



AARON & PARTNERS LLP

SOLICITORS

Mark Southgate
Director of Major Applications and Plans
The Planning Inspectorate
Temple Quay House
Temple Quay
Bristol

Our Ref: DAH.KM.MYN1.1

Your Ref: EN010020

Date: 17 June 2015

PINS RECEIVED

18 JUN 2015

Dear Sir

Mynydd Y Gwynt Wind Farm Application
Planning Inspectorate Reference - EN010020

Introduction

This matter was accepted for examination on 20th August 2014, with the examination closing on 20th May 2015. This firm has acted for the applicant throughout. We have nothing but praise for the way in which the examination has been handled by the team at PINS; at all stages it has been effective, efficient and courteous. Against this background, we have considered very carefully how we should approach the issue which arises from the facts we set out below. In short, we wish it to be absolutely plain that we are seeking your assistance in resolving this issue, and are expressly not raising any sort of criticism or complaint.

Facts

Your assistance is sought on the question of email submissions which are sent but apparently not received as part of the DCO consenting regime under the 2008 Act. In submitting documents for the examination we are required to send them to PINS's dedicated MYG email address: myg@infrastructure.gsi.gov.uk. As PINS has a 12MB size limit on emails, where required we have to submit information over a series of emails. We have successfully accorded with this procedure over the several deadlines of the process.

On 14th May 2015 (Deadline X) we submitted 27 documents on behalf of the Applicant. Given the size of some of the documents and in the light of the above, the documents were sent in a series of 12 e-mails were from our Keith McKinney to the dedicated PINS' MYG email address. Each e-mail was also copied to David Harries of this firm, and to our client's chief executive, Clive Callister.

Each e-mail was given its own number out of 12, for example: e-mail 1 of 12. This was displayed in both the subject line of the e-mail and in the main body of the e-mail, where it was also highlighted in bold and underlined.

In addition, the body of each e-mail contained a table listing the Deadline X submission documents and highlighting those documents attached to that e-mail. Where the document was so large that it was

required to be split the table would state which part of the document was attached, for example: part 2 of 2.

We attach a screenshot of email 4 of 12 in this sequence illustrating this (Screenshot 1).

The Issue

On 9th June our Keith McKinney was called by PINS' Emré Williams, the Case Manager for this application. In that conversation Mr Williams said that PINS has not received part 1 of both the tracked change and clean versions of the HRASR (version 6) that were submitted at Deadline X, and cannot find any record of the e-mails that included these documents. To be clear, there is no issue that both clean and track change versions of part 2 of the HRASR (version 6) were safely received by PINS. Mr Williams went on to explain that as a result, with the examination timetable having concluded, the Examiner Mr Asquith will not be able to consider version 6 at all when making his recommendation, but will instead consider version 5 of the HRASR that was submitted at Deadline VII, and PINS will refer the Secretary of State to version 6.

In this instance, Part 1 of the track changes version of the HRASR was contained in e-mail 4 of 12, and part 1 of the clean version of the HRASR was contained in e-mail 6 of 12. It is these emails which Mr Williams says PINS did not receive.

These e-mails were sent to the same, correct e-mail address as the other e-mails on the 14th May (to reiterate, myg@infrastructure.gsi.gov.uk). We have checked the size of the e-mails to ensure that they were both under the 12MB limit and confirm that both e-mail 4 and e-mail 6 were approximately 5MB each. Clearly, both e-mails were well under the 12MB limit so should not have been rejected by the PINS e-mail inbox because of their size.

Moreover, having submitted the e-mails we did not receive any notification from PINS that the e-mails had not been accepted into the PINS inbox. Normally when an e-mail has not been accepted, an automatic notification is sent to the sender informing him that the e-mail has not been accepted. This did not happen and no such emails were received by us.

We have also asked our internal IT department to check our systems to ensure that the e-mails were delivered and we have been provided with a report that shows that e-mails 4 and 6 were sent from our system.

