



PROPOSED CHANGES APPLICATION REPORT

Appendix 13 – Explanatory Memorandum (Tracked) – Proposed Changes Extracts

Drax Bioenergy with Carbon Capture and Storage

The Planning Act 2008, National Infrastructure Planning Advice Note Sixteen: ‘How to request a change which may be material (‘AN16’), and the Infrastructure Planning (Compulsory Acquisition) Regulations 2010

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5. SCHEDULES

- 5.1 Schedule 1 describes the authorised development in detail, split into "work numbers", each of which represents different elements of the authorised development. This split of the authorised development between different work numbers enables the Order to refer to different parts of the authorised development by citing the relevant work number. The split also enables the Order and Works Plans (document reference 2.3) to delineate the area within which each "work" can be constructed, maintained and operated (see article 3(2)). The areas within which each work can be constructed are therefore shown on the Works Plans.
- 5.2 The works set out in Schedule 1 to the Order are briefly summarised as follows-
- 5.2.1 **Work No. 1** – carbon capture plant as an extension to an existing generating station comprising: works to modify, upgrade and extend the existing generating station pre-treatment plant (Work No. 1A); works to modify, upgrade and extend the existing generating station cooling water system (Work No. 1B); works to modify, upgrade and extend the existing generating station boilers and turbines for the carbon capture plant process steam connection (Work No. 1C); up to two carbon dioxide capture plants for Unit 1 and Unit 2 of the existing generating station (Work No. 1D); carbon dioxide processing and compression plant (Work No. 1E); and integral electrical connections within the existing generating station and carbon capture plant (Work No. 1F);
 - 5.2.2 **Work No. 2** – infrastructure to transport compressed carbon dioxide from Work No. 1E to storage and transport infrastructure operated by National Grid Carbon Limited including: a new carbon dioxide delivery terminal compound (Work No. 2(a)); or a new carbon dioxide delivery pipeline (Work No. 2(b));
 - 5.2.3 **Work No. 3** – supporting works in connection with and in addition to Work Nos. 1, 2 and 5 such as: pipeline and cable connections, drainage and waste management, minor auxiliary infrastructure, ground preparation works, replacement of the existing generating station Unit 1 and Unit 2 transformers, security and lighting, internal roadways and car parking;
 - 5.2.4 **Work No. 4** – works to facilitate construction access to Work Nos. 1 to 5 comprising road modifications and temporary removal or reinstatement of structures, features and landscaping;
 - 5.2.5 **Work No. 5** – temporary construction laydown areas;
 - 5.2.6 **Work No. 6** – habitat provision area including soft landscaping including planting; landscape and biodiversity enhancement measures; and security fencing, gates, boundary treatment and other means of enclosure; **and**

5.2.7 Work No. 7 – works to create a floodplain compensation area including earthworks and excavation and movement of material within the floodplain compensation area; and landscape and habitat measures;

5.2.8 Work No. 8 – works to facilitate the delivery of abnormal indivisible loads to the site including diversion of existing electrical 11 kV overhead lines (Work No. 8A) and diversion of existing telecommunication overhead lines (Work No. 8B); and

~~5.2.7~~5.2.9 further associated development in connection with the numbered works such as drainage systems, services and utilities connections, landscaping, security measures including means of enclosure, lighting, site clearance, temporary construction laydown and contractor facilities, and tunnelling, boring and drilling works.

Technology and Parameters

- 5.3 The extension to the generating station (including Units 1 and 2) is Work No. 1. Work No. 1 consents the extension to the generating station, not the generating station itself, which is already consented and operational and is not the subject of this Application (other than to the extent it is sought to be extended). For that reason, there is no restriction on overall output capacity cap on the generating station.
- 5.4 Work No. 1 is drafted so as to be non-specific as to technology and configuration of the plant.
- 5.5 The mechanics of the drafting in Schedules 1, 2 and 14 ensure that the undertaker does not exceed the basis of the assessment in the Environmental Statement. This is achieved through a number of mechanisms in the Order which together ensure this:
- 5.5.1 Article 3 and Schedule 1 (Work Nos. 1) provide the power to build the extension to the generating station. Pursuant to Article 3(2), each numbered work must be situated within the area delineated on the Works Plans (document reference 2.3) – thus, for example, modifications to the existing pre-treatment water plant, can only be built within the area for Work No. 1A. Given these overarching constraints, there is certainty as where each element can be built;
- 5.5.2 The relevant parameters secured via requirement 2(3) and Schedule 14 set maximums for relevant elements of the authorised development, including all those which are relied on for the assessment of effects in the Environmental Statement (requirement 2(3) also secures “design principles” in the Register of Environmental Actions and Commitments). These parameters are based on application of the Rochdale Envelope principle, such that maximum building dimensions have been presented and assessed in the Environmental Statement, recognising that the final

building massings may differ from (but will never be materially larger than) these maxima depending on the technology provider selected;

