therefore be satisfied that all the elements included within the 'authorised development' are either part of the NSIP or are associated development, in order to include them under in the Order pursuant to section 115 2008 Act.
- 3.7 The generating station and related development within Work No. 1A constitute "development for which development consent is required" (as a NSIP, as set out above), and the Order also includes other development which is associated development (i.e. not an integral part of the NSIP itself).
- 3.8 As set out above, the whole of Work No. 1A is part of the NSIP, as are Work No. 1B (laydown and construction areas), and Work Nos. 2 to 5 (infrastructure connections for fuel, electricity, water etc). Work No. 6 (the jetty) is associated development, as it is directly linked to the Project, supports its construction (through the transportation of equipment or goods) and is subordinate to it. It is therefore associated development, considered pursuant to the 'core principles' set out in the Department for Communities and Local Government document 'Guidance on associated development applications for infrastructure projects' (April 2013, see paragraph 5 onwards). Annex A to the April 2013 Guidance provides examples of general types of associated development, and under the category of "Access arrangements", specifically mentions "Jetties, e.g. for unloading raw materials arriving from sea" (page 6).
- 3.9 The 'split' between elements of the Project which are part of the NSIP itself and those which are associated development is not set out within Schedule 1 to the Order itself, since this is not necessary.
- 3.10 A more detailed description of the various elements of the Project is provided in Chapter 5 of the Environmental Statement (Volume 1, Document 6.2).

## 4.0 PROVISIONS OF THE ORDER

4.1 The Order consists of 42 operative provisions, each referred to as articles, and 12 Schedules. The articles are considered below in numerical order (split between the 'Parts' of the Order), and Schedules are considered along with the corresponding article.

### PART 1 (PRELIMINARY) AND PART 2 (PRINCIPAL POWERS)

4.2 Articles 1 (*Citation and commencement*) and 2 (*Interpretation*) are preliminary provisions. Article 1 provides for the way in which the Order should be cited and when it takes effect.

4.3 Article 2 provides for the interpretation of the rest of the Order, including the Schedules. Article 2 makes alterations to the model provisions to accommodate the departures from the model provisions elsewhere in the Order, and to add required definitions, including:

- A definition of "approved plans" has been added, and these are then listed in Part 2 of Schedule 1 to the Order;
- Definitions of "Barlow Mound controls" and "Barlow planning permission" have been added as these terms are used in article 3 in relation to the controls imposed on Work No. 3 (see further on article 3 below);
- Definitions (which are inter-linked) of "commercial use", "completion of commissioning" and "generating station" have been added to make clear what is meant when these terms are used in the Order. In particular these terms are used in articles and requirements to provide triggers before which an approval must have been sought and obtained or by which an item of mitigation (such as a footpath) must have been provided;
- Definitions of documents submitted as part of the Application and which are referred to in the Order (such as the environmental statement, the design and access statement and various plans) have been added;
- A definition of "limits of deviation" has been added. These are the areas within which the Project can be constructed, see further below in relation to article 3;
- A definition of "maintain" has been added to make clear what is authorised under article 4 (see below), and in particular that it does not permit the undertaker to depart from the description of the authorised development in Schedule 1 nor to carry out maintenance operations which would cause different environmental effects to those identified in the Environmental Statement (Document 6.1 – 6.3);
- Definitions of "NGET" and "Northern Powergrid (Yorkshire) plc" have been added as each company is given the benefit of some of the powers under the Order (see article 6 below);
- A definition of "local footpath order" has been added as this provides for the extinguishment and creation of footpaths within the Order limits (see article 12 below);
- The "undertaker" is defined as Capture Power Limited, who has the benefit of the provisions of the Order, subject to the provisions of articles 6 and 7 (see below); and
- Sub-paragraphs (4) to (8) of article 2 have been added to provide clarity in relation to (respectively) that measured areas are approximate; references to work numbers or "Work No."; references to points on plans; how the word "includes" should be construed; and that "plot" refers to the numbered plots on the land plans.

4.4 Article 3 (*Development consent etc granted by the Order*) grants development consent for the Project (the "authorised development" in the Order). Schedule 1 describes the authorised development in detail, split into 'work numbers', each of which represents different sections or parts of the Project. This split of the Project between different work numbers enables the Order to refer to different parts of the Project by citing the relevant work number. The split also enables the Order and Works Plans (Document 4.3) to delineate the area within which each 'work' can be constructed, maintained and operated (see article 3(2)). The areas within which each work can be constructed are therefore shown on the Works Plans. The works set out in Schedule 1 to the Order are:

- Work number 1A – the generating station and associated buildings and infrastructure, including the air separation units, and CO<sub>2</sub> processing and compression;
- Work number 1B – laydown and construction areas;
- Work number 2 – infrastructure corridor for fuel, ash and other materials;
- Work number 3 – fuel ash storage area;
- Work number 4 – electricity connection to 400kV substation located to the south of the main Project power station site, between the existing Power Station and New Road;
- Work number 5 – cooling and potable water and sewerage connections and associated development;
- Work number 6 – works to provide hard-standing on the land areas adjacent to the existing jetty on the River Ouse;
- Work number 7 – underground diversion of an 11kV overhead electrical cable; and
- Work number 8 – works to the 400kV substation to connect work number 4 to the National Transmission System.

