

SSE Thermal / DWD Property and  
Planning  
Co. FREEPOST KEADBY 3

Your Ref 14592

Thursday 2 September 2021

Dear Sir/Madam

**Keadby 3 Low Carbon Gas Power Station Project – Stage 2 Consultation in Accordance with s.42  
Waterway: Stainforth & Keadby Canal**

Thank you for your consultation in respect of the above.

The Canal & River Trust (the Trust) is the guardian of 2,000 miles of canals & historic waterways across England and Wales. The Trust is a prescribed consultee and has provided responses in relation to the section 42 Consultation in January 2021.

The representations made here are without prejudice to further representations which the Trust may make following a comprehensive review of the documentation published in respect of the Project.

We intend to make submissions in relation to the proposed abstraction from the Stainforth & Keadby Canal, which we own and manage, with concern to Work No. 4A within the Draft Development Consent Order ("the Order"); and the proximity of Construction and Laydown Areas to the Canal in relation to Work No. 9A.

We also intend to make representations in respect of the direct impact which the proposed Order will have on land within the Trust's ownership.

Furthermore, we intend to address the specific drafting of the proposed Order which we consider will have an impact on the Trust both as navigation authority and landowner.

#### Proposed abstraction from the Stainforth & Keadby Canal

The incorporation of an additional abstraction point from the Stainforth & Keadby Canal is proposed as part of Work No. 4A.

The proposed abstraction apparatus has the potential to impact upon navigational safety, ecology and the outward character and appearance of the canal corridor. We therefore request that the exact details of abstraction, notably with regards to the angle of flow, are made a condition of any DCO so that the full impact can be assessed by the Trust, and that the Trust are included as a consultee within any such wording. We note that schedule 2 (4) requires the submission of details of Work No 4A, which could include this information, but does not include the Trust as prescribed consultee. We therefore respectfully request that the Trust is included as a prescribed consultee.

The works to install the abstraction will require the consent of and grant of a licence from the Trust, as landowner and statutory undertaker for all waterways. We note that the applicant has entered discussions with the Trust to explore this option, however, in the absence of any detailed design proposals we have yet to reach agreement on the relevant works.

#### **Canal & River Trust**

Fradley Junction, Alrewas, Burton-upon-Trent, Staffordshire DE13 7DN

T [01827533444](tel:01827533444) E [canalrivertrust.org.uk/contact-us](mailto:info@canalrivertrust.org.uk) W [canalrivertrust.org.uk](http://canalrivertrust.org.uk)

The Environmental Statement (paragraph 11.5.26) has identified the potential requirement for the installation of an eel screen. We would request that details the eel screening should be made a condition of any DCO so that its implementation as necessary can be ensured to ensure the protection of local ecology. We note the inclusion in schedule 2, 5.(4)(c) of the draft DCO places an obligation for intake structures to be approved by the LPA, but would request that the consultation referred to in the proposed condition should also include the Trust.

Cofferdams are proposed to be installed temporarily to allow for construction of the new abstraction point (paragraph 11.5.10 of the Environmental Statement). Additionally, paragraphs 11.5.11 to 11.5.16 of the Environmental Statement do identify the potential environmental impacts of the cofferdam and recommended measures to limit the impact, which is welcomed. However, the Trust requests that such measures should be fully detailed and provided via condition within any DCO prior to the commencement of works upon the cofferdams. We note the inclusion within schedule 2, 5 (4)(d) and schedule 12 part 3, 11 (b) of the draft DCO. We note that the draft DCO refers to the need for consultation with the Environment Marine Management Organisation in relation to schedule 2 11 (b) but not the Trust. We would request that the consultation referred to in the proposed conditions above include the Trust, since the extent, timings and location of cofferdam construction will have a direct impact upon biodiversity and navigational activities on the canal. As such, our input will be crucial in order to safeguard the waterway.

Works to install abstraction equipment next to the canal would need to be designed to safeguard navigational safety. The Trust's input is crucial to ensure that the impact of construction works on navigational safety can be fully assessed. We note that the Protective Provisions under Part 2 of the DCO include provisions to ensure that the method of installation is undertaken in accordance with the Trust's Code of Practice, which is referred to within paragraphs 18 and 31. Paragraph 22 describes a process where the developer would supply proper and sufficient plans of that work to the Trust on unspecified forms. We understand that this paragraph describes the Code of Practice process. However, this is not made explicit. To avoid confusion, we recommend that paragraph 22 is amended to explicitly refer to the Trust's Code of Practice.

#### Impact on Stability

Vibrations from construction processes on site and construction equipment could result in damage to the canal wash wall, or the structure at Keadby Lock, which is a scheduled ancient monument.

The latest Environmental Statement includes assessments of the impact of vibrations from works close to Keadby Lock and the Stainforth and Keadby Canal walls, which the Trust welcome. The assessment does help to confirm that the risks from vibrations in these locations should not be exceptional. However, this does not rule out the potential for exceptional unexpected detriment to the waterway caused by the construction or failure of the specified works. Works to make good any detriment is generally covered within schedule 10 paragraph 32, which may require expansion to cover all work areas that could impact the canal (discussed below).

#### Impact of Works on the Biodiversity of the Canal

Whilst there has been prior disturbance to the canalside associated for the works for Keadby Phase II, the proposed abstraction installation will prolong the period of disturbance, which could increase the period of severance of the wildlife corridor along the canal. In line with the priorities of the draft 2020 Environment Bill and the aims of paragraph 174 (part d) of the National Planning Policy Framework, it is correct that efforts should be taken to minimise impacts on and providing or net improvements to biodiversity. We believe this would be most appropriately targeted on areas of the development where habitat loss would most likely occur. We therefore advise that habitat enhancement (as in over what is there at present) should be considered to mitigate for the proposed and to reinforce this part of the canal corridor.

