

# The Eggborough CCGT Project

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## The Eggborough CCGT (Generating Station) Order

Land at and in the vicinity of the Eggborough Power Station site,  
near Selby, North Yorkshire, DN14 0BS

### Explanatory Note on Changes to Draft DCO - Deadline 3

The Planning Act 2008

The Infrastructure Planning (Applications: Prescribed Forms and Procedure)  
Regulations 2009

APFP Reg. 5(2)(b)

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**Applicant: Eggborough Power Limited**  
**Date: November 2017**

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## DOCUMENT HISTORY

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| <b>Author</b>         | Pinsent Masons (PM) |             |          |
| <b>Signed</b>         | Emma Cottam-Clough  | <b>Date</b> | 30.11.17 |
| <b>Approved By</b>    | Nick McDonald (NM)  |             |          |
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## THE EGGBOROUGH CCGT PROJECT

### EXPLANATION OF CHANGES MADE TO THE DRAFT DEVELOPMENT CONSENT ORDER ('DCO') SUBMITTED AT DEADLINE 3

Due to the insertion of new paragraphs/requirements in the updated draft DCO, the numbering and internal cross referencing (including the contents) within the draft DCO have been updated accordingly. These changes, along with minor typographical amendments for clarity and consistency are not set out below. The numbering referred to below is to that in the updated draft DCO.

| Article / Requirement Number | Explanation of amendment  |
|------------------------------|---|
| Article 2(1)                 | <p>Definition of "Canal and River Trust"</p> <p>This definition has been updated to reflect comments made by CRT in the Issue Specific Hearing on the draft DCO ("<b>DCO ISH</b>"), that the definition should refer to CRT's charitable status.</p>  |
| Article 2(1)                 | <p>Definition of "commence"</p> <p>This definition has been amended following a recommendation made by the ExA at the DCO ISH, as explained in the Applicant's Written Summary of Oral Case at the Issue Specific Hearing on the draft Development Consent Order and Deemed Marine Licence ("<b>DCO Summary</b>").</p> <p>The construction of this definition is now that it provides one definition in the draft DCO, providing the meaning of "commence" in the document generally, save in the context of schedule 2 where "commence" excludes "permitted preliminary works".</p> <p>As a consequence of this amendment, the definition of "commence" previously included in Schedule 2 has been deleted, and the definition of "permitted preliminary works" has been moved from schedule 2 to article 2.</p> |
| Article 2(1)                 | <p>Definition of "maintain"</p> <p>This definition has been amended to include the wording "any part, but not the whole of". This amendment has been made following a request made by the ExA at the DCO ISH.</p>   |
| Article 17(4)                | <p>This has been amended, pursuant to a request made by National Grid, to include the reference to "article 28 (statutory undertakers)" in article 17(4).</p> <p>This amendment makes it explicitly clear that no powers of compulsory acquisition (which would otherwise be permitted) pursuant to article 28 can be exercised in respect of those plots listed in article 17(4). It does not alter the scope of the compulsory acquisition powers in the Order, since no such powers are sought over those plots (the "white land" on the Land Plans).</p>  |

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|---------------------------------|---|
| Articles 18(6), 21(7) and 20(9) | <p>These articles have been amended following a recommendation made by the ExA at the DCO ISH and explained in the DCO Summary.</p> <p>These amendments put beyond doubt that the powers of compulsory acquisition authorised pursuant to articles 18, 20 and 21 are subject to article 17(4).</p>  |
| Article 43                      | <p>"Guarantees in respect of payment of compensation "</p> <p>This article has been added following a recommendation made by the ExA at the Compulsory Acquisition Hearing ("<b>CA Hearing</b>") and explained in the Applicant's Written Summary of the Compulsory Acquisition Hearing ("<b>CA Summary</b>").</p> <p>The drafting of this article is based on that included in the Wrexham Gas Fired Generating Station Order 2017.</p> <p>This article requires the undertaker to, prior to the exercise of the specified compulsory purchase powers, provide a guarantee (or other form of security) to be agreed by the Secretary of State in respect of any liabilities of the undertaker to pay compensation.</p> |
| Requirement 16                  | <p>"Archaeology"</p> <p>This requirement has been amended at the request of the Councils. This amended wording has been agreed, and was confirmed as such in the Issue Specific Hearing on Environmental Matters ("<b>Environment ISH</b>") and confirmed in the Applicant's Written Summary of Oral Case at the Issue Specific Hearing on Environmental Matters ("<b>Environmental Summary</b>")</p> <p>The Applicant has also deleted the wording "the principles set out" from sub-paragraph (2), in line with a recommendation made by the ExA.</p>   |
| Requirement 24                  | <p>"Control of noise – operation"</p> <p>This requirement has been amended to reflect discussions that took place at the Environment ISH and confirmed in the Environmental Summary.</p> <p>The effect of the amendments are to:-</p> <ul style="list-style-type: none"> <li>• separate the noise levels in to daytime and night time levels (sub-paragraph (2)); and</li> <li>• require the undertaker to provide a report setting out the extent to which a lower night time level is achievable (sub-paragraph (3)).</li> </ul> <p>These points are ones that were discussed previously with the Councils,</p>   |

