

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

**Applicant's Comments on the Local Impact Report, Written
Representations & Responses to the ExA's First Written Questions
- Deadline 3**

The Planning Act 2008



Applicant: Eggborough Power Limited
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GLOSSARY

ABBREVIATION	DESCRIPTION
Applicant	Eggborough Power Limited
CHP	Combined Heat and Power
CTMP	Construction Traffic Management Plan
DCO	Development Consent Order
EA	Environment Agency
EIA	Environmental Impact Assessment
EPL	Eggborough Power Limited
ES	Environmental Statement
ExA	Examining Authority's
FWQs	First Written Questions
IDBs	Internal Drainage Boards
ILBS	Landscaping and Biodiversity Strategy
LIR	Local Impact Report
MMO	Marine Management Organisation
MW	megawatts
NG	National Grid
NSIP	Nationally Significant Infrastructure Project
NYCC	North Yorkshire County Council
PA 2008	The Planning Act 2008
PFA	pulverised fuel ash
SCR	Selective Catalytic Reduction
SDC	Selby District
SoCG	Statement of Common Ground
SoS	Secretary of State
the Order	Eggborough CCGT (Generating Station) Order
YWT	Yorkshire Wildlife Trust

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1.0 INTRODUCTION

- 1.1 This document (Document Ref. 9.3) 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') for the Eggborough CCGT Project (the 'Proposed Development'). The Application was submitted to the Secretary of State (the 'SoS') for Business, Energy and Industrial Strategy on 30 May 2017 and was accepted for examination on 27 June 2017.
- 1.2 The Proposed Development comprises 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'), including electrical and water connections, a new gas supply pipeline and other associated 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 Planning Act 2008 (the 'PA 2008'). The DCO, if made by the SoS, would be known as the 'Eggborough CCGT (Generating Station) Order' (the 'Order').
- 1.4 This document sets out the Applicant's comments on the Local Impact Report ('LIR') jointly prepared by North Yorkshire County Council ('NYCC') and Selby District ('SDC'); the Written Representations submitted by Interested Parties and, where relevant, the responses made to the Examining Authority's ('ExA') First Written Questions ('FWQs'). The LIR, Written Representations and responses to the ExA's FWQS were submitted for Deadline 2 of the Examination (1 November 2017). The Applicant's comments are provided in Section 2. The document has been submitted for Deadline 3 of the Examination.

2.0 APPLICANT'S COMMENTS

- 2.1 The Applicant's comments on the LIR; the WRs and, where relevant, the responses made to the ExA's FWQs are set out in Table 2.1 on the following pages of this document.
- 2.2 Table 2.1 includes the name of the Interested Party, the document and the relevant section/paragraph, the relevant matter/issue raised and the Applicant's comments in response. Where relevant the Applicant's comments cross-refer to the other documents that have been submitted for Deadline 3 of the Examination.

Table 2.1 - Applicant's Comments

Ref.	Interested Party	Document & Reference	Summary of Issue/Matter	Applicant's Comments/Response
1.	NYCC/SDC	LIR, Section 6. 'Air Quality and Emissions', paragraph 6.3	DCO should include a requirement to ensure that air quality strategy objectives are met.	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 Applicant and the Local Authorities that such a requirement is not necessary. This agreement is documented at paragraph 15.2 in the updated draft Statement of Common Ground ('SoCG') between the Applicant and the Local Authorities (Document Ref. 7.1 - Rev. 3.0) that has been submitted for Deadline 3 of the Examination.
2.	NYCC/SDC	LIR, Section 6. 'Air Quality and Emissions', paragraph 6.7 - 6.23 & Section 7. 'Landscape, Biodiversity and Green Infrastructure', paragraph 7.30 Written Representation - 'Air Quality'	Concern over possible use of Selective Catalytic Reduction ('SCR') to reduce NOx emissions and the potential effects on Natura 2000 Sites and ecological receptors.	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 acknowledged by the Local Authorities (paragraph 20.3 of the updated draft SoCG, Document ref. 7.1 - Rev. 3.0 submitted for Deadline 3) that the deployment or otherwise of SCR is primarily an Environmental Permitting matter to be determined by the Environment Agency ('EA'). In response to the Examining Authority's ('ExA's') 'Hearing Action Points', Action 2, issued following the ISH on Environmental Matters held on 22 November 2017, the Applicant will provide further information in respect of potential impacts on European sites, including Integrity Matrices, sufficient for the ExA to produce a report on the implications for such sites, and for the Secretary of State to undertake an Appropriate Assessment, if necessary. This information will be submitted to the Planning Inspectorate ('PINS') by 13 December 2017. The information would also be used to inform the site specific Best Available Techniques ('BAT') justification for the use of SCR as part of the Environmental Permitting process.

