



Application by Drax Power Limited for the Drax Bioenergy with Carbon Capture and Storage Project

The Examining Authority's written questions and requests for information (ExQ2)

Issued on 19 April 2023

The following table sets out the Examining Authority's (ExA) second round of written questions and requests for information (ExQ2). Questions are set out using an issues-based framework derived from the Initial Assessment of Principal Issues provided as **Annex C** to the Rule 6 letter of 13 December 2022. Questions have been added to the framework of issues set out there as they have arisen from representations and to address the assessment of the application against relevant policies.

Column 2 of the table indicates which Interested Parties (IP) and other persons each question is directed to. The ExA would be grateful if all persons named could answer all questions directed to them, providing a substantive response, or indicating that the question is not relevant to them for a reason. This does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests.

Each question has a unique reference number which starts with an alphabetical code and then has an issue number and a question number. For example, the first question on general matters is identified as 'GEN.2.1'. When you are answering a question, please start your answer by quoting the unique reference number.

If you are responding to a small number of questions, answers in a letter will suffice. If you are answering a larger number of questions, it will assist the ExA if you use a table based on the one below to set out your responses. An editable version of the table in Microsoft Word format is available on request from the Case Team. Please contact: DraxBECCS@planninginspectorate.gov.uk and include 'Drax BECCS – ExQ2' in the subject line of your email.

The deadline for responses to ExQ2 is **Deadline 6** in the Examination Timetable (**Tuesday 9 May 2023**).



Abbreviations used:

BECCS	Bioenergy with Carbon Capture and Storage
BNG	Biodiversity Net Gain
BoR	Book of Reference
CCS	Carbon Capture and Storage
CEMP	Construction Environmental Management Plan
COMAH	Control of Major Accidents and Hazards
D	Deadline
DCO	Development Consent Order
dDCO	Draft Development Consent Order
EA	Environment Agency
EAL	Environmental Assessment Level
ERYC	East Riding of Yorkshire Council
ES	Environmental Statement
ExA	Examining Authority
GCN	Great crested newt
HRAR	Habitats Regulations Assessment Report
HSE	Health and Safety Executive
IP	Interested Party
ISH	Issue Specific Hearing
LPA	Local Planning Authority
MMP	Materials Management Plan



NE	Natural England
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NPS EN-1	Overarching National Policy Statement for Energy
NPS EN-3	National Policy Statement for Renewable Energy Infrastructure
NYC	North Yorkshire Council
NYCC	North Yorkshire County Council (now part of North Yorkshire Council)
NZT	Net Zero Teesside
OHL	Overhead line
OLBS	Outline Landscape and Biodiversity Strategy
PA2008	Planning Act 2008
PRoW	Public Rights of Way
R	Requirement
REAC	Register of Environmental Actions and Commitments
SDC	Selby District Council (now part of North Yorkshire Council)
SoCG	Statement of Common Ground
SoS	Secretary of State
TCL	Telecommunication line
WPPP	Watercourse Pollution Prevention Plan



The Examination Library

References in these questions set out in square brackets (eg [APP-010]) are to documents catalogued in the [Examination Library](#)¹. The Examination Library will be updated as the Examination progresses.

Citation of questions

Questions in this table should be cited as follows:

'Question reference: issue reference: question number', eg *'GEN.2.1'* refers to question 1 in this table.

¹ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010120/EN010120-000343-Drax BECCS Examination Library.pdf>



