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Dear Mr Leigh,

SECTION 119 AND SCHEDULE 4 OF THE PLANNING ACT 2008 – CORRECTION OF ERRORS IN DEVELOPMENT CONSENT DECISIONS

WRITTEN REQUEST FOR THE CORRECTION OF ERRORS IN THE KEADBY 3 (CARBON CAPTURE EQUIPPED GAS FIRED GENERATING STATION) ORDER 2022

I write on behalf of Keadby Generation Limited ('KGL'), the undertaker in respect of 'The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station Order 2022' ('the Order'), which was made on 7 December 2023.

KGL and its professional team have reviewed the Order as made and identified what are considered to be a number of 'correctable errors'. These are set out, along with commentary, in Appendix 1 to this letter.

Yours sincerely,


Colin Turnbull
Partner
DWD

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Appendix 1: List of corrections to the Order requested by Keadby Generation Limited

The following table lists a number of errors considered to be contained within the Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022 made on 7 December 2022, that the Applicant Keadby Generation Limited (KGL), has identified. In each case, the table sets out the correction which is being requested under Schedule 4 of the Planning Act 2008 and the reason for the request.

Article	Current Drafting	Commentary and correction required
Article 2 "carbon capture and compression plant"	"means the building and associated works comprised in Work No. 1C and Work No. 7 in Schedule 1 shown on the works plans."	<p>KGL suggests this be amended to read as follows (amended shown underlined and in italics):</p> <p>"means the building and associated works comprised in Work No. 1C and Work No. 7 <u>as set out in</u> Schedule 1 <u>and as</u> shown on the works plans..."</p>
Article 7(6)(1).	The Order, as made, has not included the Applicant's preferred final order wording which allowed the benefit of the Order to be transferred to a "group company" without the consent of the Secretary of State.	<p>KGL request the original wording be re-instated. The Applicant is part of the family of SSE companies and the preference is for the Order to contain provisions to allow for the transfer of the benefit of the Order to other group companies without the need for separate Secretary of State consent.</p> <p>The Explanatory Memorandum contained an explanation for including both the definition of "group company" (paragraph 5.2(c)) and the purpose it plays in Article 7 (paragraphs 5.8 and 5.9) (see relevant extracts below). No objections were made to including this reference by any of the Interested Parties.</p> <p>It is requested that the original provision be included as follows:</p> <p>" <i>or</i></p> <p><i>(iv) is a company within a group company.</i>"</p>

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		<p>Relevant extracts from the Explanatory Memorandum (as referred to above) are:</p> <p><u>Paragraph 5.2(c)</u></p> <p><i>"group company"</i> – this definition applies in relation to Article 7 (<i>Consent to transfer benefit of the Order</i>) regarding consent to transfer the benefit of the order. It is intended to capture possible company re-organisation/structuring of the undertaker to enable the position that if the proposed "new" undertaker falls within the definition of "group company" then there would be no specific requirement to obtain the consent of the Secretary of State to transfer the benefit of the DCO. Presently there are other operations being carried out at the Keadby site by SSE plc companies in relation to the Keadby 1 power station, Keadby 2 (under construction) and Keadby windfarm."</p> <p><u>Paragraph 5.8</u></p> <p>"Article 7 (<i>Consent to Transfer Benefit of the Order</i>). This makes provision for the transfer of the benefit of the Order. The consent of the Secretary of State is needed before the undertaker can transfer the benefit of the Order or grant a lease to another person, except where the transferee or lessee is (1) the holder of a electricity generating licence (2) a highway authority responsible for the highways within the Order limits; (3) is a company within a group company or (4) where the compensation provisions for the acquisition</p>

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		<p>of rights or interest in land or if all effects on land have been discharged or are no longer relevant."</p> <p><u>Paragraph 5.9</u></p> <p>"Reference has been made to group company (as defined in Article 2) to allow for the benefit of the Order to be transferred between the family of the Applicant's companies on the basis that this allows for any restructuring of the companies who may take over responsibility for the authorised works and/or the Proposed Development's continued operation in the future. It is also considered that the exemption relating to a holder of a licence under S6 of the Electricity Act 1989 is justified on the basis that, in considering whether to grant a generating licence under the Electricity Act 1989, the Secretary of State will have established the fitness of the licence holder and its suitability to take the benefit of the Order and similarly for those elements of highway works being carried out by a highway authority."</p>
Article 21(3).	"In the case of Order land required for Work No.4A and 4B, the undertaker's powers under paragraph (1) are limited to either plots falling within Work No. 4A or plots falling within Work No. 4B..."	<p>KGL suggest this be amended to read as follows for clarity:</p> <p><i>"In the case of Order land required for Work No.4A <u>or</u> 4B, the undertaker's powers under paragraph (1) are <u>respectively</u> limited to either plots falling within Work No. 4A or plots falling within Work No. 4B..."</i></p>
Schedule 9 (procedure for discharge of requirements), paragraph 4(2)(2)(ii).	"(ii) a longer period of time for determining the application has been agreed pursuant to paragraph 2 of this Schedule"	Correction of typo

Article	Current Drafting	Commentary and correction required
		"(ii) a longer period of time for determining the application has been agreed <u>pursuant</u> to paragraph 2 of this Schedule"