Ref.	Interested Party	Document & Reference	Summary of Issue/Matter	Applicant's Comments/Response
				Reference should also be made to the Applicant's Written Summary of its oral case put at the ISH on Environmental Matter (Document Ref. 9.4) where further information on the above is provided.
3.	NYCC/SDC	LIR, Section 7. 'Landscape, Biodiversity and Green Infrastructure', paragraphs 7.18 & 7.45 Written Representation - 'Landscape'	Removal of existing woodland is not mitigated for elsewhere in terms of seeking to improve the green infrastructure of the surrounding landscape. Potential to mitigate against loss of mature planting along the pipeline route has been missed. Reference to opportunities that have been highlighted for green infrastructure biodiversity mitigation.	The Applicant is currently in discussions with the Yorkshire Wildlife Trust ('YWT') regarding the delivery of off-site biodiversity enhancement measures and has committed to provide funding for a defined project to assist in delivering the Lower Aire wetland creation. This would include biodiversity enhancements, including planting and natural flood management. This scheme would be delivered by the YWT in partnership with the EA, which controls the land. The funding is to be secured through a Section 106 agreement. A draft of this agreement (Document ref. 9.8) has been submitted to the YWT for review and has been submitted for Deadline 3. It is agreed between the Applicant and the Local Authorities (paragraph 19.6 of the updated draft SoCG, Document ref. 7.1 - Rev. 3.0 submitted for Deadline 3) that, subject to the agreement of the details of the off-site enhancement and the level of funding, this would address the Authorities' concerns with regard to the loss of existing woodland planting and local green infrastructure.
4.	NYCC/SDC	LIR, Section 7. 'Landscape, Biodiversity and Green Infrastructure', paragraphs 7.31 - 7.32 & 7.49 - 7.55 ExA FWQ BE 1.3 'Woodland Screening' (ii) & (iii) - 'Biodiversity Net Gain' & BE 1.7 'Mitigation'	Biodiversity 'net gain' has not been secured and there is a need to build in biodiversity enhancements in order to secure this.	As confirmed above, the Applicant is currently in discussions with the YWT regarding the delivery of off-site biodiversity enhancement measures and has committed to provide funding for a defined project to assist in delivering the Lower Aire wetland creation, which would include biodiversity enhancements. It is agreed between the Applicant and the Local Authorities (paragraph 20.5 of the updated draft SoCG, Document Ref. 7.1 - Rev. 3.0 submitted for Deadline 3) that, subject to the agreement of the details of the off-site enhancement and the level of funding, this would address the Authorities' concerns with regard to biodiversity 'net gain'.
5.	NYCC/SDC	LIR, Section 7. 'Landscape, Biodiversity and Green	Do not agree with biodiversity offsetting	Please refer to the Applicant's response Ref. 4 above.

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		Infrastructure', paragraph 7.36 ExA FWQ BE 1.3 'Woodland Screening' (ii) & (iii) - 'Biodiversity Net Gain' & BE 1.7 'Mitigation'	calculations and that existing semi-mature plantation woodland can be elevated to 'good'.	
6.	NYCC/SDC	LIR, Section 7. 'Landscape, Biodiversity and Green Infrastructure', paragraphs 7.43 - 7.45 Written Representation - 'Landscape'	Comments on the Indicative Landscaping and Biodiversity Strategy ('ILBS'), including proposals for reinstatement and enhancement of hedgerows and trees and replacement species within existing semi-mature woodland. The ILBS needs to go further in relation to types of planting to be used in order to maximise screening.	The detailed landscaping proposals for the Site will be secured by Requirement 6 'Landscaping and biodiversity protection management and enhancement' ('ILBS') of the DCO. The plan submitted to discharge Requirement 6 must be in accordance with the ILBS. The plan must include details of all new shrub and tree planting; measures to enhance existing shrub and tree planting that is to be retained; measures to enhance biodiversity and habitats; an implementation timetable; and annual landscaping and biodiversity management and maintenance. The plan must only be approved by the relevant planning authority (SDC) following consultation with NYCC and the YWT. As such, the relevant planning authority, NYCC and YWT will have the opportunity to comment upon and input to the detailed planting proposals prior to them being approved.
7.	NYCC/SDC	LIR, Section 7. 'Landscape, Biodiversity and Green Infrastructure', paragraph 7.56 Written Representation - 'Ecology'	Reference to numerous identifiable and practical opportunities available within the vicinity of the Proposed Development for the provision of off-site biodiversity enhancement.	Please refer to the Applicant's response Ref. 4 above.
8.	NYCC/SDC	LIR, Section 8. 'Cultural Heritage', paragraph 8.15	The Local Authorities wish to see a commitment to	It is agreed between the Applicant and the Local Authorities that while the existing coal-fired power station is a heritage asset, Historic England ('HE') does

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		<p>Written Representation - 'Archaeology and Cultural Heritage', Existing Power Station</p> <p>ExA FWQ AH 1.5 - 'Historic Assessment of Existing Coal-Fired Station'</p>	<p>recording the existing coal-fired power station in line with advice issued by Historic England.</p>	<p>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 has been agreed between the Applicant and the Local Authorities that the existing power station will, in accordance with the guidance produced by HE relating to recording later C20th power stations, be appropriately recorded prior to its demolition. This agreement is recorded at paragraph 18.7 of the updated draft SoCG (Document Ref. 7.1 - Rev. 3.0) between the Applicant and the Local Authorities submitted for Deadline 3.</p>
9.	NYCC/SDC	<p>LIR, Section 8. 'Cultural Heritage', paragraph 8.19</p> <p>Written Representation - 'Archaeology and Cultural Heritage', Impacts of other heritage assets</p> <p>ExA FWQ AH 1.2 'Outline Written Scheme of Investigation' & AH 1.4 'Hall Garths Medieval Moated Site.</p>	<p>Further wording needed to Requirement 16 'Archaeology' to ensure that any required mitigation identified as a result of the archaeological evaluation is implemented by the Applicant, as approved by the relevant planning authority, in consultation with NYCC.</p>	<p>The Local Authorities have proposed revised wording for Requirement 16 that is intended to ensure that if any archaeological features are discovered in the vicinity of the Hall Garths Medieval Moated Site (or elsewhere) that require mitigation in accordance with Chapter 13 of the Environmental Statement ('ES'), that the scheme approved under Requirement 16 'Archaeology' will set out how such mitigation is carried out. The proposed revised wording for Requirement 16 is agreed by the Applicant (this agreement is documented at paragraph 18.4 of the updated draft SoCG - Document Ref. 7.1 - Rev. 3.0 submitted for Deadline 3) and is set out below. The revised wording, which also deletes the wording "<i>the principles of</i>" pursuant to a request made by the ExA, has also been included within the revised draft DCO (Document Ref. 2.1 - Rev. 3.0) submitted for Deadline 3:</p> <p><i>"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.</i></p> <p><i>(2) The Scheme submitted and approved must be in accordance with chapter 13 of the ES.</i></p> <p><i>(3) The Scheme must identify any areas where further archaeological</i></p>

