Adran yr Amgylchedd, Cynaliadwyedd a Thai
Department for Environment, Sustainability and Housing

Llywodraeth Cynulliad Cymru
Welsh Assembly Government

[redacted]
The Vale of Glamorgan Council
Dock Office,
Barry Docks,
Barry CF63 4RT

Eich cyf : Your ref: 2008/01203/FUL
Ein cyf : Our ref : A-PP172-51-qA786890
Dyddiad : Date: 23 December 2009

Dear Sir,

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) (ENGLAND AND WALES) REGULATIONS 1999 (AS AMENDED)
APPEAL BY SUNRISE RENEWABLES LTD
PROPOSED 9MW WOOD FUELLED RENEWABLE ENERGY PLANT ON LAND AT WOODHAM ROAD, BARRY, VALE OF GLAMORGAN

1. I refer to the above appeal against the refusal of the Vale of Glamorgan Council to grant planning permission for the development the subject of application reference number 2008/01203/FUL. As part of the appeal process the Planning Inspectorate has sought the opinion of the Welsh Assembly Government's Planning Division as to whether Environmental Impact Assessment (EIA) of the appeal is required under the above Regulations.

2. When the application the subject of the appeal was before the Council the Welsh Ministers were requested to issue a screening direction indicating that the proposed development should be subject to EIA. On 9 July 2009 the Welsh Ministers issued a screening direction indicating that, while the proposed development was considered to fall within the description contained in paragraph 10 of Schedule 1 to the 1999 Regulations, on assessment of the likely environmental effects of the proposed development, EIA was not required.

3. Although the Welsh Ministers directed that EIA was not required, now that the proposed development is before them on appeal they have to consider the issue of EIA afresh. In that respect, I am authorised by the Minister for Environment, Sustainability and Housing to determine whether the proposed development is EIA development.

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4. The development proposed is the "*Erection of new industrial building and installation of 9MW fuelled renewable energy plant at Land at Woodham Road, Barry*". In the direction of 9 July 2009 the view was expressed that that development fell within the description of paragraph 10 of Schedule 1 to the 1999 Regulations. Further consideration has been given to this issue and the conclusion has been reached that the description contained in paragraph 11(b) of Schedule 2 to the 1999 Regulations would be more appropriate to the proposed development. This conclusion has been reached in the light of there being no definition of incineration in the EIA Directive or the Waste Framework Directive; whether incineration includes treatments such as pyrolysis or gasification for the purposes of the EIA Directive is not settled and it being arguable in this case whether the incineration involved in this process is the incineration of the wood or the incineration of the gas.

5. As indicated in the direction of 9 July 2009, the principal consideration here is the general objective of the EIA Directive, namely that projects likely to have significant effects on the environment should be made subject to an assessment of their effects.

6. With that in mind we have consulted Environment Agency Wales on the need for the proposed development to be subject to EIA and their advice is as follows:-

> "It is our opinion that Environmental Impact Assessment (EIA) is not required in this instance. We do not consider the proposal to be in a sensitive area, and we do not expect significant environmental impacts from the proposed process. This decision is based upon the specific issues we've addressed within our remit."

7. Having considered the papers before me, the advice from Environment Agency Wales and the criteria in Schedule 3 to the 1999 Regulations I do not consider that the development would be likely to have significant effects on the environment by virtue of factors such as its nature, size or location.

8. Accordingly, in exercise of the authority referred to in paragraph 3 above and the powers provided by regulations 9(1) and 6(4) of the 1999 Regulations, I hereby direct that the development in respect of which approval was sought by application reference number 2008/01203/FUL is not EIA development.

9. Under Regulation 20(1) of the 1999 Regulations you should take steps to secure that this screening direction is placed on Part 1 of the Planning Register in relation to the application in question. I would be grateful if you could do so to ensure that the Welsh Ministers' view is publicly available.

10. This letter has been copied to [redacted] of Sedgwick Associates and the planning Inspectorate.

Yours faithfully,

[redacted]

Deputy Head
Decision Branch
Planning Division

Signed under authority of the
Minister for Environment, Sustainability and Housing,
one of the Welsh Ministers