



The Millbrook Power (Gas Fired Power Station) Order

Explanation of Amendments made to the Draft Development Consent Order– Submitted at Deadline 3

Planning Act 2008
The Infrastructure Planning
(Applications: Prescribed Forms and Procedure) Regulations 2009

PINS Reference Number:	EN010068
Document Reference:	N/A
Regulation Number:	N/A
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Revision	Date	Description
2	May 2018	Examination Version



THE MILLBROOK GAS FIRED GENERATING STATION ORDER

EXPLANATION OF AMENDMENTS MADE TO THE DRAFT DCO AT DEADLINE 3

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 3 (17 May 2018) (“**DCO Revision 2**”), compared with the version of the draft DCO submitted at Deadline 2 on 17 April 2018 (“**DCO Revision 1**”) [REP2-015] . An electronic .pdf comparison between the two versions has also been submitted at Deadline 3.

1.2 In broad terms, the changes to the dDCO have been made for the following reasons:

1.2.1 changes arising from discussions with Covanta Rookery South Limited (“**Covanta**”);

1.2.2 amendments arising from comments from the Examining Authority (the “**ExA**”) at the Second DCO Issue Specific Hearing (the “**DCO ISH**”) held on 3 May 2018; and

1.2.3 other points which the Applicant has identified as requiring amendment since DCO Revision 1 was submitted at Deadline 2.

1.3 A number of typographical errors and incorrect cross references have also been corrected.

2. TABLE OF CHANGES TO THE DRAFT DCO REVISION 1

Provision in revised draft DCO and/or issue	Brief description and explanation
Article 2	The definitions of the Book of Reference, plans, measures, statements, strategies to be certified by the Secretary of State in accordance with Article 39 have been amended to reflect that such plans, measures and statements are now listed along with their document reference, revision number and date in the new Schedule 14 (see below). This amendment was made following the comments of the ExA and the Applicant at the DCO ISH as set out at point 1 of the table at section 5 of the Applicant’s summary of the second DCO ISH.
Article 2	A definition of Network Rail has been added to this article in order to link to amendments which the Applicant has made to requirements 6 and 11 (see below) which now require approval to be given in consultation with Network Rail.
Article 39	This article has been updated to reflect that all of the documents and plans to be certified by the Secretary of State are now listed in the new Schedule 14.
Schedule 2, requirement 2, Table 1	The document reference for the access road visibility splay plan has been removed from this table as it has been included in the new Schedule 14.
Schedule 2,	This requirement which pertains to fencing and other means of site

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requirement 6	<p>perimeter enclosure has been amended to add a new subsection 2. This new subsection requires that numbered work 2A of the authorised development (the Access Road) does not commence until written details of any proposed permanent fence or other means of enclosure for that numbered work have been submitted to and approved by Central Bedfordshire Council in consultation with Network Rail.</p> <p>This requirement has been amended in order to address the concerns raised by Network Rail in relation to fencing adjacent to the railway in its written representation [REP2-037]. However, the Applicant notes that this provision may be removed if the construction of the Access Road is completed by Covanta prior to the end of the Examination.</p>
Schedule 2, requirement 11	<p>This requirement has been amended:</p> <p>(1) in order to require that the construction traffic management plan is submitted to and approved by the relevant planning authorities in consultation with Marston Moretaine Parish Council and Network Rail (as well as the relevant highway authorities); and</p> <p>(2) to add a requirement that the construction traffic management plan must include proposals for traffic management controls (such as temporary signals) to ensure the safe operation of Green Lane level crossing.</p> <p>The Applicant has added a requirement to consult with Marston Moretaine Parish Council in response to their request that the Applicant use the Marsh Leys interchange alone [RR-019]. The Applicant has stated that it is prepared to use this route preferentially for the majority of construction movements if agreed to by the relevant planning authorities.</p> <p>The Applicant has added the requirement to consult with Network Rail and included a specific reference to the Green Lane level crossing in order to address the safety concerns raised by Network Rail its written representation [REP2-037].</p>
Schedule 2, requirement 13	<p>This requirement which pertains to control of noise during construction has been amended in order to:</p> <p>(1) correct an error and refer to the correct British Standard of BS 5228:2009 as set out at paragraph 4.1.1 of the Applicant's summary of the second DCO ISH; and</p> <p>(2) ensure that the construction noise monitoring scheme includes the method of noise measurement <u>and establishment of noise limits</u> (which must be in accordance with BS 5228:2009) as agreed with the ExA at the DCO ISH and as set out at point 10 of the table at section 5 of the Applicant's summary of the second DCO ISH.</p> <p>The Applicant agreed to provide some commentary in relation to how the restriction in BS 5228:2009 works in practice and such commentary is set out below:</p> <p>Annex E of BS 5228:2009 sets out guidance criteria for construction noise. Limits are established using either a fixed value, or a value relative to the existing noise climate. For the fixed value, the standard is 70 dBA for rural locations. For the value relative, the lowest level that would be worked to during the daytime (07h00 – 19h00) and on Saturdays (07h00 – 13h00) would be 65 dBA.</p>

