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Applicant, East Riding of Yorkshire
Council, Environment Agency, Natural
England and North Yorkshire Council

Your Ref:

Our Ref: EN010120

Date: 22 June 2023

Dear Sir/ Madam

Planning Act 2008 – Section 89; and the Infrastructure Planning (Examination Procedure) Rules 2010 – Rule 17

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

Request for further information

We are writing under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR). The Examining Authority (ExA) has reviewed submissions arising from Deadline 8 of the Examination and, based on this, has decided to seek further information in writing.

Questions under Rule 17 of the EPR (R17Q) are set out in **Annex A** of this letter. These are the second set of such questions issued in this Examination and are known as R17QB. They are addressed to the Applicant, East Riding of Yorkshire Council, Environment Agency, Natural England and North Yorkshire Council. 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.

The deadline for the submission of the information sought is **Deadline 9 (Thursday 6 July 2023)**. Any Interested Party wishing to comment on responses to this request may do so at Deadline 10 (Monday 17 July 2023).

All responses should be marked as relating to Rule 17 Questions of 22 June 2023 (R17QB).

Yours faithfully

<https://infrastructure.planninginspectorate.gov.uk>





Caroline Jones

Caroline Jones
Lead Member of the Examining Authority

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

Questions under EPR Rule 17 (R17QB)

Issued on 22 June 2023

The questions raised in this document emerge from the Examining Authority's (ExA) consideration of submissions made at Deadline 8.

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 – R17' in the subject line of your email.

The deadline for responses to this Rule 17 request for further information is **Deadline 9** in the Examination Timetable (**Thursday 6 July 2023**).



Abbreviations used:

AP	Affected Person
CA	Compulsory Acquisition
D	Deadline
DCO	Development Consent Order
dDCO	Draft Development Consent Order
EA	Environment Agency
EM	Explanatory Memorandum
EP	Environmental Permit

ERYC	East Riding of Yorkshire Council
ES	Environmental Statement
ExA	Examining Authority
HRA	Habitats Regulations Assessment
NE	Natural England
NYC	North Yorkshire Council
SoCG	Statement of Common Ground
SoR	Statement of Reasons

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.

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

Questions under EPR Rule 17 (R17QB): Thursday 22 June 2023

Responses due by Deadline 9 (Thursday 6 July 2023)

R17QB	Question to:	Question:
GENERAL AND CROSS-TOPIC QUESTIONS		
R17QB.1	Applicant	<p>In the dDCO submitted at D8 [REP8-005], the time in which to commence the authorised development (Schedule 2, Requirement 1) and exercise CA powers (Article 19, 22 and 24) has increased from five to seven years. In the Schedule of Changes to the dDCO [REP8-007] it states the reason for this change is as a result of the anticipated change to the promoter and operator of the Humber Low Carbon Pipelines.</p> <ul style="list-style-type: none"> a) Please provide full justification for the additional two years given that there is no evidence currently before the ExA that the change in promoter would result in a significant delay. b) Does the Applicant's reason for this change not contradict the Applicant's stance in its response to R17QA.20 that a requirement preventing commencement of the authorised development until development consent is in place for the carbon pipeline would have the effect of delaying the Proposed Development's delivery and therefore its contribution to the transition to Net Zero? c) Could an extension of this nature constitute a change to the application?
R17QB.2	Applicant	<p>In response to R17QA.21 [REP8-029] the Applicant states that the impacts of the extension to the time within which it can implement the DCO has been addressed in the Project Updates Arising from Government Publications on Energy Matters in March 2023 ([REP5-029] section 2.3). However, this document did not consider an extension to the time within which the DCO would be implemented, only that the timescales for the Proposed Development would be extended. The ExA asked the Applicant to expand on this in ExQ2 GEN2.4. In its response, the Applicant stated that this meant a two-year delay in the project programme (ie the timescales in Table 2.1 of the ES would move two years to the right). This is reiterated in the SoR submitted at D6 which states that it is anticipated that works would commence in 2026, well within the original five-year period.</p> <ul style="list-style-type: none"> a) A two-year delay to the anticipated timescales and a two-year extension to implement the DCO are quite different. Can you confirm whether the anticipated timescales have now shifted again? If not, justify why you are now seeking an extension to the time within which the DCO can be implemented. b) Is this change significantly different to the construction programme that has been assessed in each individual topic chapter of the ES? If commencement did not begin until seven years post-consent, has the worst-case construction programme been considered for each chapter?