Further, both Clive Callister and I, being those copied into the emails, received all 12 emails. We attach further screenshots showing this, including details of the time of receipt of each individual email, which one it was in the sequence, and its size (Screenshots 2 and 3). Please note that details of some of the other, unrelated emails in the screenshot have been redacted for confidentiality reasons.

The Way Ahead

Given the above factors, we believe that Mr Asquith should consider the HRASR version 6 that was submitted at Deadline X, as there is nothing to suggest that e-mails 4 and 6 were sent incorrectly, or that the method of submission did not comply with PINS' guidance. If they have not been received by PINS, then we believe the issue to be with PINS given that others successfully received them, including Clive Callister whose email system is, like PINS', entirely independent of ours. In short, the emails should be deemed to have been received and should be deemed to have been received in time. That is what the evidence shows.

In any event, the numbering system that was adopted made it clear that 12 e-mails were sent and what their contents were. It was also obvious from the fact that part 2 of the HRASR version 6 was amongst the documents submitted that part 1 formed part of the submission. If any e-mails in the series were not received by PINS that was apparent.

In summary, the documents were clearly sent correctly and in time. The issue is significant given the particular importance of the HRASR and the significant changes made between versions 5 and 6. The Inspector needs to be able to consider this material because it is relevant to issues on which he will have to reach a conclusion both as to the merits of the application overall and also as to his findings on the HRA issues. The Secretary of State will need the ExA's fully considered advice and recommendations.

We wrote in these terms to PINS on 10th June, and for completeness a copy of this letter is attached. Also attached is Mr Williams' email response to this letter, which we have discussed with him but in respect of which he has made it clear he is not in a position to make any change. We have not received anything further at the time of writing.

In these circumstances we bring this issue to your attention and ask for your assistance in resolving this legal issue. Of course, please contact me if you have any queries.

Yours faithfully


David Harries

Partner

For Aaron & Partners LLP

Email: david.harries@aaronandpartners.com

Direct Dial: 01244 405527

Screenshot 1

Proposed Mynydd y Gwynt Wind Farm - Deadline X - MYG's Submission - E-mail 4 of 12 - Message (HTML) (Read-Only)

File Message Developer Mimecast

Save To Norwel Ignore X Junk - Delete Reply Reply All Forward More Rhoscrowther To Manager Team E-mail Done Reply & Delete Create New Move Actions Mark Unread Categorize Follow Up Translate Find Related Select Zoom

From: Keith McKinney
To: MYG
Cc: David Harries; Clive Callister (C.Callister@reh-plc.com)
Subject: Proposed Mynydd y Gwynt Wind Farm - Deadline X - MYG's Submission - E-mail 4 of 12

Sent: Thu 14/05/2015 23:17

Message 12. HRASR - Version 6 - track - Part 1 of 2.pdf (5 MB)

Dear Sirs

E-mail 4 of 12

We submit the following documents by e-mail:

1	MYG's response to the ExA's request for further information (dated 5 May 2015)
2	MYG's response to the ExA's request for further information (dated 24 April 2015)
3	Word version of the DCO showing track changes from the original application version of the DCO to the DCO submitted for Deadline VII
4	PDF version of the DCO showing track changes from the original application version of the DCO to the DCO submitted for Deadline VII
5	Applicant's final preferred word version of the DCO showing track changes from the DCO submitted for Deadline VII
6	Applicant's final preferred word version of the DCO, clean but with track changes accepted, in the form of the current Statutory Instrument template, together with a SI Validation report
7	Figure SW2
8	Construction Environmental Management Plan - Version 3 - tracked changes
9	Construction Environmental Management Plan - Version 3 - clean
10	Surface Water Management Plan - Version 3 - tracked changes
11	Surface Water Management Plan - Version 3 - clean
12	HRASR - Version 6 - tracked changes- Part 1 of 2
13	HRASR - Version 6 - clean
14	Amended Land Plan
15	Updated List of Statements of Common Ground (with statements attached)
16	Signed Unilateral Undertaking
17	Bat Protection Plan

