



THE APPLICANT'S PRE-HEARING POSITION STATEMENT ON OUTSTANDING MATTERS WITH NORTH YORKSHIRE COUNCIL

Drax Bioenergy with Carbon Capture and Storage

The Infrastructure Planning (Examination Procedure) Rules 2010

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AUTHOR: Various

APPROVER: N Ashworth

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1. INTRODUCTION

1.1. PURPOSE OF THIS DOCUMENT

- 1.1.1. This Pre-Hearing Position Paper summarises the position of Drax Power Limited ('The Applicant') with regard to outstanding matters which are still to be agreed with the North Yorkshire Council (NYC). It does not make new points, but is provided to ensure that the Examining Authority, and ultimately the Secretary of State, are clear on the Applicant's position in relation to these matters and the remaining points of dispute that arise from them.
- 1.1.2. There are two areas where there are outstanding matters which are still to be agreed with NYC, which relate to landscape (Section 2 of this document) and noise (Section 3 of this document).

2. THE APPLICANT'S POSITION ON LANDSCAPE MATTERS

2.1. OVERVIEW OF OUTSTANDING MATTERS

- 2.1.1. Based on NYC's submission at Deadline 6 in response to the Examining Authority's Further Written Questions (REP6-033) and ongoing discussions between the Applicant and NYC, outstanding issues relating to landscape can be summarised as follows:
- 2.1.2. NYC consider that all existing landscape elements within the Works Areas on the Drax Power Station Site, that are unaffected by the construction and/or operation of the Proposed Scheme, should be retained and maintained for 30 years, and that this should be secured via the DCO. The Applicant does not agree that this is necessary in order to mitigate the impacts of the Proposed Scheme nor make it acceptable in planning terms; the Applicant's position is that other than where it has indicated vegetation will be retained and maintained, it cannot commit to maintaining all other existing amenity planting within the Drax Power Station Site because it may need to be removed for operational reasons in the future.
- 2.1.3. All other matters relating to landscape are agreed and this is recorded in the SoCG with NYC.

2.2. SUMMARY OF ONGOING DISCUSSIONS WITH NORTH YORKSHIRE COUNCIL

- 2.2.1. The following topic relating to landscape is subject to ongoing discussion (see Applicant's Responses to Issues Raised at Deadline 6 (REP7-017)):
 - a. "Vegetation Retention. This topic has been covered in discussions between the Applicant and the Authority. The Authority is content that the vegetation retention is sufficiently covered in the REAC and within the revised OLBS. The Authority is seeking clarification that the long-term maintenance and management will extend to all existing and proposed landscape and vegetation within the Works Areas and not just new vegetation." As stated under item DLV2.1 of NYC's Responses to the Examining Authority's further written questions (ExQ2) (REP6-051).
 - b. The last discussion relating solely to landscape took place on 27 April 2023, where it was concluded that this was likely to remain as a point that was not agreed, but the Applicant has continued to engage with NYC on this matter. The most recent discussion on this took place on 18 May 2023 with Planning Officers from NYC.
- 2.2.2. The updated SoCG from NYC, received on 12 June 2023, included the following updates in relation to vegetation retention (REP5-015, Rev 05 being submitted at Deadline 8):
 - a. *"The Council would prefer to see a commitment of no net loss of landscaping features within the OLBS. This would reassure the Council going into the detailed design stage."*

- b. *“This should not be seen [as] an overall objection to the scheme. NYC acknowledges that the power station site is an operational site but is seeking to express its concern that amenity planting could be lost because of the application rather than enhanced as it would require from development schemes. The applicant’s position on the matter is understood by the Council”.*

2.2.3. To be clear on the Applicant’s position, any amenity planting within the Works Areas will be retained wherever practicable. There may however be necessary loss of amenity planting in order to facilitate works, for example if it will obstruct construction and maintenance of the Proposed Scheme, in which case it will be removed and reinstated, the extent and detail of which will require resolution at detailed design. Where the loss of such planting is unavoidable, the detailed design will seek to reinstate those landscape elements that are temporarily lost, or to incorporate new amenity planting measures in-keeping with the original Weddle strategy aspirations for Drax Power Station (see OLBS (REP6-017) paragraph 3.3.8). What the Applicant cannot commit to is maintaining other amenity planting that may need to be removed in future connection with operational requirements of the power station site more widely.

2.3. THE APPLICANT’S POSITION

2.3.1. The Applicant’s position and the suggested steps to seek to resolve disagreement during Examination are set out in **Table 2-1** below.

