

# **South Humber Bank Energy Centre Project**

Planning Inspectorate Reference: EN010107

**South Marsh Road, Stallingborough, DN41 8BZ**

**The South Humber Bank Energy Centre Order**

**Report on Section 56 and EIA Regulation 16 Activities**

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**Applicant: EP Waste Management Ltd**  
**Date: July 2020**

## DOCUMENT HISTORY

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## GLOSSARY

<b>Abbreviation</b>	<b>Description</b>
APFP Regulations	Applications: Prescribed Forms and Procedure) Regulations 2009.
EIA	Environmental Impact Assessment.
EPUKI	EP UK Investments Ltd.
EPWM	EP Waste Management Limited ('The Applicant').
NELC	North East Lincolnshire Council.
NSIP	Nationally Significant Infrastructure Project: for which a DCO is required.
PA 2008	Planning Act 2008.
SoCC	Statement of Community Consultation: sets out how a developer will consult the local community about a proposed NSIP.

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## **1.0 INTRODUCTION**

### **1.1 Overview**

- 1.1.1 This report has been prepared on behalf of EP Waste Management Limited ('EPWM' or 'the Applicant') to outline how EPWM has fulfilled its statutory duties to notify and publicise the accepted application under Section 56 of the Planning Act 2008 ('PA 2008') and regulation 16 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ('the EIA regulations').
- 1.1.2 It has been prepared on a non-statutory basis to accompany the Applicant's Section 58 certificate and includes information on notification carried out under Regulation 8 and publicity carried out under Regulation 9 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 ("the APFP Regulations"). It describes the Applicant's approach to notification of the Application in light of the COVID-19 pandemic.

## **2.0 NOTICE OF ACCEPTED APPLICATION (REGULATION 8)**

### **2.1 Introduction**

2.1.1 This section outlines how EPWM carried out the duties of notifying persons of the accepted application under Regulation 8 of the APFP Regulations, and notifying EIA bodies under regulation 16 of the EIA Regulations.

### **2.2 Notifying Prescribed Persons**

2.2.1 S56 PA 2008 establishes the overall requirement to notify prescribed persons, local authorities and those in s57 (land interests). The method is governed by Section 229 PA 2008 which states that notices can be delivered via post, or via electronic communication (email addresses) where an address for service has been given by that person.

2.2.2 The Applicant therefore wrote to a number of the prescribed persons in April and was provided with an electronic address for service by 46 of the S56 persons. In the case of the CAA their website advised the electronic address for service of legal notices. For these persons, the s56 notice was served electronically on 27 May 2020, instead of a hard copy.

2.2.3 The remaining prescribed persons, a total of 50, were posted a physical notice to the relevant addresses on 26 May 2020. These were sent by Royal Mail first class, with a USB drive containing the application form, map and documents. Where the Applicant had email addresses for these prescribed persons (but no confirmation that it could be used as an address for service), it also sent a copy of the S56 notice via email, to maximise the prospects of the recipients seeing the notice as soon as possible.

2.2.4 The notices included all the details required by regulation 8(2)(a)-(f). Those persons that were emailed also received an electronic fileshare link directly to the application form, map and documents. As required by regulation 8(2)(g) the notice also contained a statement that a copy of the application form and its accompanying documents were available for inspection free of charge at the places and times set out in the notice.

2.2.5 In accordance with EIA regulation 16 the notice was given to all the consultation bodies identified under regulation 11, and the USB drive and fileshare link both included the environmental statement.

2.2.6 S56(5) requires that the deadline for a person to make a representation is a minimum of 28 days from the day after the day the person receives the S56 notice. For this project a total period of 49 days was provided, which allowed for 7 days for delivery by Royal Mail (allowing for significantly longer than the usual 2 days for deemed service, given potential delays during the COVID19 pandemic) and 42 days for the representation period. The time provided was therefore significantly more than the statutory minimum, and was implemented to take account of the COVID-19 pandemic and its impacts on businesses and travel.

2.2.7 In addition to the regulatory requirements the Applicant also offered the relevant parish council (Stallingborough Parish Council) and the three adjoining parish councils (Immingham Town Council, Healing Parish Council and Great Coates Parish Council) the opportunity of a call/ web meeting to

discuss the proposals. The offer had not been taken up at the time of writing. The Applicant also provided periodic updates to planning officers at North East Lincolnshire Council ('NELC').

