



The Planning Inspectorate

**Eggborough Combined Cycle Gas Turbine  
(CCGT) Power Station  
(EN010081)**

Correspondence received after the  
close of the Examination at 23:59 on  
26 March 2018

<b>No.</b>	<b>From</b>	<b>Organisation</b>	<b>Date Received</b>
1.	Gareth Leigh	Department for Business, Energy and Industrial Strategy	9 July 2018
2.	Jonathan Treadaway	The Crown Estate	20 July 2018
3.	Geoff Bullock	Dalton Warner Davis	23 July 2018
4.	Gareth Leigh	Department for Business, Energy and Industrial Strategy	1 August 2018
5.	Rob Booth	The Crown Estate	20 August 2018
6.	Geoff Bullock	Dalton Warner Davis	20 August 2018
7.	Gareth Leigh	Department for Business, Energy and Industrial Strategy	3 September 2018
8.	Geoff Bullock	Dalton Warner Davis	10 September 2018



Department for  
Business, Energy  
& Industrial Strategy

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To:  
Crown Estate Commissioners  
Eggborough Power Limited

Your Ref:  
  
Our Ref: EN010081  
Date: 9 July 2018

Cc:  
Northern Gas Networks

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Dear Sir/Madam,

**Planning Act 2008 and The Infrastructure Planning (Examination Procedure) Rules 2010  
Application by Eggborough Power Limited (“the Applicant”) for an Order granting  
Development Consent for the proposed Eggborough Combined Cycle Gas Turbine (“CCGT”)  
Power Station**

**REQUEST FOR COMMENTS FROM THE APPLICANT AND OTHER ADDRESSEES ON THE  
APPLICATION FOR THE PROPOSED EGGBOROUGH CCGT POWER STATION**

Following the completion of the examination on 27 March 2018, the Examining Authority submitted a Report and Recommendation in respect of its findings and conclusions on the above application to the Secretary of State on 27 June 2018. In accordance with section 107 of the Planning Act 2008, the Secretary of State has three months to determine the application.

There are issues relating to the compulsory acquisition and temporary possession powers sought by the Applicant on which the Secretary of State would be grateful if parties identified in bold could provide further clarification and information:

Crown Land

The Secretary of State notes that the Applicant is seeking powers to compulsorily acquire new rights over land that falls within the Crown interest (Plots 245, 255 and 690). The Secretary of State also notes that the Applicant stated in its submission at Deadline 9 [REP9-

008] that it had an agreement with The Crown Estate. However, it is understood that no further confirmation was received from The Crown Estate during the Examination to confirm this or to state it had authorised Crown land to be used.

The Secretary of State requests confirmation from **the Crown Estate Commissioners** of the Crown authority's consent to acquisition for the purposes of section 135(1) of the Planning Act 2008.

#### Northern Gas Networks - Protective Provisions

Schedule 12 Part 1 of the draft Development Consent Order considered during the Examination sets out the Protective Provisions for electricity, gas, water and sewerage undertakers. The Secretary of State notes that Northern Gas Networks did not participate in the Examination at any stage to raise any concerns with the draft Protective Provisions. Further, it is understood that a private Asset Protection Agreement to protect Northern Gas Networks interests was agreed but not signed by the close of the Examination.

The Secretary of State requests confirmation from **the Applicant** that the private Asset Protection Agreement has been signed.

**The deadline for responses is Monday 23 July 2018.**

Response should be submitted by email to: [EggboroughCCGT@pins.gsi.gov.uk](mailto:EggboroughCCGT@pins.gsi.gov.uk)

Please also send any hard copy response to the Eggborough CCGT Power Station Project Team, Secretary of State for Business, Energy and Industrial Strategy, c/o the Planning Inspectorate, 3D Eagle Wing, Temple Quay House, Temple Quay, Bristol, BS1 6PN. If you will have difficulty in submitting a response by the consultation deadline, please inform the Project Team as soon as possible.

Responses will be published on the Eggborough CCGT Power Station project page of the National Infrastructure Planning website:

<https://infrastructure.planninginspectorate.gov.uk/projects/yorkshire-and-the-humber/eggborough-ccgt/> as soon as possible after 23 July 2018.

