



Department for Energy Security and Net Zero
1 Victoria Street
London SW1H 0ET

10 November 2023

For the attention of [redacted],
Head of Energy Infrastructure Planning Delivery

By email to: [redacted]

Dear Sir

ROOKERY SOUTH LIMITED

ROOKERY CARBON CAPTURE PROJECT – LAND AT ROOKERY SOUTH PIT, STEWARTBY, BEDFORDSHIRE

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. INTRODUCTION AND BACKGROUND

1.1 This letter constitutes a qualifying request by Rookery South Limited (“**RSL**”) under section 35ZA(1) of the Planning Act 2008 (the “**2008 Act**”) for a direction by the Secretary of State for Energy Security and Net Zero (the “**Secretary of State**”) under section 35(1) of the 2008 Act that those parts of the Rookery Carbon Capture Project (the “**Project**”) specified in paragraph 4.1 below be treated as development for which development consent is required.

Rookery South Limited

1.2 RSL is a joint venture between Encyclis, an energy from waste (“**EfW**”) provider, and Veolia, a waste management company. RSL is the owner and operator of the Rookery South Energy Recovery Facility at Stewartby, Bedfordshire (the “**Generating Station**”).

1.3 The Rookery South (Resource Recovery Facility) Order 2011 (the “**2011 DCO**”) granted development consent to RSL for the construction and operation of the Generating Station. The Generating Station has been operational since 2022. It has three waste processing streams which process around 585,000 tonnes of residual waste with a nominal gross electrical output capacity of 65MWe.

Encyclis

1.4 Encyclis is a leader in the safe recovery of EfW, rooted in more than 40 years of expertise in the operation of thermal recycling facilities across the UK and Ireland. Encyclis is committed to treating this residual waste in line with the waste hierarchy, through energy and resource recovery and diversion from landfill.

- 1.5 Encyclis has three fully operational EfW facilities in the UK and Ireland. Two other facilities are currently under construction (in Cheshire (Protos) and Stirlingshire), and two more are consented (in the West Midlands and North Northamptonshire).
- 1.6 Encyclis is committed to reducing waste to landfill and aims to make its operating processes 100% sustainable by 2030. Core to this strategy, and consistent with the government's commitment to supporting carbon capture utilisation and storage in the waste sector, is the decarbonisation of Encyclis' EfW facilities.
- 1.7 Encyclis is currently promoting an application to install carbon capture technology at its Protos site, which it proposes to link to the HyNet North West industrial decarbonisation project, forming part of the HyNet cluster and linking to the planned carbon capture pipeline.

The Project

- 1.8 The Project is the next phase of Encyclis' decarbonisation strategy.
- 1.9 RSL proposes to submit to the Secretary of State an application for development consent pursuant to section 37 of the 2008 Act to allow it to construct, operate and maintain the Project on land at Rookery South Pit, Stewartby, Bedfordshire. A plan showing the indicative location of the Project site is provided at Schedule 1.
- 1.10 In summary, the Project comprises two key elements:
 - (a) the addition to the Generating Station of a carbon capture, temporary storage and transport facility which aims to capture up to 95% of carbon dioxide emissions from the incineration process (the "**Carbon Capture Project**"); and
 - (b) an extension to the Generating Station by the addition of a fourth waste processing stream to provide additional electricity and steam generating capacity (the "**Extension**"). The purpose of the Extension is to generate power to mitigate the energy demands of the Carbon Capture Project.
- 1.11 The proposed application for development consent would relate to both elements of the Project. The precise extent of the development that is the subject of this qualifying request is set out in paragraph 4.1 below. RSL therefore asks that the Secretary of State treats this letter as a qualifying request as defined by section 35ZA(11) of the 2008 Act that, as required by that sub-section and sub-section 35ZA(1):
 - (a) specifies the development to which the request relates;
 - (b) explains why the conditions in section 35(2)(a) and (b) are met in relation to the development; and
 - (c) confirms that no application for a consent or authorisation mentioned in section 33(1) or (2) have been made in relation to the development to which the request relates.
- 1.12 The compliance of this submission with section 35ZA(1) and (11) is confirmed in paragraph 5 below.
- 1.13 A detailed description of the Project is set out at Schedule 2 and a suggested draft form of direction is provided at Schedule 3.

2. THE PROJECT

- 2.1 The Project (which, for the avoidance of doubt, it is proposed will be the subject of the application for development consent) involves the following.

The Carbon Capture Project

- 2.2 The Project proposes a post-combustion process to capture carbon from both the Generating Station and the Extension by applying solvents to the flue gases generated. Through a series of chemical and physical processes the CO₂ will be separated, compressed, liquified and then stored in tanks. This process will involve using a booster fan to increase the pressure of the flue gas, cooling the flue gas, passing the flue gas through an amine solvent to remove CO₂, releasing the clean flue gas following pollutant scrubbing, regeneration of the amine solvent by heating which releases the captured CO₂ from the liquid, compression of the CO₂, liquefaction of the CO₂ and issue to storage tanks.
- 2.3 After the captured gases have been processed the CO₂ will be stored temporarily pending removal to an appropriate location for its long-term storage. This is likely to be a dedicated carbon capture and storage hub.
- 2.4 In the first instance RSL anticipates that the CO₂ will be removed by rail freight. To this end, it envisages that the Project will include the construction of a new rail terminal to manage the transfer and transport of CO₂ and waste. That rail terminal would include new rail sidings, CO₂ loading infrastructure, waste loading and unloading infrastructure, signalling and other associated infrastructure for connecting to the Marston Vale Line which is owned by Network Rail.
- 2.5 The Project will also include a CO₂ export pipeline connection within the Project site boundary. This connection would facilitate future connection to a wider national or regional carbon pipeline network should such a network come forward and should connection be feasible.
- 2.6 The Carbon Capture Project will be physically interconnected with the existing Generating Station.

