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18 March 2024

Dear Ms Crowhurst-Kozlova,

enfinium Ltd

FERRYBRIDGE 1&2 ENERGY FROM WASTE CARBON CAPTURE AND STORAGE

REQUEST TO VARY THE DIRECTION BY THE SECRETARY OF STATE UNDER SECTION 35 OF THE PLANNING ACT 2008 (AS AMENDED) DATED 20 FEBRUARY 2024

We write on behalf of enfinium Ltd ("**Applicant**").

This letter constitutes a request on behalf of the Applicant that the Secretary of State for Energy Security and Net Zero ("**DESNZ**") varies the direction made under Section of the Planning Act 2008 ("**PA 2008**") dated 20 February 2024 for the relevant elements of Enfinium's proposed CCS Project at Ferrybridge¹ ("**the Direction**").

This letter explains:

- i. the variation requested to the Direction; and
- ii. the reason why that variation is proposed.

This submission relies upon the supporting case made in seeking the Direction, which remains the same.

For ease of reference, the following documents accompany this letter:

Enclosure 1 – the Applicant's original Section 35 direction request letter to DESNZ submitted on 29 January 2024.

Enclosure 2 – the existing Section 35 direction dated 20 February 2024.

Enclosure 3 – suggested amended Section 35 direction.

¹ The provision of Carbon Capture and Storage ("**CCS**"), infrastructure and related on-site provision for onward transport at Ferrybridge 1 ("**F1**") and Ferrybridge 2 ("**F2**") Energy from Waste Facilities ("**EfWs**") in West Yorkshire.

Section 233 of the PA 2008, sub-section (2), confirms that the power given by the PA 2008 to give a direction includes the power to vary or revoke a direction and the Applicant is therefore requesting that the Secretary of State utilises this power in respect of the Direction.

The Applicant is seeking a minor variation to the Section 35 direction to clarify the scope of the development within the CCS Project that should be subject to the requirement to procure development consent.

This request is made in light of three key paragraphs within the Direction:

Paragraph 2 of the Direction introduces the CCS Project, and uses the term 'the Proposed Project' to define that it incorporates:

"the following elements as set out in Appendix A of the Direction request:

- the construction and operation of Carbon Capture Equipment including up to two: absorber column(s), stripper column(s), flue gas cooling/heat exchanger(s), solvent cooling/heat exchanger(s), flue gas re-heater(s), and Carbon Processing and Conditioning Plant(s);*
- the delivery of "associated development" (within the meaning of section 115(2) of the Act) which may include, but is not limited to, associated pipework, cables and ductwork, and associated above ground installation, improvements to the existing a rail head, internal and external modifications to the existing Ferrybridge 1 and 2 energy from waste facilities, carbon storage equipment, temporary and permanent utilities and drainage works, biodiversity and landscape mitigation and temporary work sites; and*
- ancillary matters (section 120(3) of the Act)".*

Paragraphs 7 and 8 of the Direction then go on to provide that:

"7. THE SECRETARY OF STATE DIRECTS that the Proposed Project (emphasis added) is to be treated as development for which development consent is required.

8. The Secretary of State further directs in accordance with sections 35ZA(3)(b) and (5) of the Act that an application for a consent or authorisation mentioned in section 33(1) or (2) of the Act or similar to that described in the qualifying request to the Secretary of State for Energy Security and Net Zero for a direction under section 35 of the Act made by Enfinium Limited on 29 January 2024 for the Proposed Project (emphasis added) is to be treated as a proposed application for which development consent is required.²

² Enclosure 2

These paragraphs should be seen in the context that, Appendix A of the Applicant's request for a direction³ distinguished between, on the one hand, the "*Proposed Project of National Significance*" (being the 'Carbon Capture Equipment' as defined above) and, on the other hand, the "*Associated Development*" and "*Ancillary Matters*" connected therewith.

The request sought a direction in respect of only the former i.e. development consent would be required for the "*Proposed Project of National Significance*", but not the other two elements. This approach reflected the approach made on a number of recent section 35 requests, and crucially, the form of section 35 Directions then made, including the Cory Decarbonisation Project and Net Zero Teesside.

The Applicant's concern is that, taking paragraphs 2 and 7 together, the Direction does not limit its effect to the "*Proposed Project of National Significance*" because the definition of the "*Proposed Project*" in paragraph 2 of the existing direction incorporates, in addition to that, the "*Associated Development*" and "*Ancillary Matters*" without any spatial or temporal limit.

As a consequence, the Direction as currently drafted necessitates that all aspects of the Proposed Project will be subject to the PA08 regime both at the construction stage, but also in respect of the on-going operation of the CCS Project.

This has the effect that any associated or ancillary development that is brought forward on the site, now or in the future, of whatever scale, would be required to go through PA08 process: whether through a change to any development consent order obtained or, where the CCS project is already built, through pursuing a completely new application for development consent (on the basis that to date applications have not been considered acceptable for non-material or material changes to DCO projects that are built); rather than being able to utilise the Town and Country Planning Act 1990 process to do so, as is usually the case for associated development and ancillary matters.

This would mean, for example, that any small extension or alteration to the associated pipework or cables or to the utilities and drainage systems across the whole site would need to be consented through the PA08 process. Moreover, as currently drafted, the effect of the direction would also mean that carrying out such minor development works (which would not ordinarily require development consent to be obtained) without going through PA08 processes, would also constitute a criminal offence under section 160 of the PA 2008.

The Applicant considers that this would be incompatible with the Government's aim to ensure the roll out of CCS at speed, and would be disproportionate to the scale, nature and impacts of such works. It would cause inevitable delay and complexity as well as requiring the allocation of significant (and avoidable) resource by not only the Applicant, but also the Planning Inspectorate, DESNZ and stakeholders. Such extensions or alterations would be more appropriately consented under the established processes in the Town and Country Planning Act 1990 ("**TCPA 1990**"), where required.

³ Enclosure 1

Furthermore, as set out in the Direction request, and acknowledged in the Secretary of State's reasons for granting development consent, the Ferrybridge site already has a complex mix of existing consents on site that the CCS Project development consent order would have sought to deal with. Adding a 'blunt instrument' approach of requiring all aspects that could be considered to be related to the CCS Project to go through the PA08 process would lead to even more uncertainty and complexity, including for investors. For example, determining the 'right' consent that is being varied at any given time and dealing with the implications of the *Hillside* judgement.

As such, the variation to the direction that is sought⁴ seeks to make clear that the "*Associated Development*" and "*Ancillary Matters*" do not fall within the scope of the matters for which development consent is required. Whilst these matters could be brought forward alongside the Carbon Capture Equipment as part of a development consent order application, taking this approach ensures that on-going flexibility for the non-Carbon Capture Equipment at Ferrybridge is retained.

Development consent would of course still be required for the Carbon Capture Equipment.

The Applicant therefore formally requests in writing that, for the reasons given above, the existing Section 35 direction is amended to define the scope of the development for which development consent is required more narrowly to the Carbon Capture Facility, to allow for flexibility in the future delivery of the much-needed CCS system in the district and the region, and to reflect the wider approach to section 35 Directions and the PA08 regime more generally, to date.

We look forward to receiving confirmation that this request has been received. In the meantime, please do not hesitate to contact me if you require any further information.

Yours sincerely,

[redacted]
National Head of Infrastructure Planning, Energy and Infrastructure
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⁴ Please see the attached suggested amended direction at Enclosure 3

Enclosure 1: original Section 35 direction request



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Dear [redacted],

enfinium Ltd

FERRYBRIDGE 1&2 ENERGY FROM WASTE CARBON CAPTURE AND STORAGE

REQUEST FOR A DIRECTION BY THE SECRETARY OF STATE UNDER SECTION 35 'DIRECTIONS IN RELATION TO PROJECTS OF NATIONAL SIGNIFICANCE' OF THE PLANNING ACT 2008 (PA 2008) FOR DEVELOPMENT TO BE TREATED AS DEVELOPMENT FOR WHICH DEVELOPMENT CONSENT IS REQUIRED

We write on behalf of enfinium Ltd (hereafter referred to as the "Applicant"). This is an application to the Secretary of State for Energy Security and Net Zero ("DESNZ") on behalf of the Applicant for a direction under Section 35 of the PA 2008 (hereafter referred to as the "Application").

