

Date: 4 November 2022
Your Ref: EN010114
Our Ref: 14592A



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Gareth Leigh
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Via Email: keadby3@planninginspectorate.gov.uk

Dear Sir

PLANNING ACT 2008 AND THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

APPLICATION BY KEADBY GENERATION LIMITED (“THE APPLICANT”) FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE PROPOSED KEADBY 3 CARBON CAPTURE EQUIPPED GAS FIRED GENERATING STATION (“THE PROPOSED DEVELOPMENT”)

We refer to your letter dated 21 October 2022 regarding the above matter and seeking responses by 4 November 2022. We respond on behalf of the Applicant as follows.

We have discussed this response with representatives of the Environment Agency and The Crown Estate albeit we understand that they will respond independently.

Paragraph 5.3 - In the event that the necessary authority from The Crown Estate were not to be obtained, the Applicant is required to advise what are the implications for the project if affected land were to be removed (as set out in the Book of Reference at Deadline 6a).

We have followed the same format as our response dated 7 October 2022 and split our response into the four work areas.

Outfall Pipe (Plots 158 and 163)

These plots are included in the dDCO on the basis that they are required as part of the scheme for which planning permission is being sought. However, the Applicant does not require any additional rights to those already secured such that any refusal on the part of the Crown to grant additional rights would have no impact on the development. In effect, these plots are included solely for the purposes of the wider planning permission.

River Abstraction (Plots 157, 159 and 160)

These plots are included as a fall-back option in the event that the preferred option of taking water from the canal is not achievable in engineering terms. In simple terms, the Applicant would prefer to draw non-saline water from the canal than extract and treat water from the river which is tidal.

In this regard, paragraph 12.3.34 (page 72 of Chapter 12 of the Environmental Statement [APP-054] states that:

“If the alternative River Water Abstraction Option is chosen:

Partners

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- *It is anticipated that the existing Keady 1 Power Station infrastructure including existing gravity intake is in a suitable condition for re-use with some refurbishment and additions (e.g. new pumps).*
- *The existing River Trent water intake would be subject to modification either (involving a new gravity or pumped intake system) to address silt issues and to comply with the Eels (England and Wales) Regulations 2009 (HMSO, 2009) ('Eels Regulations') including accommodating new 2mm eel screens. The cooling water intake will be designed with the aim of reduced fish entrainment/ compliance with BAT.*
- *A cofferdam at the existing River Trent abstraction point on the western bank of the Trent would extend to a maximum of 22m into the watercourse to ensure a safe and dry working area beyond the existing intake infrastructure."*

Having discussed these points with the agents advising The Crown Estate, we are advised that, regardless as to whether or not the Applicant benefitted from compulsory acquisition powers, there are standard template agreements applying to such situations which would be entered into to enable the proposed works to take place. As such, there is no reason not to assume that consent would be provided.

In the unlikely event that the Canal and River Trust refused to complete the Canal Abstraction Agreement and and The Crown refused to permit the carrying out of works outside of the current lease demise (i.e., the riverbed already leased to the Applicant), the Applicant would need to further investigate the possibility of redesigning the proposed modifications to remain within their current lease demise. It is not possible at this stage to assess whether this would be feasible.

In any event, The Crown has advised the Applicant that they will be writing to you confirming that their consent is granted pursuant to Section 135 (1) and (2) of the Planning Act 2008.

The Applicant requires these plots from a both a planning and construction perspective but, in the event that the Crown were to act contrary to their current stated position and refuse to permit the implementation of that planning permission, the Applicant would continue to pursue their preferred option (i.e., the canal).

The Wharf (Plot 154 and 172a)

As previously advised, the wharf is leased by Railway Wharf (Keadby) Limited from the Crown such that the Applicant would need to either acquire the freehold interest in the wharf to benefit from the existing lease or obtain the consent of The Crown. However for the purpose of carrying out the proposed development, the Applicant only requires the need to temporarily possess this plot for construction related purposes. We understand that the Crown will be issuing a letter confirming that it consents to the use of temporary possession powers pursuant to the Order for this purpose.

In addition, the Applicant is in negotiations with Railway Wharf (Keadby) Limited for the potential acquisition of their freehold interest. There may therefore be no requirement to obtain any consent from The Crown as the Applicant will effectively become The Crown's tenant.

These plots are an intrinsic part of the development as, in the absence of planning permission to use the wharf and ability to implement such consent, an alternative solution would be required.

The Mooring (Plots 156, 156a and 172)

As previously advised, these plots comprise the part of the River Trent and airspace that is likely to be occupied by boats whilst unloading at the wharf and temporary possession powers of these plots is sought.

For plot 172, if the Applicant acquires the wharf by agreement, they would become successors in title to the lease with The Crown and therefore benefit from use thereof such that further consent from The Crown would not be required. However, compulsory temporary possession powers may still be required in respect of other interests in the river held by, inter alia, the Canal and River Trust in respect of any interference with access from the river to the canal whilst the boats are being unloaded.

The Crown's consent is only required in the event that the Applicant is unable to agree terms with the current owner of the wharf. The Crown will formally issue a Consent Letter pursuant to Section 135 of the Planning Act 2008 to remove any uncertainty in this regard.

In the unlikely event that the Applicant did not secure planning permission and consent to use the mooring an alternative solution would be sought.

The Environment Agency

We note that the Secretary of State has requested a final update from the Environment Agency. We are aware that the relevant contacts at the Environment Agency will have been on annual leave prior to this submission date. We therefore offer the following comments.

As far as the Applicant is concerned, the agreements are currently being negotiated and the respective solicitors anticipate that the agreements in respect of Mabey, Skew and North Pilfrey Bridge (plots 3, 10, 26 and 30) will be completed shortly.

The position in respect of the subsoil canal abstraction pipe easement (plot 52) is that the terms of the easement are at an advanced stage but the Environment Agency require final confirmation of the exact dimensions, position and size of the pipe. The Applicant has, this week, issued a further plan addressing these issues, the acceptance of which by the Environment Agency would enable the easement to be completed.

The same point applies in respect of the oversailing licence (plots 31, 46, 47, 53 and 54). The Applicant has, this week, prepared and forwarded a further plan to the Environment Agency the acceptance of which would allow the completion of formal agreement.

As set out previously, the Applicant has provided the Environment Agency with a unilateral undertaking to provide access and car parking for the purposes of accessing the canal. This relates to plots 75, 76 and 80a.

We trust this update is of assistance but, in any event, the Applicant undertakes to provide an update in respect of these matters on 11 November 2022.

Should you require any further information in the meantime, please contact Colin Turnbull at this office using the details provided.

Yours faithfully,

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DWD

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C.C.

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