Questions under EPR Rule 17 (R17QB): Thursday 22 June 2023

Responses due by Deadline 9 (Thursday 6 July 2023)

R17QB	Question to:	Question:
		<p>c) Provide an update of any impacts on the baselines, assessments and conclusions of the ES that an extension to the time within which to implement the DCO, rather than a two-year delay to the anticipated timescales, may have.</p> <p>d) Confirm if the parties which have entered into SoCGs are aware that this may result in a seven-year delay to the commencement of development rather than a two-year delay to the anticipated timescales.</p>
R17QB.3	EA NE NYC	<p>In its response to R17QA.21 [REP8-029] the Applicant explains it is now seeking that it has seven years within which to commence the authorised development and exercise its compulsory acquisition powers.</p> <p>Given that a seven-year commencement date is different to the Applicant's previous position that there would be a two-year delay to the anticipated timescales originally given in Table 2.1 of the ES [APP-038], would there be any implications to baselines, survey work undertaken and/ or conclusions drawn as a result of this extended commencement period?</p>
BIODIVERSITY AND HABITATS REGULATIONS ASSESSMENT		
R17QB.4	Applicant	Can the Applicant confirm whether an extension of time in which to implement the DCO has any implications for the HRA?
COMPULSORY ACQUISITION AND TEMPORARY POSSESSION		
R17QB.5	Applicant	Can the Applicant confirm if all APs have been consulted on the extension of time in which to exercise CA powers to seven years? If not, please explain why and what impact this may have with particular regard to whether the exercise of powers interacts with the rights protected by the Human Rights Act 1998.
R17QB.6	Applicant	Would seven years in which to exercise CA powers be necessary, proportionate and justifiable?
R17QB.7	Applicant	Provide an updated SoR which fully takes account of the extension of time in which to exercise CA powers.
DEVELOPMENT CONSENT ORDER		
R17QB.8	Applicant	The ExA notes that an updated EM has not been submitted into the Examination since D4. Please provide an updated EM incorporating any amendments made to the dDCO since D4.

Questions under EPR Rule 17 (R17QB): Thursday 22 June 2023

Responses due by Deadline 9 (Thursday 6 July 2023)

R17QB	Question to:	Question:
R17QB.9	Applicant EA NE NYC	<p>Applicant:</p> <p>a) Whilst the ExA notes the requirement set out in the Applicant’s Response to R17QA.21 [REP8-029] has been put forward without prejudice, please provide a detailed explanation of what this requirement would achieve and how it would work in practice.</p> <p>EA, NE and NYC:</p> <p>b) Please provide comment on the Applicant’s suggested requirement as set out in the Applicant’s response to R17AQ.21 [REP8-029] which would, amongst other things, prevent the authorised development commencing until development consent for the pipeline, the licence for the storage and the EP for Work No.1 was in place.</p>
DESIGN, LANDSCAPE AND VISUAL		
R17QB.10	ERYC	<p>The SoCG between the Applicant and ERYC submitted at D8 states in relation to the Design of Proposed Works OHL1, OHL2 and TCL1 that: <i>“Following the online meeting on 02 June 2023 between ERYC, WSP and the Applicant, ERYC will review the Second Change Application and provide any comments via relevant representations where necessary.”</i></p> <p>As no Relevant Representation on the Second Change Application was received from ERYC, ERYC is asked to detail any remaining concerns they have regarding the following:</p> <p>a) Cable route and depth; b) Soil management; c) Field drainage; d) Future rights; e) Works compound and access; and f) Impact of undergrounding telecommunication line.</p>
R17QB.11	NYC	<p>NYC is asked to comment on whether the updated lighting strategy [REP6-019] submitted by the Applicant at D6 addresses the concerns raised by NYC in its response to ExQ2 [PD-015] question DLV 2.4?</p>