

Examining Authority
Port Talbot Power Generation Enhancement
The Planning Inspectorate
3/18 Eagle Wing
Temple Quay House
2 The Square
Bristol
BS1 6PN

BY EMAIL ONLY

Dear Sir/Madam,

RESPONSE TO DEADLINE 3 AND EXAMINERS QUESTIONS FROM DRAFT DCO HEARING OF THE 12 FEBRUARY 2015 OF THE INTERNAL POWER GENERATION ENHANCEMENT FOR PORT TALBOT STEELWORKS.

I write regarding the Authority's response to the above deadline and questions that were put to the Authority by the examiner during the hearing of 12 February 2015.

Part 1

Article 2 - Maintain

The wording in Article 2 which includes "provided such works do not give rise to any materially new or materially different environmental effects to those identified in the environmental statement" addresses the Authority's primary concerns regarding maintenance works going beyond those effects identified within the environmental statement.

However, the Authority supports ExA's suggestion that the words "remove" or "replace" be qualified by the words "in respect of each constituent part" in order to restrict the application of these terms.

The Authority will need to consider the applicant's revised wording in Article 4 regarding changes to the maintenance provisions.

Drafting point – the term "Requirements" needs defining in Article 2 due to the use of the term twice in Article 3.

Part 2

Article 4 – Power to maintain authorised development

Drafting point – Article 4 to include the further restrictions: "Subject to the other terms of this order, including the requirements .." and also "This Article only authorises the carrying out of maintenance works within the Order limits".

Environment
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Article 8 – defence in respect of statutory nuisance

The Authority does not object to the inclusion of Article 8 in principle under the spirit of the PA 2008 and the Authority understands that any possible nuisance is to be mitigated by requirements 10 & 11. However the Authority has practical concerns about the inclusion of Article 8 in the DCO due to the noise issues associated with piling. These concerns may be resolved by the Piling Method Statement. However there is likely to be a conflict between noise concerns and land contamination concerns in relation to any proposed piling method. For example the Authority may not be in the position to provide the section 60 or 61 consent which art 8(1)(a)(i) refers to.

The LPA will consider the applicant's revised drafting of Article 8 and note that there is an ongoing dialogue regarding the content of the Piling Method Statement.

Article 24

The Authority notes that the design principles document is a certified document under art 24(1)(e) and welcomes this.

Article 26 – procedure in relation to certain approvals

The point regarding all the approvals by the LPA needing to be in writing in the requirements is covered by the wording of art 26(1): "such consent, agreement or approval, if given, must be given in writing ..".

Art. 26(2) should be revised and Art. 26 should provide for sections 78 & 79 T&CPA 1990 to apply to applications for any consent, agreement or approval (see, for example, art 4 Brechfa Forest West Wind Farm Order 2013). Schedule 5 should be deleted as there is no justification for a departure from the T&CPA appeals process as it is existing and well-understood as there is no reason to consider that it will cause delays.

Suggested wording for art 26(2):

(2) Where an application is made to the relevant planning authority for any consent, agreement or approval required by a requirement, the following provisions apply, so far as they relate to a consent, agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission, as if the requirement was a condition imposed on the grant of planning permission—

(a) sections 78 and 79 of the 1990 Act (right of appeal in relation to planning decisions);

(b) any orders, rules or regulations which make provision in relation to a consent, agreement or approval of a local planning authority required by a condition imposed on the grant of planning permission

(3) For the purposes of paragraph (2), a provision relates to a consent, agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission in so far as it makes provision in relation to an application for such a consent, agreement or approval, or the grant or refusal of such an application, or a failure to give notice of a decision on such an application.

Schedule 1 – Authorised development

The Authority considers all the works in Schedule 1 form part of the NSIP and are integral to the project and it follows the approach of the Brechfa Forest Wind Farm Order 2012.

R4 – Detailed design

R1(1)&2(2) – The Authority notes the inclusion of the additional maximum parameters as requested by the ExA.

R4(3) – The Authority notes that the applicant's ability to approve amendments to the maximum parameters of any elements other than the turbine hall and boiler house is removed. The ability to amend the maximum parameters of the turbine hall and boiler house appears to the LPA to be adequately constrained by the wording of r3(a)&(b) subject to the drafting points below, given the LPA's primary concern that any amendments should not give rise to different environmental effects to those which have been assessed.

