

EN10059: Application by Hirwaun Power Ltd for an Order Granting Development Consent for Hirwaun Power Station (the application)

Planning Act 2008 (as amended)  
Infrastructure Planning (Examination Procedure) Rules 2010

## **The Examining Authority's second round of written questions**

### **Responses to be received by the Examining Authority on or before Thursday 13 November 2014**

Please note that any references to paragraphs, tables or figures in these questions use the numbering from the application documents as submitted.

Although questions are aimed at specific Interested Parties, all Interested Parties are free to answer any of the questions.

Questions are set out using a document-based framework derived from the application, relevant representations and policy guidance. This serves to clarify aspects of the application and support the initial assessment of principal issues provided as Annexe C to the Examining Authority's letter of 30 June 2014.

## **1. COMPULSORY ACQUISITION**

### **1.1 CA2-01 to the applicant**

Please provide an update on Appendix 1 to your written summary of oral case put at the Compulsory Acquisition hearing - submitted for the deadline of 7 October 2014 [Doc. Ref. WSCPO] - of the current status of negotiations with all Affected Persons.

### **1.2 CA2-02 to the Applicant and Tower Regeneration Limited**

Please provide an update to your written summary of oral case put at the Compulsory Acquisition hearing [Doc. Ref. WSCPO] of the current status of negotiations with Tower Regeneration Limited.

## **2. DEVELOPMENT CONSENT ORDER (DCO)**

### **2.1 DCO2-01 to the Applicant**

Article 36 of Rev. 3.0 of the draft DCO does not specifically include the construction environment management plan (CEMP) in the list of certified plans. Will the CEMP be included in the list of certified plans in the next draft of the DCO?

### **2.2 DCO2-02 to Rhondda Cynon Taf County Borough Council (RCT)**

Is Article 40 on Guarantees in respect of payment of compensation acceptable (Doc Ref 3.1 Draft Development Consent Order Rev. 3.0 October 2014)?

2.3 DCO2-03 to **the Applicant, RCT, Brecon Beacons National Park Authority (BBNPA) and Natural Resources Wales (NRW)**

What is the current status of the S106 Agreement relating to:

- Power Station Habitat Management;
- Bat Mitigation; and
- Emissions monitoring?

### 3. OPERATIONAL ISSUES

#### Operational Matters

3.1 OM2-01 to **the Applicant and NRW**

The ExA remains to be persuaded that the “declared net capacity<sup>1</sup>” or “rated electrical output” in Schedule 1 Revision 3.0 of the draft DCO is sufficient to ensure that the actual plant output of 299MWe will not be exceeded.

Why does the applicant believe that using the “declared net capacity” or “rated electrical output” is preferable to “total installed capacity<sup>2</sup>” when dealing with the capacity of the proposed generating station, in order to achieve compliance with the CCR (Carbon Capture Readiness) (Electricity Generating Stations) Regulations 2013, noting that neither ‘capacity’ or ‘rated’ are defined in the CCR Regulations?

3.2 OM2-02 to **NRW**

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<sup>1</sup>The “declared net capacity”, in relation to a generating station, means the maximum capacity at which the station could be operated for a sustained period without causing damage to it (assuming the source of power used by it to generate electricity was available to it without interruption) **less the amount of electricity that is consumed by the plant**; The Renewable Order 2009 (SO 2009/785)

<sup>2</sup> The “total installed capacity” in relation to a generating station, is defined as the maximum capacity at which the station could be operated for a sustained period without causing damage to it (assuming the source of power used by it to generate electricity was available to it without interruption). The Renewable Order 2009 (SO 2009/785)



If a 1500 hour limit/annum<sup>3</sup> requirement is secured in the DCO, would this present any difficulties for the Environmental Permitting process?

#### 4. HABITATS, ECOLOGY and NATURE CONSERVATION

##### 4.1 HA2-01 to **the Applicant**

In the applicant's Habitats Regulations Assessment (HRA) submitted with its written summary of oral case put at the issue specific hearing on environmental matters - submitted for the deadline of 7 October 2014 [Doc.Ref. SAA] - were all populations of Marsh Fritillary butterfly associated with Blaen Cynon Special Area of Conservation (SAC) given a Valued Ecological Receptor (VER) status of 'International'?

##### 4.2 HA2-02 to **RCT, NRW and BBNPA**

What is the current status of the Enviroparks Hirwaun Ltd 2009 planning application project (Planning Application Ref. 08/02488/FUL). Is it likely to proceed in part, fully or not at all?

##### 4.3 HA2-03 to **NRW**

The Appropriate Assessment for Enviroparks Hirwaun Ltd (2009) (as submitted to the examination by Brecon Beacons National Park Authority at Appendix 1 to their response to the ExA's first written questions for the deadline of 21 August 2014) refers at paragraph 3.1.1, to "available technical solutions" that will ensure emissions are kept below 1% of critical load.

