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Mr Colin Turnbull
(via email)

Your Ref:

Our Ref: EN010059

Date: 16 April 2014

Dear Mr Turnbull

Application by Hirwaun Power Limited for an Order Granting Development Consent for the Hirwaun Power Station

Section 51 advice following issue of acceptance decision

I write in relation to your application submitted to the Planning Inspectorate on 21 March 2014 for the above named project. You will be aware that the Planning Inspectorate, acting on behalf of the Secretary of State for Communities and Local Government, issued its decision to accept the application under section 55 of the Planning Act 2008 (as amended) to proceed to examination on 15 April 2014.

In undertaking checks at the acceptance stage some matters came to light which we feel would be prudent to draw your attention to at this stage. This letter therefore contains advice which is issued under section 51 of the Planning Act 2008 (as amended) to assist you in considering what action to take and when.

Section 42 consultation

Part 2.3 of the s55 checklist

Section 42(1)(a) persons prescribed

The published section 55 checklist lists nine consultees that were identified by the Planning Inspectorate for consultation and who were not listed as having been consulted by the applicant in the submission documents. These consultees are:

- The Crown Estate
- Energetics Gas Ltd
- SSE Pipelines Ltd
- Southern Gas Networks Plc
- Energetics Electricity Ltd
- Network Rail Infrastructure Ltd
- Public Health England

- Abertawe Bro Morgannwg University Health Board
- Powys Teaching Health Board

The applicant is therefore encouraged to either give a clear explanation as to why these, or the equivalent bodies, were not consulted or to make these bodies aware of the application and the opportunities to be involved in the process, particularly the opportunity to register as an interested party during the pre-examination stage.

s42(1)(d) each person in one or more of s44 categories

There appears to be a discrepancy between the application documents as submitted and the signposting documents submitted to the Planning Inspectorate during the acceptance stage regarding the position of CSM Pressing Ltd. The Planning Inspectorate therefore request clarification from the applicant whether CSM Pressing Ltd should appear in the Book of Reference and whether they were consulted by the applicant at the pre-application stage.

It appears that one potential affected person (The Occupier(s), Twyn Bryn Hir) has not been consulted by the applicant. The applicant is therefore encouraged to either give a clear explanation as to why this potential affected person was not consulted or make them aware of the application and the opportunities to be involved in the process.

Adequacy of Consultation and Statements of Common Ground

Although all local authorities who provided adequacy of consultation representations during the acceptance stage raised no concerns regarding the applicant's s42, s47 and s48 duties, the Planning Inspectorate note Brecon Beacons National Park Authority's comments regarding the level of detail included in the pre-application consultations and their wish to commence work on possible statements of common ground (SoCGs) at the earliest opportunity. As advised at the pre-application stage the Planning Inspectorate encourages applicants to submit SoCGs as early as possible in the process, particularly to avoid delay at the examination stage. Given that the application has now been submitted to, and accepted by, the Planning Inspectorate the applicant is encouraged to progress SoCGs during the pre-examination with the relevant bodies, which may include Brecon Beacons National Park Authority, Rhondda Cynon Taf County Borough Council and Natural Resources Wales.

Environmental Statement

Limits of deviation

The Works Plan gives the maximum limits of deviation for the power generation plant, the electrical connection and the gas connection, however it does not appear that this information is provided in the Environmental Statement itself. Figure 4.1 of the Environmental Statement shows the site layout however, although the figure is to scale, it appears that the elements of the development are not dimensioned in relation to the site boundary. The applicant is therefore requested to confirm that the limits of deviation assessed in the Environmental Statement correspond to the limits of deviation contained in the Development Consent Order (DCO).

Environmental Statement Figures

A number of plans within the Environmental Statement Figures Volume C (Document 6.3) are not to the correct scale and assurance will be needed as to whether the plans

match up with the assessments that are said to have been undertaken. Part 3.3(m) of the section 55 checklist notes that due to the layout of Figure 14.2 of the Environmental Statement Figures Volume C it is not possible to read the code assigned to some of the heritage assets, therefore it is not possible to cross-reference these with the relevant tables in the Environmental Statement. The applicant is therefore requested to submit additional maps at an appropriate scale for it to be possible to read the codes assigned to all the heritage assets.

Habitats Regulations Assessment / No Significant Effects Report

As noted in Part 3.3(g) of the s55 checklist the Planning Inspectorate is aware that there is ongoing correspondence between the applicant and Natural Resources Wales (NRW), particularly regarding air quality effects, the level of information provided to inform a Habitats Regulations Assessment and an application for an Environmental Permit. At the acceptance stage no interpretation or judgement on the findings of the No Significant Effects Report and the statements made within the application were made, and the documents were considered on face value. However, given NRW's status as a statutory nature conservation body the applicant is strongly encouraged to liaise closely with NRW, and any other relevant body, during the pre-examination stage to ensure that any outstanding matters are discussed and, if possible, resolved prior to the examination stage.

Further information and clarification

Whilst we cannot pre-judge the issues that the Examining Authority will wish to examine, from reviewing the application documents it does appear that there are a number of matters on which you may wish to be prepared to provide further information and clarification during the course of the application process, as set out above.

It would be helpful and assist in the smooth running of the Examination process if any further information, clarification documents or amendments made to the submission documents are produced and submitted to the Planning Inspectorate no later than 5 working days in advance of the preliminary meeting once that is notified. The Examining Authority may make any procedural decisions it wishes to at the preliminary meeting.

We trust you find this information helpful, however if you have any queries regarding the matters set out above please do not hesitate to contact us. It would also be helpful in programming resources if you could indicate to us your intended period for advertising under s56.

Yours sincerely

Iwan Davies

Iwan Davies
Case Manager

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the Planning Inspectorate website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.