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PINS Reference: EN010091

Examination Deadline 5 (“D5”)

The Drax Power (Generating Stations) Order

Dear Ms Gregory,

Please find enclosed documentation for Examination Deadline 5 from Drax Power Limited ("Drax") for a Development Consent Order ("DCO") in respect of the Drax Repower Project ("the Proposed Scheme"). This Deadline is the fifth of nine Deadlines for the Examination set out within the Rule 8 Letter published on 11 October 2018.

I set out below the documents submitted at this Deadline 5.

Full List of Submission Documents for Deadline 5

Submission documents for Deadline 5 of the Examination include:

Updated Application Documents

- 1.2 Application Guide
- 2.2 Land Plans
- 2.5A Two Unit Option Indicative Plant Layout
- 2.5B One Unit Option Indicative Plant Layout

- 2.6A Indicative Plant Elevations
- 2.6B Indicative Gas Receiving Facility and Gas Compressor Building Elevations
- 3.1 Draft Development Consent Order
- 3.2 Explanatory Memorandum
- 4.3 Book of Reference
- 4.4 Compulsory Acquisition Schedule

Additional Examination Documents

- 8.2.5 Schedule of Changes for Deadline 5
- 8.4.1 Revised Viewpoints and Additional Photomontage
- 8.4.6 Outline Public Rights of Way Management Plan
- 8.4.10 Air Quality Technical Note in Relation to Changes in Stack Height
- 8.5.15 Applicant's Response to Other Parties' Submissions at Deadline 4
- 8.5.16 Note on the Substantial Weight to be Given to Need and Application of the Tests Under Section 104 of the Planning Act 2008

The reasons for the submission of these documents are set out below.

In addition, this Cover Letter provides a response to the Examining Authority's (the "ExA's") Rule 17 letter published on 21 December 2018 in response to an application for non-material amendments submitted by the Applicant at Deadline 3 on 22 November 2018 (Examination Library Reference REP3-001).

Response to Rule 17 Letter – Request for Further Information

The Rule 17 Letter requests further information on the proposed non-material changes to the application made at Deadline 3 on 22 November 2018.

The following requests were made by the ExA for the Applicant to address at Deadline 5:

"[...] It is the responsibility of the Examining Authority (ExA) to decide whether new or revised information submitted into the examination by an Applicant constitutes a material change to the application (see paragraph 2.3 of Planning Inspectorate's Advice Note 16 (<https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/07/Advice-note-16.pdf>)). Whether or not a change is material could depend on, for example, whether or not there are new or different likely significant environmental effects. In this case, the Applicant states that the proposed changes have been subjected to additional air quality modelling and a Landscape and Visual Impact Assessment and will not result in a change to the likely significant effects of the

Proposed Scheme, as described in the ES. However, the ExA has not seen this environmental information, and is not yet in a position to conclude that the proposed changes do not constitute a material change to the application. The ExA notes that the Applicant submitted at D3 a document with Revised Viewpoints and Additional Photomontage [REP3-021], but we do not feel that this adequately covers the information relied upon to make the assessment and conclusions in REP3-022.

- *“The documents that the Applicant has relied upon in the assessment of changes in order to draw the conclusion that the proposed changes will not result in a change to the likely significant effects of the Proposed Scheme, as described in the ES.*
- *If the Applicant considers that this environmental information has already been provided at D3 the ExA requests the Applicant to provide a schedule of all documents and plans which contain that environmental information.*
- *The ExA also requests the Applicant to submit a full schedule of all application documents and plans listing revisions to each document and plan (as a consequence of the proposed changes) or a ‘no change’ annotation. [...]*”

In response to the first bullet point, the document “Air Quality Technical Note in Relation to Changes in Stack Height” (Applicant’s document reference 8.4.10) is submitted at Deadline 5 to explain why the proposed changes in stack height submitted at Deadline 3 are considered to be non-material in terms of air quality impacts.

In response to the ExA’s query regarding information relied upon to reach the conclusions on the Landscape and Visual Impact Assessment (LVIA), the Applicant has submitted a revision to the document “Revised Viewpoints and Additional Photomontage” (Examination Library Reference REP3-021). The non-material design amendments have resulted in a slight change to the indicative site layouts and consequently the revised photomontages (Figures 1.5 to 1.10C). The Two Unit Option Indicative Plant Layout (Applicant’s document reference 2.5A), an updated version of which is submitted at Deadline 5, has been used as the basis for the revised photomontages. The document “Revised Viewpoints and Additional Photomontage” contains the revised visualisations and assessment which illustrate that the proposed changes do not alter the findings of the LVIA, or the significance of visual effects as set out in Chapter 10 of the Environmental Statement (Examination Library Reference APP-078).

We consider that in respect of all other environmental effects, the assessment of effects of the design changes is sufficiently covered in Examination Library Reference REP3-022 (“Assessment of Non-Material Amendments to Proposed Scheme”) submitted at Deadline 3.

In response to the second bullet point, it is considered that the information provided in the documents set out above adequately addresses this point.