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				<p><i>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.</i></p> <p><i>(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.</i></p> <p><i>(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-</i></p> <p><i>(a) in accordance with the approved Scheme; and</i></p> <p><i>(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."</i></p>
10.	NYCC/SDC	LIR, Section 10. 'Noise and Vibration', paragraph 10.6	Request that an additional sub-paragraph is added to Requirement 18 'Construction environmental management plan', sub-paragraph (2) to specify the inclusion of noise and vibration.	The Applicant does not consider that the inclusion of this wording is necessary given that noise and vibration will be controlled by Requirement 23 'Control of noise and vibration' of the draft DCO. Requirement 23 secures the submission and agreement of a scheme for the control and monitoring of noise and vibration during the construction phase.
11.	NYCC/SDC	LIR, Section 10. 'Noise and Vibration', paragraphs 10.7 - 10.22	Requested amendments to Requirement 23 'Control of noise and vibration - construction' have not been made, including reference to vibration and an additional sub-paragraph relating to the	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 Applicant and the Local Authorities at the ISH on Environmental Matters held on 22 November 2017, it has been agreed that Requirement 23 as currently drafted will adequately control construction noise and that no amendments to the Requirement are needed. The agreement between the

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			method by which the maximum permitted level of vibration is to be determined.	Applicant and the Local Authorities is documented at paragraph 16.2 of the updated draft SoCG between the parties (Document Ref. 7.1 - Rev. 3.0) submitted for Deadline 3.
12.	NYCC/SDC	LIR, Section 10. 'Noise and Vibration', paragraphs 10.23 - 10.46 Written Representation - 'Noise and Vibration' ExA FWQ NV 1.2 - 'Night-time Noise'	The Local Authorities do not agree with the noise rating level (+5dB above background) incorporated within Requirement 24 'Control of noise - operation'. Concern over night-time noise levels. Requirement 24 should differentiate between day and night-time noise levels.	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 had requested that the rating level is reduced to +0dB. Requirement 24 was the subject of further discussion at the ISH on Environmental Matters held on 22 November 2017. At the ISH it was agreed that the Applicant would provide revised wording for Requirement 24 which 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 has provided revised wording for Requirement 24 within the revised draft DCO (Document Ref. 2.1 - Rev. 3.0) submitted for Deadline 3.
13.	NYCC/SDC	LIR, Section 10. 'Noise and Vibration', paragraph 10.47	The noise and vibration effects of decommissioning should be controlled via Requirement 35 'Decommissioning' and an additional subsection should be added to require consideration of noise and vibration during decommissioning activities.	The Local Authorities, although acknowledging that decommissioning of the Proposed Development may take place many years in the future, requested that the noise and vibration effects of the decommissioning phase are controlled via Requirement 35 'Decommissioning' (now Requirement 36) of the draft DCO. The Applicant agreed to this request and the revised draft DCO submitted at Deadline 2 (Document Ref. 2.1 - Rev. 2.0) incorporated the necessary wording at sub-paragraph (3) as follows: <i>"(3) The plan submitted and approved must be in accordance with the principles set out in the environmental statement and must include measures to address any significant noise and vibration effects."</i>

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14.	NYCC/SDC	LIR, Section 13. 'Hydrology and Flood Risk', paragraph 13.2 ExA FWQ 1.21 - 'Outline Drainage Strategy'	Reference to NYCC being Lead Local Flood Authority but deferring to the Shire Group of Internal Drainage Boards ('IDBs') (Selby Area IDB) on local flood risk management. Response confirms that NYCC as Local Lead Flood Authority has no specific concerns regarding the proposals for foul and surface water drainage and would defer to the Selby Area IDB on local flood risk management.	The relevant IDB for the Site is the Danvm Drainage Commissioners. The Applicant consulted the Danvm Drainage Commissioners at both Stage 1 and Stage 2 of its Consultation on the Application and has also engaged with the Commissioners regarding the proposals to discharge surface water to Hensall Dyke. In response to this the Commissioners confirmed by email dated 12 May 2017 that, based on the evidence-based hydraulic assessments undertaken by the Applicant, they were in agreement in principle to the proposed surface water discharge to Hensall Dyke, subject to a consent application (in accordance with Section 66 of the Land Drainage Act) being submitted in due course. This information has been passed to the Local Authorities and they have been asked to contact the IDB to satisfy themselves there are no issues on this matter.
15.	NYCC/SDC	LIR, Section 16. 'Adequacy of the DCO', paragraph 16.2 - Schedule 11 'Procedure for discharge of requirements' ExA FWQ DCO 1.36 - 'Procedure for Discharge of Requirements'	LIR states that the Local Authorities are satisfied with the procedure and timescales provided for the discharge of requirements. Response to ExA FWQ DCO 1.36 states that the wording of Schedule 11 is acceptable in principle to the Local Authorities provided that an untenable amount of applications to discharge requirements are not	At the ISH into the draft DCO held on 23 November 2017, the Local Authorities confirmed that they are satisfied with the wording of Schedule 11 'Procedure for Discharge of Requirements'. As such, no changes are required to Schedule 11. The Applicant has offered to extend the existing Planning Performance Agreement with the Local Authorities to ensure that they have sufficient resources in place at the appropriate time in order to process the applications submitted to discharge the requirements, should a DCO be made by the Secretary of State. In addition, in advance of submitting any applications, the Applicant would look to agree a programme for the submission of applications to discharge requirements to ensure that the Authorities know what to expect and have sufficient time to prepare. It is agreed that it is not in the interest of either party to overburden the Local Authorities with the number of submissions.