- 4.5 Article 3(1) also requires the Project to be constructed in accordance with the approved drawings, as defined and makes the authorised development subject to the requirements (in Schedule 2). The latter is subject to the exception of Work No. 3, which is the ash storage area known as Barlow Mound. Planning permission already exists for the storage of ash from Drax Power Station within the area of Work No. 3, and that planning permission includes a number of conditions controlling that development. Article 3 applies those controls to ash produced by the Project and that they should be enforceable by pursuant to the provisions of the Town and Country Planning Act 1990 (paragraph (4)). This ensures North Yorkshire County Council (NYCC) is the planning authority in respect of Work No. 3. Paragraph (5) ensures that the Barlow planning permission does not restrict the storage of ash to only that produced by the existing Drax Power Station, so also permitting that from the Project to be stored.
- 4.6 Article 4 (*Maintenance of authorised development*) provides for the maintenance of the Project. Article 4 reflects the terms of the model provisions, but text has been added to make clear that maintenance must be in accordance with the provisions of the Order and the requirements (see below), and that it may only take place within the Order limits.
- 4.7 Article 5 (*Operation of authorised development*) is not a model provision, and is included in order to permit the operation and use of the generating station. It is included under section 140 2008 Act.
- 4.8 Article 6(1) (*Benefit of Order*) overrides Section 156(1) of the 2008 Act (which is permitted by Section 156(2)) and provides that the benefit of the Order is for the undertaker, rather than anyone with an interest in the land. Given the nature of the authorised development and the fact that powers of compulsory acquisition are sought it would be impracticable and inappropriate for the Order to be 'open' as to who may implement it, as might occur without this provision. The undertaker is defined in article 2 as Capture Power Limited, as promoter of the Project, and anyone to whom the benefit of the Order is transferred under articles 6 or 7. Overriding section 156(1) is common in DCOs that have been made, including the Hinkley Point C (Nuclear Generating Station) Order 2013 and North Killingholme (Generating Station) Order 2013.
- 4.9 Articles 6(2) and 7 (*Consent to transfer benefit of Order*) provide for exceptions to article 6(1). Article 6(2) provides that article 6(1) does not apply to Work numbers 7 and 8 in relation to which the benefit of the Order is also for Northern Powergrid (Yorkshire) plc and National Grid Electricity Transmission plc (NGET) respectively. This is because Northern Powergrid (Yorkshire) plc and NGET may be best placed to carry out all or part of those works respectively. The A556 (Knutsford to Bowdon Improvement) Development Consent Order 2014 included a paragraph which provides that the restriction on the benefit of the order being for the undertaker does not apply where that order is granted specifically for the benefit of statutory undertakers (amongst others), which is the same principle.

- 4.10 Following on from the restriction in article 6(1), article 7 makes provision for the transfer of the benefit of the Order. The consent of the Secretary of State is needed before the undertaker can transfer or lease except where: (i) the transferee or lessee is a statutory undertaker; or (ii) where the compensation provisions for the acquisition of rights or interests in land or for effects on land have been discharged or are no longer relevant. The justification for these provisions is that in such cases, the transferee or lessee will either be of a similar regulatory standing to Capture Power Limited so as to protect the provision for compensation for rights or interests in land that are compulsorily acquired pursuant to the Order, or there are no outstanding actual or potential compulsory purchase claims.
- 4.11 Article 8 (*Defence to proceedings in respect of statutory nuisance*) provides that no one shall be able to bring statutory nuisance proceedings under the Environmental Protection Act 1990 in respect of noise, if the noise is created in the course of carrying out construction or maintenance of the authorised development and for which notice has been given under section 60 or consent obtained under section 61 or 65 of the Control of Pollution Act 1974 or which cannot be reasonably avoided as a consequence of the authorised development. Article 8 is a model provision.

### PART 3 (STREETS)

- 4.12 Articles 9 (*Street works*) and 10 (*Power to alter layout, etc., of streets*) allow the undertaker to alter the layout of a street in order to construct the new accesses authorised under article 13 or to carry out street works in accordance with the statutory rights under the New Roads and Street Works Act 1991. Schedule 3 sets out the streets that are subject to street works. Schedule 4 sets out the alterations to streets to allow for the creation of new accesses. For clarity, article 10 has been included to provide for the right to alter the street to facilitate the construction of such accesses. Article 9 is a model provision intended to permit the carrying out of street works for the purposes of the authorised development.
- 4.13 Article 11 (*Construction and maintenance of new or altered streets*) provides that new or altered streets are to be constructed to a particular standard and maintained at the expense of the undertaker for a year. Any part of the new or altered streets which are proposed to be public highway (as set out on the Access and Rights of Way Plan, document 4.4) will then be maintained by the highways authority. Those parts of the new or altered streets which are not intended to be public highway (such as private roads or accesses which the undertaker is altering or creating and as also set out in the Access and Rights of Way Plan) will then be maintained by the street authority. Paragraphs (4) and (5) mirror the defence in section 58 of the Highways Act 1980 where the undertaker is subject to an action for damages and has taken such care as was reasonably required in the circumstances to secure that the street was not dangerous to traffic. This article (and the incorporation of the defences in particular) is similar to article 19 in the Hinkley Point C (Nuclear Generating Station) Order 2013.
- 4.14 Article 12 (*Temporary stopping up of streets and public rights of way*) is similar to the model provision and provides for the temporary stopping up of streets and public rights of way for the purposes of carrying out the authorised development. As per the model provision the article applies generally, and also applies specifically to certain streets and public rights of way (set out in Schedules 6 and 7 to the Order). There are consultation requirements before this power can be exercised and compensation is provided for in respect of the loss or suspension of any private rights of way. Article 12(6) confers a power on the undertaker, where the use of a street has been temporarily stopped up under the power in article 12, to use such a street as a temporary working site.
- 4.15 Under the local diversion order (defined in the Order), footpaths which are currently within the Order limits are to be stopped up on provision of the new footpaths specified in the local diversion order. The Order does not therefore provide for the same permanent extinguishment and creation of footpaths (which would be unnecessary), but the article permits the undertaker to temporarily close the footpaths listed in Schedule 7 during construction or maintenance of the authorised development, which may be necessary for health and safety reasons. As this may be necessary for periods either before or after the local diversion order has had effect, both the footpaths to be stopped up and the footpaths to be created are listed in Schedule 7. Requirement 7 (see Schedule 2 below) is also relevant to this article, requiring submission and approval of a management plan in relation to affected public rights of way.

