

Meeting Note

Status	FINAL
Author	Robert Ranger

Project Name	Brig Y Cwm Energy From Waste Generating Station
Project Reference	EN010004

Meeting with	Covanta Brig y Cwm Ltd
Meeting date	30 March 2011
Attendees (IPC)	Janet Wilson (Head of Case Management) Mark Wilson (Case Leader) Owain George (Case Officer) Rob Ranger (Case Officer)
Attendees (non IPC)	Anne Dugdale (Planning Manager – Covanta Energy) Julian Boswall (Solicitor – Burges Salmon LLP)
Location	IPC Offices, Temple Quay House

Meeting purpose	Meeting between Covanta Brig Y Cwm Ltd (CE), and their professional team, and the IPC case team to discuss arrangements and venue requirements for the Preliminary Meeting.
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Summary of outcomes	<p>IPC advised on its openness policy, that any advice given will be recorded and placed on the IPC's website under s.51 of the Planning Act 2008 (the Act) and also to note that any advice given under s.51 does not constitute legal advice upon which applicants (or others) can rely.</p> <p>IPC also advised that an Examining Authority for the Brig y Cwm application had not yet been appointed, and that although advice could be given about process officers could not give advice on any matter that was more properly a matter for the Examining Authority.</p> <p>IPC The deadline for registration as an Interested Party has now closed. The IPC has received in the region of 10,000 Relevant Representations. CE is aware of its responsibility to provide a venue for the Preliminary Meeting.</p> <p>The capacity of the Orbit Centre, which had been suggested as a potential venue for the Preliminary</p>
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	<p>Meeting, at 150, is not likely to be adequate.</p> <p>A very shallow review of available venues has been performed. The IPC is aware of only one potentially suitable 1000+ person venue sufficiently local to the proposed development; the Merthyr Tydfil Leisure Centre.</p> <p>CE is aware of the requirement and working to find a venue in consultation with the community. Following a meeting of the Community Liaison Panel, the Leisure Centre was raised as a potential venue for the event by members. Also discussed was the Zoar Hall in Merthyr Tydfil, which has a capacity of 250+.</p> <p>IPC Overcapacity is preferable to under-provision. Thought will also need to be given to the suitability of the venue to accommodate public protests or demonstrations.</p> <p>CE Asked whether or not the venues were likely to be available on the provisional dates.</p> <p>IPC This will need to be investigated. The IPC did not make detailed enquires on availability or price.</p> <p>It is still likely that smaller venues such as the Orbit Centre will be needed for hearings or events during the course of the examination.</p> <p>CE There are many local venues which would also be suitable for smaller events, such as the Fochriw Community Centre.</p> <p>The CLP were keen that events should be held no further away than Merthyr Tydfil and the Rhymney valley. The CLP asked about holding more than one Preliminary Meeting.</p> <p>IPC Holding more than one Preliminary Meeting is not possible. However, multiple events can be held in different locations during the examination if the Examining Authority considers it appropriate. It may also be possible to stream video and audio from the proceedings to a remote location if it is felt to be useful.</p> <p>CE The Orbit Centre is not in easy walking distance of the Leisure Centre, but the Orbit Centre's superior retiring rooms and corporate services could be used by the Examining Authority whilst the event is held at the Leisure Centre.</p> <p>IPC Every effort will be made to properly communicate the function and procedural nature of the Preliminary</p>
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	<p>Meeting, to prevent people from attending with the hope of discussing the merits of the case, which is not possible at a Preliminary Meeting.</p> <p>CE Covanta is re-advertising the CLP. 14 expressions of interest were received when the panel was first constituted, but 5 of that original panel resigned as a gesture of protest. 1 or 2 further members have since been lost from natural wastage. Therefore, adverts were placed in newspapers, (which also ran editorial pieces,) and posters were distributed, which led to 6 further expressions of interest. A 30,000 distribution mailing and extension of the deadline for responses did not generate any further applications.</p> <p>They are aware of a discrepancy between this response rate and the number of Relevant Representations received.</p> <p>IPC Will publish copies of Relevant Representations on our website. There will be a slight delay, but we are hoping to do this in the next few weeks.</p> <p>There is some degree of commonality between representations; many made use of forms that had been first been partially completed by a third party on their behalf, including the body of the representation.</p> <p>CE Is aware that some Local Authorities and others have a policy of affording lesser weight to “pro-forma” representations. Does the IPC have such a policy?</p> <p>IPC No. The weight to be afforded to a representation is for the Examining Authority to decide. However, the process is an examination, and the issues raised will be given weight based on their significance; they will not necessarily be given more weight simply because they have been raised many times. The weight of public opinion is capable of being an issue.</p> <p>CE When representations are published, will representations be grouped into “types”?</p> <p>IPC The representations will be grouped into categories based the person making the representation. (e.g. Member of the Public, Statutory Consultee etc.) Representations will not be treated differently simply because they use the same wording. However, we are happy to make copies of each unique representation body available to all parties if it would be useful.</p> <p>IPC Asked when Covanta hoped to be able to provide a</p>
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	<p>Section 56 certificate, confirming that they had meet their post-acceptance obligation to advertise the project.</p> <p>CE Later today. They are aware that the IPC cannot appoint an Examining Authority until the certificate is received, and are prioritising its completion.</p> <p>How soon after receipt of the certificate will the Examining Authority be appointed?</p> <p>IPC The Chair of the Commission will appoint an Examining Authority, in consultation with commissioners and others. In practice, this does not take very long.</p> <p>A formal letter will be sent to Covanta, and the appointment will be made public.</p> <p>There is a fee due when the Examining Authority is appointed, as set out in the regulations.</p> <p>CE Will make arrangements to pay it.</p> <p>CE Notes that an Air Quality specialist is being sought on the IPC website. Is this a project-specific recruitment exercise?</p> <p>IPC No. The Examining Authority can appoint assessors on specific issues as they feel appropriate, and the IPC retains experts on some topics to serve as assessors if called upon. This is a general appointment.</p> <p>CE Will the identities of assessors be make known? What of specialists retained by the IPC to act as assessors if called upon?</p> <p>IPC If an assessor is appointed then that appointment will be public. Officers present are not aware of the IPC's policy on publishing the identity of those who might be appointed as assessors; they will take the point forward for later response.</p> <p>CE A general point relating to issue specific hearings; if an issue specific hearing is held, how will it be conducted in a practical sense? Custom and practice are not clearly established in way that they are for a planning hearing or local inquiry, for example. When will the question of cross-examination be addressed? Who are the commissioners expecting to answer questions? What level of professional representation will the parties require?</p> <p>IPC Prior agreement will need to be requested in writing from the Examining Authority if cross-examination is to</p>
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take place. Custom and practice relating to the 2008 Act process are still evolving, but we anticipate that hearings will resemble RSS examination hearings most closely. We do not expect that they will be as formal as a local inquiry. Ultimately, the Examining Authority controls the examination.