The Extension

- 2.7 The Project also proposes the development of the Extension to the Generating Station through the provision of an additional waste processing stream with an anticipated approximate capacity of 220,000 tonnes per annum. This additional waste processing stream will comprise a fourth waste processing stream in addition to the three existing streams at the Generating Station. The Extension 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 purpose of the fourth waste processing stream is to generate power to mitigate the energy demands of the Carbon Capture Project. It will be connected to the grid via the grid connection used by the existing Generating Station; no separate grid connection is anticipated to be required.
- 2.8 The fourth waste processing stream will require the construction of new facilities and will operate in the same manner as the existing Generating Station, by burning waste and treating the associated gases through an air pollution control system. It will, like the existing Generating Station, generate bottom ash residue, air pollution control residues and flue gas treatment residues. It is anticipated that the Extension will comprise a tipping hall, refuse bunker, boiler and boiler hall, turbine and turbine hall, a flue gas treatment hall and

stack, air cooled condenser, and a facility to enable steam pass-outs and or hot water pass-out. The fourth waste processing stream will share with the Generating Station a number of existing facilities, including the weigh bridge, access roads, welfare facilities and other services.

Project description

- 2.9 The Project (which, for avoidance of doubt, it is proposed would be the subject of the application for development consent) is anticipated to comprise the following elements:

The Carbon Capture Project

- (a) Carbon capture equipment, which is likely to include booster fans, direct contact coolers, absorber towers, stripper towers, heat exchangers, pumps, CO₂ compressors, reagent and residue storage tanks, emissions stacks, CO₂ liquefaction equipment, cooling equipment and back-pressure turbine;
- (b) Carbon storage equipment, which is likely to comprise standing tanks for the temporary on-site storage of liquified CO₂;
- (c) Carbon storage to rail terminal interface, which is likely to comprise one or both of a CO₂ pipeline to connect the CO₂ storage area to the rail terminal and CO₂ interface facilities and road link to the rail terminal to facilitate the vehicular transfer of CO₂ from the storage area to the rail terminal;
- (d) Carbon export pipeline connection;
- (e) Electrolyser for the production of hydrogen;
- (f) Rail terminal, which is likely to comprise a bay platform/rail siding, maintenance siding, track connecting the sidings to the Marston Vale line, CO₂ interface facilities, weighbridges, waste loading and unloading facilities and earthworks;
- (g) Associated pipework, cables and ductwork (including associated fans and valves);
- (h) Utilities connections;
- (i) Waste water treatment facilities;
- (j) Highways, streets and public rights of way;
- (k) Environmental mitigation works;
- (l) Temporary works connected with the construction of the development; and

The Extension

- (m) An extension to the Generating Station, which 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.
- 2.10 RSL notes that the scope of the Project is currently being formulated. The elements listed above constitute what is likely to be the maximum requirement for the Project. Elements of the Project may change as the Project proposals develop.

3. RATIONALE FOR SEEKING A DIRECTION UNDER SECTION 35 OF THE 2008 ACT

3.1 RSL proposes to apply to the Secretary of State for development consent to allow it to construct, operate and maintain the Project.

3.2 Section 14 of the 2008 Act defines the types of development that constitute nationally significant infrastructure projects (“NSIPs”) which require development consent under section 31 of the 2008 Act.

The Extension is an NSIP

3.3 The Extension constitutes an NSIP in its own right under sections 14(1)(a) and 15(2) of the 2008 Act. Section 15(1) of the 2008 Act provides that the construction or extension of a generating station is within section 14(1)(a) if the generating station is or (when constructed or extended) is expected to be within subsection (2). A generating station is within that subsection if:

- (a) it is in England;
- (b) it does not generate electricity from wind;
- (c) it is not an offshore generating station; and
- (d) its capacity is more than 50 megawatts.

3.4 Section 235 of the 2008 Act defines “extension”, in relation to a generating station, by reference to section 36(9) of the Electricity Act 1989 (the “1989 Act”). Section 36(9) of the 1989 Act provides that:

“...‘extension’ in relation to a generating station, includes the use by the person operating the station of any land or areas of waters (wherever situated) for a purpose directly related to the generation of electricity by that station and ‘extend’ shall be construed accordingly.”

3.5 While this definition is not exhaustive, the language that defines “extension” as including the use of land for “a purpose directly related to the generation of electricity by that station” indicates that not all development at an existing generating station amounts to an extension for the purposes of the 1989 Act and the 2008 Act. In order to comprise an extension of a generating station for the purposes of the 2008 Act, development must extend the generating station itself (and not an ancillary facility) and must be directly related to the generation of electricity by the generating station.

