



The Millbrook Power (Gas Fired Power Station) Order

Explanation of Amendments made to the Draft Development Consent Order and other Application Documents – Submitted at Deadline 2

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The Infrastructure Planning
(Applications: Prescribed Forms and Procedure) Regulations 2009

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THE MILLBROOK GAS FIRED GENERATING STATION ORDER

EXPLANATION OF AMENDMENTS MADE TO THE DRAFT DCO AND OTHER APPLICATION DOCUMENTS AT DEADLINE 2

1. INTRODUCTION

- 1.1 This document provides a commentary on changes made to the draft Development Consent Order (“**dDCO**”) in the version submitted at Deadline 2 (17 April 2018) (“**DCO Revision 1**”), compared with the submission version of the draft DCO submitted with the Application on 23 October 2017 [APP-012]. An electronic .pdf comparison between the two versions has also been submitted at Deadline 2.
- 1.2 In broad terms, the changes to the dDCO have been made for the following reasons:
- 1.2.1 changes arising from the issues raised by the Examining Authority (“**ExA**”) at the DCO Issue Specific Hearing (“**ISH**”) held on 13 March 2018;
 - 1.2.2 changes arising from the issues raised by the ExA in its First Written Questions (“**FWQs**”) issued on 20 March 2018;
 - 1.2.3 changes arising from discussions with Central Bedfordshire Council (“**CBC**”); and
 - 1.2.4 other points which the Applicant has identified as requiring amendment since the initial version of the draft DCO was submitted with the application.
- 1.3 This document also provides commentary on the changes made to:
- 1.3.1 the outline construction environmental management plan (CEMP) in the version submitted at Deadline 2, compared with the submission version of the outline CEMP [APP-038]; and
 - 1.3.2 the outline landscape and ecology mitigation and management strategy (LEMMS) in the version submitted at Deadline 2, compared with the submission version of the outline LEMMS [APP-045].

2. TABLE OF CHANGES TO THE DRAFT DCO REVISION 1

Provision in revised draft DCO and/or issue	Brief description and explanation
Article 2(1)	The definition of “the access road visibility splay” has been amended to remove the application document reference for the outline construction traffic management measure. As the “outline construction traffic management measures” is defined in Article 2(1) and that definition includes its document reference number, there is no need to duplicate the reference number in the definition of “the access road visibility splay”. The drawing reference for the access road visibility splay plan has also been updated to refer to the updated plan submitted to the ExA at Deadline 2.
Article 2(1)	The definition of the “date of final commissioning” has been amended to make it clear that the generation of power on a “commercial basis” excludes the generation of power during commissioning and testing.

Provision in revised draft DCO and/or issue	Brief description and explanation
Article 2(1)	The definition of “the environmental statement” has been updated to include the two updated appendices and one updated figure submitted to the ExA at Deadline 2.
Article 2(1)	The definition of “low level restoration scheme agricultural track” has been amended to include the words “planning permission” before “low level restoration scheme of Rookery South Pit (reference number BC/CM/2000/8)” to make it clear that the reference number refers to a planning permission.
Article 2(1)	Definitions of "low level restoration scheme baseline works" and "low level restoration scheme baseline works plan" have been added. These definitions tie in to the revised requirement 20 which is set out in more detail below.
Article 2(1)	<p>The definition of “low level restoration scheme drainage strategy” has been amended to:</p> <ol style="list-style-type: none"> 1. refer to condition 9 as well as condition 8 of the low level restoration scheme of Rookery South Pit (reference number BC/CM/2000/8) as this condition also pertains to ground water and surface water drainage and protection; and 2. include the words “planning permission” before “low level restoration scheme of Rookery South Pit (reference number BC/CM/2000/8)” to make it clear that the reference number refers to a planning permission.
Article 2(1)	The definition of “low level restoration scheme secondary access track” has been amended to include the words “planning permission” before “low level restoration scheme of Rookery South Pit (reference number BC/CM/2000/8)” to make it clear that the reference number refers to a planning permission.
Article 2(1)	The definition of “low level restoration scheme drainage works” has had the following words added to the end of the definition: “the indicative site layout plans with submission document reference number 2.3 and which are certified as the indicative site layout plans by the Secretary of State for the purposes of this Order”. These words have been added to make it clear that the indicative site layout plans, which show the low level restoration scheme drainage works will be certified by the Secretary of State.
Article 2(1)	The definition of "outline construction traffic management plan" has been amended to “outline construction traffic management measures" in order to reflect how and where such measures are set out in the environmental statement.
Article 2(1)	<p>The definitions of:</p> <ul style="list-style-type: none"> • “outline construction environment management plan”; • “outline construction traffic management measures”; • outline landscape and ecological mitigation and management strategy; • outline lighting strategy; and

