



Department
of Energy &
Climate Change

Berwin Leighton Paisner LLP
Adelaide House
London Bridge
London EC4R 9HA

Department of Energy & Climate Change
3 Whitehall Place,
London SW1A 2AW
T: +44(0)300 068 5770
E: giles.scott@decc.gsi.gov.uk
www.decc.gov.uk

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Our ref: 12.04.09.04/181C

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Dear Sirs

**PLANNING ACT 2008
APPLICATION FOR THE PREESALL (UNDERGROUND GAS STORAGE
FACILITY) ORDER**

1. I am directed by the Secretary of State for Energy and Climate Change (the "Secretary of State") to advise you that consideration has been given to the report of the examining panel of three Commissioners, Paul Hudson, Libby Gawith and Emrys Parry ("the Examining Authority"), who conducted an examination into the application ("the Application") made on 30 November 2011 (as amended on 15 August 2012) by Halite Energy Group Limited ("Halite") for a development consent order ("the Order") under sections 114, 115, 120, 122, 123, 142 and 149A of the Planning Act 2008 ("the 2008 Act") for an Underground Gas Storage Facility at Preesall, Lancashire ("the Development"). Dr Ramues Gallois was appointed to assist the Examining Authority on geology and geotechnical matters during the examination of the Application.

2. The Application also seeks a direction for a deemed marine licence and powers of compulsory acquisition of land and rights. A separate parallel application (the "HSC Application") was submitted for a deemed Hazardous Substances Consent direction in November 2011 under section 12 of the Planning (Hazardous Substances) Act 1990 as amended by Schedule 2, paragraphs 42 and 45 of the 2008 Act and also examined by the Examining Authority.

3. The examination of the Application and HSC Application began on 24 April 2012 and was completed on 24 October 2012. The examination was conducted on the basis of written evidence submitted to the Examining Authority and discussed at hearings held on 24 July, 18 and 19 September, 9, 17 and 18 October 2012.

4. The Order, if made, would grant development consent for the construction and operation of the Development. The purpose of the Development is to inject gas into, store gas in, and extract gas from underground caverns with a total storage capacity of up to 900 Million cubic metres ("Mcm") and a working capacity of up to 600 Mcm, at standard temperature and pressure. The underground caverns are proposed to be constructed on the east side of the Wyre Estuary. Elements of the surface infrastructure are proposed on both the east and west sides of the Estuary.

5. Enclosed with this letter is a copy of the Examining Authority's report. Its findings and conclusions on the Order are set out in sections 5 and 6 of the report. Its consideration of compulsory acquisition matters and the HSC Application are at sections 8 and 9 respectively. The Examining Authority's overall conclusions and recommendations are set out at section 10.

Summary of the Examining Authority's recommendations

6. The Examining Authority recommended that, subject to receipt of an Open Space Land certificate under section 131(3)(b) of the 2008 Act, development consent for the Development should be granted and an Order made in the form at Appendix D of the Report. The Examining Authority also recommended that deemed consent in respect of the HSC Application should be granted under section 12(2B) of the Planning (Hazardous Substances) Act 1990 as amended by Schedule 2, paragraph 45 of the 2008 Act. The Secretary of State notes that the Open Space Land certificate referred to in the recommendation was subsequently given by the Secretary of State for Communities and Local Government on 4 February 2013.

Summary of Secretary of State's decision

7. The Secretary of State has carefully considered the Examining Authority's report, but has decided under section 114 of the 2008 Act to refuse the Application and HSC Application. This letter is the statement of reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and regulation 23(2) (d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

Secretary of State's consideration

8. The Secretary of State's consideration of the Examining Authority's report is set out in the following paragraphs. All paragraph references, unless otherwise stated, are to the Examining Authority's report ("ER").

The case for making the Development Consent Order

9. The Secretary of State considers that, if the proposed Development were shown to be certainly capable of delivering a gas storage facility of the kind and scale which Halite hopes, it would be consistent with energy Overarching National Policy Statement EN-1 (“EN-1”) to grant it development consent (in the absence of any adverse impacts which made it unacceptable in planning terms), given the need for this type of Development and the contribution such projects can make to ensuring the UK’s security of supply (Parts 3.8.8 -3.8.13 of EN-1 refers).

10. In particular, as is explained in Part 3.8.9 of EN-1, as United Kingdom Continental Shelf gas production declines, a range of infrastructure is likely to be required including increased gas storage capacity. Gaseous gas in underground gas storage facilities or Liquid Natural Gas in tanks is required *“to provide close-to-market ‘swing supply’ to help meet peak demand. Demand varies considerably throughout the day and it is necessary for some sources to be close to market so that gas is quickly available. Gas supply infrastructure will also need to keep pace with any changes in the regional demand for gas across the UK – which may change due to changes in location of population and/or commercial or industrial demand.”* As also explained in Part 3.8.12 of EN-1, *“Close-to market capacity has advantages complementary to import capacity”* and *“Medium range storage” typically gas stored in caverns in salt strata deep underground has faster withdrawal and refill rates helping gas supply companies to respond to changing market conditions from day to day (“diurnal”) and week to week.”*

