

Date/Dyddiad: 12 January 2021

Ask for/Gofynwch am: Sarah Feist

Telephone/Rhif ffôn: (01446) 704690

My Ref/Cyf: 2020/0230/M

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Mr Richard Frearson
Biomass No 2 Limited
Barry Biomass Energy Facility
Barry Docks
Woodham Road
Barry,
Vale of Glamorgan
CF63 4JE

Dear Mr Frearson,

Town and Country Planning Act 1990 (as amended)
Re: Unauthorised development - biomass facility
Location: Barry Biomass Energy Facility, Barry Docks, Barry, CF63 4JE

As you may be aware, following a site visit undertaken by myself and Ian Robinson in July 2020 and further correspondence with your planning agent Steve Butler of Sol Environment, a number of discrepancies with the original application 2015/00031/OUT have been identified which means that the facility, as currently constructed, constitutes unauthorised development.

Due to the nature of the discrepancies identified, counsel's advice has recently been sought by the Council and the advice received supports the view that a Section 73A application should be submitted to regularise the entire development. The reason for this is that whilst technically it may be possible for certain discrepancies to be regularised through the Non-Material Amendment (NMA) procedure, there is no guarantee that any such application would be approved and there is no right of appeal against any resulting refusal. Where other discrepancies cannot be regularised through the NMA process, an application for planning permission under Section 73A would also be required for the whole development. Whilst it is appreciated that such an application would need to be made to the Welsh Ministers as a Development of National Significance, it is considered that this would represent the most sensible way forward and would potentially enable all of the identified discrepancies to be considered together and for the unauthorised development to potentially be regularised without further delay.

I am aware that my colleague Ian Robinson has recently written to Steve Butler with the suggestion that a Section 73A application is applied for in respect of the whole development and appreciate you may wish to take your own legal advice on this matter. The purpose of my writing to you at this time, is to advise that in the absence of a valid planning permission, the Council effectively has no control over the development or its operation, which is considered to be unacceptable given the nature of the development and level of public interest. Should you therefore decide against the Council's recommended course of action, that an application should be submitted under Section 73A for the whole development, it is likely that enforcement action will be taken to require that all development ceases and all structures are removed from the land.

I would therefore request that you confirm your intentions in relation to regularising the development by no later than 22nd January 2021 and should you have any queries regarding the contents of this letter, please contact me on 01446 704690.

Yours sincerely,

S.J. Feist

Sarah Feist
for Operational Manager Development Management

Disclaimer: Nothing in this letter should be taken as binding the Council in the future exercise of any of its powers, other than where it is indicated that a decision has been made by a Committee of the Council or under delegated powers.