



National Infrastructure Planning  
Temple Quay House  
2 The Square  
Bristol, BS1 6PN

Customer Services: 0303 444 5000  
e-mail: [MillbrookPower@pins.gsi.gov.uk](mailto:MillbrookPower@pins.gsi.gov.uk)

---

Your Ref:

Our Ref: EN010068

Date: 12 February 2018

---

Dear Sir/ Madam

**Planning Act 2008 (as amended) – Section 88 and the Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Rule 6**

**Application by Millbrook Power Limited for an Order Granting Development Consent for the Millbrook Power Project**

**Appointment of the Examining Authority**

I write to you following my appointment by the Secretary of State as the Examining Authority (ExA) to carry out an examination of the above application by Millbrook Power Limited. A copy of the appointment letter can be viewed at: [Rule 4 letter](#)

**Invitation to the Preliminary Meeting**

This letter is an invitation to the Preliminary Meeting to discuss the examination procedure and contains a number of supporting annexes. I would like to thank those of you who submitted Relevant Representations. These representations have assisted me when preparing my proposals regarding how to examine this application.

**Date of meeting:** Tuesday, 13 March 2018

**Seating available from:** 9.30am

**Meeting begins:** 10.00am

**Venue:** The Forest Centre, Station Road,  
Marston Moretaine, Bedfordshire, MK43 0PR

**Access and parking:** Full disabled access. Large car park. Car park is free but there is a suggested donation of £1

Given the volume and frequency of letters the Planning Inspectorate needs to send to

Interested Parties during an examination, the Planning Inspectorate aims to communicate with people by email wherever possible, as electronic communication is more environmentally friendly and cost effective for the Planning Inspectorate as a Government agency. If you are able to receive communications by email, please confirm this with us by **Deadline 1, Tuesday 27 March 2018**, in the Examination Timetable.

## **Purpose of the Preliminary Meeting**

The purpose of the Preliminary Meeting is to enable views to be put to me about the way in which the application is to be examined. At this stage, the ExA is looking at the procedure, and not the merits of the application. The merits of the application will only be considered once the Examination starts, which is after the Preliminary Meeting has closed.

I wish to run a fair, efficient and effective meeting so that all relevant views can be heard. As such, I strongly encourage groups of individuals who have similar views on the procedure to choose one representative to speak for the group.

The agenda for the meeting is in **Annex A**. This has been set following my initial assessment of the Principal Issues arising on the application. That assessment is set out in **Annex B**. As a result of this assessment I wish to hear at the meeting from the Applicant, Interested Parties, Statutory Parties and Local Authorities where they consider changes may be needed to the draft timetable set out in **Annex C**.

Up to date information about the project and the Examination can be obtained from:

<https://infrastructure.planninginspectorate.gov.uk/projects/Eastern/Millbrook-Power/>

This is the project website address from which I will make copies of all future communications and Examination documents available to the public. You can use this page to track progress of the Examination and access all relevant documents and correspondence from the links it contains. As the examination process makes substantial use of electronic documents, it will be useful to become familiar with this resource.

If you wish to receive an email notification when relevant documents and correspondence are published you can register on the project website to do so.

## **Attendance at the Preliminary Meeting**

If you wish to attend the Preliminary Meeting contact Tracey Williams , Case Manager using the details set out at the top of this letter. Please confirm this by **Tuesday 6 March 2018**.

It will help the management of the meeting and benefit everyone if you also:

- Tell us whether you wish to speak at the meeting and on which agenda items, listing points you wish to make; and
- Notify us of any special requirements you may have (eg disabled access, hearing loop etc).

The Preliminary Meeting provides a useful introduction to the examination process. I will use it to make procedural decisions that will affect everyone participating in the Examination. The meeting provides you with an opportunity to have your say about procedural issues before these decisions are finalised. If you intend to play an active part in the Examination or you have questions about procedure it is useful to attend the meeting. However, please note that you are not required to attend the Preliminary Meeting in order to participate in the Examination.

