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By email to: douglas@powerconsultingmidlands.com

Ein Cyf/Our ref: qA1317227
Eich Cyf/Your ref: 2017/01080/FUL

Dyddiad/Date: 14 February 2018

Dear Sir

**TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT)
(WALES) REGULATIONS 2017
VARIATION TO CONDITION 5 OF PLANNING PERMISSION 2015/00031/OUT TO
INCLUDE FIRE TANK AND BUILDING AS WELL AS RELOCATION OF PARKING AT
BARRY PORT BIOMASS PLANT, DAVID DAVIES ROAD, BARRY, CF63 4JE
APPLICATION No. 2017/01080/FUL**

1. I am writing to inform you the Welsh Ministers are considering making a screening direction under the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 ("the EIA Regulations") in relation to the development which is the subject of the above application.

2. I am authorised by the Minister for Energy, Planning and Rural Affairs to consider whether the application is EIA development. This letter is to inform you I am minded to direct that the development is Schedule 1 EIA development and so to give you the opportunity to comment on the reasoning set out below. I would be grateful for any comments you wish to make by 07 March 2018.

Draft reasons for a screening direction

3. The above application, made to the Vale of Glamorgan Council, is made under section 73 of the Town and Country Planning Act 1990 and seeks permission to develop without compliance with conditions previously attached to an outline planning permission granted in 2015. The development, is described as 'a wood fired renewable energy plant'. It is described in detail within a 'planning statement' which accompanied the outline planning



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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

application (2015/00031/OUT). It consists of a building complex containing three main processes:

- Creation of syngas from waste wood pellets using fluidized bed technology;
- Incineration of the syngas to heat water to create steam;
- The use of steam to power turbines generating electricity for the national grid.

4. The nature of the processes mean two project categories in Schedule 1 to the EIA Regulations could be relevant. These are category 2(a) relating to thermal power stations and category 10 relating to waste disposal installations for non-hazardous waste. Determining which project category is relevant to an application is a matter of fact in each case.

5. The characteristics of the development do not fall within the description set out in project category 2(a) of Schedule 1 as the proposed capacity does not exceed the heat threshold of 300 megawatts specified in category 2(a).

6. I have considered whether the development falls within project category 10 ie waste disposal installations for the incineration or chemical treatment (as defined in Annex IIA to Council Directive 75/442/EEC (now Annex I to Directive 2008/98/EC of the European Parliament and the Council) under heading D9) of non-hazardous waste with a capacity exceeding 100 tonnes per day.

Waste disposal

7. The general sequence of the proposed gasification process is set out in section 2.2 of the planning statement. Paragraph 2.2.1 confirms the feedstock to be delivered to the plant will be 'wood-waste' which has been chipped offsite. The extent of the development is also set in context by conditions attached to the outline consent which only permit the plant to process waste wood.

8. For the purposes of EIA, waste disposal includes the recovery of waste. As advice on project category 10, contained in the European Commission's publication, "Interpretation of definitions of project categories of annex I and II of the EIA Directive" explains:

"Directive 75/442/EEC (the 'Waste Framework Directive') as amended by Directive 91/156/EEC defines 'waste' as 'any substance or object in the categories set out in Annex I which the holder discards or intends or is required to discard.' A broad interpretation of the term 'waste' should be adopted in the light of the relevant ECJ jurisprudence.

It must be noted that for the purposes of the EIA Directive, the term 'disposal' is to be interpreted to include 'recovery'. This was confirmed by the Court in case C-486/04, Commission v Italy, where the Court ruled that 'it must be held that the concept of waste disposal for the purpose of Directive 85/337 is an independent concept which must be given a meaning which fully satisfies the objective pursued by that measure [...]. Accordingly, that concept, which is not equivalent to that of waste disposal for the purpose of Directive 75/442, must be construed in the wider sense as covering all operations leading either to waste disposal, in the strict sense of the term, or to waste recovery.'"

9. The development seeks to recover energy from waste through gasification. While some ash residues are transported off-site for final disposal, I consider this recovery process to be 'waste disposal' for the reasons above.

Incineration or chemical treatment

10. With respect to the type of waste treatment, I have considered whether the fluidised bed process falls within the ambit of incineration or chemical treatment as referred to in the project category.

11. The Industrial Emissions Directive 2010/75/EU definition of 'waste incineration plant' includes those involving gasification.

12. Annex II of Directive 75/442/EEC (and now Annex I of Directive 2008/98/EC) defines chemical treatment under heading D9 as:

'Physico-chemical treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations numbered D 1 to D 12 (e.g. evaporation, drying, calcination, etc.)'

13. The treatment of waste wood through gasification via a fluidised bed is partial oxidation and in this case, the resultant compound, syngas, is subsequently incinerated to recover energy. This means the characteristics of this development fall within the project description if either the process is incineration or physico-chemical treatment.

Capacity

14. The other aspect of the project description is the volume of waste treated. Paragraph 2.2.2 of the planning statement states the gasifier will process up to 72,000 dry tonnes of wood waste per year. Based on operations over 365 days a year, which would represent the 'minimum' daily capacity, this would result in an average of 197 tonnes a day. However the capacity is well in excess of the threshold of 100 tonnes described in the project category.

Initial conclusion

15. I have taken account of the assessment by Natural Resources Wales, issued on 07 February 2018, when determining your application for an environmental permit.

16. In summary, the characteristics of the development include waste recovery involving a physio-chemical process with subsequent incineration of the resulting compound. The capacity of the operation exceeds 100 tonnes a day. These characteristics fall within the project category 10 of Schedule 1 to the EIA Regulations so I am minded to conclude it is EIA development.

Proposed decision

17. I would welcome any comments you may have on the above reasoning by the date given in paragraph 2. I intend to make a final decision on this case as soon as possible after this time.

18. I have copied this letter to Vale of Glamorgan Council.

Yours faithfully

Hywel Butts

Head of Development Management
Planning Directorate

Signed under the authority of the Cabinet Secretary for Energy, Planning and Rural Affairs,
one of the Welsh Ministers