

The Planning Inspectorate

By email only

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cc: Katherine.Chapman@PINS.gsi.gov.uk

Your Ref

TLSB-S57075, S57076 and
S57077

Our Ref

EMM/ADW/159296.0001

Date

22 October 2014

Dear Sirs

PROPOSED TIDAL LAGOON SWANSEA BAY (GENERATING STATION) ORDER

We write on behalf of Baglan Operations Limited, Baglan Pipeline Limited, and Baglan Generating Limited (together “Baglan”).

We note the Examining Authority’s agenda for the compulsory acquisition hearing on Thursday 23 October and in particular agendum 5.3 which lists “Baglan Bay Operations” as a statutory undertaker from which the Examining Authority may wish to hear. It is presumed that the undertaker referred to is Baglan. Having appeared at the compulsory acquisition hearing on 30 September (the “Hearing”) and subsequently submitted its Summary of Case, Baglan does not intend to appear at this upcoming hearing. Instead, it submits this position statement by way of update to its earlier appearance.

Background

- 1 TLSB consulted Baglan before putting in their application, but then extended the red line boundary in their actual application without consulting Baglan. It is the inclusion of this extended land, contained in parcel 04095, that concerns Baglan. TLSB propose to run an underground electricity cable through that parcel, comprising Work No. 5h. That parcel is full of sensitive equipment and infrastructure to a depth of at least 3.5 metres, including control instrument wiring and high pressure gas lines which connect the power station to the Pressure Reduction Facility nearby. There is no room to install the Tidal Lagoon electricity cable in that parcel without it being very deep.
- 2 At the Hearing, TLSB presented an alternative route and method which crosses that parcel 04095, although not following the route set out on TLSB’s Works Plan No.3. Baglan was not able to comment on that proposal having only been presented with it that morning, it did however indicate that it would be willing to pending further information. Following the Hearing no further details of the proposal were forthcoming from TLSB.

Current position

- 1 Since the Hearing, draft documentation (including protective provisions and a Deed of Easement) has been circulated between the parties with a view to agreeing a cable route outside of the order limits towards the eastern side of the substation. As detailed at the Hearing, this will mean crossing the high pressure gas pipeline that is contained in parcels 04080 and 04085. Negotiations are progressing, albeit that they are currently at an early stage.
- 2 Until negotiations on these matters are complete, Baglan maintains its representation. The objection to the use of parcel 04095 stands whether or not agreement is reached on the alternative route. Baglan asks that parcel 04095 is removed from the scope of compulsory purchase powers and Work No. 5h is removed from the development consent order. Should the new alternative proposed by TLSB on the day of the Hearing be met with favour, the current powers under the development consent order would still enable TLSB to construct the original Work No. 5h cable route. In that case, Baglan submits that the area of parcel 04095 should be reduced northwards so that it does not cover the more complex end of Baglan's equipment and the original option cannot be taken forward.
- 3 As set out at the Hearing, installing a cable in parcel 04095 as originally envisaged will plainly cause serious detriment to Baglan's undertaking. Therefore, consent under s127 of the Planning Act 2008 should not be forthcoming while powers of compulsory purchase over parcel 04095 still form part of the application. It is the purpose of pre-application consultation to establish this before the application is made, and the purpose of s127 to safeguard against this eventuality. TLSB have not properly made a case in either of these areas.
- 4 In addition, Baglan continues to maintain that Work No. 5h is not development for which development consent is required and is not associated development and therefore cannot be included in an order granting development consent by virtue of section 115 of the Planning Act 2008.

Should you have any queries about any of the above, please do not hesitate to contact Angus Walker (anguswalker@bdb-law.co.uk 0207 783 3441) or Emily Murray (emilymurray@bdb-law.co.uk 0207 783 3642).

Yours faithfully



Bircham Dyson Bell LLP