



MS
Susan Elan Jones MP / AS
Clwyd South / De Clwyd

Our Ref / Ein Cyf: E13/017.3
18th July 2013

Ms Tracey Williams
Case Manager
National Infrastructure Directorate
The Planning Inspectorate
Temple Quay House
Temple Quay
Bristol
BS1 6PN

PLANS RECEIVED
19 JUL 2013

Dear Ms Williams,

I have been contacted by a group in my constituency 'Wrexham Residents Against Power Scheme' in regards to access granted by the Planning Inspectorate to private property in the area.

Please find enclosed a copy of the letter that I have received from the Chair of this group, Mr Stephen Whitby. Within, Mr Whitby raises some concerns on behalf of the group and as a representative of those in my constituency who have had access granted to their property.

I would be grateful if you could respond to the concerns raised within the enclosed letter and provide any information that may be of use to my constituents in this case.

Thank you for your assistance in this matter and I look forward to your response.

Yours sincerely,



SUSAN ELAN JONES MP



Susan Elan Jones MP
House of Commons
London
SW1A0AA

Dear Ms Jones,

14 July 2013

Access granted by the Planning Inspectorate to private property.

As you know authority has been granted between 28 June 2013 and 2 July 2013 by Mark Southgate, (Director of Major Applications and Plans), for and on behalf of the Secretary of State for Communities and Local Government for access by Wrexham Power onto property belonging to your constituents: Mr and Mrs [REDACTED] Mr and Mrs [REDACTED] Mr and Mrs [REDACTED] Mr [REDACTED] Mr [REDACTED] Mr and Mrs [REDACTED]

These residents of [REDACTED] via their agent Charles Lawson of Forge Property Consultants challenged the right of Wrexham Power Limited (WPL) to enter onto their property after being served an application by Wrexham Power on 2 April 2013 under section 53 of the 2008 Planning Act. The challenge was submitted by, and after advice from, a partner and Head of Planning at Brabners Chaffe Street together with specific and detailed information collated by Forge. The basis of the challenge was, in summary that there was insufficient information made available for the project to meet the criteria of "substance" and that the developer had failed to consult in respect of what was ultimately intended by WPL on the landowner's property other than the desire to enter to survey and carry out environmental/ecology studies.

There are considerable concerns and disappointment following this decision. In particular that the decision has been made based on incorrect and misleading information by WPL, some of this information becoming apparent after study of the submissions by WPL to the Planning Inspectorate (PI) now available on the PI website. There are other inconsistencies between advice from the Secretary of State (SOS) in January, and the PI to the SOS.

It should be noted that these private individuals have spent a considerable amount of time, and money, doing no more than seeking to safeguard their own interests, businesses and privacy. The worry and stress of the pressure imposed by a private property developer is an unreasonable intrusion on their lives.

Brabners have offered advice on what additional legal processes are available including the use of a Judicial Review and an Injunction. It should be noted that both courses of action are expensive. The former could cost each party several thousand pounds, even if successful.

The detail of the arguments used to challenge the application and the misleading information submitted by WPL follows in subsequent paragraphs.

I write to you on behalf of the landowners above to review this data and to ask if you would seek reassurance from the Secretary of State for Energy and Climate Change and the Secretary of State for Communities and Local Government that:

1. Guidance issued by Government departments has been sufficiently clear to enable the correct decisions to be made by all parties.
2. That the rights and interests of private citizens have being adequately safeguarded in balancing the aspirations of a property developer.
3. That the information provided by the developer has been accurate and not designed to mislead so that those acting on that information have made the correct decision.

Facts and statements of note that are of concern are:

1. The reason for granting access is that; not to do so: "*would risk substantially delaying the project*" as stated by MR M Southgate. Such a statement is irrelevant in determining adequate justification.
2. The PI recommendation to the Secretary of State stated: *It should be noted that the requirement that requests under Section 53 'should only be made as a last resort', that was included in the February 2010 version of the Guidance, has now been removed.*
Whereas in the April 2012 (current) Guidance included within the application it clearly states: *Paragraph 6 of the Guidance states that requests under s.53 should only be made "as a last resort".*
3. The Secretary of State for Energy and Climate Change said in the Scoping Opinion in January 2013 on page 14 para. 2.75 *The Applicant should ensure that the description of the proposed development is firmed up prior to the carrying out of environmental studies as these should be reflective of the development for which consent is being applied.* The "proposed development" being described from page 7 including the "Energy Centre", gas pipeline and the electrical connection. There has been absolutely no further detail of the electrical connection proffered by WPL since the Scoping Opinion, the extent of the "development" being "firmed up"; remains a map plus four paragraphs of text. Even the map produced with the Section 53 Application follows a different route to anything seen before, and brings new parcels of land into that affected by the proposal. The PI sought clarification from WPL as to when "specific areas" were identified to Landowners. WPL in their response do not distinguish from the other landowners those landowners with areas of their land identified for the 1st time in the Section 53 application itself. The carefully worded WPL response states that the area is smaller than that originally requested, but not that it is in a different place or outside the wide corridor shown on their website.
4. WPL imply to the PI that the 6 landowners above are a minority by a statement in paragraph 7.2 of their 2 April application that they had reached

agreement with 15 landowners and ongoing negotiations with a further 5. Landowners asked the PI to request that WPL substantiate that claim believing it to be untrue. WPL refused to do so citing confidentiality. On 31 May WPL wrote to you saying that they had agreement with 13, although 3 had withdrawn agreement (two of which are among the landowners named above), i.e. 10 had agreed. We do not even believe that figure. WPL therefore exaggerated the extent of agreements reached to the PI. There are also a number of landowners that have neither agreed to access nor received a Section 53 request. Do they have to incur the cost of volunteering a signed affidavit to prove that they do not want WPL on their land either?