- 4.16 Article 13 (*Access to works*) is a model provision which permits the undertaker to form new or to improve existing means of access in the locations specified in Parts 1 and 2 of Schedule 4. For clarity, temporary and permanent means of access are dealt with separately. Other means of access or works can also be provided in other locations reasonably required for the authorised development with the approval of the relevant planning authority, in consultation with the highway authority.
- 4.17 Article 14 (*Agreements with street authorities*) is a model provision which authorises street authorities and the undertaker to enter into agreements relating to the construction of a street or the carrying out of works in the street, and the alteration and diversion of the street. In addition to the model provisions, it provides for such agreements to deal with the strengthening, improvement or repair of any streets. Such a provision was included in the National Grid (King's Lynn B Power Station Connection) Order 2013.

#### PART 4 (SUPPLEMENTAL POWERS)

- 4.18 Article 15 (*Discharge of water*) is a model provision which enables the undertaker to discharge water into any watercourse, public sewer or drain in connection with the construction and maintenance of the authorised development with the approval of the owner of the watercourse, public sewer or drain (such approval not to be unreasonably withheld) and subject to certain other conditions. The reference from the model provisions to section 85 of the Water Resources Act 1991 has been deleted as this section has now been repealed and has been replaced with a reference to the Environmental Permitting (England and Wales) Regulations 2010.
- 4.19 Article 16 (*Protective work to buildings*) is a model provision which allows the undertaker to carry out protective works to buildings within the Order limits, subject to a number of conditions including the service of 14 days' notice (except in the case of emergency) and the payment of compensation. The model provision has been updated to refer to the period following commissioning of the generating station, as the phrase in the model provision (when it is 'open for use'), is not appropriate.
- 4.20 Article 17 (*Authority to survey and investigate the land*) is a model provision which allows the undertaker to survey and investigate land including bringing equipment onto the land and making trial holes. The power is subject to a number of conditions including a requirement for 14 days' notice to be given and is subject to the payment of compensation.
- 4.21 Article 18 (*Removal of human remains*) is a model provision which provides for the removal of human remains from the Order land and for their reburial in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose, or for their treatment according to the wishes of any personal representatives or relatives who come forward following the giving of the necessary notices.

#### PART 5 (POWERS OF ACQUISITION)

- 4.22 Article 19 (*Compulsory acquisition of land*) provides for the compulsory acquisition of such land as is required for the authorised development (or to facilitate the authorised development or is incidental to the authorised development). Article 20 makes consequential provision for the extinguishment of rights in the land in order to ensure that they cannot impact on implementation or use of the authorised development. The article broadly follows the model provision, although reference to compensation for the extinguishment or suspension of a private right of way has been deleted as this is dealt with in article 23 (*private rights*). This latter point follows other development consent orders as made such as the North Killingholme (Generating Station) Order 2014.
- 4.23 Article 20 (*Statutory authority to override easements and other rights*) provides, for the avoidance of doubt, that by virtue of section 158 of the 2008 Act, in carrying out or using the development authorised by the Order and doing anything else authorised by the Order, the undertaker may interfere with any easement, liberty, privilege, right or advantage annexed to land and affecting other land, including any natural right to support, or breach any restriction as to use of land arising by virtue of contract. It also provides that by virtue of section 152 of the 2008 Act, compensation may be payable under section 10 of the Compulsory Purchase Act 1965 for any such interference or breach. This is not a model provision, but is added to clarify the position with regard to rights burdening land required for the authorised project. It has precedent, for example, in the Rookery South (Resource

