

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

Statement of Common Ground with North Yorkshire County
Council ('NYCC') and Selby District Council ('SDC') - Rev. 3.0

The Planning Act 2008



Applicant: Eggborough Power Limited

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GLOSSARY

ABBREVIATION	DESCRIPTION
AGI	Above Ground Installation
Applicant	Eggborough Power Limited
CCGT	combined cycle gas turbine
CCR	Carbon Capture Readiness
CCS	Carbon Capture and Storage
CHP	combined heat and power
DCO	Development Consent Order
EA	Environment Agency
EHO	Environmental Health Officer
EIA	Environmental Impact Assessment
EN-1	Overarching National Policy Statement for Energy
EN-2	NPS for Fossil Fuel Electricity Generating Infrastructure
EN-4	NPS for Gas Supply Infrastructure and Gas and Oil Pipelines
EN-5	NPS for Electricity Networks Infrastructure
EPH	Energetický A Prumyslový Holding
EP UK	EP UK Investments Ltd
EPL	Eggborough Power Limited
ES	Environmental Statement
km	Kilometres
kV	Kilovolt
LA	local authority
LDF	Local Development Framework
LIR	Local Impact Report
MW	Megawatts
NPS	National Policy Statement
NSIP	Nationally Significant Infrastructure Project
NTS	National Transmission System
NYCC	North Yorkshire County Council
PA 2008	The Planning Act 2008
PRoW	Public Rights of Way
SCR	Selective Catalytic Reduction

ABBREVIATION	DESCRIPTION
SDC	Selby District Council
Site	Proposed Development Site
SoCG	Statement of Common Ground
SoS	Secretary of State
TCPA 1990	Town and Country Planning Act 1990
the Order	Eggborough CCGT (Generating Station) Order
WSI	Written Scheme of Investigation

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1.0 INTRODUCTION

Overview

- 1.1 This Statement of Common Ground ('SoCG') has been prepared on behalf of Eggborough Power Limited ('EPL' or the 'Applicant') in respect of its application (the 'Application') for a Development Consent Order (a 'DCO').
- 1.2 The Application has been submitted to the Secretary of State (the 'SoS') for Business, Energy and Industrial Strategy, under Section 37 of 'The Planning Act 2008' (the 'PA 2008'). It seeks consent for the construction, operation and maintenance of a new gas-fired electricity generating station with a gross output capacity of up to 2,500 megawatts ('MW') and associated works (the 'Proposed Development') on land at and in the vicinity of the existing Eggborough coal-fired power station, near Selby, North Yorkshire.
- 1.3 A DCO is required for the Proposed Development as it falls within the definition and thresholds for a 'Nationally Significant Infrastructure Project' (a 'NSIP') under Sections 14 and 15(2) of the PA 2008.
- 1.4 The DCO, if made by the SoS, would be known as the 'Eggborough CCGT (Generating Station) Order' (the 'Order').

EPL

- 1.5 EPL owns and operates the existing Eggborough coal-fired power station (the 'existing coal-fired power station'), near Selby, including a significant proportion of the land required for the Proposed Development.
- 1.6 EPL was acquired by EP UK Investments Ltd ('EP UK') in late 2014; a subsidiary of Energetický A Průmyslový Holding ('EPH'). EPH owns and operates energy generation assets in the Czech Republic, Slovak Republic, Germany, Italy, Hungary, Poland and the United Kingdom.

The Site

- 1.7 The Proposed Development Site (the 'Site') is located at and in the vicinity of the existing coal-fired power station south of Selby. The River Aire is located just to the north with the A19 immediately to the west. Eggborough Village is situated to the south-west.
- 1.8 The entire Site lies within the administrative boundaries of Selby District Council ('SDC') and North Yorkshire County Council ('NYCC').
- 1.9 The coal-fired power station was officially opened in 1970 and comprises four coal-fired boilers units, which together are capable of generating up to 2,000 MW of electricity. The coal-fired power station also includes a turbine hall and boiler house, an emissions stack (chimney) of approximately 198 m in height, eight concrete cooling towers of approximately 115 m in height, an administration and control block, a coal stockyard and a dedicated rail line for the delivery of coal, in addition to ancillary buildings, structures and infrastructure and utility connections.
- 1.10 The Site itself extends to approximately 102 hectares and comprises land within the operational area of the coal-fired power station for the new generating station and electrical connection in

addition to corridors of land outside this area for the water connections and gas supply pipeline. The generating station would be located on the existing main coal stock yard.

1.11 The land required for the generating station and electrical connection is owned by EPL, as well as the majority of the land for the water connections. The land required for the majority of the gas supply pipeline is not owned by EPL.

1.12 The area surrounding the Site is predominantly flat and for the most part comprises agricultural land interspersed with small settlements and farmsteads. The area is however crossed by transport infrastructure, notably the A19 and railway lines, including the East Coast Mainline, in addition to overhead electricity lines associated with the existing coal-fired power station and other power stations within the wider area.

The Proposed Development

1.13 The main components of the Proposed Development are summarised below:

- an electricity generating station (the 'Proposed Power Plant') fuelled by natural gas with an electrical output capacity of up to 2,500 MW located on the main coal stock yard area of the coal-fired power station, comprising:
 - a combined cycle gas turbine ('CCGT') plant, comprising up to three CCGT units, including turbine and heat recovery steam generator buildings, emissions stacks, cooling towers and cooling water treatment plant, administration/control building, ancillary buildings, plant and equipment;
 - a peaking plant and black start plant fuelled by natural gas with a combined electrical output of up to 299 MW, emissions stacks and ancillary buildings, plant and equipment; and
 - other ancillary buildings, enclosures, plant, equipment and infrastructure connections and works;
- electrical connection works, comprising up to 400 kilovolt ('kV') underground cables to the existing National Grid 400 kV substation and works within the substation;
- cooling water connection works, comprising works to the existing cooling water supply and discharge pipelines and intake and outfall structures within the River Aire;
- raw and towns water supply connection works, comprising works to the existing towns water pipelines and ground water boreholes and pipelines;
- an underground gas supply pipeline (the 'Proposed Gas Connection') connecting to the National Transmission System ('NTS') for gas of up to 1,000 millimetres (nominal bore) in diameter and approximately 4.7 km in length running north, under the River Aire, to a connection point with the NTS to the south-west of Burn Village; and
- an 'Above Ground Installation' ('AGI') to the south-west of Burn Village for the connection of the gas supply pipeline to the NTS.

