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Andrew Wooddisse
URS Infrastructure & Environment UK Ltd

By email

Your Ref: 47059238/DCO/AW

Our Ref: EN010046

Date: 7 June 2012

Dear Mr Wooddisse

EN010046 – FIELDES LOCK POWER STATION - Draft Development Consent Order

I write with reference to your letter dated 10 May 2012 and the draft Development Consent Order (DCO) enclosed therein in respect of the proposed Fieldes Lock Power Station Project. In your email you requested our comments on the draft DCO.

We have now considered the documents provided and set out our initial comments on the draft DCO in the attached Annex A.

I hope you find these comments useful at this stage of the process and that they will assist in preparation of further drafts of the DCO. Our comments are entirely without prejudice to any future decisions of the Secretary of State, including the decision under Section 55 of the Planning Act 2008 to accept any application.

Yours sincerely

Chris White

Case Manager
The Planning Inspectorate



Annex A

Fieldes Lock Power Station

PINS comments on preliminary draft DCO submitted on 10 May 2012

NB as this draft is at an early stage these comments are necessarily general and further comments may be made if a more advanced draft is submitted.

NOTE

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required. A record of the advice which is provided will be recorded on the Planning Inspectorate website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our [Information Charter](#) which you should view before sending information to the Planning Inspectorate.

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Page/ provision	Comment
2/A2(1)	"the decision maker" definition is unnecessary since the Localism Act 2011; references should be to the Secretary of State (SoS) throughout
2/A2(1)	"maintain" – the Explanatory Memorandum (EM) should explain why this extended definition of maintain is required. At first sight it appears to enable works to be done that might ordinarily be expected to be require planning permission or further development consent
2/A2(1)	"relevant planning authority" – A8 refers to "relevant planning authorities" – does this definition require modification?
2/A2(1)	"rights of way plan" means the plan certified as the rights <u>of way</u> plan by the Secretary of State for the purposes of this Order
2/A2(1)	The section drawings plan should be separately defined for consistency (similarly to the rights of way plan)
2/A2(1)	"undertaker" – should this definition include reference to A7 (transfer)?
3/A2(6)	...shown in the rights of way plan and land plan – the definitions of these plans imply that there will be only one of each
4/A7	We would expect a more detailed provision, such as that in the Rookery South Order, including the need for prior consent of the Secretary of State. If this is not to be the case, it should be fully justified and explained in the EM.

Page/ provision	Comment
5/A8	This provision raises a number of issues such as the intended period of guarantee, the need for consent to the scale and provider of the guarantee, and the implications of the transfer of benefit provision. The EM should justify and explain the degree to which these matters are being left to the discretion of the relevant planning authorities
7/A12	What is the "implementation plan"? There is no definition in the draft Order
8/A13(6)	The EM should highlight and justify the imposition of a deemed consent provision, which is a departure from the equivalent Model Provision
8/A14(2)	The EM should highlight and justify the imposition of a deemed consent provision, which is a departure from the equivalent Model Provision. Should the reference to 'street authority' be to 'relevant planning authority' for consistency with A14(1)?
9/A16(8)	The EM should highlight and justify the imposition of a deemed consent provision, which is a departure from the equivalent Model Provision
12/A18(6)	The EM should highlight and justify the imposition of a deemed consent provision, which is a departure from the equivalent Model Provision
13/A20(1)	<p>The EM should highlight, explain and justify the phrase "and may use any land so acquired for the purposes authorised by this Order or for any other purposes in connection with or ancillary to the undertaking", which is a departure from the equivalent Model Provision.</p> <p>The EM will also need to justify how the tests in s122 of the Planning Act 2008 are met in relation to land to be compulsorily acquired, whether in relation to the authorised development or the ancillary works (which together make up the 'authorised project' referred to in this Article).</p>
14/A21	The EM should highlight, explain and justify this Article, as it is not a Model Provision. A21(1) Should presumably refer to " <u>Any authorised</u> activity...."
17/A27(4)	The EM should highlight, explain and justify this paragraph, which is a departure from the equivalent Model Provision
20/31(1)(d)	The EM should highlight, explain and justify this paragraph, which is a departure from the equivalent Model Provision
20/31(3)	"...unless and to the extent....of this Order" - The EM should highlight, explain and justify this phrase, which is a departure from the equivalent Model Provision

Page/ provision	Comment
20/31(4)	" or restore the landparagraph (1)(d)" - The EM should highlight, explain and justify this phrase, which is a departure from the equivalent Model Provision
21/31(11)	The EM should highlight, explain and justify this paragraph, which is a departure from the equivalent Model Provision
21(31)(12)	The EM should highlight, explain and justify this paragraph, which is a departure from the equivalent Model Provision. There is no reference to 'maintenance period' in this Article in any event – should this definition be in A32?
22/A34	The EM should highlight, explain and justify this Article, which is a departure from the equivalent Model Provision
27/A42	The EM should highlight, explain and justify this Article, which is a departure from the equivalent Model Provision
29/Sch 1, Part 1	The draft DCO should describe the authorised development in more detail and by reference to a works plan
31/Sch 1. part 2	As it is understood that the Requirements in this part are still under discussion with the relevant planning authorities, we have not looked at these in any detail, but offer only the following comments.
32/R6	" ...plans listed in requirement <u>8</u> , no authorised..."
32/R7	" ...this requirement <u>or</u> requirement <u>6</u> ..."?
32/R8	The approval of details under requirements should generally be the responsibility of the relevant planning authority and not the SoS. This comment applies throughout the requirements.