

# Meeting note

<b>File reference</b>	EN010068
<b>Project</b>	Millbrook Power Project
<b>Status</b>	<b>Final</b>
<b>Author</b>	Karl-Jonas Johansson
<b>Date</b>	30 March 2017
<b>Meeting with</b>	Millbrook Power Ltd
<b>Venue</b>	Temple Quay House
<b>Attendees</b>	<b>The Planning Inspectorate</b> Chris White (Infrastructure Planning Lead) Tracey Williams (Case Manager) Karl-Jonas Johansson (Case Officer) Alison Down (EIA and Land Rights Advisor) Lynne Franklin (Government Legal Department)  <b>Millbrook Power Ltd</b> Nick Johnson (Project Manager – Millbrook Power) Kirstin Gardner (Project Manager – Abergelli Power) Jim Doyle (Drax) Richard Griffiths (Pinsent Masons) Dermot Scanlon (PBA)
<b>Meeting objectives</b>	Project update meeting
<b>Circulation</b>	All attendees

## Summary of key points discussed and advice given:

### Introduction

The Applicant and the Planning Inspectorate (the Inspectorate) team introduced themselves and their respective roles. The Inspectorate continued by outlining its openness policy and ensured those present understood that any issues discussed and advice given would be recorded and placed on the Inspectorate's website under s51 of the Planning Act 2008 (as amended) (PA2008). Further to this, it was made clear that any advice given did not constitute legal advice upon which the Applicant (or others) can rely.

### Project overview and update

The Applicant gave a brief update about the project and the changes to the project since the last meeting which was held on the 23 April 2015. The Applicant informed the Inspectorate that previous owners Watt Power Limited have now sold the project

to Drax Developments Limited, together with Abergelli Power Limited and the consented Hirwaun Power and Progress Power schemes. They confirmed that the Millbrook project would still be managed by Stag Energy.

The main changes to the project since the last meeting are:

- rather than seeking consent for up to five turbines and up to five stacks, a decision has been made to limit the number to a single turbine unit only with one exhaust stack
- there are two options for the electrical connection either using two sealing end compounds (one on each side of the existing 400kV line) or using a single larger sealing end compound which could be located on either side of the existing line.

The Applicant informed the Inspectorate that unless National Grid (NG) makes a decision on their preferred connection option before the application is submitted, the draft Development Consent Order (DCO) will contain two options for the connection to the electricity grid. The rationale for proposing the options is that NG can implement the best available technology for the connection at the time of construction and for technical reasons yet to be determined; one option may be preferable over the other. The Applicant clarified that the options were there to provide flexibility for the benefit of NG and that they would not be seeking for the Examining Authority (ExA) or the Secretary of State to recommend/ make a decision, respectively, on a preferred option. Rather the Applicant is seeking consent for both options.

## **Programme**

The Applicant intends to submit the application to the Inspectorate in late November/early December 2017. The Inspectorate advised that a December submission could impact on the local authorities' ability to submit an 'adequacy of consultation' response due to the Christmas holiday period.

The Applicant intends to carry out statutory consultation for 35 days in June 2017. Prior to this the Applicant intends to hold non-statutory consultation with key stakeholders. It was explained that reasons for re-consulting on the project are the increase in new housing in the area and the time that has lapsed since the previous activity on this project.

The Preliminary Environmental Information Report (PEIR) will be based on the previously prepared draft Environmental Statement (ES). The Applicant will update the Statement of Community Consultation (SoCC) after it has conducted its statutory consultation on the draft SoCC with the host local authorities

The Applicant clarified that they will not be requesting a new Scoping Opinion as the project had not gone through any material changes since the Scoping Opinion was issued. In addition, the previous Scoping Request covered between one and five turbines and one and five stacks, and therefore there is no real change in that regard.

It was clarified that the Inspectorate would not produce a Regulation 9 consultee list unless it was notified under Regulation 6 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended), which must be done prior to s42 consultation, and that it was for the Applicant to ensure they had

consulted all relevant statutory consultees. It was explained that the Regulation 9 list was prepared only for the purposes of scoping and the Applicant's consultation may have to go wider.