1.14 The Proposed Development also includes a temporary construction laydown area for the accommodation of plant and materials and contractors' compounds and facilities during the construction phase, which would last for approximately three years. This would be provided on land within the operational area of the coal-fired power station, north of the main coal stock yard.

1.15 In addition, land would be set aside adjacent to the new generating station to accommodate any future carbon capture plant, should the deployment of such technology become viable in the future. It is proposed that this 'reserve' land would be provided on the area to be used for temporary construction and laydown area during construction of the Proposed Development.

The purpose and structure of this Statement of Common Ground

1.16 The purpose of this Statement of Common Ground ('SoCG') is to set out the up to date position and agreement that has been reached between EPL, North Yorkshire County Council ('NYCC') and Selby District Council ('SDC') in respect of a number of matters relating to the Proposed Development, including:

- the role of NYCC and SDC;
- relevant planning history;
- local planning designations;
- relevant planning policy;
- demolition of the existing coal-fired power station;
- the need for the Proposed Development;
- the principle of development
- alternatives;
- flexibility and design;
- combined heat and power;
- carbon capture readiness;
- public rights of way;
- traffic and transport;
- air quality;
- noise and vibration;
- land use and socio-economics;
- cultural heritage;
- landscape;
- biodiversity;
- flood risk and drainage;
- contamination;
- minerals and waste;
- cumulative effects;
- the benefits of the Proposed Development;
- the scope of the draft DCO and draft requirements; and

- the Enabling Works Planning Application.

1.17 Sections 2 to 27 of the SoCG set out the areas of agreement in relation to the above listed matters whilst Section 28 summarises the matters that are still to be resolved between the parties and which require further discussion.

2.0 THE ROLE OF NYCC AND SDC

2.1 The Site lies entirely within the administrative areas of NYCC and SDC, as previously stated. NYCC and SDC fall within the definition of a local authority ('LA') for the purposes of Sections 43 and 56A of the PA 2008 and are 'host local authorities' for the purposes of the Application. NYCC is an 'upper tier' local authority and SDC is a 'lower tier' authority.

2.2 For the purposes of the Examination of the Application, NYCC and SDC have prepared a joint Local Impact Report ('LIR') and have also jointly registered as Interested Parties for the Examination. The preparation of the SoCG has been informed by the LIR, and by numerous discussions and meetings with the LAs.

2.3 It is agreed that SDC would be the relevant planning authority for the purposes of discharging the requirements contained at Schedule 2 to the draft DCO (Application Document Ref. 2.1). It is also agreed that SDC would be responsible for consulting the bodies referred to in the requirements, where relevant, prior to their discharge.

3.0 RELEVANT PLANNING HISTORY

3.1 It is agreed that the Planning Statement (Application Document Ref. 5.5) accurately summarises the planning history relating to the Site and that the following is of most relevance:

- The original consent (ref. EL.64/2/139) for coal-fired power station granted on 18 October 1961 pursuant to section 2 of 'The Electric Lighting Act 1909' (as amended by section 57 and Part I of the fourth schedule of the Electricity Act 1947 and Part II of the Electricity Act 1957).
- Planning permission (ref. CO/1992/0761) granted on 20 April 1993 for the erection of an air separation plant, including plant, equipment, service buildings, storage tanks and parking areas on a parcel of land in the north-east corner of the existing coal-fired power station site (now occupied by Air Liquide).
- Hazardous substances consent (ref. CO/1992/0070) granted on 7 September 1993 for the storage of 1,150 tonnes of liquid oxygen (in connection with the above permission).
- Consent (ref. GDBC/001/003) granted on 10 December 2001 under section 36 of the Electricity Act 1989 to extend the existing coal-fired power station by the addition of flue gas desulphurisation plant.
- Outline planning permission (ref. 2012/0295/OUT) granted on 22 June 2012 for construction and operation of new biomass handling and storage facilities together with ancillary development to enable the expanded use of co-firing with biomass.

4.0 LOCAL PLANNING DESIGNATIONS

- 4.1 The Site, including the parts within the operational area of the existing coal-fired power station site, is identified on the Selby Local Development Framework ('LDF') Proposals Map as lying outside the defined 'development limits' of the District and within the 'open countryside'.
- 4.2 The Selby Local Plan does, however, contain Policy EMP10, which confirms that additional industrial and business development may be permitted at or close to the existing coal-fired power station subject to certain criteria. Furthermore, Chapter 6 'Promoting Economic Prosperity' of the Core Strategy (paragraph 6.32) recognises that the energy sector will continue to be important to the economy of the District and that the existing coal-fired power station is a major employer that contributes to national energy infrastructure. It also notes that the site has the potential for the future development of low carbon and renewable energy and that there is *"... a need for further investment in energy infrastructure in line with national policy and that supporting the energy sector will assist in reinvigorating, expanding, and modernising the District's economy"*.
- 4.3 It is agreed therefore that the local development plan policies and documents are supportive of further energy-related development at the Site.
- 4.4 The Policies Map (Area 8) of the Minerals and Waste Joint Plan (Publication Draft - November 2016), which is being prepared jointly by NYCC, the City of York Council and the North York Moors National Park Authority, identifies the existing coal-fired power station site as lying within a 'Safeguarded Surface Mineral Resource Area'. The existing coal-fired power station itself is not, however, subject to any site-specific minerals or waste allocations.
- 4.5 In addition, the existing coal-fired power station site's private rail line (from the junction with the main rail network at Whitely Bridge) and the main coal stock yard rail loop are identified as 'safeguarded transport infrastructure' to which Policy S04 'Transport infrastructure safeguarding' applies.
- 4.6 Paragraph 8.47 of the Minerals and Waste Joint Plan lists the types of development that are exempt from consideration under the safeguarding policies. 'Exempt development' includes the redevelopment of previously developed land that would not increase the footprint of the former development. The Plan (paragraph 8.2) confirms that the purpose of 'safeguarding' is not to prevent other forms of development on or near to a safeguarded resource or infrastructure, but to ensure that the presence of the resource or infrastructure is taken into account when other development proposals are under consideration. It is agreed that minerals safeguarding has been adequately considered as part of the Application.
- 4.7 It is agreed that there are no other local planning designations that apply to the Site.