Provision in revised draft DCO and/or issue	Brief description and explanation
	<ul style="list-style-type: none"> outline travel plan, <p>have been updated to reflect that such plans and strategies will be certified by the Secretary of State under Article 39 of the dDCO. This was agreed at the ISH at point 2.9 of the agenda. The cross referencing has also been updated.</p>
Article 2(1)	The definition of "undertaker" has been amended in response to the ExA's FWQ 1.11.6 in order to include reference to National Grid.
Articles 13, 18 and 41; Schedule 2 – requirements 2, 5, 10, 11, 16, 19; Schedule 10, part 6, paragraph 58; and Schedule 12, paragraphs 1, 2, 3 and 4	These articles and requirements have been amended to reflect that approval must be sought from or notices must be sent to “the relevant planning authorities” meaning both Central Bedfordshire Council and Bedford Borough Council.
Article 15	“Order land” has been amended to “Order limits” in order to tie this article correctly to the definition meaning “the limits shown on the works plans” rather than to land the subject of compulsory acquisition (which is not relevant for Article 15).
Article 28	A new subsection 13 has been added to this article in order to disapply the provisions of the Neighbourhood Planning Act 2017 insofar as they relate to temporary possession of land under the article.
Article 29	“Order limits” has been amended to “Order land” in subsection 1(a) in order to tie this article correctly to the definition meaning “the land which is required for, or is required to facilitate, or is incidental to, or is affected by, the authorised development shown on the land plans and described in the book of reference”.
Article 29	A new subsection 12 has been added in order to disapply the provisions of the Neighbourhood Planning Act 2017 insofar as they relate to temporary possession of land under the article.
Article 29; Schedule 2- requirements 3, 6, 7, 8, 9, 12, 14, 15, 17, 18; and Schedule 10, part 6 – paragraph 59	These articles and requirements have been updated to reflect that approvals must be sought from Central Bedfordshire Council only. This change has been made in response to comments from Central Bedfordshire Council and Bedford Borough Council.
Article 34	This article has been removed in response to the ExA's FWQ 1.12.6 as it is not required.

Provision in revised draft DCO and/or issue	Brief description and explanation
Article 36 (formally Article 37)	Article 36(2) has been amended in response to the ExA's FWQ 1.12.7 in order to remove the reference to s.65 of the Control of Pollution Act 1974 as this section has been repealed.
Article 39 (formally Article 40)	This article has been amended to add the plans and strategies referred to in the dDCO. This was agreed at the ISH at point 2.9 of the agenda.
Article 42 (formally Article 41)	This article has been amended to add a new subsection 2. The new subsection 2 accounts for the position where the Secretary of State fails to appoint an arbitrator within 14 days of the application.
(New) Article 43	A new article 43 has been added in response to the ExA's comments at the ISH at point 2.10 of the agenda in order to provide security that funds will be available to pay compensation for compulsory acquisition. The revised article is based on drafting included at article 39 of the Wrexham Gas Fired Generating Station Order 2017.
(New) Article 44	<p>A new article 44 has been added. This article reflects the wording which was originally included within requirement 20 of the dDCO submitted with the Application.</p> <p>The requirement has been amended to be an article following discussions with Central Bedfordshire Council as is set out in more detail in the Applicant's response to FWQ 1.13.4.</p>
Schedule 2, requirement 1	This requirement has been amended in order to tie the commencement of development to the date that the Order comes in to force as opposed to the date on which it is made in response to comments made by Central Bedfordshire Council.
Schedule 2, requirement 5	This requirement has been updated in subsection 2 to refer to numbered work 6 in addition to numbered works 2 and 3 in respect of highway access. This change has been made in response to comments made by Central Bedfordshire Council.
Schedule 2, requirement 8	Article 8(2) has been amended in order to reflect that the scheme to deal with the contamination of any land must include groundwater baseline monitoring and assessment.
Schedule 2, (new) requirement 13	A new requirement 13 has been added regarding the control of noise during construction. The wording of this requirement reflects wording which has been agreed between the Applicant and Central Bedfordshire Council.
Schedule 2, (old) requirement 16	This requirement has been removed on the recommendation of Central Bedfordshire Council as there is no mitigation need for an operational travel plan.
Schedule 2, requirement 20	<p>This requirement has been amended and the wording originally included in this requirement within the dDCO submitted with the Application has been added to article 44 as referred to above.</p> <p>The new wording in requirement 20 has been added in response to the ExA's comments at the ISH at point 2.2 of the agenda as well as in response to FWQs 1.0.7 and 1.11.2.</p>

