



APPLICANT'S SUMMARY OF ORAL CASE AT COMPULSORY ACQUISITION HEARING 1 (CAH1)

Drax Bioenergy with Carbon Capture and Storage

The Infrastructure Planning (Examination Procedure) Rules 2010 - Rule 8(1)(c); The Planning Act 2008

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PUBLIC

**WRITTEN SUMMARY OF DRAX POWER LIMITED'S ("THE APPLICANT")
ORAL CASE PUT AT COMPULSORY ACQUISITION HEARING 1
23 MARCH 2023**

1. INTRODUCTORY REMARKS

- 1.1 Compulsory Acquisition Hearing 1 was held at 10:00am on 23 March 2023, both in person at The Parsonage Hotel & Spa, Escrick, York, YO19 6LF and using the virtual platform of Microsoft Teams.
- 1.2 Compulsory Acquisition Hearing 1 took the form of running through the items listed in the agenda published by the Examining Authority (the “**ExA**”) on 6 March 2023 (the “**Agenda**”). The discussion predominantly focused on:
 - 1.2.1 The Applicant’s case for Compulsory Acquisition and Temporary Possession;
 - 1.2.2 Site specific issues;
 - 1.2.3 Statutory Undertakers; and
 - 1.2.4 Funding.

2. AGENDA ITEM 1 - WELCOME, INTRODUCTIONS AND ARRANGEMENTS FOR THE HEARING

- 2.1 The ExA: Caroline Jones and Ben Northover.
- 2.2 Drax Power Limited (the “**Applicant**”):
 - 2.2.1 Speaking on behalf of the applicant: Richard Griffiths (Partner at Pinsent Masons LLP).
 - 2.2.2 Present from the Applicant: Jim Doyle (Planning and Consents Manager) and Chris Summers (Engineering Technical Manager – Operations).
 - 2.2.3 The Applicant’s consultants and legal advisors: Alexis Coleman (Senior Associate at Pinsent Masons LLP), Matthew Fox (Associate at Pinsent Masons LLP), Andrew Houlden (Applicant’s Land Agent), Sean Carroll (Associate at WSP, Land Referencer) and Cassie Fountain (Associate Director at WSP).
- 2.3 North Yorkshire County Council and Selby District Council: Michael Reynolds.
- 2.4 Yorkshire Water Services Limited: Ben Surtees.

3. **AGENDA ITEM 2 – PURPOSE OF COMPULSORY ACQUISITION HEARING 1**

- 3.1 **The ExA** set out the purpose of the Compulsory Acquisition Hearing 1 to all parties.

4. **AGENDA ITEM 3 – THE APPLICANT’S CASE FOR CA AND TP**

- 4.1 **The ExA** asked the Applicant to provide the background and justify its case for Compulsory Acquisition (“**CA**”) and Temporary Possession. **The ExA** requested that within its explanation the Applicant covered the following:

- 4.1.1 the relevant draft Development Consent Order provisions;
- 4.1.2 how the relevant statutory and policy tests under the Planning Act 2008 (PA2008) (including s122, s123, s127, s132 and s138) and Department for Communities and Local Government guidance related to CA would be met;
- 4.1.3 the Applicant’s strategy for determining whether to seek such powers;
- 4.1.4 consideration of alternatives to Compulsory Acquisition and Temporary Possession; and
- 4.1.5 human rights considerations.

Identification of the powers sought and their purposes and Relevant draft Development Consent Order (dDCO) provisions.

- 4.2 **Richard Griffiths** began by explaining that:

- the Applicant is not seeking acquisition that is not within the scope of the Application;
- the Applicant has minimised the third party land that it requires; and
- there is no proposal for the compulsory acquisition of freehold interests.

- 4.3 **Richard Griffiths** explained that the Applicant does seek **powers of compulsory acquisition of rights** (under Article 20 of the draft DCO). This is the land shown blue on the Land Plans.

- 4.3.1 These areas are required for the installation, construction, operation and maintenance of integral electrical connections within the existing generating station and carbon capture plant (Work No. 1F), supporting works in connection with and in

addition to Work Nos. 1, 2 and 5 (Work No. 3), or the habitat provision area (Work No. 6), works to facilitate the delivery of abnormal indivisible loads (“**AILs**”) to the site including the diversion of existing electrical 11kV overhead lines (Work No. 8A) and the diversion of existing telecommunications overhead line (Work No. 8B) which will stay an overhead line but will be raised high to allow vehicles through.

- 4.3.2 The relevant plots are set out in Part 1 of Schedule 8 to the Order, alongside the purpose for which the rights may be acquired.
- 4.4 **Richard Griffiths** continued by setting out that the Applicant also seeks powers to extinguish rights only (under Articles 18 and 21). This is the land shown green on the Land Plans.
- 4.5 Two main areas are subject to the proposed power for the extinguishment of rights:
- 4.5.1 Within the main power station: The land here is subject to a complex property history and where there are a number of rights, both known and unknown, that may interfere with the construction and operation of the Proposed Scheme. The same is also true of contractor’s property interests on site. As such, it is good practice for powers of extinguishment to be sought to enable the Proposed Scheme to be delivered.
- 4.5.2 The diversion of existing electrical 11kV overhead lines (Work Numbers 8A and 8B) would require the extinguishment of those rights in the green land and the diversion of the existing telecommunications overhead line to facilitate the delivery of abnormal indivisible loads to the site. This would require the removal of sections of existing electrical 11kV overhead line and telecommunications overhead line over which it is proposed to extinguish existing easements.
- 4.6 The relevant plots subject to the power of extinguishment are set out in Part 2 of Schedule 8 to the Order, alongside the purpose for the extinguishment of existing rights. **Richard Griffiths** noted that the Applicant had realised that Part 2 is missing the plots within the main power station. These will be added into the next iteration of the DCO at Deadline 4.
- 4.7 **Richard Griffiths** went on to note that the powers to extinguish also apply across the whole of the blue land, but in respect of the green land, that is the only power being sought.
- 4.8 **Richard Griffiths** moved on to outline the powers of temporary possession (under Articles 26 and 27) which the Applicant seeks. It

was first noted that this power can be used across blue and green land. This can be used to undertake the works first, with compulsory acquisition of rights powers used following this only for the areas of land where they are required. This is a demonstration of the Applicant's efforts to minimise the use of Compulsory Acquisition.

- 4.9 Land where temporary possession only powers are sought is shown yellow on the Land Plans and explained in Schedule 10 of the draft DCO. The reasons for taking temporary possession only are to facilitate works for construction access (WN4), temporary construction laydown (WN5), and to undertake Work No. 8A (diversion of existing OHLs to relocate the poles) including construction laydown and access.

How the relevant statutory and policy tests under the PA 2008 (including s122, s123, s127, s132 and s138) and Department for Communities and Local Government guidance related to CA would be met.

- 4.10 **Richard Griffiths** then moved on to explain the section 122 and section 123 tests of the PA 2008 in the context of the Proposed Scheme. **Richard Griffiths** noted section 122 of the PA 2008 sets out two conditions that must be met, these are:

4.10.1 the land is required for the development to which the DCO relates or is required to facilitate or is incidental to the development (section 122(2)); and

4.10.2 there is a compelling case in the public interest for inclusion of powers of compulsory acquisition in the DCO (section 122(3)).

- 4.11 **Richard Griffiths** explained in respect of the second element (section 122(3)) the compelling case is set out in the Applicant's documents, including the Needs and Benefits Statement [APP-033]. The principal justification is that this project will meet an urgent need for energy infrastructure to achieve net zero targets. All calculations and models on climate change demonstrate that we cannot meet net zero without carbon capture. Additionally, it is a form of economic development that will prolong the working operation of the plant not just indirectly but directly. **Richard Griffiths** went on to explain the suitability of the location of the Proposed Scheme given that it is (and needs to be) located adjacent to an existing power station. The Applicant set out its position on alternative layouts in the ES [APP-039], and at ISH1 [REP1-028].

- 4.12 It is the Applicant's case that the Scheme is compatible with national policy and other national and local planning policy. In respect of the need for the powers, as already stated the Applicant has minimised the use of Compulsory Acquisition by not seeking acquisition of any

freehold land. Instead, new rights are ought to implement work numbers 1F, 3, 6 and 8.

- 4.13 The Secretary of State must be persuaded that the public benefits from the compulsory acquisition will outweigh the private loss suffered by those whose land is to be acquired and it is the Applicant's submission that this case is made.
- 4.14 **Richard Griffiths** explained that Section 132 of the PA2008 applies to the compulsory acquisition of any rights over land forming part of a common, open space, fuel or field garden allotment. Sections 131 and 132 make provision for Special Parliamentary Procedure ('**SPP**') to apply where a DCO authorises the compulsory acquisition of land or of rights over such land. This means the DCO will be subject to SPP unless the Secretary of State is satisfied that one of the circumstances specified in section 132 have been met and the Applicant has done that in the Application. The Applicant's position is that it has satisfied s132.
- 4.15 **Richard Griffiths** continued to explain that Section 132 of the PA2008 only applies to the compulsory acquisition of rights over land and not to the temporary possession and use of land pursuant to Articles 26 and 27 of the draft DCO. The Applicant has identified special category land in plots 01-040 and 01-041 (shown on screen at the hearing). However, this land is subject to temporary possession powers only and so is not caught by section 132.
- 4.16 **Richard Griffiths** then went on to explain that the Applicant is proposing to shortly make a Change Application to the Examination in respect of this land, and the land required for Work No. 8 more generally.
- 4.17 The need for the Change Application relates to the fact that the Applicant has been able to make greater progress with the asset owners of the affected overhead lines than expected during Examination; and has been able to progress the detailed design of the diversions that need to take place. The Applicant is in the process of agreeing the final revised plans with those asset owners to ensure they have sufficient space to carry out the works, but the changes are likely to mean the following:
- a reduction in land take overall, particularly of temporary possession (yellow) land, but also some rights (blue) plots;
 - this will include the removal of the special category land plots; and the removal of the interface with neighbouring development proposals;

- generally, the existing shape of the land affected will be the same, but plot re-numbering may take place to account for the land able to be taken out; and
- some of the plots currently shown as ‘extinguishment of rights’ (green) plots would change to ‘imposition of rights’ (blue) plots, meaning that the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 will be engaged; being plots 01-47, 01-57, 01-61, 01-66, 01-67, 01-114 and 01-115. This is to enable the route of the undergrounding to follow the existing route of the overhead lines. The plots in question are predominantly highway land or belong to parties with whom the Applicant has undertaken close engagement.

