

APPLICATION DETAILS

No: 19/1313 **Ward:** **LLISWERRY**

Type: **EIA SCOPING**

Expiry Date: **13-FEBRUARY-2020**

Applicant: **SIMEC USKMOUTH POWER LIMITED**

Site: **USKMOUTH POWER STATION, WEST NASH ROAD, NASH, NEWPORT, NP18 2BZ**

Proposal: **EIA SCOPING OPINION FOR CONVERSION OF ELECTRICITY GENERATING STATION TO COMBUST ALTERNATIVE FUEL AND ASSOCIATED DEVELOPMENT AT USKMOUTH POWER STATION, WEST NASH ROAD.**

REMIT: SCOPE OF ENVIRONMENTAL STATEMENT CONSIDERED

1. CONSULTATIONS

1.1 CYFOETH NATURIOL CYMRU / NATURAL RESOURCES WALES:

Ecology

Protected Sites

- 1.1.1 The Scoping Report correctly identifies the internationally and nationally statutorily protected nature conservation sites which are in proximity to the project. The project is sensitively located in this regard.
- 1.1.2 We agree with the identified sites and note the assessment of ecological effects associated with the project will be undertaken in accordance with the Ecological Impact Assessment (EclA) guidelines published by the Chartered Institute of Ecology and Environmental Management (CIEEM, 2019).
- 1.1.3 We note the recommendations in the report under paragraph 5.42 regarding mitigation hierarchy.
- 1.1.4 We note that Air Quality has been scoped in and proposed to have its own chapter in the ES. It is noted that this chapter will assess operational effects (from facility) from the stack and potential fugitive emissions on ecologically designated sites. We agree that Air Quality chapter should assess the construction phase, operational phase (both emissions and traffic).

Habitats Regulations Assessment

- 1.1.5 As the project is likely to affect internationally protected sites, the Habitats Directive (transposed into the Habitat Regulations) puts a duty on the determining authority to carry out specific assessments. The information assembled for an EclA that is relevant to subsequent Habitats Regulations Assessment (HRA) should be presented in a format that can be readily extracted for these other assessments.
- 1.1.6 Guidance on implementing the Habitats Directive is provided by the European Commission in Managing Natura 2000 sites the provisions of Article 6 of the 'Habitats' Directive 92/43/EEC22 and in more detail in The Habitats Regulations Assessment Handbook.

Key Habitats

- 1.1.7 We note and welcome that a Phase I survey of the site has been undertaken. This should accord with the NCC Phase 1 survey guidelines (NCC (1990) Handbook for Phase 1 habitat survey. NCC, Peterborough). It should describe and map the key habitats of the site and

species of particular importance. We advise that Phase 1 surveys are completed during the summer to ensure the best chance of identifying the habitats present.

Protected Species

- 1.1.8 The application site should be comprehensively assessed for its potential to affect protected species. We note that protected species surveys have been underway over 2018/19 for otters, water voles, bats, dormice, great crested newts.
- 1.1.9 Surveys for protected species should be undertaken by suitably qualified, experienced and where necessary, licensed surveyors in accordance with published guidance, where this exists, and best practice.
- 1.1.10 The application site is located adjacent to the River Usk Special Area of Conservation notified for, amongst other things, otters (*Lutra lutra*). We therefore advise that otters are considered in the context of their status as European Protected Species as well as notified features of the adjacent designated sites.
- 1.1.11 The ES should clearly report the results of protected species surveys confirming use of the site by protected species and present a detailed assessment of the likely significant effects of the project on those species. If protected species are likely to be significantly affected by the project, the ES should include a conservation strategy for each of the relevant species which details all the mitigation that will be put in place to offset the anticipated impacts. Protected species conservation strategies should include long-term habitat and species management and monitoring proposals.
- 1.1.12 The presence of nocturnal protected species on or adjacent to the site (e.g. Otters) will necessitate the consideration of the lighting proposals for the project. The ES should set out the lighting proposals and include mitigation where necessary. At this stage, we consider that a retained dark/unlit wildlife corridor(s) consistent with existing protected species movement corridors are needed.
- 1.1.13 We draw the developer's attention to the recent letter from Welsh Government on the need for developments to secure Biodiversity Enhancements (net benefits).
- 1.1.14 Finally, it is good practice for the ES to set out any likely European Protected Species licences to be required.