5.5.3 In terms of detailed design, requirement 6 of Schedule 2 provides that the undertaker must obtain the approval of the relevant planning authority to the siting, layout, scale and external appearance of new permanent buildings and structures contained within Work Nos. 1, 2 and 3, prior to commencing these works. Those details are required to be in accordance with various “design principles” included in the Register of Environmental Actions and Commitments (document reference 6.5). Requirement 2(3) also requires that the authorised development more generally must be in line with those “design principles”.

5.6 The combined effect of and relationship between these provisions ensures that whichever technology or design is selected, the authorised development will not give rise to environmental effects beyond those which have been assessed. Where flexibility is allowed (for example) in the area shown for Work No. 3 on the Works Plans, this is considered to be justified and reasonable based on the minimal environmental effects likely to result from the types of works included in Work No. 3, and to allow flexibility so that those supporting works can be delivered within the Drax Power Station Site in a way that allows contractors to provide the works with sufficient scope for value engineering through innovative design and / or construction techniques.

Schedules 2 – 15

5.7 Schedule 2 (*Requirements*) sets out the requirements which apply to the carrying out, operation (including maintenance) and decommissioning of the authorised development under the Order. They broadly follow those set out in the model provisions, where relevant, and where they have been amended this has been informed by discussions with the relevant planning authority or statutory consultee and the outcomes of the environmental assessment. The requirements closely relate to the mitigation set out in the Environmental Statement (document reference 6.1) and the Register of Environmental Actions and Commitments (document reference 6.5) and a number of them specifically refer to the Environmental Statement, items within the Register of Environmental Actions and Commitments, and other application documents (in particular, 'outline' strategies or plans) in order to ensure that the mitigation or other measures outlined in those documents are secured.

5.8 The requirements operate by reference to different stages in the lifetime of the authorised development (or parts of it). In effect, the undertaker may not proceed to these stages until it has met its obligations under the relevant requirements. The stages, which are effectively defined through the terms in Article 2 (see above) are as follows:

5.8.1 "**commencement**" for the purposes of the requirements means beginning to carry out a material operation, other than permitted preliminary works, of the authorised development (or a part of it).

- 5.8.2 "**commissioning**" means the process of assuring that all systems and components of the authorised development are tested and are operable in accordance with the undertaker's design objectives, specifications and operational requirements;
- 5.8.3 "**date of full Unit 1 commissioning**" and "**date of full Unit 2 commissioning**" means the date on which the commissioning of the carbon capture technology on either Unit 1 or Unit 2 is completed, as notified by the undertaker to the relevant planning authority; and
- 5.8.4 "**permitted preliminary works**" are those which can take place before "commencement", and therefore before the relevant requirement needs to be discharged or complied with (as relevant).
- 5.9 Some of the requirements are drafted with a view to distinguishing between the different specific work numbers, or more generally different parts of the authorised development. This staged approach follows that agreed by the planning authority in relation to the proposed Knottingley Power Plant Order 2015, and permits an appropriately flexible approach to the discharge of requirements by the undertaker which allows it to (potentially) discharge a requirement in respect of a part of the authorised development and construct that element, whilst continuing to submit details to discharge the requirement in relation to other parts. This provides an appropriate balance between development not starting until details are approved, and allowing other parts of the authorised development (where details are already approved) to be constructed.
- 5.10 Many of the requirements provide for a document (such as details, a method statement, a plan, a programme or scheme) specifying how the undertaker will construct, operate or maintain the authorised development to be submitted for approval to the relevant planning authority, SDC (or the replacement unitary council once established). The model provisions have been adapted throughout to provide that it is for the planning authority to approve the relevant document.
- 5.11 A further departure from the model provisions is in relation to the duty to consult with a third party/parties about a document submitted to the planning authority for approval. Where consultation is required under the Order it is, in each case, the planning authority's duty to carry it out before approving a document submitted to it (rather than, as in some of the model provisions, the undertaker's duty to carry it out before submitting the document for approval). Where it is considered that it would be particularly relevant for the planning authority to consult a third party, that third party has been named within the relevant requirement. For example, this has been done in response to comments received from NYCC that it be consulted in respect of the discharge of certain requirements such as those relating to highways and transportation matters, given that it is highway authority for the area. The general approach has been used in other DCOs as made, including the Hinkley Point C (Nuclear Generating Station) Order 2013.