4.18 The Applicant therefore proposes to engage with the relevant land interests once it has received confirmation from asset owners, expected in the next week or two. The Applicant’s intention is to make a Change Notification (mindful of the release of the updated Advice Note 16 on 22 March 2023) setting out the changes it has made, and, on the basis of the engagement it has undertaken to date, that there is no new land take proposed and predominantly reduction, that it proposes not to carry out a public consultation on these changes prior to submission. This will enable the ExA to make a procedural decision on the Applicant’s proposals prior to submission of the Changes Application.

4.19 **Richard Griffiths** explained that he would now move on to sections 127 and 138 of the PA 2008.

4.19.1 Section 127 applies in relation to statutory undertakers’ land (noting that this does not include telecommunications companies). Section 127 states that compulsory acquisition powers can only be granted over statutory undertaker’s land where an objection has been submitted where the Secretary of State is satisfied that there would be no serious detriment to the statutory undertaking arising from that compulsory acquisition.

4.19.2 Section 138 applies if an Order authorises the acquisition of land and on that land there is relevant apparatus, or a right relating to apparatus. The protection in section 138 applies to the apparatus/rights of statutory undertakers and electronic communication code network operators. The Order can only include provisions for removal of apparatus or extinguishment of a relevant right if the Secretary of State is satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the Order relates.

4.20 **Richard Griffiths** then proceeded to consider the application of those provisions to parties affected by the Proposed Scheme.

- 4.20.1 British Gas have confirmed they do not have an interest in the Order land. They will therefore be removed from the next iteration of the Book of Reference so section 127 and section 138 does not apply to them.
- 4.20.2 British Telecommunications have not engaged with the Applicant. Section 127 is not engaged for this party as they are not a statutory undertaker. Section 138 is engaged as the Proposed Scheme involves the extinguishment of the current alignment of the overhead line. This is necessary to ensure that AIL movements can get to the main power station site to enable the construction of the Proposed Scheme. The Secretary of State can be satisfied that a new right is being created for BT. The same analysis applies to EUNetworks Fibre UK limited.
- 4.20.3 **Post Hearing Note following Applicant's further consideration of this matter following the Hearing:** National Grid Carbon Limited are a party who do not yet hold apparatus, a right in apparatus or any land and generally do not yet have a 'statutory undertaking'. As such they are neither a section 127 nor a section 138 party. However, the Applicant recognises that they will have future interests and that the Proposed Scheme interlinks with their proposed project. As such, it has been negotiating protective provisions for their benefit. The Applicant anticipates reaching agreement on these protective provisions before the end of Examination.
- 4.20.4 National Grid Electricity Transmission: Section 127 and 138 are engaged, however the Applicant has now been able to agree protective provisions for NGET's benefit in the DCO which will be in the next iteration of the Order. The Applicant is continuing engagement with NGET to agree related side agreements with them to enable their objection to be fully withdrawn. On the basis of the protective provisions, however, the Applicant understands that no serious detriment could be caused to NGET's undertaking. The Applicant considers that section 138 is 'passed' as rights are required over NGET's land to ensure that the connection is to the existing NGET substation is able to be delivered (subject to NGET's Protective Provisions).
- 4.20.5 Network Rail Limited: This party has agreed that the Protective Provisions currently in the draft Order are not required (and so they will be removed) and has agreed to an agreement between the Parties that is shortly to complete. As such, section 127 is not engaged as no serious detriment is likely to be caused.
- 4.20.6 Northern Gas Networks Limited: No objection has been received from this party as such section 127 is not engaged.

Section 138 is engaged as their apparatus may be affected by the Proposed Scheme, however they benefit from the protections in Part 1 of Schedule 12 to the Order. The Applicant has requested if Northern Gas Networks Limited require bespoke protective provisions, however they have not responded.

4.20.7 Northern Powergrid (Yorkshire): Section 127 is not engaged as this party has not made a representation. Section 138 is engaged as a result of Work No. 8. This party has the benefit of the Protective Provisions set out in Part 1 of Schedule 12. Whilst this party has not engaged with the Examination process, the Applicant has been in close discussions with them in bringing forward the design of Work No. 8.

4.20.8 **Yorkshire Water Services Limited** – this party has submitted its first representation at Deadline 3, which means that section 127 is engaged (with section 138 already engaged given their identification in the Book of Reference). This party benefits from the Protective Provisions set out in Part 1 of Schedule 12 meaning that no serious detriment is caused. The Applicant will engage with this party to determine if any amendments are required to these Protective Provisions.

4.21 The **ExA** noted that it had also asked the Applicant to explain how the relevant tests in the Department for Communities and Local Government guidance related to Compulsory Acquisition would be met.

4.22 **Richard Griffiths** responded that the Applicant had regard to that Guidance and as required by such guidance the Applicant has minimised where it has sought rights, considered alternatives and has been continually trying to reach voluntary agreement with landowners. **Richard Griffiths** confirmed that the Guidance is built into the narrative of what he has and will say. Further information can also be found in the Statement of Reasons **[REP2-013]**.

The Applicant's strategy/ criteria for determining whether to seek powers for CA of land, CA of rights or TP of land.

4.23 **Richard Griffiths** explained that the Applicant has sought to minimise the extent of compulsory acquisition powers that are sought and has avoided the compulsory acquisition of freehold. He went on to explain that the consideration of alternatives, which will be discussed later in the hearing and was also discussed at ISH1, also play a part in the strategy. An additional part of the strategy is the work that the Applicant is doing with the asset owners so that the Applicant can minimise even further the land required for work numbers 8A and 8B, and that demonstrates the Applicant is seeking to minimise compulsory acquisition as far as possible. The Applicant is also working hard to

constantly remove or minimise the areas of land for Temporary Possession.

- 4.24 The Applicant's strategy has been to only seek land powers where absolutely necessary.
- 4.25 **Richard Griffiths** reiterated that where possible the Applicant is seeking agreement. We have reached agreement with one of the landowners over which temporary possession and rights are required, Mr Watson. Powers are only included in the Order for Mr Watson's land for a backup in case Mr Watson breaches the Agreement in question. This is to enable project delivery certainty, rather than needing to go through a court process. This is standard practice for NSIPs.
- 4.26 The Applicant is trying to seek voluntary agreement with land interests affected by Work No. 8 wherever possible.

Consideration of alternatives to CA/ TP

- 4.27 **Richard Griffiths** then turned to explain the Applicant's position in relation to the consideration of alternatives to Compulsory Acquisition and Temporary Possession.
- 4.28 Firstly, it is noted that the Proposed Scheme fundamentally involves the retrofitting of carbon capture to an existing power station and so there are very limited 'other sites' alternatives. Rebuilding a power station on green field land was ruled out early on and would in any event involve more Compulsory Acquisition.
- 4.29 **Richard Griffiths** noted that the Applicant has previously considered developments adjacent to the Drax Power Station Site, for example, the White Rose Carbon Capture Project which was proposed to the north of the Drax Power Station Site. For this project however, building on adjacent green field land was considered not to be appropriate, given the interconnectivity required with the existing plant. Furthermore, and by comparison, the majority of land at the existing power station is brown field land. The Drax Power Station Site is within the ownership of the Applicant and there is a long history of power generation on this site. There are sustainability and efficiency benefits in terms of engineering design for why the northern part of the site for the main infrastructure has been chosen, as discussed at ISH1.
- 4.30 The Applicant has also continually looked at alternatives for AIL routing for work numbers 8A and 8B and reached agreement with National Highways and East Riding of Yorkshire Council that the route it is proposing is a sensible route, and that is recorded in Statements of Common Ground. Having agreed that route, the Applicant will need to do utility diversions. Now, having sought to take forward detailed design as soon as possible, the Applicant will be able to minimise land take. In

light of all the above, **Richard Griffiths** expressed that the Applicant considers that it has satisfied the alternatives test.

Human rights considerations

- 4.31 **Richard Griffiths** moved onto the human rights considerations. **The Applicant** considers that it has satisfied the various articles on the European Convention on Human Rights. The Applicant's case is that there is a need to interfere with private rights in land for the reasons that **Richard Griffiths** has summarised during this hearing. The Applicant has followed the statutory process in the Development Consent Order and the PA 2008 process has been followed. **Richard Griffiths** submitted that the Applicant has satisfied Article 1. In relation to Article 6, there has been an opportunity to make representations regarding the preparation of the Application both once the application was submitted and today at the Compulsory Acquisition Hearing and for those reasons the Applicant argued that Article 6 process has been satisfied.