- Recovery Facility) Order 2011. The reference to restrictions as to use of land arising in contracts was included in the Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014.
- 4.24 Article 21 (*Time limit for exercise of authority to acquire land compulsorily*) is a model provision which imposes a time limit of 5 years for the exercise of powers of compulsory acquisition.
- 4.25 Article 22 (*Compulsory acquisition of rights etc*) entitles the undertaker to acquire rights over land which may be compulsorily acquired, including rights already in existence, or to create new rights. The ability to acquire new rights ensures that the undertaker is able to seek a lesser interference with land where this is appropriate (whether in the context of new or existing rights) as the authorised development is implemented. Such an approach was included in The M1 Junction 10a (Grade Separation) Development Consent Order 2013 and The A556 (Knutsford to Bowdon Improvement) Development Consent Order 2014.
- 4.26 The article introduces Schedule 8, which ensures that in respect of land listed there, the undertaker may only acquire the rights in land listed (not the land itself). The land listed in Schedule 8 corresponds with the land shown coloured blue on the Land Plans (Document Ref. 4.2).
- 4.27 The article also introduces Schedule 9, which amends existing compensation legislation, to ensure that it applies logically to the powers granted to the undertaker under the Order. Such a provision is common in similar orders, including the Hinkley Point C (Nuclear Generating Station) Order 2013.
- 4.28 The article also provides for the transfer of the power to acquire new rights to a statutory undertaker with the consent of the Secretary of State. This is to allow for the creation of easements in favour of statutory undertakers in respect of their apparatus which would not otherwise be possible as the undertaker does not own the dominant tenement.
- 4.29 Article 23 (*Private rights*) is based on a model provision and has the effect of extinguishing private rights over land where: (1) land is subject to compulsory acquisition; (2) where the private right is inconsistent with a right being compulsorily acquired; and (3) land is owned by the undertaker or Drax Power Limited. Drax Power Limited is part of the Drax Group, which also includes Drax CCS Limited, one of the three shareholders of Capture Power Limited (the undertaker in the Order). Drax Power Limited is the freehold owner of much of the Order land, and it is appropriate to include it in article 23(3) to ensure that private rights over land owned by Drax Power Limited and leased or provided to the undertaker do not impede the Project. The article also suspends private rights for as long as the undertaker is in temporary possession of land under the Order. The article departs from the model provision in that it relates to all rights over land, not just rights of way, to ensure that any other rights that may exist cannot prevent the implementation of the Project. The article follows the approach in the Rookery South (Resource Recovery Facility) Order 2011 and the M1 Junction 10a (Grade Separation) Development Consent Order 2013).
- 4.30 Article 24 (*Application of the Compulsory Purchase (Vesting Declarations) Act 1981*) is a model provision that applies the vesting procedures in the Compulsory Purchase (Vesting Declarations) Act 1981 to the exercise of powers of compulsory acquisition pursuant to the Order and is a model provision. It gives the undertaker the option to acquire land via the process set out under the 1981 Act, rather than the notice to treat procedure.
- 4.31 Article 25 (*Acquisition of subsoil only*) permits the undertaker to acquire only the subsoil of land which is to be compulsorily acquired, and gives the undertaker the ability to minimise the extent of interests acquired from owners. This article is appropriate in the context of cables or pipes to be laid underground as part of the authorised development, where acquisition of the 'entire' freehold may not be required. This is a model provision.
- 4.32 Article 26 (*Acquisition of part of certain properties*) relates to situations where the undertaker is seeking to acquire part, rather than the whole, of a property compulsorily under the Order. It provides for a procedure whereby the owner whose land is being acquired in part may, subject to conditions, require the whole of his property to be taken (such as where taking part of a property would be materially detrimental to the remainder). Express provision is made for the resolution of disputes in the Upper Tribunal (Lands Chamber). This is a model provision.
- 4.33 Article 27 (*Compulsory acquisition of land – incorporation of the mineral code*) is a model provision, and incorporates both Parts 2 and 3 of Schedule 2 to the Acquisition of Land Act 1981. Between

them, these parts mean that minerals in the Order land are not subject to the compulsory acquisition powers, and that if a minerals owner wishes to work them then a procedure for allowing that or payment of compensation is provided for.

- 4.34 Article 28 (*Rights under or over streets*) is a model provision which allows the undertaker to enter on and appropriate interests within streets where required for the purposes of the authorised development without being required to acquire that land. Provision is made for the payment of compensation in certain circumstances, and paragraphs have been added providing for notification to owners or occupiers prior to the rights being exercised and when they are no longer required, and specifying when the rights come to an end. These latter paragraphs reflect the provisions included in the Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014.
- 4.35 Article 29 (*Temporary use of land for carrying out the authorised development*) allows the land specified in Schedule 10 to be temporarily used for the carrying out of the authorised development. There is a limit on the length of time that the undertaker can use land in this way, which in the case of land that may only be used temporarily (shown coloured yellow on the Land Plans (Document Ref. 4.2)) is three years from the date of first commercial operation (as defined). This extended period (compared to the model provision) is appropriate for the Project because, as a CCS demonstration project, it may require temporary construction / laydown areas for a longer period than would normally be expected for a generating station, including beyond the point at which the plant is first sending carbon dioxide for permanent storage.
- 4.36 The article also requires the undertaker to give 14 days' notice and to restore the land following the temporary works.
- 4.37 A similar provision is made in article 30 (*Temporary use of land for maintaining the authorised development*) for the temporary use of land for maintenance of the authorised development. There are again limits on the length of time that the undertaker can use land in this way, provisions requiring the giving of 28 days' notice and restoration of the land following the temporary possession.
- 4.38 Both these articles provide for the payment of compensation for that temporary use of the land. They are both model provisions, but article 30 has been amended to allow the undertaker to temporarily access land for the carrying out of the Project in the situation where it has not yet taken permanent acquisition – this enables a more flexible approach to project implementation if required, and may enable the undertaker to allow an owner/occupier to continue their ownership/occupation for a longer period. This alteration to the model provision was included in the A556 (Knutsford to Bowdon Improvement) Development Consent Order 2014.
- 4.39 Article 31 (*Statutory undertakers*) provides for the acquisition of land belonging to statutory undertakers that is identified in the Book of Reference (document 3.1). This includes a power to move the apparatus of those statutory undertakers and to extinguish their rights. The model provision has been amended so as to allow for the suspension of rights of a statutory undertaker (for example where land is being temporarily used under the terms of the Order) rather than just extinguishment. This article is subject to the protective provisions (see article 40 below).
- 4.40 Article 32 (*Apparatus and rights of statutory undertakers in stopped up streets*) makes provision in respect of the apparatus and rights of statutory undertakers in streets which are temporarily altered or diverted or where use is temporarily stopped up under articles 11 or 12, including provision as to the relocation of apparatus. It is a model provision amended to reflect the Order which does not authorise any permanent stopping-up of streets.
- 4.41 Article 33 (*Recovery of costs of new connections*) provides that persons who have to create a new connection following the exercise of powers under article 32 may recover the costs of new connections from the undertaker. It is a model provision, with the model provision that referred to the permanent stopping up of streets deleted as this is not relevant in the context of the authorised development.