Hydrology, Hydrogeology and Ground Conditions

- 1.1.15 We agree with the proposed scope of the Flood Consequences Assessment (FCA) set out in section 6. The proposals indicate land use will remain broadly consistent with the current power station with new storage silos located in areas previously used for fuel storage or of minimal size elsewhere which would not result in an increase in flood risk elsewhere (2.37-2.41). The FCA should assess the flood risk to the development and set out any mitigation measures and emergency plans which are required.
- 1.1.16 We recommend that the applicant seeks confirmation from the determining authority regarding the proposed 40 year lifetime of development in terms of assessing flooding consequences. If agreed, climate change scenarios could be considered over this period.
- 1.1.17 We note within chapter 5 and 6 that groundwater and potential for land contamination from historical uses has been covered. We reiterate the use of the following documents to inform the ES:
 - i. Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination.
 - ii. Refer to the Environment Agency's 'Guiding Principles for Land Contamination' for the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, such as human health.

- iii. Refer to the Environment Agency's (2018) 'Approach to Groundwater Protection'

Pollution Prevention

- 1.1.18 We advise at this stage that any measures being proposed from the assessment to avoid and minimise significant environmental effects during construction, such as pollution control measures, should have regard to the relevant Pollution Prevention Guidelines available at www.netregs.org.uk
- 1.1.19 Pollution prevention measures and pollution incident response plans for when the site is operational should also be included (or referred to) in the ES, particularly regarding the delivery and storage of chemicals and fuels. Again, we advise referring to www.netregs.org.uk
- 1.1.20 Given the proposed storage and use of a large quantity of fuel once the site is operational, consideration should be given to the containment of firewater and whether this could be contained on site/within existing drainage, to prevent release to the environment through surface water lines.

General Advice

- 1.1.21 We remind the applicant that evaluation of significant effects of the scheme should include: direct and indirect; secondary; cumulative; short, medium and long term; permanent and temporary; positive and negative, and construction, operation and decommissioning/restoration phase.
- 1.1.22 The entire scheme should be described in detail. This description should cover construction, operation and restoration/decommissioning phases and include detailed, scaled maps and drawings as appropriate. Any maps, drawings and illustrations that are produced to describe the project should be designed such that they can be overlain on maps, drawings and illustrations.

Other Matters

- 1.1.23 Our comments above only relate specifically to matters that are included on our checklist , *Development Planning Advisory Service: Consultation Topics* (September 2018): <https://naturalresources.wales/guidance-and-advice/business-sectors/planning-and-development/our-role-in-planning-and-development/our-role-in-planning-and-development/?lang=en> .
- 1.1.24 Our advice does not rule out the potential for the project to affect other interests, including environmental interests of local importance, or human health. You may wish to consult other bodies for their expert advice on those effects.
- 1.1.25 The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

2. INTERNAL COUNCIL ADVICE

- 2.1 HEAD OF STREETSCENE & CITY SERVICES (HIGHWAYS): The applicant has correctly identified that a Transport Assessment is required as part of any application submission. The scope of the TA should be agreed with the highways authority.
- 2.2 HEAD OF STREETSCENE & CITY SERVICES (ECOLOGY): Thank for consulting me on the EIA scope for the above application. I agree with the proposed approach identified in Chapter 7 with regards to the ecological surveys and methodologies required to inform the EIA. I recommend that the applicant consults with the LPA ecologist when they have identified the Important Ecological Features to ensure that the approach satisfies our requirements.

- 2.3 HEAD OF REGENERATION, INVESTMENT & HOUSING (PLANNING POLICY): Identifies relevant local policy and plan designations and advises on non-planning designations on the site or nearby.

3. REPRESENTATIONS

- 3.1 NASH COMMUNITY COUNCIL: Object.

- 3.1.1 The Operational Logistic Movements contained in the EIA indicate that the removal of Ash & Limestone from the plant will result in 54 HGV movements per day, and all movements are two way, so this will be double. Access for this removal will be via West Nash Road, and Nash Road through Nash village. In addition there will be another 7 HGV movements into and out of the plant per day, making a total of 61 HGV lorries every day in and out of the plant. the Community Council feel that this is totally unacceptable, and the impact on a small village, particularly the residents of Nash Road and West Nash Road will be intolerable. Whilst the conversion to Biomass Pellets will enable the plant to comply with Discharge consents to the atmosphere, rather than burning coal, any benefits to the Environment would be offset by these large HGV movements of lorries.