Approaches to enhance biodiversity in proximity to the abstraction installation could include new bank side vegetation using native hedgerow and tree species such as hawthorn and willow, and the use of emergent vegetation to help limit the potential for invasive weed growth in the canal during the summer months. We note that schedule 2 (para. 6) within the draft DCO includes provisions for a landscaping and biodiversity protection plan that could help ensure such mitigation can take place as necessary.

Schedule 2 (17) within the draft DCO includes provisions for a Construction Environmental Management Plan, which we would require to ensure that risks to the water quality of the canal through dust migration or runoff of sediment is adequately controlled. We are willing to assist the Relevant Planning Authority in assessing details submitted for works which may affect the waterway.

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T  E [canalrivertrust.org.uk/contact-us](mailto:canalrivertrust.org.uk/contact-us) W [canalrivertrust.org.uk](http://canalrivertrust.org.uk)

## Freight

The proximity of the proposed offloading area to the access point for the Stainforth & Keadby canal at Keadby Lock could result in an obstruction to the entrance point of the canal should any oversized vessels be used, which has been observed when larger vessels have used the area in the past. We appreciate that section 10 of the Environment Statement confirms that the deemed Marine Licence (DML) would require consultation with the Trust. However, due to the unscheduled delays that could occur with regards to boat passage, there is a risk that unplanned obstructions to Keadby Lock could occur.

The Trust would welcome the opportunity to discuss the potential for mitigation to limit the potential of any unscheduled obstruction to Keadby Lock. This could involve alterations to the mooring, so that ships move away from the lock when moored up, but not offloading. It is recommended that improvements should be made to the notification system operated by the developers; so that more timely and accurate information and regular updates are received by the Trust and interested boaters could also assist in managing any obstruction to boat passage.

## Proposed compulsory acquisition of the Trust's property

Compulsory purchase is intended as a last resort to secure the assembly of all the land needed for the implementation of projects and should only be made where there is a compelling case in the public interest. We understand that the confirming authority will expect the acquiring authority to demonstrate that they have taken reasonable steps to acquire all of the land and rights included in the Order by agreement as opposed to Compulsory purchase.

We refer to the Book of Reference and note that the Trust is listed as a Category 1 owner in respect of plots 27; 37; 38; 39; 75; 80; 80a; and 81. The Land Plans clarify that the Trust's freehold interest in part of land next to the Stainforth & Keadby Canal is intended to be compulsorily acquired and that new rights are also intended to be compulsorily acquired. The Trust is concerned that extreme measures of permanent appropriation are being sought, given that the Applicants have yet to engage with the Trust in relation to acquisition of land on a voluntary basis (whereby more appropriate, proportionate, and temporary rights may be secured). As such the Applicant cannot demonstrate that compulsory purchase powers are being sought as a matter of last resort and their approach is in conflict with the "Guidance on Compulsory purchase process and The Crichel Down Rules" published by the Ministry of Housing, Communities & Local Government.

The Trust is willing to engage with the Applicant to enter into an agreement in respect of the rights which the applicant requires to deliver the Project. We therefore urge the Applicant to contact us as soon as possible in respect of this.

The Trust does not consider that it is necessary or justifiable to compulsorily acquire any part of its freehold interest forming part of the order limits.

## Protective Provisions

Given that the works to be undertaken have the potential to impact upon water flows, and the navigation of the Stainforth & Keadby Canal, it is expected that the DCO should include provisions for the protection of the Canal & River Trust. The Trust is encouraged by the proposed inclusion of protective provisions within the draft DCO (schedule 10, Part 2).

We wish to highlight that works within several Work Areas have the potential to impact the Trust's assets. Whilst paragraph 18 refers to Work Nos 4A, 8A and 10B, we request that this should be expanded to include Work Nos 9A, 9B and 11A, which lie in proximity to the canal and involve works or processes that could potentially impact the canal.

The Trust note that the Applicants are seeking to include limitations on this liability (Schedule 10, part 2, paragraph 32(6)).

The Trust cannot agree to a cap on the Applicant's indemnity for the following reasons:

1. The Trust is a registered charity with finite resources. The Trust do not have the ability to meet any costs that may exceed this cap.

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2. The Trust is Navigation Authority for Stainforth & Keadby Canal and therefore have responsibilities to ensure safe navigation is maintained. This is a public interest which warrants protection in the provisions in the draft DCO.
3. The DCO confirms within schedule 10, paragraphs 22 and 31 that the Applicants are willing to comply with the Trust's Code of Practice for Works Affecting the Canal and River Trust. The code of practice is clear at paragraph 6.17 that any damage to the Trust's property must be reinstated and any costs must be reimbursed in full 'without monetary limit'.
4. A cap on indemnity is not ordinarily agreed as part of protective provisions. In particular, please refer to the Keuper Underground Gas Storage Facility Order 2017 and the Eggborough CCGT Order 2018 which relate to similar projects and include protective provisions recently negotiated by the Trust.
5. The parameters of the Applicant's obligations to the Trust are clearly defined by the protective provisions. The works to be undertaken by the Applicant are entirely within the Applicant's control and therefore it is reasonable for the Applicant to be responsible for the full extent of any costs to which the Trust are put by reason of the execution of these works.

We hope that these comments are of use. We would welcome the opportunity to work with the applicant to address the points above.

Please do not hesitate to contact me with any queries you may have.

Yours sincerely,

**Simon Tucker MRTPI**

Area Planner

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<https://canalrivertrust.org.uk/specialist-teams/planning-and-design>

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T  canalrivertrust.org.uk/contact-us  canalrivertrust.org.uk