

Date: 02 May 2018  
Your Ref: EN010082  
Our Ref: 8.1



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Dear Ms Williams,

**EN010082 – THE TEES COMBINED CYCLE POWER PLANT PROJECT – PROPOSED NON-MATERIAL CHANGE IN RELATION TO BUILDING HEIGHTS**

**THE PLANNING ACT 2008 (AS AMENDED) AND THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010 (AS AMENDED) – RULE 17**

**Introduction**

We write on behalf of Sembcorp Utilities (UK) Limited ('SCU' or the 'Applicant') in respect of its application (the 'Application') for a Development Consent Order (a 'DCO'). The Application was accepted for examination by the Secretary of State (the 'SoS') for Business, Energy and Industrial Strategy on 18 December 2017. The examination began on 10 April 2018.

SCU is seeking a DCO for the construction, operation and maintenance of a new gas-fired electricity generating station with a nominal net electrical output capacity of up to 1,700 megawatts ('MW') at ISO conditions (the 'Project' or 'Proposed Development'), on the site of the former Teesside Power Station, which forms part of the Wilton International Site, Teesside.

At the Issue Specific Hearing on 10 April 2018 the Applicant introduced a proposed change to increase the potential maximum height of the turbine hall and heat recovery steam generator ('HRSG') buildings beyond what is currently set out in the draft DCO (Examination Ref: APP-005). The Examiner ('ExA') subsequently requested that further information be provided in respect of the proposed building height increases and the implications for the Proposed Development in order to consider whether to accept the change.

The proposed increase in building heights do not alter the conclusions of the Environmental Statement ('ES') submitted as part of the Application and would not result in new or different likely significant environmental effects. As such, the proposed changes to building heights are considered to be non-material in nature.

This remainder of this letter and its appendices provide the necessary further information and request a non-material change to the Proposed Development as set out in the draft DCO.

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### **Description of the proposed non-material change**

The following non-material changes are proposed:

- an increase in the maximum height of the turbine hall buildings from 25 metres ('m') to 32 m; and
- an increase in the maximum height of the HRSG buildings from 44 m to 45 m.

The above comprise Work No.1A (a) and Work No. 1A (b) of the draft DCO (Examination Ref: APP-005). The current maximum heights (25 m and 44 m respectively) are set out in Schedule 2, Requirement 4 of the draft DCO.

### **Rationale and need for the proposed non-material change**

Prior to the appointment of a contractor, who would provide the components to construct the Proposed Development, it is not possible for the Applicant to fix all of the design details of the Proposed Development. A degree of flexibility is therefore required, as stated in the Design and Access Statement ('DAS') (Examination Ref: APP-037) submitted as part of the Application.

One of the primary reasons for requiring this flexibility is that different contractors utilise differing sizes and configurations of components and buildings. The 'Rochdale Envelope' approach adopted by the Application seeks to accommodate this flexibility, including the use of maximum heights. Please refer to Environmental Statement ('ES') Volume 1, Chapter 3 'EIA Approach' (Examination Ref: APP-045) for more detail in respect of the Rochdale Envelope applied to assess the Proposed Development.

The Applicant is currently engaged in a tendering process with a number of contractors, with one to be selected once the Proposed Development is consented and prior to construction. Since submission of the Application in November 2017, one of the contractors has identified that it might be necessary to increase the maximum heights of the turbine hall and HRSG buildings, to the dimensions set out above (32m and 45m respectively). This has necessitated the need to request a change to the maximum heights set out within the draft DCO.

The need to maintain this type of flexibility and have the ability to select from a number of contractors is common practice when dealing with energy generation projects. The rationale is both commercial and practical. For instance, it allows the Applicant to select the contractor whose components and technology are best suited to any energy generating contract that is awarded in the future, following any grant of consent to construct and operate the Proposed Development.

### **The approach to materiality**

In considering the materiality of the proposed change, the Applicant has consulted relevant legislation and guidance, including the Planning Act 2008 (as amended) (the 'PA 2008'), the 'Planning Act 2008: Guidance for the examination of applications for development consent' produced by the Department of Communities and Local Government ('DCLG') and 'Advice note sixteen: How to request a change which may be material' produced by the Planning Inspectorate ('PINS').

Paragraph 2.1 of Advice Note 16 acknowledges that there is no legal definition of 'material', but the tests to apply are whether:

- the change is substantial; or

- the development now being proposed is not in substance that which was originally applied for.

Whether a proposed change falls within either of these categories is a question of planning judgment which may be based on criteria including, for example, whether the change would generate any new or different likely significant environmental effects. Similarly, whether (and if so the extent to which) a change request involves an extension to the Order land.