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			submitted simultaneously.	
16.	NYCC/SDC	ExA FWQ DCO 1.25 - 'Requirements' (i) & (ii), Definition of 'A Part'	Response to ExA FWQ DCO 1.25 raises concern over the potential submission of a significant amount of simultaneous applications to discharge requirements.	Please refer to response Ref. 15 above.
17.	Environment Agency ('EA')	Written Representation - paragraph 2.5, 'Combined Heat and Power'	Site layout plan indicating the space that could be made available for CHP needs to be submitted.	It is agreed between the Applicant and the EA (SoCG - Rev. 3.0, paragraph 11.1 - Document Ref. 7.3) that the Combined Heat and Power ('CHP') Assessment submitted as part of the Application (Document Ref. 5.7) adequately demonstrates the 'CHP-Ready' status of the Proposed Power Plant in accordance with the three BAT Tests outlined in the EA's CHP-Readiness Guidance, dated February 2013. Furthermore, it is agreed that draft Requirement 28 'Combined heat and power' adequately secures space and routes for the provision of CHP over the lifetime of the Proposed Development (should CHP become economically viable in the future).
18.	EA	Written Representation - paragraph 4.3, 'Other Consents and Licences' document	The 'Other Consents and Licences' document should be updated to reflect the permitting requirement in relation to discharges to surface water or groundwater.	The Applicant submitted an updated version of the Other Consents and Licences document (Document Ref. 5.4) at Deadline 2. This covers the consents required in relation to discharges surface water and ground water.
19.	EA	Written Representation - paragraphs 8.2 - 8.3, 'Pipeline Crossing of the River Aire and Flood	Concern regarding the pipeline crossing of the River Aire and the integrity of the EA's flood defences.	The EA has raised concern about the method proposed to construct the Proposed Gas Connection under the River Aire and through flood defences either side of the River. This concern related to the effect that an open-cut method may have on the EA's flood defences, if used.

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		Defences' ExA FWQ FW 1.16 'River Aire Crossing'		<p>The Applicant has proposed that it will use horizontal directional drilling ('HDD') under the River and to extend this underneath the flood defences to the north and south of the River. This is secured by Requirement 5 'Detailed design', sub-paragraph (8)(d) of the draft DCO (Document Ref. 2.1 - Rev. 2.0 submitted at Deadline 2), which requires the approval of the relevant planning authority to the route and method of installation of the pipeline. The Applicant also amended the wording of sub-paragraph (8)(d) for Deadline 2 to include the EA as a consultee and require the following details to be approved in consultation with it:</p> <p><i>"(d) the route and method of installation of the high pressure steel pipeline and any electrical supply, telemetry and other apparatus, including under and within the footprint of any flood defences;..."</i></p> <p>While HDD is likely to offer a preferable construction method for the Proposed Gas Connection within the vicinity of the EA's flood defences, the EA has confirmed that it will require safeguards in the form of settlement monitoring, which will ensure that the works do not affect its flood defences. In order to secure this, the Applicant has agreed to include the following new requirement within the revised draft DCO (Document Ref. 2.1 - Rev. 3.0) submitted for Deadline 3:</p> <p><i>"40-(1) Prior to commencement of Work No. 6, a scheme for monitoring ground subsidence in and around the flood defences for the River Aire must be submitted to and, following consultation with the Environment Agency, approved by the relevant planning authority.</i></p> <p><i>(2) The scheme must set out:</i></p> <p><i>(a) the details of the work which is to be subject to monitoring;</i></p> <p><i>(b) the extent of land to be monitored;</i></p>

