

Leanne Palmer
The Planning Inspectorate
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Date: 16 January 2017
Your ref: APP/P2935/V/16/3158266
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By email

Dear Ms Palmer

**Town and Country Planning Act 1990
Call-In of Application by H J Banks & Company Ltd
Site at Highthorn, Widdrington, Northumberland, NE61 5EE
APP/P2935/V/16/3158266**

1. Introduction

In this matter, we act on behalf of the Applicant, H J Banks & Company Limited.

We write in response to the correspondence from Friends of the Earth Ltd ("FoE") dated 7 November 2016 regarding the environmental information submitted in support of the application for the Highthorn Surface Coal Mine ("the Project").

It is alleged by FoE that the environmental information relating to the Project is insufficient to constitute an environmental statement. The alleged deficiency is information relating to the greenhouse gas emissions associated with the Project and the climate change impacts of those greenhouse gas emissions.

FoE request that the Secretary of State exercise his powers pursuant to Regulation 22 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 ("the EIA Regulations") to request further environmental information of the Applicant on these matters to remedy this suggested deficiency.

2. Applicant's Response to the Request by Friends of the Earth

On a proper consideration of the circumstances of the Project and a correct application of the EIA Regulations, the submissions of FoE are without basis. It is the Applicant's firm position that the environmental information submitted in support of the Project complies with the requirements of the EIA Regulations and that it is fit for purpose.

A scoping opinion was requested by the Applicant from Northumberland County Council. A Scoping Opinion was duly issued and supplemented by a further opinion on cumulative issues. The County Council is an experienced minerals planning authority and did not consider that such environmental information was required to be included as part of the environmental information.

The Project has now been called in and the Secretary of State will decide the application and must act in accordance with the EIA Regulations. In reaching a conclusion on whether the environmental information is adequate, he will have the benefit of the expert views of relevant statutory consultees such as the Environment Agency, Natural England and The Coal Authority. It is to be noted that there was no request from these consultees for the inclusion of any

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environmental information on greenhouse gas emissions and climate change impacts. The decision of the Secretary of State under the EIA Regulations is a matter for his planning assessment.

FoE describe "the combustion of 3 million tonnes of coal – as is expressly anticipated in the application – is clearly a 'main effect' of this development and is certainly the major part of the greenhouse gases that will be generated and affect the climate". The scope of the Project for which planning permission is sought does not include development at any power stations where the coal extracted from the Project will be burnt. No increase in capacity is sought at any power stations to specifically allow for the burning of coal extracted from the Project: if supplied to a particular power station, it will displace coal sourced from elsewhere.

Further, such power stations will be subject to its own regulatory regime, including the greenhouse gas permit under the Emissions Trading Scheme. On a proper analysis, the submissions by FoE are not a correct analysis of the application of the EIA Regulations to the Project.

3. **Submission of Additional Environmental Information**

In its correspondence, FoE suggest that the preparation of statements of case may need to be delayed pending a substantive response to its request, noting a consequent effect on the scheduling of the inquiry.

It is clear from the preceding section that the Applicant does not consider the allegations made by FoE to be well-founded. However, given the suggestion that the timetable for the inquiry will have to be revised, the Applicant will volunteer additional environmental information, as outlined below, in the interests of expediency.

It is reiterated on behalf of the Applicant that it does not consider this information necessary for the Applicant's environmental information to be considered sufficient in terms of the EIA Regulations.

The additional environmental information on the greenhouse gas emissions and climate change impacts associated with the Projects will encompass the following:

- 3.1 Greenhouse gas emissions arising directly from activities undertaken on the Project site;
- 3.2 Greenhouse gas emissions arising from the transport of coal extracted at the Project site;
- 3.3 Greenhouse gas emissions arising from the burning of the coal extracted from the Project, to include an indicative comparison with emissions from coal obtained from reasonable alternative sources; and
- 3.4 The climate change impacts of the above.

In addition to the above information, our client will be submitting updated ecological information and cumulative information.

The Applicant has undertaken updated bat surveys in accordance with "The New Bat Surveys for Professional Ecologists: Good Practice Guidelines" (3rd edition, Bat Conservation Trust, 2016) to incorporate inspections of trees with the use of an endoscope. These inspections have been undertaken and the results provided to ensure the currency of available environmental information which takes into account updated survey guidance.

There has also been a change in the schemes which formerly comprised the cumulative baseline and the environmental information on cumulative impacts has been updated accordingly.

The updated ecological and cumulative information will clearly set out how it is to be read in conjunction with the existing environmental information.

4. **Publicity**

The additional and updated environmental information in relation to the Project will be completed for submission and circulation by 10 March 2017.

The additional and updated environmental information will be circulated as follows:

- Submitted to the Planning Inspectorate, with an additional copy for the Secretary of State;
- Circulated to statutory consultees and other interested parties; and
- Placed on deposit at the Council for viewing by the public.

Notwithstanding the fact that this information is being submitted on a voluntary basis, the Applicant proposes to publicly advertise the availability of the additional and updated information in accordance with the EIA Regulations, as if the information had been the subject of a formal Regulation 22 request.

The availability of the information will be publicly advertised in accordance with the EIA Regulations. We will write to those members of the public who were consulted on the Project and those who formally commented on the application to advise of the availability of the information. Prior to the placement of public notices, we will make arrangements with the Inspectorate regarding the handling of responses to consultation.

It is considered that this is ample time for the parties to review and consider the additional and updated environmental information within the confines of the existing inquiry timetable. It is further considered that this deadline will allow the Applicant sufficient time to review and respond as may be necessary to any responses to the consultation from members of the public.

This letter has been copied to the local planning authority, Northumberland County Council and the two Rule 6 parties, Friends of the Earth and Save Druridge.

Unless the Inspector has any queries in relation to this matter that he wishes to raise at the forthcoming Pre-Inquiry Meeting scheduled for January 18, we would be grateful for confirmation that the timeframe and proposed process set out above is acceptable.

Yours sincerely



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Eversheds LLP

Cc: Peter Bracken
Solicitor
Northumberland County Council

William Rundle
Legal Adviser
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