5.0 RELEVANT PLANNING POLICY

- 5.1 The national planning and local development plan policy considered to be relevant to the consideration of the Application is set out below.

National planning policy

- 5.2 It is agreed that the following National Policy Statements ('NPSs') are relevant to the Application:

- The Overarching NPS for Energy (EN-1);
- The NPS for Fossil Fuel Electricity Generating Infrastructure (EN-2);
- The NPS for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4); and
- The NPS for Electricity Networks Infrastructure (EN-5).

5.3 It is agreed that the above NPSs provide the primary basis for decisions by the SoS in relation to applications for NSIPs.

5.4 It is agreed that the following planning policy documents may also be relevant to the consideration of the Application:

- National Planning Policy Framework; and
- Planning Practice Guidance.

Local development plan policy

5.5 It is agreed that the following local development plan documents and policies are relevant to the Application:

- Selby District Core Strategy Local Plan (2013):
 - SP 1 ‘Presumption in Favour of Sustainable Development’;
 - SP2 ‘Spatial Development Strategy’;
 - SP12 ‘Access to Services, Community Facilities and Infrastructure’;
 - SP13 ‘Scale and Distribution of Economic Growth’;
 - SP15 ‘Sustainable Development and Climate Change’;
 - SP16 ‘Improving Resource Efficiency’;
 - SP17 ‘Low-Carbon and Renewable Energy’;
 - SP18 ‘Protecting and Enhancing the Environment’; and
 - SP19 ‘Design Quality’.
- The ‘saved’ policies of the Selby District Local Plan (2005):
 - ENV1 ‘Control of Development’;
 - ENV2 ‘Environmental Pollution and Contamination’;
 - ENV3 ‘Light Pollution’;
 - ENV9 ‘Sites of Importance for Nature Conservation’;
 - ENV22 ‘Protection of Listed Buildings’;
 - ENV27 ‘Scheduled Monuments and Important Archaeological Sites’;
 - ENV28 ‘Other Archaeological Sites’;
 - EMP10 ‘Additional Industrial Development at Drax and Eggborough Power Stations’;
 - RT1 ‘Recreation Open Space’;
 - T1 ‘Development in Relation to the Highway Network’;

- T2 'Access to Roads'; and
- T8 'Public Rights of Way'.

- 5.6 It is agreed that 'saved' Policy 3/7 'Mineral Sterilisation' of the North Yorkshire Minerals Local Plan (1997) is of some limited relevance to the Application given the deep coal deposits within the surrounding area and the proximity of the recently closed Kellingley Colliery and its mined seams.
- 5.7 The only relevant policy of the North Yorkshire Waste Local Plan (2006) is considered to be Policy 5/1 'Waste Minimisation', which covers waste arising from major new development proposals.
- 5.8 As confirmed above, NYCC (along with the City of York and the North York Moors National Park Authority) is preparing a Minerals and Waste Joint Plan. The Plan is at a relatively advanced stage with a Publication Draft having been published. As confirmed in Section 4.0 of this SoCG, much of the Site lies within an area identified for minerals safeguarding on the Policies Map (Area 8) of the Minerals and Waste Joint Plan subject to Policy S02 'Development within Minerals Safeguarding Areas'. In addition, the rail head at the existing coal-fired power station site is safeguarded under Policy S04 'Transport infrastructure safeguarding'. As such, these policies are relevant to the Application.

6.0 DEMOLITION OF THE EXISTING COAL-FIRED POWER STATION

- 6.1 The existing coal-fired power station is anticipated to cease generation by 2019 and that its decommissioning and demolition would take approximately three years to complete. It is therefore possible that the construction of the Proposed Development could take place at the same time as the decommissioning and demolition works (the 'demolition project').
- 6.2 Due to the continuing uncertainty as to the exact date for the closure of the existing coal-fired power station it has been necessary for the Applicant to make decisions with regard to the Proposed Power Plant that would allow it to be constructed without preventing the continued operation of the coal-fired power station (in line with EPL's contractual obligations) or requiring its prior decommissioning and demolition (with the exception of the removal of some ancillary buildings and structures, notably within the main coal stock yard area - the location of the Proposed Power Plant).
- 6.3 The Proposed Development and the demolition project are therefore separate projects that can occur independently of each other. As such the delivery of the Proposed Development is not dependent upon the demolition project.
- 6.4 Notwithstanding the above, it is acknowledged that there is the potential for effects associated with the construction and operation of the Proposed Development to interact with the effects from the demolition project (i.e. for the effects of the two projects to be cumulative). These cumulative effects have therefore been assessed as part of the Environmental Impact Assessment ('EIA') undertaken for the Proposed Development and the findings are reported within the each of the environmental topic chapters (within Chapters 8 to 19) of the Environmental Statement ('ES') (Application Document Ref. 6.2). It is agreed with the relevant planning authority (SDC) that the demolition project has been appropriately assessed, as a separate cumulative project, as part of the EIA for the Proposed Development.
- 6.5 The Applicant intends to undertake the demolition project using the permitted development rights provided by Part 11 of the General Permitted Development Order 2015 subject to applying

to the relevant planning authority for a determination as to whether the prior approval of the relevant planning authority will be required as to the method of demolition and any proposed restoration of the site. The Applicant has already obtained an EIA Screening Opinion (Ref. 2017/0003/SCN) from the relevant planning authority, which consulted NYCC, that confirms that the demolition project is not EIA development. The Applicant will shortly be discussing with the relevant planning authority the information that is required for a determination as to whether its prior approval would be required.

- 6.6 It is agreed with the relevant planning authority that the approach that the Applicant is taking to the demolition project is appropriate in planning terms. It is not considered appropriate or necessary to secure the removal of the existing coal-fired power station within the draft DCO. This is on the basis that uncertainty remains as to the timing of the demolition project and as this is not required to facilitate the delivery of the Proposed Development or make it acceptable.

7.0 THE NEED FOR THE PROPOSED DEVELOPMENT

- 7.1 Section 3.3 of Part 3 of The Overarching NPS for Energy (EN-1) sets out a number of key reasons why there is an urgent need for new electricity generating infrastructure, including:

- meeting energy security and carbon reduction objectives;
- the need to replace closing electricity generating capacity;
- the need for more electricity capacity to support the increased supply from renewables; and
- future increases in electricity demand.

