



Ms Anita Taylor  
Rookery South Limited  
By email only

11 December 2023

Dear Ms Taylor,

## **PLANNING ACT 2008**

### **REQUEST FOR A DIRECTION FROM THE SECRETARY OF STATE UNDER SECTION 35 OF THE PLANNING ACT 2008 FOR DEVELOPMENT TO BE TREATED AS DEVELOPMENT FOR WHICH DEVELOPMENT CONSENT IS REQUIRED**

1. The Secretary of State has given consideration to the request submitted on 10 November 2023 (“the Request”) by Rookery South Limited (“the Applicant”) which formally requested that the Secretary of State exercise the power vested in her under section 35(1) of the Planning Act 2008 to direct that the following elements of the proposed Rookery Carbon Capture Project, be treated as development for which development consent under the Planning Act 2008 is required:

(a) Carbon capture equipment, which is likely to include the following elements:

- (i) booster fan(s);
- (ii) direct contact cooler(s);
- (iii) absorber tower(s);
- (iv) stripper tower(s);
- (v) heat exchangers;
- (vi) pumps;
- (vii) CO<sub>2</sub> compressors and treatment equipment;
- (viii) reagent and residue storage tanks;
- (ix) emissions stack(s);
- (x) CO<sub>2</sub> liquefaction equipment;
- (xi) cooling equipment; and
- (xii) back-pressure turbine;

(b) Carbon capture storage equipment, comprising standing tanks for the temporary on-site storage of liquefied CO<sub>2</sub>.

2. Together, these elements comprise the “Proposed Project”.

3. The Request states that the Proposed Project forms part of the wider proposal, with the wider proposal including an extension to the existing Rookery South Generating Station via the addition of a fourth waste processing stream which will provide an additional electricity generating capacity of up to 34Mwe over and above the 65Mwe nominal gross electrical output capacity of the existing generating station (“the Extension”). The Request further notes that the Extension is likely to comprise one waste processing stream, one stack, a tipping hall, refuse bunkering, a boiler, a flue gas treatment facility, turbine and turbine hall, transformers, air cooled condensers and a facility to enable pass-outs and/or hot water pass-outs.
4. The Request also states that the purpose of the Extension is to generate power to mitigate the energy demands of the Proposed Project and that it will be connected to the grid via the grid connection used by the existing generating station, with no separate grid connection is anticipated to be required. The Request clarifies that the Applicant intends to submit an application for development consent that relates to both the Proposed Project and the Extension.
5. The Applicant acknowledges at paragraph 3.3 of the Request that the Extension constitutes a Nationally Significant Infrastructure Project (“NSIP”) in its own right under sections 14(1)(a) and 15(2) of the Planning Act 2008. At paragraph 3.11, the Applicant notes that it considers that there is uncertainty as to whether the Proposed Project represents an NSIP in its own right.
6. At paragraph 3.13 the Applicant states: *“The extent to which the Carbon Capture Project may properly be considered to form part of the Extension to the Generating Station is also uncertain. While RSL notes that the definition of “extension” in the 1989 Act is broad and does not require that the purposes of an extension to a generating station are solely for the generation of electricity – meaning that it may be possible to argue that the Carbon Capture Project does, in fact, constitute part of the Extension and therefore NSIP development for which development consent is required – there is no guarantee that, if an application for development consent were submitted to the Planning Inspectorate, the Inspectorate would agree with that analysis and accept the application.”*
7. At paragraph 3.15, the Applicant states: *“RSL does not consider that the Carbon Capture Project may properly be considered to be associated development connected with the Extension.”*

### **The Secretary of State’s conclusion**

8. Having considered the details of the Applicant’s proposals as set out in their letter of 10 November 2023, the Secretary of State has concluded that it is not necessary to direct the Proposed Project into the Planning Act

2008 regime under section 35. The Secretary of State does not share the Applicant's concerns which are set out in paragraphs 3.11 – 3.24 of the Request. The Secretary of State is satisfied that the nature of the Proposed Project and the context in which it is being proposed, i.e. in the context of the Extension, mean that if both elements are applied for together then this will constitute an NSIP with associated development under the Planning Act 2008.

9. In reaching this conclusion, the Secretary of State has noted the elements of the Proposed Project and the Extension, and the Applicant's intention to submit a single application for development consent which comprises both of these elements together.

Yours sincerely,

David Wagstaff  
Deputy Director, Energy Infrastructure Planning  
On behalf of the Secretary of State for Energy Security and Net Zero