Requirements

- 5.12 *Requirement 1: Commencement of the authorised development* – This requirement is based upon the model provisions and requires that the authorised development must only be commenced within 5 years of the date of the Order coming into force.
- 5.13 *Requirement 2: Phasing of the authorised development* – This is not a model provision. It restricts the authorised development commencing until the phasing for construction of works 1 (that is, the NSIP), 2 and 3 have been submitted to and approved by the relevant planning authority. The scheme is to be in accordance with the phasing in Chapter 2 of the Environmental Statement (Site and Project Description) (document reference 6.1.2) and is to be implemented as approved.
- 5.14 *Requirement 3: Notice of date of full commissioning* – This is not a model provision. It requires the undertaker to give notice to the planning authority of the date of Unit 1 full commissioning within 7 days of the completion of the commissioning of numbered works 1(D)(i), (iii) and (v). It also requires the undertaker to give notice to the planning authority of the date of Unit 2 full commissioning within 7 days of the completion of the commissioning of numbered works 1(D)(ii), (iv) and (vi). This requirement assists SDC in monitoring the requirements.
- 5.15 *Requirement 4: Requirement for written approval* – This is a model provision, however the reference to "Commissioner" has been replaced with "relevant planning authority".
- 5.16 *Requirement 5: Approved details and amendments to them* – This is based on a model provision and allows the relevant planning authority to approve amendments to certified documents, the parameters in Schedule 14 of the Order, and other details, schemes or plans already approved. This is to allow flexibility, however this flexibility is given strict parameters in that it only applies to the extent the subject matter of the approval is unlikely to result in materially new or different effects to those assessed in the Environmental Statement (document reference 6.1). A similar Requirement appeared in the Progress Power (Gas Fired Power Station) Order 2015.
- 5.17 *Requirement 6: Detailed design approval* – This is based on a model provision. It requires the specific design details of work numbers 1, 2 and 3 to be submitted to and approved by the planning authority before commencement of that work number, and for the authorised development to be constructed in accordance with those approved details. This requirement relates to these work numbers only as they are the parts of the authorised development including elements whose visual appearance has been assessed as being important in terms of the authorised development's visual impact (see Chapter 9 (Landscape and Visual Amenity) of the Environmental Statement (document reference 6.1.9)).

- 5.18 *Requirement 7: Provision of landscape and biodiversity mitigation and enhancement* – This is based on a landscaping model provision. However, the requirement has been modified to include provision for ecological mitigation. It requires the undertaker to submit a landscaping and biodiversity strategy prior to commencing work numbers 1, 2, 3, 4 (to the extent this work number involves the removal of hedgerows), 5 and 6. The plan must include details of all proposed hard and soft landscaping works and ecological mitigation measures (as applicable to the relevant work number), and be in accordance with the Outline Landscape and Biodiversity Strategy submitted with the DCO Application (document reference 6.6). The plan is to be implemented and maintained as approved during the construction and operation of the authorised development.
- 5.19 *Requirement 8: External lighting during operation* – This is based upon a model provision and requires the undertaker to submit details of all external lighting to be installed for the purposes of normal operation for numbered works 1, 2 and 3 to the relevant planning authority for approval before the earlier date of Unit 1 full commissioning or date of Unit 2 full commissioning. The scheme must be substantially in accordance with the principles set out in the outline lighting strategy and must include details of the permanent external lighting to be installed for the purposes of the operation of the relevant numbered works. The scheme must be implemented as approved.
- 5.20 *Requirement 9: Highway accesses during construction* – This is a modified model provision. It provides that each of the accesses listed in Schedule 7 may not commence until details of each access and the means of reinstating the temporary means of access after construction have been submitted to and approved by the planning authority.
- 5.21 *Requirement 10: Surface water drainage* – This is based on a model provision. It provides that no part of Work Numbers 1, 2 and 3 of the authorised development may commence until a surface water drainage scheme for that work number has been submitted to and approved by the planning authority (in consultation with the lead local flood authority, the relevant internal drainage board and the Environment Agency). The schemes must be in accordance with sections 5 and 6 of the Surface Water Drainage Strategy Report (document reference 6.3.12.3) and the relevant work numbers must be constructed in accordance with the approved details and maintained during construction and operation.
- 5.22 *Requirement 11: Flood risk mitigation* – This is not a model provision, however, it is included to ensure that the authorised development is carried out and operated in accordance with the flood risk assessment.
- 5.23 *Requirement 12: Ground conditions* – This is not a model provision and was included at the request of the Environment Agency. The provision is necessary to ensure that no works comprising Work Nos. 1, 2, 3 and 5 must commence (including permitted preliminary works comprising demolition of existing structures, environmental surveys, geotechnical surveys and other investigations for the purpose of assessing ground conditions only) until a written strategy for the identification and remediation of risks associated with the contamination of

