

6 February 2017

Delivered by email

Rob Murfin
Head of Planning Services
Economy, Transport and Communities
Derbyshire County Council
Shand House,
Dale Road South,
Matlock
Derbyshire
DE4 3RY

Dear Mr Murfin

Application to Drill a Vertical Core Well at Land Adjacent to Bramley Moor Lane, near Marsh Lane, Eckington

Request for Screening Opinion under Regulation 5 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2015, as amended

In relation to the above, at our meeting on 23rd January you asked Tom Pickering of INEOS Upstream Ltd to explain why they have not elected to undertake an Environmental Impact Assessment (EIA) on a voluntary basis.

Particularly as we understand this matter has since been directly referred to by Councillor Brian Ridgway at a meeting of Eckington Parish Council and is attracting press attention, we felt it important to explain and reiterate the position that INEOS Upstream Ltd is taking in this regard.

As you will appreciate, the EIA Regulations provide the statutory basis for evaluating what represents 'EIA Development'. Within those Regulations, there are project categories defined where EIA is required in all cases (Schedule 1) and project categories defined where EIA may be required but, guided by thresholds set out within the Regulations, a determination is to be made as to whether the project is likely to have significant effects on the environment (Schedule 2). Only if it is determined that such significant effects are likely, will such Schedule 2 projects constitute EIA Development.

The Regulations specifically provide for a procedure to determine, at an early stage in the process, whether the decision maker (the Local Authority or Secretary of State) regards the project to be within either Schedule 1 or 2 and whether it is deemed likely to have significant effects on the environment. This 'screening' process is therefore provided for within statute and widely applied. A Screening Opinion can be requested from the Local Authority and/or a Screening Direction can be sought from the Secretary of State

The Regulations do provide the ability for EIA to be undertaken on a voluntary basis, where the project promoter accepts, without proceeding through formal 'screening', that the project is Schedule 1 or

1 New York Street
Manchester
M1 4HD

T 0161 233 7676 turley.co.uk

Schedule 2 and likely to cause significant effects. As a consequence of the voluntary submission of an Environmental Statement, the project is regarded as EIA Development. That is the promoter's choice, a choice afforded by the Regulations, but it does not convey any expectation that promoters should proceed without utilising the 'screening' process that is expressly provided for.

In this particular case, INEOS Upstream Ltd has acknowledged that the proposed development (drilling of a vertical core well) may reasonably fall within categories listed within Schedule 2, but with regard to the Regulations and associated guidance, the specific proposal, the characteristics of the site and its surroundings, and relevant and sufficient environmental information, is of the view that the project is unlikely to have significant effects on the environment. INEOS Upstream Ltd does not therefore consider the project represents EIA Development. However, in making a formal 'screening' request in accordance with the Regulations, it has asked the Local Authority to consider and determine this. Such a determination should make clear the Local Authority's formal Opinion on whether the proposal constitutes EIA Development, and the reasons for reaching that conclusion. It should not consider the promoter's decision not to have undertaken EIA on a voluntary basis; this should have no bearing upon the Screening Opinion

As INEOS Upstream Ltd does not regard the project to represent EIA Development, it would not be consistent for them to undertake EIA on a voluntary basis. It would be undertaking a process and preparing documentation that it considers, based on the Regulations, to be unnecessary. It is entirely appropriate for INEOS Upstream Ltd to apply the Regulations and seek a determination from the Local Authority, or if needs be, a Screening Direction from the Secretary of State.. This is not in any way seeking to circumvent due process, rather it is the appropriate use of the legislation that is expressly intended to identify those projects that necessitate EIA and those that do not.

We trust this explains INEOS Upstream Ltd's position in light of the questions that were raised and we look forward to receiving the Local Authority's Screening Opinion in due course.

Kind regards,



Stephen Bell
Senior Director, Head of Planning North

stephen.bell@turley.co.uk