Can you list these solutions and provide evidence of their efficacy?

##### 4.4 HA2-04 to **the Applicant**

Please can the Boyer Planning, 2014 Environmental Statement for Hirwaun Energy Centre be made available to the examination by 13 November 2014?

##### 4.5 HA2-05 to **NRW**

Please can the Blaen Cynon SAC Core Management Plan be made available to the examination, even in draft form, by 13 November 2014?

##### 4.6 HA2-06 to **the Applicant and NRW**

What are the lowest limits of detection for Nitrogen Oxides and Sulphur Dioxide diffusion tubes?

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<sup>3</sup> This what is assessed in the Environmental Statement [Doc. Ref. 6.1.0]

4.7 HA2-07 to **NRW**

In your written summary of oral submissions made on Wednesday 24 September 2014 you agree that Sweetman (Case C-258/11) was not considering in-combination effects.

Some projects may be unlikely to have significant effects on their own but effects in combination with other projects may be significant.

Do you agree that a project with a potential effect, which is insignificant on its own, is not free from the provisions of the Habitats Regulations until it has been checked in combination with the effects of other projects?

Do you agree that the protective measures of the Directive could be seriously undermined if these combinations of projects escaped assessment?

4.8 HA2-08 to **the Applicant**

Table 4.2 of the applicant's HRA Report dated October 2014 [Doc. Ref. SAA] predicts "a maximum deposition of 7.1% of minimum critical load" for the in-combination acid deposition and "a maximum in-combination of up to 1.6% of minimum critical load" for the in-combination nitrogen deposition.

Table 6.7 of the Environmental Statement [Doc. Ref. 6.1.0] would classify these as a **moderate/slight adverse in-combination effects on the integrity of the Blaen Cynon SAC**.

Why is this not stated in Section 5.3 Conclusions, of the applicants HRA Report dated October 2014 [Doc.Ref. SAA]?

4.9 HA2-09 to **NRW**

Table 4.2 of the applicant's HRA Report dated October 2014 [Doc.Ref. SAA] predicts "a maximum deposition of 7.1% of minimum critical load" for the in-combination acid deposition and "a maximum in-combination of up to 1.6% of minimum critical load" for the in-combination nitrogen deposition.

Would you agree that Table 6.7 of the Environmental Statement [Doc. Ref. 6.1.0] would classify these as a **moderate/slight adverse in-combination effects on the integrity of the Blaen Cynon SAC**?

Will the in-combination acid and nitrogen deposition described above hinder the return of Blaen Cynon SAC to Favourable Conservation Status (FCS)?

4.10 HA2-10 to **the Applicant**

Table 4.2 of the applicant's HRA Report dated October 2014 [Doc.Ref. SAA] says the project makes a 0.25% contribution to in-combination effects for acid deposition on Blaen Cynon SAC, but in Appendix 1 Integrity Matrices [Doc. Ref. SAA] final page, second paragraph it states it is 0.3%?

#### 4.11 HA2-11 to **the Applicant**

Can the applicant present information in Table AQ2 Appendix 3 [Doc. Ref. SAA] in the same format as provided in Table 6.24 of the Environmental Statement [Doc. Ref. 6.1.0]?

Can the applicant present information in Table AQ3 Appendix 3 [Doc. Ref. SAA] in the same format as provided in Table 6.25 of the Environmental Statement [Doc. Ref. 6.1.0]?

#### 4.12 HA2-12 to **the Applicant**

In the event that it can be demonstrated that there are no alternative solutions (this is not prejudging the outcome of the competent authority's (i.e. Secretary of State (SoS)) Appropriate Assessment) to the proposal that would have a lesser effect or avoid an adverse effect on the integrity of the Blaen Cynon SAC site, the project may still be carried out if the competent authority (SoS) is satisfied that the scheme must be carried out for IROPI (imperative reasons of overriding public interest). In cases where there are priority natural habitats or species affected by the development, the IROPI justification must relate to either:

- human health, public safety or beneficial consequences of primary importance to the environment; or
- any other imperative reasons of overriding public interest.<sup>4</sup>

In the event that adverse effects on the integrity of Blaen Cynon SAC cannot be ruled out (this is not prejudging the outcome of the competent authorities i.e. SoS Appropriate Assessment), what is the applicant's case for concluding:

1. there are no alternative solutions,
2. IROPI applies, and
3. that satisfactory compensatory measures are available?

#### 4.13 HA2-13 to **RCT**

Please provide a written summary of your oral representations at the Environmental Matters hearing on the 24 September 2014.

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<sup>4</sup> PINS Advice Note 10 HRA August 2013