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To: The Applicant

Your Ref:

Our Ref: EN010120

By email only

Date: 14 April 2023

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Dear Mr Doyle,

## Planning Act 2008

### Application by Drax Power Limited for an Order Granting Development Consent for the Drax Bioenergy with Carbon Capture and Storage Project

#### Proposed change request, and effect on the Examination Timetable

Thank you for your [letter dated 13 April 2023](#)<sup>1</sup> giving notice of the Applicant's intention to submit a change request for the Drax Bioenergy with Carbon Capture and Storage Project, in line with Step 1 of the recommended procedure in the Planning Inspectorate's '[Advice Note 16: Requests to change applications after they have been accepted for examination](#)'<sup>2</sup> (Advice Note 16).

Your letter describes the proposed changes to the application, which includes reducing third party land take within the Order Limits, the proposed compulsory acquisition of rights over plots depicted on the Land Plans which were previously proposed to be subject to powers of extinguishment of existing rights only, and a small amount of additional temporary land. The changes are sought following the refinement of details with the asset owners for the proposed diversion and undergrounding works in respect of two electrical overhead lines (OHL1 and OHL2) and a telecommunications line (TCL1).

#### Consultation

Given the proposed 'upgrade' in powers sought over some plots, the Examining Authority (ExA) agrees with the Applicant that the proposed change would invoke the requirements of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (the CA Regulations).

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<sup>1</sup> <http://infrastructure.planninginspectorate.gov.uk/document/EN010120-001238>

<sup>2</sup> <https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/advice-note-16/>

It is noted that the Applicant has been undertaking on-going engagement with the affected land interests and asset owners both before and after the submission of the first change application dated 5 December 2022, including those interests in the plots that will be subject to the CA Regulations. The ExA considers that the on-going consultation being undertaken by the Applicant with the relevant Affected Persons is appropriate and proportionate given the specific targeted nature of the proposed change and therefore further non-statutory consultation is not required.

When submitting the change request, the ExA would request that the Applicant submits a statement which:

- lists the persons (affected by the change request) under section 42 (a) to (d) who have been consulted;
- identifies (within the above list) those section 42 (d) persons who are “affected persons”, meaning those persons over whose land compulsory acquisition powers will be exercised;
- provides justification as to why any person under section 42 (a) to (d) is not affected by the proposed changes and has not therefore been consulted (if any); and
- appends as an annex any details of any consultation processes undertaken including any notices published and any responses thereto.

### **Effect on Examination Timetable**

It is imperative, given the limited time remaining in the Examination, that the Applicant submits the change request and associated documentation in line with the timetable set out in the letter of 13 April 2023. Before the ExA can make a Procedural Decision on whether or not to examine the change application and how it should be examined, the ExA will need to be provided with all the relevant information identified in paragraphs 1 to 7 in Figure 2b of Advice Note 16.

As the time remaining in the Examination is limited, the ExA would request that the Applicant’s intended Relevant Representations period (RR period) for the proposed change request is no longer than a 30-day period.

In order for the proposed change request to be accommodated within the Examination Timetable, should it be accepted, the ExA would also require written confirmation from the Applicant that it is able to provide the Regulation 9a Notice and Regulation 9b Certificate<sup>3</sup> the next working day following the close of the RR period (ie by Monday 12 June 2023). The Applicant should confirm this in writing when submitting its change request.

Should any submission not be made in line with the proposed timetable, then the Applicant is asked to give an indication as to how it considers the request can be accommodated within the Examination Timetable.

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<sup>3</sup> In accordance with Regulations 9a and 9b of the CA Regulations.

## **Next steps**

The Applicant is asked to ensure that the change request that is intended to be submitted responds fully to the points made above and contains sufficient information to enable the ExA to prepare further questions, if necessary.

If you have any questions about any of the matters raised in this correspondence, please contact the Case Team using the details provided in this letter.

Yours sincerely

*Caroline Jones*

**Caroline Jones**  
**Lead Member of the Examining Authority**

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