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To: The Applicant and all Interested  
Parties for information

Our Ref: EN010110

Date: 26 May 2023

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Dear Sir/Madam

## **Planning Act 2008 (as amended) and The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Rule 9**

### **Application by Medworth CHP Limited for an Order Granting Development Consent for the Medworth Energy from Waste Combined Heat and Power Facility**

#### **Procedural Decision regarding Notification of the Applicant's intention to submit a request for changes**

The Applicant gave notice to the Examining Authority (ExA), on the 16 May 2023, of its intention to submit a request for changes to the Application by Medworth CHP Limited for an Order Granting Development Consent for the Medworth Energy from Waste Combined Heat and Power Facility. The ExA used its discretion and accepted the Notification of intention to submit the request for changes [\[AS-015\]](#) on the 17 May 2023.

The document submitted [\[AS-015\]](#) identifies the nature of the changes proposed and suggest how the submission of the change request could be accommodated within the Examination Timetable. The Applicant also states that it intends to submit the formal request to change the application on the 5 June 2023.

*Change 1: Minor Amendments to the Order Limits within the boundary of the existing public highway at the junction of Cromwell Road and New Bridge Lane to facilitate the carrying out of the Access Improvements to the public highway forming part of Work No.4A (the "Cromwell Road Junction Signal Scheme")*

*Change 2: Minor amendments to the Order Limits within the boundary of the existing public highway at the junction of New Bridge Lane and Salters Way to install proposed drop kerbs to the existing pavement forming part of Work No.4A (the "Salters Way Junction Pavement Works")*

It is the Applicant's initial view that the proposed changes will not result in material changes to the conclusions of the Environmental Statement or changes to the Habitats Regulations Assessment (HRA) No Significance Effects Report.

The Applicant also states that it considers that non-statutory consultation is not necessary on the proposed changes and the reasons for this are set out in paragraphs 5.5.1 to 5.5.9 of the Notification of the Applicant's intention to submit a request for changes [\[AS-015\]](#). These include the fact that: Change 1 and Change 2 are being made as a direct result of feedback received during the Examination process by the local highway authority; Change 1 and Change 2 would involve minor extensions to the Order Limits (to carry out highway works pursuant to Article 11 of the draft Development Consent Order); and that, as the Applicant is not proposing to include a provision for the compulsory acquisition of additional land, the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (as amended) (the CA Regulations 2010) are not applicable to Change 1 or Change 2.

The Applicant has also set out, in paragraphs 5.7 and 5.8, its proposal in relation to consultation and implications for the Examination Timetable in the event that the ExA does consider that consultation is required.

The proposed changes were referred to and briefly presented by the Applicant at the Issue Specific Hearing 3 (ISH3) followed by a brief discussion on the implications of these at Issue Specific Hearing 4 (ISH4).

At ISH4 Cambridgeshire County Council (CCC) raised concerns regarding the proposed changes, particularly in relation to the apparent Applicant's assumption that all the additional land required to facilitate Change 1 and Change 2 is highway land. Consequently, it is not clear that the additional land included in the amended Order Limits, as submitted as part of the Notification of intention to submit the request for changes [\[AS-015\]](#) is, in fact, public highway land.

As such, the ExA is of the view that further diligent inquiries must be made by the Applicant in relation to this before the submission of the change requests.

### **Consultation on potential change request**

Having considered the proposed changes and the arguments put forward, the ExA considers that, if Change 1 and Change 2 does not include amendments to the land which is proposed to be subject to compulsory acquisition as identified in the Book of Reference (BoR) submitted with the Application, then no additional non-statutory consultation is required. This is due to the ExA's view that all Interested Parties (IPs) will be able to make submissions in respect of the consequences of the proposed changes within the Examination process and that additional land will not result in any changes to the existing BoR.

Nevertheless, if as a consequence of the proposed changes to the Order Limits, changes are made to the BoR or any amendments are made to the land which is proposed to be subject to compulsory acquisition, then the CA Regulations 2010 would be engaged including, in due course, the duty on the Applicant to notify and publicise the proposed provision under Regs. 7 and 8.

If the proposed change involves changes to the Order Land, [AN16](#) advises that a Change Application request should include, amongst other things, confirmation that the CA Regulations are not engaged including, if appropriate, a copy of the consent obtained from all persons with an interest in the additional land.

Considering the concerns raised at ISH4 by CCC, the ExA would request that a copy of the consent obtained from all persons with an interest in the additional land is submitted with the change request in order to confirm that the CA Regulations 2010 are not engaged.

In the eventuality that CA Regulations 2010 are engaged, the Applicant must provide the information prescribed by Reg. 5.

### **Timetable**

In addition to the points above in relation to consultation on the potential change request, if the CA Regulations 2010 are engaged, then the Applicant is also asked to revisit the proposed timescales as set out in the Notification of the Applicant's intention to submit a request for changes [\[AS-015\]](#) as the Applicant's proposal does not consider how statutory consultation can be accommodated within the time constraints of the current Examination.

The ExA has issued this advice in line with the [Planning Inspectorate's Advice Note 16](#) (AN 16) and has taken into consideration issues of fairness and natural justice.

If you have any questions about the content of this letter, please contact the Medworth Planning Inspectorate Case Team on [Medworth@planninginspectorate.gov.uk](mailto:Medworth@planninginspectorate.gov.uk)

Yours faithfully

*Andre Pinto*

**Lead Member of the Panel of Examining Inspectors**