3.6 In the case of the Project, the Generating Station is a generating station for the purposes of the 2008 Act. Work No. 1 authorised by the 2011 DCO is expressed to be “an electricity generating station” which includes, amongst other things, “three waste processing streams”.

3.7 The addition to the Generating Station of the Extension (as described in paragraph 2.7(m) above and in detail in Schedule 2) will extend the Generating Station itself, both physically and in terms of increasing generating capacity. The Extension is directly related to the generating of electricity by the Generating Station. The addition to the Generation Station of the Extension will increase the capacity of the Generating Station (once extended) by 34MWe.

3.8 On this basis, the Extension comprises an extension to a generating station for the purposes of section 14(1) of the 2008 Act.

3.9 The Extension would involve an extension to the Generating Station which meets the criteria in section 15(2). The Generating Station is in England, it generates electricity from waste, not wind, it is not offshore, and its capacity both exceeds 50 megawatts and will continue to do so once extended by the Extension.

3.10 The Extension, therefore, constitutes an NSIP for which development consent is required.

The Carbon Capture Project

3.11 RSL, however, considers that there is uncertainty as to whether the Carbon Capture Project represents an NSIP in its own right.

NSIP development

3.12 Notwithstanding the government's commitment to supporting carbon capture utilisation and storage for the waste sector, carbon capture development is not a type of development that constitutes an NSIP for the purposes of section 14 of the 2008 Act.

Part of the Extension

3.13 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. The question of associated development is addressed in paragraphs 3.15 – 3.25 below.

3.14 Given the significant time commitment and financial outlay required to reach submission of an application for development consent and the reputational risk connected with an application not being accepted, RSL does not consider that it is prudent to proceed on the basis that the Carbon Capture Development can be assumed to form part of the Extension and is therefore making this request for a direction to bring certainty to all parties as to the status of the Carbon Capture Project.

Associated development

3.15 RSL does not consider that the Carbon Capture Project may properly be considered to be associated development connected with the Extension.

3.16 Section 115(1) of the 2008 Act states that development consent may be granted for development which is development for which development consent is required (i.e. an NSIP) or associated development. Section 115(2) and (3) then provide criteria as to what may constitute associated development (which, for the avoidance of doubt, are met in the present circumstances).

3.17 April 2013 guidance on associated development issued by the then Department for Communities and Local Government (the "**Guidance**") sets out guidance on how the provisions of the 2008 Act should be applied to individual proposals.

3.18 Paragraph 5 of the Guidance notes that it is for the Secretary of State to decide on a case by case basis whether or not development should be treated as associated development,

and that in coming to a decision the Secretary of State will take into account the following “core principles”. These principles include (to the extent relevant to the present circumstances):

- (a) that there should be a direct relationship between associated development and the principal development. Associated development should therefore either support the construction or operation of the principal development, or help address its impacts;
- (b) associated development should not be an aim in itself but should be subordinate to the principal development; and
- (c) associated development should be proportionate to the nature and scale of the principal development.

- 3.19 Paragraph 6 of the Guidance states that the government expects that associated development will, in most cases, be typical of development brought forward alongside the relevant type of principal development or of a kind that is usually necessary to support a particular type of project.
- 3.20 As noted above, the Extension constitutes an NSIP in its own right. Although there is likely to be substantial shared infrastructure between the Extension and the existing Generating Station, there is likely to be some associated development for the purposes of section 115 of the 2008 Act connected with the Extension. However, having regard to section 115 of the 2008 Act and the Guidance, RSL does not consider that the Carbon Capture Project itself may properly be said to be associated development connected with the Extension.
- 3.21 This is because RSL’s underlying motivation for the construction and operation of the Project is to add (through the Carbon Capture Project) carbon capture technology to the Generating Station.
- 3.22 Although in consenting terms the Extension is the only element of the Project that constitutes an NSIP in its own right, the Extension is only required to generate power to mitigate the energy demands of the Carbon Capture Project (and not to increase the export capacity of the Generating Station). On this basis, the Carbon Capture Project is the aim of the Project and cannot properly be said to be subordinate to the Extension. Indeed, notwithstanding its status as an NSIP, the Extension is itself subordinate to the Carbon Capture Project for the purposes of the Project. But for the Carbon Capture Project, RSL would not deliver the Extension.
- 3.23 The Carbon Capture Project itself gives rise to the need for its own suite of associated development (for example the rail terminal and associated works). This primacy is inconsistent with the Carbon Capture Project being associated development connected with the Extension.
- 3.24 Although there will be a direct relationship between the Extension and the other elements of the Project (for example the Carbon Capture Project), RSL does not consider that those elements are genuinely subordinate to the Extension. This means that it is very unlikely that those elements of the Project could properly be considered to be associated development (and therefore be included in an application for development consent) which introduces considerable risk and uncertainty into the consenting process and, ultimately, into the timely and effective delivery of the Project.

- 3.25 RSL has therefore decided to request that the Secretary of State gives a direction under section 35 to ensure that those parts of the Project specified in paragraph 4.1 below are treated as development for which development consent is required.