1. Overview

- 1.1 This Application is made in respect of the Applicant's proposals for the provision of Carbon Capture and Storage ("CCS"), infrastructure and related on-site provision for onward transport at Ferrybridge 1 ("FM1") and Ferrybridge 2 ("F2") Energy from Waste Facilities ("EfWs") in West Yorkshire (the "Project").
- 1.2 This Application is made by enfinium Ltd, a leading UK energy from waste operator, who own and manage the F1 and F2 EfWs which are permitted to process a combined 1,450,000 tonnes of residual waste per annum to generate up to a combined 170MW (gross) electricity to the National Grid and provide enough energy for up to 340,000 UK homes and businesses. F1 and F2 together are the largest operational energy from waste site in the UK.
- 1.3 Further information on enfinium can be found at: <https://enfinium.co.uk/>
- 1.4 F1 was granted consent through a section 36 Electricity Act 1989 consent (with deemed planning permission) in October 2011 (with a subsequent section 73 consent from the City of Wakefield Metropolitan District Council ("Wakefield Council") in October 2017) and F2 was granted DCO consent in October 2015 (with an Amendment Order made in September 2018).
- 1.5 Installing CCS at F1 and F2 could capture and save over 1.3 million tonnes a year of CO₂. As reported in the CCUS Net Zero Investment Roadmap (April 2023), through the establishment of four CCUS clusters (two via Track-1 and two via Track-2), the UK government aims to capture between 20-30 million tonnes of CO₂ per year¹ by 2030. The installation of CCS at F1 and F2 would therefore equate to up to 6.5% of the government's annual CCUS ambition.

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1167167/ccus-investment-roadmap.pdf

- 1.6 More locally, total GHG emissions recorded for the Wakefield Local Authority Area in 2021² in the UK's national inventory are 2.03 million tonnes of CO₂, therefore the Project would equate to capturing 64% of this total.
- 1.7 As approximately 50% of the CO₂ produced by an EfW is biogenic (from burning non fossil origin materials), the overall effect of subsequently storing this carbon is carbon positive. The Project will contribute to accelerating the UK's ambitions to decarbonise the UK power system by 2035, while maintaining security of supply.
- 1.8 In December 2023, DESNZ announced its CCS Vision, setting out its focus of an initial Track 1 Extension for the Hynet Cluster only, but also setting out a clear roadmap for the development of Track 2, including for the Viking Cluster, based in and around the Humber. This includes for projects connecting by pipeline, and non-pipeline connections such as rail.
- 1.9 It is also noted that in March 2023, Government had also indicated its expectation that there may be a Track 1 Extension for the East Coast Cluster, which incorporates Teesside and the Humber. Although not brought forward in December 2023, it is understood this is likely to come forward later in 2024.
- 1.10 With its location in Yorkshire, F1 and F2 is well located for connection to Teesside and the Humber, and thus would be able to connect to the transport and storage infrastructure provided as part of Viking, or by the East Coast Cluster, by new pipeline, or through the use of its existing railhead.
- 1.11 In addition to this Application, the Applicant has proactively drafted an Environmental Impact Assessment Scoping Report, under Regulation 10 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, for submission to the Planning Inspectorate in Q1 2024 if this Application is successful and CCS technical studies are completed.
- 1.12 This will put the Applicant in a strong position to work with Viking in its response to the Government's anticipated request for an assessment of an 'anchor phase' of pipeline projects to connect to it, and its provisional cluster expansion plan for a 'buildout phase' of other projects that could connect by pipeline or non-pipeline means; or to take part in any later competition for Track 1 Extension for the East Coast Cluster.
- 1.13 In this context, the Applicant is bringing forward the Application to provide certainty as to the consenting regime for the Project and to ensure that its benefits can be delivered as soon as possible.
- 1.14 Prior to the issue of this request, the Applicant held a meeting with DESNZ on 10 January 2024 to report on its intentions to submit this Application and to introduce the content of this request. The Applicant has also opened dialogue with Wakefield Council to explain the Project and delivery approach.
- 1.15 This Application provides details on the Project, outlines why the Project is considered a project of national significance under section 35 of the PA 2008 ("PNS") and describes the reasons for submitting this request.
- 1.16 In preparing this request, the Applicant has taken guidance from directions previously made by Secretaries of State in all fields. The Applicant has also had regard to the policy statement issued by the Department for Communities and Local Government (as was) in relation to the extension of the Planning Act 2008 regime to business and commercial projects as an indication of the types of matters that can be considered as supporting criteria for assessing national significance within the context of the PA 2008.
- 1.17 In making this request, the following information has been provided:

² <https://www.gov.uk/government/statistics/uk-local-authority-and-regional-greenhouse-gas-emissions-national-statistics-2005-to-2021>

- **Figure 1: Planning Boundary Comparison;** showing the overlaps between the F1 and F2 boundaries.
- **Figure 2: Layout Comparison Drawing;** showing the overlaps between the existing site layouts and the indicative proposed layout for the Project.
- Appendix A: Proposed Scheme Description.
- Appendix B: Site Map
- Appendix C: Schematic of the CCS process.
- Appendix D: Letter of Support from Wakefield Council as the host Local Planning Authority, supporting the Applicant's request for PNS status.
- Appendix E: Draft version of the direction.

2. The Project

- 2.1 The Applicant is proposing to install up to two post combustion CCS plants, with associated infrastructure, at the Ferrybridge site which hosts the F1 and F2 EfWs.
- 2.2 The site that hosts the F1 and F2 EfWs is located in Knottingley within Wakefield Council's administrative area in the Yorkshire and the Humber region. The site is located to the west of the River Aire and the east of the A1(M) with the following coordinates 53°43'14"N, 001°17'17"W.
- 2.3 Within the site, the two EfWs border the A1(M) and run parallel to each other in a southwest-northeast configuration. They are located approximately 235m apart and are separated by a rail head facility and landscaping. It is anticipated that the post combustion CCS facilities would be constructed either between the F1 and F2 plants or adjacent to each and the overall application boundary is approximately 41ha, as shown in Appendix B: Site Map.
- 2.4 The ultimate destination for the CO₂ captured will be geological storage under the North Sea, which as discussed in section 1 above, could be the Viking store, or the Endurance store which forms part of the East Coast Cluster. It is possible that downstream handling may provide for possible diversion of some CO₂ for usage in industry etc.
- 2.5 In either Viking or East Coast scenario, the Applicant currently anticipates exporting the carbon captured by the Project to the relevant transport infrastructure being provided by Endurance or Viking, by a new pipeline. For the avoidance of doubt, the Applicant does not seek a section 35 Direction for such a pipeline, although the parts of such a pipeline which falls within the Ferrybridge site may form part of the associated development aspects of the Project.
- 2.6 However, the Applicant is also conscious of the presence of an unused railhead on the Ferrybridge site which presents the possibility of CO₂ removal by this method thereby avoiding the need for a pipeline or enabling early development of the CCS plants ahead of a pipeline, in line with the Government's comments in its CCS Vision, which sees the benefit of allowing for non-pipeline transport as part of the overall carbon capture transport and storage picture in the UK.
- 2.7 The railhead is located between the two EfWs and could transport the CO₂ to Teesside, the Humber or to other locations in the UK or abroad from which CO₂ might be unloaded for pipe or sea transfer to geological storage. To this end, the Applicant has already signed a Memorandum of Understanding with Navigator Terminals, to explore the opportunities that could be gained by taking this approach³.
- 2.8 The Project is made up of the following elements. An indicative layout of the proposed carbon capture plant is shown in Figure 2.
- 2.9 Carbon Capture Equipment for up to two CCS plant lines:
 - Absorber column(s).
 - Stripper column(s).
 - Flue gas cooling/heat exchanger(s).
 - Solvent cooling/heat exchanger(s).
 - Flue gas re-heater(s).
 - Carbon Processing and Conditioning Plant(s) for the conditioning, compression, dehydration, and, if required, liquefaction and refrigeration of the captured carbon.

³ <https://enfinium.co.uk/uks-first-train-to-zero-carbon-capture-rail-link-set-to-decarbonise-yorkshire-energy-facility-through-connection-to-teesside-terminal/>

- 2.10 The liquefaction and refrigeration of the captured carbon would be required if the carbon were to be transferred by rail. The Applicant considers that the Carbon Capture Equipment aspects of the Project should constitute 'development for which development consent is required' (the "PNS Development") pursuant to the section 35 Direction.
- 2.11 The way that this Carbon Capture Equipment is used is set out in the schematic of the CCS process set out in Appendix C of this request. To help facilitate that process, other development associated with the Carbon Capture Equipment is required, including:
- Control and ancillary equipment.
 - Infrastructure to deal with the captured CO₂ on site, such as CO₂ and other storage tanks and CO₂ connections within the site.
 - Flue gas connections to each EfW.
 - Above-ground installation within Application site boundary (providing a connection point for the export pipeline if this option is chosen).
 - Railhead with tank car loading facility, if rail transport is taken forward.
 - Drainage requirements.
 - Utility connections within the site.
 - Internal and external EfW modifications to F1 and F2 as required.
 - Access, parking, tanker loading and welfare facilities.
 - Biodiversity and landscape mitigation.
- 2.12 This list constitutes examples of the types of Associated Development (pursuant to section 115 of the PA 2008) that would be brought forward alongside the PNS Development. Such Associated Development is necessary for the construction and operation of the PNS Development and would benefit from inclusion in a DCO for the PNS Development.
- 2.13 Whilst not part of the Project at this time, the Applicant is also exploring other de-carbonisation activities to utilise the energy produced by F1 and F2. The masterplan for the Project will therefore allow space for these activities to come forward at a later date. In this way, the Project is the starting point for a wider decarbonisation hub at this site. These activities are likely to include:
- Hydrogen production and fuelling / export.
 - Energy centre to support private wire opportunities and/or potential heat exports to neighbouring development.
- 2.14 The Project as a whole comprises all of the above which would facilitate the construction and operation of CCS infrastructure at F1 and F2, as illustrated and explained in Appendix C.

