



# Pinsent Masons

*BY EMAIL*

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5 August 2024

## **PLANNING ACT 2008 THE FERRYBRIDGE MULTIFUEL 2 POWER STATION ORDER 2015**

### **PROPOSED NON-MATERIAL CHANGE APPLICATION REGULATION 7(3) – REQUEST FOR APPROVAL OF THE CONSULTEE LIST**

Dear Kerry Crowhurst-Kozlova,

#### **BACKGROUND**

1. We act for Enfinium Limited (“**Enfinium**”) in relation to this matter.
2. On 28 October 2015 the Secretary of State granted The Ferrybridge Multifuel 2 Power Station Order 2015 (“**the 2015 Order**”) pursuant to the Planning Act 2008 (“**2008 Act**”). The 2015 Order came into force on 19 November 2015
3. The 2015 Order, as granted, gave development consent for the construction and operation of a multifuel power station with a generating capacity of up to 90 MWe, fuelled by waste derived fuels from various sources, on land at the existing Ferrybridge Coal-Fired Power Station site, north-west of Knottingley, West Yorkshire (“**the Development**”).
4. The original 2015 Order was subsequently corrected and amended on two occasions as follows:
  - 4.1 The Ferrybridge Multifuel 2 Power Station (Correction) Order 2016; and
  - 4.2 The Ferrybridge Multifuel 2 Power Station (Amendment) Order 2018.
5. The substantive amendments made by these two orders have no material bearing on the present matter and they are, accordingly, not considered further in this letter.
6. The 2015 Order authorised the Development subject to Requirements, set out in Schedule 2 to the 2015 Order. These include Requirement 3 which provides that:

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*“3.—(1) Only fuel of a type specified in the environmental permit may be combusted in the boilers of the authorised development.*

*(2) Except for purposes of the start-up or support firing of a boiler, only waste derived fuel may be combusted in the boilers of the authorised development.”*

7. Article 2(1) of the 2015 Order defines “waste derived fuel” as “fuel derived from (i) **processed** municipal solid waste, (ii) commercial and industrial waste or (iii) waste wood” [**emphasis** added].
8. The Development is also regulated by the Environment Agency (“**EA**”) under the Environmental Permitting (England and Wales) Regulations 2016 (as amended) (“**the Permitting Regulations**”).
9. An environmental permit has been granted by the EA under the Permitting Regulations (reference EPR/XP3833DK) (“**the EP**”). Schedule 2 of the EP outlines the waste types, raw materials and fuels permitted to be used for the purposes of combustion in the Development.
10. The Development is currently permitted to use waste sources falling under the definition of EWC 20 – “municipal wastes (household waste and similar commercial, Industrial and institutional wastes) including separately collected fractions”. Those waste sources permitted in the original EP are:
  - EWC 20 01 (Separately collected fractions (except 15 01))
  - EWC 20 01 01 (Paper and cardboard)
  - EWC 20 01 08 (Biodegradable kitchen and canteen waste)
  - EWC 20 01 10 (Clothes)
  - EWC 20 01 11 (Textiles)
  - EWC 20 01 25 (Edible oil and fat)
  - EWC 20 01 38 (Wood other than those mentioned in 20 01 37)
  - EWC 20 01 39 (Plastics)
11. Municipal solid waste contained within bin bags taken directly from households/commercial premises (“**black bag waste**”) also falls under the definition of EWC 20, specifically EWC 20 03 01 (mixed municipal waste). This code was not included in the original EP.
12. Enfinium has already been in discussions with the Environment Agency regarding the proposed acceptance and combustion of this type of fuel i.e. black bag waste. Following that engagement, the EA approved a Minor Variation to the EP to amend Schedule 2 to add EWC 20 03 01 (mixed municipal waste) as a permissible fuel source.
13. This means that the combustion of black bag waste has already been approved by the EA for the purposes of Requirement 3(1) of the 2015 Order.



## THE PROPOSED NON-MATERIAL CHANGE

14. Enfinium intends to apply for a non-material change (“**NMC**”) to the 2015 Order (as previously amended) in order to clarify that the acceptance from local authorities of black bag waste constitutes a permitted waste derived fuel for the purposes of Requirement 3(2).
15. In light of the EA’s existing approval to its inclusion, Enfinium now proposes an NMC to the definition of “*waste derived fuel*” in article 2(1) to confirm that black bag waste – as municipal solid waste – is a permissible fuel type for the purposes of Requirement 3(2).
16. This amendment is needed because black bag waste does not require specific processing (in terms of sorting and shredding) prior to import to the site and so would not fall within the definitions of ‘waste derived fuel’ within article 2(1).
17. This NMC will not increase the permitted annual waste throughput consumed by the Development, which will continue to be limited to 725,000 tonnes per annum. The waste derived fuel delivery and unloading operations will also remain unchanged, with no changes to the type, number or character of vehicle movements required to service the Development and import the fuel.
18. Most of the operational procedures will continue to be implemented as at present. The key process change will comprise additional mixing of the fuel within the storage bunker prior to being fed to the combustion process to improve and maintain the homogeneity of the fuel. However, additional equipment is not required to be installed and no physical change is required to any aspect of the Development as consented.
19. As the throughput and nature of the fuel used at the Development will remain unchanged, the emissions to air, water and land will remain unchanged, as will the current permitted emission limit values in the EP. Therefore, additional emissions abatement measures are not required to be installed.
20. Monitoring of emissions will continue to be undertaken in accordance with the EP and the odour management plan for the Development has been reviewed to ensure any potential additional odour impacts from the black bag waste will be managed appropriately.
21. For the avoidance of doubt, Enfinium can also confirm that the change to allow for the Development to cater for black bag waste is entirely separate and unrelated to Enfinium’s forthcoming Carbon Capture Project Development Consent Order application, which was the subject of a recent section 35 Direction from the Department.

## CONSULTATION

22. In accordance with Regulation 7(3) of the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 (“**Changes Regulations**”), Enfinium is seeking the consent of the Secretary of State for a focused and targeted consultation for the proposed NMC application.
23. In identifying the consultee list, consideration has been given to those stakeholders who may have a continuing interest in the Development and its environs, alongside infrastructure asset owners and other users who are considered to have a clear interest in the nature of the proposed change.



24. In light of the fact that the EA has already approved the necessary minor variation to the EP and that any environmental effects anticipated from the inclusion of black bag waste within the permitted fuel types are expected to be negligible, and that there are no physical or emissions changes to the Development, Enfinium considers that the consultation for this NMC can be limited, as there will be no impacts from the NMC to external parties, the public, or receiving environments that are the responsibility of statutory bodies. Furthermore, no third-party land interests are affected by the proposed NMC.
25. As such, the consultees that Enfinium proposes be consulted on the NMC application are:
- the EA, given their involvement in the permitting process, and so Enfinium acknowledges that they would be interested in the 'read-across' to the DCO position; and
  - Wakefield Metropolitan District Council, in its capacity as the host local planning authority for the Development.
26. In addition, whilst it is considered that public consultation is not required, formal public notification will be undertaken, with a notice of the NMC application being published in accordance with Regulation 6 of the Changes Regulations. This notice will be published for two consecutive weeks in the following publications:
- Selby Times; and
  - Pontefract & Castleford Express
27. We would be grateful if you would please confirm approval of the consultee approach as being acceptable.
28. If you have any questions or require any further information, please do not hesitate to contact us.

Yours sincerely

Pinsent Masons LLP

*As this letter is sent electronically, no signature is provided.*