- 7.2 Paragraphs 3.3.15 - 3.3.24 of EN-1 deal with the urgency of the need for new electricity generating capacity. Paragraph 3.3.15 states that in order to secure energy supplies that enable the UK to meet its climate change obligations to 2050, there is an urgent need for new energy infrastructure to be brought forward as soon as possible.

- 7.3 Paragraph 3.3.23 confirms that the Government believes (based on predictions) that it is prudent, in order to minimise the risk to energy security and resilience, to plan for a minimum need of 59 GW of new electricity generating capacity by 2025. The Government would like to see a significant proportion of the balance come from low carbon generation (paragraph 3.3.22).

- 7.4 It is agreed that EN-1 confirms the need that exists for all types of nationally significant energy infrastructure, including new fossil fuel generating stations that are carbon capture ready, and makes clear that the SoS should assess such applications on the basis that this need and its scale and urgency has been proven. Furthermore, the SoS should give substantial weight to the contribution that all projects would make toward satisfying this need. As such, the need that exists for new electricity generating infrastructure is not open to debate or interpretation.

- 7.5 It is therefore agreed that the need for the Proposed Development is as set out in the NPSs for energy infrastructure, in particular, EN-1.

8.0 THE PRINCIPLE OF DEVELOPMENT

- 8.1 Policy EMP10 of the Selby Local Plan confirms that additional industrial and business development is acceptable at or close to the existing coal-fired power station, while Chapter 6

‘Promoting Economic Prosperity’ of the Core Strategy (paragraph 6.32) recognises that the energy sector will continue to be important to the economy of the District and that the existing coal-fired power station is a major employer that contributes to national energy infrastructure. It also notes that the site has the potential for the future development of low carbon and renewable energy.

- 8.2 Policy SP13 of the Core Strategy states that in rural areas, sustainable development which brings sustainable economic growth through local employment opportunities or expansion of local business and enterprise will be supported. Furthermore, Policy SP17 of the Core Strategy supports the development of new sources of low-carbon electricity generation.
- 8.3 The above policies clearly support development linked to economic development and low-carbon electricity generation. It is therefore agreed that the principle of the Proposed Development in this location is acceptable and is supported by policies contained within the local development plan.

9.0 ALTERNATIVES

- 9.1 The alternatives that have been considered by the Applicant, including alternative locations within the existing coal-fired power station site for the Proposed Power Plant and the alternative route corridors for the gas, the Proposed Gas Connections are set out within the ES Volume I, Chapter 6 ‘Need, Alternatives and Design Evolution’ (Application Document Ref. 6.2.6).
- 9.2 It is agreed that the Applicant’s approach to alternatives, including the selection of a location for the Proposed Power Plant and the route of the Proposed Gas Connection, has been both appropriate and proportionate, and has taken account of a number of relevant factors, including local planning designations and policy, environmental sensitivity, technical considerations and land ownership.

10.0 FLEXIBILITY AND DESIGN

- 10.1 The Applicant has sought to incorporate the flexibility within the draft DCO (Application Document Ref. 2.1) to allow for the Proposed Power Plant to be constructed in either a ‘single-shaft’ or ‘multi-shaft’ plant configuration. This flexibility is required as it is not possible to fix the final plant configuration in advance of a lead contractor having been appointed for the detailed design and construction of the Proposed Power Plant. The decision on the plant configuration to be deployed would be informed by that detailed design work in addition to the appointed contractor’s selection of plant and process equipment.
- 10.2 The Applicant has therefore applied the ‘Rochdale Envelope’ approach to the EIA of the Proposed Development in order to provide the flexibility to deploy either a single-shaft or multi-shaft plant configuration. The assessment of both potential configurations has been based upon maximum design parameters and each technical chapter of the ES presents the ‘worst-case’ for the relevant plant configuration in terms of predicted environmental effects. These design parameters would be secured by Requirement 5 ‘Detailed design’ and Schedule 14 ‘Design Parameters’ of the draft DCO. It is agreed that the EIA provides an appropriate assessment of the likely significant environmental effects of the Proposed Development within the parameters defined by Schedule 14.
- 10.3 The Applicant has submitted ‘Indicative Generating Station Plans & drawings (Application Document Ref. 4.6) that provide an indication of how the different plant configurations for the

Proposed Power Plant would appear based on the design parameters. These plans and drawings also include 3-D visualisations showing how the Proposed Power Plant may appear. Furthermore, the Design and Access Statement (Application Document Ref. 5.6) provides information on the key design components for the Proposed Power Plant, including its anticipated appearance and finishes. The Applicant has also provided a substantial amount of design information in respect of the other components of the Proposed Development.

10.4 Requirement 5, sub-paragraph (1) secures the submission of the details of the Proposed Power Plant and sub-paragraph (3) requires those details to be in accordance with the design parameters. Sub-paragraphs (4) to (11) are intended to secure the submission of details in respect of the other components of the Proposed Development. Further details would be secured by the following requirements:

- Requirement 6. 'Landscaping and biodiversity protection management and enhancement';
- Requirement 8. 'External lighting';
- Requirement 9 'Highway accesses';
- Requirement 10 'Means of enclosure';
- Requirement 11 'Site security - above ground installation (Work No. 7)';
- Requirement 13 'Surface and foul water drainage'; and
- Requirement 14 'Flood risk mitigation'.

10.5 It is agreed that the above requirements would secure the submission of the necessary level of detail (in accordance with the design parameters) and provide SDC, as relevant planning authority, with sufficient control over and certainty as to the final design of the Proposed Development.

10.6 Further to the above, it is agreed that the approach taken to securing design details for the Proposed Development is consistent with other development consent orders, notably 'The Ferrybridge Multifuel 2 (Generating Station) Order 2015'.

10.7 It is agreed that the Design and Access Statement (Application Document Ref. 5.6) provides an appropriate appraisal of the Site's context. With regard to this, it is agreed that the immediate context of the Site is industrial, being dominated by the large buildings and structures associated with the existing coal-fired power station and that surrounding area, for a landscape and visual perspective, is not highly sensitive to change.

