From:	Eleri Davies
To:	"Paul Grace";
cc:	"Sheridan.Treger@blplaw.com"; "Tim Smith"; Tom Carpen; Jessica Potter;
Subject:	EN030001 Preesall Saltfield draft Consultation Report
Date:	28 October 2011 16:06:00

Paul

EN030001 Preesall Saltfield draft Consultation Report

We have now considered the draft Consultation Report (October 2011) provided and set out our observations below. I hope that the comments will assist you in finalising the application for submission. Our comments are entirely without prejudice to any future decisions of the IPC, including that of the Commissioner appointed to consider the acceptance of any future application made under s.55 of the Planning Act 2008 ('the PA 2008').

Preliminary Environmental Information

Table 2.3 refers to a note from Wyre Borough Council about preliminary environmental information (PEI) being made available to local authorities prior to being consulted on the Statement of Community Consultation (SOCC). In the response column of table 2.3, Halite state that PEI would be provided as part of the s.42 consultation process. As explained in IPC Guidance Note 1 (August 2011), local authorities will be able to provide an informed response (under s.47(3)) about the Statement of Community Consultation (SOCC) and consulting on environmental information if they have been provided with the PEI. You should note in your consultation report whether this guidance was followed, for example identifying what environmental information was provided when consulting the local authority under s47(2), and if none was provided the reasons why.

Environmental Permit

Paragraph 3.78 states that Halite intend to apply for an Environmental Permit (EP) prior to the commencement of construction. Applicants are encouraged to submit as early as possible because the Examining authority (ExA) needs to be satisfied that there is no impediment to issuing the EP before the examination concludes and the

Environment Agency needs to be in a position to confirm this.

Drafting Points

Paragraph 2.74 refers to s.48 notices published in Fleetwood Weekly News and Lytham and St Annes Express however these publications are not referred to (in relation to s.48) in tables 2.8 and 5.1; or at appendix F.

The list of s.48 notices identified at the beginning of appendix F refers to the Lloyds List being published 6 April 2011 however tables 2.8 and 5.1 and the actual newspaper copy at appendix F refers to 4 April 2011.

With regard the published SOCC, explicit reference is made in Table 5.1 to compliance with Regulation 10(a) (environmental impact assessment) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (the EIA Regs 2009) but no explicit reference is made to compliance with Regulation 10(b) (preliminary environmental information) of the EIA Regs 2009.

Regulation 11 of the EIA Regs 2009 appears to have been mis-referenced in Table 5.1 which states that the s.48 notice "identifies that the proposal is an EIA development in accordance with EIA Regulation 11". Regulation 11 of the EIA Regs 2009 actually requires the applicant, at the same time as publishing notice of the proposed application under section 48(1) of the Planning Act 2008, to send a copy of that notice to the consultation bodies and to any person notified to the applicant in accordance with Regulation 9(1)(c) of the EIA Regs 2009.

Other Matters

Please be mindful of Data Protection Act 1998 and that if the application is accepted by the IPC it will be published on the IPC's website and deposit copies will be made available to the public. Applicants should ensure that the consultation report complies with the Data Protection Act 1998 and that the addresses and other contact information of private individuals are treated appropriately within the context of this statutory process. Applicants should ensure that the consultation report has been fully redacted and is fit for public consumption before submitting it to the IPC. Refer to Advice Note 14: Compiling the Consultation Report (October 2011).

We would also advise you to submit your draft Consultation Report to the relevant local authorities due to the short timescale (14 days) for local authorities to submit adequacy of consultation representations at the IPC acceptance stage.

Prescribed Consultees

Halite's list of s42 consultees has been assessed against the IPC's EIA Reg 9 list of prescribed consultees prepared for EIA Scoping. Please note that the assessment is based on the list of prescribed consultees previously identified against the site boundary submitted by Halite with the EIA Scoping Report (October 2010). If there have been any changes to the site boundary since this, the applicant must be satisfied that the proposal as submitted has been the subject of proper consultation and publicity under ss.42, 47 and 48. The following bodies were identified in the IPC's list but not in Halite list of consultation bodies:

NATS En Route plc
ES Pipelines Ltd
Intoto Utilities Ltd
EDF Energy (IDNO) Ltd
Network Rail Infrastructure Ltd
Network Rail (CTRL) Ltd
BRB Residuary Ltd

Where developers identify and consult fewer consultees (as part of their s.42 obligations) than the IPC notifies under Regulation 9 of the EIA Regs 2009 and/or consults in relation to the scoping opinion request, a clear explanation should be provided within the consultation report (see IPC Advice Note 3: Consultation and notification undertaken by the IPC (July 2011)). Explanations have been provided for some but not for others and you will need to explain why it was considered that the bodies are not relevant or whether it was considered that, even though a relevant body, the application was considered unlikely to affect their functions. You could also further clarify the position by making reference to the wording in Schedule 1 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.

On a separate matter, under the heading 'Other consultees (not s.42) but provided for information' (cell 355 onwards on Halite's list of

s.42 consultees), reference to s.42(a) should be removed where these are not s.42(a) consultees (e.g. the IPC).

I trust the above is useful however please do not hesitate to contact me should you have any further queries.

Kind Regards

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