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Our Ref: EN010020

Date: 21 August 2014

Dear Mr Harries

Planning Act 2008 (as amended)

Application by Mynydd y Gwynt Limited for an Order Granting Development Consent for the Mynydd y Gwynt Wind Farm

Section 51 Advice following issue of acceptance decision

I am writing in relation to your application submitted to the Planning Inspectorate on 31 July 2014 in relation to the above project. You will be aware that the Planning Inspectorate acting on behalf of the Secretary of State for Communities and Local Government issued his decision to accept the application to proceed to examination on the 20 August 2014.

This letter contains advice which is issued under section 51 of the Planning Act 2008 (PA2008) in relation to the section 55 checklist issued on the 20 August to assist you in considering what action to take and when.

Book of Reference

We would like to draw your attention to information described in the Consultation Report and the Book of Reference Explanatory Note. It is important that consistency is maintained within the application documents and we note in certain instances the information provided is not explicitly clear.

Appendix 43 of the Consultation Report lists the s44 Consultees, but does not set out which of the s44 categories they fall under. Under Regulation 7(1)(a) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, these consultees would have to be included in the Book of Reference if they were in:

- Category 1 or 2 and their land shall be subject to powers of compulsory acquisition, rights to use land or rights to carry out protective works to buildings; or
- Category 3, and it is proposed that their easements or other private rights shall be extinguished, suspended or interfered with.

The Book of Reference Explanatory Note simply states that “None of the land required for the proposed development falls within any of these categories”.

Paragraph 187 of the Consultation Report describes these consultees as “participants in the scheme”, which implies that they are owners of the land and agreement has been reached as to the use of their land. However, it would be useful to remove all doubt as to whether a Book of Reference (BoR) is required by explicitly confirming that this is the case.

The Planning Inspectorate would advise that you seek your own legal advice on this matter made above in order to determine whether a BoR is required.

Conclusion

You will be aware that you now have some influence over the timetable for the start of the examination by choosing when to carry out your notification and publicity obligations. This is because the examining authority cannot be appointed until after receipt of your certificate under section 58 and notice under section 59 confirming you have carried out the statutory notification.

The examining authority will make its initial assessment of principle issues within a 21 day period beginning with the day after the deadline set in your section 56 notice for submission of relevant representations.

We trust you find this information helpful, however if you have any queries regarding this matter please do not hesitate to contact our office.

Yours sincerely

Emré Williams

Emré Williams
Case Manager

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the Planning Inspectorate website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.