## **2.3 Physical Deposit Locations**

- 2.3.1 As mentioned above regulation 8(2)(g) states that the Applicant must set out in the notice the places where the application and its accompanying documents, plans and maps are available for inspection free of charge, including at least one address in the vicinity of the Site.
- 2.3.2 Notification of the acceptance of this application commenced when the Government's advice was to 'stay alert' and the more substantial restrictions on movement had been lifted. Nonetheless a key aim for the Applicant was to offer alternatives to visiting the physical deposit location to minimise the need for people, particularly those in at-risk categories, to visit the deposit locations.
- 2.3.3 Once the 'stay at home' advice from government had changed to 'stay alert' the Applicant identified two venues in its control for documents to be deposited, namely the gatehouse at the South Humber Bank Power Station (within the application site hence meeting the requirement for a location in the vicinity) and the Applicant's Leeds office. Whilst the Applicant provided for the safe inspection of documents at these locations (through setting up an appointments system and strict hygiene controls), its preference was to reduce the need for the use of these deposit locations wherever possible. The notice sent to s56 parties provided a telephone number for those wanting to view the documents to use. The number was set up and staffed by the project team.
- 2.3.4 Before making an appointment, the project team member would endeavour to make the application documents available to the person through the alternative methods set out in the S56 notice, by highlighting to them what the Applicant was offering (covered further below). The project team member would then run through a risk assessment to ensure that a visit to the deposit location would not breach the Government's guidance or present a risk to the individual or others. This included health information, among other things, but this information was not recorded in order to ensure that the Applicant was only recording data which it was necessary for it to hold. Instead only a simple record of whether the assessment was passed or not would be recorded. The project privacy notice was available at all times at the project website and explained the circumstances in which personal information would be stored, the reasons, and the rights of the individual. Before any information was taken on the phone the caller would be advised that the privacy statement was online and if they did not have access to an internet connection the call handler would offer to read it out in full.
- 2.3.5 The risk assessment approach involved the caller confirming the following five statements:
- They have not had symptoms of COVID-19, including high temperature, a new, continuous cough or a loss or change to their sense of smell or taste, in the past 7 days.

- No member of their household has had symptoms of COVID-19 in the past 14 days.
- They have not recently been in contact with someone with COVID-19.
- They are not considered to be in a moderate or high-risk group, also known as clinically vulnerable and clinically extremely vulnerable.
- They have not recently returned from overseas.

2.3.6 If they passed the risk assessment, detail would be taken of when they would like to visit the deposit location. If they failed the risk assessment, the alternative, free of charge methods would be offered. It may also have been possible for the person to book an appointment at a later date (for instance once they had been clear of symptoms for a sufficient period). Details of the alternative methods of viewing application documents are covered below.

2.3.7 A number of security, social distancing and hygiene protocols were put in place at the two deposit locations, and were referenced on the public notice. At both, all communication between staff and people looking to view the documents took place through a glass window, intercom or telephone. Furthermore, documents were located in a separate room, accessed via the car park at the gatehouse and reception at the office, where gloves, hand sanitizer and table coverings were provided. Due to space constraints, only one person was allowed into the room at the gatehouse whereas up to four members of the same household were allowed into the room at the Leeds office.

## **2.4 Alternative Methods of Viewing Application Documents**

2.4.1 As mentioned above, the notice directed individuals to contact methods for the Applicant (including a telephone line staffed by the project team). The project team would arrange alternative means of viewing the application documents or allow a visit to the deposit locations.

2.4.2 The members of the project team followed a call script which took callers through the various methods of viewing documents in order of most convenience and safety, ruling methods out based on the caller's needs and then if necessary, taking their contact details. Prior to the project team member taking the caller's details, they would refer to the Applicant's privacy policy which is available online and would offer to read it out, also seeking express confirmation of consent to the Applicant holding the person's data.

2.4.3 The first method offered was to view documents online. While the notice provided web addresses it was appreciated that people have different levels of computer literacy and may need help navigating websites and downloading documents and so the members of the project team would offer to assist with this.

2.4.4 Where callers had a computer but did not have an internet connection, had a weak internet connection or wanted the convenience of having all the documents downloaded in one, they would be offered a free delivery of a USB stick.

2.4.5 Where callers did not have access to a computer, or did not have access to a computer with a USB drive, they would be offered a free loan of a tablet which

contained all of the application documents and access to a limited number of websites (including the Planning Inspectorate website to allow representations to be made). The project team member would take their details and the tablet would be delivered via courier and collected via courier when they had finished with the tablet, or once the deadline for the Planning Inspectorate receiving Registration and Relevant Representation Forms had passed on 16 July 2020, whichever was the sooner. A number of tablets were set up in advance to allow for prompt despatch.

