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**PINS Reference: EN010091**

**Final Submission**

The Drax Power (Generating Stations) Order

Dear Ms Gregory,

At Deadline 9 we noted that some documents were in the process of being completed or updated, and we anticipated submitting these prior to the end of the Examination. I am pleased to confirm that these outstanding matters have been finalised and therefore I enclose the documents identified below, along with a brief explanation for their submission at this time. In addition, I set out a brief response to the submission at Deadline 9 by Client Earth (REP9-023) and the late submission by I.D. Watson Farmers dated 2 April 2019 and published on the Inspectorate's website on 4 April 2019 (AS-131).

First, I set out below the final position in respect of various outstanding matters:

- **8.1.4 Statement of Common Ground between Drax Power Limited and North Yorkshire County Council and Selby District Council (Final)**
  - The final SoCG was agreed between the parties at Deadline 9 but was in the process of being signed. The signed version is now submitted and enclosed with this letter.
  - The SoCG records that **all** matters are agreed with Selby District Council ("**SDC**").
  - Regarding North Yorkshire County Council ("**NYCC**"), the SoCG records that the only remaining matter outstanding with NYCC relates to *the extent of* offsetting to be

provided for the landscape effects of the Proposed Scheme. All other matters are agreed.

- **8.5.4 Schedule of Negotiations –**

- The Schedule of Negotiations has been updated to reflect that option agreements have been exchanged with all landowners (Mr and Mrs Holgreaves, Mr Wild, Ms Bingley, Mr and Mrs Cooper and T.W. Falkingham Limited) other than Mr Watson and Mr Stones. Regarding Mr Stones, agreement has been reached but due to personal and extenuating circumstances, exchange of the option agreement has been delayed. Regarding Mr Watson, an agreement has not been reached before the end of the Examination.
- The Schedule of Negotiations also reflects that Drax has agreed the protective provisions and side agreements with National Grid Electricity Transmission PLC ("**NGET**") and National Grid Gas PLC ("**NGG**"). We are aware that National Grid in its letter to the Examining Authority ("**ExA**") dated 3 April 2019 (AS-132), states that *"NGET and NGG are close to finalising protective provisions with Drax Power Ltd. Our holding objection will be withdrawn once the agreements have been completed."* We also understand that National Grid has clarified this position to the ExA in correspondence dated 4 April 2019, to confirm (1) that the agreements and protective provisions are agreed, with the agreed protective provisions being as contained in the draft DCO submitted for Deadline 9, and (2) that its 4 April 2019 letter supersedes the 3 April letter. Drax can confirm to the ExA that as of 4 April 2019, the current position is:
  - the protective provisions for the benefit of NGET and NGG in Parts 3 and 4 respectively of Schedule 12 in Revision 6 of the draft Development Consent Order submitted at Deadline 9 (including the version of the draft Development Consent Order submitted in response to the Rule 17 letter at Deadline 9) are in agreed form between Drax, NGET and NGG;
  - the side agreements between Drax, NGET and NGG are also in agreed form and have been signed by all parties and will complete shortly.
  - Drax understands that NGET and NGG has removed its holding objection in its letter of 4 April 2019.
  - Accordingly, as at the close of the Examination, the ExA has the comfort that the protective provisions included in the final draft of the Development Consent Order are in agreed form. As such section 127 of the Planning Act 2008 would be satisfied.

- **8.5.25 Legal agreement pursuant to section 106 of the Town and Country Planning Act 1990 between the Applicant, SDC and NYCC**

- The legal agreement pursuant to section 106 of the Town and Country Planning Act 1990 ("**S106 Agreement**"), has been entered into by the Drax, SDC and NYCC and

was completed on 4 April 2019. The landscaping provisions that have been agreed with SDC are contained in this completed S106 Agreement.

- **8.5.26 Statement signed by the Applicant and the landowner with respect to planting on the Bingley Land**
  - As noted previously, Drax has reached agreement with the owner of the "Bingley Land" that it can provide planting on that land. The delivery of that additional planting is secured in the Outline Landscape and Biodiversity Strategy submitted at Deadline 9 (REP9-008) (which itself is secured by Requirement 8 to the final draft Development Consent Order submitted at Deadline 9). Whilst the detail of the agreement is still being finalised, the parties have both signed the enclosed statement to provide the ExA and Secretary of State with confirmation of the agreement in this respect.
- **8.2.10 Schedule of Changes –**
  - A schedule of changes is submitted to identify the changes to the Application Guide, SDC/NYCC SoCG and the Schedule of Negotiations since the previous versions of those documents; and
- **1.2 Application Guide –**
  - The Application Guide has been updated to reflect submission of the above documents.

### **Submission at Deadline 9 by ClientEarth (REP9-023)**

Turning to ClientEarth's *Response to the Applicant's Deadline 7 submission and the Examining Authority's request for information in respect of Drax Re-power* submitted at Deadline 9 (REP9-023), with respect to the first part of this response, which is ClientEarth's *Response to the Applicant's Deadline 7 submission*, ClientEarth repeats submissions previously made in relation to need, the anticipated extent of the Proposed Scheme's contribution to need, climate impact and section 104 of the Planning Act 2008. The Applicant has previously provided extensive responses on all these points, as sign-posted in its Closing Submissions submitted at Deadline 9 (REP9-014), and which are found in the *Applicant's Note on Substantial Weight to be Given to Need and Application of Tests Under S104* (REP5-021), *Applicant's Response to the Examining Authority's Further Written Questions* (REP6-013), and *Applicant's Response to ClientEarth's Deadline 6 Submission* (REP7-018). In relation to the second part of the response, in which ClientEarth makes submissions about consenting Unit X only, we would refer the ExA to the *Applicant's Response to Request for Further Information (Rule 17 Letter)* (REP9-017).

