

Date: 7 October 2021
Your Ref: 14079
Our Ref: EN010107



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Energy Infrastructure Planning
Department for Business, Energy & Industrial Strategy
1 Victoria Street
London
SW1H 0ET
By e-mail to: SouthHumberBank@planninginspectorate.gov.uk

Dear Sir or Madam

APPLICATION BY EP WASTE MANAGEMENT LIMITED (“THE APPLICANT”) FOR AN ORDER GRANTING DEVELOPMENT CONSENT (“THE ORDER”) FOR THE PROPOSED SOUTH HUMBER BANK ENERGY CENTRE, STALLINGBOROUGH, NORTH EAST LINCOLNSHIRE (“THE PROPOSED DEVELOPMENT”)

RESPONSE TO LETTER DATED 30 SEPTEMBER 2021 REQUESTING FURTHER INFORMATION

We are pleased to provide this response on behalf of EP Waste Management Limited set out below under the named subheadings and, appended, a signed letter from EP SHB Limited.

Paragraph 4: signed letter from EP SHB Limited

Please find a signed letter appended, providing the requested confirmations.

Paragraphs 5-6: Network Rail Infrastructure Limited (‘NRIL’) Protective Provisions

The Applicant is content for definitions of “specified work” and “railway property” to be included in the protective provisions for the benefit of NRIL. The Applicant notes that four of the references in paragraph 47 of Schedule 8 are to “specified works” (see paragraphs 47(1)(a), (1)(b), the final part of 47(1) and the definition of “the relevant cost” in 47(6)), and considers that with the addition of the definition of “specified work” that these four instances should be amended to match that, referring to “specified work”.

The Applicant has liaised with NRIL prior to responding to the RFI and has seen its response to the Secretary of State dated 5 October 2021. The Applicant is content with NRIL’s proposed addition of “or a tenant or licensee of Network Rail” to the definition of “railway property”.

Paragraph 7: Requirement 38 and Article 5

The Applicant is content with the substance of the draft wording indicated in paragraphs 7(a) and 7(b). It proposes however that the drafting is adapted as follows which includes the same elements of drafting but in a way considered to be more consistent with statutory instrument drafting.

The addition of “otherwise than in accordance with the terms of the section 106 agreement” in article 5(2) is considered to be necessary to ensure the continued operation of the agreement in accordance with its terms, i.e. making clear that an article 5 notice does not mean obligations cease to exist, nor that they should continue in circumstances in which they have properly come to an end.

Partners

R J Greeves BSc (Hons) MRICS
G Bullock BA (Hons) BPL MRTPI
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B Murphy BA (Hons) MRUP MRTPI
A Meech BSc MRICS
S Page BA MA (Cantab) MSc MRTPI

P Roberts FRICS CEnv
T Lodeiro BA (Hons) PGDip MSc MRICS
A Pilbrow BSc (Hons) MRICS IRRV(Hons)
C Turnbull BSc (Hons) MSc MRTPI



An example of the latter may be where the obligations have already been discharged, and the agreement removed as a local land charge.

Applicant's proposed drafting for requirement 38:

"38(1) Construction of Work No. 1 must not start until the habitat contribution has been paid to the relevant planning authority.

(2) The term "habitat contribution" in sub-paragraph (1) means the sum of £105,378.00 (one hundred and five thousand three hundred and seventy eight pounds) described as "the Habitat Contribution" in the section 106 agreement and which in accordance with the terms of the section 106 agreement must be:

- (a) index linked (as that term is defined in the section 106 agreement)
- (b) subject to interest on late payment; and
- (c) subject to VAT (if applicable)."

Applicant's proposed drafting for Article 5 (changes compared to 30 September letter shown in red):

5.—(1) The undertaker must not commence any part of the authorised development pursuant to this Order until notice has been served on the relevant planning authority.

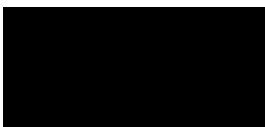
(2) If the undertaker serves a notice under this article—

- (a) there must be no further development under the SHBEC planning permission; and
- (b) from the date of the undertaker's notice—
 - (i) the conditions of the SHBEC planning permission will cease to have effect within the Order limits. ~~For the avoidance of doubt, any obligations under the section 106 agreement do not cease to have effect;~~
 - (ii) the requirements apply to development that has taken or is to take place within the Order limits and which is comprised in the authorised development; **and**
 - (iii) any application for discharge of a condition listed in column (1) of Schedule 3 (deemed approval of matters referred to in the requirements) which was outstanding at the date of the undertaker's notice will be treated as an application for discharge of the corresponding requirement listed in column (2) of Schedule 3; **and**
 - (iv) any obligations under the section 106 agreement do not cease to have effect, otherwise than in accordance with the terms of the section 106 agreement.

Conclusions

The Applicant has provided all requested information. Should other information or clarification be helpful please contact DWD using the details below.

Yours faithfully



Colin Turnbull
Partner
DWD



Encs. Letter from EP SHB Limited

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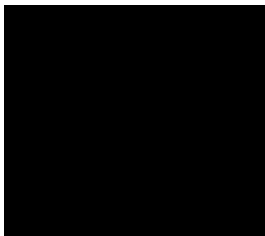
07 October 2021

Dear Sir/Madam

We confirm that EP SHB Limited is aware of the application for a development consent order (DCO) for the South Humber Bank Energy Centre, made by EP Waste Management Limited, and submitted to the Planning Inspectorate on 09 April 2020.

We also confirm that EP SHB Limited is aware of the draft DCO and its terms and has no objections to any impact upon the planning permission granted to it with the reference number DM/1070/18/FUL by North East Lincolnshire Council as varied by planning permission reference DM/0273/21/FUL.

Yours faithfully



Victoria Pearson
Director
For and on behalf of EP SHB Limited