Firstly, the proposed change in maximum building heights does not, by its nature, require any extension to the Order land.

Secondly, as previously stated, the proposed change would not generate any new or different likely significant environmental effects. The Applicant has produced an 'Implications of Requested Change on EIA' note (Application Document Ref: 8.3) to test and substantiate this conclusion (enclosed with this letter).

The note determines that the proposed change is only relevant when considering the following environmental topics:

- Air quality;
- Noise;
- Landscape and visual;
- Cultural heritage; and
- Human health.

In reviewing these topics, the information concludes that there are no changes to the conclusions presented in the ES submitted as part of the Application and the building height change is not material to the overall findings of the EIA.

#### **Amended application documents and plans**

The Applicant has made consequential amendments to a number of application documents to reflect the proposed non-material change. This primarily entails changing where the maximum height of the turbine hall and HRSG buildings was stated.

The Applicant has produced a 'Schedule of Application Documents and Plans to be Amended' (Application Document Ref: 8.2) – enclosed with this letter. The amended application documents are as follows:

- Application Guide (Application Document Ref: 1.2) – Rev 3;
- Draft Development Consent Order (Application Document Ref: 2.1) – Rev 2;
- Indicative Generating Station Plan Sheet 1 (Application Document Ref: 4.5) – Rev 2;
- Indicative Generating Station Plan Sheet 3 (Application Document Ref: 4.5) – Rev 3;
- Design and Access Statement (Application Document Ref: 5.6) – Rev 3;
- Environmental Statement, Volume 1 – Chapter 5 Project Description and Alternatives (Application Document Ref: 6.2.5) – Rev 2;
- Environmental Statement, Volume 1 – Chapter 7 Air Quality (Application Document Ref: 6.2.7) – Rev 2;

- Environmental Statement, Volume 1 – Chapter 11 Landscape and Visual Amenity (Application Document Ref: 6.2.11) – Rev 3; and
- Environmental Statement, Volume 2 – Annex K Photomontages (Application Document Ref: 6.3.19).

The amended documents themselves are enclosed with this letter. Clean versions of all documents are included and, in addition, track changed versions are included for the draft DCO, Design and Access Statement, ES Chapter 5, ES Chapter 7 and ES Chapter 11. The latter are included in order to make the consequential changes more easily identifiable.

### Amended DCO

The amended documents include the draft DCO, which has been amended at Schedule 2, Requirement 4 to include the increased maximum building heights.

### Consultation

Advice Note 16 suggests that non-statutory consultation may be necessary when a change is proposed to a DCO application, particularly where the proposed change is material.

Notwithstanding that the proposed change is considered to be non-material in this instance, the Applicant is proposing to carry out non-statutory consultation. It is proposed that this will entail the following:

- letter setting out the proposed change sent to all section 42, 43, 44 and 47 parties consulted at the pre-application stage;
- consultees to be given at least 28 days to respond and contact details for the Applicant provided;
- change documentation deposited at the inspection locations utilised at the pre-application stage;
- newspaper notices for two consecutive weeks in local newspapers; and
- notices erected at inspection locations and in proximity to the Project Site.

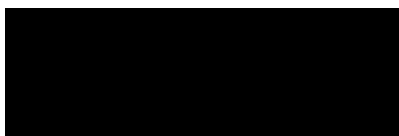
It is the Applicant's intention to complete the consultation period around 7 June 2018, after which a 'Consultation Statement' confirming who has been consulted in relation to the proposed change will be produced and submitted. Copies of any consultation responses received by the Applicant will be included with the Consultation Statement.

The consultation notice referred to above (to be placed in the newspapers etc.) is enclosed for reference.

### Conclusion

We trust that this letter and appendices provide sufficient information to make clear the nature of the proposed change, the application documents to be amended, and why it is considered to be non-material.

Yours sincerely



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Encs:

- Implications of Requested Change on EIA note
- Schedule of Application Documents and Plans to be Amended
- Amended Application Documents (clean and tracked versions):
  - o Application Guide
  - o Draft Development Consent Order
  - o Indicative Generating Station Plan Sheet 1
  - o Indicative Generating Station Plan Sheet 3
  - o Design and Access Statement
  - o Environmental Statement, Volume 1 – Chapter 5 Project Description and Alternatives
  - o Environmental Statement, Volume 1 – Chapter 7 Air Quality
  - o Environmental Statement, Volume 1 – Chapter 11 Landscape and Visual Amenity
  - o Environmental Statement, Volume 2 – Annex K Photomontages
- Consultation notice