PEEL ENVIRONMENTAL MANAGEMENT (UK) LTD AND BILSTHORPE WASTE LTD

BILSTHORPE ENERGY CENTRE

PUBLIC INQUIRY UNDER SECTION 77 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) INTO THE PROPOSED DEVELOPMENT OF AN ENERGY FROM WASTE FACILITY ON LAND AT BILSTHORPE BUSINESS PARK, BILSTHORPE, NOTTINGHAMSHIRE

PINS REFERENCE: APP/L3055/V/14/3007886
LPA REFERENCE: ES/2950

COMMUNITY INFRASTRUCTURE LEVY REGULATIONS 2010 (AS AMENDED)

SECTION 106 AGREEMENT
STATEMENT OF COMPLIANCE WITH CIL REGULATIONS

October 2015

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1. Introduction

1.1 This Statement relates to the Public Inquiry (convened under Section 77 of the Town and Country Planning Act 1990) arising from the Secretary of State's decision to call-in the planning application for the Bilsthorpe Energy Centre (Application Reference No: ES/2950: & PINS Reference No: APP/L3055/V/14/3007886). It has been jointly prepared by the Applicants and Nottingham County Council, and outlines the manner in which each of the proposed obligations comprised in the Section 106 Agreement would comply with the tests set down in Section 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) ("the Regulations").

1.2 Section 122 of the Regulations states that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

a) Necessary to make the development acceptable in planning terms;

b) Directly related to the development; and

c) Fairly and reasonably related in scale and kind to the development.

1.3 Nottinghamshire County Council is the waste planning authority in respect of this application. The County Council is not a 'charging authority' for the purposes of the Regulations and currently does not have an adopted CIL Charging Schedule. Newark and Sherwood District Council adopted a CIL Charging Schedule on 1 December 2011, although new waste infrastructure is not identified within this schedule as a category of development which attracts a levy. Furthermore, in the Sherwood area (within which the proposed development would be sited) no levy is sought for either Industrial (B1b/B1c/B2/B8) nor Sui Generis development.

1.4 This Statement therefore considers compliance in respect of each of the obligations comprising the obligations to the County Council proposed in the Section 106 Agreement agreed between the Applicants and the County Council. The obligations are considered in the order as set down in the First Schedule of the Section 106 Agreement.

2. Planning Obligation Compliance Schedule

2.1 Ecological Mitigation Works

2.1.1 Relevant Policies:

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a) Newark & Sherwood Allocations and Development Management Development Plan Document (July 2013) policies DM4, DM5;

b) Newark & Sherwood Core Strategy Development Plan Document (March 2011), Core Policy 12;

c) Nottinghamshire and Nottingham Waste Local Plan (January 2002) policies W3.22, W3.23;

d) Nottinghamshire and Nottingham Waste Core Strategy (December 2013), policy WCS13, strategic objective S02

2.1.2 The application site is located within the Bilsthorpe Colliery Local Wildlife Site, and the current disposition of habitats on the site is consistent with 'Open Mosaic' priority habitat as listed in section 41 of the Natural Environment and Rural Communities Act 2006. Environmental Impact Assessments and ecological surveys undertaken in respect of the proposed development indicate that the impacts of the scheme (in combination with other planned developments at Bilsthorpe Business Park) would cause loss of habitat for wading birds, and potentially lead to their displacement. A Wader Mitigation Plan has therefore been prepared by the Applicant to mitigate for this loss, and which makes provision for new habitat for wading birds on land immediately to the north of the application site.

2.1.3 The proposed Wader Mitigation Plan has been updated to reflect the findings of habitat and breeding bird surveys undertaken in 2015. The Section 106 Agreement requires the Wader Mitigation Plan to be implemented to the Council's satisfaction prior to commencement of the development, with ongoing monitoring of any likely adverse effects on ground nesting waders as a consequence of the Development in accordance with the Plan.

2.1.4 Paragraph 7 of the National Planning Policy Framework recognises that improvements to biodiversity contribute to the protection and enhancement of our natural environment, and contribute to the environmental dimension of sustainable development. Paragraph 118 further states that decision-makers should aim to conserve and enhance biodiversity by avoiding, mitigating, and compensating for any significant harm to biodiversity resulting from a proposed development. In addition to the local planning policies referred to above, the ecological mitigation obligation secured in the Section 106 Agreement is consistent with these aims.