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				<p>(c) the manner in which ground levels are to be monitored; (d) the duration of monitoring activities; and (e) the extent of ground subsidence which, if exceeded, will require the undertaker to submit a ground subsidence mitigation scheme for the Environment Agency's approval in accordance with sub-paragraph (3).</p> <p>(3) If the monitoring identifies that ground subsidence has exceeded the level described in subparagraph (2)(e), a scheme setting out mitigation measures in relation to the ground subsidence must be submitted as soon as is reasonably practicable to and, following consultation with the Environment Agency, approved by the relevant planning authority.</p> <p>(4) The mitigation scheme approved pursuant to sub-paragraph (3) must be implemented as approved, unless otherwise agreed in writing with the relevant planning authority."</p> <p>The agreement that has been reached between the Applicant and EA on this matter is set out at Section 5 of the SoCG between the parties (Document Ref 7.3 - Rev. 3.0) submitted for Deadline 3.</p>
20.	Canal & River Trust ('CRT')	Written Representation - 'Proposed Abstraction from the River Aire'	CRT believes that the principle of lower abstraction rates should not result in a significant negative impact to navigational safety, however, this is subject to final design of the abstraction apparatus. The angle of abstraction can have an impact on water flows, and the design and location of new abstraction apparatus at the river bank	<p>The Applicant and CRT are in discussions on this point.</p> <p>The CRT, as part of their comments on the draft form of Protective Provisions, proposed wording which would require the CRT's consent to be obtained prior to any abstraction taking place, and that any consent of the CRT may include terms specifying the angle and velocity of the water to be abstracted.</p> <p>The Applicant has discussed with CRT amending the drafting of this provision to specify that the consent of the CRT will be required only if the rate and velocity of the abstraction is greater and would have a worse impact than the abstraction which is in place for the existing coal-fired power station. If, as expected, the rate and velocity is the same, or better, than that for the existing coal-fired</p>

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			<p>can create new hazards.</p> <p>Details of abstraction, including the angle of flow should be made a condition of any DCO, and CRT should be a consultee on those aspects.</p>	<p>power station, then CRT's consent will not be required. This is reasonable, given that there are no issues from the current abstraction.</p> <p>On this basis, the provision as drafted by the CRT is not agreed. However, the Applicant and CRT are continuing to engage further on the form of wording to be included in the protective provisions.</p> <p>It has been agreed between the parties that any wording on this issue will be included in the protective provisions as opposed to a requirement in Schedule 2.</p> <p>Reference should be made to the Applicant's response to Ref. 22 below.</p>
21.	CRT	Written Representation – 'Proposed Abstraction from the River Aire'	<p>Details of the eel screens should be made a condition of any DCO so that their implementation is ensured.</p>	<p>The Applicant can confirm that pursuant to Requirement 5(6)(b) of the draft DCO, details of the eel screens must be submitted and approved as these are required to be installed, so as to ensure compliance with the Eel (England and Wales) Regulations 2009.</p>
22.	CRT	Written Representation - 'Proposed Abstraction from the River Aire and Proposed Construction in the River Aire'	<p>CRT should be a consultee to the proposed condition at Schedule 2, paragraph 5(6) of the draft DCO.</p> <p>The extent and location of cofferdams will have a direct impact on navigational activities on the River. The CRT request that it is consulted as part of the requirements, as this is necessary to ensure that the impact of the cofferdams on</p>	<p>Requirement 5(6) specifies that the CRT is required to be consulted in respect of Work No 4.</p> <p>In response to the CRT's point regarding consultation on the cofferdam proposals, the effect of their inclusion as a consultee in Requirement 5(6) is that they are required to be consulted on the detailed design of Work No 4 as a whole. The Applicant considers that the drafting of Requirement 5(6)(a)-(c) ensures that CRT would be consulted on cofferdams (generally) and in respect of the extent and location of the cofferdams (pursuant to Requirement 5(6)(c) specifically).</p> <p>The Applicant does not consider that any further amendments are required to Requirement 5(6) on this basis.</p>

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			navigation can be fully considered.	
23.	CRT	Written Representation - 'Protective Provisions'	Protective Provisions included at Schedule 12 of the draft DCO and Inclusion as a named body in Schedule 2	<p>The Applicant and CRT are in discussions on the form and content of the protective provisions to be included in the draft DCO.</p> <p>In the revised draft DCO submitted for Deadline 3, the Applicant has included a set of provisions it considers are appropriate to protect the interests of CRT.</p> <p>There are some areas of disagreement between the parties, as discussed during the Hearing on Compulsory Acquisition (23 November 2017). To assist the ExA, a summary of the main points not yet agreed are provided below. In addition to these, there are some additional, more minor points which the Applicant is discussing with CRT. It is the intention of the Applicant to continue to negotiate with CRT with a view to reaching agreement on these outstanding points.</p> <ul style="list-style-type: none"> • Abstraction: as explained above, the form of wording put forward by the CRT in this respect is not agreed however the parties are in discussions regarding a variation to the drafting proposed. • Expenses: the Applicant has proposed wording which would allow them to review any Expenses as they arise and afford them the opportunity to reduce or further mitigate the need for those costs. The Applicant considers that this would be a fair and reasonable approach for both parties. CRT has confirmed that this drafting is not accepted but has not provide an explanation as to why • Indemnity: The Applicant has proposed to limit its indemnity to £5 million (which is commensurate with the insurance required by CRT). This cap is not accepted by CRT, which is seeking an unlimited indemnity. It is the Applicant's position that it is not reasonable or proportionate, given the nature of the works, to seek an indemnity on this basis, and that the cap