3. National Significance

- 3.1 This section of the letter explores the wider context of the Project, setting out why the Project should be considered a project of national significance.

Assisting in the Delivery of Net Zero and Government objectives

- 3.2 In June 2019, the UK government legislated a net zero emissions target by 2050. This was followed by two additional interim targets, set in 2021, to run a net zero power system and reduce emissions by 78% by 2035.
- 3.3 The recently designated National Policy Statement EN-1, builds on this overarching commitment and set outs that:
- 3.3.1 reflecting the UK's Net Zero Strategy (October 2021) and Industrial Decarbonisation Strategy (March 2021); there is an urgent need for new CCS infrastructure and CCS is a necessity not an option to meet Net Zero;
 - 3.3.2 the Government is seeking to capture and store 20-30Mt CO₂ per year by 2030. This reflects the CCUS Net Zero Investment Roadmap (April 2023) and the CCS Vision (December 2023), which highlighted that this would be sought to be achieved through the establishment of four CCUS clusters (two via Track-1 and two via Track-2);
 - 3.3.3 new CCS infrastructure and technologies are considered to be 'critical national priority' ("CNP") infrastructure;
 - 3.3.4 Government strongly supports the delivery of CNP infrastructure and it should be progressed as quickly as possible;
 - 3.3.5 that CNP infrastructure is an urgent need to achieve the Government's energy objectives, together with achieving national security, economic, commercial, and net zero benefits; and
 - 3.3.6 summarises the various initiatives, further to the British Energy Security Strategy (April 2022), Government is undertaking to incentivise the deployment of CCS, particularly at industrial facilities.
- 3.4 As a CCS project, the Project is therefore part of a CNP for the Government. The Project could capture and save over 1.3 million tonnes a year of CO₂. This would equate to up to 6.5% of the Government's annual CCS ambition. As approximately 50% of the CO₂ produced by an EfWs is biogenic (from burning non fossil origin materials), the overall effect of subsequently storing this carbon is carbon positive.
- 3.5 The Project would therefore play a vital part in achieving the delivery of the Government's objectives and the UK's ability to meet Net Zero. The Project contributes to accelerating the UK's decarbonisation ambitions and decarbonising the UK power system by 2035, while maintaining security of supply.

Enabling the Delivery of Policy

- 3.6 The UK Emissions Trading Scheme ("ETS") was established in January 2021 to increase the climate ambition of the UK's carbon pricing policy, while protecting the competitiveness of UK businesses. The Applicant is aware that continued operations of the F1 and F2 EfWs will fall within the expanded UK ETS from 2028, under the ETS reforms announced in July 2023.
- 3.7 Installation of CCS at Ferrybridge would contribute to the goals of the ETS, supporting the achievement of the tightening ETS cap in line with the UK's national and international commitments.

- 3.8 It is also noted that the NPPF, updated in December 2023, support the delivery of new low carbon infrastructure in plan making and decision making terms.
- 3.9 The Applicant has also reviewed the Development Plan for Wakefield and note that Wakefield Council is in the final stages of examining their new Wakefield Local Plan 2036, which will replace the existing Development Plan when adopted. Policy WSP 23 states “... *development must minimise the impact ... of climate change ...*”. The final draft Local Plan also cross refers to the Climate Emergency the Council declared in May 2019 which commits the Council to “...*work with all other relevant agencies towards making the entire area zero carbon ... [before 2030]*” and to “... *work with partners across the Wakefield District and region to deliver this goal ..*”. The Wakefield Climate Emergency Action Plan includes measures to achieve these objectives.
- 3.10 In this context, it is noted that total GHG emissions recorded for the Wakefield Council Area in 2021 in the UK's national inventory are 2.03 million tonnes of CO₂, therefore the Project would equate to capturing 64% of this total. The project will therefore significantly advance the purposes of this policy and actually contribute to reducing atmospheric carbon dioxide.
- 3.11 Fundamentally, local and national planning policy (both adopted and emerging) is supportive in principle of proposals that harness Carbon Capture technology. In return, the Project promotes Energy infrastructure and supports important Government objectives for decarbonising the national power and waste management sectors.

Regional importance of the Project as part of the waste management network and CCS network

- 3.12 F1 and F2 were originally built to service residual household waste, commercial waste, refuse-derived fuel, solid recovered fuel and wood waste. F2 was built as a response to the success and demand for F1. Both EfWs have a permitted operational capacity of 725,000 tonnes each per annum, and therefore, a combined operational capacity of 1,450,000 tonnes per annum, making the F1 and F2 site the largest operational energy from waste site in UK.
- 3.13 The waste received by the F1 and F2 site originates from the surrounding areas of Wakefield, Leeds and Sheffield, but also from elsewhere in the UK, from areas including Greater Manchester, Cheshire, Bristol, Newcastle, Leicester and Nottingham amongst others. This reflects the connectivity of the site to the national road network. Rail import of waste fuel is not currently undertaken but the infrastructure within the site allows for it.
- 3.14 Ferrybridge is ideally placed in its geography to be part of a national CCS network. The Drax Bioenergy with Carbon Capture and Storage Project, currently awaiting Secretary of State decision in January 2024, is located within 20km east of the Application site. The Ferrybridge site also boasts rail infrastructure links which could facilitate connection to Teesside, the Humber and other locations, enabling links to either Viking or the East Coast Cluster.
- 3.15 The Ferrybridge site is also located within 20km south-east of the Skelton Grange EfW under construction in Leeds. Once completed, this will process up to 410,000 tonnes of residual waste and use it to generate 49MW (gross) of renewable baseload electricity per annum. The Ferrybridge site is also located within 20km south-east of the Veolia EfW in Leeds, which is connected to the Leeds PIPES district heating network.
- 3.16 As such, the Project has the opportunity to serve as a regional anchor to the deployment of CCS across Yorkshire and improve the possibilities of how the carbon transport infrastructure will be able to be developed. Furthermore, the Project has great potential to assist in the realisation of economic benefits across North-West England, Yorkshire and the East Coast of England and thus contribute to the Government's Levelling Up vision.
- 3.17 Given that F1 and F2 together are the largest operational energy from waste site in the UK, which were consented via a combination of s36 and DCO, F1 and F2 are each considered to be of national significance. In addition, the Project promotes energy infrastructure, it has the ability to connect to the existing CCS network at a strategic location and act as a hub in its own right, it enhances local and

national opportunities and could capture 1.3 million tonnes a year of CO₂ to contribute greatly to accelerating the UK's decarbonisation ambitions while maintaining security of supply.

- 3.18 In summary it is clear that the Project should be considered as a project of national significance and should be promoted in this context for the accelerated delivery of CCS, using private finance to the benefit of the neighbouring regions and in the national interest.

4. Reasons for seeking a section 35 Direction

- 4.1 In light of the Project's clear national significance, the Applicant wishes to ensure that both it, and the Government, has consenting certainty as to how the Project is to be brought forward, both in terms of the benefit of the specified timescales of the PA 2008, but also in relation to overcoming the inherent uncertainties if a section 35 Direction were not sought.
- 4.2 These uncertainties derive from two issues:
- 4.2.1 the lack of clarity as to whether or not the Project would automatically be a Nationally Significant Infrastructure Project ("NSIP"); and
 - 4.2.2 the complexity in dealing with the existing consents for F1 and F2, both individually and together.

NSIP Uncertainty

- 4.3 Section 14 of the PA 2008 sets out what projects will be NSIPs and includes (at s14(1)(a)) "the construction or extension of a generating station". That categorisation is subject to section 15, which 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:
- (a) in England;
 - (b) does not generate electricity from wind;
 - (c) is not an offshore generating station; and
 - (d) its capacity is more than 50 megawatts.
- 4.4 In the case of the Project, it is considered that the proposed Carbon Capture Equipment would in broad terms involve an extension to two generating stations (being F1 and F2) that meet the criteria above: they are in England, generate electricity from waste not wind, are not offshore, and each has a capacity over 50 megawatts (with F1 being consented under section 36 of the Electricity Act 1989 and F2 being consented under the PA 2008), albeit that the generating capacity would not be increased.
- 4.5 "Extension" is defined in section 64 of the Electricity Act 1989 as follows: "*“extension”, in relation to a generating station, includes the use by the person operating the station of any land [or area of waters] (wherever situated) for a purpose directly related to the generation of electricity by that station and “extend” shall be construed accordingly.*"
- 4.6 In contrast to the thresholds for other NSIPs under the PA 2008, the provisions with respect to generating stations do not specify a threshold for an extension. An extension is therefore not restricted to a specified increase in a generating station's footprint, capacity or output. That in turn means that an extension of a generating station is not restricted in any way that relates to its footprint, capacity or output. Further, the definition of "extension" is not intended to be exhaustive; it only "includes" the activity which is described. That in itself militates against a narrow interpretation of "extension".
- 4.7 It is therefore clear, that the word "extension" is intended to be interpreted more widely and includes any land use or area of waters "*for a purpose directly related to the generation of electricity by that station*".
- 4.8 It is considered by the Applicant that the Project is a land use that is "*for a purpose directly related to the generation of electricity by that station*". Nothing in the definition of "extension" in the Electricity Act 1989 requires that the purpose of an extension need be intended solely the production of electricity.