If you are an Interested Party you will still be able to make written representations and participate in any hearings that are arranged. Should you no longer wish to be an Interested Party and do not wish to be involved in the examination process, you can notify the Case Manager of this in writing.

### **After the Preliminary Meeting**

After the Preliminary Meeting you will be sent a letter setting out the timetable for the Examination. An audio recording and a note of the meeting will also be published on the Millbrook project page of the National Infrastructure Planning website.

Interested Parties have the right to request an Open Floor Hearing and those persons affected by any request for Compulsory Acquisition or temporary possession of their land or rights may request a Compulsory Acquisition Hearing. Any other Issue Specific Hearings are at the discretion of the ExA and will be arranged if I feel that consideration of oral representations would ensure an issue is adequately considered. My Examination will comprise of Written Representations about the proposal and any oral representations made at the hearings, in addition to consideration of the application documents, policy and legal positions, site inspections and any other matters I consider to be relevant and important.

All relevant and important matters will be taken into account when I make a recommendation to the Secretary of State for Department for Business, Energy and Industrial Strategy, who will take the final decision in this case.

### **Procedural decisions made by the ExA under ss89(3) and 93(1) of the Planning Act 2008**

I have made some preliminary procedural decisions. These include requests for Statements of Common Ground. These procedural decisions are all set out in full at **Annex E**.

### **Your status in the Examination**

This letter has been sent to you because you (or the body you represent) fall within one of the categories in s88(3) of the Planning Act 2008 (PA2008).

If you have made a Relevant Representation, have a legal interest in the land affected by the application, or are a relevant Local Authority (reference numbers beginning with 2001, MILL-AFP or MILL-S57), you have a formal status as an Interested Party in the Examination.

Interested Parties will receive notifications from the Planning Inspectorate about the Examination throughout the process and may make written and oral submissions

regarding the application.

If you are a prescribed consultee (ie body specified in the relevant regulations supporting the PA2008) but have not made a Relevant Representation (reference number beginning with MILL-SP) you will not automatically be an Interested Party. However, following the Preliminary Meeting, you will have a further opportunity to notify the Planning Inspectorate that you wish to be treated as an Interested Party.

If you are not an Interested Party or a prescribed consultee (ie body specified in the relevant regulations supporting the PA2008), you have received this letter because I wish to invite you to the Preliminary Meeting as an 'Other person' because it appeared to me that the Examination could be informed by your participation. 'Other Persons' have a reference number beginning with MILL-OP.

If you are not sure whether you are an Interested Party, please contact the Case Manager using the details at the top of this letter. Information regarding the formal status of Interested Parties and how you can get involved in the process is set out in the Planning Inspectorate Advice Note 8 Series on the National Infrastructure Planning website: <http://bit.ly/1zdsVW5>.

### **Award of Costs**

I also draw your attention to the possibility of the Award of Costs against Interested Parties who behave unreasonably. You should be aware of the relevant cost guidance "Awards of costs; examinations of applications for development consent orders" which applies to National Infrastructure projects. This guidance is available at: <http://bit.ly/1ODUUFi>

### **Management of Information**

The Planning Inspectorate has a commitment to transparency. Therefore, all information submitted for this project (if accepted by the ExA) and any record of advice which has been provided, is published at:

<https://infrastructure.planninginspectorate.gov.uk/projects/Eastern/Millbrook-Power/>

All Examination documents can also be viewed electronically at the locations listed in **Annex D**.

The privacy of any other personal information has been protected in accordance with the Planning Inspectorate's Information Charter.

I look forward to working with all parties in the examination of this application.

