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Your Ref:

By email only

Our Ref: EN010129

Date: 26 October 2022

Dear Mr Curry

Planning Act 2008 (as amended) – Section 51

Application by SSE Slough Multifuel Limited for an Order Granting Development Consent for the Slough Multifuel Extension Project

Advice following issue of decision to accept the application for examination

On 26 October 2022 the Secretary of State decided that the application for the above project satisfied the acceptance tests under section 55 of the Planning Act 2008 (PA2008). The Planning Inspectorate's (the Inspectorate) acceptance checklist and the application documents have been published and made available on the project page of our website.

In undertaking checks at the acceptance stage, the Inspectorate has made some initial observations in relation to the application. This letter comprises advice to the Applicant provided under section 51 of the PA2008 in respect of these initial observations. The Applicant should pay attention to its content and consider how appropriate action might be taken in response.

Consultees identified on a precautionary basis

Given the individual circumstances of this case, the Inspectorate advises taking a precautionary approach to consultation under s42(1)(a) of PA2008 to ensure that all persons potentially affected by, or potentially likely to have an interest in the application are given the opportunity to participate fully in the Examination of the application. On this basis, the Applicant may wish to serve notice on the bodies listed in Box 6 of the section 55 checklist when it serves notice of the accepted application under s56(2)(a) of the PA2008; unless there is a specific justification why this is not necessary.

Draft Development Consent Order

The Inspectorate considers that important revisions to the draft DCO are required, preferably before you issue the notice under s56 of the Planning Act 2008 and commence the invitation to register as interested parties:

1. The draft Order refers in several places to the extended generating station having a capacity of over 50mW, for example article 4 (1) and Schedule 1 referring to Work No.1. The explanatory note at the end of the Order similarly refers to seeking authority to operate the generating station at a capacity of over 50mW. Whilst this is true, it is more a justification for the NSIP than what is required for a precise description of the powers being sought. As drafted, article 4 (1) would authorise the undertaker to operate the generating station without limitation. However, from the Application Form (Paras 4 & 5 Doc 1.3), Planning Statement (Doc 5.2) and the Environmental Statement (Doc 6.1) it is apparent that the increase in output the application is seeking to achieve is 10mW to achieve a maximum 60mW capacity. This maximum must therefore be reflected in the way the Order is drafted. The applicant is therefore strongly advised to alter article 4 (1) to provide for a maximum capacity of 60mW, and Work No. 1 in Schedule 1 similarly described as having a gross installed generation capacity of up to 60mW.
2. If consented the draft Order will be a statutory instrument, and therefore will need to be capable of being understood without reference to other documents. The interplay between the Order and the existing planning permission does require full coverage in Schedule 2 in order to be clear what controls the Order is maintaining over the construction of the authorised development and operation of the extended generating station. To do this, the applicant is strongly advised to ensure that article 4 is subject to the requirements of Schedule 2, and to set out the conditions deriving from the TCPA permission in full in each of the requirements in Schedule 2. Whilst this will inevitably make the schedule much longer, it will enable users of the Order to understand the requirements controlling the construction and future operation of the extended generating station without having to seek out the conditions relating to the TCPA permission from elsewhere, presumably the Slough Borough Council website. The flexibility of any variations to the requirements deriving from any changes to the planning conditions being acceptable provided they do not give rise to any materially worse environmental effects etc will need to be reflected throughout, as it is in relation to the CEMP in requirement 4.
3. When appointed, the Examining Authority may wish to question the extensive arbitration mechanism provided for under article 12 and Schedule 3 and what actual elements of the implementation of the Order this is intended to cover, given that the construction works as part of the authorised development are extremely limited and there is no requirement for an appeal mechanism against decisions of the relevant planning authority because of the relationship with the TCPA permission. You may therefore wish to reconsider the need for these provisions in recasting the draft Order.

As noted above, it is requested that you action these points before the commencement of the Relevant Representation period. This will contribute towards a more efficient

examination and give any future Examining Authority comfort that the documentation is complete and accurate.

We trust you find this advice helpful, however if you have any queries on these matters, please do not hesitate to contact our office using the contact details at the head of this letter.

Yours sincerely

Lily Robbins

Lily Robbins
Case Manager – National Infrastructure Energy

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