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				<p>proposed is more than sufficient. The Applicant has offered to provide a technical justification (as to the nature of the works) and so as to provide further comfort to CRT. This proposal was refused by CRT.</p> <p>It was agreed in the ISH on the draft DCO (23 November 2017) that CRT did not require to be a named body in Schedule 2, as they were defined in Article 2. Following a request made by CRT, the Applicant has amended that definition to reference the CRT's charitable status.</p>
24.	CRT	Response to ExA FWQ CA1.7	<p>Objection to Compulsory Acquisition</p> <p>CRT require the relevant works to comply with its Code of Practice for Works affecting CRT.</p>	<p>The Applicant notes that the updated Book of Reference (Document Ref. 3.1 - Rev. 3.0) as submitted at Deadline 2 removes reference to CRT (as a Category 1 owner) in respect of plots 230, 245, 255, 345 and 690; however their existence as Navigation Authority (not an interest in land) in respect of the non-tidal part of the River Aire is stated. The Applicant considers that the CRT's representation is therefore not an objection of relevance to the CA powers in the DCO.</p> <p>The Applicant has included wording in the protective provisions submitted at Deadline 3 that makes clear that the protective provisions have precedence in the event of conflict between them and the Code of Practice (this is particularly relevant to the indemnity, as the Code of Practice requires an unlimited indemnity). As to the other terms of the Code of Practice, the Applicant requested various clarifications from CRT on 21 November 2017 (a response is awaited), and will continue to discuss the Code of Practice with CRT.</p>
25.	CRT	Response to ExA FWQ DCO 1.9	Temporary suspension of public rights of navigation	<p>The Applicant included wording in the revised draft DCO submitted at Deadline 2 (in Article 11(12)) which makes it clear that any suspension of public rights of navigation must be subject to the requirements contained in the Protective Provisions. This was accepted by CRT during the Issue Specific Hearing on the draft DCO (23 November 2017) and the Applicant does not consider that any further amendments are required in this respect.</p>
26.	Marine	Written Representation	Paragraphs 3.1 – 3.5 and	As confirmed at the ISH on the draft DCO (23 November 2017), the comments

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	Management Organisation ('MMO')		3.7—3.10	<p>raised in the MMO's Written Representation have largely been addressed (subject to the issue on mean high water springs, as explained below) following the submission of the revised draft DCO submitted at Deadline2.</p> <p>The revised draft DCO removed Work No. 6, and included all conditions requested by the MMO. A revised Indicative Marine Licence Co-Ordinates Plan (Document Ref. 4.14) was also submitted at Deadline 2.</p>
27.	MMO	Written Representation	Paragraph 3.6	<p>As discussed at the ISH on the draft DCO (23 November 2017), the MMO has subsequently confirmed that, following discussions with the Applicant, it no longer considers that the drafting of Part 2, Paragraph (3)(4)(b) of the DML would permit the Applicant to undertake works across the entire width of the River.</p> <p>The MMO explained at the hearing that a possible solution had been presented to the Applicant on this issue, and that this was agreed in principle by the Applicant subject to a detailed review. The MMO confirmed that it would provide the proposed amended drafting to the Applicant for review.</p> <p>The Applicant has not yet received the drafting from the MMO for review, however it hopes to be in a position to provide an updated draft DML for Deadline 4.</p>
28.	MMO	Response to ExA's Written Questions	Paragraphs 6.1 - 6.10 and 8.3	<p>No amendments to the draft DCO, save for any amendments to the DML as may be required in light of Part 2, Paragraph (3)(4)(b), are required in light of the MMO's comments on the ExA's FWQs.</p> <p>The Applicant however notes the MMO's recommendations in response to FWQ CA1.5, COD 1.9 and COD 1.11, in that if any additional works are required which are outside of the scope of the DML then a new/varied DML would be required to take account of these works.</p>

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				In response to paragraph 8.3, the Applicant provided further comments on the draft SoCG to the MMO on 22 November 2017 and awaits further comments from the MMO in this regard.
29.	National Grid Plc ('NG')	Written Representation	Paragraph 2.2: Proposed amendments to the Order re plots 615, 610 and 695	This issue has now been resolved and it has been agreed that no amendment is required to the draft DCO in this respect. Reference should be made to the letter submitted to the ExA by Shakespeare Martineau (on behalf of National Grid) on 22 November 2017; specifically, paragraph 3 of the section headed ' <i>Comments on the Drafting of the Order</i> ' which confirms this acceptance.
30.	NG	Written Representation	Paragraph 6: Protective Provisions	<p>As confirmed in the letter submitted to the ExA by Shakespeare Martineau (on behalf of National Grid) on 22 November 2017; specifically, paragraph 2 of that letter, the parties have made considerable progress on the negotiation of the Protective Provisions. The substantive commercial terms contained within the Protective Provisions, with particular reference to the Indemnity and Expenses provisions, have now been agreed.</p> <p>The Applicant is discussing with National Grid the most appropriate way to present the agreed form of Protective Provisions on the face of the draft DCO, and it is the expectation of the Applicant that the revision of the draft DCO submitted for Deadline 4 will reflect this. For the avoidance of doubt, the Applicant confirms that these discussions are in respect of the presentation, and not the substance, of those Protective Provisions. The ExA is referred to the explanatory Schedule of Changes to the draft DCO (submitted at Deadline 3) which explains, in further detail, why this approach is required.</p>
31.	NG	Response to ExA FWQs	FWQ 1.9 Update provided by NG on status of gas and grid connections	NG's comments are noted - the Applicant and NG are continuing to progress these and will provide an update at Deadline 4.