Yours faithfully

*Jonathan Green*

**Jonathan Green**  
**Examining Authority**

## Annexes

- A** Agenda for the Preliminary Meeting
- B** Initial Assessment of Principal Issues
- C** Draft timetable for Examination of the application
- D** Availability of Examination documents
- E** Procedural Decisions made by the Examining Authority
- F** Notification of Issue Specific Hearing on the draft DCO
- G** Agenda for the Issue Specific Hearing on the draft DCO

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 National Infrastructure Planning 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.

**Agenda for the Preliminary Meeting****Date: Tuesday 13 March 2018****Registration opens from: 9:30am****Meeting Start Time: 10:00am****Venue: The Forest Centre, Station Road,  
Marston Moretaine, Bedfordshire,  
MK43 0PR**

<b>09.30am</b>	Registration opens
<b>Item 1 (10.00am)</b>	Welcome and introductions
<b>Item 2</b>	The Examining Authority's (ExA's) remarks about the examination process
<b>Item 3</b>	Initial Assessment of Principal Issues – see <b>Annex B</b>
<b>Item 4</b>	Draft Timetable for the Examination – see <b>Annex C</b>
	Deadlines for submission of: <ul style="list-style-type: none"> <li>• Written Representations</li> <li>• Local Impact Reports</li> <li>• Responses to the ExA's Written Questions</li> <li>• Statements of Common Ground</li> <li>• Notifications relating to hearings</li> </ul>
	Hearings and Accompanied Site Inspection (ASI): <ul style="list-style-type: none"> <li>• Date of ASI to application site and surrounding area</li> <li>• Date of Issue Specific Hearing on draft Development Consent Order</li> <li>• Dates reserved for Open Floor Hearing(s)</li> <li>• Time period reserved for Issue Specific Hearings</li> <li>• Time period reserved for Compulsory Acquisition Hearing</li> </ul>
<b>Item 5</b>	Procedural matters, including any remaining submissions not set out in the agenda that have been submitted to the Planning Inspectorate in advance of the Preliminary meeting or by <b>Tuesday 6 March 2018</b>
<b>Item 6</b>	<b>Any other matters</b>
	<b>Close of the Preliminary Meeting</b>

**Please note:** Please register and be available from the start and throughout the meeting. The agenda is subject to change at the discretion of the ExA. The ExA will conclude the meeting as soon as all relevant contributions have been made. If

there are any additional matters to be dealt with or submissions take a considerable amount of time the ExA may change the order of the agenda items and may introduce breaks in the proceedings.

## **Initial Assessment of Principal Issues**

This is the initial assessment of the Principal Issues arising from consideration by the Examining Authority (ExA) of the application documents and Relevant Representations received. It is not a comprehensive or exclusive list of all relevant matters; regard will be had to all important and relevant matters in reaching a recommendation after the Examination is concluded. A number of these Principal Issues set out below have an interrelationship and overlap and this will be reflected in the Examination.

The Principal Issues are listed in alphabetical order and should not be taken to imply an order of importance.

**Compulsory Acquisition**, including issues related to:

- The need for the land to be subject to compulsory acquisition
- The need to establish a compelling case in the public interest
- Financial arrangements

**Design, Layout and Visibility**, including issues related to:

- The design of the power station and associated development
- Landscaping and screening

**Development Consent Order (DCO)**, including issues related to:

- Powers acquired through the DCO
- Requirements
- Protective provisions
- Amendment and modification of the Rookery South DCO

**Economic and Social Impacts**, including issues related to:

- The impact on the local economy including tourism
- The impact on local services and facilities
- The impact on housing and employment

**Environmental Impact Assessment**, including issues related to:

- The assessment of the potential impacts of the Proposed Development
- Completion of the low level restoration scheme
- Cumulative impacts
- Mitigation measures

**Environmental Issues** including issues related to:

- Airborne emissions and air quality, including potential cumulative impacts
- Water quality and flooding
- Landscape and visual impacts
- Ground conditions
- Noise, lighting, dust and vibration



**Habitats, Ecology and Nature Conservation**, including issues related to:

- Impacts on European and other protected sites and species
- Impacts on habitats and on biodiversity