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	<p>The measure for construction noise is usually an LAeq, 10hr, measured in decibels (dB). In practice this is the ambient noise level averaged to cover a typical 10 hour construction working day, i.e. 08h00 – 18h00. This is also the same index used throughout the construction noise assessments included with the environment statement [APP-033]. Therefore, if the noise level was measured for 10 hours during a typical construction day, this would be directly comparable with the levels calculated for construction noise in the environmental statement.</p>
Schedule 2, requirement 17	<p>This requirement has been removed in full following the comments of the Environment Agency in its response to the ExA's FWQs [REP2-033]. As set out in more detail at paragraphs 3.20-3.23 of the Applicant's summary of the Environmental Matters Issue Specific Hearing, the Applicant has removed this requirement to avoid duplication and potential conflict with the conditions of the Environmental Permit.</p> <p>The Applicant notes the ExA's concern over the removal of this requirement and as an alternative is prepared to draft wording to the effect that: the gas turbine generator comprised in numbered work 1A must only operate in accordance with the operating hours set out in any environmental permit issued in respect of the authorised development pursuant to the Environmental Permitting (England and Wales) Regulations 2016 or such other permit as may be issued from time to time. However, the Applicant has not included this wording in Revision 2 as the Applicant does not consider it is necessary given the permit would control the operating hours, which is the correct regulatory regime to do so.</p>
Schedule 10, Part 6	<p>The protective provisions for the benefit of Covanta have been amended following discussions between the parties.</p> <p>Without prejudice to Covanta's position that it considers that an interface agreement is more appropriate, Covanta has confirmed that these provisions are agreed.</p>
Schedule 11	<p>This Schedule which relates to modifications to and amendments of the Rookery South (Resource Recovery Facility) Order 2011 has been amended following discussions between the parties:</p> <p>(1) Paragraph 25 of the protective provisions for the benefit of Millbrook Power Limited has been amended to add a new subsection 3 which provides that in the event that Millbrook Power withholds its consent it shall notify the undertaker in writing of the reasons for withholding such consent and (if applicable) the time period during which such consent will be withheld;</p> <p>(2) Paragraph 27 of the protective provisions for the benefit of Millbrook Power Limited has been amended to refer to the time period specified in paragraph 25; and</p> <p>(3) A new paragraph 28 of the protective provisions for the benefit of Millbrook Power Limited has been added to provide that the undertaker shall provide the relevant planning authority with a copy of the reasons given by Millbrook Power for refusing consent.</p> <p>These paragraphs have been added in response to the comments of Central Bedfordshire Council as recorded at paragraph 3.13 of the</p>

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	<p>Applicant's summary of the second DCO ISH.</p> <p>Without prejudice to Covanta's position that it considers that an interface agreement is more appropriate than amending the Rookery South (Resource Recovery Facility) Order, Covanta has confirmed that these provisions are agreed.</p>
Schedule 12, 2	<p>Paragraph 2 of Schedule 12 has been amended in order to correct an error and to refer to a twenty eight day period for the relevant authority to request further information as opposed to the twenty one day period stated. This has been agreed with Central Bedfordshire Council as recorded at paragraph 4.1.2 of the Applicant's summary of the second DCO ISH.</p>
New Schedule 14	<p>As set out above, a new Schedule 14 has been added which sets out the documents and plans to be certified alongside their reference number, revision and date.</p>