

Ferrybridge Multifuel 2 Power Station

Responses to Inspector following the Examination in Public March 18th 2015 from Wakefield MDC

PINS ref EN010061

Hearing Agenda Item 3 Article 8 Q2.7

Article 18/ Q2.7 *Defence to Proceedings in Respect of Statutory Nuisance.*

- 1) Applicant to state why Article 18(3) has been left in place;
- 2) Wakefield Metropolitan District Council (WMDC) and Environment Agency (EA) to state whether they are content with Deadline 2 DCO Article 18 wording.

Environment Agency Response

The Environment Agency considers that the wording in red below, which appears in the Deadline 2 DCO Article 18 (2) (b) should be deleted.

The relevant wording reads as follows:

2 (b) 'relates to premises used by the undertaker for the purposes of or in connection with the operation of the authorised development and is attributable to that operation in compliance with the environmental permit'.

This has been added since the last version of the draft DCO. The Environment Agency does not always attach conditions relating to noise on environmental permits and we believe that the local authority should have the option to use its powers in relation to statutory noise nuisance; otherwise local residents may not be protected in the event of excessive noise from the operation of the power station.

We note this was the approach taken in the equivalent Article (Article 9) in the DCO which has recently been made by the Secretary of State for the Knottingley Power Project on 10 March 2015 and would commend this approach to the Examining Authority'.

With this deletion the wording will then read:

2 (b) 'relates to premises used by the undertaker for the purposes of or in connection with the operation of the authorised development; or'
with which we are content.

Hearing Agenda Item 4 Article 19 Schedule 7 of Draft DCO

In the written responses from WMDC provided in Jan 16th 2015, the Council expresses its concern re timescales specified in the Draft DCO, These have been amended – however the Council would still request:

Item 3 (2) a- a period of 5no working days for consulting the consultees

Item 3 (2) b- a period of 35 days (as per Knottingley DCO)

Item 3 (2) c – a period of 5no working days to give written notice to undertaker

Hearing agenda item 7- DCO draft Schedule 1 Part 2 requirement 7

In general - The draft DCO combines landscaping with the proposed biodiversity enhancement strategy and management - so the clauses should reflect this situation, in relation to approval of plans, ongoing maintenance and management, and implementation. With this in mind, It may be helpful to incorporate requirement 17 Biodiversity Management plan into requirements 7 and 8.

The DCO Requirement 7 should incorporate items similar to Knottingley Power station DCO, in particular:

- a- The treatment of hard surfaces and materials to be used
- b- Earthworks, cultivation and importation of materials and other operations to ensure plant establishment
- c- The seed mix for areas of grassland, and in particular magnesian grassland as part of ecological enhancement
- d- The location and number of trees, shrubs and any other planting as part of biodiversity enhancement , including the height, size, density, and specification of planting materials and methods of planting
- e- Details of the proposed ongoing management and maintenance of all landscaped areas, and areas of biodiversity enhancement.
- f- An implementation timetable for the phasing and completion of all landscaping and biodiversity enhancement works

DCO draft Schedule 1 Part 2 Requirement 8

This should also incorporate the wording “all landscape and biodiversity enhancement works to be carried out to a reasonable standard in accordance with the relevant recommendations of the appropriate British Standards or other recognised codes of good practice”

All landscape, biodiversity, ecological works to be subject to approval prior to commencement

Hearing Agenda item 9. Requirements 18 &20 and 23. Q 6.41-

Is LPA content with the mitigation measures and the draft DCO requirements through which they are secured. (Communities) *CEMP/construction Hours / control of Noise During Construction. Re noise and vibration monitoring:*

WMDC to state how its 7.8.11 fit with existing requirements 18, 20, 23.

Response: This 7.8.11 complaint procedure has been covered in Requirement 18 (Construction Environmental Management Plan) and will be picked up with the Applicant/proposed Contractor within the detail of the Construction Environmental Management Plan.

**Hearing Agenda Item 10. Requirements 19 & 20. Q6.1 and Q 6.14 (Highways)
*Construction Traffic Routeing and Management Plan/Construction hours***

1WMDC to state its position re the Travel Plan and effective quantified emissions impact measures (Highways) , construction start times, and the 55 dB at Order boundary with the proposed 15 minute averaging period.

Taking into account the additional information received, WMDC can confirm that the construction Travel Plan is now considered to be acceptable.

COMMENT from Environmental Health:

Response: Satisfied that FM1 construction did not have an impact on residents and that FM2 can be conditioned for out of hours construction work with similar requirements as FM1 including 55 dBLAeq (1 hour) at residential properties and HGVs not arriving at site until 7.30 am. However still to look at the detail of the actual noise mitigation controls for night time activity when CEMP submitted.

Hearing agenda item 10 Requirement 19/20 Q 6.1 6.4 (2) WMDC to state it position on construction traffic impacts re the Applicant comparisons of FM2 with FM1. (Highways?)

The proposed construction start times are considered to be acceptable. However it is recognised that construction hours could be 24 hours a day during the peak construction months. This is acceptable.

The issues previously raised in relation to anticipated daily HGV flows and minibus usage are now agreed. On this basis, and taking into account that the impacts would occur outside of the peak hours, the construction traffic impacts are considered to be acceptable.

In terms of the comparisons between FM1 and FM2, the removal of FM1 construction traffic flows, and addition of FM1 operational flows is considered to be acceptable. The use of FM1 HGV routing is also accepted. Traffic has been distributed based on the agreed FM1 distribution as well as knowledge of current FM1 construction trips.

