



## Hearing Action Points

Application by Keadby Generation Limited for an Order Granting Development Consent for the Keadby 3 Carbon Capture Power Station [EN010114].

Actions arising from the Issue Specific and Compulsory Acquisition Hearings held virtually via Microsoft Teams on Tuesday 15, Wednesday 16 and Thursday 17 March 2022.

<b>Issue Specific Hearing 1 (ISH1) - Tuesday 15 March 2022</b>			
<b>Reference</b>	<b>Action</b>	<b>Party</b>	<b>Deadline</b>
<i>Agenda Item 4 – Assessment of Alternatives</i>			
ISH1-AP1	Provide more written context regarding the emerging approach of BEIS <sup>1</sup> to the Track 1 Cluster/ Emitters to be announced in May 2022 and what mechanisms will be in place to ensure the Carbon Capture and Compression Plant meets the 90% capture rate being sought by BEIS.  <i>NB. Discussion on mechanisms was stated to be ongoing as part of the Track 1 Cluster, such as a control power agreement which only allows commercial operation where the capture rate is 90% or greater.</i>	Applicant	Deadline 5
ISH1-AP2	Provide a written summary of the oral submission regarding assessment of alternatives.	Applicant	Deadline 5
<i>Agenda Item 6 – Geology, Hydrology and Land Contamination</i>			
ISH1-AP3	Respond in writing regarding the likelihood of reaching commercial agreement with The Canal and River Trust.	Applicant	Deadline 5
ISH1-AP4	Re-examine the list at paragraph 3.2.14 in Appendix 8A of the ES <sup>2</sup> [ <a href="#">APP-069</a> ] and	Applicant	Deadline 5

<sup>1</sup> The Department for Business, Energy & Industrial Strategy

<sup>2</sup> Environmental Statement



# The Planning Inspectorate

	discuss with NLC <sup>3</sup> what measures should be secured in the final CEMP <sup>4</sup> and how the ExA can have certainty as to what will be incorporated into the final CEMP in this regard.		
<i>Agenda Item 7 – Noise and Vibration</i>			
ISH1-AP5	In relation to the question about noise complaints, the Applicant is to give some thought to the complaints procedure and provide a note of how it anticipates such a procedure will work in practice.	Applicant	Deadline 5
<i>Agenda Item 8 – Biodiversity, Ecology and the Natural Environment</i>			
ISH1-AP6	Reconsider the wording for Requirement 13 to see if it provides adequate control regarding sewerage and grey water.	Applicant	Deadline 5
ISH1-AP7	Keep the HRA AA Report <sup>5</sup> under constant review, especially in relation to in-combination effects, and confirm at each Deadline that there have been no changes or submit an updated HRA AA Report.	Applicant	Ongoing
<i>Agenda Item 11 – Transport and Traffic</i>			
ISH1-AP8	Submit a written response as to whether the Applicant can provide an assessment of traffic levels pre/ post-pandemic.	Applicant	Deadline 5
ISH1-AP9	Ascertain whether there is any further/ more up-to-date traffic data for the A18 available, that is relevant to the Proposed Development site access on the A18 and would be useful to the Examination, and provide commentary as to whether this is reflective of original traffic levels pre-pandemic.	NLC	Deadline 5