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ExQ2	Question to:	Question:
1. GENERAL AND CROSS-TOPIC QUESTIONS		
GEN.2.1	Applicant	The REAC [REP5-011] lists plans that are to be included in the CEMP. Should these plans be listed within R14 of the dDCO as is the case for the equivalent requirement in the Keadby 3 DCO? And should R14 also include the associated REAC item references? If not, why?
GEN.2.2	Applicant	In a similar manner as has been done for the contents of other plans in the REAC [REP5-011] (eg Soil Handling Management Plan, MMP and Site Waste Management Plan) please outline what would be included in the Stakeholder Communication Plan.
GEN.2.3	Applicant/ All parties entering into a SoCG with the Applicant	For any unsigned SoCG could the Applicant please indicate its expectations in terms of reaching a conclusion or highlight any fundamental problems that it may be experiencing in progressing negotiations. Please note that should matters not be resolved in a SoCG, the ExA will require the submission of Final Position Statements from relevant parties by no later than D9.
GEN.2.4	Applicant	In the D5 submission 'Project Updates Arising from Government Publications on Energy Matters in March 2023' [REP5-029] it states that as a result of the project failing to be included within the selection of projects within the initial Track 1 of the Cluster Sequencing Programme, the timescales for the project will now be extended. Provide further details of the anticipated timescales.
GEN.2.5	James Hewitt	In your D5 response you refer to submissions by Client Earth on the NZT Project. For the ExA to consider such responses they must be submitted into the Examination.
2. AIR QUALITY AND EMISSIONS		
AQ.2.1	EA	In relation to the Applicant's approach to operational amine emissions modelling, the ExA notes that that it is stated in the SoCG [REP5-016] that the EA agrees with the approach in principle. However, the EA also stated that it intends to produce a new set of EALs for amines by the end of June 2023, on which it will then consult, after which it will confirm its position. Please can the EA provide a timeline for this.

ExQ2	Question to:	Question:
AQ.2.2	Applicant/ EA	<p>The ExA notes that the Other Consents and Licences document [REP5-009] states that the Applicant submitted additional information to the EA to support the process of achieving duly made status for the application to vary the Environmental Permit.</p> <ol style="list-style-type: none"> i. Has the application now achieved duly made status? ii. Please advise if the target date of March 2024 given at ISH2 for the determination of the application is still current? iii. If the application is now duly made, or will be within the remaining time of the examination, is the EA able to provide any further comment on questions AQ 1.3, 1.4, 1.5, 1.7, 1.9 & 1.10 from ExQ1 [PD-011]?
3. BIODIVERSITY AND HABITATS REGULATIONS ASSESSMENT		
BIO.2.1	Applicant/ NE	Could the Applicant/ NE provide an update on progress with the District Level Licensing application in relation to GCNs.
BIO.2.2	NE	Could NE confirm whether it considers that dDCO R10 sufficiently secures the surface water drainage measures during operation.
BIO.2.3	NE	In its D5 submission [REP5-030], Biofuelwatch raised two questions in relation to NE's D4 submission [REP4-041]. Would NE like to respond to these points?
BIO.2.4	NE	Could NE confirm that it is satisfied that the latest version of the OLBS [REP5-013] and REAC [REP5-011] satisfactorily secure mitigation and BNG.
BIO.2.5	Applicant	The ExA notes that the Applicant intends to submit an updated HRAR to incorporate in the in-combination assessment consideration of additional developments identified during the Examination. Please can the Applicant confirm when it anticipates it will submit the updated HRAR, and also whether any other application documents need updating as a result.
BIO.2.6	Applicant	A planning obligation [REP3-016] was submitted at D3 which is proposed to secure the offsite habitat provision area and BNG. Paragraph 57 of the NPPF states that planning obligations should only be sought where they meet all of the following 3 tests:

ExQ2	Question to:	Question:
		<ul style="list-style-type: none"> • Necessary to make the development acceptable in planning terms. • Directly related to the development. • Fairly and reasonably related in scale and kind to the development. <ol style="list-style-type: none"> i. Can the Applicant please provide evidence that the submitted s106 agreement, or any future iterations, meets these tests for any additional matters covered since the initial Heads of Terms. ii. Are the matters outlined in the s106 backed up, or justified, by development plan policy and/ or supplementary planning documents? iii. Could the matters outlined in the s106 be secured by way of a Requirement? iv. Without the s106 agreement, would there be a harmful effect?
4. CLIMATE CHANGE		
CC.2.1	Applicant	In relation to carbon emissions during construction, the ExA notes the assessment assumptions and limitations included in paragraph 15.5.45 in ES Chapter 15 [APP-051]. The Applicant is asked to justify whether the emissions presented/ assessed for the construction phase represent a worst-case scenario? Or if necessary, provide an updated figure that does present a worst-case scenario.