## PART 6 (OPERATIONS)

- 4.42 Article 34 (*Felling or lopping of trees*) provides that the undertaker may fell or lop or cut back the roots of any tree or shrub to prevent it obstructing or interfering with the construction, maintenance or operation of the authorised development. Compensation is provided for if loss or damage is caused.

It is a model provision, but has been updated to require the undertaker to give notice of any intended entry to third party land, other than in an emergency and to require the consent of the highway authority in respect of works to trees within the public highway.

## PART 7 (MISCELLANEOUS AND GENERAL)

- 4.43 Article 35 (*Application of landlord and tenant law*) is a model provision which would override landlord and tenant law so far as it would prejudice the operation of any agreement for leasing the whole of the authorised development or the right to operate the same or any agreement entered into by the undertaker for the construction, maintenance, use or operation of the authorised development.
- 4.44 Article 36 (*Operational land for purposes of the 1990 Act*) is a model provision which has the effect of ensuring that the land on which the authorised development is constructed will be "operational land" under the Town and Country Planning Act 1990 by the effect of section 263 of that Act.
- 4.45 Article 37 (*Certification of plans etc*) is a model provision which provides for the submission of the various documents (such as the book of reference, plans and environmental statement) referred to in the Order to the Secretary of State so that they can be certified as being true copies.
- 4.46 Article 38 (*Arbitration*) is a general arbitration provision which provides that differences under the Order should be settled by arbitration unless another means of resolving a dispute is provided for in the Order. It is a model provision.
- 4.47 Article 39 (*Procedure in relation to certain approvals etc*) provides a procedure in relation to consents and approvals required pursuant to the Order. It applies to all such consents or approvals, such as those that may be sought from a street authority (such as pursuant to articles 10(4) or 12(4)(b)), approval by the relevant planning authority to form other access points (article 13(c)) or approval of the owner of a drain to discharge water (article 15(3)). Article 39 does not apply to approvals pursuant to the requirements in Schedule 2, for which article 39(3) introduces Schedule 11 which contains a separate, detailed procedure.
- 4.48 Article 40 (*Protective provisions*) provides for Schedule 12, which protects the interests of certain statutory undertakers, to have effect.
- 4.49 Article 41 (*Service of notices*) deals with the service of notices pursuant to the Order. These provisions are based on those appearing in the Transport and Works (Model Provisions for Railways and Tramways) Order 2006.
- 4.50 Article 42 (*Crown rights*) reflects the terms of section 135 of the 2008 Act and provides that the Order does not prejudicially affect any estate (etc) of the Crown nor permit the use or interference (etc) with Crown land, and specifically that consent of the Crown authority is required to compulsorily acquire any non-Crown interest in Crown land.

## SCHEDULES 2 - 11

- 4.51 *Schedule 2 (Requirements)* sets out the requirements which apply to the carrying out of and operation of the authorised development under the Order. They broadly follow those set out in the model provisions, where relevant, and where they have been amended this has been done following discussions with the relevant planning authority and/or other statutory consultees. The requirements closely relate to the mitigation set out in the Environmental Statement (documents 6.1 - 6.4) and a number of them specifically to refer to the Environmental Statement and/or the Environmental Statement Mitigation Annex (document 6.5) in order to ensure that the mitigation or other measures outlined in those documents are secured.
- 4.52 The requirements operate by reference to different stages in the lifetime of the authorised development (or parts of it). In effect, the undertaker may not proceed to these stages until it has met its obligations under the relevant requirements. The stages, which are effectively defined through the terms in article 2 (see above) and the definitions at the end of Schedule 2, are as follows:
- *the commencement* of the authorised development or a part of it: the first works to implement the authorised development;

- *the commissioning* of the authorised development or a part of its: the process of testing all systems and components of the authorised development (including systems and components not yet but nearly installed), in order to verify that they function in accordance with the undertaker's design objectives, specifications and operational requirements;
- *the completion of commissioning* of the authorised development: the point at which carbon dioxide is transported from the Project for permanent storage;
- *permitted preliminary works* are those which, where this term is specified in requirements as being allowed prior to 'commencement', can take place before the requirement needs to be discharged or complied with (as relevant);
- *site raising*: the earthworks to raise the level of parts of the Project site (within the areas of Work No. 1A and 1B) for flood protection purposes, and related works.

4.53 Certain of the requirements are drafted with a view to distinguishing between the different specific Works Numbers, or more generally different parts of the authorised development. This staged approach follows that agreed by the planning authority in relation to the proposed Knottingley Power Plant Order, and permits an appropriately flexible approach to the discharge of requirements by the undertaker which allows it to (potentially) discharge a requirement in respect of a part of the Project and construct that element, whilst continuing to submit details to discharge the requirement in relation to other parts. This provides an appropriate balance between development not starting until details are approved, and allowing other parts of the Project (where details are already approved) to be constructed.