CE Further issues arise when considering compulsory acquisition hearings. Issues that could be raised in relation to compulsory acquisition are broad, and there could be a reasonable expectation that cross-examination will be available.

This is a general query. Covanta do not anticipate any such complexities with the compulsory acquisition element of the Brig y Cwm examination.

IPC An examination is an inquisitorial process where questions can be asked by the examining authority. The process is principally a written one, and participation in compulsory acquisition hearings is limited to those affected by the compulsory acquisition element of the proposal.

These issues have been discussed internally. It is important to consider at what stage it is appropriate give guidance on a new process.

CE What will the nature of the transitional arrangements for projects that under consideration when the IPC is abolished be? Is there any greater clarity now?

IPC The final form of any Localism Act is not known. The government has made a commitment to put in place transitional arrangements for projects that are under consideration when the IPC is abolished. It is our goal to ensure that there are no delays resulting from the transition between the IPC and its successor organisation, and that any impact on developers or the public is minimised.

There are several forthcoming projects that we anticipate will make use of the transitional arrangements.

There is some information on NPS adoption timetables in a schedule to the Budget.

CV The CLP has members who believe that the Welsh Assembly Government will be seeking devolved authority over the NSIP regime in Wales.

IPC This would require primary legislation. It has been suggested that Welsh Ministers could be made the

	<p>relevant Secretaries of State for applications under the 2008 Act. This is speculation, and the IPC has no view.</p> <p>IPC The Preliminary Meeting is provisionally scheduled to take place on or around the 26 May 2011; subject to the wishes of the Examining Authority, who will ultimately decide when it should be held. As the applicant, Covanta Brig y Cwm is responsible for supplying a venue that the Examining Authority considers to be suitable. The IPC will provide CE with a copy of their venue checklist.</p> <p>How would CE like to handle this from an administrative point of view? The IPC is able to arrange the hire of a venue and recover the cost from Covanta Brig y Cwm if that would be more convenient.</p> <p>CE Has no preference. Happy to identify a venue and book it themselves, or to allow the IPC to make arrangements. Would like to make their own enquires and investigations before suggesting a suitable venue.</p> <p>IPC Would appreciate being advised of which venue is under consideration so that we can visit it, and confirm its suitability. It would be prudent to do this before incurring any cost for its hire. The IPC is required to give Interested Parties a minimum of 21 days notice of the Preliminary Meeting.</p> <p>CE Are there any limitations on the availability of the Examining Authority?</p> <p>IPC No. However, it would be considerate for Interested Parties and others if the time chosen were sociable. Mondays and Fridays are often used for travelling. Although CE can suggest dates based on venue availability, the decision on when to hold the Preliminary Meeting is for the Examining Authority.</p> <p>CE Will recording facilities need to be provided? Will third party recordings be permitted?</p> <p>IPC Audio recording facilities will have to be provided. The applicant is responsible for providing these, but the IPC will control the recording to prevent any suggestion of tampering.</p> <p>Subject to the Examining Authority's control over the event, third party recordings will not normally be permitted. This is because they can have an inhibiting effect on witnesses. The official recording will be published.</p> <p>CE When an Examining Authority is appointed, will it still</p>
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	<p>be appropriate to hold meetings such as this one with the IPC?</p> <p>IPC It will not be possible for any party to hold meetings with the Examining Authority outside the Examination. However, in order for that process to be administered effectively, it is likely to be necessary for the IPC case team to continue to meet with the applicant and others; to arrange hearings, to give advice on the process, and so on. Notes of all meetings will be published, as is our normal practice.</p>
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Specific decisions/follow up required?	<p>IPC will provide CE with a copy of their venue checklist.</p> <p>IPC will take forward CE's queries regarding custom and practice for Issue Specific and Compulsory Acquisition hearings, and will consider whether or not to issue advice.</p> <p>CE will investigate venues for the preliminary meeting, having regard to the increased capacity now likely to be necessary.</p>
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Circulation List	Attendees
	Peter Bond