11. In respect of the Examining Authority’s consideration of Socio-Economic Effects (ER 6.153-6.158), the Secretary notes that the project would: generate 200 to 300 full-time jobs during construction and 35 to 40 full-time jobs during operation; where possible, opportunities would be provided for apprenticeships, graduate placements and young people not in education or training; a Corporate Responsibility Fund would be established; and an observation platform on the sea wall at Rosswill would be constructed for those using the coastal path at that location (ER 6.154). Although noting under the Examining Authority’s consideration of Landscape, Visual Impacts and Design (ER 6.1-6.33) that the likely visual impact of the Gas Compressor Compound would be *“an overall serious disbenefit of the proposal”* (ER 6.330), the Secretary of State considers if the proposed Development were certainly capable of delivering an underground gas storage facility capable of the kind and scale which Halite hopes, the landscape, visual impacts and design disbenefits would not outweigh the presumption of need (ER 7.14).

12. The Secretary of State also agrees with the Examining Authority’s findings and conclusions on other matters in section 6 of the ER covered under the following headings: Flooding and Surface Water Drainage; Pipelines; Brine Discharges to the Irish Sea; Noise; Habitats Regulation Assessment and Ecology; Disposal of Insoluble Wastes in Brine Well 123; Access; Rights of Way; Built Heritage and Archaeology.

The case against granting development consent

13. In respect of the Examining Authority's findings and conclusions on the assessment of geological data (in particular ER 5.8-5.80) it is clear to the Secretary of State that there is significant uncertainty surrounding the two proposed potential cavern development areas, given the lack of hard geological data to demonstrate their suitability for underground gas storage.

14. The geological information provided in support of the Application is recognised by the Examining Authority to be insufficient for the purposes of National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4) stating at ER 5.65, that *"we consider that the geological analysis submitted as part of the application falls short of that required by NPS EN-4 to prove beyond reasonable doubt that the geological structure, thickness and faulting of the halite are suitable for the construction of caverns of the particular sizes and shapes within the specified areas and in order to support the volume of gas storage proposed for the application."*

15. The Examining Authority provides some context to the lack of geological information regarding the proposed cavern areas, and the need for further geological surveys at ER 5.62 stating *"Where detailed geological information is available, the Applicant has decided that the halite is too faulted or too close to existing workings to be suitable for safe construction and operation of UGS [Underground Gas Storage]. However, by the very nature of defining the proposed cavern development areas by avoiding known hazards, the polygons have been located in areas in which there is little geological data. The assumption that the polygon areas are therefore suitable for the cavern construction is based on extrapolation of data in the 3D model, and that the faulting does not extend into these areas. This may be entirely plausible, but in our view will only be confirmed beyond reasonable doubt as further geological surveys are carried out."* This is further echoed at ER 5.9: *"The two polygon areas are defined by the Applicant as areas that avoid known hazard zone of faults, boreholes and wet rock head and the mining hazards of solution brine wells and dry mining. This is the essential conundrum: these two areas do indeed avoid all known constraints, but are also areas where there is little hard geological data."*

16. The Secretary of State notes the Examining Authority's view in ER 5.64 that *"The availability of geological data is nonetheless an improvement on that presented in the last planning application in 2009..."*. However, the Examining Authority are also of the view in ER 5.65 that *"the relatively small amount of additional geological data"* consists largely of reinterpretation of geological information and, as indicated above, the geological analysis submitted as part of the application falls short of that required by NPS EN-4. Although the Secretary of State agrees the current application must be considered on its own merits, he also notes the Examining Authority's view in ER 5.66 that *"the technical assessor for the 2007 Public Inquiry recommended that at least two more seismic lines be undertaken and drilling and geophysical logging of boreholes on these lines to prove ground truth. In view of this and the subsequent failed planning application in January 2010, we are surprised that no seismic surveys were undertaken across the polygon areas to support this application..."*.

17. The Examining Authority's overall conclusion on the case for Development and recommendation that the Order be granted is therefore based on the proviso, that Halite *"can demonstrate that the suitability of the salt in the two polygon areas is as high as it is assumed for the purposes of the application"* (ER 7.27) and that development consent is made subject to *"a major proviso concerning the procurement of more detailed geological data to confirm the ability of the two polygons to store substantial volumes of gas"* (ER 7.28).

18. The Examining Authority therefore sought to address the issue of geological uncertainty of the proposed storage areas by recommending inclusion in the draft Order of a requirement (on which commencement of the Development would be conditional) for Halite to carry out more comprehensive geological surveys post-approval (see ER 9.36 and draft Requirement 6(1) and (2) of Schedule 9 to the draft Order at Appendix D to the ER). The requirement would also make commencement of the Development conditional on the working capacity being shown by the assessment to be greater than *"300 million standard cubic metres at the standard temperature and pressure"* (which is half the working capacity envisaged by Halite). The Secretary of State notes that the Examining Authority considers that including such a condition *"would meet the detailed assessment required under NPS EN-4 to confirm that the sites selected (i.e. the two polygons) are suitable, which in our view means they have sufficient thickness of un-faulted suitable halite to contain the proposed volumes of gas to be stored."* (ER 9.24).