4. RELEVANT SITE HISTORY

Ref. No.	Description	Decision & Date
18/1016	EIA SCREENING OPINION FOR PROPOSED DEVELOPMENT OF FUEL STORAGE SILOS, CONVEYOR SYSTEMS AND ACCESS TOGETHER WITH CONVERSION OF REPLACEMENT OF EQUIPMENT WITHIN EXISTING BUILDING ENVELOPES TO ENABLE COMBUSTION OR PELLETISED WASTE DERIVED FUEL AND OTHER BIOMASS FUEL AT USKMOUTH B POWER STATION	EIA development

5. ASSESSMENT

- 5.1 The applicant is seeking the Council's scoping opinion under Regulation 14(1) of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017.

- 5.2 The Council has consulted in relation to the scoping opinion sought. The proposed development is:

- Conversion of Uskmouth B coal fired power station to burn non-recyclable waste generating 220Mw of electrical power by 2024;
- The scheme will have a 40 year lifetime;
- Fuel storage silos and conveyors;
- Building to de-dust fuel;
- Rail unloading facility;
- Vessels for the storage of and structures for the delivery of flue gas reagents and residues.

The applicant has provided details of the scale of these buildings which is judged significant even within the industrial context of the site.

- 5.3 It is proposed to deliver the fuel pellets by rail with deliveries of bio-fuel, flue gas reagents and removal of ash to be undertaken by road transport. Anticipated movements are:

Table 2.2 Anticipated logistical movements (both boilers)

Load	Tonnes per annum @ 90% utilisation	Mode	Movements per day ^a
Fuel pellets	1,024,920	Rail	8 (Mon – Fri only)
Biomass	10,249	HGV	3
Ash & Limestone	204,984	HGV	54
FGT reagents	3,352	HGV	2
Other	N/A	HGV	2

^aAll movements are two way.

5.3 The applicant has provided an 'EIA Scoping Report' (December 2013) for the proposed development. That document scopes identifies the following proposed structure for the proposed Environmental Statement:

- Chapter 1 – Introduction
- Chapter 2 – Project Description
- Chapter 3 – Need & Alternatives Considered
- Chapter 4 – Environment Assessment Methodology
- Chapter 5 – Geology, Hydrogeology and Ground Conditions
- Chapter 6 – Hydrology
- Chapter 7 – Ecology
- Chapter 8 – Landscape & Visual
- Chapter 11 – Noise
- Chapter 12 – Air Quality
- Chapter 13 – Climate Change
- Chapter 14 – Population & Health

Within those proposed chapters the following are scoped out:

Table 5.4 Issues Proposed to be Scoped Out of Topic Chapters

Chapter Title	Scoped Out
Chapter 7: Ecology	Species confirmed to be absent by surveys
Chapter 9: Historic Environment	No ASIDOHL2 assessment will be undertaken regarding the proposed development.
Chapter 10: Traffic and Transport	Effects on PRow during construction and operation
Chapter 11: Noise	Construction traffic effects Operational rail movements Vibration effects
Chapter 12: Air Quality	Operational rail movements
Chapter 13: Climate Change	GHG emissions as a result of the production of the waste-derived SFR Resilience to future climate change will be detailed in Chapter 2 and Chapter 6 Change in the baseline as a result of climate change will be considered by each topic (Chapters 5 to 13) individually
Chapter 14: Population and Health	Socio-economic effects Demand on local services, including on healthcare facilities as a result of the construction workforce An assessment relating to electromagnetic fields