5. **AGENDA ITEM 4 - SITE-SPECIFIC ISSUES FOR THE APPLICANT**

- 5.1 **The ExA** noted that they are aware that the Applicant is in discussions with Affected Persons ('**AP**') in relation to voluntary agreement. **The ExA** asked the Applicant to provide an update on the progress of negotiations with APs and the timetable for their conclusion. **The ExA** also asked the Applicant to identify any issues that they are aware of that could cause a problem.
- 5.2 **Richard Griffiths** expressed that he did not intend to go over updates to negotiations that have already been submitted to the ExA in the Schedule of Negotiations and Powers Sought [**REP3-005**]. However, he noted that there are a couple of changes to the Schedule of Negotiations. The first being the removal of British Gas and secondly, a new tenant has been identified and contacted (and sent a letter inviting him to contact the ExA further to section 102A of the PA 2008) in relation to plots 01-70 – 01-75.
- 5.3 Apart from those elements, there is nothing to update the ExA on from the last deadline. The Applicant is continuing negotiations. The Applicant is hoping to approach landowners next week with the revised work number 8A and 8B plans and it is hoped that it will reach voluntary agreement with those landowners during the course of Examination.
- 5.4 The **ExA** encouraged the Applicant to secure voluntary agreements and asked whether the Applicant is proactively trying to reach those agreements and how the Applicant is doing so.
- 5.5 **Richard Griffiths** confirmed that the Applicant is being proactive in its approach and referred to Cassie Fountain to explain how the Applicant

is doing so as Cassie Fountain and Andrew Houlden are dealing directly with the landowners.

- 5.6 **Cassie Fountain** and **Andrew Houlden** explained that the Applicant is trying to negotiate agreement with Affected Persons. The Applicant is co-ordinating the information which is helping to inform that process to explain to the landowners the type of works that are likely and explain in detail the effects on their land. Those discussions are on-going and have already been taking place for several months.
- 5.7 **Cassie Fountain** expressed that once the Applicant has an agreement on the amended plans for work numbers 8A and 8B then the Applicant can go back and be clear with the Affected Persons exactly which land is being sought and which rights are affected. The original application was suitability wide to give the Applicant flexibility as it did not know what the solution would be from the asset owners.
- 5.8 **The ExA** asked the Applicant if it has effective lines of communications with all parties and has sent more than just a letter to open those lines of communication.
- 5.9 **Andrew Houlden** responded and confirmed that lines of communication are open with everybody and that the Applicant is currently in discussion with all parties.
- 5.10 **The ExA** asked if the Applicant has undertaken further investigations into unknown plots.
- 5.11 **Richard Griffiths** confirmed that the Applicant had and referred to Sean Carroll to explain further. **Sean Carroll** confirmed that the Applicant in relation to unknown plots has been conducting further searches of the Land Registry to see if plots have ever been registered. Additionally, the Applicant has erected site notices around the site for people to come forward - there are site notices up currently.
- 5.12 **The ExA** then asked about Plot 01-19 that covers the whole of the power station site and requested that the Applicant explain why that needs to cover the whole of the power station site.
- 5.13 **Richard Griffiths** explained that there is a significant amount of history on the site and the title is extensive, so whilst the Applicant is the freehold owner it cannot rule out there could be rights to the benefit of third parties which could hinder the construction and operation of the scheme. Therefore, the land is included should there be anything on the title that would be inconsistent with the rights required for the Scheme to be operated and maintained, to enable such entries to be extinguished.

- 5.14 **Matthew Fox** then added that this was the approach taken on Drax Repower that was accepted. Plot 01-19 is also consistent with the key plan of the Work Plan.
- 5.15 The **ExA** wanted to pick up on plot 01-19 in relation to matching up with the Works Plans. The ExA expressed that it does not cover quite as large an area as plot 01-19. The ExA referred to the area to the north of the towers and the retained vegetation that are not covered by any of the work numbers.
- 5.16 **Richard Griffiths** explained it was coloured green because the project is being constructed around and that if there are rights on that piece of land then it could still hinder the project, as those rights could extend to and from that white land. As such the powers are needed to ensure the full extent of a right can be removed, rather than leaving a small slither not connected to anything else.
- 5.17 **The ExA** noted that it had the same question for plot 01-23 which covers all the National Grid substation.
- 5.18 **Richard Griffiths** explained that the Applicant does not currently know how it will connect to the substation that is covered by this plot, or where the cables will go within that land. Those decisions will need to be made in discussion with National Grid, and this approach gives the Applicant the flexibility to ensure it can be delivered. It is noted that National Grid have the benefit of Protective Provisions and so the Applicant cannot utilise these powers unilaterally.

Crown Land

- 5.19 The Applicant notes that there was some discussion at the Hearing in relation to the status of plots 01-83 and 01-87, that had been previously identified as Crown Land. This note sets out the position as the Applicant understands it, following the discussions at the Hearing and the next steps it proposes to take. **This also provides the Applicant's response to action point CAH-AP2.**
- 5.20 Crown Land was removed from the Application (and the associated Crown rights article in the DCO taken out) on the basis that the Department for Transport had confirmed the following:

"Thank you for your email of 9 February 2023. National Highways is responsible for the trunk road network in England. I can confirm that SoSFT does show as holding title to the land in question. It would have been acquired for the construction of the A614 when the road was a part of the trunk road network.

This road has now been de trunked so is no longer part of the trunk road network.

By virtue of Section 265 of the Highways Act 1980, the de-trunking order has transferred ownership of the highway and the subsoil of the A614 to the local highway authority (LHA). This means that ownership vests in the LHA even though SoSFT remains the registered owner. The transfer of registered proprietorship is just an administrative exercise that has not yet been undertaken.

Ownership, maintenance and responsibility for the operation of this road transferred to the LHA when the road was de trunked.”

5.21 The relevant provisions of section 265 of the Highways Act 1980 set out as follows:

(1) Where a highway becomes a trunk road, then, subject to the provisions of this section, as from the date on which the highway becomes a trunk road (“the operative date”), there are transferred to the Minister or the strategic highways company, whichever is highway authority for the trunk road, by virtue of this section—

(a) the highway, in so far as, immediately before the operative date, it was vested in the former highway authority,

(b) the property mentioned in subsection (3) below, in so far as, immediately before the operative date, it was vested—

(i) in the former highway authority for the purposes of their functions in relation to the highway, or

(ii) in a council for the purposes of functions in relation to the highway under any enactment to which this section applies, and

(c) all liabilities incurred by any such authority or council for the purposes of their functions in relation to the highway and not discharged before the operative date, other than loans and loan charges, and the highway and other property so transferred vest, by virtue of this section, in the Minister or the company.

(3) The property referred to in subsection (1)(b) above is—

(a) land, other than land—

(i) vested in the former highway authority for the purpose of being used for the storage of materials required wholly or mainly for the maintenance and improvement of other highways, or

(ii) acquired for the improvement or development of frontages to the highway, or of land adjoining or adjacent to the highway, and

(b) all other property (including the unexpended balances of any grants paid by the Minister to the former highway authority, or to any council for the purposes of their functions in relation to the highway), other than—

(i) materials to be used for the maintenance or improvement of the highway, and

(ii) the unexpended balances of any loans raised by the former highway authority, or by any council for the purposes of their functions in relation to the highway.

(7) The foregoing provisions of this section apply in a case where a trunk road ceases to be a trunk road (otherwise than by virtue of section 10(8) above¹) in like manner as they apply where a highway becomes a trunk road, with the substitution—

(a) for the references to the former highway authority and to a council, of references to the Minister or a strategic highways company , and

(b) for references to the Minister or a strategic highways company , of references to the council who become the highway authority for the road or, so far as relates to property and liabilities vested in or incurred by the Minister or a strategic highways company for the purposes of any functions under any enactment to which this section applies, to the council who are to exercise those functions in relation to the road.

- 5.22 In light of the provision of that section, the Applicant has also obtained the highway boundary for the area in question from East Riding of Yorkshire. This is shown in purple below, and clearly includes the plots in question.



- 5.23 From the Applicant's perspective, the operation of section 265 would seem to clearly vest title of the relevant land to the Council and the Crown cannot be said to have an interest in the land. The Applicant has requested a copy of the relevant De-Trunking Order from the Department of Transport and East Riding of Yorkshire Council to confirm the position.

- 5.24 However, the Applicant is also aware of the provisions of section 27 of the Land Registration Act 2002, which provides that a disposition of transfer does not 'operate at law' until the relevant registration requirements are met, including dispositions that occur 'by operation of

¹ This is not applicable as it relates to transfers of motorways.

law'. The Applicant is therefore going to liaise with the Department for Transport to:

- seek to understand its position in respect of the operation of section 265 of the Highways Act 1980 and section 27 of the Land Registration Act 2002;
- seek to encourage the registration of the relevant land, albeit acknowledging that Land Registry deadlines mean that even if an application was made, it may not be able to be confirmed before Secretary of State determination; and
- discuss whether the Department would be willing to issue Crown consent from the Department for a 'belt and braces' approach to put the issue beyond doubt.

5.25 Until these discussions occur, the Applicant has not updated its documentation (including re-inserting the Crown rights article back into the DCO) to account for 'Crown land'.

5.26 In any event, as **Richard Griffiths** noted at the Hearing, the Applicant is also considering, depending on how discussions progress with the Department, taking the plots out of the Order Limits. This would be on the basis that they are required only for access to telecommunications poles that are being extended in height; and the telecommunications company may be able to rely on their own statutory powers to access the pole. Ultimately, this means if Crown consent is not obtained then the project could still proceed and the telecommunications company would have to use their own statutory powers for access.

Drax Abbey Farm

5.27 **The ExA** then moved on to discuss plots 01-01, 01-03, 01-04, 01-05 and 01-10 which is land known as Drax Abbey Farm which was sold in 2022 to Mr Watson with an option for the Applicant to enter land for habitat provision purposes. Following the discussion in the Hearing, **the ExA** asked in what circumstances will the legal agreement agreed not be upheld.

5.28 **Richard Griffiths** noted that any contract can be broken, and that in the usual course of events where there is a breach of contract then the aggrieved party's remedy is to seek specific performance. This is a long and uncertain process for a nationally significant infrastructure project to face. As such powers of compulsory acquisition are sought to enable the land to be utilised for the correct purposes as soon as possible, without the delay of seeking specific performance from the Court. This is a standard approach for infrastructure projects.