- 4.9 In this context, the Applicant considers that, as the proposed Project is being designed and promoted as one that would capture the emitted CO₂ from F1 and F2's waste processing and electricity generation function, the apparatus and development required to capture that CO₂ and compress and liquefy could be argued to be an 'integral part' of the two generating stations and thus 'related to the generation of electricity' by those stations.
- 4.10 Flue gas will be taken directly from F1 and F2 and supplied to the Carbon Capture Equipment, while electricity, steam and utilities consumed by the Carbon Capture Equipment will be directly supplied from F1 and/or F2. The Carbon Capture Equipment will share a common control system/control room and operations personnel; and will be managed as a common entity with F1 and F2. Accordingly, it is considered that these elements of the Project could be argued to be an "extension" to both F1 and F2.
- 4.11 Furthermore, the Project will involve modifications to the energy production aspects of F1 and F2. In particular, modifications to the steam cycle of F1 and F2 are likely to be required in order to facilitate extraction of suitable quantities of steam at the necessary pressure and temperature to provide heat to the carbon capture plant for solvent regeneration.
- 4.12 However, the Applicant recognises that the extent to which matters are said to be an 'extension' of a generating station will need to be considered on a case-by-case basis, depending on whether it is considered that the interrelationship between the existing generation station and the new infrastructure is suitably connected, such that it can be considered to be an 'extension'.
- 4.13 In that context, the Applicant notes:
- 4.13.1 the scheme promoted by Drax (the Bioenergy with Carbon Capture and Storage project) which is comprehensively interwoven within the existing generating station and has various modifications and improvements to the existing generating station's core components that generate electricity, is a different technical design and solution to the Project. The Applicant notes that in accepting the Drax project for Examination as a NSIP (and in not questioning this in Examination), the Planning Inspectorate accepted that, in that particular case, there was considered to be a sufficient interrelationship;
- 4.13.2 the Rookery South Project, which (although the section 35 request is not publicly available) appears to have sought clarity on whether a carbon capture project could be brought forward alongside an extension to an existing EfW which itself would be a NSIP, where the Secretary of State determined that, in such an instance, the carbon capture elements could be considered 'Associated Development' to the NSIP; and
- 4.13.3 the Cory Decarbonisation Project, which sought to differentiate itself from Drax, and whose scheme design bears a closer resemblance to the Project. For the Cory Project, the Secretary of State, in granting a section 35 Direction for that project, directed that he considered that the carbon capture elements of that project would not have constituted an 'extension' to Cory's Energy from Waste facilities.
- 4.14 Whilst the Applicant welcomes the Cory decision, it cannot rely on the circumstances of that case to mean that the Courts would reach the same judgement, particularly as the facts in each of the three cases have been different and have led to technically different conclusions from the Secretary of State. Given the Applicant considers that the Project is of national significance, the Applicant therefore requires the certainty that for this Project it does fall within the PA 2008 regime, either automatically or via a section 35 Direction.
- 4.15 This is because, in the context of that uncertainty, third parties may seek to debate an interpretation of section 15 of the PA 2008 and section 64 of the Electricity Act 1989 and argue that, in the case of the Project, it is not an "extension" and thus not automatically an NSIP. This risk needs to be balanced against the fact that section 160 of the PA 2008 makes it a criminal offence for a person to carry out development for which development consent is required under the PA 2008 without a DCO in place.

4.16 In this latter context, absent the undertaking of the section 35 process, the Applicant does not have certainty whether this is the correct interpretation, and therefore the statutory basis for bringing forward an application.

Complexity of Existing Consents

4.17 The lack of certainty on the application of the definition of 'extension' is exacerbated by the existing consenting situation at the Ferrybridge site.

4.18 The existing planning consents for F1 are as follows:

4.18.1 a consent by the Secretary of State under section 36 of the Electricity Act 1989 ("the section 36 Consent") dated 31 October 2011;

4.18.2 deemed planning permission from the Secretary of State to accompany the section 36 Consent ("the DPP") of the same date; and

4.18.3 a separate planning permission from Wakefield Council ("the SPP") of 9 October 2017. Whilst this permission purports to simply 'vary' the DPP, it does not do so, as it does not impose the same conditions as apply to the DPP. It therefore forms an entirely separate permission to the DPP.

4.19 The existing planning consent for Ferrybridge 2 is the Ferrybridge Multifuel 2 Power Station Order 2015 ("the F2 Order"), which is a DCO, that has had minor amendments since it was granted.

4.20 Given the nature of the Project, being the creation of a large amount of new infrastructure, taken with the Electricity Act 1989 and the PA 2008 regimes and its accompanying Guidance and case law⁴, the Applicant considers it would not be possible to simply amend the above consents to 'bring in' CCS facilities, as to do so would be too substantive a change from what was consented originally, such that it could not be considered to simply be a change to the existing consents.

4.21 As such, in any scenario, it is the case that the provision of the Project will require (at least one) new consent for the Ferrybridge site ("CCS Consent"). Such a new permission would only be able to add to the complex consenting picture at the site, as explored below.

Ferrybridge 1

4.22 As a result of the amount and practical location of infrastructure that would be required to build the Project, the Applicant would, in respect of F1:

4.22.1 no longer be able to comply with the conditions in the DPP and SPP, as the Project would be built over the mitigation measures and some aspects of design that are secured by the conditions of those consents. In particular, as can be seen from **Figure 2: Layout Comparison Drawing**, the Carbon Capture Equipment and carbon storage areas would need to be built on top of the required landscaping, biodiversity and drainage areas for F1; and

4.22.2 no longer be in accordance with the details that were submitted with the application for the section 36 Consent and would affect the operation of the existing plant as authorised by the section 36 Consent.

4.23 The result of this is that, alongside any CCS Consent, the Applicant would need to seek to vary both the DPP and the SPP, and the section 36 Consent (a variation to a section 36 consent being known as a 'section 36C consent'), to ensure that it does not become in breach of its existing consents.

⁴ In particular *Hillside Parks Ltd (Appellant) v Snowdonia National Park Authority* (Respondent) [2022] UKSC 30 and *R (Fiske) v Test Valley Borough Council* [2023] EWHC 2221 (Admin)

- 4.24 Whilst the Applicant is aware that it could pursue a strategy that, when applying for a section 36C Consent, a request can also be made to the Secretary of State to vary a deemed planning permission and in that request the Applicant could make a commitment in an accompanying section 106 Agreement that the DPP and SPP should no longer be considered to apply, meaning that only one additional application would need to be made to deal with the section 36 Consent, DPP and SPP, the Applicant is concerned that it may not be possible for the Secretary of State to determine such an application as:
- 4.24.1 the Guidance⁵ and the Regulations⁶ which apply to section 36C consents indicate that the Secretary of State will not authorise amendments to built infrastructure where the energy generation facility is already built (as is the case at F1);
- 4.24.2 whilst ‘changes to operation’ which have associated development aspects can be authorised by section 36C consent:
- (e) the Secretary of State would need to be convinced that the changes to F1 to facilitate the connection of the CCS facilities (not the CCS facilities themselves) constitute a ‘change in operation’ of the power plant. As far as the Applicant is aware, this has not yet been tested in the context of installation of CCS infrastructure of the size being considered for the Project; and
 - (f) such changes are not permitted where they would constitute an ‘extension’ to the generating station. For the reasons set out above, there is no certainty that the Secretary of State would agree that that such changes would not involve an extension.
- 4.25 The Applicant is concerned that, in the event that the Secretary of State declined to entertain a section 36C application, then a whole new consent would potentially be required for F1 in order to keep operating alongside the Project. Given the operating generating capacity of F1, this would need to be a DCO and would re-open the acceptability of F1 itself, not just the Project. The Applicant does not consider that this is appropriate in the context of the need to quickly deliver CCS infrastructure, and that the principle of F1 operating has already been determined.
- 4.26 As can be seen from **Figure 1: Planning Boundary Comparison**, there are significant overlaps between the F1 and F2 boundaries and the likely boundary for the Project, where, if a number of different new and varied consents were needed to operate in the absence of a section 35 Direction, there would be a real risk in terms of certainty for the Applicant and Wakefield Council from both an investment and planning perspective, in terms of what consents would be properly applying, and what could or could not be enforced. This would undermine investor certainty.
- 4.27 Furthermore, in light of the *Fiske and Hillside* judgements, the Applicant is concerned that even if an additional consent was considered able to be given, the application and consent granted, taken alongside any new CCS consent for the Project, would cause great complexity to the continued operation of F1 in terms of defining what consents would be applying to which infrastructure or operation.

