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4 November 2009

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Tel. 0300 068 5680
Our ref: 01.08.10.04/336C

Dear Sir

ELECTRICITY ACT 1989 ("the Act")
TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION FOR CONSENT TO CONSTRUCT AND OPERATE AN ENERGY
FROM WASTE AND BIOMASS FUELLED GENERATING STATION AT STOREY'S
BAR ROAD, FENGATE, PETERBOROUGH

I. THE APPLICATION

1.1 I am directed by the Secretary of State for Energy and Climate Change ("the Secretary of State") to refer to the application dated 24 September 2008 ("the application") on behalf of Peterborough Renewable Energy Limited ("the Company") for both the consent of the Secretary of State under section 36 of the Act ("section 36 consent") to construct and operate a 79 MW energy from waste and biomass fuelled generating station at Storey's Bar Gate, Fengate, Peterborough ("the Development"), and a direction under section 90(2) of the Town and Country Planning Act 1990 ("section 90 direction") that planning permission for the Development be deemed to be granted.

1.2 In accordance with the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000 ("the 2000 Regulations") the Company also submitted on 24 September 2008 a document, entitled "Proposed Energypark Peterborough Environmental Statement Land off Storey's Bar Road, Peterborough August 2008". The document describes the Development and gives an analysis of its environmental effects. The document is hereafter referred to in this letter as the "Environmental Statement". The Environmental Statement was advertised and placed in the public domain and an opportunity given to those who wished to comment on it to do so.

1.3 Peterborough City Council (“the relevant planning authority”) entered into discussions with the Company over terms on which it would be content for the Development to proceed. As a result of these discussions, 50 conditions (“the Planning Conditions”) to be attached to any section 90 direction were agreed in principle between the Company and the relevant planning authority. The relevant planning authority did however indicate that the final form of the Planning Conditions was a matter to be decided by the Secretary of State.

1.4 In view of the conclusion of these discussions the relevant planning authority has not maintained any objection to the Application providing that the Planning Conditions are imposed should the Secretary of State be minded to grant section 36 consent and issue a section 90 direction in respect of the Development.

1.5 The Secretary of State notes that the Company has also entered into a unilateral undertaking with Peterborough City Council under section 106 of the Town and Country Planning Act 1990, dated 14 September 2009, to provide for a Travel Plan, the extension to Peterborough City Council’s “Greenwheel” initiative, the monitoring of groundwater levels primarily to ascertain any impact on the neighbouring Flag Fen Archaeological Park, and a nature conservation strategy (“the Section 106 Undertaking”).

II. SECRETARY OF STATE’S CONSIDERATION OF THE PLANNING CONDITIONS

2.1 The Secretary of State has considered the Planning Conditions carefully. He agrees that they are suitable for inclusion in any section 90 direction which he may give.

III. SECRETARY OF STATE’S DECISION ON THE HOLDING OF A PUBLIC INQUIRY

3.1 As indicated in paragraph 1.4 above the relevant planning authority has not maintained an objection to the Application. The Secretary of State is therefore not obliged to cause a public inquiry to be held.

3.2 Paragraph 3(2) of Schedule 8 to the Act, however, requires the Secretary of State to consider all objections that he has received pursuant to the Electricity (Applications for Consent) Regulations 1990 (made under paragraph 3(1) of Schedule 8), (“the Applications Regulations”), together with all other material considerations, in order to determine whether it would nevertheless be appropriate to hold a public inquiry.

3.3 The Secretary of State received 25 letters of objection from local residents to the Application made under the Applications Regulations. In summary, the grounds of objection cited, and how the Secretary of State has considered them, are as follows:

Noise pollution

Planning Conditions (23) – (26) cover operational noise. Condition (24) limits noise levels at the nearest occupied premises, ie Red Brick farm and the Flag Fen Archaeology Park, to existing levels. Condition (27) creates a noise complaints procedure in the event of complaints raised in relation to the construction and operation of the proposed Development.