10.8 It is therefore agreed that the design of the Proposed Development is appropriate given its function and purpose (to generate electricity) and the context within which it would sit and that it represents 'good design' for the purposes of energy infrastructure and complies with policy in this regard set out in EN-1, EN-2, EN-4 and EN-5.

11.0 COMBINED HEAT AND POWER

11.1 It is agreed that the Applicant has appropriately assessed the feasibility of combined heat and power ('CHP') and reported the findings within the Combined Heat and Power Assessment (Application Document Ref. 5.7). It is agreed that at this current time there is no viable demand for CHP.

- 11.2 In addition, it is agreed that the draft DCO includes an appropriate requirement (Requirement 28 'Combined heat and power') that would ensure that the feasibility of CHP is periodically reviewed during the lifetime of the Proposed Development and space is maintained for CHP facilities in order to ensure that it is 'CHP Ready' in accordance with Environment Agency ('EA') guidance.

12.0 CARBON CAPTURE READINESS

- 12.1 It is agreed that the Carbon Capture and Storage ('CCS') and Carbon Capture Readiness ('CCR') Statement (Application Document Ref. 5.8) demonstrates that the Proposed Development complies with the requirements of the CCS/CCR regulations and relevant guidance.
- 12.2 It is agreed that Requirements 31 'Carbon capture readiness site' and 32 'Carbon capture readiness monitoring report' would ensure that space is maintained for carbon capture plant, should this be required, and that the feasibility of such plant being deployed is reviewed at regular intervals.

13.0 PUBLIC RIGHTS OF WAY

- 13.1 The Proposed Development would require the temporary closure of the public rights of way ('PRoW') detailed within Part 1 of Schedule 7 'Public Rights of Way and Public Rights of Navigation to be Stopped Up or Suspended' of the draft DCO during the construction phase for the Proposed Gas Connection and Proposed Cooling Water Connection works.
- 13.2 The closures would be required for a period of approximately 3 months. It is agreed that as the closures are for a short duration and less than 6 months the Applicant would not need to make alternative provision for diversions.
- 13.3 Requirement 7 'Public rights of way diversions' of the draft DCO would secure the submission and approval of a Public Rights of Way Management Plan prior to the commencement of development. Sub-paragraph (2) of the Requirement states that:
- "The plan must include details of-*
- (a) measures to minimise the length of any sections of public rights of way to be temporarily closed; and*
 - (b) advance publicity and signage in respect of any sections of public rights of way to be temporarily closed."*
- 13.4 It is agreed that Requirement 7 as drafted is sufficient for the purposes of managing the proposed temporary PRoW closures.

14.0 TRAFFIC AND TRANSPORT

- 14.1 The assessment of the traffic and transport effects of the Proposed Development is set out in ES Volume 1, Chapter 14 'Traffic and Transportation' (Application Document Ref. 6.2.14) and ES Volume 3, Appendix 14A 'Transport Assessment' (Application Document Ref. 6.4.21).
- 14.2 It is agreed that the Proposed Development, taking account of proposed mitigation, including the 'Construction Traffic Management Plan' and the 'Construction Worker Travel Plan' (Framework

Plans of both documents are provided at Application Document Ref. 6.4.21) secured by Requirements 20 and 21 of the draft DCO, would not result in unacceptable impacts in traffic and transportation terms, including upon the local highway network. Furthermore, the Framework Plans and the wording of Requirements 20 and 21 have been agreed with NYCC, in its capacity as relevant local highway authority. The final plans submitted to discharge those requirements must be approved in consultation with the local highway authority.

- 14.3 The highway works identified at Schedules 3 'Streets Subject to Street Works', 4 'Streets Subject to Permanent and Temporary Alteration of Layout', 5 'Access' and 6 'Streets to be Temporarily Stopped Up' of the draft DCO are also agreed.

15.0 AIR QUALITY

- 15.1 The assessment of air quality effects for the Proposed Development is provided at Chapter 8 of the ES Volume 1 (Application Document Ref. 6.2.8). Figure 8.1 of the ES (Application Document Ref. 8.1) defines the extent of the study area for air quality and the receptor locations considered. A detailed Air Quality Assessment is provided at Appendix 8A of the ES (Application Document Ref. 6.4.4). Although the Local Authorities do not have the software to check the air quality modelling, it is agreed that the approach taken by the Applicant, including the methodology employed for the assessment, is appropriate.
- 15.2 It is agreed that operational emissions from the Proposed Power Plant would be controlled through the Environmental Permitting regime that is administered by the EA. This would require the Applicant to undertake a BAT Assessment for the selected generation technology. The BAT Assessment would need to demonstrate that the Proposed Power Plant would not exceed air quality strategy objectives. The Local Authorities had requested that a requirement be included within the draft DCO to ensure that air quality strategy objectives are not exceeded. The Applicant is of the view that such a requirement is not necessary as it duplicates the controls under the Environmental Permitting regime. Following further discussion on this matter at the Issue Specific Hearing ('ISH') on Environmental Matters held on 22 November 2017, it has been agreed between the parties that such a requirement is not necessary.
- 15.3 The Local Authorities provided comments on Requirement 35 'Ambient air modelling' on 29 November 2017 and the Applicant is continuing to discuss the requested changes with the Authorities. The Applicant will provide an update at Deadline 4.
- 15.4 While the Local Authorities have raised the issue of the potential effects of the Proposed Development upon Natura 2000 sites, should Selective Catalytic Reduction ('SCR') be required, it is agreed that this is an Environmental Permitting matter that the Applicant must resolve with the EA and Natural England. The Applicant is currently in discussions with the EA regarding the need or otherwise for SCR. It is acknowledged by the Local Authorities that the Applicant is not currently in a position to determine whether or not SCR would be required.
- 15.5 It is agreed that, taking account of proposed mitigation, including that which would be secured by Requirement 18 'Construction environmental management plan', the Proposed Development would not result in unacceptable impacts upon local air quality either during construction or operation.