- 5.4 Consultees have commented as follows
- Highways: A Transport Assessment is required.
 - Ecology: the proposed layout of Chapter 7(Ecology) is agreed with.
 - CNC/NRW:
 - Ecological Designations in the area have been appropriately identified and that ecological work will be completed to appropriate professional standards.
 - Air Quality; noted that impact on ecological sites will be assessed.
 - Regard should be had to the need for a Habitat Regulations Assessment.
 - Phase 1 Habitat Survey is welcomed and appropriate species surveys should be completed.
 - Lighting should not impact on otters in the river / river bank
 - Schemes should provide ecological net benefit.
 - Agree the proposed scope of the FCA but question the 40 year lifetime
 - Note risk of ground contamination on the site from previous uses.
 - Pollution control will be necessary during construction.
 - General advice on the preparation of an ES.
 - Planning Policy: note relevant local and national Policy.
- 5.5 The applicant seeks to establish a baseline (fallback) position by noting that the power station could still be used to generate power using coal as a fuel. This is predicated on a capping of carbon emissions from such stations likely to bite from 2025 onwards. As noted in discussions any fallback position in relation to the generating potential of the existing plant will need to be very robustly made out to be given any weight in a planning judgement. Any Environmental Statement (ES) will need to clearly explain what generation the existing plant would be allowed under regulatory regimes and whether the plant could realistically meet that allowance in any case. To be given weight a fallback position must be significantly more than theoretically possible.
- 5.6 This baseline is also essential in terms of what is scoped out. In short if reliance is made on what might be done under the current situation when assessing the scale of impacts associated with the development as proposed then there would be a significant under estimation of impact in relation to any aspect of the scheme based on existing operation. In terms of robustness the current impact in relation to the movement of fuel, waste and sundries is nil since the plant is not operating. It follows the wider impact on air quality, noise, vibration and so forth is also nil. As such any baseline needs to be very clearly made out in the ES and there must be a significant note of caution over the scoping out of for example railway noise and vibration on the argument that this could happen anyway and therefore cannot be significant. This is potentially an unsafe assumption in my view and the applicant should exercise care in relation to baselines based on generating potential under coal unless they are very clearly made out.
- 5.7 I agree with CNC/NRW that lighting on the site can potentially have adverse impacts on ecological interests and potentially wider rural character. I consider that any ES should consider the impact of lighting and its potential mitigation.
- 5.8 Overall the Council agrees with the broad thrust of the applicant's methodology in terms of the topic areas to be addressed and the issues that are to be scoped out. However:
- Items to be scoped out on the basis of existing use levels meaning there would be no significant change should be very carefully assessed in order to have confidence that the baseline assessments are correct and the expected change is not significant. This is not currently clear and any argument predicated on this stance will need to be carefully made out. Currently the Council considers that a nil use would be the correct baseline for assessments since any future use of the current site to generate electricity using coal is possible but unlikely and therefore would attract little weight in a planning judgement.
 - Lighting is capable of having a significant ecological and wide impact and should be assessed.
 - Noise and vibration from construction traffic is capable of being significant in the context of the delivery route via Nash Road and this was a significant concern in relation to the construction of the Dong Energy facility adjacent to this site under a permission issued

by the Department of Trade & Industry. These matters should not be scoped out of any Environmental Statement for the proposed development.

6.0 FLOOD CONSEQUENCES ASSESSMENT

6.1 The applicant states that the scheme will be assessed for flooding over a 40 year period. The proposal is not being promoted as a fixed term scheme and the Council would not treat it as such. Any permanent permission would need to be based on 75 year lifetime for flood purposes. The implication of doing otherwise is that the scheme would need to have a fixed life and site restoration conditions and potentially a legal agreement to secure its removal.

7.0 DEVELOPMENT OF NATIONAL SIGNIFICANCE (DNS)

7.1 On its face the scheme is not one of National Significance since not more than 10 megawatts of generating capacity would be added by the proposal to an existing generating station. However the applicant should satisfy themselves on this point prior to submitting an application and ideally address it in any Planning Statement that is submitted. You should further note the Council's concerns over the baseline for this proposal in terms of the generating potential for the existing site. If that is realistically nil then clearly the proposal would be adding well over 10 megawatts of generating capacity or if considered as a new facility then the proposal would provide over 10 megawatts of new capacity. When framed in this context the proposal would be a DNS scheme. You may wish to take legal advice on this point.

8. OTHER CONSIDERATIONS

8.1 *Crime and Disorder Act 1998*

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

8.2 *Equality Act 2010*

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

8.3 Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

8.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

8.5 *Planning (Wales) Act 2015 (Welsh language)*

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

8.6 *Newport's Well-Being Plan 2018-23*

The Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle

to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

9. CONCLUSION

9.1 The Council generally accepts the scope of the proposed Environmental Statement as made out in the submitted documents subject to the reservations and additions noted above. That is:

- Assessments of significance must be based on reliable baselines. Any predicated on posited use levels are not likely to be accepted given the very low probability of coal fired generation resuming.
- The impact of additional lighting should be assessed in terms of ecology and the character and appearance of the site.
- The noise and vibration impact of construction traffic should not be scoped out of any Environmental Statement for the proposed development.
- Flood Consequences should be assessed over a 75 year period.

10. DECISION

SCOPED

NOTE TO APPLICANT

01 This advice relates to the following documents:

- EIA Scoping Report (December 2019)
- Covering Letter (Reference 191223-L-JPW1248-DW-SRCLv0) dated 23 December 2019

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). No policies were relevant to the determination of this application.

03 The proposed scheme has been screened under The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 and found to be EIA development (18/1016).

04 Welsh National Marine Plan: National marine planning policy in the form of the Welsh National Marine Plan (2019) (WNMP) would be of relevance to the determination of this proposal. The primary objective of WNMP is to ensure that the planning system contributes towards the delivery of sustainable development and contributes to the Wales well-being goals. The applicant should address the policies of the Marine Plan in any Planning Statement that might be submitted.