Table 2-1: The Applicant's Position on Landscape Matters

<p>The principal issue in question</p>	<p>The brief position of the Applicant</p>	<p>What needs to:</p> <ul style="list-style-type: none"> • Change, or • Be included, or • Amended <p>So as to overcome the disagreement</p>
<p>Vegetation Retention:</p> <p>The Authority is seeking clarification that the long-term maintenance and management will extend to all existing and proposed landscape and vegetation within the Works Areas and not just new vegetation.</p>	<p>Vegetation Retention:</p> <p>The Applicant confirms their commitment to no net loss of amenity planting within the Works Areas.</p> <p>The Applicant confirms that long term (30 years) maintenance and management will be carried out for the following:</p> <ul style="list-style-type: none"> a. New amenity planting (which will be determined at detailed design stage) within the Works Areas. b. Existing landscape areas and vegetation that have been identified for retention as detailed within the Outline Landscape and Biodiversity Strategy (OLBS) (AS-094) paras 3.3.7, 3.3.8, and OLBS Figure 3 (Existing Retained Vegetation) (APP-183). c. Removed and reinstated amenity planting within the Works Areas. <p>Other than as indicated above, the Applicant cannot commit to maintaining all existing amenity planting within the Works Areas on the Drax Power Station Site, however the Applicant confirms that it would only seek to remove vegetation for operational reasons.</p>	<p>In order to resolve the issue of the long term maintenance and management of all existing vegetation within the work areas:</p> <ul style="list-style-type: none"> a. NYC should provide the justification for this requirement within the context of the DCO Application, the tests for DCO requirements, the mitigation requirements, and the proposed commitments relating to landscape. b. The Applicant can confirm that NYC will be included in the detailed design process relating to landscape, which will include involvement on the landscape design proposals, landscape specifications and landscape management plans, as a consultee, a reviewer, and an approver. This is secured via the DCO - Schedule 2, Requirements: <ul style="list-style-type: none"> i. R6, Detailed design approval. (1) In relation to any part of the

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	<p>It should be noted that the vegetation within the Works Areas on the Drax Power Station Site does not provide significant screening of the Power Station from the viewpoints used in the LVIA, apart from the linear belt of trees and shrubs around the perimeter of the Woodyard to the north of the Proposed Scheme. For the LVIA it was assumed that this vegetation was to be retained and such retention is secured as shown on OLBS Figure 3 (Existing Retained Vegetation) (APP-183).</p> <p>The Applicant has discussed with NYC that it is not considered appropriate to also commit to maintaining this vegetation within the Works Areas on the Drax Power Station Site, apart from, i) New amenity planting (which will be determined at detailed design stage) within the Works Areas, ii) Existing landscape areas and vegetation that have been identified for retention as detailed on OLBS Figure 3 (Existing Retained Vegetation) (APP-183), iii) Removed and reinstated amenity planting within the Works Areas, for the following reasons:</p> <ol style="list-style-type: none"> a. This vegetation is not being affected by the Proposed Scheme, nor is it necessary in order to mitigate impacts of the Proposed Scheme; b. The LVIA that was carried out for the Proposed Scheme, as detailed in Chapter 9 (Landscape and 	<p>authorised development comprised in numbered works 1, 2, and 3, no development of that part is to commence until details of the following for that part have been submitted to and approved by the relevant planning authority.</p> <ol style="list-style-type: none"> ii. R7, Provision of landscape and biodiversity mitigation and enhancement. (1) No phase of the authorised development or part of numbered works 5, 6 and 8 is to commence until, a written strategy for that phase or part, which is substantially in accordance with the outline landscape and biodiversity strategy, has been submitted to and, after consultation with the Environment Agency, approved

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	<p>Visual Amenity) of the ES (APP-045) concluded no permanent significant adverse effects for landscape and visual amenity during construction, decommissioning or operation. Furthermore, the LVIA did not rely upon the vegetation in question to reach this conclusion, and NYC have agreed with the conclusion that there are no significant impacts;</p> <p>c. Such a commitment could impede the ability for Drax to carry out day to day operations on the site;</p> <p>d. Future development on the Drax Power Station Site that requires consent e.g., planning consent, would require approval from the LPA including with respect to mitigation for that particular development and associated vegetation removal. Therefore, any existing vegetation affected by such future developments would be dealt with through the appropriate processes;</p> <p>e. The Applicant is not aware how NYC considers a requirement to maintain the vegetation in question would meet the relevant tests for requirements / planning conditions, in particular in terms of being</p>	<p>by the relevant planning authority.</p>