Increased pollution will affect health of local residents

The proposed Development will need a Pollution Prevention Control Permit from the Environment Agency. The EA has a duty under the Environmental Permitting Regulations 2007 to ensure operators of combustion plants take all appropriate preventative measures against pollution. In addition the Health Protection Agency announced on 3 September 2009 that “The evidence suggests that any potential damage to the health of those living near to incinerators is likely to be very small, if detectable. The Agency therefore does not believe that studies of public health around individual incinerators are scientifically justifiable.”

Potential smells

There will be no detectable odour from the site as all processing takes place inside pressure controlled buildings and Planning Condition (29) requires all waste, biomass, ash and recyclables to be handled and stored under cover.

Additional traffic going through residential areas

There will be an increase in traffic to the local road network because traffic which would otherwise be going to landfill will be directed to the power station site. There will also be an increase due to construction operations. In order to reduce the impact of traffic on the local community, Planning Condition (21) limits the timing of deliveries and the Section 106 Undertaking includes provision for new safety measures such as pedestrian crossings and routing of traffic away from residential areas. The Undertaking also provides for a Green Travel Plan for construction workers and for the extension of the “Greenwheel”, a Peterborough City Council initiative to promote walking and cycling by providing safe routes to do so.

Should be built away from populated areas

The land, off Storey’s Bar Road in Fengate, has already been earmarked by Peterborough City Council for a major waste management facility according to the Cambridgeshire and Peterborough Waste Local Plan. Furthermore, it is sited within an industrial zone suitable for energy developments and sandwiched between Peterborough Power Station and an area which is hoping for permission to build three 90-metre wind turbines. The site is close to major waste centres and has suitable infrastructure to support it and therefore is not considered to be in the wrong place.

Site is in a flood plain

The Environment Agency has indicated that the proposed station will not increase the risk of flooding and have not objected to consent being granted.

Will be an eyesore

The proposed station will be sited adjacent to an existing combined cycle gas turbine station with buildings of a height of up to 35 metres and two stacks of 45 and 60 metres. In contrast the proposed Development will have buildings no higher than 20 metres and nine stacks of 35 metres. The Development is considered visually less intrusive than the existing gas fired station and it is therefore not considered to be an eyesore.

Will attract rats and other vermin

Good housekeeping should ensure that it does not attract vermin.

Contamination of the water system

Planning Conditions (31) – (35) require measures to be undertaken to ensure that there is no contamination to any watercourse.

Peterborough Cathedral is already damaged by pollution

This is not considered an issue relevant to consideration of this application. However the Development would actually improve air quality by removing particle and pollutants created by other industries and traffic.

3.4 The Secretary of State has carefully considered the views of the relevant planning authority, consultees and others, the matters set out above and all other material considerations. He takes the view there is nothing further that needs probing and that it would not be appropriate to cause a public inquiry to be held into the Application.

IV. SECRETARY OF STATE'S CONSIDERATION OF THE ENVIRONMENTAL INFORMATION

4.1 The Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000 ("the 2000 Regulations") prohibit the Secretary of State from granting section 36 consent unless he has first taken into consideration the environmental information, as defined in those Regulations.

4.2 The Secretary of State is satisfied that the Environmental Statement is sufficient to allow him to make a determination on the Application and that the Company has followed the applicable procedures in the 2000 Regulations.

4.3 The Secretary of State has considered the environmental information carefully; in addition to the Environmental Statement, he has considered the

comments made by the relevant planning authority, those designated as statutory consultees under regulation 2 of the 2000 Regulations and others.

4.4 Taking into account the extent to which any environmental effects will be modified and mitigated by measures the Company has agreed to take or will be required to take either under the conditions attached to the section 36 consent or the Planning Conditions or by regulatory authorities including the Environment Agency, the Secretary of State believes that any remaining adverse environmental effects will not be such that it would be appropriate to refuse section 36 consent for the Development or the deemed planning permission.

IV. SECRETARY OF STATE'S CONSIDERATION OF POSSIBLE EFFECTS ON A EUROPEAN SITE

5.1 The Conservation (Natural Habitats, &c) Regulations 1994 as amended ("the 1994 Regulations") require the Secretary of State to consider whether the Development would be likely to have a significant effect on a European Site, as defined in the 1994 Regulations.

