

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 5 FOR THE RECEIPT BY THE EXAMINING AUTHORITY OF COMMENTS ON THE APPLICANTS FINAL PREFERRED DCO FOR THE INTERNAL POWER GENERATION ENHANCEMENT FOR PORT TALBOT STEELWORKS.**

I write regarding the Authority's response to the above deadline in respect of the applicants final preferred DCO.

**Article 26 – procedure in relation to certain approvals**

The LPA is of the opinion that 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.

### **Requirement 4 – Detailed design**

Drafting points:

R4(3) – The LPA suggest using the wording “non-material” amendments instead of “minor or immaterial” amendments to reflect current practice in Wales.

### **Requirement 19 – 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.

Drafting point – The LPA consider R19(5) should include the wording “work shall cease immediately”.

## **Schedule 5**

In accordance with the comments in relation to Article 26 above, the LPA does not consider the inclusion of Schedule 5 to be justified, and would therefore request its deletion. However, should the ExA consider the inclusion of such a Schedule to be justified, either in its current or an amended form, the LPA wish to emphasise that the ‘deemed approval’ after 8 weeks specified by Schedule 5, 1 (2) is not acceptable. Instead, in the event such decisions are not made within 8 weeks (or any agreed extension of time in writing) then, should the applicant seek to appeal, such matters should be subject to the usual non-determination appeal processes. We would also emphasise, however, that productive discussions are ongoing with the applicant with a view to agreeing a Planning Performance Agreement to give TATA a degree of certainty that the LPA will be able to deal with matters expeditiously.

I trust this information is of assistance to you

Yours faithfully

Nicola Pearce  
Head of Planning