The Inspectorate advised that it was unlikely that it would be able to accommodate the request for an Outreach meeting as the local authority and the local communities have benefitted from a previous outreach event for this project and have experience of the DCO process from the Rookery South Resource Recovery Facility (Rookery South) examination. It was considered that the local community and consultees would therefore hopefully be familiar with the key elements of the Planning Act process. In addition to this, there is a lot of information available to view on the Inspectorate website with regard to the process.

### **Interactions with the Rookery South project**

Rookery South and the proposed Millbrook Power project are situated in the old Rookery South Pit and will have overlapping order land and be situated next to each other. The Rookery South facility is being brought forward as a joint venture between Covanta and Veolia. Construction needs to commence before February 2018, when the Rookery South DCO expires. The Applicant understands that construction of Rookery South is likely to commence in Q4 2017.

The Applicant informed the Inspectorate that it understood that Rookery South's compulsory acquisition powers over the pit have expired. The Applicant is working with Covanta/Veolia on the location of the access road that both projects will be using and intends to resolve any potential issues with the access road with an Interface Agreement and protective provisions.

To resolve the issue around the overlapping order land the Applicant intends to use s120 of PA2008 to insert a new protective provision in the Rookery South DCO for the protection of the Millbrook Power project. The Millbrook Power DCO will contain similar protection for Rookery South. The principles of the proposed protective provisions will be covered in the statutory consultation scheduled for June 2017.

The Applicant set out its reasoning as to why it intended to use s120 rather than Schedule 6 of PA2008. The Inspectorate advised that such an approach needed to be robustly justified in the Millbrook Power application as s120 had not yet been relied on to allow one DCO to change another. The Applicant explained its view that s120 was not restrictive and that it would be discussing the approach with Covanta/Veolia. The Inspectorate raised concerns that a significant amount of examination time may be spent debating the use of s120. The Applicant was therefore advised to ensure that the application contained robust justification for the approach (including as necessary disclosing legal opinion) and to provide Statements of Common Ground with Covanta regarding changes to the Rookery South DCO and with the planning authority so that the ExA could deal with the matter as efficiently as possible in the early stages of the examination process. The Planning Inspectorate also suggested that the Applicant may wish to consider the Hinkley Point C Connection decision letter in which the Secretary of State for Business, Energy and Industrial Strategy (BEIS) indicated the possibility of one DCO changing another. Nonetheless, it was highlighted that it would be for the BEIS, taking legal advice, to determine the approach that the Millbrook Power application takes with regard to the overlap between the Rookery South DCO and any DCO granted for Millbrook Power.

## **Environmental Permit**

The Applicant intends to submit the environmental permit application before the application is submitted (Q3 2017) in an effort to obtain the permit before the examination of the DCO application starts. The Applicant further clarified that it expected noise to be one of the main considerations for the permit.

## **Contact plan**

It was clarified that if a contact plan was produced it would not be published.

## **Draft documents review**

The Inspectorate clarified that it does not usually review technical chapters of the ES at the draft documents stage of the pre-application, but could review the chapters that set out the approach to the EIA, and the draft Habitats Regulation Assessment Report (HRAR). The Inspectorate informed the Applicant that it may be beneficial to the Applicant to include the draft DCO and Explanatory Memorandum and the updated Consultation Report. It was agreed that the Applicant would produce a list of draft documents they may wish the Inspectorate to review. It was agreed that the Applicant would also produce a draft s55 checklist prior to submitting the draft documents.

It was agreed that the Applicant would produce a plan showing how the two projects overlap with each other and complete a draft s55 checklist prior to submitting the draft documents.

The timescale for draft documents review is normally 4 weeks with a face to face meeting at Temple Quay House to discuss the comments.

## **Any Other Business**

The Applicant was advised to review the Richborough Connection Project's 'Guide to the Application'. It was confirmed that the Applicant will produce a final guide to the application.

The Applicant confirmed that it was aware of the new Fees Regulations that will come into effect in April 2017 and was advised to consult the Inspectorate's Advice Notes, available on the Inspectorate's website, regarding the fee changes.

It was agreed that the Applicant would submit a Statutory Instrument Validation Report with the application and final draft DCO

The Applicant confirmed that there were no issues around the Habitats Regulations Assessment.