16.0 NOISE AND VIBRATION

- 16.1 The assessment of the noise and vibration effects of the Proposed Development is provided at Chapter 9 of ES Volume 1 (Application Document Ref. 6.2.9). The baseline noise monitoring locations and noise sensitive receptors used for the purpose of the assessment are shown upon Figure 9.1 of the ES (Application Document Ref. 6.3.19). The construction noise assessment methodology and operational noise information are provided at Appendices 9A and 9B respectively (Application Document Refs. 6.4.6 and 6.4.7). The monitoring locations that have been used and the monitoring timeframes are considered acceptable.
- 16.2 The Local Authorities had requested that the wording of Requirement 23 'Control of noise and vibration - construction' was amended to ensure that construction noise is adequately controlled. Following further discussion between the parties at the ISH on Environmental Matters held on 22 November 2017, it has been agreed that Requirement 23 as currently drafted would adequately control construction noise.
- 16.3 The Local Authorities have expressed concern regarding the wording of Requirement 24 'Control of noise - operation', specifically sub-paragraph (2), which currently allows an increase in the noise rating level of +5 dB above background noise levels adjacent to the nearest residential properties. SDC's Environmental Health Officer ('EHO') has requested that the rating level is reduced to 0dB. A meeting took place between the parties on 27 September 2017 at which the rating level and revised modelling work was discussed although no agreement was reached in respect of achievable noise levels.
- 16.4 Requirement 24 was the subject of further discussion at the ISH on Environmental Matters held on 23 November 2017. At the ISH it was agreed that the Applicant would provide revised wording for Requirement 24 that separates day-time and night-time operational noise and consider if it would be possible to achieve lower night-time noise levels at the detailed design stage. The Applicant will provide revised wording for Requirement 24 within the revised draft of the DCO (Document Ref. 2.1 - Rev. 3.0) submitted for Deadline 3.
- 16.5 The Local Authorities, although acknowledging that decommissioning of the Proposed Development may take place many years in the future, have requested that the noise and vibration effects of the decommissioning phase are controlled via Requirement 36 'Decommissioning' of the draft DCO. The Applicant has agreed to this request and the revised draft DCO submitted at Deadline 2 (Document Ref. 2.1 - Rev. 2.0) incorporated the necessary wording.

17.0 LAND USE AND SOCIO-ECONOMICS

- 17.1 The assessment of the effects of the Proposed Development upon land use and socio-economics is set out with ES Volume 1 at Chapter 15 (Application Document Ref. 6.2.15). Figure 15.1 of the ES (Application Document Ref. 6.3.24) provides the Agricultural Land Classification for the Site with an Agricultural Land Classification Soil Survey Report provided at Appendix 15A (Application Document ref. 6.4.22).
- 17.2 In respect of socio-economics, it is agreed that the Proposed Development is expected to create sustainable employment opportunities and may contribute toward economic development within the surrounding area. It is noted that the creation of new construction jobs would have a meaningful impact on the local economy.

- 17.3 It is agreed that the Proposed Development would maintain the existence of significant energy generating capacity within the area in accordance with the local development plan and that this would assist in help reinforce the aspirations of the Local Authorities to develop a future M62 energy corridor.
- 17.4 The Applicant has included Requirement 34 'Employment, skills and training plan' with the draft DCO, the wording of which has been agreed with the Local Authorities. It is agreed that Requirement 34 provides an appropriate mechanism by which to promote employment, skills and training opportunities during construction and employment opportunities during operation for local residents.
- 17.5 Prior to the submission of the plan pursuant to Requirement 34, the Applicant would discuss and agree the specific details of the construction phase element of the plan with the appointed lead contractor. The appointed contractor would have their own guidelines and procedures relating to the procurement of labour and suppliers and EPL would need to have regard to these in developing the plan. A lead contractor is yet to be appointed and the tendering process is still in its early stages. As such, any framework plan prepared now would be done so without the input of a lead contractor and would require substantial amendment at a later date (after the contractor has been appointed). With regard to the operational phase, the Applicant still needs to establish the extent to which staff at the existing coal-fired power station may be transferred to the Proposed Power Plant as well as its exact operational arrangements. In view of these factors, it is agreed that there is no benefit in submitting a 'framework plan' at this stage as it would not be meaningful.
- 17.6 Based upon the assessment within Chapter 15 of the ES and taking account of proposed mitigation, including Requirement 34, it is agreed that the Proposed Development would not result in unacceptable effects in terms of land use and socio-economics.

18.0 CULTURAL HERITAGE

- 18.1 The ES (Volume 1) provides an assessment of the impact Proposed Development upon cultural heritage at Chapter 13 (Application Document Ref. 6.2.13). Plans of designated and non-designated heritage assets are provided at Figures 13.1 and 13.2 of the ES (Application Document Refs. 6.3.22 and 6.3.23) and a Gazetteer of Heritage Assets and a Geophysical Survey of the Proposed Gas Connection Route are provided at Appendices 13A and 13B (Application Document Refs. 6.4.19 and 6.4.20).
- 18.2 It is agreed that development within the boundary of the existing coal-fired power station is unlikely to have a significant impact upon archaeological remains.
- 18.3 The most significant archaeological site in close proximity to the Proposed Development is the Hall Garths medieval manor. The Proposed Gas Connection route was amended to avoid the main complex of medieval remains however, it is acknowledged that there may be a minor impact on peripheral features during construction. In respect of this identified impact, further discussions have taken place with heritage officers at NYCC and it has been agreed that no further investigation of this area is necessary and that the Written Scheme of Investigation ('WSI') that would be secured by Requirement 16 'Archaeology' of the draft DCO would provide sufficient mitigation of any such impacts.

18.4 The Local Authorities have proposed revised wording for Requirement 16 that is intended to ensure that if any archaeological features are discovered that require mitigation in accordance with Chapter 13 of the ES, which the scheme approved under Requirement 16 will set out how such mitigation is carried out. The proposed revised wording for Requirement 16 is agreed by the Applicant and is set out below. This will be included within the revised draft DCO submitted at Deadline 3:

Requirement 16 - Archaeology

16(1) No part of the authorised development must commence until a written scheme of investigation for that part has been submitted to and, after consultation with NYCC, approved by the relevant planning authority.

(2) The Scheme submitted and approved must be in accordance with chapter 13 of the ES.

(3) The Scheme must identify any areas where further archaeological investigations are required and the nature and extent of the investigations required in order to preserve by knowledge or in-situ any archaeological features that are identified.

(4) The Scheme must provide details of the measures to be taken to protect, record or preserve any significant archaeological features that may be found.