Provision in revised draft DCO and/or issue	Brief description and explanation
	The "low level restoration scheme baseline works" will be shown on the "low level restoration scheme baseline works plan" and the new requirement will ensure that such works are completed to the reasonable satisfaction of Central Bedfordshire Council before the authorised development commences.
Schedule 2, (new) requirement 21	A new requirement has been added in relation to air safety. This is in response to comments from the Ministry of Defence in its relevant representation (Examination Library Reference: RR-011) requesting that the Defence Geographic Centre is notified of the height of the chimney stack in order to amend the aeronautical charts and mapping records.
Schedule 10, part 5	The protective provisions for the benefit of Anglian Water have been amended at article 45 to reflect a small change agreed between the parties.
Schedule 10, part 6	<p>The protective provisions for the benefit of Covanta Rookery South Limited have been amended.</p> <p>The amendments require that the written consent of Covanta is required (as opposed to just consultation) in relation to: (article 58) the submission of written details for the highway access; and (article 60) exercising powers pursuant to articles 9, 10 or 11. Such consent will be in writing in accordance with article 61 and there is a deemed approval provision under article 61(2). The requirement to obtain written consent has been included in response to comments made by Covanta Rookery South Limited for the protective provisions in Part 6 of Schedule 10 and Schedule 11 to be more balanced.</p> <p>A new art 63 has been added to provide a dispute resolution procedure for disputes falling under this part. Such procedure is linked to the new Schedule 13 to the Order which sets out the relevant arbitration rules.</p>
Schedule 11	This Schedule has been amended to include a deemed approval mechanism and an arbitration clause.
(New) Schedule 13	A new Schedule 13 has been added to provide a set of arbitration rules that apply to any arbitration pursuant to Part 6 of Schedule 10..

3. TABLE OF CHANGES TO THE OUTLINE CEMP (REVISION 1)

Paragraph the in outline CEMP	Brief description and explanation
Paragraph 2.7.1	A new bullet point has been added to confirm that a procedure to inform major road users about works affecting the local network (with particular regard to Royal Mail's distribution facilities in close proximity to the Project Site) will be put in place.
Paragraph 3.4.4	<p>A new bullet point has been added to confirm that Defra's general guidance on the 'Construction Code of Practice for the Sustainable Use of Soils on Construction would be adhered to.</p> <p>This provision has been added in response to relevant representation made by Natural England [RR-20].</p>

Paragraph the in outline CEMP	Brief description and explanation
Paragraph 3.10.2	This paragraph has been amended to provide the correct reference to the outline Construction Traffic Management measures in Appendices 5.1-5.5 of the TA (Appendix 12.1 of the ES) [APP-033]

4. **TABLE OF CHANGES TO THE OUTLINE LEMMS (REVISION 1)**

Paragraph in the outline LEMMS	Brief description and explanation
Paragraph 1.1.1	<p>This paragraph has been amended to make it clear that the LEMMS covers the following time periods:</p> <ul style="list-style-type: none"> • the 22-month construction period; • the 10-year maintenance and management strategy period detailed in the LEMMS; and • the further 15 years continued management, up to decommissioning. <p>This change has been made in response to Written Question 1.8.8 [PD-006].</p>
Paragraph 1.1.2	This paragraph has been added to confirm that the maximum length of time that the LEMMS covers is therefore 25 years and 22 months.
Paragraph 1.1.7 and 1.1.8	These paragraphs have been amended so that they are consistent with new paragraphs 1.1.1 and 1.1.2.
<p>Appendix 2 - Landscape & Ecology Strategy Plan</p> <p>Appendix - 3 Landscape & Ecology Strategy Plan with Covanta</p>	Plans in Appendices 2 and 3 have been updated to show the correct Electrical Connection Layout (two sealing end compounds).