Start

16:25
16/06/2015

Screenshot 2

Inbox - David.Harries@aaronandpartners.com - Microsoft Outlook

File Home Send / Receive Folder View Developer ABBYY FineReader 11 Mimecast

New E-mail New Items Environment (Live) New Norwel Email Save To Norwel Delete Reply Reply All Forward More Quick Steps Move Rules Unread/Read Categorize Follow Up Find a Contact Address Book Filter E-mail Find

Search Inbox (Ctrl-E)

From	Subject	Received	Size
Keith McKinney RE:		Thu 14/05/2015 23:22	3 KB
Keith McKinney	Proposed Mynydd y Gwynt Wind Farm - Deadline X - MYG's Submission - E-mail 12 of 12	Thu 14/05/2015 23:20	28 KB
Keith McKinney	Proposed Mynydd y Gwynt Wind Farm - Deadline X - MYG's Submission - E-mail 11 of 12	Thu 14/05/2015 23:20	3 MB
Keith McKinney	Proposed Mynydd y Gwynt Wind Farm - Deadline X - MYG's Submission - E-mail 10 of 12	Thu 14/05/2015 23:20	23 KB
Keith McKinney	Proposed Mynydd y Gwynt Wind Farm - Deadline X - MYG's Submission - E-mail 9 of 12	Thu 14/05/2015 23:19	23 KB
Keith McKinney	Proposed Mynydd y Gwynt Wind Farm - Deadline X - MYG's Submission - E-mail 8 of 12	Thu 14/05/2015 23:19	624 KB
Keith McKinney	Proposed Mynydd y Gwynt Wind Farm - Deadline X - MYG's Submission - E-mail 7 of 12	Thu 14/05/2015 23:19	25 KB
Keith McKinney	Proposed Mynydd y Gwynt Wind Farm - Deadline X - MYG's Submission - E-mail 6 of 12	Thu 14/05/2015 23:18	23 KB
Keith McKinney	Proposed Mynydd y Gwynt Wind Farm - Deadline X - MYG's Submission - E-mail 5 of 12	Thu 14/05/2015 23:18	23 KB
Keith McKinney	Proposed Mynydd y Gwynt Wind Farm - Deadline X - MYG's Submission - E-mail 4 of 12	Thu 14/05/2015 23:17	25 KB
Keith McKinney	Proposed Mynydd y Gwynt Wind Farm - Deadline X - MYG's Submission - E-mail 3 of 12	Thu 14/05/2015 23:17	23 KB
Keith McKinney	Proposed Mynydd y Gwynt Wind Farm - Deadline X - MYG's Submission - E-mail 2 of 12	Thu 14/05/2015 23:17	23 KB
Keith McKinney	Proposed Mynydd y Gwynt Wind Farm - Deadline X - MYG's Submission - E-mail 1 of 12	Thu 14/05/2015 23:16	2 MB
		Thu 14/05/2015 21:25	102 KB
		Thu 14/05/2015 21:13	111 KB
		Thu 14/05/2015 20:17	84 KB
		Thu 14/05/2015 19:17	11 KB
		Thu 14/05/2015 18:59	13 KB
		Thu 14/05/2015 18:17	30 KB
		Thu 14/05/2015 18:08	4 KB
		Thu 14/05/2015 18:06	9 KB
		Thu 14/05/2015 17:57	2 MB
		Thu 14/05/2015 17:52	12 KB
		Thu 14/05/2015 17:48	25 KB
		Thu 14/05/2015 17:31	6 KB
		Thu 14/05/2015 17:17	28 KB
		Thu 14/05/2015 16:56	14 KB

Proposed Mynydd y Gwynt Wind Farm - Deadline X - MYG's Submission - E-mail 12 of 12