Negating the need for other consents/powers to be secured separately

- 3.26 Notwithstanding the need for consenting certainty, RSL considers that it is appropriate for the whole of the Project to be brought within the 2008 Act regime not only because of its national significance, but also because of the range and number of consents that would otherwise be required for the constituent parts of the Project, absent a development consent order, but which can be included within the ambit of a development consent order.
- 3.27 The Extension is an NSIP for which development consent is required. If it is not possible to promote the entire Project pursuant to the 2008 Act regime, it will be necessary for RSL to pursue an application for a development consent order for the Extension (and any associated development) and to seek separate planning permission(s) for the other elements of the Project (in particular the Carbon Capture Project) under the Town and Country Planning Act 1990.
- 3.28 The Project may require land that is currently under third party ownership. While RSL will expend considerable efforts to reach voluntary agreements with affected landowners, it is possible that RSL may need to seek powers of compulsory acquisition in order to achieve the necessary level of certainty that the entire Project can be delivered. A direction under section 35 would help to ensure that such powers of compulsory acquisition may be sought and, if justified, incorporated in the development consent order. Absent a development consent order, a separate compulsory purchase order (subject to separate timescales and approval process) under the 1989 Act would be required.
- 3.29 RSL will need to ensure the compatibility (both physically and in terms of controls) of the development authorised by the 2011 DCO and the Project. Although the precise nature of the changes which may be required to the 2011 DCO as a result of the Project has yet to be determined, it may be necessary for the DCO connected with the Project to make changes to the 2011 DCO. Such changes may arise from parts of the Project other than the Extension (i.e. the Carbon Capture Project). Section 120(5) of the 2008 Act allows a development consent order to amend an existing development consent order (as the Millbrook Gas Fired Generating Station Order 2019 did to the 2011 DCO). In the absence of a development consent order connected with the Carbon Capture Project, RSL would be required to apply separately to the Secretary of State for changes to the 2011 DCO.
- 3.30 The construction and operation of the Project may require the temporary and permanent stopping up and/or diversion of public rights of way. Such matters can be included in a development consent order. Absent such an order, stopping up and/or diversion orders would need to be obtained separately.
- 3.31 The absence of a development consent order for the specified parts of the Project would require RSL to obtain a number of different consents and secure a number of different powers from different consenting bodies (each of whom would have to engage in the 2008 Act process as well as with other regimes) with different timescales. The Project would be assessed against different policy frameworks, rather than primarily against the relevant National Policy Statements, without the certainty of consenting timescales brought about by the 2008 Act regime. The terms of which the various consents may be granted may be different. Each of these issues is likely to cause a fragmented approach to consenting for the Project which would introduce uncertainty, risk, and the potential for delay.

3.32 The 2008 Act regime was introduced to expedite the delivery of complex NSIPs such as the Project. If a direction is given by the Secretary of State that the development that is the subject of this request is development for which development consent is required, such a direction would assist RSL to deliver the Project in an efficient and timely manner in order to enable the significant benefits of the Project to be realised.

4. **SCOPE OF THE REQUEST**

4.1 The request for a direction pursuant to section 35 of the 2008 Act relates to the following parts of the Project:

(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) CO₂ compressors and treatment equipment;
- (viii) reagent and residue storage tanks;
- (ix) emissions stack(s);
- (x) CO₂ 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 CO₂.

4.2 RSL notes that the equipment detailed in paragraph 4.1 above is likely to include the elements described above but that those elements are subject to change.

4.3 All other elements of the Project would comprise either an NSIP or as associated development connected with the elements described in paragraph 4.1 above.

4.4 All of the elements of the Project that are currently envisaged by RSL are listed in Schedule 2 and a draft section 35 direction is provided at Schedule 3 to assist the Secretary of State.

4.5 RSL has set out in paragraphs 5 and 6 below how the Project satisfies the qualifying criteria to be considered under section 35 of the 2008 Act, why it is of national significance, and why it should be considered in its entirety under the 2008 Act regime.

5. **QUALIFYING REQUEST UNDER SECTION 35 OF THE 2008 ACT**

5.1 Further to the above, and in respect of the requirements of sections 35 and 35ZA of the 2008 Act in relation to a qualifying request and a direction, RSL confirms that:

- (a) all elements of the Project for which a direction is sought (as described in paragraph 4.1 above) are in the field of energy (section 35(2)(a)(i)) as they will facilitate the capture, storage and transfer of carbon emitted as a direct consequence of the energy generated by the Generating Station;
- (b) the Project will be wholly in England (sections 35(2)(b) and 35(3)(a));
- (c) the Project is a project of national significance (section 35(2)(c)) for the reasons set out in paragraph 6 below;
- (d) no application for a consent or authorisation mentioned in section 33(1) or (2) of the 2008 Act has been made in respect of the works which make up the Project (in the context of section 35ZA(8) and (9)); and
- (e) the development to which this request relates is specified in Schedule 2 of this letter (section 35ZA(11)).