Ferrybridge 2

- 4.28 As a result of the amount and practical location of infrastructure that would be required to build the Project, the Applicant would, in respect of F2:
- 4.28.1 no longer be able to comply with the Requirements of the F2 Order as the Project would be built over the mitigation measures and some aspects of design that are secured by those Requirements. In particular, as can be seen from **Figure 2: Layout Comparison**

⁵ https://assets.publishing.service.gov.uk/media/5a7cde3de5274a2c9a4849b1/DECC_varying_consents.pdf

⁶ The Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013

Drawing, the CCS infrastructure would need to be built on top of the required landscaping, biodiversity and drainage areas for F2; and

- 4.28.2 would need to vary the location of infrastructure listed as forming part of the 'nationally significant infrastructure project' in the F2 Order, being Work No. 1B of that DCO. As can be seen from **Figure 2: Layout Comparison Drawing**, the Carbon Capture Equipment and carbon storage areas would need to be built over the vehicular access road, drainage, parking and gatehouse. Variations to development that is classed as the nationally significant infrastructure project can only be done through the changes process in the PA 2008 regime, not the TCPA regime.
- 4.29 As a starting point, therefore, if the Project was brought forward, the F2 Order would need to be changed to amend the Requirements of the F2 Order to reflect the position with the Project in place, and to vary the locations within which the nationally infrastructure project elements could be located.
- 4.30 Given the number of changes that would need to be made to the F2 Order as a result of the Project, the Applicant considers that there is reasonable chance that any change application would be considered to be 'material' by the Secretary of State, adding uncertain timeframes to the Project.
- 4.31 The Applicant also recognised, however, that it may not be possible for a change application to be made at all, as it is understood that the Government does not consider that changes can be made to projects that have been built (reflecting the approach to section 36 consents discussed above).
- 4.32 In such a situation, a new DCO would be needed, dealing not just with the Project, but also re-opening whether F2 itself, in an amended state, is acceptable. Again, the Applicant considers that this would not be an appropriate outcome.
- 4.33 As such, for F2, the Applicant is in a position where at best, material changes to the F2 Order would be required from the Secretary of State, and at worst a whole new DCO is required from the Secretary of State.
- 4.34 Taking all of this together, the Applicant considers that over the whole Ferrybridge site, it:
- 4.34.1 definitively requires at least one new consent for the new infrastructure contained in the Project;
- 4.34.2 needs a further consent to vary the existing consents, but which it is not certain could actually be given, and in the absence of such certainty, could lead to the principle of F1 being re-opened; and
- 4.34.3 requires material changes or a new DCO for F2. Where a new DCO would be required, the Applicant considers that it would be an irrational use of resources to then bring forward a separate application only relating to dealing with the F1 existing consents.
- 4.35 In light of all of the above, it is considered that the cleanest approach to consenting the Project, and dealing with the existing consents, would be for the Applicant to be able to seek one overarching DCO through the PA 2008 regime.
- 4.36 Being able to bring forward the DCO would mean that the Applicant could consent the Project and provide that activities carried out for the Project would not be in breach of the existing consents. Crucially, a DCO would, in one consent, deal with all of the concerns raised above, as no other variations would be needed to those consents to 'regulate' the overall consenting position. All variations would be achieved via the DCO.
- 4.37 The Applicant considers that the benefits of this approach are:

- 4.37.1 the principle of whether F1 and F2 are acceptable is not re-opened, thus focussing the consenting process on what really matters for the Project, which is whether the installation of the CCS infrastructure is acceptable;
- 4.37.2 the Project and its interactions with F1, F2 and the surrounding environment would be dealt with by one decision-maker rather than a mixture of the Secretary of State and the local authority which could result in varying views;
- 4.37.3 it enables stakeholders to focus on and assess impacts in relation to one consent, focussing resources and minimising programme complexity;
- 4.37.4 it avoids duplication and lack of consistent decision-making across multiple consents; and
- 4.37.5 will facilitate the delivery of a clean Master Plan that enables future development of the site as a decarbonisation hub.

Conclusion on Consenting Uncertainty

- 4.38 In light of the above, it is clear that there is a wide-ranging lack of matters which affect the certainty of the processes that the Project can or should go through to be able to achieve the necessary consents to be able to proceed with it with confidence.
- 4.39 This uncertainty directly affects the commercial risk on the project, and thus investor confidence. Without the benefit of the certainty provided by the Section 35 Direction, there would be a real risk that the Project would not go ahead due to a lack of such confidence from investors, and the nationally significant benefits of it would therefore not be realised.
- 4.40 For a nationally significant piece of infrastructure such as this, the section 35 Direction would give sufficient certainty to all parties, and investors, of the one consent that deals with the CCS position, whilst regulating the others; whilst avoiding the delays associated with each regulatory authority considering the merits of the relevant consent afresh and in a range of different statutory and non-statutory timescales for each of the projects.

Other Benefits of certainty over PNS status

- 4.41 The Project being granted PNS status would result in numerous benefits for the Applicant, Local Planning Authority (LPA) and local community. The DCO process, used frequently by energy projects, provides all parties (including LPAs, local community, statutory stakeholders, neighbouring landowners and businesses) with a structured and predictable process including its mandatory pre-application consultation. The process fundamentally assists all parties in ensuring their matters are heard and addressed, and through the scrutiny of the project by the Examining Authority, holding significant experience in energy infrastructure and with the involvement of industry experts through hearings as required.
- 4.42 Through seeking a DCO, it would provide the Applicant with certainty on the inclusion of all the Carbon Capture Equipment (for up to two CCS plant lines), together with the necessary supporting infrastructure (as Associated Development) to deliver the Project.
- 4.43 The DCO process would also provide certainty in terms of the timing of decision making. Having gained a DCO for the F2 site, the Applicant is well versed in the process's requirements.
- 4.44 The PA 2008 regime would also provide scope for the Applicant to seek powers of compulsory acquisition (if required). The majority of the site is in the Applicant's ownership, hence significant use of compulsory acquisition is not currently anticipated. The availability of this option provides greater certainty if third party land is required (e.g. for environmental mitigation purposes) and it is possible small areas beyond the current landholdings may become critical.

- 4.45 As a novel project but one of clearly national significance for which much of its rationale stems from national policies, the LPA may encounter resourcing and expertise difficulties within its professional establishment, particularly given the consenting complexities discussed above. Moreover the decision making executive would be required to make a series of decisions well outside of the normal run of matters it is concerned with. The DCO process in contrast is clear in terms of what it requires from LPAs through Local Impact Reports and these are typically couched in a positive way which emphasises the benefits Wakefield can expect from the Project.
- 4.46 The DCO process demands significant, but predictable and clearly defined, requirements with regards to statutory (such as regulatory bodies, local authorities and land owners) and non-statutory (wider public) consultation. In particular, being able to proceed with the DCO alongside the already known permitting requirements for the Project will enable both the Secretary of State and the Environment Agency to have the necessary comfort that both matters are proceeding along well-understood lines.
- 4.47 The public also have a keen interest in the F1 and F2 sites due to the power station history in the Ferrybridge area. The Applicant sees this as an opportunity for the Project to bring the local community along the CCS and much wider UK Net Zero journey. Mutually, the Project would greatly benefit from the involvement of the local community in the Project to ensure opportunities and wider benefits are realised. Furthermore, dealing with the Project and the overlapping issues with the other extant consents (as outlined above) in one application rather than multiple applications under different regimes, will provide greater clarity and simplicity to the general public and other stakeholders who could otherwise get confused by the sheer complexity of the consents being sought and why.

5. Qualifying Criteria

- 5.1 Further to all of the above, and in respect of the principles set out in sections 35 and 35ZA of the PA 2008 concerning a qualifying request and a direction, the Applicant confirms that:
- 5.1.1 all elements of the Project for which a direction is sought and which should be considered as 'development for which development is required' (i.e. the PNS Development) are in the field of energy (s35(2)(a)(i)), as they will facilitate the capture, storage and transfer of carbon emitted as a direct consequence of the energy generated by F1 and F2;
 - 5.1.2 the Project will be wholly in England (s35(2)(b) and s35(3)(a));
 - 5.1.3 the Project is a project of national significance (s.32(c)) for the reasons set out above;
 - 5.1.4 no application for a consent or authorisation mentioned in section 33(1) or (2) of the PA 2008 has been made in respect of the works which make up the Project (in the context of section 35ZA(8) and (9)); and
 - 5.1.5 the development to which the request relates is specified in Annex A and Annex F of this document (s.35ZA (11)).
- 5.2 This Application should therefore be considered to be a 'qualifying request' for the purposes of the PA 2008.