Order limits associated with that numbered work has been submitted to and approved by the relevant planning authority. The requirement sets out at sub-paragraph (2) what information this strategy must contain. Sub-paragraph (3) requires that prior to the date of Unit 1 full commissioning, a report must be submitted to and approved by the relevant planning authority, providing the data to demonstrate the remediation measures and strategy (approved as part of the overarching written strategy) have been undertaken and are effective, and identifying long term monitoring requirements. This Requirement also sets out the process for dealing with contamination not previously identified, and requires that a piling risk assessment must be submitted to the Environment Agency before piling works comprised in Work Nos. 1, 2 and 3 commence.

- 5.24 *Requirement 13: Archaeology* – This is a modified model provision. It provides that no part of Work Number 5 of the authorised development (including permitted preliminary works comprising intrusive archaeological surveys only) may commence until a written scheme of investigation for that work number has been submitted to and approved by the relevant planning authority after consultation with NYCC. The scheme submitted and approved must be in accordance with items H2, H3, H4, H5 and H6 of the Register of Environmental Actions and Commitments (document reference 6.5). In particular, the scheme must identify any areas where further archaeological investigations are required, alongside the nature and extent of these, provide details of protection, recording and preservation measures and provide details of archaeological monitoring. Furthermore, any archaeological investigations must be carried out in accordance with the approved scheme and by a suitably qualified person or organisation approved by the planning authority.
- 5.25 *Requirement 14: Construction environmental management plan* – This is a modified version of the model provision on "Code of Construction Practice". It requires a Construction and Environmental Management Plan, in accordance with the Register of Environmental Actions and Commitments (document reference 6.5), to be submitted to and approved by the relevant planning authority before commencement of the authorised development (including permitted preliminary works comprising site clearance only). All construction works must be in accordance with the approved Construction and Environmental Management Plan.
- 5.26 *Requirement 15: Construction traffic management plan* – This is a modified model provision. It requires a Construction Traffic Management Plan, in accordance with the Outline Construction Traffic Management Plan (document reference 6.3.5.1), to be submitted to and approved by the planning authority, following consultation with National Highways and NYCC as highway authority, before commencement of any part of Works Nos. 1 and 2. It also requires notices to be erected and maintained by the undertaker throughout the construction period at every entrance to and exit from the construction site, indicating the approved routes for traffic entering and leaving the site.
- 5.27 *Requirement 16: Construction worker travel plan* – This is not a model provision. It requires a Construction Worker Travel Plan, in accordance with the Framework

Construction Worker Travel Plan (document reference 6.3.5.2), to be submitted to the relevant planning authority after consultation with NYCC as highway authority, before commencement of any part of Works Nos. 1 and 2.

- 5.28 *Requirement 17: Control of noise during operation* – This is a modified model provision. It requires that a noise mitigation scheme is to be submitted to the relevant planning authority before commencement of any part of Works Nos. 1, 2 and 3. The noise mitigation scheme must demonstrate how the design of the numbered works has incorporated design mitigation in order to meet a set of operational rating noise limits.
- 5.29 *Requirement 18: Decommissioning environmental management plan* – This is not a model provision. It requires the undertaker to submit a Decommissioning Environmental Management Plan, to the relevant planning authority within 12 months of it deciding to decommission any part of the authorised development. The relevant planning authority must approve the scheme before any decommissioning works are carried out and the scheme must be implemented as approved.
- 5.30 *Requirement 19: Decommissioning traffic management plan* – This is not a model provision. It requires the undertaker to submit a Decommissioning Traffic Management Plan, to the relevant planning authority within 12 months of it deciding to decommission any part of the authorised development. The relevant planning authority, after consultation with National Highways and the local highway authority, must approve the scheme before any decommissioning works are carried out and the scheme must be implemented as approved.
- 5.31 Schedule 3 (*Legislation to be disapplied*) lists out the legislation that the Order disapplies that relates to railways, drainage and utilities in and in the vicinity of the Order limits in so far as such legislation is in force and is incompatible with the powers contained within the Order. The footnotes in the Schedule contain information about the status of each Act, where relevant. The Schedule relates to Article 8 (*Application and modification of statutory provisions*).
- 5.32 Schedule 4 (*Streets subject to street works*) sets out the streets that are to be subject to street works by reference to the Access and Rights of Way Plans (~~document reference 2.4~~). The Schedule relates to Article 9 (*Street Works*).
- 5.33 Schedule 5 (*Streets subject to temporary alteration of layout temporarily altered*). This Schedule relates to Articles 10 (*Power to alter layout, etc., of streets*) and 11 (*Construction and maintenance of altered streets*).
- 5.34 Schedule 6 (*Public rights of way to be temporarily stopped up*) sets out the locations of the public right of way to be temporarily stopped up by reference to the Access and Rights of Way Plans (~~document reference 2.4~~). This Schedule relates to Article 12 (*Temporary stopping up of public rights of way*).
- 5.35 Schedule 7 (*Temporary means of access to works*) sets out the temporary accesses to the authorised development. It references the Access and Rights of