### **Late Submission of I.D. Watson Farmers dated 2 April 2019, published 4 April 2019 (AS-131)**

Mr Watson has submitted a document to the ExA, marked as being received by the Planning Inspectorate on 3 April 2019, and published on the Planning Inspectorate's website on 4 April 2019. Given the timing of the publication of the document, Drax has not had the ability to review the submission in detail and accordingly reserves its position to submit a post-Examination

submission to the Secretary of State to consider. In the meantime, and in the time available, the Applicant provides the following high-level response for consideration by the ExA:

- **Funding** – Funding, nor any issue concerning Drax’s Funding Statement (REP2-016), has never been raised by I.D. Watson Farmers, or indeed any other party, as an issue during the course of the Examination. As evidenced in the Funding Statement, Drax has the ability to fund the compulsory acquisition of land sought in its Application and in the draft Development Consent Order. The assertions made by I.D. Watson Farmers are not supported by any material before the ExA. Instead, the Funding Statement makes clear the assets available to Drax, which far exceed the current cost estimate for the Proposed Scheme, to proceed with the Proposed Scheme should the Development Consent Order be granted.
- **Drax’s willingness to proceed** – Drax has negotiated, and continues to do so, with I.D. Watson Farmers, offering reasonable terms for the part surrender of his interest, to enable the construction of the Proposed Scheme and to safeguard land for CCS. Drax understands that Mr Watson is similarly willing to reach agreement (and indeed supports the Proposed Scheme), but the parties have been unable to reach a commercial agreement. In essence, that is the issue between the parties, which is clear from:
  - the fact that I.D. Watson Farmers have submitted a counter commercial proposal to Drax to consider, which Drax is considering at the time of the close of the Examination; and
  - the references to previous 'deals' between the parties and which I.D. Watson Farmers wish to emulate in respect of the land required for the Proposed Scheme. However, commercial deals reached on a previous project are not necessarily the same or appropriate for another project. Accordingly, and as the ExA stated at the Compulsory Acquisition Hearings, references to previous commercial arrangements with respect to different projects are an irrelevance to the consideration of the Proposed Scheme; those deals were made in different circumstances. It should be noted that the White Rose Project did not proceed because the Development Consent Order was refused by the Secretary of State following the Government’s withdrawal of its financial support for carbon capture demonstration projects.
- **Space required for CCS** – Drax has identified land to be safeguarded for CCS in line with the relevant guidance and legislation. The layout of CCS plant and equipment is indicative only, reflecting that the DCO does not seek consent for CCS, given the current status of CCS. Regarding reference to CCS in a Unit X only scenario, Drax addressed this point in the *Applicant’s Response to Request for Further Information (Rule 17 Letter)* (REP9-017). Figure 3 of the CCR Statement (REP7-005) shows an indicative layout of CCS for a 1800MW generating station and its proposed location (noting that it can only be indicative at this stage).
- **Land required for Work Number 9B and false assertion over loss of wood** – The land required for work number 9B has been fully justified in the Application. That land is not solely required for car parking but also laydown including administration and welfare facilities. The Existing Drax Power Station Complex is constrained and work number 9B is required for the construction of Units X and Y. The use of the land for work number 9B does not require the removal of any planting or woods. That planting and/or wood may be

removed for the purposes of any future CCS plant, but it is not being removed under the Proposed Scheme as is clear through the Works Plans (Work Number 11 – Retained and Enhanced Landscaping) (REP4-003).

- **Land for Landscaping** – Drax is not compulsory acquiring the freehold of land purely for landscaping. Plot 8 was subdivided during the course of the Examination, with Plot 8a (which is only required for mitigation landscaping) being reduced from freehold to the acquisition of rights.
- **Agricultural holdings tenancy** – Whilst Drax is the freehold owner of the I.D. Watson Farmers land and has the ability to call upon the surrender of the agricultural holdings tenancy (refer to the *Written Summary of Applicant's Oral Case at Compulsory Acquisition Hearing* (REP4-010) where this issue was raised and discussed), there is a real concern that I.D. Watson Farmers could contest the surrender which would frustrate and delay the delivery of the Proposed Scheme. Given this, and the fact that the land is required for both the construction of Unit X and Unit Y and then CCS (including for CCS in a Unit X only scenario), there is compelling case in the public interest for the tenancy to be compulsory acquired to enable the delivery of the NSIP. Indeed, the use of the land as construction laydown could be for a period of up to seven years. Whilst Drax has a commitment to restore the land (see requirement 3 of Schedule 2 to the draft Development Consent Order submitted at Deadline 9 (REP9-004) with the same requirement in the Unit X only draft Development Consent Order (REP9-018)), Drax understands that I.D. Watson Farmers do not wish to have this land back after its use as construction laydown (as recorded in Drax's summary from the Compulsory Acquisition Hearing).

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

Yours sincerely



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