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Môr Hafren Bio Power Ltd (c/o Agent)

Eich Cyf / Your Ref :

Cardiff County Council

Ein Cyf / Our Ref : DNS/3236340 - Energy
Recovery Facility

Natural Resources Wales

Dyddiad / Date : 18.12.2020

Wentlooge Community Council

Residents Against the CF3 Incinerator

Cadw

Dwr Cymru/Welsh Water

Newport City Council

Marshfield Community Council

Dear Sir/Madam,

Town and Country Planning Act 1990
The Developments of National Significance (Wales) Regulations 2016
Application by: Mor Hafren Biopower
Site: Land off Newlands Road, Cardiff

The appointed Inspector, Alwyn B Nixon BSc (Hons) MRTPI, has asked me to contact you regarding this Development of National Significance (DNS) application. This communication constitutes official notification of important matters related to this DNS application. Please read the following information in its entirety. If anything is unclear, please contact us. This letter should be treated as:

1. Notice under Article 27(7) of the DNS Procedure Order that the Welsh Ministers will accept a proposed variation to the application

2. A formal request for 'further information' under Regulation 24 of the EIA Regulations and under Regulation 15(2) of the DNS Regulations for further information from the parties named in the relevant section

3. Notice under Section 62L(5) of the Town and Country Planning Act 1990 (as amended) of suspension of the determination period

4. Notice under section 319B of the Town & Country Planning Act 1990 (as amended) as to the procedure by which this examination will proceed

1. Notice under Article 27(7) of the DNS Procedure Order that the Welsh Ministers will accept a proposed variation to the application

On 11 December 2020, the Planning Inspectorate received a proposal to vary the application, made under Article 27 of The Developments of National Significance (Procedure) (Wales) Order 2016 ('the 2016 Order'). The proposed variation is to remove from the scheme the re-profiling of an existing ditch and instead maintain its existing profile. The purpose of the variation is to ensure appropriate management of the ditch and to address comments from NRW.

The Inspector has reviewed the proposal and does not consider the proposed variation to be such that there is a substantial change in the nature of the development. The proposed variation as submitted¹ is therefore accepted under Article 27(7) of the 2016 Order. The applicant has 28 days from the date of this letter to formally submit the proposed variation. The submission must be sent to the Planning Inspectorate and the relevant Local Planning Authority (LPA). The Inspectorate is willing to accept the submission electronically only, but the applicant should check submission arrangements with the LPA. The submission must be received no later than **Friday 8 January 2021**.

2. Formal Request for further information under Regulation 24 of the EIA Regulations and Regulation 15(2) of the DNS Regulations from the parties named in the relevant section (see Annex A)

After reviewing the information submitted thus far, the Inspector has determined that further information is required from the applicant. The Inspector has had regard to the email communications dated 7 December 2020 from the applicant suggesting additional information that it wishes to present. The required information is set out in Annex A to this letter and must be submitted no later than **Monday 25 January 2021**. The Inspector may also seek further information at a later date if he decides it is necessary.

The information sought from the applicant will include 'further information' to the Environmental Statement and which is required to inform the hearing sessions detailed in Annex A. We will carry out the necessary publicity on receipt of the requested information which will extend over a period of 5 weeks. During this time we will accept representations which relate to the further information submitted by the applicant in response to the formal request.

The Inspector also wishes to receive further information from Cardiff Council and from NRW, as set out in Annex A.

3. Notice under Section 62L(5) of the Town & Country Planning Act 1990 (as amended) of suspension of the determination period

In line with the published Guidance on the DNS process, the Inspectorate considers it appropriate to suspend the determination of the application to allow time for the submission of additional information as explained in point 3 below and to allow the Inspectorate to undertake a 5 week publicity and consultation period in respect of the

¹ [Notification of Intention to Vary \(01/12/2020\) and accompanying Annotated Figure 6.2](#)

additional information. During this period the Inspectorate will also publicise and undertake any necessary consultation concerning the variation to the application, when received.

I hereby suspend the determination period for this application by a period of 12 weeks, i.e. the determination period will resume on Friday 5 March 2021.

4. Notice under section 319B of the Town & Country Planning Act 1990 (as amended) as to the procedure by which this examination will proceed

The Inspector has now reviewed all duly made representations. After careful consideration he has decided that hearing sessions are required in order to discuss a number of topics as identified in Annex B to this letter.

Under Regulation 21 of the DNS Regulations, and accounting for the 12-week period of suspension hereby confirmed, any hearing sessions should be held no earlier than Friday 12 March 2021 and no later than Friday 30 April 2021. It is presently envisaged that the hearings will be held on 23, 24, 25 and 26 March 2021. However, we will be in contact regarding arrangements for the hearing sessions closer to the time. If you are willing to attend, please make every effort to ensure that the relevant people from your organisation are available for any hearing sessions to which you are invited.