East Riding of Yorkshire

- 5.29 **The ExA** asked whether now that the Applicant has reached a detailed design can it answer the questions that East Riding Council had raised in its Relevant Representation.
- 5.30 **Richard Griffiths** confirmed that the Applicant could but noted that the questions are not in relation to the Compulsory Acquisition. The questions are about soil management, drainage and access; all matters that will be dealt with in the construction environmental management plan. Nevertheless, **Richard Griffiths** explained that now a design is progressed, the Applicant can have more fruitful conversations over the precise nature of the works. Ultimately, there will be a benefit as the overhead line will be undergrounded.

Adjacent Employment Development

- 5.31 **The ExA** then asked about the position with the adjacent employment development at OHL2. The ExA asked the Applicant to explain the relationship between its proposals and this other development.
- 5.32 **Cassie Fountain** explained that when the Applicant submitted the Proposed Changes application it included land that it might need if the lines were undergrounded by HDD and hence the land was quite extensive to enable the positioning of the equipment either side of the road. This overlaps with the employment provision on the south side mainly in plot 01-108. Following discussions with Northern Powergrid it was confirmed that the HDD option is not viable for this undergrounding section so the Applicant will not need the land that it initially identified which overlaps the employment development. The forthcoming Proposed Change Application will reduce the Order Limits and take out from the Order Limits areas within the proposed built development on the south side of Rawcliffe Road. There is a retained area of land within the Order Limits that limits the existing access point and is not being changed by the employment development. Northern Powergrid have undertaken other works this week to move a substation at the corner of the employment site development, which has also altered the type of works that the Applicant needs to do to underground the overhead line. The outcome of the current works to the electrical infrastructure and the works the Applicant would like to do will mean when both works are done there will be no overhead lines in that location.
- 5.33 **The ExA** queried whether both lines are being undergrounded.
- 5.34 **Cassie Fountain** explained that OHL1 and OHL2 are both being undergrounded. The telecommunications line TCL1 that is being retained as an overhead line, with the crossing location altered, but supporting poles will be higher so that the AIL can pass underneath.

5.35 **The ExA** requested that the Applicant submits a red line plan into the Examination showing the location of the employment scheme compared to the Applicant's proposals.

5.36 **Richard Griffiths** noted that the Applicant was intending to wait until the proposed Change Application and at that point it will overlay the redline boundary with the revised land plan which it is submitting as part of the change. There will still be an overlap but that relates to an existing track that is not being changed by the scheme that has planning permission. This matter was discussed further at the end of the Hearing as noted below.

5.37 **Matthew Fox** also noted that as part of the Proposed Changes Application, a commitment was added to the REAC **[REP3-007]** under item PH3 which requires the Applicant to have ongoing engagement with neighbouring landowners throughout the construction process.

6. **AGENDA ITEM 5 - SITE-SPECIFIC REPRESENTATIONS BY AFFECTED PERSONS**

6.1 **The ExA** noted that they had not received any requests from Affected Persons to make any representations. **The ExA** asked if anybody in the room wished to speak. Since there was no response from those in the room, the ExA concluded this item on the agenda and proceeded with Agenda Item 6.

7. **AGENDA ITEM 6 - STATUTORY UNDERTAKERS**

7.1 **The ExA** asked the Applicant to summarise any outstanding matters from statutory undertakers or any impediments in seeking agreements.

7.2 **Richard Griffiths** summarised the position as being what was discussed earlier in relation to section 127 and section 138.

7.3 There was then discussion of the representation raised by **Yorkshire Water**.

7.4 In these discussions, **Richard Griffiths** confirmed that the Applicant notes the concerns raised by Yorkshire Water regarding the impact of the Proposed Scheme on a number of existing clean water assets. As noted in the Schedule of Negotiations and Powers Sought **[REP3-005]** the Applicant noted that this Party has interests in several plots both within the main Drax Power Station site and in the areas affected by works to existing overhead lines. The Applicant has been in correspondence with this Party since September 2021 and no response had been received until this Deadline 3 submission.

7.5 The Applicant's position is that the standard protective provisions for electricity, gas, water and sewerage undertakers that have been

included in the draft DCO at Schedule 12, Part 1 **[REP2-008]** provide adequate protection for Yorkshire Water Services Limited's assets. Following this representation, the Applicant will follow up with Yorkshire Water to discuss if any bespoke Protective Provisions are required (**Post hearing note:** the Applicant followed up again with Ben Surtees from Yorkshire Water on 23 March 2023 with respect to Protective Provisions). The operation of the Protective Provisions will enable detailed information to be shared between the parties.

- 7.6 Yorkshire Water's concerns, as raised in their Deadline 3 submission, were then discussed, and **Richard Griffiths** set out the Applicant's position as follows:

Issue 1

- 7.7 It is noted that there is a 1000mm ductile Iron Critical trunk main within the Order Limits north of the Drax Power Station site. This existing water asset passes underneath an existing farm access track. **Richard Griffiths** confirmed that there are no works proposed in the immediate vicinity of this location. The access track within the Order Limits oposed to be used to access the part of Work No. 6 - Habitat Provision Area to the north-east of where hedge planting is proposed, in the area indicted by the green hatching on the Works Plans, Sheet 16 of 18 **[AS-073]**.
- 7.8 The Applicant confirms that the vehicles used to transport hedge plants and any associated machinery to enable the installation of the plants in this location will be a small flatbed truck or van, and likely to be smaller and lighter vehicles than the farm vehicles already regularly using this access track to undertake usual farming operations. The Applicant considers that this information demonstrates that there is no impact on this Yorkshire Water asset. At the Hearing, Yorkshire Water indicated that they agreed with this conclusion.

Issue 2

- 7.9 It is noted that there is a 3" uPVC water main running along the verge/field edge on the eastern side of New Road. A section of this water main is located within the Order Limits and affected by Work No. 5 – temporary construction laydown area. **Richard Griffiths** confirmed that the Applicant will engage with Yorkshire Water to discuss how access to the temporary construction laydown area might affect this asset, but considers that it is protected in respect of this interaction via paragraph 8 of the draft Protective Provisions in Part 1 of Schedule 12 to the Order.

Issue 3

- 7.10 This involves several mains (6" and 4") in or adjoining the road at the New Road/A645 junction, within Work No. 4 – works to facilitate

construction access as shown on Sheet 14 of 18 of the Works Plans **[AS-073]**. Specifically, with reference to the Access and Rights of Way Plans, the works here involve only the removal of street furniture and trimming vegetation, as such no impacts are expected to these mains. This will be discussed further with Yorkshire Water, although it was indicated at the hearing by Yorkshire Water that this interaction would be unlikely to be a concern.

Issue 4

- 7.11 This involves a small length of 300mm Ductile Iron water main that may be impacted by the proposed works to the existing telecommunications lines for TCL1 as part of Work No. 8B as shown on Sheet 18 of 18 of the Works Plans **[AS-073]**. **Richard Griffiths** confirmed that the Applicant will engage with Yorkshire Water to discuss how these works might affect this asset, but considers that it is protected in respect of this interaction via paragraph 8 of the draft Protective Provisions in Part 1 of Schedule 12 to the Order.

Item 5

- 7.12 This involves a small length of 300mm Ductile Iron water main that may be impacted by the proposed works to the existing overhead electricity lines for OHL2 as part of Work No. 8A as shown on Sheet 18 of 18 of the Works Plans **[AS-073]**. **Richard Griffiths** confirmed that the Applicant will engage with Yorkshire Water to discuss how these works might affect this asset, but considers that it is protected in respect of this interaction via paragraph 8 of the draft Protective Provisions in Part 1 of Schedule 12 to the Order.

8. **AGENDA ITEM 7 – FUNDING**

- 8.1 **The ExA** requested that the Applicant summarise the current position and advise on any updates to the Funding Statement.
- 8.2 **Richard Griffiths** confirmed that no updates were anticipated, the position remains as at submission.
- 8.3 **The ExA** asked the Applicant to defend the robustness of its £1.5-2bn cost estimate and to clarify when the estimate was undertaken.
- 8.4 **Jim Doyle** responded that the estimate for the project is as accurate as can be, the £2 billion being the top end of the estimate. The estimate is regularly reviewed, but the current estimate which reflects that figure was prepared at the end of last year.
- 8.5 **The ExA** asked if any costs associated with blight have been included in the overall estimate.

- 8.6 **Richard Griffiths** responded that paragraph 6.1.2 of the Funding Statement covers that point that the cost estimate includes an amount to cover any compensation, which would include any blight claims. He explained that the Applicant has not yet identified any blight claims. The Applicant has sufficient funds to meet those costs.
- 8.7 **The ExA** noted paragraph 5.1.3 of the Funding Statement and asked the Applicant to provide a steer on what portion of the construction costs will be funded by the cost reserves of the Drax Group.
- 8.8 **Richard Griffiths** responded that the Applicant was not in a position to do so at this point in project development. Drax is a group that has considerable assets, with the 2022 accounts showing company assets totalling £1.3 billion. A project of this nature cannot be constructed solely from reserves - the precise split will be down to seeking further investment and will take into account where the government lands on Carbon Capture Storage. **Richard Griffiths** explained that it is too early to say what percentage of the construction costs would be met by the Group but everything done to date, including this process and the design process, has been paid for by the company.
- 8.9 **The ExA** asked what assurance the ExA have that the remaining funding from investment can be secured.
- 8.10 **Richard Griffiths** responded that as set out in the Funding Statement the company has a history of securing funding from third parties, the power station has already evolved from coal to biomass and has continually secured funding through various companies and the additional funding due to the nature of the project. The Applicant sees no reason why this would not continue for the BECCS project.
- 8.11 It is notable that whilst some energy infrastructure projects are promoted by special purpose vehicle, this project is backed by an established multinational plc. **Richard Griffiths** explained that following consent, Drax would go through a finance decision which will pull together any third party funding and any government subsidiaries and that decision is only made at that point as to whether the project proceeds. This is a Plc company with significant reserves behind it and there is no reason why it wouldn't get support. In any event, Article 44 provides the ultimate 'lock' to ensure that funds are available.
- 8.12 **The ExA** noted that the annual report and accounts version is only up to December 2021 and asked whether the reports and accounts for 2022 are available and if so, that they be added to the Funding Statement.
- 8.13 **Richard Griffiths** confirmed that the accounts are available and that the Applicant will add these to Appendix C to the Funding Statement.