<sup>3</sup> North Lincolnshire Council

<sup>4</sup> Construction Environmental Management Plan

<sup>5</sup> Habitats Regulations Assessment - Appropriate Assessment Report



# The Planning Inspectorate

ISH1-AP10	Follow up with Highways colleagues and provide an update with regards to additional data submitted to NLC responding to its concerns about non-compliance with the DMRB <sup>6</sup> , especially around changes in speed limits vs. DMRB standards.	NLC <sup>7</sup>	Deadline 5
ISH1-AP11	Submit updated Navigational Risk Assessment.	Applicant	Deadline 5
<i>Agenda Item 12 – Waste</i>			
ISH1-AP12	Provide clarification as to Tables 5 to 7 of the Waste Technical Note [ <a href="#">OD-003</a> ].	Applicant	Deadline 5
ISH1-AP13	Provide a summary of assumptions made regarding travel distances for HGVs, and signpost where this information has been provided in the documentation submitted into the Examination.	Applicant	Deadline 5
ISH1-AP14	Comment on whether NLC considers the TA <sup>8</sup> covers HGV movements of waste carriers emanating from the site.	NLC	Deadline 5
ISH1-AP15	Provide more detail about section 4.2 (Operational Waste) of Waste Technical Note [ <a href="#">OD-003</a> ].	Applicant	Deadline 5
ISH1-AP16	Provide additional clarity regarding the treatment of additional hazardous waste and whether there is capacity in the system to meet demands from this Proposed Development. This arises from the question related to paragraph 4.2.3 of the Waste Technical Note [ <a href="#">OD-003</a> ].	Applicant	Deadline 5

<sup>6</sup> Design Manual for Roads and Bridges

<sup>7</sup> North Lincolnshire Council

<sup>8</sup> Transport Assessment



# The Planning Inspectorate

<b>Compulsory Acquisition Hearing (CAH) - Wednesday 16 March 2022</b>			
<b>Reference</b>	<b>Action</b>	<b>Party</b>	<b>Deadline</b>
<i>Agenda Item 2 – The Applicant’s Case for the Compulsory Acquisition and Temporary Possession</i>			
CAH-AP1	Consider whether the Funding Statement needs to be updated, and confirm the position.	Applicant	Deadline 5
<i>Agenda Item 5 – How it is Intended to Use the Land, Whether Reasonable Alternatives have been Explored and Whether the Rights Sought are Legitimate, Proportionate and Necessary</i>			
CAH-AP2	Confirm timing of negotiations on Compulsory Acquisition/ Temporary Possession and whether all reasonable alternatives were explored.	Applicant	Deadline 5
CAH-AP3	Provide clarification on how long ‘temporary’ is and whether there is any legal basis for the duration.	Applicant	Deadline 5
<i>Agenda Item 6 – Crown Interests, Statutory Undertakers, Special Category Land, Compensation, Funding and Other Matters</i>			
CAH-AP4	Provide an update on negotiations with National Grid Electricity Transmission Plc and National Grid Gas Plc, which the Applicant advises are due to take place imminently.	Applicant	Deadline 5
CAH-AP5	Briefly set out the current position in relation to any applications made under s127 of the PA2008 <sup>9</sup> and not withdrawn (regarding Statutory Undertakers’ land).	Applicant	Deadline 5
CAH-AP6	Explain the application of s138 of the PA2008 to the dDCO <sup>10</sup> and list the Statutory Undertakers involved (including whether there are any relevant rights or relevant apparatus	Applicant	Deadline 5

<sup>9</sup> Planning Act 2008

<sup>10</sup> Draft Development Consent Order



# The Planning Inspectorate

	affected, and who the Statutory Undertakers are).		
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## Issue Specific Hearing 2 (ISH2) - Thursday 17 March 2022

Reference	Action	Party	Deadline
<i>Agenda Item 2 – Articles and Schedules of the draft DCO<sup>11</sup></i>			
ISH2-AP1	Reflect on the wording of Article 16(1)(b) and advise whether this solely applies to those locations within the Order limits or to anywhere within the River/ Canal, and either confirm no revision is required or submit revision to this Article.  <i>NB. The wording relates to temporarily mooring or anchoring barges or other vessels or craft in the river or the canal; and loading or unloading into and from such barges, other vessels or craft equipment, machinery, soil and any other materials in connection with the construction of the authorised development.</i>	Applicant	Deadline 5
ISH2-AP2	Article 27(10)(a) appears to refer to Schedule 6 but gives the wrong description/ title of that Schedule. Check and amend accordingly.	Applicant	Deadline 5
ISH2-AP3	Reflect on Article 33 and consider whether to retain/ remove/ amend this Article. If amending, make it specific to the need to remove or lop trees, such as to allow for the transport of abnormal indivisible loads.	Applicant	Deadline 5