5.2 In preparing this qualifying request RSL has had regard to directions previously made by the Secretary of State in all fields. It has also had regard to the policy statement issued by the then Department for Communities and Local Government in connection with the extension of the 2008 Act regime to business and commercial projects as an indication of the matters which may be considered as supporting criteria for assessing national significance within the context of the 2008 Act.

5.3 To assist the Secretary of State a draft section 35 direction is provided at Schedule 3.

6. NATIONAL SIGNIFICANCE OF THE PROJECT

6.1 RSL considers that the Project (of which the development for which a direction is sought is a part) is of national significance.

6.2 The UK has a statutory obligation to bring all greenhouse gas emissions to net zero by 2050. The delivery of net zero is of national and international significance. It is of fundamental importance to the future of the UK economy and human survival.

6.3 The government considers that the development and installation of new renewable energy production can only go so far towards meeting the target of net zero by 2050. Its Clean Growth Strategy (2017), therefore, noted that there is broad international consensus that the introduction of carbon capture technology has a vital role to play in reducing emissions.

6.4 The policy framework that establishes the importance of and need for carbon capture technology refers to both carbon capture and storage (“**CCS**”) and carbon capture usage and storage (“**CCUS**”). Both terms are used in the following paragraphs to reflect the wording of the relevant policy. The purpose and focus of the Project is carbon capture for use and/or storage elsewhere and therefore RSL considers that the Project falls squarely within the scope of the policy framework and has an important role to play in reducing emissions.

6.5 The CCUS Action Plan (2018) expressed the government’s ambition that the UK should have the option to deploy CCUS at scale during the 2030s, and stated that CCUS has “economy-wide qualities” that could deliver “tangible results in tackling some of the biggest challenges we face in decarbonising our economy” whilst contributing to industrial competitiveness and generating new economic opportunities.

- 6.6 The Net Zero Strategy (2021) reaffirmed the importance of deploying CCUS to reaching net zero by 2050.
- 6.7 The importance of CCS development is reflected in the draft Overarching National Policy Statement for energy (EN-1), which states:
- 3.5.1 *“There is an urgent need for new CCS infrastructure to support the transition to a net zero economy.”*
 - 3.5.2 *“The Committee on Climate Change states CCS is a necessity not an option.”*
 - 3.5.3 *“The UK’s Net Zero Strategy and Industrial Decarbonisation Strategy reaffirm the importance of CCS in decarbonising energy intensive sectors... The International Energy Agency further reinforce the need for CCS in the clean energy transition.”*
 - 3.5.4 *“As set out in the Net Zero Strategy, our aim is to use CCUS technology to capture and store 20-30 MtCO₂ per year by 2030, which will require the timely development and deployment of CCS infrastructure.”*
 - 3.5.8 *“The alternatives to new CCS infrastructure for delivering net zero by 2050 are limited. ...CCS therefore has an essential role to play...”*
 - 4.8.4 *“Carbon capture technologies offer the opportunity to decarbonise the electricity system whilst maintaining security of supply, providing reliable low carbon generation capacity.”*
 - 4.8.5 *“...In October 2021, the government published its Net Zero Strategy which reaffirmed the importance of deploying CCUS to reach our 2050 net zero target...”*
- 6.8 Draft EN-1 notes at 3.2.11 that where applications for the development of CCS infrastructure do not fall within sections 15 – 21 of the 2008 Act, the Secretary of State should give substantial weight to the need for such development established at paragraphs 3.5.1 to 3.5.7 of the NPS. Paragraph 3.3.58 goes on to say that the need for EfW with CCS technology (amongst other known generation technologies) is established by the NPS and “is urgent”.
- 6.9 The government and the international community have recognised the importance of achieving net zero and the methods and technologies that will need to be deployed in order to achieve it. Carbon capture technology is established as a necessity not an option in achieving that aim.
- 6.10 There is a clear ambition from the government to support the development of carbon capture technologies connected with the generation of electricity in order to progress the decarbonisation of the electricity network and to achieve net zero by 2050.
- 6.11 The Carbon Capture Project driving the Project aims to capture circa 750,000 tonnes of CO₂ emitted by the Generating Station per annum, making a prompt and substantial contribution to the decarbonisation of the Generating Station. The status of the Project as a carbon capture scheme therefore aligns with the government’s priorities for the national economy.

- 6.12 The Project is anticipated to make a significant contribution to the area's economy during both its construction and operational phases. It will create and/or sustain a number of direct and indirect jobs and will generate significant supply chain opportunities for national, regional and local businesses. RSL considers that the capital expenditure involved in connection with the Project will be in the region of £400 million.
- 6.13 The type, size and scale of the Project, combined with its complexity, cost and potential contribution to the economy is such that it is clearly of national significance.
- 6.14 RSL notes the national significance of the volume of waste that will produce the carbon that is to be captured by the Project.
- 6.15 Following completion of the Project, the Generating Station will process around 800,000 tonnes of residual waste per annum from four local authority areas within the east of England region and surrounding counties. The Project aims to capture up to 95% the CO₂ arising from the incineration of that waste, helping to reduce the CO₂ emissions of the producers of that waste.
- 6.16 The Project will facilitate the capture of the embodied carbon within the waste produced by a significant number of households and businesses across four local authority areas. In capturing the CO₂ from this range of input material, therefore, the Project will enable the capture of emissions that would otherwise be released by the Generating Station (or, alternatively, by methane emissions from landfill or CO₂ emissions from an alternative EfW facility if not processed at the Generating Station).
- 6.17 For the reasons set out above, the Project should, therefore, be considered as nationally significant and should be able to benefit from the streamlined consenting process under the 2008 Act regime to enable the substantial benefits of the Project to be realised in an efficient and timely manner.