- 2.4.6 If the caller was uncomfortable using a tablet or was unable to use a tablet for another reason then the use of physical copies, either at the deposit locations or via delivery, would be discussed. As mentioned above, the caller would be required to pass a risk assessment in order to visit the documents at the deposit location. If the caller did not pass the risk assessment, or could not visit the deposit locations for any other reason, they would be offered a loan of physical copies of the application documents. These would, similarly to the tablets, be delivered by courier, and then picked up by courier when they had finished or when the 16 July 2020 deadline had passed. The callers would be made aware of the scale of the application (a large number of documents in several boxes), and given the opportunity to request a selection of documents. Where they were unsure what documents they would be interested in they would be asked about the aspects of the project they were most interested in and then members of the project team would discuss and telephone them back with suggested documents which they would then arrange a loan of. A full copy of the application documents would be provided if requested.
- 2.4.7 Callers who requested hard copies of the application documents would also be made aware that they could purchase hard copies to keep beyond the 16 July 2020 and that in view of copying costs, a maximum charge of £250.00 would apply for those hard copies.
- 2.4.8 No calls were received to the telephone line, and no USB drives, tablet computers, loan hard copies, or visits to the physical deposit locations were requested. The Applicant has on request offered assistance to prescribed persons, for example in relation to navigating the application documents. The prescribed persons (particularly those listed in Schedule 1 to the APFP Regulations) did engage with the planning application and the PA2008 pre-application stage, and the Applicant expects that some of those parties have submitted relevant representations (it has been notified by some parties that they have done so or intended to). Engagement by the local community is considered in the following section.



## **3.0 PUBLICITY OF ACCEPTED APPLICATION (REGULATION 9)**

### **3.1 Introduction**

- 3.1.1 This section outlines how the Applicant has fulfilled the duties regarding publicising the application under Regulation 9 of the APFP Regulations.
- 3.1.2 This has, in summary, consisted of setting an appropriate deadline, placing notices in the appropriate newspapers and around the Site, providing the physical deposit locations explained in section 2.3 above, and also delivering a notice to properties in the consultation zone established in the Applicant's pre-application Statement of Community Consultation ('SoCC').
- 3.1.3 The notice itself was similar to that used in the notification of acceptance according to Regulation 8, with the matters which the notice had to include being outlined in Regulation 9(4).
- 3.1.4 A minimum 28 day period is stipulated in regulation 9(4)(j) (similar to that in section 56(5)), the Applicant provided a longer period of 42 days, identical to that given in the S56 / Regulation 8 Notice. Once again, the time provided took account of challenges that people may have faced due to the COVID-19 pandemic restrictions on businesses and travel.

### **3.2 Newspaper Notices**

- 3.2.1 Regulation 9 requires the applicant to follow the same approach to publication of the notices as set out in Regulation 4(2)(a) to (d) – this requires (so far as relevant to the Proposed Development) a notice of this proposed application to be published for at least two successive weeks in one or more local newspapers circulating in the vicinity in which the proposed development would be situated, once in a national newspaper and once in the London Gazette.
- 3.2.2 The Notice was published in local newspapers the Scunthorpe Telegraph, Hull Daily Mail and the Grimsby Telegraph on the 28 May and 4 June, fulfilling the requirement of the notice being published for two successive weeks in one or more local newspapers. These newspapers have a distribution which is significantly wider than the likely 'zone of influence' of the Proposed Development.
- 3.2.3 The Notice was published in the national newspaper The Telegraph on 28 May, fulfilling the requirement of the notice being published once in a national newspaper.
- 3.2.4 The Notice was published in the London Gazette on 28 May, fulfilling the requirements of the notice being published once in the London Gazette.

### **3.3 Physical Deposit Locations**

- 3.3.1 As described in section 2.3, two physical deposit locations were provided, one in the immediate vicinity (within) the Site, and another in Leeds.

### **3.4 Site Notice**

- 3.4.1 As set out in Regulation 9(2) the applicant must publish a notice which must be displayed at, or as close as reasonably practicable so, the site of the proposed development at a place accessible to the public.

- 3.4.2 The Applicant displayed the relevant notice at 6 locations in close proximity to the Site from 29 May 2020, thus fulfilling the requirement to display the notice at the site of the proposed development at a place accessible to the public. These were the same 6 locations close to the site where the Section 42 Notice was displayed. The notices were printed on waterproof paper and secured with cable ties to ensure that they would last the period, and were inspected during the relevant representation period to ensure that they remained in place and were legible.
- 3.4.3 The Applicant considered placing notices in nearby villages, at the same locations used for publicising the pre-application s42 exhibitions. However, following discussion with NELC it was agreed that instead notices would be posted directly to every address in the consultation zone established in the pre application stage SoCC (which extends to circa 2.5km around the site), to ensure that those self-isolating were aware of the application. Further information on this is set out in section 3.5 below.

