



## The Planning Inspectorate Yr Arolygiaeth Gynllunio

### **Application by Wrexham Power Ltd for the Wrexham Energy Centre (EN010055)**

#### **Rule 17 Questions**

**Issued on 12 December 2016**

The Examining Authority's (ExA's) questions under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) are principally addressed to the Applicant and to named Interested Parties (IPs). That being said, all IPs are welcome to respond to any question that is relevant to their position.

References in square brackets (such as [APP-007]) in the questions are references to documents in the Examination library.

An editable version of this table in Microsoft Word is available on request from the case team: please contact [WrexhamEnergy@pins.gsi.gov.uk](mailto:WrexhamEnergy@pins.gsi.gov.uk) and include 'Wrexham Rule 17 Questions' in the subject line of your email.

**Responses are due by Deadline 7, Wednesday 4 January 2017. Comments on responses can be provided by Deadline 8, Thursday 12 January 2017**

Q No.	Question	Response sought from
1.	<p><b>Planning Policy Wales Changes: Edition 9, November 2016</b> The application documentation addresses Edition 8 of Planning Policy Wales.</p> <p>In November 2016, Edition 9 was released and is now in force. A copy of the updated text can be obtained from the Welsh Government's web site: <a href="http://gov.wales/topics/planning/policy/ppw/?lang=en">http://gov.wales/topics/planning/policy/ppw/?lang=en</a></p> <p>A document has been published which summarises the changes between Editions 8 and 9: <a href="http://gov.wales/docs/desh/publications/161117ppw-edition-9-summary-of-changes-en.pdf">http://gov.wales/docs/desh/publications/161117ppw-edition-9-summary-of-changes-en.pdf</a></p> <p>Whilst the ExA drew attention to this change at the hearings held at Wrexham Industrial Estate on 23 and 24 November 2016, it did not expect IPs participating in the hearings to be ready to respond to the changes to the policy in Edition 9. The purpose of this question therefore is:</p> <ul style="list-style-type: none"> <li>• to highlight that these changes have occurred to the Applicant and all IPs;</li> <li>• to ask the Applicant, Wrexham County Borough Council (WCBC), Natural Resources Wales (NRW), Cadw and the Welsh Government to identify all relevant policy changes and their responses to them at Deadline 7; and</li> <li>• to ask all other IPs to provide their comments on any updated policy analysis provided at Deadline 7 by Deadline 8</li> </ul>	Applicant, WCBC, NRW, Cadw, Welsh Government (at Deadline 7) and all IPs (at Deadline 8)
2.	<p><b>Client Earth Litigation: Air Quality and the Ambient Air Quality Directive</b> The UK has been found not to be fully compliant with Directive 2008/50/EC on ambient air quality and cleaner air for Europe (the Ambient Air Quality Directive). In a judgment issued from the High Court on 2 November 2016, the UK Government's Air Quality Plan of December 2015 was quashed (ClientEarth v SoS EFRA, [2016] EWHC 2740 (Admin)).</p> <p>Attention is drawn to this judgement.</p> <p>Whilst the ExA drew attention to this judgment at the hearings held at Wrexham Industrial Estate on 23 and 24 November 2016, it did not expect IPs participating in the hearings to be ready to respond during the hearings. The purpose of this question therefore is:</p> <ul style="list-style-type: none"> <li>• to highlight the judgment to the Applicant and all IPs;</li> <li>• to ask the Applicant, WCBC and NRW to identify whether the judgment is relevant to the application proposal and, if so, to set out their responses to it at Deadline 7; and</li> <li>• to ask all other IPs to provide their comments on any responses provided at Deadline 7 by Deadline 8.</li> </ul>	Applicant, WCBC, NRW, Cadw (at Deadline 7) and all IPs (at Deadline 8)