<sup>11</sup> Development Consent Order



## The Planning Inspectorate

ISH2-AP4	Review and respond as to why Article 34(5)(b) has been excluded from the list set out in Article 34(6).	Applicant	Deadline 5
ISH2-AP5	Review and respond as to why Article 38 has omitted s264(3)(b) and whether this Article should just refer to s264(3).	Applicant	Deadline 5
ISH2-AP6	Reflect on Article 40 in regard to s79(1) of the Environmental Protection Act 1990 and whether the scope of the related DCO provisions is too broad.	Applicant	Deadline 5
ISH2-AP7	Review and respond regarding Schedule 3 and whether the description of Street Works in Table 1 Column (3) (next to Chapel Lane) should include Work No. 3A. If not, explain why.	Applicant	Deadline 5
ISH2-AP8	Reflect and respond as to how navigational safety is maintained in protective provisions.	Applicant	Deadline 5
ISH2-AP9	With regards to the precision of Condition 20 (Fencing) and the reference to the term ' <i>engineer</i> ', review and confirm whose ' <i>engineer</i> ' is being referred to (ie the Applicant's, an engineer for the C&RT <sup>12</sup> , any engineer).	Applicant	Deadline 5
ISH2-AP10	Review Schedule 13 paragraph 1(1) (Definitions) and respond as to whether this should include a definition for the MMO <sup>13</sup> Local Enforcement Office.	Applicant	Deadline 5
ISH2-AP11	Review the consistency of Schedule 13 paragraph 10 in terms of the difference in wording between the triggers for paragraphs 10 (Pre-construction) and 11 (Pre-construction).	Applicant	Deadline 5
ISH2-AP12	Review Schedule 13 paragraph 10 (Pre-construction) in regard to the use of the phrase " <i>All activities</i> ", and respond regarding whether it would be	Applicant	Deadline 5

<sup>12</sup> Canal and River Trust

<sup>13</sup> Marine Management Organisation



# The Planning Inspectorate

	more appropriate to use the words " <i>The Development Permitted</i> ".		
ISH2-AP13	Review Schedule 13 paragraph 10 (Pre-construction) and respond as to whether the list at (a) should include compliance with the Marine Safety Code.	Applicant	Deadline 5
ISH2-AP14	The Applicant has previously indicated that Schedule 13 paragraph 28(2) (Conditions Discharge) would be deleted, albeit that this paragraph was previously referred to as paragraph 29(2). Review and respond.	Applicant	Deadline 5
ISH2-AP15	Update the Articles and Schedules of the dDCO in regard to the typographic errors identified/ discussed during the Hearing.	Applicant	Deadline 5
<i>Agenda Item 3 – Schedule 2 of the draft DCO – Requirements</i>			
ISH2-AP16	Reflect on whether the wording of Requirement 5(4) could be made clearer in regard to consultation with C&RT and whether C&RT should be specified in (a) to (d), and clarify at what stage consultation with C&RT would take place.	Applicant	Deadline 5
ISH2-AP17	Reflect on the drafting of Requirements 5(4) to (10) inclusive, regarding timescales to be agreed for the works to be undertaken, a requirement for the works to be implemented as agreed and for those works to thereafter be maintained.	Applicant	Deadline 5
ISH2-AP18	Review and respond regarding whether a sub-paragraph should be inserted into Requirement 6 requiring that no survey work should be more than 3 years old at commencement of the development for that part of the proposal.	Applicant	Deadline 5
ISH2-AP19	Consider the wording of Requirement 6(6), with a view to specifying a replacement tree on a 1:1 basis rather	Applicant	Deadline 5