Keith McKinney

Sent: Thu 14/05/2015 23:20
To: 'MYG'
Cc: David Harries; Clive Callister (C.Callister@reh-plc.com)

Message

24. MYG's comments on NRW's Deadline X Sub...

25. Table of amendments to the HRASR as a res...

26. Access Management Plan.pdf (741 B)

Dear Sirs

E-mail 12 of 12

We submit the following documents by e-mail:

1	MYG's response to the ExA's request for further information (dated 5 May 2015)
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4	PDF version of the DCO showing track changes from the original application version of the DCO to the DCO submitted for Deadline VII
5	Applicant's final preferred word version of the

Items: 9,334 Unread: 23 Reminders: 1

Online with Microsoft Exchange 100%

16:57 16/06/2015

Screenshot 3

Inbox - C.Callister@reh-plc.com - Microsoft Outlook

File Home Send / Receive Folder View Adobe PDF

New E-mail New Items Ignore Clean Up - Delete Reply Reply All Forward More - Clive personal To Manager Team E-mail Done Reply & Delete Create New Move Rules OneNote Unread/Read Categorize Follow Up Find a Contact Address Book Filter E-mail Find

Search Inbox (Ctrl+E)

Proposed Mynydd y Gwynt Wind Farm - Deadline X - MYG's Submission - E-mail 4 of 12

Keith McKinney <Keith.McKinney@aaronandpartners.com>

Sent: Thu 14/05/2015 23:17

To: 'MYG'

Cc: David Harries; Clive Callister

Message: 12. HRASR - Version 6 - track - Part 1 of 2.pdf (5 MB)

Dear Sirs

E-mail 4 of 12

We submit the following documents by e-mail:

1	MYG's response to the ExA's request for further information (dated 5 May 2015)
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13	HRASR - Version 6 - clean
14	Amended Land Plan
15	Updated List of Statements of Common Ground (with statements attached)
16	Signed Unilateral Undertaking
17	Bat Protection Plan
18	Species Protection Plan

Items: 12,402 Unread: 8

This folder is up to date. Connected to Microsoft Exchange 100%

13:37 17/06/2015

Microsoft Outlook interface showing an email thread titled "Proposed Mynydd y Gwynt Wind Farm - Deadline X - MYG's Submission - E-mail 6 of 12". The email is from Keith McKinney to David Harries and Clive Callister. The thread includes a list of documents submitted by email, such as MYG's response to the ExA's request for further information, Word version of the DCO showing track changes, PDF version of the DCO showing track changes, Applicant's final preferred word version of the DCO, Figure SW2, Construction Environmental Management Plan, Surface Water Management Plan, HRASR, Amended Land Plan, Updated List of Statements of Common Ground, Signed Unilateral Undertaking, Bat Protection Plan, and Species Protection Plan.

Proposed Mynydd y Gwynt Wind Farm - Deadline X - MYG's Submission - E-mail 6 of 12

Keith McKinney <Keith.McKinney@aaronandpartners.com>

Sent: Thu 14/05/2015 23:18

To: 'MYG'

Cc: David Harries; Clive Callister

Message: 13. HRASR - Version 6 - clean - Part 1 of 2.pdf (5 MB)

Dear Sirs

E-mail 6 of 12

We submit the following documents by e-mail:

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17	Bat Protection Plan
18	Species Protection Plan



AARON & PARTNERS LLP

SOLICITORS

For the attention of Philip Asquith
The Planning Inspectorate
Temple Quay House
Temple Quay
Bristol
BS1 6PN

Our Ref: DAH.KM.MYN1.1

Your Ref: EN010020

Date: 10 June 2015

BY E-MAIL ONLY: MYG@pins.gsi.gov.uk

Dear Sir

Mynydd Y Gwynt Wind Farm Application
Planning Inspectorate Reference - EN010020
Deadline X - HRASR Version 6

We write regarding the above matter and further to a telephone conversation between our Keith McKinney and Emré Williams of the Planning Inspectorate ("PINS") of yesterday.

