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Your ref: 63559/PBP/DECC/00

25 September 2009

Dear Mark

**RE: SCOPING OPINION – PROPOSED 950MW COMBINED CYCLE GAS
TURBINE GENERATING STATION, DRAYCOTT IN THE MOORS,
STAFFORDSHIRE**

I refer to your letter of 10 June 2009 requesting a scoping opinion under regulation 7 of the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000 enclosing a scoping report dated June 2009. The scoping report sets out the information that Blythe Park Power Limited intend to provide in the Environmental Statement (ES) required in respect of the necessary consent application under section 36 of the Electricity Act 1989.

From 1 October 2009, the Infrastructure Planning Commission will begin dealing with scoping opinions in respect of developments which will be the subject of applications for orders granting development consent under the Planning Act 2008. However, the Department of Energy & Climate Change will continue to deal with scoping opinions under regulation 7 of the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000 upon confirmation that the developments to which they relate will be the subject of applications for the Secretary of State's consent under S36 of the Electricity Act 1989 prior to 1 March 2010 when the IPC regime is expected to commence.

In any case, further authorisations may be required to allow operations to proceed or to regulate other activities issues in addition to planning control. It is recommended that all aspects of the development are covered by a single ES.

1. It is understood that the proposed Combined Cycle Gas Turbine generates a maximum of 950MW. The application for section 36 consent will therefore include:

- Electrical output 950MW;
- Turbine Hall (x2);
- Boiler (HRSG) (x2);
- Hybrid cooling towers;
- Water demineralization plant;
- Air insulated switchgear;
- Control building;
- Administration building;
- Above ground installation (AGI);
- Stacks; and
- Water tanks.

Scoping Opinion

2. The Secretary of State considers that the key issues, which have been identified in the scoping report should properly be included in an ES in respect to the consent applications however you may have already intended to include many of these additional matters in the ES.
3. Comments are based on consultation responses and observations. All comments are detailed under specific topic headings.

Structure of an ES

4. Criteria used to establish impact magnitude and significance should be clearly defined within the ES. Tabular presentation should be used to summarise key direct and indirect impacts. Within an ES it is important that all mitigating measures are:
 - Clearly stated;
 - Fully described with accuracy;
 - Assessed for their environmental effects;
 - Assessed for their effectiveness;
 - Their implementation should be fully described;
 - How commitments will be monitored and by whom; and
 - If necessary, how mitigation or compensatory measures relate to any consents or conditions.
5. Please note: 'monitoring', 'mitigation', 'compensation' and are distinct processes.
 - Monitoring measures significant environmental effects;
 - Mitigation avoids or reduces a significant effect; and
 - Compensation is recompense for the loss or reduction of a resource. Compensation should be provided *before* the loss or reduction of a resource.

Responsibility for monitoring, mitigation and compensation should be clearly set out within the ES.

COMMENTS ON SCOPING REPORT AND CONTENT OF ES

Carbon Capture Readiness (CCR)

6. Any application for Section 36 consent for a combustion plant, at or over 300 MW must be accompanied by a Carbon Capture Ready (CCR) Report. Given the location, the consenting authority is liable to pay particular interest to the technical and economic feasibility of transporting the captured carbon dioxide to a proposed storage area. If the consenting authority, having considered this assessment and other available information, concludes that it will not be technically and economically feasible to capture and transport CO₂ from the development in the future, then the proposed development will not be granted consent.
7. I draw your attention to the CCR guidance on the DECC website¹.

Ecology and Nature Conservation

8. It is noted that the development may potentially affect great crested newts, otters and bats which are protected species under the Conservation (natural Habitats, &c.) Regulations 1994 (as amended). Furthermore, the effects of the deposition of NO_x at Chartley Moss SAC and Ramsar site should also be considered, alone and in combination with other plans or projects.
9. For the purposes of any Habitats Regulations Assessment (HRA), it would be helpful to detail distances of designated sites from the proposed project area both in tabular and graphic format within the ES. Also, for the purposes of any HRA, please check with Natural England that up-to-date designated site information (Regulation 33 advice) is available and incorporated within the ES.
10. Consent may only be granted if it can be shown that the development will not have an adverse effect on the integrity of a European Site or Species (Regulation 48(5)). Regulation 48(6) provides that when considering whether the proposed development will adversely affect the integrity of a European Site or Species, the competent authority can take into account measures proposed to mitigate such impacts provided those mitigation measures are *embedded* within the application².
11. With respect to protected species, a Phase 1 Habitat Survey should include any species that occupies adjoining land, but which may use the proposed development site. If the Phase 1 Habitat Survey indicates the

¹ Guidance on Carbon Capture Readiness and Applications under Section 36 of the Electricity Act 1989. Available at

http://decc.gov.uk/en/content/cms/consultations/ccr_consultati/ccr_consultati.aspxhttp://decc.gov.uk/en/content/cms/consultations/ccr_consultati/ccr_consultati.aspx (Accessed 17/09/09)

² 'Dilly Lane' Judgement available at <http://www.bailii.org/ew/cases/EWHC/Admin/2008/1204.html> (Accessed 26/01/09)

need for additional survey work, then we would expect this to be carried out.

Noise

12. Contractors should undertake all outdoor works in accordance with the guidelines provided in BS 5228 (BSI, 1997b) with particular reference to Part 1: Codes of Practice for Basic Information and Procedures for Noise Control.
13. Any proposed methods of noise or vibration attenuation shall be specified for each specific construction activity so as to achieve *Best Environmental Practice*.

Pollution Permitting

14. The consenting authority will require a written indication from the Environment Agency (EA) that the EA can regulate the operational process prior to a section 36 decision being taken. Specifically: atmospheric emissions (i.e. Pollution Prevention and Control Permit) and water abstraction (water abstraction licence).

General

15. DECC has received a number of representations from the local community regarding this proposed development. The purpose of the scoping opinion is to inform a potential developer as what environmental information the Secretary of State would wish to see in the Environmental Statement accompanying any s36 application. If the developer decides to submit a planning application, there will be an opportunity for those interested to make representations about the proposed development, including any objections to it, then.
16. I would also draw your attention to the section 36 and CHP guidance and EIA guidance on the DECC (formerly BERR) website. Links provided below:
<http://www.berr.gov.uk/files/file42017.pdf>
<http://www.berr.gov.uk/files/file35728.pdf>
<http://www.berr.gov.uk/files/file21857.pdf>
<http://www.berr.gov.uk/files/file42053.pdf>
17. I am copying this letter to the consultees listed below for information.

Please do not hesitate to contact me should you have any queries with the opinion expressed above.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Gareth Leigh'.

Gareth Leigh
Head of Onshore Consents

cc: Richard Austen
Amanda Smith
Jackie Giles
Paul Rigby
Rob Duncan
Daniel McCrory
Kate Dewey

Environment Agency
English Heritage
Natural England
Staffordshire CC
Staffordshire Moorlands DC
Staffordshire Moorlands DC
WWT