**Historic Environment**, including issues related to:

- Impacts on heritage assets and historic landscapes

**Operational**, including issues related to:

- Limitations on use of plant
- Environmental permitting

**Transport and Traffic**, including issues related to:

- Construction traffic movement and routeing
- Road safety

## Draft timetable for Examination of the application

Item	Matters	Due Dates
1	Preliminary Meeting	<b>10:00am</b>  <b>Tuesday 13</b> <b>March 2018</b>
2	Issue Specific Hearing on draft Development Consent Order (dDCO)	<b>2:00pm</b>  <b>Tuesday 13</b> <b>March 2018</b>
3	Issue by the Examining Authority (ExA) of: <ul style="list-style-type: none"> <li>• Examination Timetable;</li> <li>• The ExA's Written Questions</li> </ul>	<b>As soon as practicable following the Preliminary Meeting</b>  <b>Tuesday 20</b> <b>March 2018</b>
4	<b>Deadline 1</b>  Deadline for the receipt of: <ul style="list-style-type: none"> <li>• Notification of wish to speak at a Compulsory Acquisition Hearing</li> <li>• Notification of wish to speak at an Issue Specific Hearing</li> <li>• Notification of wish to speak at an Open Floor Hearing</li> <li>• Notification of wish to attend an Accompanied Site Inspection (ASI), suggested locations and justifications</li> <li>• Notification by statutory parties of wish to be considered an Interested Party</li> <li>• Notification of wish to have future correspondence electronically</li> </ul>	<b>Tuesday 27</b> <b>March 2018</b>

5	Time reserved for issue by ExA: <ul style="list-style-type: none"> <li>Any notification of hearings</li> </ul>	<b>Tuesday 3 April 2018</b>
6	<b>Deadline 2</b> Deadline for receipt of: <ul style="list-style-type: none"> <li>Comments on Relevant Representations (RRs)</li> <li>Written Representations (WRs)</li> <li>Summaries of all WRs exceeding 1500 words</li> <li>Local Impact Reports (LIR) from any local authorities</li> <li>Statements of Common Ground(s) (SoCGs) requested by the ExA – see <b>Annex E</b></li> <li>Responses to the ExA's Written Questions</li> <li>Post hearing submissions including written submissions of oral case</li> </ul>	<b>Tuesday 17 April 2018</b>
7	Accompanied Site Inspection	<b>Tuesday 1 May 2018</b>
8	Issue Specific Hearing on Environmental Matters	<b>Wednesday 2 May 2018</b>
9	Open Floor Hearing (if requested)	<b>Wednesday 2 May 2018</b> <b>(Evening)</b>
10	Issue Specific Hearing on the draft Development Consent Order	<b>Thursday 3 May 2018</b> <b>(Morning)</b>
11	Compulsory Acquisition Hearing (if required)	<b>Thursday 3 May 2018</b> <b>(Afternoon)</b>

12	<p><b>Deadline 3</b></p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Comments on WRs and responses to comments on RRs</li> <li>• Comments on LIRs</li> <li>• Comments on responses to the ExA's First Written Questions</li> <li>• Revised draft DCO from Applicant</li> <li>• Post hearing submissions including written submissions of oral case</li> <li>• Responses to any further information requested by the ExA</li> </ul>	<b>Thursday 10 May 2018</b>
13	<p>Publication by ExA of:</p> <ul style="list-style-type: none"> <li>• The ExA's Further Written Questions (if required)</li> </ul>	<b>Thursday 24 May 2018</b>
14	<p>Date reserved for issue by ExA of:</p> <ul style="list-style-type: none"> <li>• Any notification of hearings (if required)</li> </ul>	<b>Tuesday 5 June 2018</b>
15	<p><b>Deadline 4</b></p> <p>Deadline for receipt of:</p> <ul style="list-style-type: none"> <li>• Responses to the ExA's Further Written Questions (if required)</li> <li>• Comments on Applicant's revised draft DCO (if required)</li> <li>• Responses to further information requested by the ExA</li> <li>• Comments on Post hearing submissions including written submissions of oral case</li> </ul>	<b>Thursday 14 June 2018</b>
16	Dates reserved for Issue Specific Hearings (if required)	<b>Tuesday 3 July 2018</b>
17	Date reserved for Compulsory Acquisition Hearing (if required)	<b>Wednesday 4 July 2018</b>