3.	<p><b>Explanatory Memorandum</b></p> <p>The Applicant is requested to review the Explanatory Memorandum provided with the application documents [APP-034]. Given the revisions to the draft Development Consent Order (dDCO) made to date and taking account of any further revisions proposed by Deadline 7, an updated and a comparison version of the Explanatory Memorandum should be provided.</p>	Applicant
4.	<p><b>Funding Statement</b></p> <p>With reference to Question 4 in the ExA's DCO Commentary (which may be answered jointly with this question), the Applicant is requested to provide evidence that, should compulsory acquisition or temporary possession of those of Mr Owen's plots of land subject to the unspecified option agreement (the solar farm option) in favour of Earthworm Energy proceed, in circumstances where compensation becomes payable in respect of the disruption or cessation of solar energy generation, including the removal of generation assets and related installations, its calculation of the funding envelope for compensation has taken these costs into account. If that cannot be demonstrated, the Applicant is requested to consider whether an increase in available funding would be required and should enter into dialogue with Mr Owen and Earthworm to ensure that realistic cost data are taken into account.</p>	Applicant Mr Owen Earthworm
5.	<p><b>Book of Reference and Land Plans</b></p> <p>The Applicant is requested to provide a schedule of changes affecting the Book of Reference and Land Plans at Deadline 7 and to provide a final amended Book of Reference and Land Plans at Deadline 8, taking account of any changes of which they are aware of up to that time.</p>	Applicant
6.	<p><b>dDCO and certified documents</b></p> <p>Any changes to the Environmental Statement certified documents and references to these (as currently proposed to be recorded in Schedule 2 of the dDCO) should be recorded in a revision to the Schedule with appropriately updated references. A table of any proposed certified documents not proposed to be incorporated in Schedule 2 should also be provided, confirming their most up-to-date title and reference, and identifying the provision in which reference is made to them. Where changes to outline documents are proposed, updated versions of these should be provided at Deadline 7 to enable comment at Deadline 8.</p>	Applicant (at Deadline 7) and IPs (at Deadline 8)
7.	<p><b>Table of Crown, statutory undertaker and other special consents</b></p> <p>The Applicant is requested to provide a table outlining the latest position on Crown, statutory undertaker and other special consents, correct at Deadline 7. Letters providing Crown consent should be cross-referenced. Every attempt should be made to ensure that Crown Consent is (as far as this is possible) unconditional in all respects by Deadline 8.</p>	Applicant

8.	<p><b>Wales and West Utilities position on the Version 5 dDCO</b></p> <p>Schedule 9 Part 6, containing protective provisions to benefit Wales and West Utilities has been inserted into the dDCO by the Applicant.</p> <ul style="list-style-type: none"> <li>Wales and West Utilities are asked whether the provisions address any remaining concerns (with particular reference to security arrangements at Maelor Gasworks) and to provide a position statement agreeing with the proposed provisions or alternatively identifying the outstanding concerns and means by which they can be addressed.</li> </ul>	Wales and West Utilities
9.	<p><b>Welsh Water position on the Version 5 dDCO</b></p> <p>Is Welsh Water content that adequate foul drainage provision can be made for the application proposal and that this is secured adequately in the dDCO? If not, how should the dDCO be amended?</p>	Welsh Water
10.	<p><b>Kellogg Co of Great Britain's position on the CEMP and water emissions compliance</b></p> <p>During the hearings at Wrexham Industrial Estate on 23 November 2016, the degree to which the Construction Environmental Management Plan would contain measures sufficient to address the Kellogg Co of Great Britain's (Kellogg's) concerns about dust emissions and impacts on the performance of their balancing ponds was discussed. It was the Applicant's oral submission that there was no likely significant adverse effect on Kellogg's interests. NRW submitted orally that they were in broad agreement with the Applicant's position and that no formal agreement, protective provision or comfort letter about the performance of Kellogg's balancing pond was required. Kellogg's has not provided a written summary of its oral submissions made in the hearing in November.</p> <ul style="list-style-type: none"> <li>Kellogg's is requested to provide a written confirmation of its current position at Deadline 7, taking account of the oral submissions from the Applicant [REP6-009] and NRW [REP6-003 to 005].</li> <li>If Kellogg's still has outstanding concerns, the Applicant and NRW are requested to comment on these and the means by which they might be managed at Deadline 8.</li> </ul>	Kellogg's (at Deadline 7), the Applicant, NRW (at Deadline 8)

