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Your Ref:

Our Ref: EN010064

Date: 24 April 2015

Dear Sir/Madam

Planning Act 2008 (as amended) - Section 51

Application by Meaford Energy Limited for an Order Granting Development Consent for the Meaford Energy Centre

Advice following issue of acceptance decision

On 24 April 2015 the Secretary of State decided to accept the above application for examination.

The Planning Inspectorate's published 'Acceptance of applications checklist' makes some observations regarding certain documents. This advice is offered to explain more fully how some application documents could be improved.

Book of Reference

It is noted that the majority of persons in the book of reference are listed in part 2 as category 3 persons are persons who might be entitled to make a relevant claim as a result of the order (s.57(4) Planning Act 2008 (PA 2008)).

Article 23(2) of the draft development consent order authorises the extinguishment of all private rights and restrictive covenants over the order land which is leased by the undertaker pursuant to the lease or subject to rights by agreement for the benefit of the undertaker.

The extinguishment of a private right or a restrictive covenant involves the compulsory acquisition of that right.

It is noted that a number of the rights listed in part 2 appear to be rights over the land which is to be leased by the undertaker or subject to rights by agreement for the benefit of the undertaker. Any rights which fall into this category are rights which are subject to the power of compulsory acquisition by virtue of Article 23(3)

Regulation 7 of the Infrastructure Planning (Applications Forms and Procedure) Regulations 2009 requires persons in respect of any land which it is proposed shall be subject to the powers of compulsory acquisition to be included within part 1 of the book of reference. Furthermore s.57(2) PA 2008 defines category 2 persons as persons "interested in the land" and "the land" is defined as the land to which the application relates or any part of that land.

The applicant is advised to ensure that all persons with an interest in the land, including persons with a right over it, are included in part 1 of the Book of Reference if the land in question is subject to any power of compulsory acquisition, including the extinguishment of rights.

The applicant should also ensure that these persons are correctly notified in accordance with s.56 PA 2008 and correctly identified in the list of affected persons which the applicant must provide in accordance with s.59 PA 2008.

Alternatively the applicant may wish to amend Article 23(2) to remove the compulsory acquisition power and instead rely on interference with or suspension of the rights identified over the land subject to the lease or other agreements.

Section 42(1)(a) persons prescribed

As the published section 55 checklist sets out, it appears, on the basis of the information provided by the Applicant, that four potentially relevant bodies have not been consulted at the pre-application stage (Scotland Gas, Southern Gas, Wales and West Utilities, and South Staffordshire Water). Unless there is a good reason in each case why the applicant considers that these bodies are not relevant to the proposed development, the applicant is advised to include these bodies, or their appropriate successors, in the notification process of the accepted application. This should highlight the opportunities to become involved in the examination of the application. In particular, it should explain the process by which they may make relevant representations during the advertised period.

I trust that this advice is useful to you and aids your preparation for examination of the scheme. We suggest any revised Book of Reference that you prepare in the light of this advice be made available to the Planning Inspectorate to inform initial assessment of the preliminary issues ahead of the Preliminary Meeting, or submitted to the Preliminary Meeting if this is not possible.

Yours sincerely

Kay Sully
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.