5. In the submission to the PI on behalf of landowners, to support the argument that there was insufficient substance, a contrast was made with a comparable nearby 20km electrical connection proposal by Scottish Power at National Grid Legacy. WPL dismiss this argument as not appropriate implying this level of information was developed throughout a project ultimately leading to an Inquiry. The fact is that the detail produced by Scottish Power extends to 153 pages and was available in February 2007 at the time of consultation with landowners long before the Inquiry. Such detail is the norm for the electricity industry in consultation and it would be reasonable for any person facing a similar access request to seek information of comparable projects in order to be well prepared for what may be to come.
6. A project of "substance" is not just a project that has been notified to the PI as one that qualifies as a Nationally Significant Infrastructure Project (NSIP). If it were, use of Section 53 would have no need to refer to "substance". A genuine power station project with a genuine need / requirement would at an early stage establish the viability of fuel supply and export of electricity. It would be normal to seek a connection agreement with the National Grid in order to establish a window for connection, often booked years in advance. Most genuine developers would seek an estimate of cost and in this case where the National Grid state in their 7 year Statement : *"Some potential exists in the North Wales region for new connections; however larger projects would require further reinforcements"* it would be vitally important. Landowners used the fact that WPL had not been in contact with the National Grid to support the view that the project was not of adequate "substance". They based this assertion on written statements via Mark Isherwood AM from the National Grid (Chris Isaac) on 10 April *"because they have not sought any connection with us, we don't know how they would propose connecting to our existing high-voltage network."* on 22 April *" I think it is also worth mentioning again that we have no contract with Wrexham Power Limited"* WPL claim ongoing discussion with the National Grid and have tried to dismiss the landowner argument, submitting to the PI a weak conversational e-mail dated 29 May with an anonymous employee of the National Grid.
7. WPL have made many references to their website and imply, as would be reasonable in most cases seen by the PI, that a statement on their website is therefore a fact. WPL stated in the Consultation Plan on their website *"All addresses in this zone will receive direct communications detailing the proposals, for example the project leaflets and all residents will have multiple*

opportunities to attend local consultation events" There is no evidence that any addresses on the route of the electrical connections proposed received any communication whatsoever. At the time of writing that is still the case on the Northern electrical corridor. WPL make much of the 6000 leaflets they claim to the PI to have distributed, yet crucially in the area affected by the electrical connection not only did no one receive any direct communication but also, no one received any leaflets. This has now been confirmed by the very well attended Community Council meeting of about 100 residents of Bangor on Dee on 20 May.

8. Such lack of probity is unsurprising: WPL have from the outset sought to mislead people in respect of the proposal at Wrexham. They describe as a benefit *"modernisation of the existing power supply, which is currently only a single circuit without any backup in the event of failure"* This is factually incorrect with Scottish Power confirming 3 supplies to the Industrial Estate. In 2010 in promoting the development to the Local Authority they claimed their proposal could *"connect to the National Grid at a point which has the current capacity to accept the power which the plant is designed to generate, without the need for lengthy or costly infrastructure upgrades"*, they claimed experience they did not have, CHP benefits they continue to emphasise on their website and within the Scoping report yet they no longer offer. WPL showed a "similar" development by others that is in reality ¼ the size of their current proposal. Even their chosen name of Wrexham Power implies something different to the property companies from London and Birmingham that are Wrexham Power. As you know I have written a more detailed paper on these inconsistencies.

A reasonable way forward would be for the PI to ask specific questions of WPL:

- The number of landowners who had agreed to access on 2 April
- For confirmation of meaningful discussions with the National Grid prior to the date of the application.
- They should also ask whether WPL showed any plans covering the extent of land they wanted access to, for parcels 2, 6 and 7 prior to the date of the Section 53 application.

Until such questions are answered it would also be reasonable to the landowners for authority for access to their property to be suspended. In the event that incorrect or misleading information has deliberately been provided to the PI the authority already granted should be withdrawn and access denied.

It may be that had the information in the application, and answers to subsequent questions, been submitted accurately the outcome may have been to grant access in any event, however it is not reasonable for the PI to verify every piece of data submitted, nor is it reasonable for ordinary citizens to have to expend money and time to protect what is rightly theirs. The PI have a right for clear unambiguous statements and not misleading or factually incorrect information to accompany an application on a matter so important as to over-ride a landowners wishes permitting 3rd parties on their property.

It is also a concern that the application on 2 April was addressed "Dear Helen" to Ms Lancaster at the PI. This does not convey adequate impartiality when one is aware of the close ties between St Modwen and the Westminster and Cardiff administrations in respect of public sector building works.

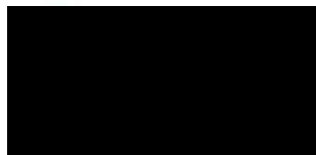
Considerable data has been published in the last week, and the above is an initial appraisal. Hopefully the PI will see the need for a rigorous review of what has occurred without the need for further expenditure by your constituents,

Since the 17th century a politically correct version of the law of this land has acknowledged that every persons home is their castle. In the 18th century William Pitt said "the poorest man may in his cottage bid defiance to all the forces of the crown. It may be frail- its roof may shake, the wind may blow through it, the storm may enter, the rain may enter, but the king of England cannot enter"

Such principles were reinforced by the European Convention on Human Rights and should be set aside only when there is a need of strategic importance to the needs of the state and then implemented in a way demanding the most thorough examination of the supporting case.

I am writing similar letters (by e-mail) to Derek Vaughan MEP, and the various Assembly Members for the region. If you feel we should make others aware I would welcome your advice.

Yours sincerely

A solid black rectangular box used to redact the signature of Stephen W Whitby.

Stephen W Whitby