5.2 The Secretary of State notes that there are several European Sites within a 15 km radius of the Development. He has been informed by Natural England that, provided the proposed Development is constructed and operated in accordance with the details contained in the Environmental Statement, the integrity of the European Sites will be protected. The Secretary of State does not therefore believe that the Development is likely to have a significant adverse effect on a European Site. He considers therefore that no Appropriate Assessment pursuant to regulation 48 of the 1994 Regulations is necessary and finds no reason for refusing section 36 consent on the grounds of adverse effects on the integrity of a European Site.

VI. SECRETARY OF STATE'S CONSIDERATION OF COMBINED HEAT AND POWER

6.1 The Energy White Paper 2007 ("Meeting the Energy Challenge") makes clear that the Government strongly supports combined heat and power ("CHP"). The Application is covered by the Departmental published guidance¹ for all combustion power station proposals, requiring developers to demonstrate opportunities for CHP have been seriously explored before section 36 consent can be granted. The Secretary of State is satisfied that the Company has complied with those requirements.

6.2 The Secretary of State notes the Company's CHP Feasibility Review confirms that waste heat will be used on-site in the Materials Recovery Facility, the Visitors Centre and the Research and Development Facility, but concludes that there are no significant heat loads that could be supplied in the locality. The Secretary of State is satisfied that the proposed Development will utilise waste heat and has demonstrated this in accordance with Department's guidance.

¹ Guidance on background information to accompany notifications under section 14(1) of the Energy Act 1976 and applications under section 36 of the Electricity Act 1989: December 2006 - <http://www.berr.gov.uk/files/file35728.pdf>

VII SECRETARY OF STATE'S DECISION ON THE APPLICATION

7.1 The Secretary of State considers the following issues material to the merits of the section 36 consent application:

- i) adequate environmental information has been provided for him to judge its impact;
- ii) the Company has identified what can be done to mitigate any potentially adverse impacts of the proposed Development;
- iii) the matters specified in paragraph 1(2) of Schedule 9 to the Electricity Act 1989 have been adequately addressed by means of the Environmental Statement and he has judged that the likely environmental impacts are acceptable;
- iv) the fact that legal procedures for considering a generating station application have been properly followed;
- v) the views of the relevant planning authority, the views of others under the Applications Regulations, the views of statutory consultees under the 1994 Regulations and the 2000 Regulations, the environmental information and all other relevant matters have been considered; and
- vi) the proposed development is consistent with the Government's energy policy as set out in the Energy White Paper 2007, "Meeting the Energy Challenge" released on 23 May 2007 in respect of meeting diversity and security of supply for power generation.

7.2 The Secretary of State, having regard to the matters specified in paragraph 7.1 above, has decided to grant consent for the Development pursuant to section 36 subject to: (i) a condition that the Development shall be in accordance with the particulars submitted with the Application, and (ii) a condition as to time within which the Development must commence.

7.3 The Secretary of State believes that the Planning Conditions form a sufficient basis on which the Development might proceed, and therefore he has decided to issue a section 90(2) direction that planning permission be deemed to be granted subject to the Planning Conditions.

7.4 I accordingly enclose the Secretary of State's consent under section 36 of the Electricity Act 1989 and a direction under section 90(2) of the Town and Country Planning Act 1990.

VIII GENERAL GUIDANCE

8.1 The validity of the Secretary of State's decision may be challenged by making an application to the High Court for leave to seek a judicial review.

Such application must be made as soon as possible and in any event not later than three months after the date of the decision. Parties seeking further information as to how to proceed should seek independent legal advice from a solicitor or legal adviser, or alternatively may contact the Administrative Court at the Royal Courts of Justice, Strand, London WC2 2LL (General Enquiries 020 7947 6025/6655).

8.2 This decision does not convey any approval or consent or waiver that may be required under any enactment, by-law, order or regulation other than section 36 and Schedule 8 of the Electricity Act 1989 and section 90 of the Town and Country Planning Act 1990.

Yours faithfully

A handwritten signature in black ink, appearing to read 'R P Mellish'.

Richard Mellish
Head of Development Consents and Planning Reform