7. CONCLUSION

- 7.1 RSL seeks a direction by the Secretary of State under section 35 of the 2008 Act to ensure that the development that is the subject of this request (described in paragraph 4.1 of this letter) is development for which development consent is required.
- 7.2 Such a direction would provide certainty in the consenting process to be followed to bring forward the Project and would assist RSL to deliver the Project in an efficient and timely manner in order to enable the significant benefits of the Project to be realised. It would ensure that:
- (a) there are no wasted costs in bringing forward an application in an incorrect manner;
 - (b) the wide array of consents and powers required to deliver the Project may be dealt with in one consolidated, efficient and expeditious process, avoiding the need to obtain a number of consents with differing timescales involving multiple consenting bodies; and
 - (c) the Project, which is complex and of national significance, may be consented under the most appropriate consenting regime.
- 7.3 This letter is a qualifying request under section 35ZA of the 2008 Act. The Project is within the field of energy and will be wholly within England. It is of national significance for the reasons set out in paragraph 6 above and, in particular, because the Project would support the government's important objectives in connection with the decarbonisation of the

economy and the achievement of its statutory obligation to bring greenhouse gas emissions to net zero by 2050.

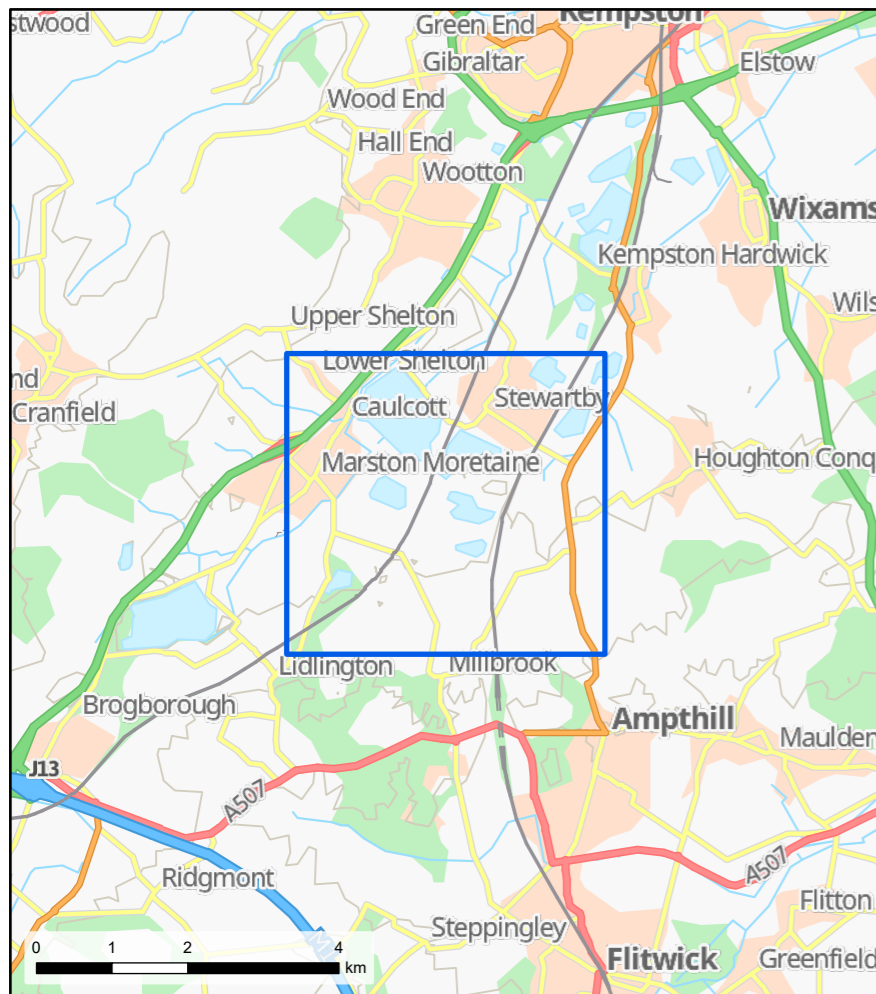
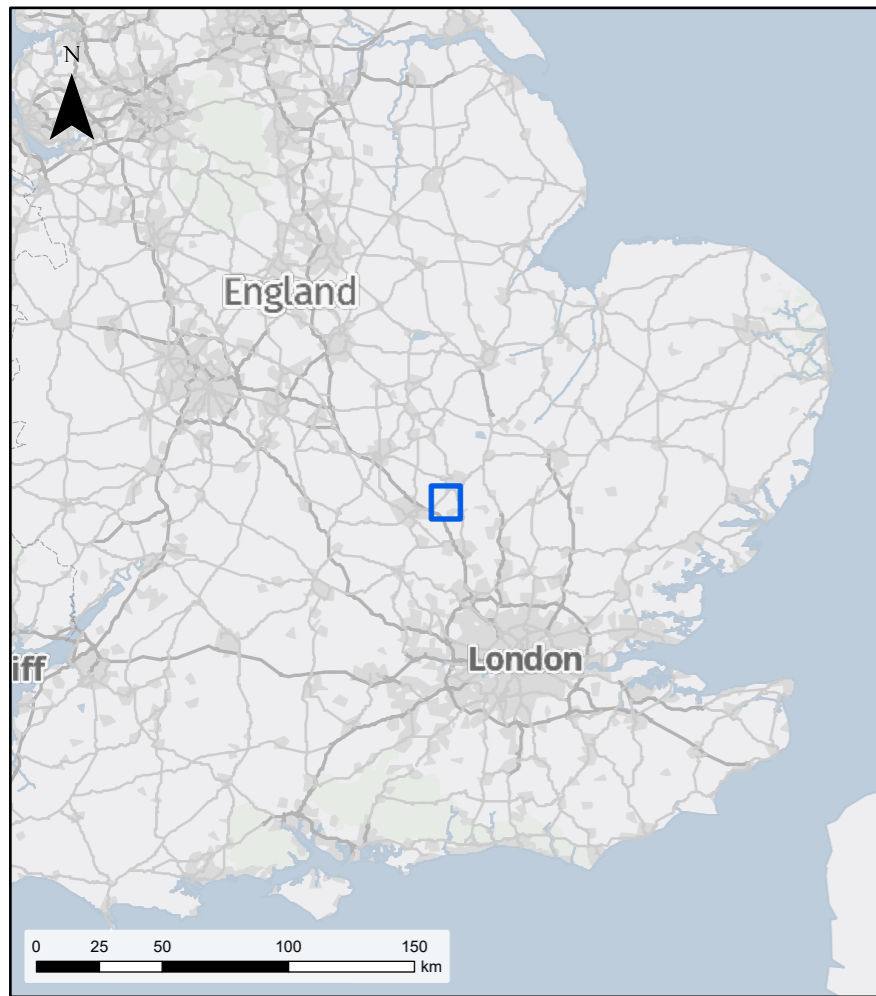
- 7.4 RSL looks forward to receiving confirmation of receipt of this request. Should the Secretary of State require any further details in connection with the Project, RSL will be happy to provide any additional information that may be required.