Way Plans (~~document reference 2.4~~). The Schedule relates to Article 13 (*Access to works*).

- 5.36 Schedule 8 (*Land in which only new rights etc may be acquired*) specifies both the areas of land in which only new rights may be acquired by the undertaker and the nature of the rights that may be acquired. The plot numbers in column 1 of that table correlate with the relevant plot numbers shaded blue on the Land Plans (~~document reference 2.2~~), and the nature of the rights in column 2 is explained by reference to the relevant work numbers and the corresponding Works Plans (~~document reference 2.3~~). The Schedule relates to Article 20 (Compulsory acquisition of rights).
- 5.37 Schedule 9 (*Modification of compensation and compulsory purchase enactments for creation of new rights and imposition of new restrictive covenants*) modifies existing compensation legislation including the Land Compensation Act 1973 and the Compulsory Purchase Act 1965. It is commonly included in DCOs as made, including the Hinkley Point C (Nuclear Generating Station) Order 2013 and the National Grid (King's Lynn B Power Station Connection) Order 2013. This has been updated to reflect any necessary changes arising as a result of the Housing and Planning Act 2016. The Schedule relates to Article 20 (Compulsory acquisition of rights).
- 5.38 Schedule 10 (*Land of which temporary possession may be taken*) sets out the land of which only temporary possession may be taken, pursuant to Article 26. This land is shown yellow on the Land Plans (~~document reference 2.2~~), and the purpose for the temporary possession is described by reference to the relevant work numbers and corresponding Works Plans (~~document reference 2.3~~).
- 5.39 Schedule 11 (*Procedure for discharge of requirements*) provides a bespoke procedure for dealing with an application made to the relevant authority for any consent, agreement or approval required by the Requirements in Schedule 2 of the Order. It sets out time periods within which decisions must be made and provides for deemed approval of the applications in certain circumstances. Paragraph 4 makes provision for fees to be paid where an application is made to the relevant planning authority with respect to discharge of a requirement. The Schedule makes provision for appeals to be made in the event of a refusal of an application or if the relevant authority requires further information to be provided in relation to that application. Schedules similar to Schedule 11 have been used in various orders and can be seen in a similar form in the Hinkley Point C (Nuclear Generating Station) Order 2013, as amended, and the National Grid (King's Lynn B Power Station Connection) Order 2013. The bespoke process is required in order to ensure that applications under Requirements are dealt with efficiently so that the authorised development is not held up. Deemed consent of applications is required for the same reason and ensures that the nationally-needed authorised development will not be held up by the discharge of requirements. The Schedule relates to Article 40 (Procedure in relation to certain approvals etc).
- 5.40 Schedule 12 (*Protective provisions*) sets out protective provisions for the benefit of statutory undertakers whose equipment may be affected by the authorised

development. The Schedule relates to Article 34 (Protective provisions) and currently contains protective provisions for the benefit of defined classes of statutory undertakers (electricity, gas, water and sewerage undertakers at Part 1 and operators of electronic communications code networks at Part 2), alongside protective provisions for the benefit of National Grid as electricity and gas undertaker at Part 3 and for the protection of Network Rail Infrastructure Limited at Part 4. The Applicant is also in negotiations with National Grid Carbon Limited for bespoke protective provisions for their protection to be included in the Order – draft provisions were received from National Grid Carbon Limited shortly before submission and are being considered by the Applicant.

- 5.41 Schedule 13 (*Documents and plans to be certified*) lists the documents that the undertaker must have certified as true copies by the Secretary of State pursuant to Article 38 (*Certification of plans and documents, etc.*).
- 5.42 Schedule 14 (*Design Parameters*) sets out the relevant parameters associated with the carbon capture plant for Units 1 and 2 and the common infrastructure required for both of these plants in accordance with requirement 2 of Schedule 2 to the Order. See the explanation provided for Schedule 1 above as to how this schedule operates alongside the relevant articles and schedules.