ExQ2	Question to:	Question:
5. COMPULSORY ACQUISITION AND TEMPORARY POSSESSION		
CA.2.1	Applicant	Provide an update on the progress being made regarding voluntary agreements with landowners and whether these are to be resolved before the close of Examination. If objections are likely to remain outstanding explain whether the SoS should then withhold consent for the Proposed Development.
CA.2.2	Applicant/ Statutory Undertakers	<p>Please provide a progress report on negotiations with each of the Statutory Undertakers listed in the BoR including outstanding differences and an indication of whether these negotiations will be completed before the close of Examination. If they will not be completed provide a progress report on the preparation of the s127 case that will need to be submitted at D9.</p> <p>Please could Statutory Undertakers provide copies of preferred wording for Protective Provisions and explain, where relevant, why you do not consider the wording as currently drafted to be appropriate.</p>
CA.2.3	Applicant	<p>The Crown Land Plan [REP5-005] has been reintroduced and plots 1-83 and 1-87 have been reinstated and shown as Crown Land in the BoR [REP5-006]. The ExA notes that discussions with the Department for Transport are progressing to obtain Crown Land consent pursuant to section 135 of the PA2008.</p> <p>If consent is not secured by the end of the Examination, an explanation of how the project can proceed if Crown Land is removed from the Order Land should be submitted by no later than D9.</p>
6. DESIGN, LANDSCAPE AND VISUAL		
DLV.2.1	NYC	<p>The ExA notes the NYCC and SDC submission at D4 [REP4-042] in response to the action point from ISH3 to outline what it would wish to see in the REAC in terms of the Design Framework [APP-195] principles. However, it is not clear to the ExA what is being requested in some of the bullet points, therefore NYC is asked to clarify and expand on a number of the principles identified as follows:</p> <ol style="list-style-type: none"> i. Siting – Please expand and clarify what the design principle relating to ‘Siting’ is. If it is in relation to the siting of buildings and structures, explain why the siting of structures described in the Design Framework is not sufficiently secured by the Works Plans [AS-073] for each part of Work No. 1 and Work No. 2. ii. Massing and Appearance – In relation to massing of building and structure, explain why the massing described in the Design Framework is not sufficiently secured by a combination of the Works Plans

ExQ2	Question to:	Question:
		<p>[AS-073] and the design parameters in Schedule 14 of the dDCO [REP4-022]. In relation to appearance, please clarify what the design principle is that NYC wishes to be included, and how this differs from Colour Palette and the massing of structures.</p> <p>iii. Colour Palette – Please confirm if Item D1 (5) of the REAC [REP5-011] covers this principle.</p> <p>iv. Night-time appearance and Lighting design – Please explain why principles relating to the night-time appearance and lighting design are not adequately covered by REAC Item D4 and the Draft Lighting Strategy [APP-184] which is included as a document to be certified in Schedule 13 of the dDCO [REP4-022] and secured by R8. If NYC proposes changes or additions to the Draft Lighting Strategy, please detail what these changes should be.</p> <p>v. The following bullet points appear to be taken from paragraphs 4.2.2 – 4.2.11 of the Design Framework under the subheadings of ‘<i>The Importance of Green Infrastructure</i>’ and ‘<i>Green Infrastructure in Relation To Drax Power Station</i>’:</p> <ul style="list-style-type: none"> • Incorporation of the Natural England Guidance and Leeds City Region Green and Blue Infrastructure Strategy. • Opportunities to strengthen landscape framework surrounding Drax. • Combined Landscape and ecology benefits of green infrastructure. <p>These paragraphs precede the subheading ‘<i>Green Infrastructure in Relation to the Proposed Scheme</i>’ rather than coming under that subheading. Is it the understanding of NYC that paragraphs 4.2.2 – 4.2.11 are to be taken as design principles for the Proposed Development, or that they provide the context for the principles that follow from paragraph 4.2.12?</p> <p>vi. Vegetation Retention – Please confirm if Item G8 of the REAC and the OLBS [REP5-013] paragraphs 3.3.7 – 3.3.9 sufficiently cover the retention of vegetation as set out in the Design Framework. If not, please detail the measures that NYC requests to be included.</p> <p>vii. Enhancement Opportunities – Please confirm if Items D1 2), 4) and G8 of the REAC alongside the OLBS sufficiently cover the Enhancement Opportunities set out in the Design Framework. If not, please detail the measures that NYC requests to be included.</p> <p>viii. Please confirm if Items D1, 1), 2) and 3) of the REAC alongside the OLBS paragraphs 1.4.11 – 1.4.13 sufficiently cover the following principles:</p>