- 8.14 **The ExA** then raised Article 44 of the draft DCO which relates to compensation guarantees and includes a list of articles to which it relates, and asked if it should include Article 18.
- 8.15 **Richard Griffiths** confirmed that the Applicant would add this in to the next iteration of the DCO.
- 8.16 **The ExA** confirmed that it had no further comments and since there was no one else who wished to comment it moved onto the next agenda item.
9. **AGENDA ITEM 8- REVIEW OF ISSUES AND ACTIONS ARISING**
- 9.1 **The ExA** noted that it had a list of 5 actions which are as follows:
- 9.1.1 Part 2 of Schedule 8 to be updated to include all plots covered green, for Deadline 4. **This has been done in the DCO submitted at Deadline 4.**
- 9.1.2 Written confirmation that title has been transferred for 01-83 and 01-87 for Deadline 4. **Richard Griffiths** responded to confirm that the Applicant will seek to achieve this deadline, but doing so will be dependent on the Department for Transport or East Riding of Council providing a copy of the relevant De-trunking Order. **The ExA** confirmed that was acceptable but that it required an update on the position in Deadline 4. **This has been provided in this note.**
- 9.1.3 Overlay of redline for the employment development. **Richard Griffiths** mentioned that would be sensible for the overlay to be done with the proposed Changes Application. The Applicant cannot commit to that being at Deadline 5, given the on-going discussions with the asset owners. **The ExA** confirmed that was acceptable, however, that it still required a redline plan to be submitted so it has a copy since the change request is at its discretion. **Richard Griffiths** confirmed that the Applicant will do an overlay with the current plans and then amended one with the change application. **This is provided at Appendix 1.** Appendix 1 includes the Decision Notice and approved Site Layout Plan for the employment development, as well as an overlay plan showing the overlap between the permitted employment development and the proposed rights sought over the land arising from the Proposed Changes Application submitted in December 2022.
- 9.1.4 Appendix C to the Funding Statement to include 2022 accounts. **This has been submitted at Deadline 4 as a standalone submission.**

9.1.5 Amendment of Article 44 to refer to Article 18 to be done at Deadline 4 with updated draft DCO. **This has been submitted at Deadline 4.**

9.2 **Richard Griffiths** noted that the Applicant will also update the Book of Reference and Schedule of change at Deadline 4.

10. **AGENDA ITEM 9 - ANY OTHER BUSINESS**

10.1 **The ExA** noted that it did not have any other matters raised under this agenda item.

10.2 **Richard Griffiths and Ben Surtees** both mentioned that the Applicant and Yorkshire Water would be able to have discussions about the detail of the interactions with their assets. These discussions have been used by the Applicant to update the Book of Reference at Deadline 4.

10.3 **Richard Griffiths** referenced the ISH3 the previous day and the discussion around Metric 4 of the BNG coming out on 24 March 2023. **Richard Griffiths** noted that whilst the Applicant had agreed to update the BNG assessment using Metric 4, Natural England have confirmed to the Applicant that they do not wish for the Applicant to do that. Natural England have said that where an applicant is already going through the Metric they advise applicants to continue. Consequently, the Applicant will not be updating the BNG assessment using Metric 4 based on the advice of Natural England.



Applicant's Summary of Oral Case at Compulsory Acquisition Hearing 1 (CA1): Appendix 1

DATE:	28 March 2023	CONFIDENTIALITY:	Public
PROJECT NAME:	Drax BECCS DCO	PROJECT NUMBER:	EN010120
DOCUMENT NO. REV. NO:	8.6.5 1	DOCUMENT OWNER :	Pinsent Masons
AUTHOR:	Matthew Fox	APPROVER :	Richard Griffiths
SUBJECT: Appendix 1: CAH1-AP3 – Overlay of OHL2 and Permission Extents			

SUMMARY

During the Compulsory Acquisition Hearing 1 (CAH1) on 23 March 2023, the ExA asked the Applicant to provide an overlay of the red line boundary and extent of built area for the extant permission for employment development (CAH1-AP3). This appendix includes the following documents:

- Decision Notice for 21/03027/STPLF
- Proposed Site Plan for 21/03027/STPLF
- Overlay Plan: Extract of Land Plans for OHL2 Works Including Details of Approved Employment Development on Land South of Rawcliffe Road.



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Stephen Hunt Director of Planning and Development Management

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Your Ref:
Contact: Mr James Chatfield
Email: james.chatfield@eastriding.gov.uk
Tel: [REDACTED]
Date: 23 December 2022

Application No: **21/03027/STPLF**

Case Officer: Mr James Chatfield

NOTICE OF DECISION

TOWN AND COUNTRY PLANNING ACT 1990

Proposal:	Erection of employment units (Use classes E(g)(ii) and/or E(g)(iii) and/or B2 and/or B8, with ancillary offices) and offices (Use class E(g)(i)) with electric vehicle charging hub and associated landscaping and infrastructure
Location:	Land South And South West Of Glews Garage, Rawcliffe Road, Airmyn, East Riding Of Yorkshire, DN14 8JS,
Applicant:	Jos Richardson And Son Ltd
Application type:	Strategic - Full Planning Permission

The above application has been considered by the Council in pursuance of their powers under the above mentioned Act and has been **APPROVED**, in accordance with the terms and details as submitted, subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

This condition is imposed in order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 and in order to ensure that the Local Planning Authority retains the right to review unimplemented permissions.

2. No part of the development shall be brought into use until the vehicular access to it and the vehicle parking, loading, off-loading and manoeuvring facilities serving it have all been constructed in accordance with the submitted details and the vehicle parking, loading, off-loading and manoeuvring facilities shall thereafter be so retained.

This condition is imposed in order to ensure that the demand for vehicle parking and servicing can be met within the site as vehicles having to park, load or un-load or manoeuvre on the public highway would adversely affect the safety of other highway users in accordance with policy EC4 of the East Riding Local Plan.

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Alan Menzies
Executive Director of Planning and Economic Regeneration

3. No part of the development shall be brought into use until the footpath has been constructed in accordance with the approved plans.

This condition has been imposed to promote highway safety and in particular safe pedestrian movement to/from and around the site in accordance with policy EC4 of the East Riding Local Plan.

4. Before the development commences, details shall be submitted to and approved in writing by the Planning Authority showing the provision of the temporary vehicle parking, loading, off-loading, manoeuvring and wheel washing facilities for the contractors carrying out building and construction works on the development. No other building or construction works shall be commenced until the temporary vehicle parking, loading, off-loading, manoeuvring wheel washing facilities have been provided in accordance with the approved details. The approved vehicle parking, loading, off-loading, manoeuvring and wheel washing facilities shall be retained during the construction of the development.

This condition is imposed to secure adequate parking, servicing, manoeuvring, loading, off-loading wheel washing facilities within the site during the construction period of the development for contractors/construction vehicles in the interest of road safety in accordance with policy EC4 of the East Riding Local Plan.

5. The development shall not be brought into use until the covered and secure cycle parking facilities have been provided in accordance with the approved plans. The secure cycle parking facilities shall thereafter be retained.

This condition is imposed in order to ensure adequate facilities are provided for cyclists and encourage the promotion of more sustainable forms of transport which includes walking, cycling and public transport in accordance with policy EC4 of the East Riding Local Plan.

6. Electric Vehicle charging points to serve the buildings (A, B, and C) approved by this permission shall be installed and available for use prior to the occupation of those buildings.

This condition is imposed to ensure the EV charging points are available to support the use of low emission vehicles in accordance with paragraph 112 of the National Planning Policy Framework.

7. The development hereby approved shall be utilised for purposes falling within Use Class E(g)(iii) and/or B2 and/or B8 (including ancillary uses) of the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), with the exception of Unit A1 (shown on drawing ref: 1632_102(P) Rev D) which may be principally utilised for purposes falling within Class E(g)(i).

This condition is imposed to ensure that the development will not have an adverse effect on Goole Town Centre or on the operation of the surrounding highway network in accordance with policies EC3 and EC4 of the East Riding Local Plan.

8. Notwithstanding Classes MA, G(a) and T(d) of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provisions having equivalent effect in any statutory instrument revoking, re-enacting or modifying those Orders) the premises shall not be used for any purpose within Class E other than use within Classes E(g)(i) and E(g)(iii) as expressly authorised by this permission without the formal consent of the Local Planning Authority.

This condition is imposed to ensure that the development will not have an adverse effect on Goole Town Centre or on the operation of the surrounding highway network in accordance with policies EC3 and EC4 of the East Riding Local Plan.

9. The development shall be carried out in accordance with the submitted flood risk assessment (reference JAG/AD/JKW/45304-Rp001 REV C prepared by Alan Wood & Partners dated 14 January 2022) and the following mitigation measures it details:
 - o Finished floor levels shall be set no lower than 3.30 metres above Ordnance Datum (mAOD) for all units within the development, as detailed in section 7.2.7 of the FRA.
 - o Critical places of safety shall be incorporated into the development at a minimum height of 3 metres above the ground floor construction level, as detailed in section 7.4.2 of the FRA. These spaces shall be internally accessible and accommodate the full occupancy of the buildings.
 - o Flood resilience measures shall be incorporated within the development up to at least a height of 300mm above the finished floor level. These shall include the measures detailed in, but not limited to, those set out in section 7.3.3 of the submitted FRA, and subsequently agreed with the LPA.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

This condition is imposed to reduce the risk and impact of flooding to the proposed development and future occupants should flooding occur in accordance with policy ENV6 of the East Riding Local Plan.