This letter is without prejudice to the Secretary of State's decision whether or not to grant development consent for the Eggborough CCGT Power Station project, and nothing in this letter is to be taken to imply what that decision might be.

Yours faithfully

Gareth Leigh  
Head of Energy Infrastructure Planning

Gareth Leigh  
Head of Energy Infrastructure Planning  
Department for Business, Energy & Industrial Strategy  
1 Victoria Street  
London  
SW1H 0ET

20 July 2018

AND BY EMAIL: [beiseip@beis.gov.uk](mailto:beiseip@beis.gov.uk) and [EggboroughCCGT@pinsgsi.gov.uk](mailto:EggboroughCCGT@pinsgsi.gov.uk)

Dear Sir

Application by Eggborough Power Limited ("the Applicant") for an Order granting Development Consent for the proposed Eggborough Combined Cycle Gas Turbine Power Station

We write further to your letter of 9 July 2018.

The Crown Estate Commissioners are continuing to work with the Applicant to agree a position which would provide the Commissioners with sufficient assurance as to the way in which compulsory acquisition powers of third party interests in Crown land forming part of the Crown Estate may be exercised. This would permit the Commissioners to provide their consent to the compulsory acquisition of the third party interests in the relevant plots for the purpose of section 135(1) of the Planning Act 2008 and their consent to the provisions of the draft development consent order for the purpose of section 135(2) of the Act.

We note the date for the Secretary of State to determine the Applicant's application and we shall write to you as soon as we are able to confirm the position.

Yours sincerely

  
For and on behalf of the Crown Estate Commissioners  


Date: 23 July 2018  
Your Ref: EN010081  
Our Ref: 8086C



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Department for Business, Energy Industrial  
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Dear Mr Leigh,

**THE PLANNING ACT 2008 AND THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010**

**APPLICATION BY EGGBOROUGH POWER LTD (“THE APPLICANT”) FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE PROPOSED EGGBOROUGH COMBINED CYCLE GAS TURBINE (“CCGT”) POWER STATION**

**REQUEST FOR COMMENTS FROM THE APPLICANT ON THE POSITION WITH REGARD TO CROWN LAND AND THE AGREEMENT OF PROTECTIVE PROVISIONS WITH NORTHERN GAS NETWORKS LIMITED**

I write further to your letter of the 9th July 2018 and provide a response below in respect of Crown Land and the agreement of Protective Provisions with Northern Gas Networks Limited.

**Crown Land**

The Applicant’s update at Deadline 9 (Document ref 9.9) confirmed that terms had been agreed with the Crown Estate, and the documents were with solicitors. That remains the position in relation to the agreement for lease which the Applicant has been continuing to negotiate with the Crown Estate.

Separately, the Applicant is also negotiating with the Crown Estate in relation to the necessary consent pursuant to Section 135 of the Planning Act 2008, and specifically as negotiating both the form of that consent letter and the associated consent deed which the Crown Estate requires the Applicant to enter in. The Applicant anticipates agreeing the form of consent letter and deed with the Crown Estate within the next two to three weeks, and thereafter the Crown Estate being in a position to issue the consent letter to the Secretary of State.

The Applicant understands that consent pursuant to Section 135 is required (in the event that the Secretary of State is minded to grant development consent), and will therefore continue to work to ensure this is in place as soon as possible.

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**Partners**

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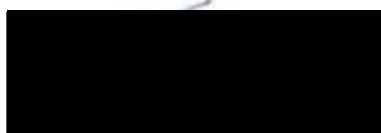


**Northern Gas Networks**

We confirm that the Applicant entered into an Asset Protection Agreement in relation to the Project with Northern Gas Networks Limited on the 12<sup>th</sup> July 2018.

I trust that this letter provides sufficient clarification with regard to the above matters.

Yours sincerely,



**Geoff Bullock**

**Partner**

**DWD LLP**

geoff.bullock@dwdllp.com

020 7489 4892

Cc.