4.54 Some of the requirements have been drafted so as to permit the carrying out of the site raising works (as defined) prior to the requirement needing to be discharged. This has been included so that the undertaker can start the significant earthworks quickly, thereby ensuring that the nationally important demonstration project is built as quickly as possible, and can at the same time discharge those requirements so that the approvals are in place when the undertaker is ready to move on to carrying out other parts of the Project. The undertaker has avoided this approach where the lack of requirement discharge or approval prior to the site raising works could cause unacceptable environmental impacts.

4.55 Many of the requirements provide for a document (such as details, a method statement, a plan, a programme or scheme) specifying how the undertaker will construct, operate or maintain the authorised development to be submitted for approval to the Planning Authority, Selby District Council. The model provisions have been adapted throughout to provide that it is for the Planning Authority to approve the relevant document (rather than, as in the model provisions, the Infrastructure Planning Commission).

4.56 A further departure from the model provisions is in relation to the duty to consult with a third party about a document submitted to the Planning Authority for approval. Where consultation is required under the draft Order it is, in each case, the Planning Authority's duty to carry it out before approving a document submitted to it (rather than, as in some of the model provisions, the undertaker's duty to carry it out before submitting the document for approval). Where it is considered that it would be particularly relevant for the Planning Authority to consult a third party, that third party has been named within the relevant requirement. For example this has been done in response to comments received from North Yorkshire County Council that it be consulted in respect of the discharge of certain requirements, for instance those relating to highways and transportation matters, given that it is highway authority for the area and the Environment Agency in relation to requirements which relate to areas which are part of its statutory functions (such as flooding). The general approach has been used in other DCOs as made, including the Hinkley Point C (Nuclear Generating Station) Order 2013.

- *Requirement 1: Commencement of the authorised development* – This requirement is based upon the model provisions and requires the Undertaker to commence the authorised development no later than within 5 years of the date of the Order coming into force and also to give the planning authority 14 days notice of its intention to commence the authorised development.

- *Requirement 2: Notice of start of commissioning* – This is not a model provision. It requires the Undertaker to give the planning authority notice of its intention to start commissioning.
- *Requirement 3: Notice of completion of commissioning* – This is not a model provision. It requires the Undertaker to give the planning authority notice of the intended completion of commissioning of the generating station.
- *Requirement 4: Detailed design* – This is based on a model provision. It requires the specific design details (which must be accordance with the design and scale parameters set out in the Design and Access Statement (Document Ref. 5.5)) of each of the Works Numbers, or parts of them (other than Work No. 3 for the reasons set out above), to be submitted to and approved by the planning authority before commencement, and for the authorised development to be constructed in accordance with those approved details.
- *Requirement 5: Provision of landscaping* – This is based upon the model provisions and requires that the authorised development (other than site raising) may not be commenced until a detailed landscaping scheme for that part has been submitted to and approved by the planning authority in accordance with the Indicative Landscaping Plan.
- *Requirement 6: Implementation and maintenance of landscaping* – This is a modified model provision. It requires the approved landscaping scheme to be implemented; the replacement of any tree or shrub that is removed, dies or becomes seriously damaged or diseased within a specified period; and the implementation of an annual landscaping maintenance plan during the operation and decommissioning of the authorised development.
- *Requirement 7: Public rights of way diversions* – This is based on a model provision. It requires that before any part of the authorised development is commenced, a written public rights of way management plan for any public rights of way that are to be either temporarily or permanently closed or diverted for that part must be submitted to and approved by the relevant planning authority.
- *Requirement 8: External lighting - construction* – This is based upon a model provision and requires the Undertaker to submit details of all external lighting to be installed during construction to the planning authority for approval before the relevant part of the authorised development may commence.
- *Requirement 9: External lighting – operation* – Again, this is based upon a model provision and relates to the submission of details for permanent external lighting to be installed during operation of the authorised development. The details must be submitted and approved prior to the generating station being brought into commercial use.
- *Requirement 10: Highway accesses* – This is a modified model provision. It provides that no part of the authorised development may commence until details of any new, or modified or temporary means of access to the public highway to be used by vehicular traffic or any alteration to an existing means of access to a public highway used by vehicular traffic for that part have been submitted to and approved by the planning authority. It also secures that the proposed access on to Pear Tree Avenue is used only for emergency purposes.
- The requirement identifies that consultation should take place with North Yorkshire County Council as highway authority for the area. The authorised development may not be brought into commercial use until the relevant permanent accesses to the public highway have been constructed or modified (as relevant).
- *Requirement 11: Means of enclosure* – This is based on a model provision. It requires that no part of the authorised development may commence until details of all temporary means of enclosure have for that part been submitted to and approved by the planning authority, including a programme for the removal of such temporary means of enclosure. It requires that the authorised development may not be brought into commercial use until the permanent means of enclosure have been approved and completed.
- *Requirement 12: Surface and foul water drainage* – This is based on a model provision. It provides that no part of the authorised development may commence until details of the

temporary surface and foul water drainage systems for that part, in accordance with the Construction Environmental Management Plan and the Environmental Statement, have been submitted to and approved by the planning authority. The permanent surface and foul water drainage systems must be approved prior to the start of construction of any part of them. The systems must be constructed in accordance with the approved details, which in the case of the permanent system must occur before commercial use of the authorised development.