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|------------------------------|--|
|                              | <p>however they have not yet had the opportunity to review the drafting proposed by the Applicant.</p>   |
| Requirement 28               | <p>“Combined heat and power”</p> <p>Sub-paragraph (6) has been amended to alter the period from 5 years, to 4, following a recommendation made by the ExA at the DCO ISH.</p>  |
| Requirement 35               | <p>“Ambient air monitoring”</p> <p>The name of this requirement has been amended to correct a typographical error from "modelling" to "monitoring".</p> <p>The Applicant received comments from the Councils on requirement 35 on 29 November and is considering these further. The Applicant expects to be in a position to have wording agreed by Deadline 4.</p>  |
| Requirement 39               | <p>“Amendments agreed by the relevant planning authority”</p> <p>Sub-paragraph (1) has been amended following a request made by the ExA at the DCO ISH. This ensures that any approval or agreement may only be given if the same will <u>not</u> (as opposed to being <u>unlikely to</u>) give rise to any materially new or materially different environmental effects.</p> <p>Sub-paragraph (2) has also been amended to correct a typographical error.</p> |
| Requirement 40               | <p>“ground subsidence”</p> <p>This is a new requirement included at Deadline 3. The inclusion of this requirement is at the request of the Environment Agency. The form of wording has been agreed between the parties. This is recorded in the updated Statement of Common Ground between the Applicant and the Environment Agency.</p>   |
| Schedule 8                   | <p>An amendment has been made to Schedule 8 to put beyond doubt which plot number are affected by the new rights required in relation to Work No 4 and Work No 6.</p> <p>This amendment has been made following a request for clarification made by the ExA at the CA Hearing, as explained in the CA Summary.</p>   |
| Schedule 12, Part 3          | <p>"Protective Provisions for the Protection of the Canal and River Trust"</p> <p>This has been amended to include the form of protective provisions which the Applicant considers are suitable for the protection of the Canal and River Trust.</p>   |

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|------------------------------|--|
|                              | <p>As set out in detail in the Applicant's Comments on the Local Impact Report, Written Representations &amp; Responses to the ExA's First Written Questions - Deadline 3 (Document 9.3), there remain areas of disagreement between the parties, particularly the Expenses and Indemnity provisions. The parties will continue their engagement on this with a view to providing an update at Deadline 4.</p>   |
| <p>Schedule 12, Part 4</p>   | <p>"Protective Provisions for the Protection of National Grid"</p> <p>As set out in detail in the Applicant's Comments on the Local Impact Report, Written Representations &amp; Responses to the ExA's First Written Questions - Deadline 3 (Document 9.3), the parties have reached substantive agreement on the terms of the Protective Provisions.</p> <p>The parties are discussing the most appropriate way to present these provisions, notably in respect of the Indemnity and Expenses requirements. This is required so as to ensure that the commercial agreement reached between the parties remain confidential. For the avoidance of doubt, the Applicant confirms that these discussions are in respect of the presentation, and not the substance, of those provisions.</p> <p>It is expected that an update will be provided, with the form of presentation of the Protective Provisions, at Deadline 4.</p> <p>The Applicant has made a consequential amendment to the Protective Provisions to update the cross-reference to the definition of "commence" following the deletion of the definition in schedule 2.</p> |
| <p>Schedule 13</p>           | <p>"Deemed Marine Licence"</p> <p>As explained at the DCO ISH and explained in the DCO Summary and the Applicant's Comments on the Local Impact Report, Written Representations &amp; Responses to the ExA's First Written Questions - Deadline 3 (Document 9.3), the parties are in the process of agreeing a revision to Part 2, Paragraph (3)(4)(b) of the draft DML, as well as other consequential amendments to conditions in Part 3, and the definition of "River".</p> <p>As explained at the DCO ISH, the MMO is preparing some revised drafting for the Applicant to consider. At the time of submission for Deadline 3, the Applicant had not yet had sight of the drafting proposals from the MMO.</p> <p>On that basis, no changes have been made to the draft DML for Deadline 3, save for a typographical correction in the definition of Order land, however the Applicant expects that it will be in a position to provide a further update at Deadline 4.</p>  |