

FAO John McClean  
Senior Permitting Officer  
Environment Agency  
Trentside  
Scarrington Road  
West Bridgford  
Nottingham  
NG2 5BR

Our Ref: GB/LD/1032

Your Ref:

Email: g.bright@banksidecommercial.com

24 April 2020

By Email: [john.mcclean@environment-agency.gov.uk](mailto:john.mcclean@environment-agency.gov.uk)

Dear Mr McClean,

**Re Application Number: EPR/EB3207LH/V005**

I refer to your telephone conversation on Monday 20<sup>th</sup> April 2020 with Clare Boles ECL regarding the ongoing determination of Eco Power's Environmental permit variation application.

I understand Ms Boles has spoken to David Barnard who has in turn spoken with Eco Power's Director, Lee Jepson as regards attending an online meeting as requested by you. Ms Boles will confirm via separate email correspondence direct to you that subject to our client's reservation of rights intimated in our letter dated 6<sup>th</sup> April 2020 that David Barnard, Eco Power and ECL personnel accept your invitation to attend the Skype or Webinar meeting.

Their attendance at the meeting is on this basis and in particular in respect of our client's right to challenge the lawful and therefore reasonable and proportionate exercise of the Environment Agency's (EA's) power to require further information for the purpose of determining the present permit application before you.

I am instructed that during the said telephone conversation on Monday 20<sup>th</sup> April 2020 and previous conversations between you and Ms Boles, it has been made clear the EA have significant concerns and issues with regards to the information that has been supplied to date in the permit application. We stress that we do not accept that the EA's concerns are either reasonable or proportionate given inter-alia the refined nature of the application and the information produced in satisfaction of the EA's information requests to date. It has also been noted by the EA there will be significant costs incurred with continuing with the determination of the application as a result of the production of a second Schedule 5 Notice, if one were indeed to be issued by the EA. Such significant costs are noted and will be relevant when assessing reasonableness and proportionality of the exercise of the EA's power.

I am further instructed that the EA consider that a second Schedule 5 Notice will be needed given the changes that have been proposed in the responses to the first Schedule 5 Notice. Again, we do not accept that the reduction of the number of waste types that may be accepted from 203 to 5 can reasonably be seen to be a fundamental change to the variation application or that the same has any further environmental consequences beyond what is already permitted at this facility and/or to the extent that the same may reasonably or proportionately justify a further information request. Indeed, I am instructed by Ms Boles that in 30 years working in the Environmental industry for the Environmental Agency and then as consultant she has never, on other waste facilities of this scale and type experienced the level of information request that has been made on this case.

I re-iterate the sentiment expressed by firm's letter dated 6<sup>th</sup> April 2020 namely that it is reasonable to be provided with any request for further information request in advance of the proposed meeting so that we and Mr Rhodri-Price QC may be advise as to the reasonableness and lawfulness of that request. To the extent that you maintain your refusal our position is again reserved.

To the extent that the EA refuse and the meeting proceeds subject to the above, in order to ensure as productive meeting as possible, it will be requested by Clare Boles that you outline the reasons why a meeting is proposed and for the EA to produce an agenda for the meeting to enable the parties an opportunity to digest and review matters.

We look forward to hearing from you.

Your faithfully,

A handwritten signature in cursive script that reads "Bankside".

**Bankside Commercial**