<p>11.</p>	<p><b>Freedom of Information Request to NRW from Mr Chris Briggs</b></p> <p>During the hearings at Wrexham Industrial Estate on 23 November 2016, Mr Briggs referred to power station emissions data sourced from NRW via a Freedom of Information request in an anonymised form [REP4-001]. On the basis that the data he had been provided with by NRW was public domain data, he was requested to provide access to the data as it was originally provided to him without changes, and that data has now been provided ('2016 10 05 Emissions Profiling Deeside as Supplied by NRW' [AS-007]) (the 'de-anonymised data'). He has also provided a written submission at Deadline 6 [REP6-001] raising further issues arising from the Freedom of Information data in respect of NOx emissions and the Welsh Government's Consultation Document - Local Air Quality and Noise Management Plans in Wales.</p> <ul style="list-style-type: none"> <li>• The Applicant and NRW are requested to review the de-anonymised data [AS-007].</li> <li>• NRW is requested to confirm whether or not it is the data that they provided to Mr Briggs.</li> <li>• The Applicant and NRW are asked whether anything in the de-anonymised data changes any of the advice or conclusions that they have already provided to the examination.</li> <li>• The Applicant, NRW and WCBC are provided with the opportunity comment on the submissions in [REP6-001], making clear whether these change any conclusions that they have reached in the application documentation or during the Examination.</li> </ul>	<p>Mr Briggs, the Applicant, NRW and WCBC</p>
<p>12.</p>	<p><b>Landscape impact of emissions or cooling plumes</b></p> <p>During the hearings at Wrexham Industrial Estate on 23 and 24 November 2016, the Applicant made oral submissions that the application proposal would be air cooled and hence would not give rise to visible emissions or cooling plumes. Mr Chris Briggs contended that there may be meteorological conditions in which plumes would be visible due to combustion emissions and/or the cooling process. At Deadline 6, Mr Chris Briggs provided a document containing images of emissions and cooling plumes at Rocksavage Power Station, near Runcorn in Cheshire, suggested to be a combined cycle gas turbine plant. He is unclear whether Rocksavage is air cooled or water cooled [REP6-002]. Ms Joanna Roberts provided a document making broadly the same contention as Mr Briggs, but referring to Deeside Power Station. She does not identify the cooling technology used at Deeside [REP6-014].</p> <ul style="list-style-type: none"> <li>• Mr Briggs and Ms Roberts are asked to clarify whether Rocksavage and / or Deeside Power Stations are water or air cooled (by Deadline 7).</li> <li>• The Applicant is asked to address whether there is any significant likelihood of emissions or cooling plumes from the application proposal that have not been taken into account for landscape and visual impact assessment purposes (by Deadline 7).</li> <li>• If the Applicant changes its appraisal of the likelihood of emissions or cooling plumes arising from the application proposal, other IPs are invited to review their position on the contribution of plumes to landscape and visual impact (by Deadline 8).</li> </ul>	<p>The Applicant Mr Briggs, Ms Roberts and other IPs</p>

<p><b>13.</b></p>	<p><b>Compulsory Acquisition: Clients of Rostons</b></p> <p>Representations have been made by Rostons – Surveyors on behalf of Affected Person clients (Messrs FR Done, TG Ellis &amp; Edwards) raising the possibility of an objection to compulsory acquisition and or temporary possession [AS-003][REP1-020]. Opportunities have been provided for these clients to be represented at Compulsory Acquisition Hearings. Accompanied Site Inspections to the relevant land have been carried out by the ExA. The written representations provided to the ExA on behalf of these Affected Person clients do not set out a clear basis for any ongoing planning objections to compulsory acquisition or temporary possession.</p> <ul style="list-style-type: none"> <li>• If it is the case that the Affected Person clients have ongoing concerns about the basis for and quantum of compensation, these are not matters than can be determined within the framework of this examination. However, it would assist the ExA if Rostons were to advise that this is the case.</li> <li>• Alternatively, if their clients do have any ongoing planning objections to compulsory acquisition or temporary possession, Rostons are requested to document these for their clients at Deadline 7, as this will be the last opportunity that they can be provided with to make any such submissions whilst enabling comment from the Applicant, before the closure of the examination.</li> <li>• The Applicant is asked to comment on any submissions from Rostons at Deadline 8.</li> </ul>	<p>Applicant Rostons</p>
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