ExQ2	Question to:	Question:
		<ul style="list-style-type: none"> To create an attractive and positive working environment for site users within the confines of Drax Power Station. To provide a landscape structure capable of continuing development of ancillary industry. Planting measures which seek to enhance any new or modified public realm. Improving the biodiversity value of amenity planting within the Power Station Site.
DLV.2.2	Applicant	<p>NYCC and SDC raised concern at ISH3 that the OLBS and the REAC do not provide a full picture of the vegetation that is there now and what will be removed.</p> <ol style="list-style-type: none"> Should the Existing Retained Vegetation [APP-183] plan be updated and retitled to also show existing vegetation that is expected to need to be removed? If not, why not? Can the Applicant explain how decisions for vegetation removal will be made, recorded and feed through to the detailed design including arrangements for replacement?
DLV.2.3	Applicant	<p>Paragraph 5.1.2 of the updated OLBS [REP5-013] includes two new planting types (Amenity planting within the main Drax Power Station; and New Broadleaved Planting within the main Drax Power Station) and refers to the Landscape and Biodiversity Mitigation Plan (Figure 1) [APP-181]. Will the Applicant be submitting an updated version of Figure 1 into the Examination that includes the additional planting types?</p>
DLV.2.4	NYC	<p>NYC is asked to provide comments on the Applicant's updated OLBS [REP5-013] and the Applicant's Responses to Issues Raised at D4 [REP5-028] in relation to the concerns raised in its D4 submission [REP4-042], including whether its concerns on the following matters have been addressed and if not, what information NYC requires to address these concerns:</p> <ol style="list-style-type: none"> Long-term Maintenance and Management of Landscape. Removal of existing vegetation. Protection of existing trees. The landscape mitigation plan for works other than the habitat provision area.
7. DEVELOPMENT CONSENT ORDER		
N/A	N/A	No specific questions at this time.

ExQ2	Question to:	Question:
8. FLOOD RISK AND WATER ENVIRONMENT		
FRW.2.1	EA	Is the EA now satisfied with the measures set out in the REAC for the WPPP, with further evidence to be provided as part of the submission of the WPPP?
9. GROUND CONDITIONS AND CONTAMINATION		
N/A	N/A	No questions at this time.
10. HISTORIC ENVIRONMENT		
HE.2.1	Applicant	The SoCG with Historic England [AS-033] was signed prior to the change request PC-01 and PC-02. Has the Applicant sought confirmation from HE that its position set out in the signed SoCG is unchanged?
11. MAJOR ACCIDENTS AND NATURAL DISASTERS		
MAD.2.1	HSE	Can HSE, as the competent authority for COMAH sites, comment on the appropriateness of the Applicant's assessment of major accidents in the context of the Proposed Development comprising elements of novel technology as set out in the ES Chapter 17 [APP-053]. Does HSE consider that the Applicant has sufficiently identified and assessed the potential risks associated with the CCS component?
12. NOISE AND VIBRATION		
NV.2.1	Applicant	The ExA notes that in Item G5 (2) of the REAC [REP5-011], the delivery or removal of materials, plant and machinery is restricted to 08:00 to 18:00 on Monday to Friday and 08:00 to 13:00 on a Saturday. The Applicant is asked whether key activities relating to noise and vibration, for example piling, could be similarly restricted to these hours?
NV.2.2	NYC	The ExA notes the LPA's submission at D4 [REP4-042] that it would provide further comment on its position regarding the demonstration of good acoustic design and residual noise impacts on residential receptors R6 and R14 having studied the indicative layout, revisiting the statistical analysis of background noise levels at LT4, and revisiting the operational noise assumptions. The LPA provided an update in its submission at D5 [REP5-032] but it is not clear to the ExA what measures it would like to see secured in the dDCO to ensure that good acoustic design forms part of the context case in terms of equipment choice and orientation. NYC is asked:

ExQ2	Question to:	Question:
		<ul style="list-style-type: none"> i. Is the context of the ‘deflated background noise level’ and ‘inflated rating level’ sufficient to satisfy that any effects would be not significant? ii. Is NYC suggesting that the indicative layout needs to be changed or does NYC maintain that the rating levels should be reduced as previously requested? iii. Is there further information, for example how acoustic design was factored in to the early design options appraisal, that the Applicant could provide to answer NYC’s concerns on this matter?
NV.2.3	Applicant	The ExA notes in NYC’s submission at D5 [REP5-032] that it has uncertainty that NYC had input into the options appraisal that took place in the early stages of design. The Applicant is asked to explain how good acoustic design was factored into the options appraisal of the layout that took place in the early stages of design.
NV.2.4	NYC	<p>The extract of BS4142:2014+A1:2019 Technical Note, March 2020 Version 1 that the Applicant provided at D4 [REP4-026] states “<i>absolute levels may be as, or more, important than relative outcomes where background and rating levels are low.</i>” And goes on to clarify that BS 4142 doesn’t define ‘low’ in the context of background sound or rating levels, although it does say “<i>The note to the Scope of the 1997 version of BS 4142 defined [...] low rating levels as being less than about 35 dB L_{AR,TR}. The WG suggest that similar values would not be unreasonable in the context of BS4142, but that the assessor should make a judgement and justify it where appropriate.</i>”</p> <p>Can NYC answer the following questions:</p> <ul style="list-style-type: none"> i. In the context of the above technical note and the rating levels for R6 and R14 being 34 & 35 dB L_{AR,TR} respectively, are the absolute noise levels, or the margin by which the rating level exceeds the background, more important in terms of assessing the significance of effect and why? ii. Is NYC satisfied with the assessment and conclusions drawn by the Applicant of the absolute noise levels in paragraphs 7.9.17 and 7.9.18 of ES Chapter 7 [APP-043]? If not, please provide an explanation of the information required to adequately assess the absolute noise levels.
13. PLANNING POLICY AND LEGISLATION		
PPL.2.1	All parties	A suite of documents published under ‘Powering up Britain’ was published on 30 March 2023. What, if any, are the implications for the consideration of the application?

ExQ2	Question to:	Question:
PPL.2.2	All parties	The Government's response to the recommendations made by the Independent Review of Net Zero was published alongside the Powering Up Britain: Net Zero Delivery Plan on 30 March 2023. What, if any, are the implications for the consideration of the application?
PPL.2.3	All parties	The Government published 'Planning for new energy infrastructure: revised draft National Policy Statements - consultation document' on 30 March 2023. All parties are asked whether they would like to comment on the implications of the revised draft NPS EN-1 & EN-3.
14. SCOPE OF DEVELOPMENT		
N/A	N/A	No specific questions at this time.
15. SOCIO-ECONOMICS		
N/A	N/A	No specific questions at this time.
16. TRAFFIC, TRANSPORT AND WASTE MANAGEMENT		
TTW.2.1	Applicant/ ERYC	The SoCG between the Applicant and ERYC [REP3-013] states that traffic management during works to OHL1, OHL2 and TCL1 are still under discussion. Can the Applicant and ERYC provide an update on whether there are outstanding issues on this matter and confirm that proactive discussions are taking place to agree traffic management measures prior to the end of the Examination period?
TTW.2.2	Applicant	Is the Special Order Application referred to in the Applicant's response to ExQ1 ref. TTW1.1 & TTW1.7 [REP2-060] the same as the Permit for Transport of Abnormal Loads listed in the Other Consents and Licences [REP5-009] ? If not, does it need to be included in the Other Consents and Licences?
TTW.2.3	Applicant/ NYC	The SoCG between the Applicant and NYC [REP5-015] states that the temporary closure of PRowS is still under discussion. Can both the Applicant and NYC provide an update on what matters are not yet agreed and whether it is expected that these matters can be agreed prior to the end of the Examination?