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32.	NG	Response to ExA FWQs	Amendments to the draft DCO to protect the rights and interests of National Grid	<p>As confirmed in the letter submitted to the ExA by Shakespeare Martineau (on behalf of National Grid) on 22 November 2017; the parties have reached agreement on the drafting of the draft DCO.</p> <p>The amendments made to Articles 17(5), 20(8) and 21(6) in the draft DCO submitted at Deadline 2 are accepted by the Applicant. Furthermore, as a result of further discussions between the Applicant and National Grid, the Applicant has amended Article 17(4) to include the words "or 28 (statutory undertakers)" after the words "21 (private rights)". This is reflected in the draft DCO submitted at Deadline 3.</p>
33.	Yorkshire Wildlife Trust ('YWT')	ExA FWQ BE 1.3 'Woodland Screening' (ii) & (iii) - 'Biodiversity Net Gain' & BE 1.7 'Mitigation'	Do not agree with biodiversity offsetting calculations and that existing semi-mature plantation woodland can be elevated to 'good'. Also biodiversity 'net gain' has not been secured	As confirmed above in the Applicant's response to Ref. 4, the Applicant is currently in discussions with the YWT regarding the delivery of off-site biodiversity enhancement measures and has committed to provide funding for a specific project to assist in delivering the Lower Aire wetland creation, which would include biodiversity enhancements. It is agreed between the parties that, subject to the agreement of the details of the off-site enhancement and the level of funding, this would address the YWT's concerns with regard to biodiversity 'net gain'. A draft Section 106 Agreement has been submitted to the YWT for consideration (Document Ref. 9.8). An updated draft SoCG (Document Ref. 7.12 - Rev. 2.0) with the YWT has also been submitted for Deadline 3.
34.	YWT	ExA FWQ BE 1.4 'Attenuation Pond'	Concern over the biodiversity value of the proposed attenuation pond.	Please refer to the Applicant's response to Ref. 33. above.
35.	Cllr Bob Tams, Hensall Parish Council Chair	Written Representation - Point 1.	The Summer Newsletter to residents in the Inner Consultation Zone was found to be almost non-existent. The majority did not have one	There was no statutory requirement for the Application to issue a Summer Community Newsletter. However, this was done to provide an update on the Application. The Newsletter also outlined how the Examination would work and its timescales.

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			delivered.	<p>The Newsletter was delivered by a marketing company that the Applicant had previously used to deliver letters/newsletters during the Stage 1 and Stage 2 Consultation on the Proposed Development. 1,671 copies of the Newsletter were delivered by the company during the w/c 4 September 2017 within the Inner Consultation Zone by Royal Mail 1st Class Postage. The Applicant has not previously been advised of any issues with delivery of the Newsletter.</p> <p>The Newsletter was uploaded to the Applicant's Eggborough CCGT website and also emailed to people who had subscribed to the website. In addition, copies of the Newsletter were also deposited in local libraries and other community venues within the Consultation Zone.</p>
36.	Cllr Bob Tams, Hensall Parish Council Chair	Written Representation - Point 2.	The closing date to apply to be an Interested Party was 9 August 2017. The Newsletter was delivered 18 September 2017. This did not allow sufficient time for people to be informed or allow them to apply to be an Interested Party.	<p>The purpose of the Newsletter was to provide an update on the Proposed Development ahead of the Preliminary Meeting and to outline how the Examination would work and associated timescales. Its purpose was not to publicise the deadline for the submission of Relevant Representations and registering as an Interest Party.</p> <p>The Applicant undertook the necessary notifications and publicity following 'acceptance' of the Application by the Secretary of State in accordance with Section 56 of the Planning Act 2008. This included letters being sent to all those persons who had been consulted for the Stage 2 (statutory) Consultation as well as a number of other persons who the Applicant was advised of by the Secretary of State. Notices were published in the local papers (Selby Times, Goole Times and Pontefract and Castleford Express), a national paper (The Times), the London Gazette and the Fishing News. Notices were also placed around the Site and at local venues within the Consultation Zone. Details were placed on the Eggborough CCGT website and an update email was sent to website subscribers. The letters and notices advised of the deadline to make Relevant Representation and to register to be an Interest Party (9 August 2017) and also how to do so.</p>

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				The Planning Inspectorate and other parties including the Local Authorities have not raised any issues regarding the adequacy of the notifications and publicity undertaken by the Applicant.
37.	Cllr Bob Tams, Hensall Parish Council Chair	Written Representation - Point 3.	The proposed new location will be closer to the village especially around Orchard Way and Dean Close	The boundary of the Site lies within that of the existing coal-fired power station and indeed, the existing landscaping bund and tree line around the main coal stockyard (the location for the Proposed Power Plant) will be retained to screen the Proposed Development from residents to the south and east of the Site. However, it is recognised that the emissions stacks and low-level cooling towers associated with the proposed CCGT units will be closer to Hensall Village than the equivalent stacks and cooling towers of the existing coal-fired power station. These structures will though, in terms of scale, be significantly smaller than those associated with the existing coal-fired power station.
38.	Cllr Bob Tams, Hensall Parish Council Chair	Written Representation - Point 4.	There is a huge concern about emissions. The three emissions stacks are to be approx. 90m high and each one 8m wide at a flow rate of 3.5 CU M. Apart from noxious gases being blown by the predominantly westerly wind over Hensall there is a concern of the proposed injection of ammonia and where it will be stored and quantities. The existing chimney being almost 198m high was regarded as a better dispersant. To be sure of pollutant control will there be	<p>The sizing and height of the emissions stacks for the CCGT units has been determined by computer modelling of predicted worst-case impacts. This modelling has demonstrated that impacts at residential receptors will be minor adverse or negligible adverse, even when considering worst case assumptions. There is no risk of exceedance of air quality objectives set for the protection of human health anywhere as a result of the Proposed Development. Emissions from the Proposed Power Plant will be continuously monitored and will have to meet strict standards set by the EA and regulated through an Environmental Permit required for the operation of the Plant.</p> <p>Nevertheless, in light of the concerns raised, the Applicant included Requirement 35 'Ambient air monitoring within the draft DCO (Document Ref. 2.1 - Rev. 2.0) submitted at Deadline 2, which commits the Applicant to undertaking ambient air monitoring in the vicinity of Hensall Village before and after the Proposed Power plant is brought in to commercial use, in order to reassure residents that the effect of the Plant on local air quality is insignificant. The final wording of this Requirement is being discussed between the Applicant</p>