Eggborough CCGT Power Station Project Team  
Secretary of State for Business, Energy and Industrial Strategy  
C/o The Planning Inspectorate  
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To:  
Jonathan Treadaway  
Senior Legal Counsel  
The Crown Estate

Your Ref:

Our Ref: EN010081  
Date: 1 August 2018

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Dear Mr Treadaway,

**Planning Act 2008 and The Infrastructure Planning (Examination Procedure) Rules 2010  
Application by Eggborough Power Limited (“the Applicant”) for an Order granting  
Development Consent for the proposed Eggborough Combined Cycle Gas Turbine (“CCGT”)  
Power Station**

**CROWN LAND/SECTION 135 OF THE PLANNING ACT 2008**

Thank you for your letter of 20 July 2018.

Whilst it is noted that the Crown Estate Commissioners are continuing to work with the Applicant to resolve this matter, you will appreciate that the Secretary of State will need to know the position regarding the Crown authority’s consent to acquisition for the purposes of section 135(1) of the Planning Act 2008 in advance of determining the Application for the proposed Eggborough CCGT Power Station project. Therefore, although the statutory deadline for issuing the Secretary of State’s decision is 27 September 2018, the deadline by which the Secretary of State requires confirmation or otherwise of consent to acquisition is 20 August 2018 at the latest.

This letter is without prejudice to the Secretary of State’s decision whether or not to grant development consent for the Eggborough CCGT Power Station project, and nothing in this letter is to be taken to imply what that decision might be.

Yours sincerely,

Gareth Leigh  
Head of Energy Infrastructure Planning

Gareth Leigh  
Head of Energy Infrastructure Planning  
Department for Business, Energy & Industrial Strategy  
Energy Infrastructure Planning  
1 Victoria Street  
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AND BY EMAIL: [eggboroughCCGT@pinsqsiqovuk](mailto:eggboroughCCGT@pinsqsiqovuk)

20 August 2018

Dear Sirs

Planning Act 2008 and the Infrastructure Planning (Examination Procedure) Rules 2010  
Application by Eggborough Power Limited ("the Applicant") for an Order Granting  
Development Consent for the Eggborough CCGT Project

I write further to the above.

In this letter:

"the book of reference" shall have the meaning given to it in the Order;

"the Commissioners" shall mean the Crown Estate Commissioners;

"Draft DCO" shall mean the Applicant's draft development consent order (reference 2.1 - Rev 7.0 and dated March 2018); and

"Order" shall mean the Eggborough CCGT (Generating Station) Order once made by the Secretary of State.

As you are aware, the Commissioners disagree with any view that section 135(1) of the Planning Act 2008 ("the Act") provides that any provision authorising the acquisition of third party interests in Crown land may only be included in a development consent order if the unconditional consent of the appropriate Crown body to the acquisition is obtained before the development consent order is made.

However, and without prejudice to the Commissioners' position, the Commissioners have reached a separate agreement with the Applicant which provides the Commissioners with sufficient assurance as to the way in which compulsory acquisition powers (as contained in Part 5 of the Draft DCO) may be exercised in respect of third party interests in Crown land forming part of the Crown Estate. As such, and subject to the below, the Commissioners confirm their consent to the compulsory acquisition of the third party interests in Plots 245, 255 and 690 for the purpose of section 135(1) of the Act.

The Commissioners' consent is granted subject to:

1. the inclusion and continuing application of the following "Crown rights" wording in the Order at Article 42 (such wording is the same as that included in the Draft DCO but with different formatting of paragraphs; the Commissioners and the Applicant are agreed that the form of Article 42 should be as per the below):

"42.-(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee to take, use, enter on or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)-

(a) belonging to Her Majesty in right of the Crown and forming part of the Crown Estate without the consent in writing of the Crown Estate Commissioners;

(b) belonging to Her Majesty in right of the Crown and not forming part of the Crown Estate without the consent in writing of the government department having the management of that land; or

(c) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.

(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically."

and;

2. the Commissioners being consulted further if any variation to the Draft DCO is proposed which could affect any other provisions of the Order which are subject to section 135(1) and/or section 135(2) of the Act.