6. Conclusion

- 6.1 The Applicant is seeking a direction from DESNZ under section 35 of the PA 2008 to provide certainty on the inclusion of the Project via a DCO application.
- 6.2 Installing CCS at F1 and F2 could capture and save over 1.3 million tonnes a year of CO₂, being approximately 95% of the carbon emitted at the Ferrybridge site. This equates to 6.5% of the government's annual CCUS ambition and up to 64% of Wakefield Local Authority Area's 2021 reported 2.03 million tonnes of CO₂. As approximately 50% of the CO₂ produced by an EfW is biogenic (from burning non fossil origin materials), the overall effect of subsequently storing this carbon is carbon positive.
- 6.3 Fundamentally, local and national planning policy (both adopted and emerging) is supportive in principle of proposals that harness carbon capture technology. In return, the Project promotes energy infrastructure and supports important Government objectives for decarbonising the national power and waste management sectors and meeting a tightening UK ETS cap with inclusion of energy-from-waste in 2028.
- 6.4 Given that F1 and F2 together are the single largest operational energy from waste site in the UK, F1 and F2 are considered to be of national significance. In addition, the Project promotes Energy infrastructure, has the ability to connect to the existing CCS network, enhances local and national opportunities and captures the quantities of CO₂ reported which contribute greatly to accelerating the UK's decarbonisation ambitions while maintaining security of supply. The Project is therefore considered to be a project of national significance.
- 6.5 In light of that national significance, a section 35 Direction would enable the Project to cut through the considerable consenting complexities discussed in this request to enable these carbon savings to be gained as soon as possible.
- 6.6 The Project being granted PNS status would result in numerous benefits for the Applicant, LPA and local community. The DCO process provides all parties (including LPAs, local community, statutory stakeholders, neighbouring landowners and businesses) with a structured and predictable process including its mandatory pre-application consultation. The process fundamentally assists all parties, in ensuring their matters are heard and managed. The process is well-known and this allows the delivery of the DCO requirements to be led by industry experts who will appropriately manage matters and the Examining Authority will be well qualified to assess the application.
- 6.7 This approach has the support of the LPA, City of Wakefield Metropolitan District Council, as documented in the letter of support enclosed with this application.
- 6.8 The Applicant trusts that all of the above provides sufficient information for the purpose of enabling DESNZ to decide if the Project can be considered a PNS to be consented under the PA 2008.
- 6.9 The Applicant is therefore seeking that DESNZ exercise powers under section 35 of the PA 2008 to direct that the PNS Development is a project of national significance for which development consent under the PA 2008 regime is required.
- 6.10 The Applicant looks forward to receiving confirmation that this request has been received. In the meantime, please do not hesitate to contact me if you require any further information.

Yours sincerely

**National Head of Infrastructure Planning, Energy and Infrastructure
Savills**

Figure 1: Planning Boundary Comparison

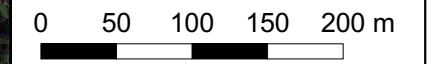


FERRYBRIDGE 1&2 CARBON CAPTURE STORAGE

Date: 17-01-2024

Paper size: A3

Scale: 1:5,000



Key:

- Indicative Ferrybridge 1 & 2 Carbon Capture Storage Site Boundary 2024
- FM1 S.36 Consent Boundary (2011)
- DCO Boundary (2015)
- Storage Area for FM1 Construction (Permitted Development)



Planning Boundary Comparison

Figure 1

Status: FINAL

Revision: V3

Drawn by:

Approved by:

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Figure 2: Layout Comparison Drawing

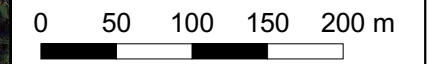


FERRYBRIDGE 1&2 CARBON CAPTURE STORAGE

Date: 17-01-2024

Paper size: A3

Scale: 1:5,000



Key:

- Indicative Ferrybridge 1 & 2 Carbon Capture Storage Site Boundary 2024
- Proposed Carbon Capture Plant Indicative Layout
- Liquefaction and storage - potential locations

Existing site elements

- Weighbridge
- Tipping Hall
- Waste Bunker
- Grate and boiler
- Flue Gas Treatment
- Air Cooled Condensers
- Turbine Hall
- IBA Bunker
- Blue Phoenix Site - processing incinerator bottom ash
- Outage Management Compound and Parking
- Substation
- Landscaping
- Surface Water Attenuation Lagoon
- Rail Facility



Layout Comparison Drawing

Figure 2

Status: FINAL

Revision: V6

Drawn by:

Approved by:

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Appendix A: Proposed Scheme Description

Summary

The installation of carbon capture infrastructure at the Ferrybridge 1 and Ferrybridge 2 EfW plants in Yorkshire; through the application of solvent to the flue gas produced by those plants; and the processing and conditioning of the captured carbon dioxide. This process will require plant to facilitate the chemical absorbent and regeneration activities, including the necessary exchanges of heat, water and steam. Following the processing and conditioning of the captured carbon dioxide, it will either be exported off-site by pipeline, or stored temporarily before onwards transport by rail via the on-site rail hub.

The Proposed Project of National Significance:

Scheme Feature	Description
Carbon Capture Equipment	<p>Up to two:</p> <p>Absorber column(s).</p> <p>Stripper column(s).</p> <p>Flue gas cooling/heat exchanger(s).</p> <p>Solvent cooling/heat exchanger(s).</p> <p>Flue gas re-heater(s).</p> <p>Carbon Processing and Conditioning Plant(s) for the conditioning, compression, dehydration, and, if required, liquefaction and refrigeration of the captured carbon.</p>

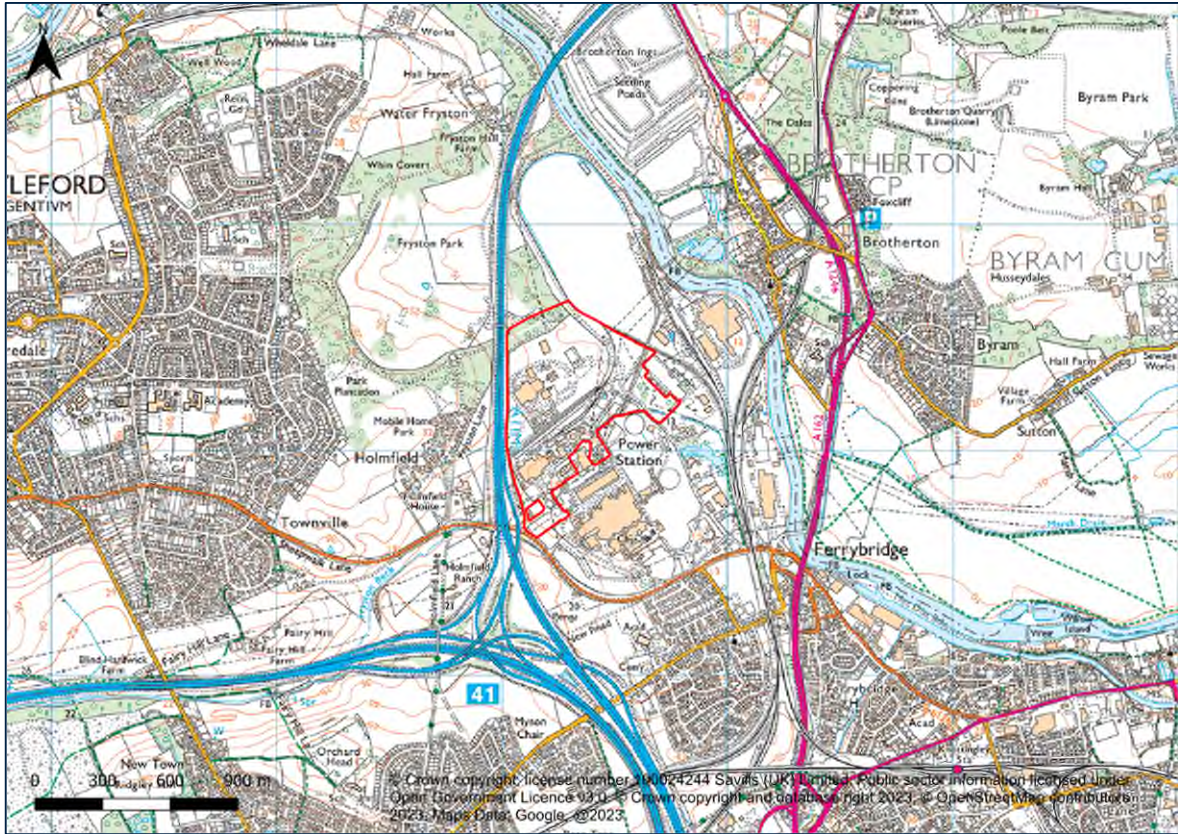
The Associated Development may include but is not limited to:

Element	Description
Associated pipework , cables and ductwork, and associated above-ground installation	<p>Pipework, cables and ductwork (including associated fans and valves, control equipment and above ground installation) to move electricity, oxygen, carbon dioxide, solvent, and associated cooling, heat, water and other utility requirements between:</p> <ul style="list-style-type: none"> the different elements of the Carbon Capture Equipment, the Carbon Storage Equipment and the existing EfW plants on site (including flue gas connections); the different elements of the Carbon Capture Equipment; and the Carbon Capture Equipment and the Carbon Storage Equipment.
Rail head	Improvements to the existing rail head to facilitate movement of carbon dioxide, including tank car loading.
Internal and external F1 and F2 EfW modifications	Modifications to the existing EfWs to provide for the connection to the Carbon Capture Equipment.
Carbon Storage Equipment	Buffer storage provision (including storage tanks) to provide for onsite storage prior to transfer by rail as an option. The required