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	<p>necessary and relevant to the development being consented; and</p> <p>f. As recorded in NPS EN-1 the aim should be to minimise harm to the landscape (from the Proposed Scheme), providing reasonable mitigation where possible and appropriate. The Applicant has done this and secured appropriate mitigation. Given the limited (if any) contribution from the existing vegetation on the Scheme’s impact on the landscape, (amenity planting within the Works Areas that is not shown on the Existing Retained Vegetation Plan and that is not affected by the scheme) the Applicant is unclear why such vegetation is sought to be maintained – certainly it could not be said that it is required to be maintained in order to mitigate and minimise harm to the landscape resulting from the Proposed Scheme.</p>	

3. THE APPLICANT'S POSITION ON NOISE MATTERS

3.1. OVERVIEW OF OUTSTANDING MATTERS

- 3.1.1. Outstanding matters with NYC relate to the following two main issues:
- a. Significance of operational noise effects. NYC has not agreed to the conclusions of the ES which state that there are no significant effects on operational noise. Specifically, NYC has not confirmed their agreement on the use of the contextual considerations utilised by the Applicant to reach that conclusion.
 - b. Suitability of Requirement 17 on operational noise. NYC has not agreed to the rating level limits included in Requirement 17 of the dDCO. NYC's preference on this matter is that the rating level limits are either removed from the Requirement and agreed at the time the noise mitigation scheme is submitted for approval pursuant to the Requirement, or that rating level limits included in the Requirement for Receptors 6 and 14 are reduced.

3.2. SUMMARY OF ONGOING DISCUSSIONS WITH NORTH YORKSHIRE COUNCIL

- 3.2.1. The Applicant has continued to engage with NYC in order to reach agreement on these matters.

3.3. THE APPLICANT’S POSITION

3.3.1. The Applicant’s position and the suggested steps to seek to resolve disagreement during Examination are set out in **Table 3-1** below.

Table 3-1: The Applicant's Position on Noise Matters

The principal issue in question	The brief position of the Applicant	What needs to: <ul style="list-style-type: none"> • Change, or • Be included, or • Amended So as to overcome the disagreement
Operational Noise Impact	<p>The Applicant reiterates that the initial impact estimation of the assessment, in accordance with BS4142:2014+A1:2019, is indicative of an adverse impact depending on the context at two receptors (R6 and R14).</p> <p>Taking into account the contextual considerations (in accordance with BS4142:214+A1:2019), the operational noise effect due to operation of the post combustion carbon capture technology would be not significant, as noted in paragraph 7.9.20 of the ES Chapter 7 (Noise and Vibration).</p> <p>The Applicant clarifies that there is no ‘<i>adverse exceedance</i>’ in relation to BS8233:2014 but an initial estimate in accordance with BS4142:2014+A1:2019 does indicate an adverse impact. However, once context is taken into account, the operational noise effect due to operation of the post combustion carbon capture technology would be not</p>	<p>The Applicant requested that NYC confirmed its position in advance of Deadline 8.</p> <p>NYC responded stating that they acknowledge the Applicant's case for contextual considerations and that the assessment methodology provides for a deflated background noise level against an inflated rating level, and that the ExA will balance this against the likelihood for adverse impact and the need for the proposed development</p>

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	<p>significant, as noted in paragraph 7.9.20 of the ES Chapter 7 (Noise and Vibration).</p> <p>The conclusions of the contextual considerations assessed in ES Chapter 7 (Noise and Vibration) can be summarised as follows:</p> <ol style="list-style-type: none"> a. There will be no change in ambient noise levels at Receptor 6 and 14 during operation of the Proposed Scheme, as presented in Table 7.27 and 7.28 of the ES where a 0 dB difference is indicated at each noise sensitive receptor; b. Internal noise levels in the habitable rooms of Receptors 6 and 14 will be below the noise guidelines in British Standard 8233:2014 during operation of the Proposed Scheme as presented in Table 7.29 and 7.30 of the ES. It can be seen from the tables that, in overall terms and also in frequency octave bands, the internal noise levels due to the Proposed Scheme are predicted to be at least 10dB lower than the guidelines; and c. Analysis undertaken on the background noise levels reveal that the values used in the noise assessment correspond to a reasonable worst-case noise 	