It was previously requested that a justification for the construction workers minibus usage were provided .it has since been confirmed that there were 18no minibuses trips per day for FM1,therfreo the assumption that there would be 9bo trips for FM2 is robust, oOn the basis that in reality there is likely to be more than 9no trips per day. On this basis, the assumption of 9no minibus trips per day is accepted.

The submitted Framework Travel Plan states that the contractors would be requested to provide minibuses for transporting workers from their origin to the site. This is not considered to be sufficient. In our previous comments we requested that the applicants should investigate the feasibility of providing them from the outset, as opposed to relying on contractors to provide minibuses. .The applicants additional information states that this would not be practical for a number of reasons. This is not something that the Council agrees with, and it is requested that the provision of

minibuses is agreed as part of the travel plan. Notwithstanding this, it is acknowledged that this could be part of Requirement 19.

Hearing Agenda item 11. Requirements 20 & 23. Q6.20, Q6.35, Q6.36, Q6.38, Q6.39, Q6.42, Q6.43 & Q6.44. Construction Hours/Control of Noise During Construction.

(1) Re noise and vibration concerns, WMDC and Applicant to state their positions, including any matter not yet agreed;

Response: Amended Requirements 20 & 23 agreed. Conversation with Acoustician regarding the wording of Condition 20 (4) (C) "unreasonable" noise on Friday 13th March 2015. Agreed levels not above the ambient noise level at the receptors.

(2) Re night time construction noise effects, Applicant and WMDC to state their positions towards agreement of a satisfactory noise limit.

Response: Agreed a satisfactory limit and drafted in Condition 20 (2) for Category C and Category B receptors with reference to BS5228 (2009).

(3) Re noise and vibration effects of continuous 24 hour construction hours. Applicant/Other Interested Parties to comment on Requirement 20 (2) and requirement 23 (2) (c) and whether cross referencing in relation to continuous monitoring.

Response: Agreed Requirement 20 (2) re noise level and a scheme of monitoring will be undertaken during the duration of the works at the Order boundary of the site, linked to meeting the level at the receptors. Not agreed what these levels equate to at the Order boundary yet.

(4) Applicant and WMDC to state their position on the proposed limit of 55 dB LAeq (1 hour) at the Order Limit for night time working and Requirement 20(3) for start-up and shut down activities before 7.00 and after 19.30.

Response: Agreed 55 dB LAeq (1 hour) at Category C receptors. Agreed amendments to condition to cover the start-up and shut down working activities.

(5) Applicant, WMDC & SDC to state their positions on the additional noise assessment work being undertaken and agreements reached at the meeting of the 6th February between Applicant and WMDC Environmental Health Officer.

Response: Additional noise information provided in 1st meeting and review of noise levels from the FM1 construction monitoring discussed in 2nd meeting allowed a Category C and Category B condition to be agreed to protect the residents from night time construction activities.

Although this noise level is in place I will still look at proposed night time activities and what best practice is undertaken to control the noise at source under the CEMP.

(6) Re noise and vibration receptor sensitivity and impact on magnitude and significance, WMDC to state its position on construction noise re the classification of receptors (all medium sensitivity)

Response: WMDC do not need to categorise receptors as medium as WMDC have to ensure that they are not caused a noise nuisance to. BS5228 2009 describes noise sensitive premises as dwellings, educational establishments, places of worship or similar with no sub categories. However WMDC are satisfied that the categories adopted from BS 5228 (2009) are appropriate for Wakefield residents and that Requirements 18, 20 and 23 have been amended to require this.

(7) Re any “stop work” action and monitoring provisions that the developer and contractors would have to take to ensure adherence to maximum permitted noise levels, WMDC and SDC to state whether they are content with the revised wording of Requirement 23 in the draft DCO at Deadline 2.

Response: WMDC are satisfied with Requirement 23 and that any stop works will be covered in the Construction Environmental Management Plan.

Hearing Agenda Item 15

Travel Plan Operational staff

2) WMDC to state whether it is satisfied that this requirement is sufficiently unambiguous and enforceable

It is confirmed that requirement 32 is sufficiently unambiguous and enforceable.

It is acknowledged that the wording of requirement 32 has been amended to include details of the travel plan budget. As such this issue is considered to be agreed.

However, it is still not clear how the operational travel plan would tie in with the travel plan for FM1. This should be resolved as part of Requirement 32.

It has been confirmed that the peak construction daily HGV flows were derived from traffic surveys for FM1 construction traffic in May 2013. The surveys revealed that FM1 had 60 trips per day, therefore the assumption of 100 trips per day is considered to be robust. The traffic flows for the construction phase are therefore considered to be acceptable.

The proposed location of construction workers parking facilities has not been provided. However it is acknowledged that this could be agreed as part of Requirement 19. In terms of the suitability of existing operational parking facilities, it is agreed that this would be resolved at a later stage and is addressed as part of Requirement 4.

Hearing Agenda Item 19- The need for a subsection relating to decommissioning responsibility

WMDC considers it essential that a clause is included which makes it clear where responsibility for decommissioning lies. The importance of this clause was further highlighted in later discussions when the applicant advised as to ongoing discussions as to leases and land ownership within the application site. Due to the fact that there are a range of parties involved in the development and operation of this proposed plant, responsibility for decommissioning is not necessarily clear, unless specifically stated.