18	<p><b>Deadline 5</b></p> <p>Deadline for receipt of:</p> <ul style="list-style-type: none"> <li>• Comments on responses to the ExA's Further Written Questions (if required)</li> <li>• Applicant's revised draft DCO</li> <li>• Responses to further information requested by the ExA</li> <li>• Post hearing submissions including written submissions of oral case</li> </ul>	<p><b>Wednesday 11 July 2018</b></p>
19	<p>Publication by the ExA of:</p> <ul style="list-style-type: none"> <li>• Report on the Implications for European Sites (RIES) (If required)</li> </ul>	<p><b>Tuesday 17 July 2018</b></p>
20	<p><b>Deadline 6</b></p> <p>Deadline for receipt of:</p> <ul style="list-style-type: none"> <li>• Comments on the ExA's draft DCO (if required)</li> <li>• Responses to further information requested by the ExA</li> </ul>	<p><b>Tuesday 31 July 2018</b></p>
21	<p><b>Deadline 7</b></p> <p>Deadline for receipt of:</p> <ul style="list-style-type: none"> <li>• Comments on the REIS (if submitted)</li> </ul>	<p><b>Tuesday 7 August 2018</b></p>
22	<p>Time reserved for issue by the ExA of:</p> <ul style="list-style-type: none"> <li>• Any further information requests under Rule 17 (if required)</li> </ul>	<p><b>Thursday 9 August 2018</b></p>
23	<p><b>Deadline 8</b></p> <p>Deadline for receipt of:</p> <ul style="list-style-type: none"> <li>• Responses to comments on the ExA's draft DCO (if required)</li> <li>• Responses to comments on the RIES</li> <li>• Responses to further information requested by the ExA</li> <li>• Final draft DCO to be submitted by the</li> </ul>	<p><b>Thursday 23 August 2018</b></p>

	<p>Applicant in the statutory instrument (SI) template with the SI template validation report</p> <ul style="list-style-type: none"> <li>• Resubmission of final version of updated application documents</li> </ul>	
24	The ExA is under a duty to complete the Examination of the application by the end of the period of 6 months beginning with the day after the close of the Preliminary Meeting.	<b>Thursday 13 September 2018</b>

### Publication Dates

All information received will be published on the project website as soon as practicable after the deadline for submissions. An Examination Library will be kept up to date throughout the Examination and can be accessed via the project page. Each document will be afforded a unique reference. These references will be used by the ExA during the Examination.

<https://infrastructure.planninginspectorate.gov.uk/projects/Eastern/Millbrook-Power/>

### Hearing Agendas

Please note that we will aim to publish a detailed draft agenda for each hearing on the project website at least five working days in advance of the hearing date; but the actual agenda on the day of each hearing may be subject to change at the discretion of the ExA.

### Report on the Implications for European Sites (RIES)

Where the Applicant has provided a No Significant Effects Report or a Habitats Regulations Assessment (HRA) Report with the DCO application, the ExA may decide to issue a RIES during the Examination. The RIES is a factual account of the information and evidence provided to the ExA on HRA matters during the Examination up to the date of the publication of the RIES, for the purposes of enabling the Secretary of State, as competent authority, to undertake its HRA. It is not the ExA's opinion on HRA matters. Comments on the RIES will be invited by the ExA and any received will be taken into account as part of the ExA's Recommendation to the relevant Secretary of State.