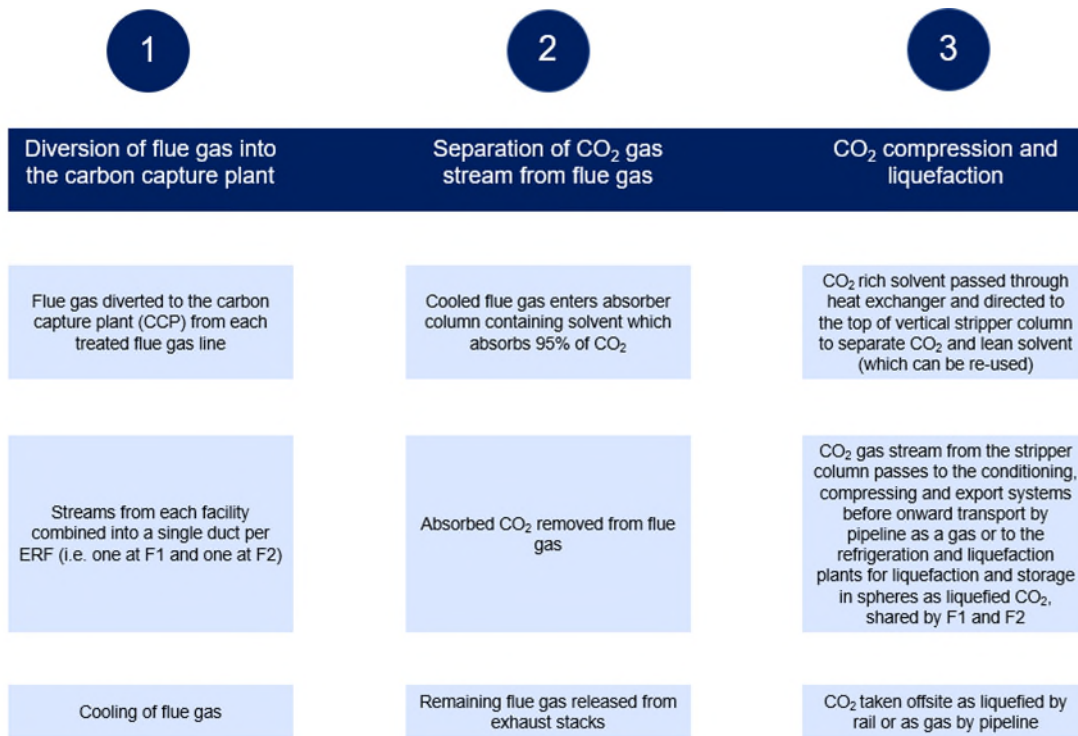
	storage capacity will be dependent on the cargo volumes of the trains utilised to transport the CO ₂ to the selected storage site(s).
Utilities and Drainage Works	Diversions to existing apparatus and new apparatus which may be necessary as well as change to the existing electrical, gas and water connections to national networks from the site.
Biodiversity and landscape mitigation	Mitigation works required to mitigate the effects of the scheme.
Temporary worksites	Construction compounds and temporary working space (including access, parking, tanker-loading and welfare facilities) to facilitate the construction of the Scheme.

and **Ancillary Matters** for all of the above.

Appendix B: Site Map



Appendix C: Schematic of the CCS process



Appendix D: Letter of Support from City of Wakefield Metropolitan District Council

Head of Planning
Department for Energy Security and Net Zero
1 Victoria Street
London
SW1H 0ET
United Kingdom

Service Director Planning, Transportation and
Strategic Highways

Wakefield One
PO Box 700
Burton Street
Wakefield
WF1 2EB

Typetalk calls welcome

Our Ref:
Your Ref:
Date: 24 January 2024

Dear Department for Energy Security and Net Zero

FERRYBRIDGE 1&2 ENERGY FROM WASTE FACILITIES CARBON CAPTURE AND STORAGE

Officers of Wakefield Council's Local Planning Authority (LPA) have been in discussions with Enfinium Ltd, the owner and operator of the Ferrybridge 1 and 2 Energy From Waste Facilities, that lie within the administrative area of the Council about a potential Ferrybridge 1 and 2 Carbon Capture and Storage (CCS) project.

It is understood that Enfinium wishes to develop CCS facilities at Ferrybridge along with associated infrastructure to facilitate transportation of captured carbon dioxide from the site to geological storage locations. There is in theory a choice of consenting options for the project.

Any approach other than the single Development Consent Order (DCO) proposed would involve the Council in numerous processes associated with modifying the deemed planning permission that relates to Ferrybridge Multi-Fuel 1 (FM1), which was granted further to a Section 36 Consent under the Electricity Act 1989. There would also need to be separate planning permissions for the carbon capture plants, railhead, storage and processing of carbon dioxide, and the infrastructure within the site to connect to a strategic pipeline. Additional to this would be a modification to the DCO for the Ferrybridge Multi-Fuel 2 (FM2) plant.

The LPA's view is that processing the applications for the facility in this way would be complex and create potential for unintentional conflict between the resulting consents. It would also place a burden of decision making on the Council that could be properly informed only by engaging external resources and would require considerable officer and Member time during a period when the Council may be under considerable substantial pressure. In the DCO process the Council's role would be through the production of a Local Impact Report to secure a scheme that has least adverse and most beneficial effect towards the Council's objectives set out in its adopted Local Plan and Climate Emergency Action Plan.

For these reasons, the LPA supports Enfinium's application to DESNZ for a Section 35 Direction to bring the nationally significant elements of the proposed Carbon Capture project at Ferrybridge within the Planning Act 2008 regime as a Project of National Significance and also to incorporate other elements of

the project as Associated Development such that the Council may control any subsequent amendments to them.

The LPA's support in principle relating to processing is without prejudice to the assessment of the actual application(s) that would be presented for assessment. At this stage the LPA offers no comments relating to the positive and/or negative aspects of any application which may be submitted.

Yours sincerely

Service Manager, Development Management & Building
Control

Appendix E: Draft Direction.

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

By [email/letter] to the Secretary of State received on [date 2024] Enfinium Limited (“**the applicant**”) formally requested 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 Planning Act**”) to direct that the proposed Ferrybridge Carbon Capture and Storage Project as set out in the applicant’s [email/letter] and supporting submissions (“**the proposed scheme**”) be treated as a scheme which is of national significance that is development for which development consent is required, as set out in Annex 1 of the [email/letter].

The Secretary of State has made a decision within the primary deadline set out in section 35A(2) of the Planning Act and wishes to convey that decision.

Having considered the applicant's request and the details of the proposed scheme, the Secretary of State is satisfied that:

- the proposed scheme incorporates projects which do not fall into the category of projects described in section 14 of the Planning Act 2008;
- that therefore the proposed scheme does not currently automatically fall within the definition of a "nationally significant infrastructure project" ("**NSIP**") and therefore it is appropriate to consider use of the power in section 35;
- the parts of the proposed scheme that are requested to be development for which development consent is required either are, or are part of, projects in the field of energy and will be wholly within England; and
- the applicant's request therefore constitutes a "qualifying request" in accordance with section 35ZA(1).

In coming to this conclusion, the Secretary of State notes that the proposed scheme relates to the construction of post combustion carbon capture, storage and transfer equipment and thus sits within one of qualifying infrastructure fields listed in section 35(2)(a)(i) – energy - of the Planning Act.

The Secretary of State notes that the proposed scheme encompasses Carbon Capture Equipment including up to two:

- Absorber column(s).
- Stripper column(s).
- Flue gas cooling/heat exchanger(s).
- Solvent cooling/heat exchanger(s).
- Flue gas re-heater(s).
- Carbon Processing and Conditioning Plant(s).

as set out under the “The Proposed Project of National Significance” in Appendix A of the [email/letter] (together “the **PNS development**”);

- the delivery of “associated development” (within the meaning of section 115(1)(b) of the Planning Act including, but not limited to, associated pipework, cables and ductwork, and associated above ground installation, the use of a rail head, modifications to the existing Ferrybridge generation stations, carbon storage equipment, temporary and permanent utilities and drainage, environmental mitigation and temporary working sites- (“the **associated development to the PNS development**”); and
- ancillary matters (“the **ancillary development to the PNS developments**”).

The proposed scheme does not include the construction of any dwellings as part of the PNS development.

The proposed scheme can therefore be summarised as:

1. the PNS development;
2. the associated development to the PNS development; and
3. the ancillary development to the PNS development.

all as detailed in the applicant's [email/letter] Secretary of State received on [date 2024].

The Secretary of State considers that the PNS development is genuinely nationally significant and would:

- be challenging and substantial, involving extensive infrastructure works and a complex interaction with a number of existing consents; and
- will benefit from the application being determined in a timely and consistent manner by the Secretary of State.