10. Before the development commences, details of a separate surface water drainage system shall be submitted to and approved by the Local Planning Authority. The submitted details shall include details of the flow restrictions, proposed means of attenuation, the proposed surface water discharge point and any head wall construction. The development shall be carried out in accordance with the approved details and the drainage system shall be operational prior to the occupation of any of the units.

This pre-commencement condition is imposed to ensure a satisfactory surface water drainage system is proposed for the site that will not increase the flood risk to the site or adjacent properties in accordance with policy ENV6 of the East Riding Local Plan.

11. Before the development commences, one of the following shall have occurred:
 - o Confirmation in writing submitted to the local planning authority that the foul drainage scheme set out in the 'Surface & Foul Water Drainage Strategy' (document ref 1921/REP/02A) is acceptable to the Environment Agency; or
 - o Full details of a separate scheme for the disposal of foul waste has been submitted to and approved in writing by the local planning authority.The development shall be carried out in accordance with the approved scheme for the disposal of foul water. The approved scheme shall be retained and maintained for the lifetime of the development.

This condition is imposed to ensure a satisfactory foul water drainage system is installed in accordance with policy ENV6 of the East Riding Local Plan.

12. Before the development commences, a wildlife enhancement plan for the site shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved plan.

This pre-commencement condition is imposed to provide a gain for biodiversity on the site in

accordance with paragraph 174 of the NPPF and policy ENV4 of the East Riding Local Plan.

13. Prior to their installation, details of any ventilation, filtration and fume extraction equipment and/or any externally mounted equipment to be installed on or in any of the buildings, shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall address odour control measures, discharge height of any flues, noise attenuation measures and include any manufacturer's instructions. The development shall be carried out as approved and thereafter maintained in accordance with the manufacturer's instructions.

This condition is imposed in order to ensure that smells, fumes and noise do not adversely affect the amenity of the surrounding area in accordance with policy ENV1 of the East Riding Local Plan.

14. The development shall be carried out in accordance with the Precautionary Measures outlined in Section 9 of the Phase 2 - Intrusive Ground Investigation Report by T. L. P. Ground Investigations Ltd (dated March 2015 submitted with the application).

This condition is imposed to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other receptors in accordance with policy ENV6 of the East Riding Local Plan.

15. Prior to the use of the building the details of any external lighting scheme shall be submitted to and approved in writing by the LPA. The lighting scheme shall specify the design and location of all external permanent lighting units and the measures to be taken to minimise glare and light spillage from the site. The scheme shall be in accordance with the Institute of Lighting Engineers Guidance Notes For The Reduction Of Obtrusive Light (GN 02/20). Any change shall be with the prior written consent of the LPA.

This condition is imposed to ensure the development does not create an unacceptable level of light pollution in accordance with policy ENV6 of the East Riding Local Plan.

16. The development hereby approved shall be carried out in full accordance with the mitigation measures outlined in the HRA (Addendum Technical Note, Glews Garage, Goole (dated 28 March 2022).

This condition is imposed in order to ensure that there is no contamination to the Humber estuary and to reduce the visual disturbance to the adjacent land.

17. Before the development commences, an Ecological Construction Method Statement (ECMS) shall be submitted to and approved in writing by the Local Planning Authority. The ECMS shall:

- be compiled by a suitably qualified ecologist
- provide full details of all ecological mitigation and management measures to be utilised during the construction phase of development, with regard to the measures identified in section 3 of the Addendum Technical Note
- include a timetable for implementation and a detailed plan.

The development shall be carried out in accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority.

This pre-commencement condition is imposed to ensure the development would not harm the integrity of the Humber Estuary Designated Sites in accordance with policy ENV4 of the East

18. Before the development commences, a Construction Emissions Management Plan (CEMP) to address the environmental impact during all phases of the development shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of air pollution and dust resulting from the site preparation, demolition, groundwork and construction phases of the development.

This pre-commencement condition is imposed to prevent both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by poor air quality in accordance with policy ENV6 of the East Riding Local Plan

19. The development hereby permitted shall be carried out in accordance with the following approved plans:

1632_100(P) - Location Plan received 10 Aug 2021
1632_102(P) Rev D - Proposed Site received 13 Dec 2022
1632_104(P) Rev C - Building A - Proposed Floor Plans and Roof received 13 Dec 2022
1632_105(P) Rev B - Building A - Proposed Elevations received 13 Dec 2022
1632_106(P) Rev B - Building B - Proposed Floor Plan And Roof received 13 Dec 2022
1632_107(P) Rev E - Building B - Proposed Elevations received 13 Dec 2021
1632_108(P) Rev B - Building C Proposed Floor Plan, Roof & Elevations received 13 Dec 2022

1632_109(P) - EV Charging - Illustrative Elevations received 01 Apr 2022
1632_111(P) - Development CGI Information received 01 Apr 2022
1632-110(P)_A SITE SECTIONS XX_YY 22 Dec 2022
21-09-BA-100 Rev 2 - Landscape Layout Plan received 10 Aug 2021

This condition is imposed in accordance with policy ENV1 of the East Riding Local Plan and for the avoidance of doubt and to ensure that the development hereby permitted is carried out in accordance with the approved details in the interests of the character and amenity of the area and the provisions of the development plan.

Informatives:

Informative from Highways -

If the construction of the plant requires any abnormal load movements a Traffic Management Plan should be submitted to and approved in writing by the Local Planning Authority and the Applicant/Agent must contact the East Riding of Yorkshire Council's Abnormal Loads Team (tel. 01482 395596 and email. Abnormal.loads@eastriding.gov.uk).

The Applicant/Developer must be aware that if the vehicles from this development were to introduce extraneous debris onto the public highway (including drainage) they would be considered to be committing an offence under Section 149 of the Highways Act 1980 and could be liable for a fine, this may result in closure of the highway to all vehicles. It is in the interest of both the highway authority and the developer to maintain a safe public highway throughout the construction phase.

Informative from Public Protection -

The proposed package treatment plant will require routine maintenance and should be emptied regularly by a registered waste carrier. Advice should be sought from the Environment Agency.

Asbestos - An appropriate survey should be undertaken to identify any asbestos containing material in existing buildings or elsewhere on the application site. Asbestos containing material must be safely

removed from any buildings prior to demolition, to avoid causing contamination of the land and surrounding environment. Asbestos contaminated waste must be disposed of appropriately at a licenced waste facility. The legal requirements for managing and working with asbestos are set out in the Control of Asbestos Regulations 2012.

Importing / removing soil - Where soil, aggregates or fill material needs to be brought on to site for landscaping, earthworks, raising site levels, or back-filling excavations, the developer must ensure it is from a certified clean source and is suitable for use. Any material removed from site for disposal should be documented by appropriate waste transfer notes. Written verification may be required by the local planning authority, and any records should be retained by the developer.

Informative from Humberside Police -

Cycle Parking

Identified on the Proposed Site Plan there are 2 areas allocated for parking of visitors cycles, to the north adjacent to Building B, and to the west, adjacent to Building C. Within the Travel Plan, page 8, point 2.3.8 it states that 'a total of 8 cycle parking spaces are to be located within the vicinity of Units B1 and B2 and are envisaged to accommodate visitor trips', however there appears to be no explanation as to how the cycles will be secured within the parking spaces.

External and preferably roofed cycle stores with individual stands for securing cycles are recommended close to supervised areas. The 'walls' of such buildings should be open to surveillance and therefore constructed of materials such as welded mesh, grilles or bars, polycarbonate or other secure glazing such as glass composites. When in use the store must be lit after dark using vandal resistant, dedicated energy efficient light fittings and energy efficient lamps, such as compact fluorescent.

There will be adequate surveillance over the proposed cycle parking spaces from users of Buildings A & B, however the following minimum requirements for the stands if installed should be; 'Galvanised steel bar construction (minimum thickness 3mm) filled with concrete and 'Minimum foundation depth of 300mm with welded 'anchor bar'

Additional secure cycle storage for staff will be made available within all units as part of the proposals. There is no explanation within the planning documentation as to what type of secure cycle storage will be provided, for example a specific secure room or an open area within each building. The provision of anchors or stands should be considered.

Motorcycle Parking

There appears to be no dedicated parking bays specifically allocated for motorcycle parking for staff and visitors.

Unfortunately motorcycle theft is a high crime type within the region, therefore, by placing the below measures into the development it will assist in reducing the opportunity for this crime type to be committed.

I would be grateful if 2-3 dedicated bays could be identified within the development as close to the buildings which will provide adequate surveillance. These can be delineated by a simple painted line.

Ground anchors and/or metal support stands provide a primary point for securing motorcycles, around which other secondary measures can be added by the rider, such as disc locks, grip locks and bike covers. They provide a firm and immovable object to affix the rear wheel of a motorcycle. Ground anchors should be installed at the rear of motorcycle parking bays near to the kerb line/rear edge, and relatively flush to the road surface to prevent them being a trip hazard, and should meet one of the following security standards: 'Sold Secure' Gold; 'STS 503

If metal support stands are provided to secure motorcycles these should consist of galvanised steel bars (minimum thickness 3mm), filled with concrete, with minimum foundation depths of 300mm with welded anchor bars. It would also be beneficial to provide signage to alert riders, and advise them to use the ground anchors or support stands provided, along with their own security hardware.