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2.2 Payment of £16,000.00 Heritage Interpretation Scheme Contribution. To be paid in accordance with the provisions of paragraph 2 of the First Schedule to the S.106 Agreement

2.2.1 Relevant Policies:

a) Newark & Sherwood Allocations and Development Management Development Plan Document (July 2013) policies DM4, DM5, DM9;

b) Newark & Sherwood Core Strategy Development Plan Document (March 2011), Core Policy 14;

c) Nottinghamshire and Nottingham Waste Local Plan (January 2002) policies W3.28;

d) Nottinghamshire and Nottingham Waste Core Strategy (December 2013), policy WCS13, strategic objective S02.

2.2.2 As noted in paragraph 3.2 of the 'Statement of Common Ground 1 – Supplement' document agreed between the County Council and the Applicants dated September 2015 and within the Proof of Evidence of Mr Robert Sutton, the Applicants consider that the proposed development would in no way harm the heritage significance of any designated or non-designated heritage asset. The County Council considers that some cumulative impacts may result from the development in conjunction with the nearby wind turbines and specifically in terms of the vistoes across the 18th century historic parkland setting of Rufford Abbey, although the County Council accepts that any such impacts would be 'less than substantial' in significance.

2.2.3 The County Council is of the view that a heritage interpretation scheme of this heritage asset would be necessary to off-set any minor adverse impacts to these vistoes that is caused by the proposed development. Should the Inspector / Secretary of State find merit in the position presented by NCC, the Section 106 Agreement provides a financial contribution to be paid toward meeting the costs of providing such a heritage interpretation scheme. Both parties are satisfied that the total amount of the contribution is reasonable in scale and kind to the proposed development should such a heritage interpretation scheme be required to be implemented. Clause 3.22 of the Section 106 Agreement provides a mechanism by which the Heritage Interpretation Scheme Contribution will cease to have effect should the Inspector / Secretary of State

support the Applicants position that the proposed development would in not harm the heritage significance of any designated or non-designated heritage asset.

2.3 Implementation of an agreed Travel Plan and HGV Routing Strategy

2.3.1 Relevant Policies:

a) Newark & Sherwood Core Strategy Development Plan Document (March 2011), Spatial Policy 7;

b) Nottinghamshire and Nottingham Waste Local Plan (January 2002) policies W3.14, W3.15;

c) Nottinghamshire and Nottingham Waste Core Strategy (December 2013), policies WCS11, WCS13

2.3.2 The call-in application is supported by a Traffic Assessment document, which incorporates a quantified assessment of the traffic that would be generated by the proposed development, and which reviews existing network capacity. Policies W3.14 and W3.15 of the Nottinghamshire and Nottingham Waste Local Plan encourage the use of planning obligations to secure highway improvements, and ensure that delivery traffic associated with waste facilities follow acceptable routes in order to prevent disturbance to local communities. Paragraph 36 of the National Planning Policy Framework further encourages the production of Travel Plans for new developments in seeking to promote sustainable transportation.

2.3.3 The Section 106 Agreement therefore makes provides for a number of operational measures to assist in managing development traffic demand. Specifically, the Section 106 Agreement requires the Applicants to use all reasonable endeavours to implement and comply with a Travel Plan, which includes measures to encourage the use of sustainable transport modes for staff and visitors where practical. The Travel Plan also incorporates a HGV Routing Strategy, which limits operational HGV movements to the signed advisory lorry route already serving the Bilsthorpe Business Park site (via Eakring Road (N), Deerdale Lane and connection to the A614). Such a routeing strategy is proposed to be secured so as prevent HGV's associated with the proposed development from impacting on sensitive routes within the local settlements of Bilsthorpe & Eakring. The Section 106 Agreement requires that the Travel Plan be subject to ongoing review, with any reasonable recommendations made by the Council able to be adopted following such reviews as appropriate.

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2.3.4 The County Council and the Applicants are satisfied that the implementation of the Travel Plan and HGV Routing Strategy are necessary to make the proposed development acceptable in planning terms in preserving the amenity of residents in Eakring. The obligations relating to the Travel Plan are directly related to the proposed development, and are fairly and reasonably related in scale and kind to the proposed scheme.

Signed: …… Date: ……
Name: ……
Position: ……
On behalf of Nottinghamshire County Council

Signed: ……Date: ……
Name: ……
Position: ……
On behalf of Peel Environmental Management (UK) Ltd. and Bilsthorpe Waste Ltd.

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