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	<p>assessment. The initial estimate for the operational noise levels is based on the background noise levels recorded during 30% of the measurement period. This means that approximately 70% of the time the background noise levels are likely to be higher than those selected for the assessment. Therefore, the operational noise assessment is considered to be robust.</p> <p>The operational noise assessment has assumed that key noisy equipment will operate 100% of the time during the assessment period, as described in Appendix 7.2 (Operational Noise Assumptions) of the ES and this therefore presents a reasonable worst-case assessment but also realistic of the normal operations.</p> <p>The Applicant has undertaken a robust good acoustic design during the preliminary design where discussions between the acoustic consultant and the pre-FEED contractors were a key consideration and led to substantial engineering interventions to reduce noise. Examples of this are included in ES Appendix 7.2 (Operational Noise Assumptions) (APP-131). For instance, the mitigated noise levels for the carbon dioxide compressor buildings in Table 4.3 of Appendix 7.2</p>	

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	<p>(Operational Noise Assumptions) are considerably lower than those presented in Table 1.1 of the same document, showing the unmitigated noise levels for the same equipment. Similarly, unmitigated and mitigated noise levels for pumps, power turbines and flue gas booster fans are presented in Appendix 7.2 (Operational Noise Assumptions).</p> <p>NYC has requested that good acoustic design is demonstrated and that the predicted sound levels be reduced if possible. The Applicant has confirmed that it would not be practicably feasible to reduce the rating levels further and that the Applicant has already done everything reasonably practicable to mitigate and minimise adverse impacts through good acoustic design at this stage. For example, the rating levels predicted in the assessment have been achieved using double acoustic enclosures for the carbon dioxide compressor buildings and double acoustic enclosures for the flue gas booster fans. The Applicant has discussed this with NYC, however, NYC has not yet confirmed whether the evidence submitted is sufficient to support the conclusions of the assessment.</p> <p>NYC's rationale to reduce the predicted noise levels further is linked to Clause 11 of BS4142:2014+A1:2019 stating that as</p>	

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	<p>an initial estimate: “A difference of around +5dB is likely to be an indication of an adverse impact, depending on the context”. Receptors 6 and 14 are predicted to experience a difference of +6dB and +7dB, respectively, during the night-time period. However, the Applicant has presented contextual evidence to demonstrate that the NPS aims, described below, are fulfilled and therefore the Applicant considers that there is no justification to reduce the noise levels further.</p> <p>It is important to note that, based on NPS¹ section 5.12.10, the Secretary of State should not grant development consent unless they are satisfied that the proposals will meet the following aims:</p> <ol style="list-style-type: none"> a. avoid significant adverse impacts on health and quality of life from noise; b. mitigate and minimise other adverse impacts on health and quality of life from noise; and 	

¹ Draft Overarching National Policy Statement of Energy (EN-1), September 2021

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	<p>c. where possible, contribute to improvements to health and quality of life through the effective management and control of noise.</p> <p>The conclusion of the ES chapter demonstrates that significant adverse effects have been avoided, as stated in paragraph 7.9.23 and that impacts have been mitigated by the inclusion of primary mitigation explained in paragraphs 7.5.51 to 7.5.53.</p>	
Suitability of Requirement 17	<p>Requirement 17 of Schedule 2 of the draft DCO requires a noise mitigation scheme to be submitted to and approved by the relevant local planning authority. The noise mitigation scheme must contain details of how the design for work nos. 1 (carbon capture plant), 2 (infrastructure to transport compressed CO2) and 3 (supporting works) has ensured that the operational noise rating levels will not be exceeded.</p> <p>The relevant local planning authority will therefore have an opportunity to ensure that the good acoustic design is improved if it is possible to do so during the detailed design stage as appropriate (to reiterate – the good acoustic design process followed to-date has already secured significant reductions in the noise levels anticipated from key operational components and sources). As such, it is considered that a suitable and</p>	<p>The Applicant requested that NYC confirmed its position in advance of Deadline 8. No response on this specific issue had been received from NYC at the time of writing to confirm this.</p> <p>Specifically, the Applicant requests that NYC confirms that Requirement 17 is a suitable and robust mechanism for mitigating noise impacts during the operation phase.</p>

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	<p>robust mechanism for mitigating noise impacts during the operation phase is secured via the DCO.</p> <p>The Applicant considers that reducing the rating levels included in Requirement 17 for Receptors would impose an unrealistic and unnecessarily onerous condition on the design. It is considered that such a requirement would be neither necessary nor reasonable.</p> <p>The Applicant considers that removing the operational rating levels from the requirement (to be agreed at a later date) does not achieve anything and means that the requirement lacks precision and certainty.</p>	