Informative from Humberside Fire and Rescue -

It is a requirement of Approved Document B5, Section 15 Commercial Properties or B5, Section 13 for Domestic Premises that adequate access for firefighting is provided to all buildings or extensions to buildings. Where it is a requirement to provide access for high reach appliances, the route and hard standing should be constructed to provide a minimum carrying capacity of 24 tonnes.

Adequate provision of water supplies for firefighting appropriate to the proposed risk should be considered. If the public supplies are inadequate it may be necessary to augment them by the provision of on-site facilities. Under normal circumstances hydrants for industrial unit and high risk areas should be located at 90m intervals. Where a building, which has a compartment of 280m² or more in the area is being, erected more than 100m from an existing fire hydrant, hydrants should be provided within 90m of an entry point to the building and not more than 90m apart.

Legal Agreement

This permission is accompanied by a legal (S106) agreement signed 29 November 2022.

Relevant Planning Policies:

East Riding Local Plan Strategy Document (ERLP SD) (April 2016)

Policy S1: Presumption in favour of sustainable development

Policy S2: Addressing climate change

Policy S3: Focusing development

Policy S4: Supporting development in Villages and the Countryside

Policy S5: Delivering housing development

Policy S6: Delivering employment land

Policy S8: Connecting people and places

Policy EC1: Supporting the growth and diversification of the East Riding economy

Policy EC3: Supporting the vitality and viability of centres

Policy EC4: Enhancing sustainable transport

Policy ENV1: Integrating high quality design

Policy ENV2: Promoting a high quality landscape

Policy ENV3: Valuing our heritage

Policy ENV4: Conserving and enhancing biodiversity and geodiversity

Policy ENV5: Strengthening green infrastructure

Policy ENV6: Managing environmental hazards

Policy C1: Providing infrastructure and facilities

Policy A4: Goole & Humberhead Levels sub area

East Riding Local Plan Allocations Document (ERLP AD) (July 2016)

Grid 47 - Countryside with no other allocations or designations

Supplementary Planning Documents:

Sustainable Transport (2016)

National Planning Policy and Guidance

National Planning Policy Framework
National Planning Practice Guidance

Other Relevant Documents

East Riding of Yorkshire Landscape Character Assessment (2018) and Selected Settlements Update 2013 (Goole)

Level 2 Strategic Flood Risk Assessment for Goole (2019)

East Riding Infrastructure Study (2014) and Draft 2021

Employment Land Review (2013, updated 2020)

In making this decision the Council has followed the requirements in paragraph 38 of the National Planning Policy Framework



23 December 2022



Stephen Hunt MRTPI
Director of Planning and Development Management

NOTES TO ACCOMPANY THIS DECISION

Appeals to the Secretary of State

If you are aggrieved by this decision you can appeal to the Planning Inspectorate. Appeals can be made online by accessing the Planning Inspectorate website (links shown below) dependant upon the type of application. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on telephone number: 0303 444 5000.

Appeals must be made on the correct forms relating to the type of application you submitted. Information provided as part of the appeal process will be published online.

If you wish to appeal against a decision relating to:

Householder applications - appeals must be made within 12 weeks of the date of this notice; please refer to Planning Inspectorate guidance at <https://www.gov.uk/appeal-householder-planning-decision>

Minor commercial applications - appeals must be made within 12 weeks of the date of this notice; please refer to Planning Inspectorate guidance at <https://www.gov.uk/appeal-minor-commercial-development-decision>

Advertisement consents - appeals must be made within 8 weeks of the date of this notice; please refer to Planning Inspectorate guidance at <https://www.gov.uk/appeal-decision-consent-display-advertisement>

Any other type of application – appeals must be made within 6 months of the date of this notice; please refer to planning Inspectorate guidance at <https://www.gov.uk/appeal-planning-decision>

Appellants requesting an inquiry into their appeal must notify the Local Planning Authority and Planning Inspectorate at least 10 days prior to appeal submission.

Please note - If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, you must appeal within 28 days of the date of this notice. Please refer to Planning Inspectorate guidance at <https://www.gov.uk/appeal-enforcement-notice>

If an enforcement notice is served relating to the same land and development as in your application, you must appeal within 28 days of the date of service of the enforcement notice or within 6 months (12 weeks in the case of a householder appeal) of the date of this notice, whichever period expires earlier.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

Purchase Notice

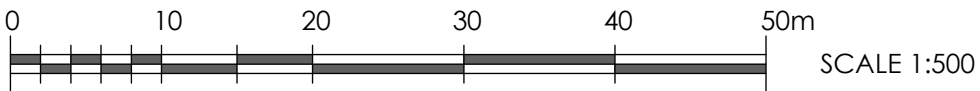
If either the Local Planning Authority or the Secretary of State for the Environment refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by carrying out any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with Part VI of the Town and Country Planning Act 1990.

Approval of Details Required by Conditions

A fee is payable for the submission of any matters required to be submitted for approval by any conditions attached to this permission. The fee is payable for each submission, not for each condition. Please refer to the council's website at www.eastriding.gov.uk for more information.

JUNCTION 36 M62 - GOOLE
PROPOSED SITE PLAN - SCALE 1:500



NOTES
ALL WORK TO BE CARRIED OUT IN ACCORDANCE WITH THE BUILDING REGULATIONS AND THE REQUIREMENTS OF THE LOCAL AUTHORITY.



IMAGE OF CYCLE STORAGE

Specification
Bike Dock Solution Cycle Shelter - 6 space cycle shelter & bike stands (2no. 6 space shelters indicated)

Bolts pack fixed to concrete base, polycarbonate roof and side panels.

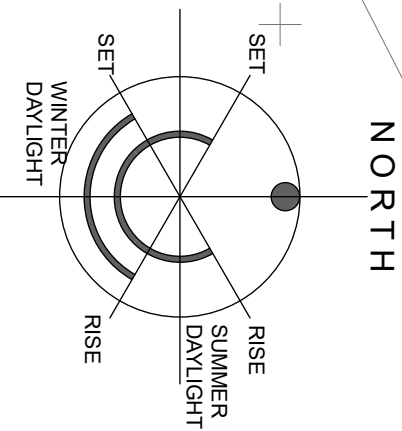
INDUSTRIAL DEVELOPMENT
SCHEDULE OF ACCOMMODATION

BUILDING - A
UNIT A1 - 345 sq.m
UNIT A2 - 232 sq.m
UNIT A3 - 464 sq.m
UNIT A4 - 464 sq.m

BUILDING - B
UNIT B1 - 408 sq.m
UNIT B2 - 408 sq.m
UNIT B3 - 232 sq.m
UNIT B4 - 232 sq.m

BUILDING - C
UNIT C1 - 227 sq.m
UNIT C2 - 227 sq.m
UNIT C3 - 227 sq.m

SURVEY STATIONS			
Name	Easting	Northing	Height
STN1	471654.180	423738.518	2.798
STN1A	471625.019	423740.191	2.723
STN2	471669.365	423790.550	2.564
STN3	471662.186	423823.949	2.598
STN3A	471610.590	423834.032	2.507
STN4	471689.709	423826.263	3.103
STN5	471729.102	423799.597	2.758
STN6	471767.503	423780.209	2.999
STN7	471739.571	423741.400	2.898
STN8	471745.760	423677.141	2.940
STN9	471656.139	423639.312	2.627
STN10	471634.072	423599.686	2.656
STN11	471606.431	423599.907	2.203
STN12	471619.021	423685.073	2.115
STN13	471627.985	423716.970	2.284
STN14	471657.575	423714.348	2.852
STN15	471672.049	423718.736	2.854



NOTE:
- FOR LANDSCAPE SCHEME PLEASE REFER TO AAH LANDSCAPE INFORMATION; DRAWINGS AND PLANTING SCHEDULE)
- FOR DRAINAGE SCHEME PLEASE REFER TO SIDEBOTTOM RICHARDSON CHENG LIMITED_SRC LTD; DRAWINGS AND INFORMATION)

REV	DESCRIPTION	BY	CHKD	DATE
D	Site plan amended to full minor alterations to units.	IR		01/12/22
C	Minor modifications to external works, daylight spaces added, BACS C/Scheme altered.	IR		28/11/22
B	External car parking layout updated and amended further to comments.	IR		24/11/21
A	Example of cycle shelter added, motorcycle parking indicated.	IR		29/10/21

LOROC
ARCHITECTS

25A PARK SQUARE WEST,
LEEDS, LS1 2PW
T: 0113 233 7755
W: www.loroc.co.uk

PROJECT
JUNCTION 36 - M62
GLEWS SERVICES
GOOLE

TITLE
GENERAL ARRANGEMENT
Planning Information
PROPOSED SITE PLAN, FULL PLANNING APPLICATION

DRAWING NO. 1432_102(P)