In that conversation Mr Williams said that PINS has not received part 1 of both the tracked changes and clean versions of the HRASR (version 6) that was submitted at Deadline X, and cannot find any record of the e-mails that included these documents. To be clear, there is no issue that part 2 of the HRASR (version 6) was safely received by PINS. Mr Williams explained that as a result, with the examination timetable having concluded, you will not be able to consider version 6 at all when making your recommendation but will instead consider version 5 of the HRASR that was submitted at Deadline VII and refer the Secretary of State to version 6.

With all respect, we do not believe this to be the correct approach, for the following reasons.

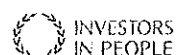
1. In submitting documents for the examination we are required to send them to PINS's dedicated MYG email address: myg@infrastructure.gsi.gov.uk. As PINS has a 12MB size limit on emails, where required we have to submit information over a series of emails. We have successfully accorded with this procedure over the several deadlines of the process.
2. On 14th May 2015 (Deadline X) we submitted 27 documents on behalf of the Applicant. Given the size of some of the documents and in the light of the above, the documents were sent in a series of 12 e-mails were from Keith McKinney to the dedicated PINS' MYG inbox. Each e-mail was also copied to David Harries of this firm.
3. Each e-mail was given its own number out of 12, for example: e-mail 1 of 12. This was displayed in both the subject line of the e-mail and in the main body of the e-mail, and highlighted in bold and underlined.
4. In addition, the body of each e-mail contained a table which showed which documents were attached to that e-mail. Where the document was so large that it was required to be split the table would state which part of the document was attached, for example: part 2 of 2.

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5. In this instance, Part 1 of the track changes version of the HRASR was contained in e-mail 4 of 12, and part 1 of the clean version of the HRASR was contained in e-mail 6 of 12. It is these emails which Mr Williams now says PINS does not have.
6. These e-mails were sent to the same, correct e-mail address as the other e-mails on the 14th May (to reiterate, myg@infrastructure.gsi.gov.uk). We have checked the size of the e-mails to ensure that they were both under the 12MB limit and we confirm that both e-mail 4 and e-mail 6 were approximately 5MB each. Clearly, both e-mails were well under the 12MB limit so should not have been rejected by the PINS e-mail inbox because of their size.
7. Moreover, having submitted the e-mails Mr McKinney did not receive any notification from PINS that the e-mails had not been accepted into the PINS inbox. Normally when an e-mail has not been accepted, an automatic notification is sent to the sender informing him that the e-mail has not been accepted. This did not happen and no such emails were received by us.
8. We have also asked our internal IT department to check our systems to ensure that the e-mails were delivered and we have been provided with a report that shows that e-mails 4 and 6 were sent from our system. Furthermore, Mr Harries received all 12 e-mails (including e-mails 4 and 6).

Copies of all of the e-mails that included submission documents for Deadline X have been enclosed with this letter.

Given the above factors we believe that you should consider the HRASR version 6 that was submitted at Deadline X as there is nothing to suggest that e-mails 4 and 6 were sent incorrectly or that the method of submission did not comply with PINS' guidance. The emails should be deemed to have been received because there is clear evidence that they were correctly sent and were received safely by others.

In any event, whilst we do not seek to criticise PINS, the numbering system that was adopted made it clear that 12 e-mails were sent and what their contents were. It was also obvious from the fact that part 2 of the HRASR version 6 was amongst the documents submitted that part 1 formed part of the submission. If any e-mails in the series were not received by PINS it should therefore have been immediately apparent, and PINS should have informed us of the same; thus enabling us to resubmit the documents before the examination closed.

In summary, the documents were clearly sent correctly and in time should be accepted. This is especially so given the particular importance of the HRASR and the significant changes between versions 5 and 6. Our client would be likely to suffer significant prejudice if version 6 is not considered.

