



The Planning Inspectorate

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To the Applicant; the Canal and River Trust; the Environment Agency; National Grid Carbon Ltd; National Grid Electricity Transmission Plc; National Grid Gas Plc; Network Rail; and Northern Powergrid.

Your Ref:

Our Ref: EN010114

Date: 26 May 2022

Dear Sir/ Madam

Planning Act 2008 – section 89; and the Infrastructure Planning (Examination Procedure) Rules 2010 – Rule 17

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

Request for further information

The Examining Authority (ExA) is writing to request further information from the Applicant; the Canal and River Trust; the Environment Agency; National Grid Carbon Ltd; National Grid Electricity Transmission Plc; National Grid Gas Plc; Network Rail; and Northern Powergrid under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR 2010). Questions under Rule 17 of the EPR 2010 are set out at **Annex A** of this letter.

The deadline for the submission of any responses is **Deadline 7a (12:00pm (noon) on Monday 6 June 2022)**. Responses will be published shortly after Deadline 7a.

Any other business

Queries regarding the content of this letter should be addressed to the Case Team using the details listed at the top of this letter.

Yours faithfully

Christopher Butler

Examining Authority

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Annexes

Annex A – Questions under Rule 17 of the EPR 2010

Questions under Rule 17 of the EPR 2010

The Applicant's document 'Schedule of Other Consents and Licences' (Document Reference 5.4) is [APP-033], whilst the online recording of Session 3 of Issue Specific Hearing 2 (ISH2), regarding the Development Consent Order, is available to view at [EV-027].

The document entitled 'Applicant's response to the Examining Authority's Further Written Questions' is [REP6-016].

The Applicant's most recent draft version of the Development Consent Order, submitted at Deadline 6a, is [REP6a-034].

The response of National Grid Electricity Transmission Plc, prepared by Eversheds Sutherland (International) LLP and submitted at Deadline 7 and dated 24 May 2022, is [REP7-017].

	Question to:	Question:
1.	The Applicant	<p>During the ISH2, at Agenda Item 5, the ExA asked the Applicant to provide an update of progress and timescales for completion of any consents, licences, and other agreements required and for that update to be entered into the Examination. Mr Turnbull, on behalf of the Applicant, gave a brief update in relation to Items:</p> <ul style="list-style-type: none"> ▪ 11 (Environmental Permit (for operation of the power station)); ▪ 12 (Water Abstraction Licence (for Potential Canal Water Abstraction Option)); ▪ 21 (Planning & Advanced Reservation of Capacity Agreement); ▪ 22 (Network Exit Agreement for connection to the National Transmission System); ▪ 29 (Connection Agreement for connection to the Electricity Transmission system through the Modification Application process); and ▪ 30 (Commercial Agreement for a 132kV electrical supply from the Northern Powergrid 132kV substation). <p>However, it was also stated: "<i>we are in the process of updating our other consents and other licencing document.</i>"</p> <p>To date no update to Application Document 5.4 'Schedule of Other Consents and Licences' has been entered into the Examination. The ExA would therefore ask for an updated version of this document to be entered into the Examination as a matter of urgency.</p>
2.	The Applicant	The Applicant's response to the ExA's Further Written Questions' (ExQ2) Q2.16.13, as set out in its document

	Question to:	Question:
		'Applicant's Response to the ExA's Further Written Questions' [REP6-016], does not appear to reply to the question. Whilst the ExA notes that the matters raised in ExQ2 Q2.16.13(ii) and (iii) appear to have been addressed in the draft version of the Development Consent Order submitted at Deadline 6 (as carried through to the most recent draft version of the Development Consent Order submitted at Deadline 6a [REP6a-034]), the Applicant does not appear to have addressed ExQ2 Q2.16.13(i). As such the ExA would ask the Applicant to respond to ExQ2 Q2.16.13(i).
3.	National Grid Electricity Transmission Plc (NGET)/ National Grid Gas Plc (NGG)	<p>The response of NGET, prepared by Eversheds Sutherland (International) LLP, submitted at Deadline 7 and dated 24 May 2022 [REP7-017], clearly sets out the letter represents the 'Responses by NGET'. However, within the letter it states:</p> <p><i>"...it is agreed that the protective provisions for electricity and gas in Schedule 10 of the dDCO adequately match the standard protective provisions of National Grid Electricity Transmission plc and National Grid Gas plc subject to..."</i></p> <p>Bearing the above in mind, the ExA would ask whether the above-mentioned letter from NGET is also a response authorised and made on behalf of NGG?</p>
4.	Canal and River Trust; Environment Agency; National Grid Carbon Ltd; NGET; NGG; Network Rail; and Northern Powergrid	<p>The ExA would invite all Interested Parties to whom this question is directed to summarise their position at Deadline 7a (12.00pm (noon) on Monday 6 June 2022), especially in regard to:</p> <ul style="list-style-type: none"> i) any outstanding objection(s); ii) protective provisions; iii) compulsory acquisition/ temporary possession; and iv) the status of any side agreement, interface agreement or other relevant agreements they consider necessary to provide relevant protections or mitigations from the Proposed Development.
5.	The Applicant	<p>The ExA would remind the Applicant of the provisions of Section 127 of the Planning Act 2008 and notes that a number of objections from Statutory Undertakers (SU) remain, including in relation to reaching finalised agreement on protective provisions and/ or related side agreements. In the absence of confirmation from relevant SUs in regard to:</p> <ul style="list-style-type: none"> i) withdrawal of outstanding objections; ii) agreeing finalised protective provisions; and/ or

	Question to:	Question:
		<p>iii) reaching agreement with regard to any side agreements required</p> <p>the ExA is concerned in regard to the matter of detriment to SUs' undertakings and, in the absence of written confirmation from parties about the status of the protective provisions and any necessary side agreements, does not have the information required to make a firm recommendation on serious detriment to the Secretary of State.</p> <p>In the light of this concern the ExA would urge the Applicant and relevant SUs to resolve these matters as a matter of urgency and would remind them that the ExA will be unable to consider any matters resolved after the close of the Examination in its Recommendation Report to the Secretary of State. This would include any agreement as to protective provisions, side agreement, interface agreement or other relevant agreements received after the close of the Examination.</p> <p>If the ExA does not receive the requested information from parties before the end of the Examination then in any positive recommendations it would have to be minded to make those recommendations conditional on the Secretary of State satisfying themselves that there would not be a serious detriment to SUs' undertakings.</p>