**Figure 3.1: Notice Locations**



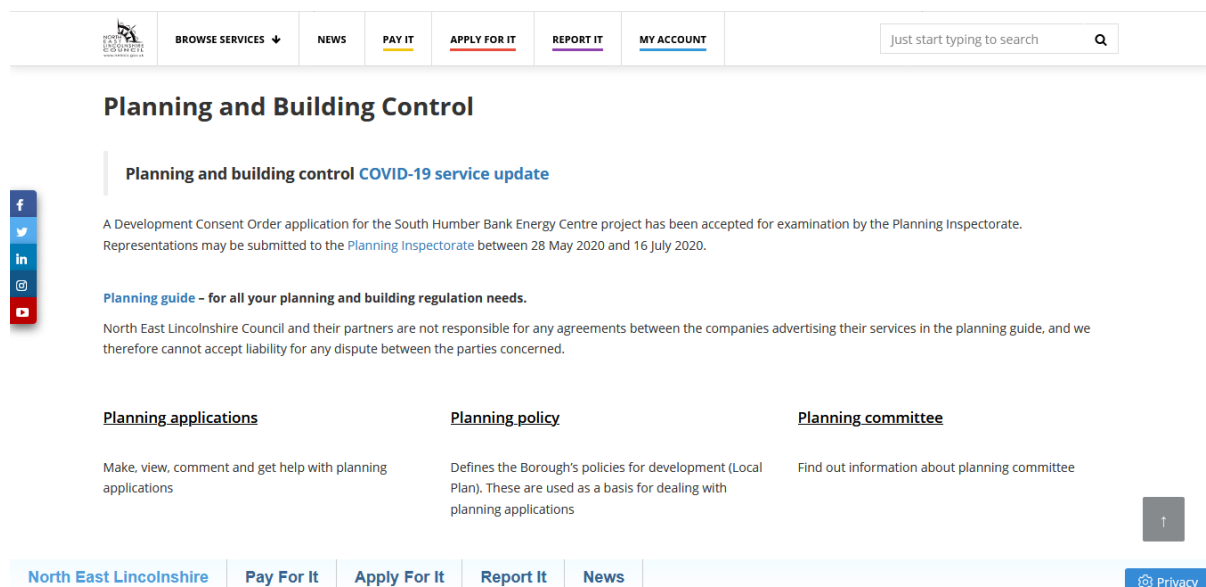
### 3.5 Other methods of publicity

- 3.5.1 The Applicant discussed the approach to the S56 stage with NELC, in particular to ensure that the publicity would reach the local community in light of the COVID-19 pandemic. It was noted by NELC that people were less likely to be out and to view the site notices. As a result of this the Applicant took other steps to publicise the application above and beyond what was required by the statutory provisions.
- 3.5.2 One key method of publicising the acceptance of the application was to distribute site notices to all of the addresses in the consultation zone from the

SoCC via a letter drop. This was initially suggested by NELC and the Applicant agreed that it was a sensible way to engage the local community. The notice was formatted into a four-sided A4 document which was printed on a folded A3 sheet, creating a leaflet, which was delivered directly to properties on all roads within the consultation zone. A total of 2,654 properties were identified within the consultation zone. The letter drop was carried out on 27 May 2020. Approximately 243 addresses (9%) could not be delivered to largely due to dwellings being located down private lanes with locked gates or addresses located in industrial areas which were not accessible. However, a reach of 91% is considered much higher than would be obtained via a conventional site notices along the boundary of the site in public locations, particularly given the industrial location of the site.