The applicant, local planning authority and NRW are invited to take part in the hearings; it would be very helpful to the Inspector if they did so. Other parties who are invited to attend and participate in the hearing sessions are specified in the Annex. Please note that the hearing sessions are held in public, and any other person may observe proceedings. If anybody who has not been invited to participate wishes to take part in the hearing, they may request that the Inspector allows them to do so. The DNS Regulations make it clear that this is entirely down to the discretion of the appointed Inspector. The Inspector may also decide to invite others to participate when the detailed discussion points are finalised. The Inspector will hold the four topic-specific Hearing sessions as detailed in Annex B. Please note that any other matters which fall to be considered in respect of the application will be dealt with by the Inspector on the basis of written representations.

A note setting out the matters for discussion in more detail will be issued in due course.

In addition to the request for further information, those participating in a Hearing may submit a further representation on the matters the Inspector wishes to discuss. The Applicant, LPA and the respective invited participants may submit hearing statements addressing the relevant topics, including the further information that will have been submitted by the applicant. The hearing statements must not exceed 3000 words. **The hearing statements must be submitted two weeks before the relevant hearing session.**

In addition to any unilateral hearing statements from participating parties, the Inspector encourages continued dialogue between the Applicant and relevant statutory parties, with a view to resolving or narrowing outstanding issues where this is possible. Statements of common ground, which set out succinctly the matters on which the parties are in agreement and crystallize any remaining points of difference, will assist greatly in focussing the subsequent hearing sessions on the key matters in dispute. These should also be provided two weeks before the relevant hearing session.

Should a party decide it is not necessary to submit a statement, and wish to rely on information previously submitted, you should confirm this in writing as soon as possible.

The responses to the Inspector's request for information, and any hearing statements submitted by the parties, will be published to the DNS Portal website:

<https://dns.planninginspectorate.gov.uk/projects/wales/mor-hafren-energy-recovery-facility/?ipcsection=docs>

After conducting the hearings, the Inspector will decide whether he wishes to carry out an accompanied site visit in addition to the unaccompanied visits that he proposes to

undertake. There will be no opportunity to make representations to the Inspector at any accompanied site visit.

Yours sincerely,

Max Thomas

Mr Max Thomas
Case Officer
Swyddog Achos

(Annexes A and B appended below)

ANNEX A: Formal request for further information under:

Regulation 24 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 (as amended); and

Regulation 15(2) of the Developments of National Significance (Wales) Regulations 2016 (as amended) for further information.

This information is requested for the purposes of the hearings to be held into this application and must be submitted **no later than Monday 25 January 2021.**

From Môr Hafren Bio Power Ltd:

1. Impacts of Aerial Emissions: A revised air quality assessment which includes the use of the appropriate and correct nitrogen critical loads; a clear assessment of the effects of the proposal against the 'baseline' and any other relevant projects (assessment of in-combination and cumulative effects); and assessment on ecological receptors using appropriate values, in accordance with the advice provided by NRW in their letter dated 26 November 2020 ("Requirement 1" of that letter refers).

2. Water Quality and Pollution Prevention: Further or revised site layout and site management information that demonstrates an appropriate buffer zone in relation to the watercourse along the western site boundary, the details of which address the watercourse and ecological corridor management and maintenance matters raised by NRW in their letter dated 26 November 2020 ("Requirement 2" of that letter refers).

3. Further Information in Response to Matters Raised in Cardiff Council's Local Impact Report (LIR):
 - i. LIR Section 5.11 (Ecology): Clarification/response to the Cardiff Council Ecologist's comments concerning the submitted Preliminary Ecological Appraisal Report (PEAR) and Ecological Verification Assessment (EVA) in relation to potential impacts on protected species and maintenance/enhancement of biodiversity.
 - ii. LIR Section 5.20-5.5.27 (Air Quality): Further information/response to the matters raised by the Council's Shared Regulatory Services (SRS) (Air Quality) Officer concerning Nitrogen deposition calculations at ecological receptors; cumulative impacts; transport emissions modelling assumptions, methodology and utilisation of available traffic count data.
 - iii. LIR Section 5.35-5.36 (Construction Noise and Vibration): Clarification/response to matters raised by the Council's SRS Officer concerning the greater noise and vibration effects associated with percussive piling; the justification for choosing this as the preferred piling method and evaluation of the practicability of alternative, less intrusive, techniques; and justification for construction activity commencing at 0700 hours rather than 0800 hours.
 - iv. LIR Section 5.50 (SuDS Approval): Further information to demonstrate the potential of the proposal to achieve SuDS Approval Body approval based on the current design layout.
 - v. LIR Section 5.60-5.62 (Trees): Further assessment of the impact on existing trees on the site, together with further information demonstrating the practicability and appropriateness of proposals for new planting and ongoing vegetation management/maintenance.

