



**Cyfoeth  
Naturiol**  
Cymru  
**Natural  
Resources**  
Wales

Eich cyf/Your ref: EN010055

Natural Resources Wales  
Maes y Ffynnon  
Penrhosgarnedd  
Bangor  
Gwynedd  
LL57 2DW

Ebost/Email:

[wrexhamenergy@cyfoethnaturiolcymru.gov.uk](mailto:wrexhamenergy@cyfoethnaturiolcymru.gov.uk)

Rynd Smith,  
The Planning Inspectorate  
3 Eagle Wing  
Temple Quay House  
2 The Square  
Bristol, BS1 6PN

Date: 4<sup>th</sup> January 2017

Annwyl Syr/Madam / Dear Sir/Madam,

## **WREXHAM ENERGY CENTRE**

**PROJECT REFERENCE: EN 010055**

### **NRW RESPONSES TO DEADLINE 7**

1.1 The purpose of the Natural Resources Body for Wales (NRW) is to ensure that the environment and natural resources of Wales are sustainably maintained, sustainably enhanced and sustainably used. In this context sustainably means with a view to benefitting and in a manner designed to benefit the people, environment and economy of Wales now and in the future. NRW's functions are set out in the Natural Resources Body for Wales (Functions) Order 2013. NRW's advice and comments to the Planning Inspectorate (PINS) are therefore provided in the context of this remit.

1.2 NRW's comments are made without prejudice to any additional comments we may wish to make when consulted on any other documents provided by the applicant, the ExA or any of the regulating bodies who are involved in authorising different aspects of the overall development proposals (including NRW).

1.3 NRW has reviewed the Report on Implications for European Sites (RIES). NRW consider the document to be appropriate and would not request any amendments to the document presented by the ExA.

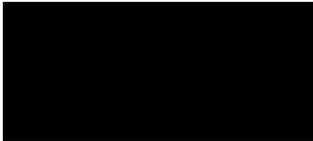
1.4 Annex A provides NRW's responses to the third set of questions raised by the ExA. Annex B contains NRW's response to a question raised by the ExA regarding the draft DCO.

Tŷ Cambria, 29 Heol Casnewydd, Caerdydd, CF24 0TP  
Cambria House, 29 Newport Road, Cardiff, CF24 0TP  
Croesewir gohebiaeth yn y Gymraeg a'r Saesneg  
Correspondence welcomed in Welsh and English

1.5 Our comments are provided without prejudice to any decision NRW may make on any application made to it by the applicant for an Environmental Permit under the Environmental Permit Regulations 2010 (EPR).

Please contact Tomos Hughes ([wrexhamenergy@cyfoethnaturiolcymru.gov.uk](mailto:wrexhamenergy@cyfoethnaturiolcymru.gov.uk)) should you require further advice or information regarding this representation.

Yn gywir / Yours faithfully,



**Mr. Richard Nines**

HEAD OF ECOSYSTEMS, PLANNING, AND PARTNERSHIPS

## Annex B - NRW's response to Examiners third questions for deadline 7

Request number	Request to	Request	NRW Response
1.	Applicant, WCBC, NRW, Cadw, Welsh Government (at Deadline 7) and all IPs (at Deadline 8)	<p><b>Planning Policy Wales Changes: Edition 9, November 2016</b></p> <p>The application documentation addresses Edition 8 of Planning Policy Wales. 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>	NRW has no further comments to make regarding this matter over those submitted at deadline 6 within Annex B which addressed questions asked at the issue specific hearing regarding Environmental and other Issues on the 23/11/2016.
2.	Applicant, WCBC, NRW, Cadw (at Deadline 7) and	<p><b>Client Earth Litigation: Air Quality and the Ambient Air Quality Directive</b></p> <p>The UK has been found not to be fully compliant with</p>	NRW consider that this judgment is currently of limited relevance to the case at the planning stage. Particularly as

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	all IPs (at Deadline 8)	<p>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>	Wrexham Industrial Estate is not subject to an air quality management zone.
10.	Kellogg's (at Deadline 7), the Applicant, NRW (at Deadline 8)	<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</p>	NRW response not required for Deadline 7

Request number	Request to	Request	NRW Response
		<p>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>	
11.	Mr Briggs, the Applicant, NRW and WCBC	<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> </ul>	<p>NRW can confirm the de-anonymised data provided in AS-007 is that supplied to Mr. Briggs by NRW.</p> <ul style="list-style-type: none"> <li>• The data provided is Public Register information, naming the data source does not pose any confidentially issues in this instance.</li> <li>• This is the most representative data NRW hold considering the specifics of Mr. Briggs’ request. Despite the Deeside power station being 22 years old and utilising older technology.</li> <li>• The proposal from WPL would be subject to the Best Available Technique Associated Emission Limits or “BAT-AEL’s” under IED. The plant would not be granted an environmental permit if WPL cannot demonstrate compliance with these limits. As a result NRW consider that the data provided in AS-007 is not likely to be representative of the proposed plant’s performance.</li> <li>• The points raised in REP6-001 and the data in AS-007 do not change NRW’s responses to the application.</li> </ul>

Request number	Request to	Request	NRW Response
		<ul style="list-style-type: none"><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>	

## **Annex A - NRW response to questions from ExA re-Draft DCO, Deadline 7**

9. R12(1)

*12.-(1) Numbered works 1 and 2 must not commence until written details of the surface and foul water drainage system for the operation of the authorised development has been submitted to and approved by the relevant planning authority. The surface and foul water drainage system must be substantially in accordance with the illustrative foul and surface water drainage strategy.*

### **Surface and foul water drainage system and Work No. 3**

R12(1) requires the submission of written details of the surface and foul water drainage system before the commencement of Works Nos. 1 and 2.

- In relation to drafting, the Applicant is asked to consider whether the underlined text in column 3 should be redrafted as follows? - "...*The submitted details of the surface and foul water drainage system must be substantially in accordance with....*"?
- The ExA notes the Applicant's view (paragraph 3.29 of its oral summary at the last DCO ISH [REP6-011]) that Work No. 3 need not be referred to in this requirement. Having considered this further the ExA agrees that as Work No. 3 relates to surface water drainage and related landscaping and ecological mitigation and is largely self-contained, there is no apparent scope for interface with the foul drainage system. However, the potential for cross-over between the landscape and ecological performance of the surface water drainage system provided in Work No. 3 and the discharge of R12(1) remains a possible source of confusion whilst the requirement refers jointly to a "...surface and foul water drainage system...". Should R12(1) (or another provision such as a definition) be amended to make express that the details sought do not relate at all to Work No. 3, or to clarify that surface water discharged from a system serving Works Nos. 1 and 2 is discharged into Work No. 3. Views are sought from the Applicant, NRW and (in relation to foul drainage) Welsh Water about how best to provide drafting clarity on this point.

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### **NRW Response:**

While NRW is of the opinion that the current wording is workable, NRW agrees that 12.-(1) introduces some ambiguity as to the remit of the matters to be discharged under this requirement with regard to surface water.

As the ExA suggests, NRW would welcome clarification within this requirement / relevant definition which states that surface water discharged from a system serving Works Nos. 1 and 2 is discharged into Work No. 3, for which the specification of the surface water management system are regulated under the specific requirements (insert as appropriate).