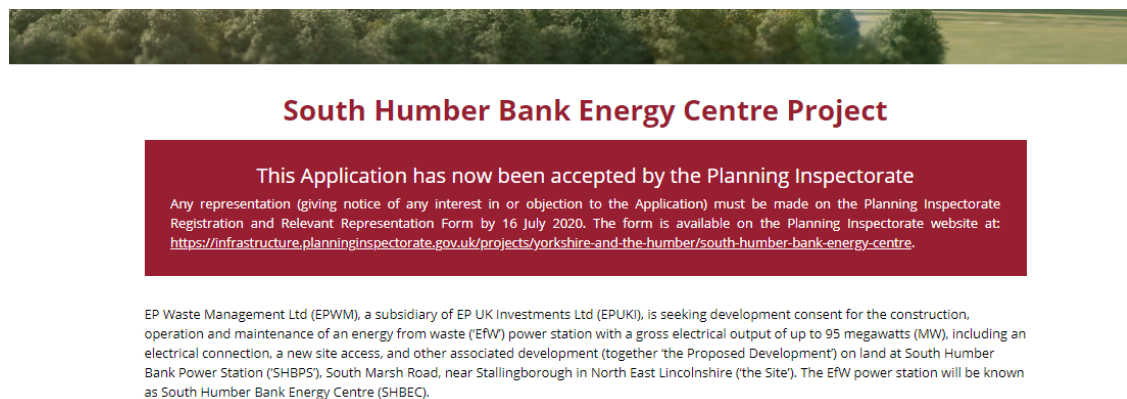
3.5.3 In addition, NELC advertised the acceptance of the application on the front page of the Planning and Building Control section of their website (<https://www.nelincs.gov.uk/planning-and-development/>). A sentence at the top of the page read “A Development Consent Order application for the South Humber Bank Energy Centre project has been accepted for examination by the Planning Inspectorate. Representations may be submitted to the Planning Inspectorate between 28 May 2020 and 16 July 2020” with a link to the Planning Inspectorate’s website. A screenshot is shown below at Figure 3.2. This was inserted early on 28 May and remained there early on 17 July.

**Figure 3.2: North East Lincolnshire Planning Website Screenshot**



3.5.4 The Applicant also sent an e-mail to its mailing list advising of the acceptance and the means of registering as an interested party. The mailing list comprises some 46 no. e-mail addresses from individuals, businesses and political representatives who have (via the project website or at community consultation events held pre application) signed up for occasional project updates. The project website (<https://www.shbenergycentre.co.uk/>) was also updated with a prominent message at the top of the homepage. See Figure 3.3 below.

**Figure 3.3: Project Website Homepage**



3.5.5 A press release was also issued. Subsequently articles were published on the websites of Insider Media and The Business Desk. The articles can be found at:

- Insider Media - <https://www.insidermedia.com/news/yorkshire/step-forward-for-300m-energy-centre-plans>
- The Business Desk - <https://www.thebusinessdesk.com/yorkshire/news/2056735-consent-sought-for-changes-to-300m-power-station-scheme>

3.5.6 The Applicant did not receive any requests to view the documents at the physical deposit locations, nor to request delivery of a USB stick, tablet or hard copy of the application. The low level of engagement by members of the local community is not inconsistent with the previous project stages, including pre-application consultation prior to the planning application, consultation by NELC on the planning application, and the Applicant's community consultation pursuant to S47 PA 2008 (see for example paragraph 4.6.5 and section 9.6 of our Consultation Report, Document Ref. 5.1). All of those stages were conducted prior to there being any restrictions on movement related to COVID-19, and there has been no fundamental change in the level of engagement during the S56 stage.

## **4.0 SUMMARY AND CONCLUSIONS**

- 4.1.1 This document outlines how the Applicant has fulfilled its duties to notify persons of the accepted application, pursuant to Regulation 56 of the Planning Act 2008. It includes information on notification under both Regulation 8 and Regulation 9, and on the extra steps which were taken in light of the COVID-19 pandemic.
- 4.1.2 In line with Regulation 8 the Applicant notified all prescribed persons of acceptance of the application. The Applicant notified a total of 96 prescribed persons through a mixture of post, email (where agreed in advance in line with s229 PA 2008), and post plus email. The notice included a description of the proposals, the address of the application and a map, and a period of 42 days was provided for representations, following a period of 7 days allowed for delivery.
- 4.1.3 There were two physical deposit locations, namely the gatehouse at South Humber Bank Power Station (in the vicinity, as required) and also the Applicant's Leeds office. Appointments could be made to view documents at these locations by contacting the Applicant (including via a project telephone number). The Applicant also offered a number of alternative means of viewing the application, including a USB drive, loan of a tablet and loan of physical copies.
- 4.1.4 According to Regulation 9 the Applicant publicised the application. This included publishing notices in local newspapers for two consecutive weeks, namely the Scunthorpe Telegraph, Hull Daily Mail and Grimsby Telegraph, a national newspaper for one week, the Telegraph, and the London Gazette. Site Notices were also put up at 6 locations around the application site boundary. The Applicant provided a period of 42 days from the date of the last notice being published.
- 4.1.5 No calls were received to the telephone line, and no USB drives, tablet computers, loan hard copies, or visits to the physical deposit locations were requested. The level of engagement overall was a continuation of that seen by the Applicant in various prior project stages.
- 4.1.6 In addition to the above, NELC advertised the acceptance on their website, the Applicant delivered the site notice to addresses in the consultation zone, and a press release was issued, and picked up in some media articles.
- 4.1.7 In light of the above it is considered that the Applicant fulfilled and exceeded its duties to notify persons of the acceptance of the application.