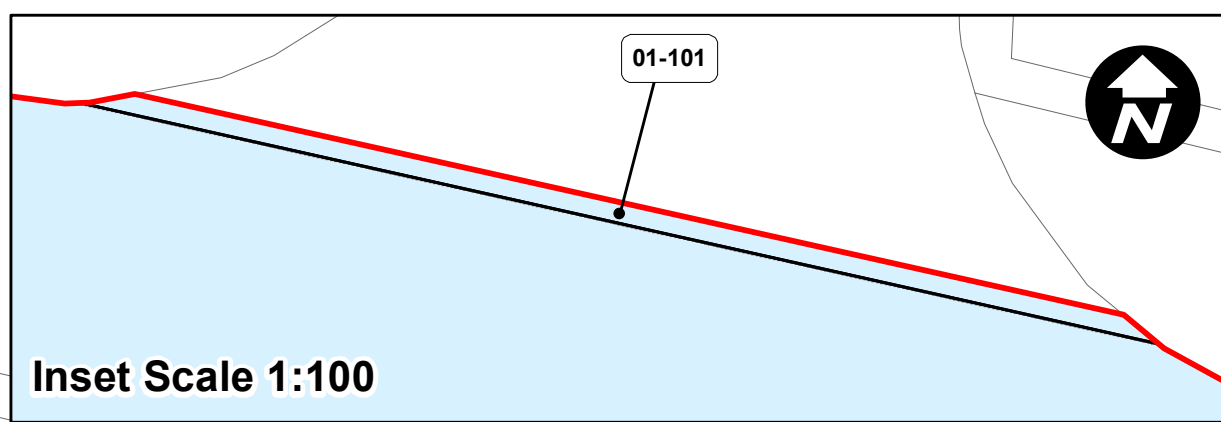
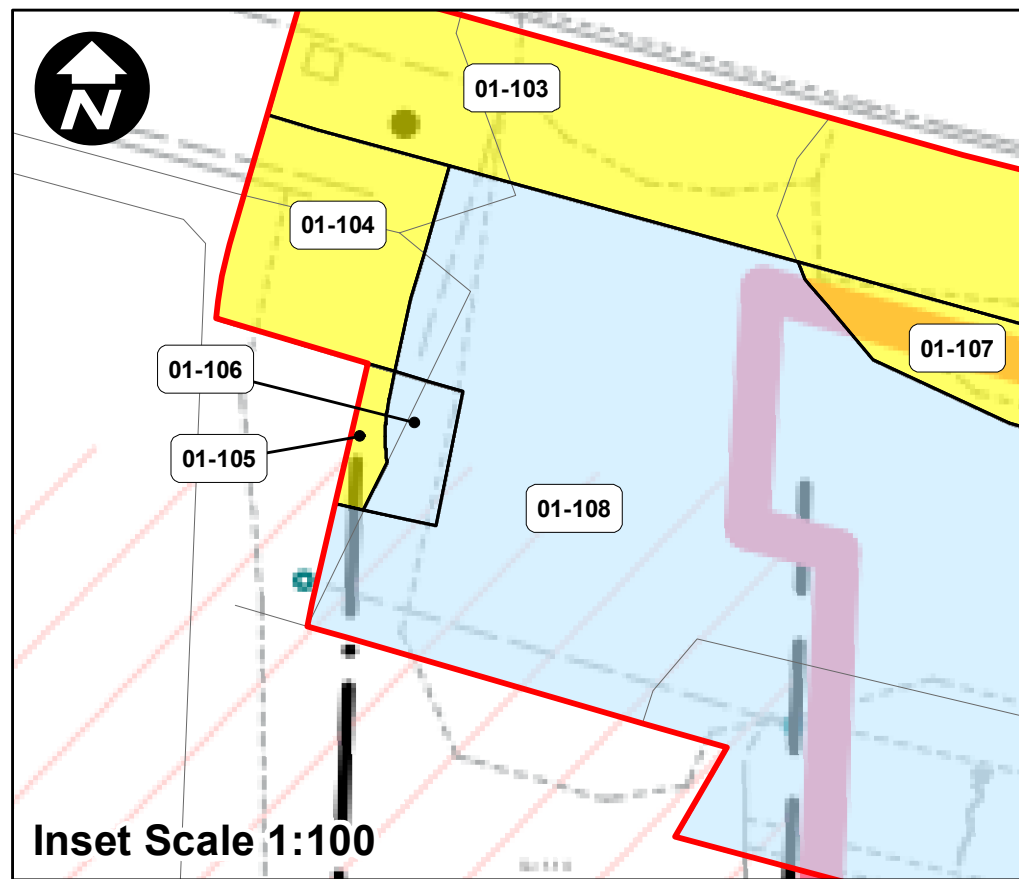
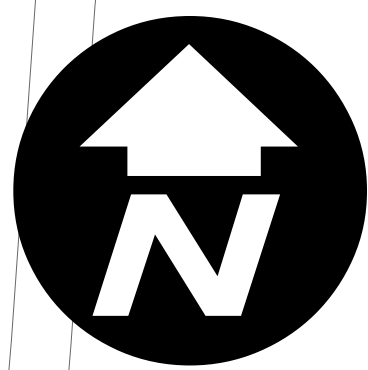
SCALE 1:500 @ A1

DRAWN BY IR

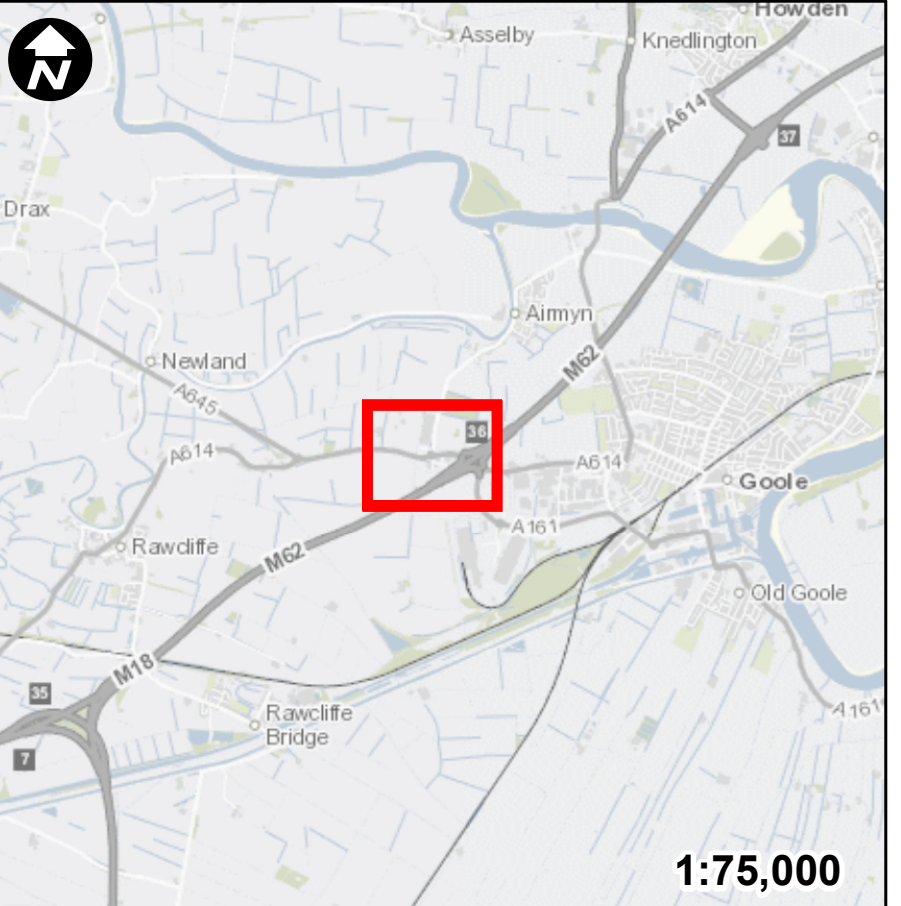
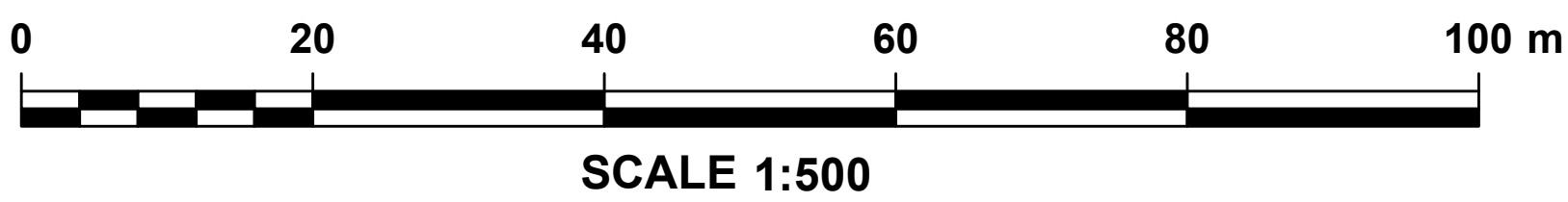
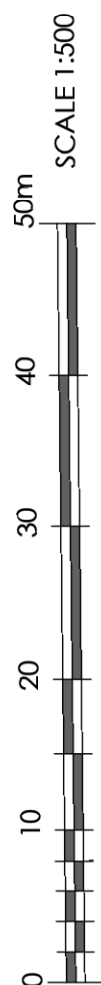
PURPOSE OF ISSUE

PLANNING
COMMENT
BUILDING REGS
INFORMATION
TENDER
CONSTRUCTION

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NOTES
ALL WORK TO BE CARRIED OUT IN ACCORDANCE WITH THE
PLANNING REGULATIONS AND THE REQUIREMENTS OF THE LOCAL
AUTHORITY.



- Key:**
- Order Limits
 - Order Land - New rights to be compulsorily acquired and restrictive covenants imposed, in relation to which it is proposed to extinguish easements, servitudes and other private rights
 - Order land - Temporary use of land and in relation to which it is proposed to suspend easements, servitudes and other private rights
 - Order Land- Land in relation to which it is proposed to permanently extinguish easements, servitudes and other private rights
 - Order land - No rights required
- The location of the planning application drawing overlaid onto the Land Plans is indicative only

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2020 0100031673



PROJECT TITLE
DRAX BECCS DCO

DRAWING TITLE
OVERLAY PLAN: EXTRACT OF LAND PLANS FOR OHL2 WORKS INCLUDING DETAILS OF APPROVED EMPLOYMENT DEVELOPMENT ON LAND SOUTH OF RAWCLIFFE ROAD

DRAWING STATUS			
FOR ISSUE			
DRAWN BS	CHECKED LC	APPROVED LC	AUTHORISED SC
SCALE @ A0 SIZE 1:500	DATE 28/03/2023	REVISION P00	

DRAWING NUMBER
EN010120-PA-LP-2.7-Sheet4