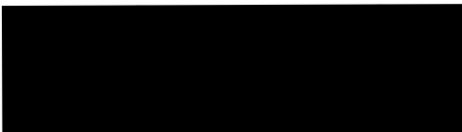
Subject to:

1. the inclusion of Article 42 in the Order as referred to above and its continuing application; and

2. the Commissioners being consulted further if any variation to the Draft DCO is proposed which could affect any other provisions of the Order which are subject to section 135(1) and 135(2) of the Act

the Commissioners confirm their consent to Articles 3, 4, 5, 15 and 34 of the Draft DCO, to the extent that they are included in the Order, applying in relation to Plots 245, 255 and 690 for the purpose of section 135(2) of the Act.

Yours sincerely



Rob Booth  
**General Counsel and Company Secretary**  
**For and on behalf of the Crown Estate Commissioners**

Date: 20 August 2018  
Your Ref: EN010081  
Our Ref: 8086C



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Dear Mr Leigh,

**THE PLANNING ACT 2008 AND THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010**

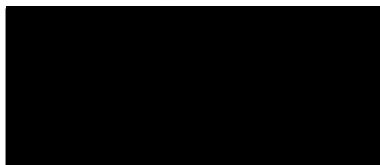
**APPLICATION BY EGGBOROUGH POWER LTD (“THE APPLICANT”) FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE PROPOSED EGGBOROUGH COMBINED CYCLE GAS TURBINE (“CCGT”) POWER STATION**

**SECTION 135 - CONSENT OF THE CROWN ESTATE**

We refer to the letter from the Department to the Crown Estate dated 1 August 2018, and in which a deadline of today is set for the Crown to provide its consent pursuant to section 135 of the Planning Act 2008.

We have seen a copy of the Crown Estate’s consent letter of today’s date. The Crown Estate’s letter includes a form of wording for DCO article 42 (Crown rights) – we confirm the Applicant’s agreement to the inclusion of the form of article 42 as set out in the Crown Estate’s letter.

Yours sincerely,



**Geoff Bullock**  
**Partner**  
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Cc.

Eggborough CCGT Power Station Project Team

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Our Ref: EN010081

3 September 2018

Dear Sir or Madam

**PLANNING ACT 2008**

**APPLICATION FOR THE EGGBOROUGH COMBINED CYCLE GAS TURBINE  
(GENERATING STATION) ORDER**

In reviewing the Application documents, it has been noted that no details of where the Order plans, Book of Reference and other certified documents may be inspected were included in the Explanatory Note attached to Eggborough Power Limited's ("the Applicant") draft Development Consent Order. In the circumstances, I should be grateful if the Applicant would provide the inspection details by no later than Monday 10 September 2018.

This letter is without prejudice to the Secretary of State's decision whether or not to grant development consent for the Eggborough CCGT Power Station project, and nothing in this letter is to be taken to imply what that decision might be.

Yours faithfully

Gareth Leigh  
Head of Energy Infrastructure Planning



Date: 10/09/18  
Your Ref: EN010081  
Our Ref: 8086c



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Dear Mr Leigh,

### PLANNING ACT 2008

### APPLICATION FOR THE EGGBOROUGH COMBINED CYCLE GAS TURBINE (GENERATING STATION) ORDER

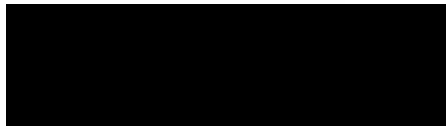
I write further to your letter of the 3<sup>rd</sup> September 2018 regarding the details for an inspection location for the certified documents.

I can confirm that the details of the inspection location to be included within any draft development consent order issued by the Secretary of State should be as follows;

North Yorkshire County Council  
County Hall  
Northallerton  
North Yorkshire  
DL7 8AD

The use of the above inspection location has been agreed with North Yorkshire County Council.

Yours sincerely,



**Geoff Bullock**  
**Partner**  
**DWD LLP**  
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#### Partners

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