

The Planning Inspectorate
(submitted via email only)

Our ref: AN/2021/132101/01-L01

Your ref: EN010114

Date: 2 September 2021

Dear Sir/Madam

KEADBY 3 LOW CARBON GAS POWER STATION RELEVANT REPRESENTATIONS CONSULTATION

1.0 The Environment Agency's Role

- 1.1 The Environment Agency is an executive non departmental public body, established under the Environment Act 1995.
- 1.2 We were established to bring together responsibilities for protecting and improving the environment and to contribute to sustainable development. We take an integrated approach in which we consider all elements of the environment when we plan and carry out our work. This allows us to advise on the best environmental options and solutions, taking into account the different impacts on water, land, air, resources and energy.
- 1.3 We help prevent hundreds of millions of pounds worth of damage from flooding. Our work helps to support a greener economy through protecting and improving the natural environment for beneficial uses, working with businesses to reduce waste and save money, and helping to ensure that the UK economy is ready to cope with climate change. We will facilitate, as appropriate, the development of low carbon sources of energy ensuring people and the environment are properly protected.
- 1.4 We have three main roles:
 - We are an **environmental regulator** – we take a risk-based approach and target our effort to maintain and improve environmental standards and to minimise unnecessary burdens on businesses. We issue a range of permits and consents.
 - We are an **environmental operator** – we are a national organisation that operates locally. We work with people and communities across England to protect and improve the environment in an integrated way. We provide a vital incident response capability.

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- We are an **environmental adviser** – we compile and assess the best available evidence and use this to report on the state of the environment. We use our own monitoring information and that of others to inform this activity. We provide technical information and advice to national and local governments to support their roles in policy and decision-making.
- 1.5 The Environment Agency takes action to conserve and secure proper use of water resources, preserve and improve the quality of rivers, estuaries and coastal waters and groundwaters through pollution control powers and regulating discharge permits.
- 1.6 We have regulatory powers in respect of waste management and remediation of contaminated land designated as special sites. We also encourage remediation of land contamination through the planning process.
- 1.7 The Environment Agency is the principal flood risk management operating authority. It has the power (but not the legal obligation) to manage flood risk from designated main rivers and the sea. The Environment Agency is also responsible for increasing public awareness of flood risk, flood forecasting and warning and has a general supervisory duty for flood risk management. We also have a strategic overview role for all flood and coastal erosion risk management.
- 2.0 Scope of these representations**
- 2.1 These Relevant Representations contain an overview of the project issues, which fall within our remit. They are given without prejudice to any future detailed representations that we may make throughout the examination process. We may also have further representations to make if supplementary information becomes available in relation to the project.
- 2.2 We have reviewed the Development Consent Order (DCO) application, Environmental Statement (ES) and supporting documents submitted as part of the above mentioned application, which we received on 27 July 2021. Our comments are presented using the ES Chapter headings relevant to our remit below.
- 3.0 Chapter 8 – Air Quality**
- 3.1 We have reviewed this Chapter together with a high level review of Appendix 8B, which appear satisfactory for planning purposes. Please note, we have not undertaken a detailed review of the air quality modelling as the proposed combustion installation will require an operating permit under Section 1.1 Part A of the Environmental Permitting Regulations 2016. A detailed review of air quality modelling will be undertaken when we determine the permit application to operate the site. To date we have not received a permit application for this proposal.
- 3.2 However, in the interim we would raise two queries regarding the proposal:
- 3.2.1 The commissioning phase for the proposed plant is relatively extensive and expected to have substantial periods where emissions are in excess of the BAT-AELs and/or ELVs associated. For example, the Combined Cycle Gas Turbine (CCGT) commissioning is expected to last 6 months – a significant amount of time. In Appendix 8B, Section 1.14, commissioning is essentially dismissed as insignificant. In Section 8.3.40

of Chapter 8, reappraising emissions during start up and shut down when FEED data becomes available is discussed. It is our view that it would be prudent to consider commissioning at this point.

3.2.2 Given the uncertainty associated with the amines degradation evaluation, and its inherent, potential seriousness (i.e. as carcinogenic substances), it is our view that a more specific review would be appropriate when the final details emerge (i.e. the solvent being used, the UK BAT position, the final positioning of the stack etc.).

4.0 Chapter 11 Biodiversity and Nature Conservation

4.1 We have reviewed Chapter 11 and the relevant appendices and this is satisfactory.

4.2 We support the recognition that Work Nos. 4A, 4B and 5 will need to accord with the Eels (England and Wales) Regulations 2009 (in relation to the provision of eel screens) and this has been included in the relevant parts of Schedule 2 Requirement 5(4) and 5(5) in respect of detailed design.

4.3 We consider that Requirement 6 proposed as part of Schedule 2 of the DCO is sufficient for the purpose of protecting and mitigating against any potential impacts on protected species (considered for those protected species within our remit). Regarding Requirement 6(1): It is recommended that due to the motility of species and time lapse between any DCO being granted and the start of construction, further survey works is carried out for all protected species highlighted as being present or potentially present on or surrounding the development site. Surveys should be no more than 3 years old at the time when construction begins and should include sites where previous surveys found no evidence (unless the site has been deemed as unsuitable and has not changed in the interim period).