(5) Any archaeological investigations implemented and measures taken to protect record or preserve any identified significant archaeological features that may be found must be carried out-

(a) in accordance with the approved Scheme; and

(b) by a suitably qualified person or organisation approved by the relevant planning authority in consultation with NYCC unless otherwise agreed by the relevant planning authority.

18.5 It is also agreed between the parties that an 'Outline Written Scheme of Investigation' is not required at this stage.

18.6 It is therefore agreed that the Proposed Development, taking account of mitigation, including the WSI secured by Requirement 16, would not result in unacceptable impacts upon cultural heritage, including archaeology and other heritage assets such as listed buildings and conservation areas.

18.7 It is agreed that whilst the existing coal-fired power station is a heritage asset, Historic England ('HE') does not consider there to be sufficient justification in heritage terms to warrant listing it. While it is acknowledged that there is continuing uncertainty as to the exact date for the closure of the existing coal-fired power station, it is agreed that the Applicant, in accordance with the guidance produced by HE relating to recording later C20th power stations, will appropriately record the existing power station prior to its demolition.

19.0 LANDSCAPE

19.1 Chapter 16 of the ES Volume 1 considers the landscape and visual effects of the Proposed Development (Application Document Ref. 6.2.16). The landscape and visual impact assessment methodology is set out at Appendix 16A (Application Document Ref. 6.4.23) and information

about viewpoint locations, landscape characterisation, zones of theoretical visibility, including photomontages, is provided at Figures 16.1 to 16.54 (Application Document Refs. 6.3.25 to 6.3.34).

- 19.2 It is agreed that the methodology that has been adopted for the assessment of landscape and visual effects, including representative viewpoints, is acceptable and that the ES has addressed the key issues raised in the Local Authorities' response to the Section 42 consultation.
- 19.3 It is agreed that the Proposed Development accords with policy relating to landscape and that the Applicant has taken account of the landscape character of area and the effects upon features important to local character.
- 19.4 The Local Authorities are satisfied that the Proposed Development has been designed to minimise harm to the landscape and welcome the approach to the protection and enhancement of existing planting and the proposed replacement planting. Furthermore, it is agreed that Requirement 6 'Landscape and biodiversity protection management and enhancement' provides an appropriate mechanism by which to secure the management of the existing planting as well as the replacement planting.
- 19.5 The Local Authorities do not, however, consider that the Proposed Development fully mitigates the loss of existing woodland planting or that the Applicant has had sufficient regard to the improvement of local green infrastructure.
- 19.6 The Applicant is currently in discussions with the Yorkshire Wildlife Trust ('YWT') and the Environment Agency (EA) regarding the delivery of off-site biodiversity enhancement measures and has committed to provide funding to assist in delivering the Lower Aire wetland creation with connections and Natural Flood Management. This scheme would be delivered by the YWT in partnership with the Environment Agency. The funding is to be secured through a Section 106 agreement a draft of which has been provided to the YWT (Document Ref. 9.8). It is agreed by the Local Authorities that, subject to the agreement of the details of the off-site biodiversity enhancement, that this would address the Authorities' concerns with regard to the loss of existing woodland planting and local green infrastructure.

20.0 BIODIVERSITY

- 20.1 Biodiversity is considered at Chapter 10 of ES Volume 1 (Application Document 6.2.10) which summarises the ecological surveys undertaken and provides an assessment of the effects of the Proposed Development on ecology. The survey reports are provided at Appendices 10C to 10G (Application Document Refs. 6.4.10 to 6.4.14). It is agreed that the ecological surveys and methods used to inform the assessment of effects upon biodiversity are appropriate and in line with current best practice and guidance.
- 20.2 It is also agreed that, in line with the conclusions of Chapter 15 of the ES, the Proposed Development would not result in significant effects upon statutory and non-statutory sites, habitats or protected species.
- 20.3 While the Local Authorities have raised the issue of the potential effects of the Proposed Development upon Natura 2000 sites, should SCR be required, it is agreed that this is an Environmental Permitting matter that the Applicant must resolve with the EA and Natural England. The Applicant is currently in discussions with the EA regarding to the need or otherwise

for SCR. It is acknowledged by the Local Authorities that the Applicant is not currently in a position to determine whether or not SCR would be required.

- 20.4 Although it is agreed that Requirement 6 'Landscaping and biodiversity protection management and enhancement' would deliver biodiversity enhancement, the Local Authorities are of the view that the Proposed Development does not currently fully provide for 'net gain' in terms of biodiversity enhancement.
- 20.5 As confirmed above, the Applicant is currently in discussions with the YWT and the EA regarding the delivery of off-site biodiversity enhancement measures and has committed to provide funding to assist in delivering the Lower Aire wetland creation. This scheme would be delivered by the YWT in partnership with the Environment Agency. The funding is to be secured through a Section 106 agreement a draft of which (Document Ref. 9.8) has been provided to the YWT for review. It is agreed by the Local Authorities that, subject to the agreement of the details of the off-site biodiversity enhancement, that the Section 106 agreement would address the Authorities' concerns regarding biodiversity 'net gain'.

21.0 FLOOD RISK AND DRAINAGE

- 21.1 Chapter 11 of the ES Volume 1 deals with water resources, flood risk and drainage (Application Document Ref. 6.2.11). A full Flood Risk Assessment is provided at Appendix 11A of the ES (Application Document Ref. 6.4.16).
- 21.2 It is agreed that NYCC is the Lead Local Flood Authority for the whole county of North Yorkshire. NYCC as Lead Local Flood Agency will, however, defer to the Shire Group of Internal Drainage Boards (the Danvm Drainage Commissioners) on matters of local flood risk management and drainage.
- 21.3 The Local Authorities have no concerns regarding the Proposed Development in respect of flood risk and drainage matters and it is agreed that Requirements 13 and 14 of the draft DCO would deliver the necessary flood risk mitigation and the required surface and foul water drainage systems.

22.0 CONTAMINATION

- 22.1 Chapter 12 of ES Volume 1 (Geology, Hydrogeology and Land Contamination) provides an assessment of the effects of the Proposed Development regarding contamination (Application Document Ref. 6.2.12).
- 22.2 The potential for contamination during the construction and operation of the Proposed Development would be controlled by the following requirements within the draft DCO:
- Requirement 15 'Contaminated land and ground water'; and
 - Requirement 18 'Construction environmental management plan'.
- 22.3 The Local Authorities have raised no concerns regarding potential contamination or proposed mechanisms of control contained in the draft DCO.