Furthermore, that the PNS development would provide and support:

- the achievement of a net zero economy and the meeting of the challenge set by the IPCC to countries around the world;
- the achievement of the Government’s policy objectives in the Energy White Paper, the Clean Growth Strategy, the Energy National Policy Statement, the Industrial Decarbonisation Strategy and the British Energy Security Strategy;
- the capture of 1.3 million tonnes a year of CO₂, equating to 6.5% of the government’s annual CCS ambition; and
- the decarbonisation of the largest energy from waste site in the UK.

THE SECRETARY OF STATE HEREBY DIRECTS that the **PNS development** is to be treated as development for which development consent is required. Any development consent order application for the PNS development may also include any matters that may properly be included in a development consent order (within the meaning of section 120 of the Planning Act) including ancillary matters (section 120(3)), associated development (within the meaning of section 115(2) of the Planning Act) and related housing development (within the meaning of sections 115(4B) and (4C) of the Planning Act).

THE SECRETARY OF STATE FURTHER DIRECTS in accordance with section 35ZA(3)(b) and (5)(b) of the Planning Act that any proposed application for a consent or authorisation mentioned in section 33(1) or (2) of

the Planning Act in relation to the PNS development is to be treated as a proposed application for which development consent is required;

This direction is given without prejudice to the Secretary of State's consideration of any application for a development consent order which is made in relation to all or part of the proposed scheme.

Signed by

[name of person signing]

[position or role of named person]

Enclosure 2: existing Section 35 direction

DIRECTION BY THE SECRETARY OF STATE FOR ENERGY SECURITY AND NET ZERO (“THE SECRETARY OF STATE”) UNDER SECTION 35 OF THE PLANNING ACT 2008 RELATING TO THE FERRYBRIDGE CARBON CAPTURE AND STORAGE PROJECT

1. By letter to the Secretary of State received on 29 January 2024, Enfinium Limited (“the Applicant”) 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 proposed Ferrybridge Carbon and Capture Storage Project (“the Proposed Project”) be treated as development for which development consent under the Act is required.
2. The Proposed Project contains the following elements as set out in Appendix A of the Direction request:
 - the construction and operation of Carbon Capture Equipment including up to two: absorber column(s), stripper column(s), flue gas cooling/heat exchanger(s), solvent cooling/heat exchanger(s), flue gas re-heater(s), and Carbon Processing and Conditioning Plant(s);
 - the delivery of “associated development” (within the meaning of section 115(2) of the Act) which may include, but is not limited to, associated pipework, cables and ductwork, and associated above ground installation, improvements to the existing a rail head, internal and external modifications to the existing Ferrybridge 1 and 2 energy from waste facilities, carbon storage equipment, temporary and permanent utilities and drainage works, biodiversity and landscape mitigation and temporary work sites; and
 - ancillary matters (section 120(3) of the Act).
3. The Secretary of State is satisfied that—
 - The Proposed Project is within one of the qualifying infrastructure fields listed in section 35(2)(a)(i) (energy) and that the Proposed Project will be wholly within England;
 - The Proposed Project does not 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 Act; and
 - The Applicant’s request constitutes a “qualifying request” in accordance with section 35ZA(11) of the Act.
4. Having considered the details of the Applicant’s proposals as set out in their letter of 29 January 2024, and having noted that the City of Wakefield Metropolitan District Council supports the request, the Secretary of State concludes that the Proposed Project is nationally significant, for the reasons set out in the Annex below.
5. The Secretary of State considers that if the details of the Proposed Project change, 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.
6. The Secretary of State has taken the decision within the conditions as required by sections 35A(2) and (5) of the Act, and issues this Direction accordingly under sections 35(1) and 35ZA of the Act.

7. THE SECRETARY OF STATE DIRECTS that the Proposed Project is to be treated as development for which development consent is required.
8. The Secretary of State further directs in accordance with sections 35ZA(3)(b) and (5) of the Act that an application for a consent or authorisation mentioned in section 33(1) or (2) of the Act or similar to that described in the qualifying request to the Secretary of State for Energy Security and Net Zero for a direction under section 35 of the Act made by Enfinium Limited on 29 January 2024 for the Proposed Project is to be treated as a proposed application for which development consent is required.
9. 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 Project.

Signed by

John Wheadon
Head of Energy Infrastructure Planning
For and on behalf of the Secretary of State for Energy Security & Net Zero

20 February 2024

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 Project is of national significance as the Carbon Capture Equipment will enable the existing Ferrybridge energy from waste NSIP facilities to meet the UK's commitment to reduce carbon emissions and the Government's objectives to create a secure, reliable, and affordable energy supply for consumers. The Secretary of State does not consider that, in this case, the carbon capture element of the Proposed Project constitutes an extension of the generating station.
- As a carbon capture and storage facility, the Proposed Project would provide and support the decarbonisation of the largest energy from waste site in the UK, with the potential to deliver over a million tonnes of CO₂ savings per annum, equating to 6.5% of the government's annual carbon capture and storage ambition.
- Progressing the development through the Planning Act 2008 development consent process would provide the certainty of a single, unified consenting process and fixed timescales. This is particularly important considering the existing Electricity Act 1989 and Planning Act 2008 consents for the Ferrybridge F1 and F2 energy waste from facilities respectively, and the potentially complex interaction that any subsequent consent could require with them.

Enclosure 3: proposed amended Section 35 direction

DIRECTION BY THE SECRETARY OF STATE FOR ENERGY SECURITY AND NET ZERO (“THE SECRETARY OF STATE”) UNDER SECTION 35 OF THE PLANNING ACT 2008 RELATING TO THE FERRYBRIDGE CARBON CAPTURE AND STORAGE PROJECT

1. By letter to the Secretary of State received on 29 January 2024, Enfinium Limited (“the Applicant”) 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 proposed Ferrybridge Carbon and Capture Storage Project (“the Proposed Project”) be treated as development for which development consent under the Act is required.
2. The Proposed Project contains the following elements as set out in Appendix A of the Direction request:
 - the construction and operation of Carbon Capture Equipment including up to two: absorber column(s), stripper column(s), flue gas cooling/heat exchanger(s), solvent cooling/heat exchanger(s), flue gas re-heater(s), and Carbon Processing and Conditioning Plant(s) (together, ‘the PNS development’)
 - the delivery of “associated development” (within the meaning of section 115(2) of the Act) which may include, but is not limited to, associated pipework, cables and ductwork, and associated above ground installation, improvements to the existing a rail head, internal and external modifications to the existing Ferrybridge 1 and 2 energy from waste facilities, carbon storage equipment, temporary and permanent utilities and drainage works, biodiversity and landscape mitigation and temporary work sites; and
 - ancillary matters (section 120(3) of the Act).
3. The Secretary of State is satisfied that—
 - The Proposed Project is within one of the qualifying infrastructure fields listed in section 35(2)(a)(i) (energy) and that the Proposed Project will be wholly within England;
 - The Proposed Project does not 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 Act; and
 - The Applicant’s request constitutes a “qualifying request” in accordance with section 35ZA(11) of the Act.
4. Having considered the details of the Applicant’s proposals as set out in their letter of 29 January 2024, and having noted that the City of Wakefield Metropolitan District Council supports the request, the Secretary of State concludes that the Proposed Project is nationally significant, for the reasons set out in the Annex below.
5. The Secretary of State considers that if the details of the Proposed Project change, 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.

6. The Secretary of State has taken the decision within the conditions as required by sections 35A(2) and (5) of the Act, and issues this Direction accordingly under sections 35(1), ~~and 35ZA~~ and 233 of the Act.
7. THE SECRETARY OF STATE DIRECTS that the ~~Proposed Project~~PNS development is to be treated as development for which development consent is required.
8. The Secretary of State further directs in accordance with sections 35ZA(3)(b) and (5) of the Act that an application for a consent or authorisation mentioned in section 33(1) or (2) of the Act or similar to that described in the qualifying request to the Secretary of State for Energy Security and Net Zero for a direction under section 35 of the Act made by Enfinium Limited on 29 January 2024 for the ~~Proposed Project~~PNS development is to be treated as a proposed application for which development consent is required.
9. This Direction varies the Secretary of State's previous Direction dated 20 February 2024.
10. 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 Project.

Signed by



John Wheadon
Head of Energy Infrastructure Planning
For and on behalf of the Secretary of State for Energy Security & Net Zero

[date] 2024

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 Project is of national significance as the Carbon Capture Equipment will enable the existing Ferrybridge energy from waste NSIP facilities to meet the UK's commitment to reduce carbon emissions and the Government's objectives to create a secure, reliable, and affordable energy supply for consumers. The Secretary of State does not consider that, in this case, the carbon capture element of the Proposed Project constitutes an extension of the generating station.
- As a carbon capture and storage facility, the Proposed Project would provide and support the decarbonisation of the largest energy from waste site in the UK, with the potential to deliver over a million tonnes of CO₂ savings per annum, equating to 6.5% of the government's annual carbon capture and storage ambition.
- Progressing the development through the Planning Act 2008 development consent process would provide the certainty of a single, unified consenting process and fixed timescales. This is particularly important considering the existing Electricity Act 1989 and Planning Act 2008 consents for the Ferrybridge F1 and F2 energy waste from facilities respectively, and the potentially complex interaction that any subsequent consent could require with them.