We shall be grateful for confirmation that the documents are accepted. Otherwise, and should you have any queries please contact us.

Yours sincerely


Aaron & Partners LLP

Email: david.harries@aaronandpartners.com

Direct Dial: 01244 405527

David Harries

From: Keith McKinney
Sent: 11 June 2015 11:45
To: David Harries
Subject: FW: Proposed Mynydd y Gwynt Wind Farm - EN010020 - Letter to the Examiner

Caption: Norwel Email
ConvertToPDF: No
NorwelMail: No
SaveToNorwel: No

David

Please see below.

Keith McKinney
Solicitor
Direct Dial: 01244 405410

From: Emre Williams [mailto:Emre.Williams@pins.gsi.gov.uk]
Sent: 11 June 2015 11:43
To: Keith McKinney
Subject: RE: Proposed Mynydd y Gwynt Wind Farm - EN010020 - Letter to the Examiner

Morning Keith

Thanks for your letter directed to the ExA, which we can confirm we have received.

As discussed yesterday, all submission received after the close of the examination will not be made available to the ExA to take into consideration during the recommendation period. However we will ensure that a copy of your letter dated 10 June 2015 and version 6 of the HRASR (clean and track versions) is appended to the ExA's recommendation report to the Secretary of State, which he would then take into consideration when making a final decision on the Mynydd y Gwynt application.

I trust your find this satisfactory, however if you wish to discuss this matter further, please do not hesitate to contact me.

Kind Regards

Emré Williams
Case Manager
Major Applications and Plans

The Planning Inspectorate, Temple Quay House, Temple Quay, Bristol BS1 6PN

Direct Line: 0303 444 5069

Helpline: 0303 444 5000

Email: emre.williams@pins.gsi.gov.uk

Web: www.planningportal.gov.uk/planninginspectorate (Planning Inspectorate casework and appeals)

Web: www.planningportal.gov.uk/infrastructure (Planning Inspectorate's National Infrastructure Planning portal)

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Please view our [Information Charter](#) before sending information to the Planning Inspectorate.

From: Keith McKinney [<mailto:Keith.McKinney@aaronandpartners.com>]
Sent: 10 June 2015 16:57
To: Emre Williams
Subject: FW: Proposed Mynydd y Gwynt Wind Farm - EN010020 - Letter to the Examiner

Dear Emré

I attach, by way of a courtesy, a copy of the letter that we have sent to the Examiner regarding the HRASR that was submitted at Deadline X. Given the differences between version 5 and version 6 of the HRASR and the importance of the document, our client would be likely to suffer significant prejudice if version 6 is not considered by the Examiner when making his recommendation. We hope that this matter can be resolved and that the decision to not consider version 6 will be reversed; if it is not such is its importance that our client will have to consider whether to JR this approach. That is the last thing any of us want to do!

Kind regards

Keith McKinney
Solicitor
Direct Dial: 01244 405410

From: Keith McKinney
Sent: 10 June 2015 16:56
To: 'MYG'
Cc: David Harries
Subject: Proposed Mynydd y Gwynt Wind Farm - EN010020 - Letter to the Examiner

Dear Sirs

Please pass the attached letter to Mr Asquith.

Yours faithfully

Keith McKinney
Solicitor
Direct Dial: 01244 405410

Aaron & Partners LLP, Solicitors

Chester office:

Grosvenor Court, Foregate Street, Chester, CH1 1HG
(Tel: 01244 405555; Fax: 01244 405566; DX: 19990 Chester)

Shrewsbury office:

Canon Court North, Abbey Lawn, Shrewsbury, SY2 5DE
(Tel: 01743 443043; Fax 0844 471552; DX: 148563 Shrewsbury 14)

Manchester office:

Pall Mall Court, 61-67 King Street, Manchester, M2 4PD
(Tel: 0844 800 8346; Fax 0844 800 8347)

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www.websense.com

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