The Secretary of State may rely on the consultation on the RIES to meet its obligations under Regulation 61(3) of the Habitats Regulations and/or Regulation 28 of the Offshore Marine Habitats and Species Regulations.

### Availability of Examination documents

All application documents including Relevant Representations and application documents are available on the National Infrastructure Planning website:

<https://infrastructure.planninginspectorate.gov.uk/projects/Eastern/Millbrook-Power/>

For ease of navigation, please refer to the Examination Library (EL) which is accessible via a blue button under the 'Documents' tab. The EL is updated regularly throughout the Examination.

Each document is provided with a unique reference which will be fixed for the duration of the Examination. Please use the unique reference numbers applied in the EL when referring to any Examination documents in representations that you make.

Documents can be viewed electronically at the following locations. Please note that you may need to bring a form of ID to use the computer at these locations.

#### Electronic Deposit Locations:

<b>Bedford Central Library</b>		<b>Opening Hours</b>
Harpur Street Bedford MK40 1PG		Monday to Saturday - 9:00am - 6:00pm Sunday - 10:00am – 4:00pm
1 hour free computer access with library membership, £1.30 per half hour after this, 65p for OAPs and concessions (For library members only using library card number and PIN)		
<b>Printing Costs</b>	<b>Black and White</b>	<b>Colour</b>
<b>A4</b>	15p	70p
<b>A3</b>	30p	£1.50

<b>Amphill Library</b>		<b>Opening Hours</b>
1 Dunstable Street Amphill MK45 2NL  2 hours free computer access, £1.00 per half hour after this (For library members only using library card number and PIN)		Monday – Closed Tuesday – 9:00am-1:00pm Wednesday – 2:00pm-6:00pm Thursday – 9:00am-1:00pm Friday- 9:00am-1:00pm 2:00pm-6:00pm Saturday – 9:00am-4:00pm Sunday – Closed
<b>Printing Costs</b>	<b>Black and White</b>	<b>Colour</b>
<b>A4</b>	10p	£1.00
<b>A3</b>	15p	£1.50

<b>Shefford Library</b>		<b>Opening Hours</b>
1 High Street Shefford SG17 5DD  2 hours free computer access, £1.00 per half hour after this (For library members only using library card number and PIN)		Monday – Closed Tuesday to Friday - 9:00am – 6:00pm Saturday - 9:00am – 4:00pm Sunday – Closed
<b>Printing Costs</b>	<b>Black and White</b>	<b>Colour</b>
<b>A4</b>	10p	£1.00
<b>A3</b>	15P	£1.50

If you have difficulty accessing any documentation please contact the Planning Inspectorate's case team using the details provided at the top of this letter.



## **Procedural decisions made by the Examining Authority (ExA)**

The ExA has made the following procedural decisions under Section 89(3) of the PA2008:

### **1. Statements of Common Ground (SoCG)**

In relation to some of the Principal Issues identified in **Annex B**, the ExA would be assisted by the preparation of SoCGs between the Applicant and certain Interested Parties. The draft timetable for the Examination therefore provides a deadline for submission of SoCGs. This is **Tuesday 17 April 2018**.

The aim of a SoCG is to agree factual information and to inform the ExA and all other parties by identifying where there is agreement and where the differences lie at an early stage in the examination process. It should provide a focus and save time by identifying matters which are not in dispute or need not be the subject of further evidence. It can also usefully state where and why there may be disagreement about the interpretation and relevance of the information. The reasons for the differences and interpretation of the implications of a difference can then be expanded in the evidence. Unless otherwise stated or agreed, the SoCG should be agreed between the applicant and the other relevant interested party or parties, and submitted by the applicant.

The Applicant is requested to prepare SOCGs with Central Bedfordshire Council and Bedford Borough Council covering issues raised in the Environmental Statement and the draft DCO and with Covanta Rookery South Limited on issues raised by the potential overlap between the Millbrook and Covanta projects and their treatment in the draft DCO.