- *Requirement 13: Flood risk mitigation* – This is not a model provision. It provides that no part of the authorised development may commence until a scheme for the mitigation of flood risk during construction and operation has, for that part, been submitted to and approved by the planning authority. The scheme must be in accordance with the principles set out in the Environmental Statement and the requirement makes clear that the planning authority should consult with the Environment Agency prior to approving the scheme. The approved scheme must be constructed before the authorised development is commissioned and maintained throughout its construction and operation. The requirement also secures the approval and implementation of a flood emergency response and contingency plan.
- *Requirement 14: Contaminated land and groundwater* – This is a modified model provision. It provides that no parts of the authorised development may commence until a scheme to deal with the contamination of land has, for that part, been submitted to and approved by the planning authority. It requires that the submitted scheme must be in accordance with the principles set out in the Environmental Statement and also the Construction and Environmental Management Plan. It requires the planning authority to consult with the Environment Agency on the submitted scheme.
- *Requirement 15: Archaeology* – This is a modified model provision. It provides that no part of the authorised development may commence until a Scheme of Archaeological Investigation for that part has been submitted to and approved by the planning authority after consultation with the relevant archaeological body. The scheme submitted and approved must be in accordance with the principles set out in the Environmental Statement. Furthermore, any archaeological investigations must be carried out in accordance with the approved scheme and by a suitably qualified person or organisation approved by the planning authority.
- *Requirement 16: Biodiversity mitigation and management plan* – Again, this is a modified model provision. It requires a Biodiversity Mitigation and Management Plan to be submitted to and approved by the planning authority prior to commencement (other than site raising). The Biodiversity Mitigation and Management Plan must be in accordance with the Environmental Statement, relevant landscaping schemes, and must also be subject to consultation with Natural England and the Yorkshire Wildlife Trust by the planning authority prior to its approval.
- *Requirement 17: European protected species* – This is a modified model provision. It requires that no part of the authorised development may commence until further survey work for that part has been carried out to establish the presence of any European protected species (defined in paragraph 35 by reference to the Conservation of Habitats and Species Regulations 2010). Should the survey work identify European protected species, no authorised development to that part may be begun until, after consultation with Natural England, a scheme of protection and mitigation measures has been submitted to and approved in writing by the planning authority.
- *Requirement 18: Construction and environmental management plan* – This is a modified version of the model provision on ‘Code of Construction Practice’. It requires a Construction and Environmental Management Plan, in accordance with the Environmental Statement for the relevant part of the authorised development, to be submitted to and approved by the planning authority before commencement of the authorised development for that part. All construction works must be in accordance with the approved Construction and Environmental Management Plan.
- *Requirement 19: Construction traffic routing and travel plan* – This is a modified model provision. It requires a Construction Traffic Routing and Management Plan to be submitted to and approved by the planning authority, following consultation with North Yorkshire County Council as highway authority, before commencement of the relevant part of the authorised

development. It also requires notices to be erected and maintained throughout the construction period at every entrance to and exit from the construction site, indicating the approved routes for traffic entering and leaving the site; measures to encourage the use of sustainable transport modes by construction personnel and details of parking for construction personnel within the construction site.

- *Requirement 20: Construction hours* – This is a modified model provision. It specifies the hours in the day within which all construction work associated with the authorised development must be carried out. The restrictions do not apply to work that does not exceed a specified noise limit, is approved in advance by the planning authority or is associated with an emergency. Neither do the restrictions prevent a 30 minute start-up and shut-down period at the beginning and the end of the day in relation to the specified construction hours.
- *Requirement 21: Accumulations and deposits* – This is a modified model provision. It requires a scheme for the management of accumulations and deposits, which may have noticeable effects from outside the Order limits to be submitted to and approved by the planning authority before the commencement of the relevant part of the authorised development in the case of construction and prior to commissioning in the case of operation. The approved construction scheme must be implemented before and maintained during the construction of that part of the authorised development and the approved operational scheme must be implemented before the authorised development is brought into commercial use.
- *Requirement 22: Restoration of land used temporarily for construction* – This is modified model provision. It prevents the authorised development being brought into commercial use until the scheme for the restoration of any land within the Order limits, which has been used temporarily for construction has been submitted to and approved by the relevant planning authority. Furthermore, it stipulates that the land must be restored within three years of the authorised development being brought into commercial use.
- *Requirement 23: Operational noise* – This is a heavily modified model provision which provides for the approval, implementation and monitoring of an operational noise scheme for the authorised development. It secures noise limits at relevant receptors during the day and night time, for operational noise to be monitored and reported to the planning authority, and for mitigation to be approved and implemented.
- *Requirement 24: Operational traffic routing and travel plan* – This is not a model provision. It requires an Operational Traffic Routing and Management Plan to be submitted to and approved prior to the commercial use of the authorised development. The requirement states that the planning authority should consult North Yorkshire County Council as highway authority prior to approving the plan. The plan must include detail of routes to be used for the transport of bulk materials to and from the authorised development and measures to encourage the use of sustainable transport modes by operational staff. The plan must be implemented as approved before the authorised development is brought into commercial use and maintained during the operation of the authorised development.
- *Requirement 25: Combined heat and power* - This is not a model provision. It is based, with drafting modifications, on requirement 34 of the North Blyth Biomass Power Station Order 2013 and requirement 39 of the draft Ferrybridge Multifuel 2 (FM2) Power Station Order 2014. It requires the planning authority to give notice, before first commercial use of the authorised development, that it is satisfied that the authorised development includes space and routes through the later provision of heat pass-puts for off-site users of process or space heating and its later connection to such systems. The Undertaker must maintain such space and routes for the lifetime of the authorised development and must submit a CHP review to the planning authority 12 months after first commercial use updating the combined heat and power assessment. The Undertaker must submit an updated CHP review to the planning authority every 5 years.
- *Requirement 26: Waste management on site – construction and operational wastes* – This is not a model provision. It requires that no part of the authorised development may commence until a Construction Site Waste Management Plan for that part has been submitted to and

approved by the planning authority. It also requires an Operational Site Waste Management Plan to be submitted to and approved by the planning authority prior to the authorised development being brought into commercial use, and for consultation with the Environment Agency.

