

# ADDLESHAW GODDARD

Our reference ELSEM/43283-1578

25 February 2015

The Yorkshire and Humber CCS Pipeline Team  
3/17 Eagle Wing  
The Planning Expectorate  
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By post and email: [yorkshumberccspipeline@infrastructure.gsi.gov.uk](mailto:yorkshumberccspipeline@infrastructure.gsi.gov.uk)

Dear Sir/Madam

**Yorkshire and Humber (CCS Cross Country Pipeline) Development Consent Order (Order)  
Response by Network Rail Infrastructure Limited to submissions by National Grid Carbon  
Limited (Applicant) made on 17 February 2015**

- 1 We are instructed by Network Rail Infrastructure Limited (**Network Rail**) in relation to their representations to the proposed Order. This letter is a statement in response to documents submitted on behalf of the Applicant on 17 February 2015. In particular we make reference to document 3.1, the Draft Development Consent Order (Rev C), and document 12.3, Position in respect of statutory undertakers and others.
- 2 As stated in our letter dated 27 January 2015, Network Rail wishes its standard protective provisions to be included in the Order and requested that the Applicant include those provisions in the next revision of the draft Order. The Applicant had indicated its willingness to do so and it was understood that the protective provisions were to be included. In an e-mail dated 16 January 2015 from Sheridan Treger, of the Applicant's solicitors, to Marnix Elsenaar of this firm, Mr Treger stated on behalf of the Applicant:

*National Grid is satisfied with the protective provisions which Natalie Fernandes of Network Rail provided on 18 December, subject to my very minor amendments in the attached comparison*
- 3 In an email dated 23 January 2015, Mr Treger confirmed that he would confirm to the ExA that "National Grid accepts the principle of including protective provisions in the DCO"
- 4 We note that protective provisions for Network Rail are not contained within document 3.1, Draft Development Consent Order (Rev C)
- 5 Network Rail is currently negotiating an agreement with the Applicant which provides for the voluntary acquisition of rights to allow the Applicant to carry out the development in so far as it affects railway property and Network Rail confirms that it is willing to enter into such an

10-5152427-1/43283-1578

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agreement with the Applicant. The draft agreement includes protective provisions; however, Network Rail requests that such protective provisions are also included in the Order.

- 6 The Applicant has stated within document 12.3;

*to avoid duplication and the potential for inconsistency, it is proposed that the protective provisions will, if agreed between the parties, be included within the preferred contractual documentation which itself contains detailed asset protection provision*

The position set out by the Applicant in this document is that protective provisions for the benefit of Network Rail will only be included within the contractual documentation between the Applicant and Network Rail. Network Rail strongly objects to this approach. It also contradicts the statements made by the Applicant's solicitors to us on which Network Rail relied and which informed Network Rail's decision that its attendance at the DCO hearing on 29 January 2015 was not required.

- 7 The inclusion of protective provisions for Network' Rail's benefit in statutory orders has a long history and Network Rail is surprised that the Applicant, despite statements to the contrary, has reneged from its commitment to ask that protective provisions for Network Rail are included in the Order. We also note that protective provisions are included in the draft Order, at Schedule 11, for other statutory undertakers.

- 8 We ask the Applicant, by copy of this letter to confirm to the ExA that it will ask the ExA to include protective provisions in the Order for the benefit of Network Rail. If it has not done so within 7 days of the date of this letter, we ask the ExA to enable Network Rail to appear at a specially convened hearing to make representations orally about the inclusion of protective provisions for its benefit in the Order.

Yours faithfully



**Addleshaw Goddard LLP**

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Copy to Giles Pink/Sheridan Treger - Berwin Leighton Paisner (National Grid)  
Natalie Fernandes - Network Rail