19. The Secretary of State does not however consider this approach to sufficiently satisfy the policy to be applied under EN-4 on which he places considerable weight. The requirement in Part 2.8.9 of EN-4 provides for example that *"Applicants should undertake and supply to the IPC [i.e. the Infrastructure Planning Commission; now the Planning Inspectorate acting on behalf of the Secretary of State], a detailed geological assessment to demonstrate the suitability of the geology at the site for the type of underground gas storage proposed."* Part 2.8.9 of EN-4 also states: *"When considering storage in a salt cavity, the geological assessment should include depth below surface, salt thickness, salt purity and presence of shale bands which could affect cavern design. In addition, a study of the geological integrity of the overlying strata and potential for collapse, taking account of the proposed minimum and maximum working pressures, will need to be undertaken. The assessment should include the construction, operational and decommissioning phases and should cover the long term integrity of the affected strata after decommissioning or closure of the storage facility. The IPC will consider the geological assessment alongside the environmental assessment if the former does not form part of the [Environmental Statement]."*

20. The Secretary of State is satisfied that, as stated in section 4.11 of NPS EN-1, an underground gas storage site would be subject to stringent safety standards covering the life cycle of a facility from design and build through to decommissioning under the Control of Major Accident Hazards (COMAH) Regulations 1999 and enforced by the Health and Safety Executive and Environment Agency jointly. However, in the absence of a pre-application geological assessment as required by NPS EN-4, the suitability of the proposed underground gas storage project cannot be properly considered by the SoS – and may have also gone some way to contributing to local fears and opposition to the project.

Representations received since the close of the Examining Authority's Examination

21. Opposing representations were received from Paul Maynard MP and a member of the public following the closure of the Examination. The Secretary of State does not consider the representations, which highlight geology, brine discharge, ecology, construction traffic, and landscape concerns, raise new issues to those already considered by the Examining Authority during its Examination of the Development. Halite have also written to share a report titled "*Gas Storage February 2013*" by Dieter Helm. The Secretary of State is also aware that a further report by Chris Le Fevre of the Oxford Institute for Energy Studies titled "*Gas Storage in Great Britain NG 72 January 2013*" has been produced since the close of the Examination. He notes both reports support the general need case for additional gas storage as set out in NPS EN-1, but in his view do not give rise to an alternative conclusion or decision on the Development.

Secretary of State's conclusions and decision

22. In reaching his decision, the Secretary of State has considered the strategic need case for the Development and other potential benefits and impacts of the Development as set out in the Examining Authority's report.

23. In his view, there is a clear gap in geological data contained in the application which means that Halite have failed to demonstrate the suitability of the geology at the site for salt cavern storage. The Secretary of State considers that the absence of such an essential element of the project bears heavily on his decision.

24. Whilst the Secretary of State notes that the Examining Authority's approach of including a requirement for further geological data would ensure that the suitability or otherwise of the proposed storage areas would be demonstrated prior to construction of the Development, he is mindful that, even if he were to make the Order on that basis, there is a significant possibility that either no development would be possible or the project as ultimately constructed could have a much smaller storage working capacity than has been envisaged in the Application before the Secretary of State.

25. It is not clear why Halite chose not to produce more detailed geological data for the site of the proposal but the Secretary of State considers that, in line with NPS EN-4, such information should be a prerequisite of an application for a gas storage facility made under the Planning Act 2008 and that failure to provide such information weighs significantly against the needs case for the project. The Secretary of State has no convincing evidence in front of him as to the size of the project that might ultimately be constructed and hence is unable with any degree of certainty to consider the potential benefits, especially in respect of the need for infrastructure of this type, against the more clearly defined potential impacts. Although the Examining Authority has attempted to redress this uncertainty by setting a minimum storage capacity which the project must meet before development would be allowed, they themselves admit that, despite their best efforts to offer a suitable minimum capacity figure, the proposed figure of 300 Mcm "*is to some extent arbitrary*" (ER 9.30). In the circumstances, the Secretary of State does not consider that he can reasonably rely on this assessment as a basis for decision-making.

26. In conclusion, the Secretary of State is not persuaded that Halite has complied with the requirements of EN-4 as regards provision of geological survey data and considers that it would not be appropriate in this particular case to grant consent conditional on the provision of essential further evidence as to the suitability of the geology at the site after consent has been granted.

27. He is unable to conclude that Halite has demonstrated that the geology of the site is suitable for this type of underground gas storage and has decided to refuse the Application and HSC Application accordingly.

Challenge to decision

28. The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached at the Annex to this letter.

Publicity for decision

29. The Secretary of State's decision on this application is being publicised as required by section 116 of the 2008 Act and regulation 23 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Giles Scott', written in a cursive style.

Giles Scott
Head of National Infrastructure Consents

ANNEX

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the former Infrastructure Planning Commission or the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of 6 weeks from the date on which the statement of reasons (decision letter) is published. The decision documents are being published on the date of this letter on the Planning Inspectorate website at the following address:
<http://infrastructure.planningportal.gov.uk/projects/North%20West/Preesall-Saltfield-Underground-Gas-Storage/>

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655)