- *Requirement 27: Decommissioning* – This is not a model provision. It requires the Undertaker to submit a Decommissioning Scheme, in accordance with the Environmental Statement, to the planning authority within 12 months after it decides to decommission the authorised development. The planning authority must approve the scheme before any decommissioning works are carried out and the scheme must be implemented as approved.
- *Requirement 28: Aviation warning lighting* – This is not a model provision. It requires details of the aviation warning lighting to be installed on the emissions stack of the generating station (Work No. 1A) to be approved and for that lighting to be installed, and separately for each crane used for the construction of the authorised development to comply with the relevant guidance on lighting of structures.
- *Requirement 29: Air safety* – This is not a model provision. It requires details of the information required by the Defence Geographic Centre of the Ministry of Defence to be submitted to and approved by the planning authority before commencement of the authorised development.
- *Requirement 30: Carbon capture and storage consents* – This is not a model provision. It requires that before the authorised development may commence, the undertaker provides evidence to the planning authority that the main consents and permits required to enable the construction and operation of the onshore and offshore carbon dioxide pipelines, and other apparatus required to connect the authorised development to an appropriate site or sites for the storage for the carbon dioxide captured during the operation of the authorised development; and the storage at that site or sites of the carbon dioxide captured during the operation of the authorised development, are in place. This requirement has been included in accordance with paragraph 2.3.10 of the National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (EN-2).
- *Requirement 31: Employment, skills and training plan* – This is not a model provision, and has been included to secure an employment, skills and training plan, particularly in relation to local people. A similar requirement was included in the Knottingley Power Plant Order 2015 (at requirement 36).
- *Requirement 32: Requirement for written approval* – This is a modified model provision and has been amended to reflect that the planning authority rather than the Infrastructure Planning Commission will be responsible for discharging the requirements. It confirms that the planning authority's approval or agreement must be given in writing.
- *Requirement 33: changes approved by the relevant planning authority*: this paragraph clarifies that where the phrase "unless otherwise agreed" appears in requirements, it does not permit changes which would or could take the Project outside the scope of the environmental statement.
- *Requirement 34: Amendments to approved details*: this makes clear that the undertaker may submit revised details pursuant to a requirement, and a reference to "approved details" then includes the revised details.

4.57 *Schedule 3 (Streets subject to street works)* sets out the streets that would be subject to street works (including reference to the relevant plan, the location and the specific street).

4.58 *Schedule 4 (Streets subject to permanent and temporary alteration of layout)* sets out the streets to be permanently altered (Part 1) or temporarily altered (Part 2).

4.59 *Schedule 5 (Access)* sets out those parts of accesses that are to be maintained at public expense or by the street authority (Parts 1 and 2 respectively) and those parts of works to restore temporary accesses that are to be maintained by the street authority (Part 3) which are referred to in article 11 of the Order.

- 4.60 *Schedule 6 (Streets to be temporarily stopped up)* sets out the streets that will be subject to a temporary stopping up (including reference to the relevant plan, the location and the extent of the temporary stopping up).
- 4.61 *Schedule 7 (Public rights of way to be temporarily stopped up)* sets out the public rights of way that may be temporarily stopped up by the undertaker in carrying out the Project.
- 4.62 *Schedule 8 (Land in which only new rights etc. may be acquired)* specifies both the areas of land in which only new rights may be acquired by the undertaker and the nature of the rights that may be acquired.
- 4.63 *Schedule 9 (Modification of compensation and compulsory purchase enactments for creation of new rights)* modifies existing compensation legislation including the Land Compensation Act 1973 and the Compulsory Purchase Act 1965. It is commonly included in DCOs as made, including the Hinkley Point C (Nuclear Generating Station) Order 2013 and the National Grid (King's Lynn B Power Station Connection) Order 2013.
- 4.64 *Schedule 10 (Land of which temporary possession may be taken)* sets out the land of which temporary possession may be taken, pursuant to article 29. This includes land which may only be used temporarily (shown yellow on the Land Plans) and, where 'rights areas' (shown blue on the Land Plans) transect temporary use land, these plots are also included in Schedule 10 to ensure it is clear these areas can also be used in the same way.
- 4.65 *Schedule 11 (Procedure for discharge of requirements)* provides a clear procedure for the discharge of requirements by the relevant planning authority. It sets out clear time periods within which decisions must be made, and provides for deemed approval of the requirements in certain circumstances. The Schedule makes provision for appeals to be made in the event of a refusal of an application in relation to a requirement or if the relevant planning authority requires further information to be provided in relation to that application.
- 4.66 Schedules similar to Schedule 11 have been used in various draft development consent orders and can be seen in a similar form in the Hinkley Point C (Nuclear Generating Station) Order 2013, as amended, and the National Grid (King's Lynn B Power Station Connection) Order 2013. The bespoke process is required in order to ensure that requirements are dealt with efficiently so that the authorised development is not held up, given its importance in demonstrating CCS technology in the UK and given the need for new generating capacity. Deemed consent of requirements is required for the same reason and ensures that the nationally-needed demonstration project will not be held up by the discharge of requirements.
- 4.67 *Schedule 12 (Protective provisions)* sets out protective provisions for the benefit of statutory undertakers whose equipment may be affected by the authorised development.