The ExA requests the Applicant to provide an update as to the progress with the above SoCGs.

### **2. Post submission application documents**

Following the acceptance of the application on 20 November 2017, the Applicant submitted, on the 22 January 2018 the following revised application documents to the Inspectorate:

- Introduction and Guide to the Application (Revision 1)[AS-004]
- Book of Reference (Revision 1) (clean)[AS-005]
- Book of Reference: Schedule of Changes (Revision 1)[AS-006]
- Book of Reference (revision 1) (track change version)[AS-007]

These documents have been formally accepted by the ExA into the Examination and have been published on the Millbrook project page of our website.

### **3. Additional Submissions received from parties other than the Applicant prior to the Preliminary Meeting**

The ExA has made a Procedural Decision to accept the following submissions as Additional Submissions.

- Wellingborough Borough Council submitted a letter dated 15 January 2018 stating that they have no objections to raise with regard to the proposed development [AS-001]
- Public Health England submission of 18 January 2018, stated that they have no additional comments to make and confirmed that they do not chose to register an interest with the Planning Inspectorate [AS-002]
- Health and Safety Executive submission of 17 January 2018 stating that they will not be raising a Relevant Representation for this project [AS-003]

These submissions have been published on the Millbrook project page of our website.

### **4. Issue Specific Hearing on the draft DCO**

I have made a procedural decision to hold an Issue Specific Hearing on the draft DCO on **Tuesday 13 March 2018 at 2.00pm**. This has been scheduled on the same day as the Preliminary Meeting to ensure that I have an early opportunity in the examination process to discuss the draft DCO with the applicant and Interested Parties. The formal notification of this hearing can be found in **Annex F** of this letter. The agenda can be found in **Annex G** of this letter.

**Notification of Issue Specific Hearing on the draft Development Consent Order**

I write to advise you that an Issue Specific Hearing will be held on **Tuesday 13 March 2018** at **The Forest Centre, Station Road, Marston Moretaine, Bedfordshire, MK43 0PR**

**Registration will open at 1.30pm and the hearing will commence at 2.00pm.**

Those interested parties who wish to speak at the hearing should notify Tracey Williams at the postal or email address in the main letter by **Tuesday 6 March 2018**.

It would help with the management of the hearing if you can let the case team know by **Tuesday 6 March 2018**, if:

- You will be attending
- You wish to speak at the meeting
- Notify us of any special needs you may have (e.g. disabled access, hearing loop)

Please ensure that you include your interested party reference number in your correspondence.

An agenda for the issue specific hearing related to draft DCO matters is attached to this letter at **Annex G** and sets out the topics to be discussed.

**Issue Specific Hearing on the Draft Development Consent Order 2.00pm,  
Tuesday 13 March 2018**

**Agenda**

A half day has been scheduled for this hearing to consider **general issues** raised by the draft Development Consent Order (DCO). More detailed points will be set out in my first round of written questions following this hearing. A further hearing will be held later in the Examination to consider the draft DCO in detail.

**1. Welcome and introduction**

**2. Issues arising from the draft DCO**

**Interpretation**

- 2.1 Inter-relationship between the Low Level Restoration Scheme (LLRS) of Rookery South Pit (reference number BC/CM/2000/8) (the LLRS) and the draft DCO.
- Provision of the full plans for the LLRS?
  - Certification of planning permission and plans?
- 2.2 Completion of the LLRS is assumed in defining the baseline for the Environmental Statement (ES).
- How will the satisfactory completion of this work be ensured through the DCO – e.g. a “Grampian” requirement to provide for certification of completion by a third party?
- 2.4 The LLRS drainage works defined in the DCO provides for the construction of a drainage channel which is different from the one provided for in BC/CM/2000/8. In the Explanatory Memorandum (EM) it is argued that the revised location is not materially different to that proposed under the planning permission.
- Views of the party responsible for implementing the LLRS and Central Bedfordshire about this variation from the works as permitted?
  - Whether there would be any conflict with the planning permission?
  - Need for variation of the planning permission?
- 2.5 These drainage works are defined as ‘permitted preliminary works’ which fall outside of the definition of ‘commencement of the development’.
- What are the reasons for excluding these works from commencement?