23.0 MINERALS AND WASTE

- 23.1 It is agreed that the Applicant has had regard to relevant minerals policies in preparing the Application and that ES Volume 1, Chapter 12 'Geology, Hydrogeology and Land Contamination' (Application Document Ref. 6.2.12) and Appendix 12A 'Phase 1 Geotechnical & Geo-Environmental Site Assessment' have adequately considered past minerals, including coal mining activity within the surrounding area. Furthermore, it is agreed that there is no conflict between the Proposed Development and relevant minerals policies, including safeguarding policies.
- 23.2 It is agreed that the Applicant has adequately considered the waste implications of the Proposed Development (ES Volume 1 - Chapter 17 'Waste Management' - Application Document Ref. 6.2.17) and has incorporated an appropriate requirement (Requirement 26 'Waste management on site - construction wastes') that would secure a construction site waste management plan prior to the commencement of development. However, NYCC, as Waste Planning Authority, has requested that it is consulted by the relevant planning authority (SDC) prior to the approval of the construction site waste management plan. The Applicant is in agreement with regard to this and the draft DCO will be accordingly amended.

24.0 CUMULATIVE EFFECTS

- 24.1 It is agreed that the approach that has been taken to the assessment of cumulative effects at ES Volume I, Chapter 20 'Cumulative and Combined Effects' (Application Document Ref. 6.2.20) is appropriate and proportionate and that the Applicant has taken account of the relevant planned and consented projects.

25.0 THE BENEFITS OF THE PROPOSED DEVELOPMENT

- 25.1 The Local Authorities agree with the Applicant's assessment of the key benefits of the Proposed Development as set out at Section 6.0, paragraph 6.2 of the Planning Statement (Application Document Ref. 5.5).
- 25.2 It is agreed that need for the Proposed Development is established by NPS EN-1 and that its benefits substantially outweigh its limited adverse impacts.

26.0 THE SCOPE OF THE DRAFT DCO AND DRAFT REQUIREMENTS

- 26.1 It is agreed that the scope of the powers being sought through the draft DCO are appropriate.
- 26.2 Furthermore, there is agreement on the requirements included at Schedule 2 of the draft DCO, subject to minor amendments, and it is considered that these would appropriately control the design, construction, operation and decommissioning of the Proposed Development. This is with the exception the following requirements:
- Requirement 24 'Control of noise - operation'
 - Requirement 35 'Ambient air modelling'
- 26.3 Requirement 24 is dealt with at Section 16.0. Requirement 35 is dealt with at Section 15.0.

- 26.4 The Local Authorities are still to agree the definition of “permitted preliminary works” at Schedule 2 ‘Requirements’ of the draft DCO. The Authorities confirmed at the ISH on the draft DCO held on 23 November 2017 that they would wish to review the revised definition of “permitted preliminary works” that was discussed with the Examining Authority. The Applicant will provide a revised definition at Deadline 3 as part of the revised draft DCO (Document Ref. 2.1 - Rev. 3.0).
- 26.5 The Local Authorities also confirmed at the ISH on the draft DCO that they would wish to review any revised definition of “maintain” provided in Part 1, Article 2 of the draft DCO which was also discussed with the Examining Authority. The Applicant will also provide a revised definition for “maintain” at Deadline 3 as part of the revised draft DCO.
- 26.6 Requirement 39 was also discussed with Examining Authority at the ISH on the draft DCO. It was agreed between all parties that some amendment was required to the Applicant’s proposed wording of Requirement 39, which was agreed by the Authorities. Again, the Applicant will provide revised wording at Deadline 3 as part of the revised draft DCO
- 26.7 The parties have further discussed, and agreed, the wording of Schedule 11 ‘Procedure for Discharge of Requirements’ of the draft DCO subject to the Applicant agreeing to enter into a Planning Performance Agreement before the closure of the Examination with the Authorities for the purpose of providing a contribution to the Authorities to ensure sufficient resources are available and notice given to facilitate the discharge of all requirements in compliance with Schedule 11 of the DCO.

27.0 THE ENABLING WORKS PLANNING APPLICATION

- 27.1 The Applicant intends to submit an application to SDC for certain preparatory and early works (known as the ‘Enabling Works’) under the Town and Country Planning Act 1990 (the ‘TCPA 1990’).
- 27.2 The Applicant submitted a request for an EIA Scoping Opinion to SDC on the 18 September 2017 in respect of the ES that is to be prepared as part of the planning application. SDC issued its Scoping Opinion on 24 October 2017.
- 27.3 The Applicant’s reasoning for applying for the Enabling Works separately under the TCPA 1990 relates principally to the time savings that would be realised for the Proposed Development. The approval of the Enabling Works application in advance of a DCO being granted would allow work to start on the Proposed Development at an earlier stage, accelerating the construction programme and therefore allowing for its benefits (recognised in EN-1 to be significant) to be realised as quickly as possible.
- 27.4 Although the Enabling Works form part of the Proposed Development and have been included within the Application, it is agreed that they do not (in themselves as an independent package of works) require development consent, as they do not form part of the construction of the Proposed Power Plant (the NSIP)). It is therefore agreed that the Applicant can apply for planning permission for the Enabling Works (those that require permission) under the TCPA 1990, and subject to the determination and approval of that application, to implement the permission, if granted.

28.0 MATTERS TO RESOLVE

28.1 The following matters are not currently agreed between the parties and remain the subject of discussion:

- the wording of Requirement 24 'Control of operational noise' sub-paragraph (2);
- the wording of Requirement 35 'Ambient air modelling';
- the wording of Requirement 39 'Amendments agreed by the relevant planning authority';
- the definition of "permitted preliminary works";
- the definition of 'maintain' and 'maintenance';
- the wording and agreement of a Planning Performance Agreement in respect of discharge of requirements pursuant to Schedule 11

Signed:

Print name and position:

On behalf of North Yorkshire County Council:

Date:

Signed:

Print name and position:

On behalf of Selby District Council:

Date:

Signed:

Print name and position:

On behalf of Eggborough Power Limited:

Date: