

## **Application by National Grid Gas Carbon Limited for an Order Granting Development Consent for the Yorkshire & Humber CCS Cross Country Pipeline**

### **Agendas for Issue-specific and Compulsory Acquisition hearings**

This document sets out agendas for issue-specific and compulsory acquisition hearings.

#### **Participation in hearings**

All interested parties are invited to attend the hearings.

Each interested party is entitled to make oral representations at the hearings. However, this is subject to the Examining Authority's power to control the hearings. The attendees listed under specific topics are invited because the Examining Authority considers that the material they have submitted raises issues that the Examining Authority would like to explore at the hearings.

#### **Conduct of the hearings**

Guidance under the Planning Act 2008 and the Examination Procedure Rules provide that at hearings it is the Examining Authority that will probe, test and assess the evidence through direct questioning of persons making oral representations. Questioning at the hearings will therefore be led by the Examining Authority.

Cross examination of the person giving evidence by another person will only be permitted if the Examining Authority decides it is necessary to ensure representations are adequately tested or that a person has had a fair chance to put their case. For most matters the Examining Authority will conduct the hearing in a round table format.

The applicant, statutory nature conservation bodies, local authorities and other bodies seeking to present and rely on expert evidence are advised to ensure that their appropriate expert advisors are present on each day of the hearings and available to give evidence and to be questioned. All relevant experts should be available to be brought to the hearings at short notice, to ensure efficient management of the process.

The time allocated for each of the issue-specific hearings is estimated, based on the matters identified for consideration. The Examining Authority may at any time shorten or lengthen a session, conclude a hearing early, or otherwise adjust the timings as required for each issue to be examined to their satisfaction.

**Please Note:** Attendees for all hearings are advised to enter Bishop Burton College via the village entrance and park in car park 5.

### **Issue-specific hearing on the draft Development Consent Order (DCO)**

**Date of hearing:** Thursday 29 January 2015  
**Time of hearing:** 10:00am  
**Venue:** Bishop Burton College, York Road, Bishop Burton, Beverley, HU17 8QG

*The hearing will concentrate on the specific issue of the draft Development Consent Order (DCO). This is the order which the Secretary of State would make if he wished to consent the application. Discussion at this hearing is 'without prejudice'; this means that parties may make contributions to improve the quality of the draft DCO without invalidation their own positions of support or opposition to the scheme as a whole. Irrespective of its recommendation, the ExA is required to present a draft DCO to the Secretary of State. Discussion about the specifics of the draft DCO does not indicate that the ExA had made up its mind about the application. The hearing into the draft DCO is likely to be of a technical nature and will be based on the specific wording of the order.*

#### **Invited attendees:**

- Applicant
- East Riding of Yorkshire Council
- North Yorkshire County Council
- Selby District Council
- The Crown Estate
- The Marine Management Organisation
- Environment Agency
- Selby Area Internal Drainage Board
- Beverley and North Holderness Internal Drainage Board

#### **Agenda Items:**

**Please note that the numbers in brackets at the end of a number of the agenda items relate to the question number asked by the ExA in his first written questions for ease of reference.**

1. **Article 5** - Although "maintain" is broadly defined, the power is not expressly limited to the ES. Article 5 limits the power to the authorised development in Schedule 1 save in immaterial respects and it seems that the deviations that might be permitted as immaterial could potentially lead to works outside those assessed by the ES if the article is not limited. Has the applicant considered making alterations to the definition to clarify this? (12.4)

2. **Article 6(b)** - The applicant has explained why specific locations for the work cannot be identified at this stage, but has failed to explain what construction works actually are and why there is no need for a definition in the DCO. Is the applicant able to remedy this? (12.5)

3. **Article 13(1)** - The applicant should justify the power to stop up any street, and explain why it is necessary in their particular case. The model provisions no longer have any statutory authority and in many circumstances they are no longer up to date or relevant. An applicant should be able to justify the need for the inclusion of each specific provision within its DCO without relying on it being a model provision. Nevertheless, are the street authorities happy with the inclusion of the provision? (12.7)

4. **Article 14(1)** - See 3 above. Notwithstanding the provisions in other development consent orders that have been made, each article needs to be justified in the context of the specific DCO. Is the applicant able to justify the article in this case? (12.8)

5. **Article 23(4)** - A DCO cannot authorise the compulsory acquisition of any interests in Crown Land that are owned by the Crown. Any Crown interests held otherwise than by the Crown can only be acquired with the consent of the Crown Authority. Can the applicant confirm that all the Crown interests owned by the Crown in the Book of Reference (BoR) have been excluded from compulsory Acquisition? Can the applicant confirm whether any compulsory acquisition is sought of Crown interests held other than by the Crown? If so, does the applicant have the necessary consent for this? Is The Crown Estate (TCE) satisfied with the adequacy of protection afforded to its interests; and can TCE specifically confirm this? Can TCE confirm that they consent to the inclusions of article 23(4) – (6) and proposed article 24(6)-(7) in the DCO? (12.13; 12.14)

6. **Article 37** - Article 23 relates to the compulsory acquisition of land and 23(2) provides that once a compulsory acquisition notice is served in relation to that land all rights are discharged so far as their exercise is inconsistent with the exercise of the order. Article 37 extinguishes all private rights of way over land that is subject to compulsory acquisition. Can the applicant provide justification for article 37 in the light of article 23?

7. **Article 40 and Schedule 8** - What rights are contained in the lease to the Council on plot 1280 which is owned by the Crown that the applicant seeks to acquire which enable the project to be constructed. (12.25)

8. **Article 45 “any other plans...”** - The phrase may well have historically been standard wording but as can be seen from recent DCO’s for which permission has been granted, this is no longer considered acceptable by DECC or DFT. This is reinforced in PINS Advice Note 15 on DCO drafting. The applicant must ensure that all plans on which they seek to rely are listed in this article and is requested to remove the general catch all. (12.28)

9. **Article 53 and Schedule 14** - Are the local planning authorities satisfied with the provisions of the bespoke procedures, in particular with the time limits and fees proposed? (12.29)

10. **Schedule 1 Further Associated Development** - The DCO should not permit any works that are outside the scope of those assessed within the ES. Therefore, is the applicant able to consider an amendment to Schedule 1 so that the restriction is applied to all further associated development in the paragraph not only to those works in (e), (g), (h) and (o)? (12.30)

11. **Schedule 3 Requirements “commence”** - To consider whether any pre-commencement works retained in the DCO would give rise to any significant environmental effects prior to the discharge of requirements. (12.32)

12. **Requirement 3** Use of the word “... *general*...” - The applicant is considering reviewing the imprecise wording for this Requirement; a draft is awaited. (12.34)

13. **Schedule 11 Protective Provisions** - The applicant supplied a table in response to ExA question 12.45 which summarised the position in respect of the negotiations with statutory undertakers of asset protection agreements, protective provisions or voluntary agreements. The ExA would find it extremely useful to have an update of that table. (12.45)

14. **Schedule 12 Miscellaneous Controls** - How are local byelaws to be treated in the DCO? Are the EA and the IDBs satisfied with the disapplication or amendments of local byelaws? Are the IDBs satisfied with the amendments to schedule 14?(12.47)

15. In the DML, there is now a definition of the ES which is different to that in Article 2 of the DCO. Why is it necessary to have 2 separate definitions? This could be very confusing when there is only one ES. It seems that in the DML the applicant wishes the ES to mean the ES as certified plus any other environmental information. Perhaps it would be more appropriate to call this something else?

16. The DML also appears to introduce the concept of staged works. Could the applicant explain why this is necessary? Is the MMO content with this?

17. The DCO does not appear to include an article imposing a time limit (eg 5 years) for acquiring the land compulsorily. Does the applicant consider one is necessary and, if not, what is the justification?

## **Issue-specific hearing on Construction Operations (including water resources, drainage and reinstatement)**

**Date of hearing:** Tuesday 3 February 2015  
**Time of hearing:** 10:00am  
**Venue:** Bishop Burton College, York Road, Bishop Burton, Beverley, HU17 8QG

### **Invited attendees:**

- Applicant
- East Riding of Yorkshire Council
- North Yorkshire County Council
- Selby District Council
- National Farmers Union
- Environment Agency
- Glendon Estate
- Yorkshire Water
- Selby Area Internal Drainage Board
- Beverley and North Holderness Internal Drainage Board

### **Agenda Items:**

#### **Construction details**

1. At what depth would the pipeline cross beneath the River Ouse and should this be secured in the DCO? Would the underlying Sherwood Sandstone be used as a route? *(1.1)(5.15)*

2. Would Area B of the Multi-junction be limited to a height of 4m? How would the Multi-junction be developed in the short term and the longer term to serve future projects? Would additional surface development be needed in the longer term and would further authorisation be required. *(1.14)*

3. Where and how is the "drainage strategy" (Requirement 16) be defined? Should the drainage plans form part of the strategy as well as Document 7.7? How would field drainage operations be completed which fall outside the DCO limits? In other words, what power would the applicant have to undertake these works, with particular reference to those on Sheet Nos. 1, 8, 10, 11, 16 - 20, 24 and 25? *(1.16)*

4. The Code of Construction Practice (CoCP)(Document 7.5) is fundamental to the DCO and is secured in Requirement 14. Local planning authorities, the Environment Agency and Natural England accept that it is an appropriate document for managing the construction practices. No interested party challenges its appropriateness. Nevertheless, there are issues about details.

i) How would any winterisation measures be secured? Are they included in the CoCP? If not, should they be included? *(1.7)*

ii) NE suggests measures for inclusion in the CoCP to protect flows in West Beck (River Hull). Should they be included? *(1.18)*

iii) EA suggests amendments to the CoCP to control operations in the event of slippage, to cover contractor management and to minimise the total length of bare open ground. Does the applicant agree? (5.4)

iv) Should the definition of "Construction work" in Requirement 14 encompass pre construction surveys and plan preparation? (1.18)

v) How can the restoration plans for the Temporary Construction Compounds which located are on best and most versatile (BMV) land be secured in the CoCP? (7.2)

vi) Should the CoCP include a reference to the soil storage and re-instatement advice from Defra "Good for Handling Soil" as requested by the NFU? How would a voluntary agreement between the applicant and a landowner for making good any damage to land work in practice and how could it be secured in the CoCP? (7.6)

vii) Would a "pre-entry record of condition" survey include land drainage and should this be specified in the CoCP? (7.8)

viii) Has adequate provision been made in the CoCP for an Agricultural Liaison Officer and what would be his/her duties? (7.9)

ix) What would be the frequency of monitoring restored land after re-instatement works have been completed and how can this be secured in the CoCP? At what point would any remedial work be considered necessary and who would make that judgement? (7.11)

5. Does the EA consider that the Construction Water Management Plan and the Pollution Prevention and Control Plan sought in Requirement 9, and for which provision is made in Sections 9.2 and 9.3 of the CoCP, should be agreed with them as suggested by the ERYC? Should there be a Silt Management Plan and a Spillage Emergency Response Plan as suggested by the EA? (3.28)

6. The applicant states that chemicals, diesel and other substances will not be stored at the pumping station during its operational phase and only transported to the site as required. How can this be ensured after the construction phase of the project has ceased and the operational phase has begun? (3.29)

7. Which pipeline installation method would be used offshore and would the monitoring of sediment trapping and downdrift sediment starvation be required for which ever technique is used? Should the DML be amended as suggested by the MMO? (3.30)

### **Flood risk, climate change, water resource**

8. At open cut river crossings, the Environmental Statement states at 6.3.2 that bank stabilisation will be discussed with the EA, IDB, and Local Lead Flood Authority (LLFA). Are those bodies content that such works will be dealt with under the Water Resources Act 1991 and the Yorkshire Land Drainage Byelaws for main river or the IDB/LLFA for ordinary watercourses under the Land

Drainage Act 1991 and Land Drainage Byelaws of the relevant IDB despite the disapplication of IDB byelaws? (1.12)

9. Please could the ExA be informed of the latest position from the applicant and EA and NE about water abstraction for hydrostatic testing of the pipeline in both the southern and northern sections with particular reference to the appraisal of options provided by the applicant? (5.6)

10. Please could the EA confirm:

i) it is content with the applicant's proposed amendment to Requirement 11 dealing with drainage issues at the AGIs. (5.7)

ii) it is content with the applicant's proposed amendments to Requirements 5, 6 and 11 dealing with the specification and mitigation measures within the approved Flood Risk Assessment? (5.8)

11. Are the Selby IDB, ERYC and the NFU content that the expressions of intent in the CoCP (para) 9.3.18 would safeguard land drainage interests in agricultural land within and adjacent to the application site? If not, how should the CoCP be amended? (5.11)

12. Has Yorkshire Water secured the appropriate Protective Provision in the DCO to safeguard its equipment from damage or interference associated with the construction and operation of the project? If not, what should be included and how should it be phrased? (5.12)

13. Additional environmental enhancement measures are being proposed by the applicant in the Planning Statement (paras 5.3.25 – 5.3.30). Have these additional enhancements been secured? If not, how should they be secured so they can be delivered?

## **Noise**

14. What should be the pipeline construction noise threshold on Sundays and Bank Holidays at noise sensitive receptors (NSRs) given the difference in view between the applicant (65dB LA<sub>eqT</sub>) and Selby DC (55dB LA<sub>eqT</sub>)? Would on site mitigation enable the lower noise threshold to be met? If so, how could it be secured? Whether the amendments proposed by the applicant to Requirement 15 at Deadline 2 are reasonable? (8.3)

15. How would noise levels be monitored along the pipeline during construction, at the AGIs and at Rose Cottage, near the Barmston Pumping Station and by whom? (8.8, 8.9)

16. Would vehicles movements to TCA2 and the Camblesforth Multi-junction site cause significant vibration to the properties on Wade House Lane south of the A645? If so, how can this be minimised? What would be the effects of noise from the construction operations on those properties and how could this be mitigated should it be deemed unacceptable? (8.3)

17. Under Requirements 24 and 25, what would be the frequency and duration of venting operations at the PIG trap site and the Camblesforth Multi-junction

and the noise levels which are predicted? How many NSRs would be affected by the noise? Where are the nearest points of public access? What are the noise limits which are proposed at the NSRs and at the nearest points of public exposure? How will the applicant forewarn NSRs and users of public access points of venting operations and how can such arrangements be secured by the DCO?

18. In addition to the Barmston Pumping Station, are there other locations along the pipeline where, during construction, generators would be working to pump water or generate electricity? If so, what would be the frequency and duration and mitigation for any nearby NSRs? (8.5)

19. Are the applicant and local Councils satisfied that the revised BS4142: 2014 "Methods for rating and assessing industrial and commercial sound" does not materially alter any of the assessment methodologies, input/output data or conclusions of the assessment in relation to operational noise of the Barmston Pumping Station? (8.6)

### **Traffic, Travel and Transportation**

20. In para 6.4.3 of the LIR, ERYC seek amendments to Requirement 18 to ensure that the highway is appropriately maintained and that any necessary improvement and repairs are appropriately made. Does the applicant agree with those amendments? If not, should there be provision by other means?

21. Should the funding of repairs and improvements be included as part of Requirement 18, or is such funding available under alternative legislation?

22. Whether the proposed access arrangements for construction traffic to the Barmston Pumping Station are acceptable?

### **Other matters**

22. The NFU seek confirmation that the terms which would apply under any Agri-Environment Schemes or Single Farm Payment Schemes (CoCP 14.2.5) would still occur under the new Basic Payment Scheme which replaces the Single Farm Payment. Please could the applicant comment? (7.5)

23. In their Local Impact Report, NYCC & Selby DC refer to the value of the medieval fishponds adjacent to the scheduled monument at Drax Priory and seek further archaeological investigation into them. What is the location of the fishponds in relation to the pipeline? Does the applicant accept that further investigation is required and, if so, how should this be achieved?



## **Issue-specific hearing on Minerals**

**Date of hearing:** Wednesday 4 February 2015  
**Time of hearing:** 10:00am  
**Venue:** Bishop Burton College, York Road, Bishop Burton,  
Beverley, HU17 8QG

### **Invited attendees:**

- Applicant
- Glendon Estate
- East Riding of Yorkshire Council
- North Yorkshire County Council

### **Agenda Items:**

1. Whether any deposit of minerals of local or national importance underlie the pipeline route?
2. Whether any of those minerals would be sterilised by the pipeline and to what degree?
3. What are the development plan policies for minerals safeguarding?
4. What alternative deposits of those minerals would be available?
5. Whether the pipeline route would impinge on any areas permitted for mineral extraction?
6. Whether, if minerals would be sterilized by the project, any prior extraction would be possible?

## Issue specific hearing on Biodiversity

**Date of hearing:** Wednesday 4 February 2015  
**Time of hearing:** 2.00pm  
**Venue:** Bishop Burton College, York Road, Bishop Burton, Beverley, HU17 8QG

### Invited attendees:

- Applicant
- Natural England
- Environment Agency
- East Riding of Yorkshire Council
- North Yorkshire County Council
- Selby District Council

### Agenda Items:

1. The applicant has stated that the small operational wind turbines will be deleted from the Above Ground Installation (AGIs). As part of the confirmation of this intention, has the applicant also deleted them from all parameter plans and the DCO? (3.2)

2. Is Natural England (NE) satisfied that there would be no cumulative effects between the proposed scheme and those at the White Rose CCS and the Don Valley Projects? (3.4)

3. Requirement 14 of the DCO requires that construction works must be carried out in accordance with The Code of Construction Practice (CoCP). Please could the applicant confirm that, following the submissions at Deadline 2 the CoCP has been amended to resolve issues about the mitigation and monitoring of barn owl nesting sites, which may include noise attenuation measures where appropriate. (3.10; 3/11; 3.19)

4. In order to protect habitats within the River Hull Headwaters SSSI which may be sensitive to dewatering, measures were sought by NE to restrict dewatering at the River Hull/Driffield Canal crossing when river flows would be low, with the Snakeholm gauging station on West Beck being the appropriate measuring point. At Deadline 1, rather than adding an additional requirement to the DCO, the applicant proposed additions to the CoCP. Are the EA and NE content with the operations proposed for dewatering and whether they would be satisfactorily monitored and controlled? Has a supplementary note been produced by the applicant as intended. (3.13)

5. How would the Barmston pumping station and the Multi-junction be managed to ensure that ecological receptors do not recolonize the areas during pauses in construction or after completion? Could the applicant explain the duration of the CoCP and when it ceases to apply? In other words, when is "construction" complete and when does "operation" take effect? Does this result in an inability to enforce the CoCP after the period of construction is over? How can the mitigation be managed after construction? (3.16)

6. The EA, the Yorkshire Wildlife Trust and Selby and NYCC seek the implementation of environmental enhancements which are being proposed. Would they be secured by Requirement, legal agreement or a combination of both and are the above interested persons satisfied with the approach taken by the applicant? (3.17)

7. In their representations to date, NE has stated they do not agree sufficient information has been provided by the applicant to rule out a likely significant effect on a number of European sites when considering the project (the onshore scheme) along with the offshore scheme which is to be consented separately. Has NE's view changed as a result of submissions made by the applicant at Deadline II (specifically Document 11.3 Offshore Scheme Technical Evidence Report)? Please can NE and the applicant agree where there would be, or would not be, a likely significant effect (LSE) on any European site, and which, if any, qualifying features of the site(s) are disputed between NE and the applicant with reference to this project in combination with other plans or projects? (3.24) If NE cannot agree to no LSE, is there sufficient information to enable the Secretary of State to undertake an appropriate assessment? If further information is required, what would be the applicant's time frame for providing it? At the hearing, the ExA will seek to consider each European site in turn and confirm agreement/disagreement of no LSE, alone and in-combination. If there is disagreement, the ExA will wish to know which feature is disputed.

8. The applicant has submitted additional data on the effects of the offshore project on sea bird activity of species from the SPA and pSPA based on Flamborough Head. NE has commented that young guillemots and razorbills should be included in the assessment. Has this been done by the applicant and are there outstanding issues about the assessment of the effect of the project on the bird population at the SPA and the pSPA? (3.25)

9. Regulation 61 of The Conservation of Species and Habitats Regulations 2010 (as amended) (the Habitats Regulations) requires the competent authority to consider whether the proposed development is directly connected with, or necessary to, the management of the European Sites screened into the HRA (Regulation 61(1)(b)). Consideration is given to this issue in paragraph 1.4.1 of the NSER (Document 5.4). For clarity, can the applicant please confirm whether the proposed development is directly connected with, or necessary to, the management of the European Sites identified?

10. Could NE confirm that permanent noise from the Barmston Pumping Station would not have a significant adverse effect on breeding, feeding or foraging birds from any protected sites or on any other sensitive ecological receptor? (3.27)

## **Compulsory Acquisition Hearing**

**Date of hearing:** Thursday 5 February 2015  
**Time of hearing:** 10:00am  
**Venue:** Bishop Burton College, York Road, Bishop Burton,  
Beverley, HU17 8QG

*The purpose of a compulsory acquisition hearing is for discussion about the merits of the case for acquisition of individual plots. The hearing will be led by the ExA, with involvement from affected person (landowners, tenants, etc) and the applicant. Parties should expect to be questioned by the ExA and justify their statements.*

### **Agenda Items:**

#### **1. The general principles applicable to the compulsory acquisition of land and rights over land.**

1.1 Whether the purposes for which the compulsory acquisition powers are sought comply with s122(2) of the Planning Act 2008?

1.2 The DCLG guidance on associated development and compulsory acquisition for the application.

1.3 The justification for seeking compulsory acquisition powers in respect of additional land required to accommodate the Camblesforth Multi-junction as opposed to a single emitter project.

1.4 What consideration has been given to all reasonable alternatives to compulsory acquisition?

1.5 How can the Secretary of State be satisfied that the land to be acquired is no more than is reasonably necessary for the purposes of the development?

1.6 Having regard to s122(3) of the Planning Act 2008 is there a compelling case in the public interest for the land to be acquired compulsorily?

#### **2. Whether adequate funding is likely to be available?**

2.1 The financial status of National Grid Carbon.

2.2 The funding for the White Rose CCS project and the offshore scheme (ie the origin and destination of the captured carbon).

#### **3. Whether the purposes of the proposed compulsory acquisition justifies interfering with the Human Rights of those with an interest in the land affected?**

3.1 What regard has been had to Article 8 of the European Convention on Human Rights and Article 1 of the First Protocol?

3.2 The degree of importance attributed to the existing uses of the land proposed to be acquired.

3.3 The weighing of any potential infringement of Convention rights against the potential public benefits if the Order is made.

**4. The acquisition of statutory undertaker's land - s127 of the Act.**

**5. The acquisition of commons, open space etc – s132 of the Act.**

**6. The position in relation to Crown land having regard to the provisions of s135(2) of the Act.**

**7. The relevant draft Development Consent Order provisions.**

**8. Any particular issues relating to the compulsory acquisition powers sought in respect of sites where agreement with those with an interest in the land has not been reached.**

## **Residual Issues Hearing**

**Date of hearing:** Friday 6 February 2015  
**Time of hearing:** 10:00am  
**Venue:** Bishop Burton College, York Road, Bishop Burton,  
Beverley, HU17 8QG

This day is reserved for the discussion of any residual issues from the previous hearings. If issues are unable to be examined to the satisfaction of the ExA within the allotted time period these will be clearly identified by the ExA. If no issues are identified by the ExA over the course of the previous fortnight as requiring further examination, then there will be no hearing on this day. If no hearing is required there will be a notice on the Yorkshire and Humber CCS Pipeline project pages of the Planning Portal website.