4.4 Specifically in relation to water vole, we recommend that suitable habitat outside of the proposed development site are also surveyed to inform any mitigation strategy so that a fuller understanding of the population in the wider landscape can be gained. Surveys will also help to inform potential sites for water voles to be displaced or translocated into.

4.5 We note that the need for protective measures for eels has been included in Requirement 5 and advise that protective measures are suitable for the smallest life stages of the species. A fish mitigation strategy/working method statement to ensure suitable protection would also be appropriate to include as part of Requirement 6(2), although this may be more appropriate to incorporate into the method statement required by Condition 11 in the Deemed Marine Licence (DML).

4.6 Requirement 6(2)(b) and (5): Any biodiversity protection plan submitted and approved pursuant to sub-paragraph (1) or landscape and biodiversity management and enhancement plan submitted and approved pursuant to sub-paragraph (4), should not be limited to only shrub and tree planting. They should also include measures to protect and the management, enhancement and creation of other priority habitats likely to be impacted by the proposed development, including, but not limited to, watercourses, canals and drains.

4.7 *Potential impacts on the Humber SAC & migratory fish*

We note that Schedule 13 includes conditions controlling piling works (Conditions 18 and 19) in the marine environment. Noise and vibration caused by percussive piling has the potential to damage migratory fish populations in the River Trent. The success of fish populations, particularly migratory salmon and lamprey, relies on their ability to gain safe passage through the Trent in order for them to complete their lifecycle. Any activity taking place in the Trent that hinders the ability of fish to make this journey, has the potential to threaten populations throughout the river catchment.

- 4.8 The ES identifies the key migration period for adult salmon as September to November (paragraph 11.5.10) and accordingly restricts all piling during this period, DML Condition 19. Environmental conditions can result in migration taking place beyond this restricted period, however we are satisfied that the most sensitive period is covered by Condition 19 and this appears to have been agreed with the Marine Management Organisation (MMO).

5.0 Chapter 12 Water Environment and Flood Risk

- 5.1 **Flood Risk to the site** - We have been working closely with the applicant for some time regarding the issue of flood risk to the proposed development as the site lies (mainly) within Flood Zone 3a, with a small portion in Flood Zone 2. The site is at residual flood risk from the Isle of Axholme and the tidal River Trent, should a breach of the flood defences occur.
- 5.2 The applicant has updated the latest available detailed hydraulic modelling (Tidal Trent Model, Mott and Macdonald, 2013, including updated 2014 interim water levels) by undertaking a site specific breach adjacent to the proposed site. We are currently undertaking a review of the applicant's revised model (having raised several queries following our review of the initial model provided) but we are not yet in a position to confirm whether it is fit for purpose.
- 5.3 As the submitted Flood Risk Assessment utilises information from this model, we are similarly unable to confirm if it is appropriate to the scale, nature and location of the development. Therefore, we wish to register a holding objection on the grounds that the supporting Flood Risk Assessment may not accord with the requirements of the Overarching National Planning Statement for Energy (EN-1), Chapter 5.7 – Flood Risk. We will provide further detail on the outcome of our model review and on the issue of flood risk in our Written Representations. We consider that this holding objection is capable of being resolved during the examination process.

6.0 Chapter 13 Geology, Hydrogeology and Land Contamination

- 6.1 We have reviewed Chapter 13 of the ES and our comments below relate solely to the protection of the water environment in the vicinity of the site.
- 6.2 Section 13.5.3 of Chapter 13 states that a detailed ground investigation will be undertaken before construction *“to target the potentially contaminative sources identified, including the historical landfilling activities identified on the Proposed Development Site. Where risks are deemed to be unacceptable, further detailed quantitative risk assessment and if required, detailed remediation strategies will be developed accordingly, pursuant to the process set out by the planning authorities.”* These works are secured by Requirement 15 of the DCO.

6.3 Controls on the method of piled foundations will also be regulated by Requirement 30 in the DCO. We are named as a consultee to the discharge of both of these Requirements and we can advise that from a controlled water protection perspective this is satisfactory.

7.0 Environment Agency Land Holdings

7.1 We note from the Book of Reference submitted with the application for the DCO that the applicant seeks possession of various plots of highway land where the Environment Agency is the owner of the subsoil and of other plots of land within Environment Agency ownership (though we understand most, if not all, on a temporary basis). It also seeks acquisition of various rights affecting Environment Agency land interests. It is currently unclear how such proposed acquisitions would affect the Environment Agency's operations, in particular in relation to its flood risk management role. At this stage therefore the Environment Agency must object to any acquisition of land or rights in relation to its land interests until it has had a proper opportunity to assess the potential effects of the acquisitions sought by the applicant on its ability to carry out its operations. We will be carrying out this assessment and discussing this matter with the applicant. We will update the Examining Authority on our position when we lodge our Written Representations.

8.0 Further Representations

8.1 In summary, we can confirm that we have no objection in principle to the proposed development, as submitted, but we may pursue an objection in relation to the Environment Agency land interests the applicant seeks to acquire. The objection in respect of flood risk is capable of being resolved and we will provide further details on this issue in our Written Representations.

8.2 We reserve the right to add or amend these representations, including requests for DCO Requirements and protective provisions should further information be forthcoming during the course of the examination on issues within our remit.

If you have any questions regarding these representations, please do not hesitate to contact me.

Yours faithfully

Annette Hewitson
Principal Planning Adviser

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