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			provision for sensors to be installed in the Village?	and Selby District Council ('SDC') and an updated will be provided at Deadline 4.
39.	Cllr Bob Tams, Hensall Parish Council Chair	Written Representation - Point 5.	There is no obligation for the coal plant to be removed and if/when it is the noise, vibrations, dust, asbestos escaping into the air has not been made clear and during construction and demolition stages will Hensall Village be protected against HGV traffic, site machinery, noise and pollution effects.	<p>There is no obligation under the existing consents for the existing coal-fired power station for it to be demolished, this is with the exception of the consent for the Flue Gas Desulphurisation units, which requires the submission of a plan for their demolition and removal following the existing coal-fired power station ceasing to generate electricity. However, further to the ISH on Environmental Matters held on 22 November 2017 and the issues raised by the ExA, the Applicant has prepared a proposal (Document Ref. 9.7) for securing control the future demolition of the coal-fired power station.</p> <p>In relation to impacts from decommissioning and demolition of the existing coal-fired power station, the Applicant has obtained an Environmental Impact Assessment ('EIA') Screening Opinion for the relevant planning authority (SDC) that confirms that these activities would not result in significant environmental effects and are not therefore EIA development. However, prior to demolition, the Applicant would need to apply to SDC for a determination as to whether its prior approval is required as to the proposed means of demolition and any restoration of the Site. SDC would be able to request that the Applicant provide details of how the demolition will be managed. Further to this, the appointed demolition contractor would implement a Construction Environmental Management Plan and a Construction Traffic Management Plan ('CTMP') to control decommissioning and demolition activities and minimise impacts. The CTMP would include agreed HGV routes. HGVs would be routed along the A19 and would not impact on Hensall Village.</p> <p>All asbestos removal would be undertaken by a contractor with a current asbestos license in full compliance with the Control of Asbestos Regulations 2012 and the associated Health and Safety Executive Approved Code of Practice (Series Code L143).</p>

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40.	Cllr Bob Tams, Hensall Parish Council Chair	Written Representation - Point 6.	If the coal plant gets the contract to continue will there be a situation whereby both gas and coal generation exists?	Requirement 4 'Notice of commencement of commercial use and requirement for cessation of existing coal fired power station electricity generation', sub-paragraph (2) of the draft DCO (Document Ref. 2.1 - Rev. 3.0) prevents the Proposed Power Plant entering commercial use until the existing coal-fired station has ceased generation. Therefore, both the Proposed Power Plant and the existing coal-fired power station could not operate at the same time.
41.	Cllr Bob Tams, Hensall Parish Council Chair	Written Representation - Point 7.	Before the coal plant was built the area was a pond and common area and agreement was made to revert back to its original form so what will be put in its place.	The 1961 consent for the existing coal-fired power station does not include any conditions that require the power station to be demolished and the land to be restored and returned to any particular use. The Applicant's planning searches have not identified the agreement that is referred to. While the existing coal-fired power station site lies within the open countryside and outside development limits, both the Selby District Local Plan and the Core Strategy recognise its importance as a location for power generation and support industrial and commercial development related to power generation.
42.	Cllr Bob Tams, Hensall Parish Council Chair	Written Representation - Point 8.	It is not clear what will happen to Gale Common	Gale Common will not be affected by the Proposed Development. It was originally consented in October 1963 by the County Council of the West Riding of Yorkshire. The consent established the principle for the progressive implementation of an ash disposal operation within a defined area divided into three stages (Stages I to III). Gale Common became operational in 1967 and since then has been used for the disposal of pulverised fuel ash ('PFA') from the existing coal-fired power station as well the Ferrybridge 'C' coal-fired power station. Stage I of Gale Common was completed in 1994 and has since been restored and landscaped. Planning agreements/obligations entered into by the Applicant's predecessor, the Central Electricity Generating Board, with NYCC in 1986 and by the Applicant itself in 2008, provide the planning framework for the development of Stages II and III of the ash disposal operation. Stage II was completed around 2008. Both Stages I and II are subject to on-going land management. Stage III (Stage IIIa) is now in use. The management of Gale

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				Common continues to be governed by these planning agreements/obligations.
43.	Cllr Bob Tams, Hensall Parish Council Chair	Written Representation - Point 9.	Will Hensall and Eggborough benefit from the Section 106 Agreement	The Applicant's assessment of the Proposed Development has not identified any impacts upon Hensall or Eggborough Villages that would require mitigation through a Section 106 agreement. However, the draft DCO (Document Ref. 2.1 - Rev. 3.0) includes Requirement 34 'Employment, skills and training plan' that is aimed at promoting employment, skills and training development opportunities for local residents during construction and operation of the Proposed Development.