R4(4)&(5) – The Authority notes the additional wording included in r4(4) and (5) provides for greater certainty regarding building finishes and design. The Authority welcomes the inclusion of the design principles document and dialogue is on-going to ensure that the Authority's design aspirations are reflected within the document.

Drafting points:

R4(3) – Suggest using the wording “non-material” amendments instead of “minor or immaterial” amendments.

R4(3)(b) Suggest that the wording “demonstrated to the satisfaction of the relevant planning authority” is included.

R4(4)(a) Suggest use of “layout” instead of “siting”.

Rs 6, 7 & 12 – Provision of landscaping, fencing and enclosure, and lighting

The LPA notes that the drafting of these requirements is to be revised by the applicant to ensure that the requirements reflect the environmental statement. The LPA will consider the revised requirements alongside the environmental statement to ensure all the commitments in the statement are secured.

R8 – Archaeology

R8 (3) The Authority notes the inclusion of the requirement by Glamorgan Gwent Archaeological Trust (GGAT) for an organisation registered with the Chartered Institute for Archaeologists (CIfA) to carry out any Archaeological works or watching brief.

The Authority is in regular contact with GGAT and can confirm that Cotswold Archaeology undertook the Archaeological Watching Brief on the recent Geotechnical works for the Power Generation Facility in 2014. Cotswold Archaeology is a Registered Organisation with the Chartered Institute for Archaeologists and is therefore suitably professionally qualified to undertake the work in connection with this scheme.

R10 – Code of Construction Practice

The Authority notes that R10(1) cross references the environmental statement, it will need to satisfy itself that all the relevant commitments are secured by the requirement.

The Authority notes the inclusion of R10(3) regarding the requirement for the investigation of dust failures and implementation of mitigation/remedial works.

Drafting point - R10(4) the Authority queries whether the inclusion of the tailpiece is justified in accordance with Planning Inspectorate Advice Note 15

R11 – Approval and Implementation of Construction Mitigation Plans

The Authority notes that R11(1) should refer to the environmental statement as in r10(1) and the LPA will need to satisfy itself that all the relevant commitments made in the statement are secured in the requirement.

There was discussion about whether R11(1)(a) noise management plan should include noise related to steam purging. NRW clarified that this would be the subject of an environmental permit.

The Authority notes that R11(2)(a) includes the piling method statement, this will need to balance noise impacts with ground contamination issues and will need to be the subject of an ongoing dialogue between the LPA, the applicant and NRW.

The Authority notes the inclusion of R11(2)(b) regarding the requirement for the investigation of noise failures and implementation of mitigation/remedial works.

Note – There will be ongoing discussions regarding the sourcing and securing of noise mitigation measures.

Drafting point - R11(3) the Authority queries whether the inclusion of the tailpiece is justified in accordance with Planning Inspectorate Advice Note 15

R13 – Construction hours

The Authority notes the revision to R13 to restrict working on Sundays and Bank Holidays unless there is prior approval of the LPA. It also notes the removal of separate start up and shut down working hours and understands that this now is included within the times set out in r13(1)(a)&(b). Any restriction to piling hours can be covered within the Piling Method Statement.

R14 – Control of noise during operation phase

The Authority notes that the provisions of R14 will be covered by the Environmental Permit issued by NRW. Clearly the scheme required by R14(1) must take into account and reflect the controls imposed by the Permit. The timings of the granting of the permit were discussed, these will not be within the period of the examination.

Note – there will be ongoing discussions with the applicant regarding the sourcing and securing of noise mitigation measures.

R15 – Surface and foul water drainage

Drafting point – R15(1) “must commence” (remove “not”)

R17 – Air quality monitoring

Note – there will be ongoing discussions with the applicant regarding the sourcing and securing of air quality mitigation measures.

R19 – Contaminated land and groundwater

The Authority agrees that the revised r.19 now provides for a more comprehensive framework, although it notes that NRW will provide additional wording to cover its environmental concerns.

The Authority has the necessary in-house expertise to approve the scheme set out in R19(1).

Drafting point - R19(5) should include the following wording “work shall cease immediately”

It is understood that the applicants land contamination report due out within a month.

Additional requirement regarding safety

The Authority would welcome this additional requirement in the absence of the HSE Report being produced during the course of the examination.


Schedule 5

The Authority does not believe that the inclusion of Schedule 5 is justified (see comments in relation to Article 26).

I trust this information is of assistance to you

Yours faithfully



 Nicola Pearce
Head of Planning

