

HEARING SESSION 4

HEARING STATEMENT

Introduction

- 1 Hearing Session 4 will be conducted on Friday 25th March at 10.00 a.m. and will discuss ‘Conditions, Planning Obligations, Regulatory Mechanisms’.
- 2 The initial questions and discussion points surround:
 - Existence and scope of other Regulatory Controls;
 - Recommended conditions;
 - Construction and Environmental Management Plan (CEMP);
 - Landscape and Ecology Management Plan (LEMP), and
 - Planning Obligations.
3. Môr Hafren Bio Power Limited (the Applicant) confirms that the Hearing Session will be led by Planning Agent, Maureen Darrie (Director, GP Planning Limited) on its behalf.
4. Relevant specialists responsible for preparation of the technical input into the assessment of the above impacts will be available to answer specific technical points raised by the Inspector or in response to matters raised by interested parties attending the Hearing Session.
5. This Hearing Statement is submitted in advance of the closing date for further representations in response to additional information submitted by the Applicant on 1st February 2021, the closing date for which is 11th February 2021.
6. At the time of preparing the Hearing Statement no further responses have been received.
7. The Applicant respectfully requests an opportunity to respond to any comments raised in respect of the matters to be raised at this Hearing Session, either in advance or by way of an Opening Statement, subject to the Inspector taking a view that this would be helpful to proceedings.

Existence and scope of other Regulatory Controls

8. Bullet Point 1 is directed at NRW and seeks views on specific matters that would be dealt with under the Environmental Permit, as so should not duplicate planning controls.
9. This matter is also addressed in Hearing Session 2.
10. The Applicant maintains the view that the planning system controls the development and use of land in the public interest. This includes consideration of impacts on both the local environment and amenity.
11. There are a number of matters which are controlled by other regulatory regimes and, in determining planning applications, it is incumbent on the determining authority to assume that these regimes will operate effectively.

12. The planning system should focus on whether or not the development is an acceptable use of the land and the impacts associated with those uses (as set out in detail in the Applicant's application documents).
13. The other regulatory regimes focus on process controls, health and safety and detailed emissions control. For the proposed ERF, these matters will be dealt with through an application for an Environmental Permit, which will be submitted to NRW. The Environmental Permit will provide the required level of protection to the environment and receptors governed by latest emission standards. The permit process and associated emission values limits (through conditions on a permit) are aimed at preventing pollution by limiting emissions to the lowest practicable level. The permit process ensures that emissions to atmosphere and water are all controlled.
14. Based on experience of operating a number of similar plants, and ongoing engagement with regulators, the Applicant is wholly satisfied that an Environmental Permit will be forthcoming and will control the emissions from the ERF at levels commensurate with the conclusions of the technical assessments submitted with the planning application.
15. It is important to note that the purpose of the permitting process is to ensure the best and most stringent environmental controls are applied to the operation of the ERF to ensure that it reaches the standards of Best Available Techniques and Best Practicable Environmental Option. These assessments cannot be carried out in advance of the detailed design of the of the plant. Detailed design means a level of detail appropriate to enable the plant to be built to that specification.
16. It is commonplace for that level of detail to be applied to a proposal post grant of planning permission given the extent of investment (multi £m) required and the need to have relevant contractors and supply chains on board to provide the level of detail required.
17. Notwithstanding the above, this does not undermine the detailed assessment work, particularly on emissions, at the planning stage.
18. NRW is satisfied with the air quality modelling carried out for the planning application and will carry out a more detailed assessment of the Applicant's model and outcomes at the permitting stage.

Conditions

19. Point 2 relates to recommended planning conditions.
20. For ease at the Hearing Sessions, the Applicant has extracted the proposed conditions (Cardiff Council and NRW) and submits those as an Appendix to this Statement (indicating where they are agreed or modifications are required).
21. These are submitted for the benefit of all parties and do not form part of the 3,000 word limit to this Hearing Statement.
22. With the agreement of the Inspectors and other parties, the Applicant suggests that this document is retained as a 'living document' and added to/subtracted from through the Hearing sessions, given that conditions are raised in various agenda.
23. The Applicant is mindful that planning conditions must meet the appropriate tests and assumes that Hearing Session 4 will include a review of all conditions with the tests in mind.

24. For the benefit of other parties, conditions should be:

- Necessary;
- Relevant to planning;
- Relevant to the development to be permitted;
- Enforceable;
- Precise, and
- Reasonable in all other respect.

25. Test 2 is relevant when considering the role of other regulatory regimes. Conditions should be relevant to planning. Where there is a need to impose a condition that is not relevant to planning that should be addressed through the Permitting process as it most likely to be related to operational matters and controls.

CEMP

26. Point 3 of the agenda relates to the Draft CEMP and any changes required as a result of additional evidence submitted.

27. The Applicant submitted an updated Draft CEMP on 1st February 2021 (DOC 86).

28. At time of preparing this Hearing Statement no additional comments/responses have been received. As stated previously, the Applicant respectfully requests an opportunity to address any specific comments raised in advance of the Hearing or by way of an opening statement at the session, if the Inspector would find that helpful to proceedings.

29. Notwithstanding the above, the document remains in Draft and it will be necessary to submit a final document for approval of the LPA.

30. The Applicant proposes that any matters raised during the preceding sessions that are pertinent to the Draft CEMP are noted and discussed in the context of a re-worded Draft Condition at this session.

LEMP

31. Point 4 of the agenda relates to the Draft LEMP and any changes required as a result of additional evidence submitted.

32. The Applicant submitted an updated Draft LEMP on 1st February 2021 (DOC 87).

33. At time of preparing this Hearing Statement no additional comments/responses have been received. As stated previously, the Applicant respectfully requests an opportunity to address any specific comments raised in advance of the Hearing or by way of an opening statement at the session, if the Inspector would find that helpful to proceedings.

34. Notwithstanding the above, the document remains in Draft and it will be necessary to submit a final document for approval of the LPA.

35. The Applicant proposes that any matters raised during the preceding sessions that are pertinent to the Draft LEMP are noted and discussed in the context of a re-worded Draft Condition at this session.

Planning Obligations

36. The final point of this session relates to planning obligations.
37. The Applicant as previously addressed the means by which HGV routeing will be controlled. For ease, this is replicated from Hearing 3 Statement.
38. DOC 73, Technical Appendix 12 Transport Assessment (TA), describes the proposed lorry routeing at paragraph 4.11, page 22. Appendix G of the TA shows the proposed HGV routeing plan and confirms that routeing can be controlled through legal agreement with the suppliers.
39. The Applicant confirms that 'suppliers' will, in fact, be controlled through one supply feedstock contract. The Applicant will ensure that the agreed HGV route forms part of the contractual arrangements with the supplier.
40. This will be enforceable by the Applicant through contractual requirements. The Applicant will also put in place a complaints procedure to ensure that any alleged breaches of the routeing agreement are properly investigated and appropriate action taken.
41. It is commonplace for feedstock suppliers to use local hauliers. The Applicant will operate a Considerate Construction and good Neighbour Policy and will not tolerate actions by suppliers that adversely impact on local residents. Appropriate financial and dismissal policies will be put in place, acted on and recorded.
42. In respect of productive uses of bottom ash residues, the Applicant would accept a planning condition that requires productive uses of bottom ash to be periodically reviewed and reported on throughout the life of the plant to ensure that such material is put into productive use as an alternative material as soon as commercial contracts and appropriate technologies are available.

Maureen Darrie, Director
GP Planning Limited

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