Yours faithfully

[redacted]
Estates Manager
Rookery South Limited

SCHEDULE 1

INDICATIVE LOCATION OF THE PROJECT SITE



Client
Rookery South Limited

ROOKERY CARBON CAPTURE PROJECT
Indicative Site Plan

Maxar, Microsoft, Esri UK, Esri, HERE, Garmin, Foursquare, GeoTechnologies, Inc, METI/NASA, USGS, Earthstar Geographics, Esri UK, Esri, HERE, Garmin, FAO, NOAA, USGS, Contains OS data © Crown Copyright and database right 2023
Contains data from OS Zoomstack, Esri Community Maps Contributors, Esri UK, Esri, HERE, Garmin, Foursquare, GeoTechnologies, Inc, METI/NASA, USGS

Date: 17/10/2023	Checked: NM
Drawn: AD	Rev: A
Figure: 01	

SCHEDULE 2

Project description

1. **THE PROPOSED PROJECT OF NATIONAL SIGNIFICANCE (I.E. THE SUBJECT OF THE REQUEST FOR A SECTION 35 DIRECTION)**

1.1 Carbon capture equipment, which is likely to include the following elements:

- (a) booster fan(s);
- (b) direct contact cooler(s);
- (c) absorber tower(s);
- (d) stripper tower(s);
- (e) heat exchangers;
- (f) pumps;
- (g) CO₂ compressors and treatment equipment;
- (h) reagent and residue storage tanks;
- (i) emissions stack(s);
- (j) CO₂ liquefaction equipment;
- (k) cooling equipment; and
- (l) back-pressure turbine; and

1.2 Carbon capture storage equipment, comprising standing tanks for the temporary on-site storage of liquefied CO₂.

RSL notes that the equipment detailed above is likely to include the elements described above but that those elements are subject to change.

2. **NSIP DEVELOPMENT PURSUANT SECTIONS 14(1)(A) AND 15(1) OF THE 2008 ACT (THE EXTENSION)**

2.1 An extension to the existing electricity generating station, comprising:

- (a) one waste processing stream comprising a reciprocating grate, furnace, boiler and associated air pollution control system;
- (b) one stack;
- (c) a tipping hall;
- (d) refuse bunkering;
- (e) a boiler

- (f) a flue gas treatment facility;
- (g) turbine and turbine hall;
- (h) transformers;
- (i) air cooled condensers; and
- (j) a facility to enable pass-outs and/or hot water pass-outs.

RSL notes that the development detailed above is likely to include the elements described above but that those elements are subject to change.

