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Subject: Drax Re-power (EN010091) / IP ref: 20011838 - ClientEarth letter to the ExA
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Attachments: [CE letter to ExA re Applicant"s D9 Submission re Unit X only 3 April 2019.pdf](#)

Dear Sir / Madam

I attach ClientEarth's letter to the Examining Authority that responds to a new point raised by the Applicant in its Response to the Examining Authority's Request for Information submitted at Deadline 9.

Yours faithfully

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3 April 2019

By email

Dear Sir / Madam

Drax Re-power (EN010091) / IP ref: 20011838

ClientEarth wishes to respond to a new point made in the Applicant's Deadline 9 submission regarding the consenting of Unit X only.

The Applicant has cited the recent decision granting consent for the Millbrook Power peaking gas-fired generation project (299MW of OCGT generation) as support for its proposed approach to the consideration of need under EN-1. That application was of course decided on the basis of a different body of evidence and representations and concerns a different type and scale of capacity to the present application. However, in any event, the approach taken by the Examining Authority (and followed by the Secretary of State) in that examination does not support the Applicant's position on the matters in contention in this application:

1. As is clear from the extract from the Examining Authority's Report¹ cited by the Applicant, in the Millbrook Power examination an Interested Party had questioned whether the NPS policy confirming the acceptability of the *type of generation infrastructure* proposed by the Applicant (i.e. under Part 3 of EN-1) should be varied in light of developments in technology since the NPS was adopted.
2. The Secretary of State's decision letter confirms that the issue raised in that examination concerned the acceptability of the "type" of generation infrastructure proposed by the Applicant (see paragraph 4.4 of the Decision Letter²).

¹ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010068/EN010068-000769-Final%20Millbrook%20recommendation%20Report.pdf>

² <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010068/EN010068-000771-Decision%20Letter%20-%20Millbrook%20Open%20Cycle%20Gas%20Fired%20Power%20Station.pdf>

3. This is of course an entirely different point to those at issue in this examination, namely (i) the anticipated actual contribution of the Proposed Development to satisfying the need for the type of infrastructure identified in EN-1, and (ii) the weight to be attributed to need in light of this contribution. Equally, ClientEarth has not challenged the acceptability of CCGT as a type of generation infrastructure under Part 3 of EN-1, as the Interested Party in the Millbrook Power examination sought to do in their Written Representation³.

Accordingly, the Millbrook Power decision provides no support for the contested aspects of the Applicant's approach to applying Part 3 of EN-1. These include the Applicant's suggestion (i) that an individual project's contribution to satisfying need should be both assumed and assessed, and (ii) that the amount of already consented new CCGT capacity and government projections of future capacity are not relevant.

The Applicant's arguments regarding the climate impacts of consenting Unit X only are not new and have been responded to by ClientEarth in previous submissions. The Applicant continues to disregard the substantial carbon lock-in risk presented by the Proposed Development and its inconsistency with even the most conservative power sector scenarios that comply with the Climate Change Act target. As EN-1 emphasises: "A failure to decarbonise and diversify our energy sources now could result in the UK becoming locked into a system of high carbon generation, which would make it very difficult and expensive to meet our 2050 carbon reduction target. We cannot afford for this to happen."

Yours faithfully

Sam Hunter Jones
Lawyer, ClientEarth

³ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010068/EN010068-000572-MILL%20-%20Jeremy%20Ramsden.pdf>