In response to the third bullet point, we understand that the purpose of this request is to obtain reassurance that all certified DCO application documents are adequately up to date to reflect the non-material design changes. We consider that this is the case. Document REP3-022 accompanying the non-material amendment application contained in the D3 cover letter (Examination Library Reference REP3-001), and the non-material amendment application to remove Stage 0 as set out in the D2 cover letter (Examination Library Reference REP2-003), have been written in such a way that the ES, in particular Chapter 3 (Project Description) (Examination

Library Reference APP-071) has to be read in conjunction with those documents. In particular, tables 3-5 and 3-6 containing the design parameters for Unit X and Unit Y in Chapter 3 have been superseded by Table 2 in document REP3-022. Table 2 is in accordance with Schedule 13 of the updated draft DCO submitted at D3 (Examination Library Reference REP3-007). In addition, Schedule 14 of the draft DCO submitted at D5, has been amended so that the definition of "environmental statement" clearly includes reference to the non-material amendment documents submitted at D2 and D3. We therefore consider that the "Environmental Statement" to be certified is sufficiently clear. However, if the ExA considers that Chapter 3 of the ES should be updated, we are happy to do so for Deadline 6.

Land Documents

The updated Land Plans (Applicant's document reference 2.2), Book of Reference (Applicant's document reference 4.4) and Compulsory Acquisition Schedule (Applicant's document reference 4.4) are submitted to reflect further changes in relation to land interests. New or changed land interests have been identified since the last submission of these documents at Deadlines 2 and 3 respectively. This includes changes to Ms Kate Bingley's and Mr John Neville Stones' interests in plots 26, 27 and 28 in relation to the recent title registration for Ms Bingley and further confirmation of Mr Stone's ownership. In respect of plots 26a, 27a and 28a, through continued diligent inquiry the Highways England Historic Railways Estate has been identified as having an interest in the mines and minerals and has therefore been added to the Book of Reference. The interest has not been confirmed and hence reference to an unknown interest is also included for these plots. The Highways England Historic Railways Estate has been contacted by the Applicant through the consultation for the additional land application. Following a review of further titles, interests of Northern Powergrid Limited have been included for plots 9 and 9b. In respect of plots 50, 53, 54, 55, 56, 57, 58, 60, 61, 62, 65, 66 and 67, the previously identified land interest of Lord Gerald Bernard Fitzalan has been updated following further diligent inquiry at HM Land Registry. Plot 8 has been split to reflect the change in land take requirements over part of this plot where planting mitigation will be implemented. A new plot 8a has been created to reflect the reduction from the compulsory acquisition of freehold to the compulsory acquisition of rights only (as per the ISH on compulsory acquisition).

Draft Development Consent Order, Explanatory Memorandum and Engineering Plans

The updated draft DCO and Explanatory Memorandum reflect the changes following the ISH on the draft DCO and comments from the relevant authorities.

The updated Two Unit Option Indicative Plant Layout and One Unit Option Indicative Plant Layout Plans are submitted to incorporate the latest design iteration for the Proposed Scheme following the proposed non-material design amendments as set out at Deadline 3, and to update plant layout to include the maximum dimensions as presented in Schedule 13 of the draft DCO as submitted at Deadline 3 (Examination Library Reference REP3-007).

The Indicative Plant Elevations are submitted to include updates to the plant footprint so as to include the maximum dimensions as presented in Schedule 13 of the draft DCO, which reflect the non-material design amendments as set out at Deadline 3.

The Indicative Gas Receiving Facility and Gas Compressor Elevations are also submitted to align with Schedule 13 of the draft DCO to include updates to the finished floor level.

Environmental Documents

As explained above, the document “Revised Viewpoints and Additional Photomontage” (Applicant’s document reference 8.4.1) has been updated to provide further justification for the conclusion on the landscape and visual effects of the proposed non-material design amendments as set out at Deadline 3 on 22 November 2018 and in response to the ExA’s Rule 17 Letter dated 21 December 2018.

The Air Quality Technical Note (Applicant’s document reference 8.4.10) is submitted to explain the changes in stack height, as part of the non-material design amendments as set out a Deadline 3 and in response to the ExA’s Rule 17 Letter dated 21 December 2018.

The Outline Public Rights of Way Management Plan (Applicant’s document reference 8.4.6) is submitted to provide additional clarity that the public rights of way closures will be limited to the Red Line Boundary, in response to a representation by NYCC on the need to identify measures to minimise the section length of temporary public rights of way closure.

Other Documents

The “Applicant’s Response to Submissions made by Other Parties at Deadline 4” (Applicant’s document reference 8.5.15) contains the Applicant’s responses to submissions prepared by interested parties and submitted to the Examination for Deadline 4 on 13 December 2018.

The submissions responded to include:

- Friends of the Earth Selby (Examination Library Reference REP4-018);
- James Hewitt (Examination Library Reference REP4-22);
- Cath Kibbler (Examination Library Reference REP4-023); and
- North Yorkshire County Council (Examination Library Reference REP4-019, REP4-020, REP4-021, REP4-024 and REP4-025).

The document “*Note on the Substantial Weight to be Given to Need and Application of the Tests Under Section 104 of the Planning Act 2008*” (Applicant’s document reference 8.5.16) is submitted in response to the ISH on environmental matters and ClientEarth’s submission “*Post-Hearing Submission and Response to Deadline 3 Submissions*” (Examination Library Reference REP4-017) at Deadline 4 on 13 December 2018.

The Schedule of Changes for Deadline 5 (document reference 8.2.5) sets out key changes to updated submission documents. The revision numbers for each document are set out in the updated Application Guide (document reference 1.2).

The Examining Authority asked to be updated as to progress with Heads of Terms which were yet to be agreed with Mr and Mrs Cooper at the Compulsory Acquisition Hearing. Whilst the Heads of Terms have not been signed, the outstanding issues between the parties are legal points which



are being discussed by the parties' solicitors as part of the agreements currently being negotiated. The Applicant will update the Examining Authority when those documents are signed.

Please do not hesitate to contact me should you have any queries regarding the enclosed submissions.

Yours sincerely



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Environmental Consents Officer
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