## Articles

- 2.6 Article 22 - authorises the compulsory acquisition of rights over the Order land. Document ref 2.5 drawing no J0008128-101 shows a substantial area marked as 4\_PGP over which compulsory rights are sought. The note on the drawing states that a right of access of no more than 15m in width is required but the whole area has been included as a limit of deviation. This area is the land on which the main Rookery South development would take place.
- What are your reasons for including all of 4\_PGP?
  - Scope for defining a specific access route?
- 2.7 Article 39 - provides for the modification and amendment of the Rookery South (Resource Recovery Facility) Order 2011 with the detailed proposal set out in Schedule 11. The EM sets out the basis on which the Secretary of State could use s120 of PA 2008 to make such a modification.
- Elaboration of the case for using s120 rather than s153 and schedule 6? Supporting legal advice?
  - Use of s120 without agreement with Covanta?
- 2.7 Covanta has set out its view in its relevant representation that its preferred approach to addressing the physical overlaps between the two projects is to have an interface agreement between the two operators and not to amend its DCO.
- Pros and cons of this approach?
  - Update on progress on discussions with Covanta?
- 2.8 Schedule 11 sets out the specific proposals for amending the Rookery South DCO. I will examine this in more detail when we get to the next DCO hearing and when I have received any further comments that Covanta wish to make on the draft DCO. One point on which I would welcome early clarification is the inclusion of paragraphs 27 and 28 of Schedule 11. These appear to provide a defence for unspecific non-compliance with requirements in the Rookery South DCO.
- Can you provide justification for the inclusion of this provision?
  - Powers in PA 2008 which allow the creation of a defence in a protective provision?
- 2.9 Article 40 provides for the certification of plans. This list does not include all the plans referred to elsewhere in the DCO which set the way in which different aspects of the development will be defined – e.g. the outline Construction Environment Management Plan, the outline Landscape and Ecological Mitigation and Management Strategy and others.
- Is there a reason that plans such as these are not listed for certification?

2.10 Additional Article. At present the DCO does not provide any security that funds will be available to pay compensation for compulsory acquisition. The Funding Statement refers to the resources of the Drax Group plc being available to fund the project but no guarantee of payment is provided. Provisions to guarantee payments have been included in recent DCOs – e.g. Article 9 of the Keuper Underground Gas Storage Facility Order and Article 7 of the Progress Power (Gas Fired Power Station) Order.

- Do have reasons for not including such provisions?

## **Requirements**

2.11 Requirement 18 provides for the decommissioning of the generation plant.

- Do you have reasons for not also including decommissioning of the electrical and gas connection works which are included in the DCO as associated development?

2.12 Requirement 19 provides some flexibility on the details of the development set out in Requirement 2.

- What sorts of amendments is this requirement intended to cover?

2.13 Requirement 20 appears to provide a wide-ranging defence to breach of conditions in the Rookery South Pit planning permission. This is similar to the provisions in paragraphs 27 and 28 of Schedule 11 relating to the Rookery South DCO.

- What are your reasons for including this provision?
- Inclusion in requirements rather than the operative part of the DCO?
- Precedents for this type of requirement?
- What are the views of Central Bedfordshire Council?

## **3. S106 agreement**

3.1 Plans for S106 agreements?

- Parties to agreements and likely provisions?
- Timing of first drafts?

## **4. Next steps**

4.1 Next Steps

- First questions from the ExA
- Next draft of DCO
- Logging changes to the draft DCO

- Use of SI template
- Need to remove all typographical errors
- Audit/ensure internally consistent.

**5. Any other business**

**6. Close of meeting**