



The Planning Inspectorate

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Paul Wormald
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Your Ref: PGW/MPL
Our Ref: EN010068
Date: 18 March 2015

Dear Mr Wormald

Application by Millbrook Power Ltd for an Order Granting Development Consent for a gas fired peaking plant and connection infrastructure with a capacity of 299MW at Rookery Pit (South) Near Stewartby, Bedfordshire.

Further to the advice issued on 13 March 2015, and subsequent telephone conversations with Sarah Merritt, the Planning Inspectorate (the Inspectorate) considers it appropriate to provide the following additional advice in advance of the submission of the application.

The applicant is advised to provide the following information/clarification either in advance of the submission of the application or with the application:

- Having regard to paragraph 3(4) of schedule 6 of the Planning Act 2008 (as amended) (PA2008), set out whether the applicant has an interest in the land, such that an application for a change to the Rookery South (Resource Recovery Facility) Order could have been made by the applicant?
- Provide details of any post statutory consultation engagement that has taken place between the applicant and Covanta (the beneficiaries of the Rookery South Order), and the applicant and the land owner (O&H Properties Ltd). Please include details of what information has been shared with the parties and any responses received i.e. whether the provisions in the draft DCO which are proposed to modify the Rookery South Order have been provided to the parties.
- The Inspectorate has previously raised a concern that consultation information (provided for the purposes of s42 of the PA2008) did not set out the proposals to modify the Rookery South Order. Had the proposed

modification to the Rookery South Order been sought under the provisions of PA2008 Schedule 6, as a material change, it would have been necessary for the applicant to consult about the proposed application in advance of submission. It is noted that the applicant has previously suggested that it is satisfied that explicit consultation on the proposed change to the Rookery South Order was not essential. However the Inspectorate remains concerned about this approach and advises the applicant to set out their justification for the approach to consultation so that this can be taken into account when the Secretary of State considers whether to accept the application for examination.

- The Inspectorate has previously provided detailed comments on the drafting of the provisions which would seek to amend the Rookery South Order, in a letter dated 13 March 2015. In considering whether to accept an application the Secretary of State must have regard to whether the application, including the draft DCO, is of a satisfactory standard. We note that the proposed approach essentially seeks to qualify existing rights granted by statute by the imposition of commercial style consultation and cooperation arrangements. The Inspectorate will have to consider whether this is an acceptable approach and it is recommended that the applicant provides detailed justification for the proposed approach.

Please note that these comments are provided without prejudice to any decisions taken by the Secretary of State during acceptance or the Examining Authority during examination, if the proposed development is accepted for examination. The advice provided above does not constitute legal advice upon which the applicant (or others) can rely.

Yours sincerely,

Kenneth Taylor

Infrastructure Planning Lead