# The Planning Inspectorate

	than being replaced with a tree of the same size and species as originally planted.		
ISH2-AP20	Consider the triggers regarding timescales for implementation in Requirement 7 (External Lighting), and whether wording is required to ensure the lighting, as approved, is to be maintained thereafter.	Applicant	Deadline 5
ISH2-AP21	Review Requirement 9 (Means of Enclosure) and respond as to whether: <ul style="list-style-type: none"><li>i. there should be a trigger or triggers related to timescales for implementation; and</li><li>ii. wording should be added to ensure the means of enclosure is to be maintained thereafter as approved.</li></ul>	Applicant	Deadline 5
ISH2-AP22	Review Requirement 12 (Surface Water Drainage) and respond as to whether in Requirement 12(1) there is a need to ensure C&RT, the IDB <sup>14</sup> , LLFA <sup>15</sup> and the EA <sup>16</sup> are consulted and whether Requirement 12(2) and Requirement 12(5) should specify a timescale for implementation.	Applicant	Deadline 5
ISH2-AP23	Review Requirement 13 (Foul Water Drainage) and respond as to whether: <ul style="list-style-type: none"><li>i. Requirement 13(1) should ensure consultation with the EA, as set out in Requirement 13(3); and</li><li>ii. Requirement 13(2) and Requirement 13(4) should specify a timescale for implementation.</li></ul>	Applicant	Deadline 5
ISH2-AP24	Review Requirement 14 (Flood Risk mitigation) and respond as to whether: <ul style="list-style-type: none"><li>i. Requirement 14(1) should also allow for consultation with C&amp;RT, the IDB,</li></ul>	Applicant	Deadline 5

<sup>14</sup> Internal Drainage Board

<sup>15</sup> Lead Local Flood Authority

<sup>16</sup> Environment Agency





# The Planning Inspectorate

	and EA as set out in Requirement 14(3); and ii. Requirement 14(7) should also allow for consultation with the EA.		
ISH2-AP25	Review Requirement 15(4) and respond in regard to whether it should specify when the works must be carried out.	Applicant	Deadline 5
ISH2-AP26	Review Requirement 17(2) and respond in regard to whether a scheme to deal with contamination should be listed in this Requirement.	Applicant	Deadline 5
ISH2-AP27	Review Requirement 21 (Temporary haul road (removal and restoration)) and respond regarding whether there should be a sub-clause requiring notification of completion of these works, given that in the absence of such a procedure it is unclear how the Local Planning Authority would know the date from which the timings specified would have commenced.	Applicant	Deadline 5
ISH2-AP28	Review the wording of Requirement 22 (Temporary haul road (prior approval of restoration scheme)) and respond as to whether: i. the restoration of the site means the restoration of the whole site or just the restoration of the site of Works no. 10A; and ii. timescales for implementation of the approved scheme of restoration should be included.	Applicant	Deadline 5
ISH2-AP29	Review Requirement 25(3) and respond regarding whether it should include a monitoring and review mechanism, similar to that set out in Requirement 26.	Applicant	Deadline 5



## The Planning Inspectorate

ISH2-AP30	The Applicant's response to NLC's <sup>17</sup> response to the ExA's <sup>18</sup> First Written Questions [ <a href="#">REP3-020</a> ], especially Q1.16.53, is noted. No response to this has been received from NLC to date, but the ExA invited NLC to comment on its current stance with regard to Requirement 27 (Construction Hours). NLC to reflect on its position in this regard and to respond to the ExA accordingly.	NLC	Deadline 5
ISH2-AP31	Provide to the Examination a written form of Mr Lowe's verbal response to the ExA's question about Requirement 32 (Combined Heat and Power) and what mechanism is to be provided in this DCO, if made, to actually install the CHP <sup>19</sup> pipework up to the Order boundary.	Applicant	Deadline 5
ISH2-AP32	Reflect on and respond to the ExA's question about whether any consents under the Energy Act 2008 would be required in relation to Requirement 33(1), and if so, whether evidence of any such relevant approval should be listed in this sub-paragraph.	Applicant	Deadline 5
ISH2-AP33	Review Requirement 36 (Local Liaison Committee) and respond regarding how this Requirement can ensure that the powers and responsibilities of the Local Liaison Committee are meaningful in the light of the objective of this Requirement.	Applicant	Deadline 5
ISH2-AP34	Review Requirement 37 (Employment, skills and training plan) and respond in regard to:  i. how this is to be monitored and measured in terms of its success or failure; and	Applicant	Deadline 5

<sup>17</sup> North Lincolnshire Council

<sup>18</sup> Examining Authority

<sup>19</sup> Combined Heat and Power



# The Planning Inspectorate

	ii. what review mechanisms are proposed within the Requirement to control any adaption to the scheme that may be required.		
ISH2-AP35	Update Schedule 2 (Recommendations) of the dDCO in regard to the typographic errors identified/ discussed during the Hearing.	Applicant	Deadline 5