3. ASSOCIATED DEVELOPMENT – PROPOSED BUT NOT LIMITED TO:

- 3.1 Carbon storage to rail terminal interface, comprising one or both of:
 - (a) CO₂ pipeline to connect the CO₂ storage area to the rail terminal; and
 - (b) CO₂ interface facilities and road link to the rail terminal to facilitate the transfer of CO₂ from the storage area to the rail terminal by vehicles;
- 3.2 Carbon export pipeline connection;
- 3.3 Electrolyser for producing hydrogen;
- 3.4 Rail terminal, comprising:
 - (a) bay platform/rail siding;
 - (b) maintenance siding;
 - (c) track connecting the sidings to the Marston Vale line;
 - (d) CO₂ interface facilities;
 - (e) weighbridges;
 - (f) waste loading and unloading facilities; and
 - (g) earthworks;
- 3.5 Associated pipework, cables and ductwork (including associated fans and valves);
- 3.6 Utilities connections;
- 3.7 Waste water treatment facilities;
- 3.8 Highways, streets and public rights of way;
- 3.9 Environmental mitigation works; and
- 3.10 Temporary works connected with the construction of the development .

RSL notes that the associated development detailed above is likely to include the elements described above but that those elements are subject to change.

SCHEDULE 3

Draft section 35 direction

DIRECTION BY THE SECRETARY OF STATE UNDER SECTION 35(1) OF THE PLANNING ACT 2008 (AS AMENDED) RELATING TO THE ROOKERY CARBON CAPTURE PROJECT

1. By letter to the Secretary of State received on [10 November 2023] Rookery South Limited (the “**Applicant**”) formally requested (the “**Direction Request**”) that the Secretary of State exercise the power vested in the Secretary of State under section 35(1) of the Planning Act 2008 (as amended) (the “**2008 Act**”) to direct that the following elements of the proposed Rookery Carbon Capture Project as set out in the Direction Request be treated as development for which development consent under the 2008 Act 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) CO₂ compressors and treatment equipment;
 - (viii) reagent and residue storage tanks;
 - (ix) emissions stack(s);
 - (x) back-pressure turbine;
 - (xi) CO₂ liquefaction equipment; and
 - (xii) cooling equipment; and
 - (b) Carbon capture storage equipment, comprising standing tanks for the temporary on-site storage of liquefied CO₂,

(the “**Proposed Development**”).
2. The Secretary of State is satisfied that:
 - (a) the Proposed Development is in the field of energy and development;
 - (b) the Proposed Development will be wholly within England;
 - (c) the Proposed Development does not currently fall within the existing definition of a nationally significant infrastructure project and therefore it is appropriate to consider use of the power in section 35(1) of the 2008 Act; and

- (d) the Applicant's request constitutes a qualifying request in accordance with section 35ZA(11) of the 2008 Act.
3. The Secretary of State notes that the Proposed Development forms part of a wider proposal, with the wider proposal including an extension to the existing Rookery South Generating Station.
 4. The Secretary of State notes that the carbon capture element of the Proposed Development aims to capture 95% of carbon dioxide emissions from the incineration process at the Generating Station.
 5. Having considered the details of the Applicant's proposals as set out in their letter received on [10 November 2023] the Secretary of State is of the view that the Proposed Development is nationally significant. The reasons for this are included in the Annex below.
 6. The Secretary of State considers that, if the details of the Proposed Development change materially, before submitting any application to the Planning Inspectorate, the Applicant may wish to seek confirmation from the Secretary of State that the development that is the subject of the proposed application is the same as that for which the Direction is hereby given.
 7. Notwithstanding this, the Secretary of State considers that, where the elements comprising the proposed application are materially the same as those comprising the Proposed Development as described above, the development that is the subject of the proposed application is deemed to be the same as that for which the Direction is hereby given.
 8. The Secretary of State has taken the decision within the conditions as required by sections 35A(2) and (5) of the 2008 Act, and issues this Direction accordingly under sections 35(1) and 35ZA of the 2008 Act.
 9. The Secretary of State directs that the Proposed Development is to be treated as development for which development consent is required.
 10. The Secretary of State further directs in accordance with sections 35ZA(3)(b) and (5) of the 2008 Act that an application for a consent or authorisation mentioned in section 33(1) or (2) of the 2008 Act or similar to that described in the Request for a Direction under section 35 of the 2008 Act made by the Applicant and received on [10 November 2023] for the Proposed Development is to be treated as a proposed application for which development consent is required.
 11. This Direction is given without prejudice to the Secretary of State's consideration of any application for development consent which is made in relation to the Proposed Development.

Signed by

[**]

For and on behalf of the Secretary of State for Energy Security and Net Zero

Dated [**]

ANNEX

REASONS FOR THE DECISION TO ISSUE THE DIRECTION

The Secretary of State is of the opinion that the Direction should be issued because:

- The Proposed Development will play an important role in enabling an energy system that meets the UK's commitment to reduce carbon emissions and the government's objectives to create a secure, reliable and affordable energy supply for consumers. It is of national significance.
- The Proposed Development would provide and support the decarbonisation of energy from waste derived CO₂ emissions in the UK, capturing circa 750,000 tonnes of CO₂ per annum.
- By progressing the development through the 2008 Act development consent process, it would provide the certainty of a single, unified consenting process and fixed timescales.