4. Response to Representations by Residents Against the CF3 Incinerator, Mr J G Cuffe, Friends of the Earth and Mr D Prosser: The applicant's response to the criticisms of the proposal and the associated supporting information in the following objection documents:
 - Residents Against the CF3 Incinerator – A Response to the Môr Hafren Planning Statement Chapter 6
 - Residents Against the CF3 Incinerator – A Response to the Welsh Government policy – Local Ownership of Energy Generation in Wales
 - Residents Against the CF3 Incinerator – A Response to the Môr Hafren Waste Planning Assessment
 - Residents Against the CF3 Incinerator – A Response to the Môr Hafren Air Quality Assessment
 - Residents Against the CF3 Incinerator – An Addendum to the Môr Hafren Air Quality Assessment Response
 - Residents Against the CF3 Incinerator – A Response to the Môr Hafren Health Impact Assessment
 - Residents Against the CF3 Incinerator – A Response to the Môr Hafren Noise and Vibration Assessment
 - Residents Against the CF3 Incinerator – A Response to the Môr Hafren Transport Assessment
 - Residents Against the CF3 Incinerator – Addendum to the Môr Hafren Transport Assessment Response
 - Residents Against the CF3 Incinerator – A Response to the Môr Hafren Landscape and Visual Impact Assessment
 - Residents Against the CF3 Incinerator – A Response to the Môr Hafren EDNA Surveys
 - Objection Letter from Mr J G Cuffe dated 11 November 2020
 - Objection letter (undated) from Friends of the Earth
 - Objection letter from Mr D Prosser dated 26 November 2020
5. Revised CEMP and LEMP: Revised/updated Construction and Environmental Management Plan (CEMP) and Landscape and Ecology Management Plan (LEMP) documents reflecting the additional assessments and information arising from items 1-3 above.
6. Habitats Regulation Assessment Screening Information: A revised European sites Habitats Regulation Assessment Screening report, taking into account the additional air quality and ecological information associated with items 1-3 above.
7. Landscape and Visual Impact Assessment Information: Photomontages illustrating the development proposal as seen from Viewpoints 9; 11; 14; 19.

From Cardiff Council:

Full copies of all policies (together with associated explanatory text) of the Cardiff LDP listed at Section 4.1 of the Local Impact Report and the relevant parts of the Supplementary Planning Guidance documents listed in section 4.2 together with copies of the document title pages showing full title and date of adoption/approval.

From Natural Resources Wales:

A response to the criticisms made in the separate representations by Friends of the Earth (undated) and Mr D Prosser (dated 26 November 2020) of the adequacy of the plume dispersion modelling used for the development proposal and its suitability for use at the proposal location (with reference to observed plume knockdown effects at the nearby Viridor incinerator facility).

Annex B: Topic based hearing sessions and relevant participants

Note: Additional details on aspects of the topics to be discussed may be provided nearer to the date of the event.

Hearing 1: Strategic/Policy Considerations:

- (i) Overarching Waste Strategy/Policy Context.
- (ii) Sustainability considerations – Wellbeing of future generations and environmental, social and economic benefits.
- (iii) Rationale for site location, justification for an ERF and process selection/consideration of alternatives.
- (iv) Transportation impacts and travel considerations.
- (v) Sustainable drainage measures, flood risk and flood consequences.
- (vi) Conformity with the development plan.

Hearing 1 Participants

In accordance with regulation 24, those invited to take part are:

- Môr Hafren Bio Power Ltd
- Cardiff Council
- NRW
- Wentlooge Community Council
- Marshfield Community Council
- Residents Against the CF3 Incinerator

Hearing 2: Effects on sensitive human receptor locations (construction and operational phases):

- (i) Responsibility and scope of Environmental Permitting (EP) regime
- (ii) Air quality and odours (including cumulative impacts).
- (iii) Noise and vibration.
- (iv) Lighting
- (v) Traffic effects.
- (vi) External appearance and visual impact.

Hearing 2 Participants

In accordance with regulation 24, those invited to take part are:

- Môr Hafren Bio Power Ltd
- Cardiff Council
- NRW
- Wentlooge Community Council
- Marshfield Community Council
- Residents Against the CF3 Incinerator

Hearing 3: Ecological Issues:

- (i) Emissions to air
- (ii) Effects on watercourses
- (iii) Impacts on European sites
- (iv) Impacts on Gwent Levels SSSI
- (v) non-statutory designated sites.
- (vi) protected species: bats; dormouse; reptiles.
- (vii) habitat/biodiversity maintenance and enhancement

Hearing 3 Participants

In accordance with regulation 24, those invited to take part are:

- Môr Hafren Bio Power Ltd
- Cardiff Council
- NRW
- Wentlooge Community Council

- Residents Against the CF3 Incinerator

Hearing 4: Conditions, Planning Obligations, Regulatory Mechanisms:

- (i) Recommended conditions.
- (ii) Construction and Environmental Management Plan (CEMP).
- (iii) Landscape and Ecology Management Plan (LEMP).
- (iv) Planning Obligations (if proposed).
- (v) Existence and scope of other Regulatory Controls

Hearing 4 Participants

In accordance with regulation 24, those invited to take part are:

- Môr Hafren Bio Power Ltd
- Cardiff Council
- NRW
- Wentlooge Community Council
- Residents Against the CF3 Incinerator

Yours sincerely,

Max Thomas

Mr Max Thomas
Case Officer
Swyddog Achos