

Planning Casework Unit
4th Floor
23 Stephenson Street
Birmingham
B2 4BH
pcu@communities.gov.uk

Request for Screening Direction – EIA Screening Opinion PA26/01620 (Penhallow Geothermal Development)**Request for Screening Direction – EIA Screening Opinion PA26/01620 (Penhallow Geothermal Development)**

To: The Secretary of State
(For the attention of the National Planning Casework Unit)

Dear Sir or Madam,

Re: Request for Screening Direction under Regulation 6 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017
Application Reference: PA26/01620 – Proposed Geothermal Development at Penhallow, Cornwall (TR4 9LT)

I am writing on behalf of residents of Penhallow and Callestick, Cornwall, to formally request that the Secretary of State exercises their powers under Regulation 6 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (“the EIA Regulations”) to issue a Screening Direction in relation to the above development.

Cornwall Council, acting as the Local Planning Authority, has issued a screening opinion under Regulation 5 determining that the proposed development does not constitute EIA development. (*Appendix 1*)

Residents strongly disagree with this conclusion and respectfully request that this decision be reviewed and overturned.

1. Nature and Scale of the Development

The proposal falls within Schedule 2, Section 3(a) of the EIA Regulations (energy industry), and Schedule 2, Section 2 of the EIA regulations (*Appendix 2*) and involves:

- Drilling of two deep geothermal wells to approximately 4.5 kilometres

- Continuous 24-hour drilling operations for up to nine months
- A drilling rig of approximately 55 metres in height
- Construction of lagoons and associated infrastructure
- Long-term geothermal power generation facilities
- A site area of approximately 2.8 hectares

Under Regulation 2(1), development is “EIA development” where it is likely to have significant effects on the environment by virtue of its nature, size, or location. Residents submit that this threshold is clearly met. (*Appendix 2*)

2. Environmental Risks and Schedule 3 Criteria

In determining whether Schedule 2 development requires EIA, the decision-maker must have regard to the selection criteria in Schedule 3 (as required by Regulation 5(4)).

Relevant Schedule 3 criteria (*Appendix 3*) includes:

(a) Characteristics of development

- Size and design of the whole development
- Use of natural resources
- Production of waste
- Pollution and nuisances
- Risk of major accidents and disasters

Deep geothermal drilling presents recognised risks including:

- Induced seismicity
- Groundwater contamination pathways
- Subsurface pressure changes
- Drilling waste management
- Long-term well integrity risks

The proposed development clearly meets the criteria under Schedule 3, which should trigger a EIA.

(b) Location of development

- Environmental sensitivity of geographical areas
- Existing land use

- Absorption capacity of the natural environment

The site lies within an area identified by Cornwall Council as having a “High” risk of surface water flooding (*Appendix 4*), with hydrological connectivity to Perranporth Beach. Any runoff from the site risks entering the adjoining stream that flows out onto the middle of Perranporth Beach about two miles away. Families play in and around this stream so any toxic waste entering the water course could have serious implications for public health.

Again, the proposed development clearly meets the criteria under Schedule 3, which should trigger a EIA.

(c) Type and characteristics of potential impact

- Extent and spatial impact
- Magnitude and complexity
- Probability of impacts
- Duration and reversibility

The potential for contamination pathways to coastal waters demonstrates that impacts may extend well beyond the site boundary.

It appears clear, that an Environmental Impact Assessment should be carried out for this development.

3. Failure to Apply the Precautionary Principle

The EIA Directive (2011/92/EU as amended by 2014/52/EU), which the Regulations implement, is underpinned by the precautionary principle (*Appendix 5*).

The courts have consistently confirmed that where there is uncertainty as to the likelihood of significant environmental effects, EIA should be required.

In *R (on the application of Loader) v Rother District Council* [2016] EWCA Civ 795, the Court of Appeal confirmed that where there is doubt, the decision-maker should err on the side of requiring EIA.

Similarly, in *R (Bateman) v South Cambridgeshire DC* [2011] EWCA Civ 157, it was held that the screening process must properly assess the likelihood of significant environmental effects and not rely on bare assertions.

In this case, the applicant’s screening request (*Appendix 6*) relies largely on unsubstantiated assertions that impacts are unlikely, rather than robust, evidence-based assessment.

4. Natural England Advice

Natural England, a statutory consultee under Regulation 18, has advised that the proposed development:

- Has potential to result in significant effects on multiple SSSIs and SACs
- Requires further consideration under Schedule 3
- May require an Environmental Impact Assessment (*Appendix 7*)

This advice is highly material and should carry significant weight. The decision to conclude that EIA is not required appears inconsistent with this expert statutory advice.

5. Inadequate Reasoning and Duty to Give Reasons

Under Regulation 5(6), a screening opinion must state the main reasons for the conclusion reached, with reference to the relevant Schedule 3 criteria.

Case law, including *R (Morge) v Hampshire County Council* [2011] UKSC 2, emphasises the importance of properly reasoned environmental decision-making.

Residents are concerned that the screening opinion does not adequately demonstrate how the Schedule 3 criteria have been applied to the specific risks of deep geothermal drilling.

6. Governance, Conflict of Interest, and Public Law Duties

Cornwall Council acts as:

- Landowner (*Appendix 8*)
- Commercial partner (*Appendix 9*)
- Local Planning Authority

This raises serious concerns in relation to:

- Apparent bias (*Porter v Magill* [2001] UKHL 67)
- The requirement for decisions to be lawful, rational, and procedurally fair

Local authorities are also bound by:

- Fiduciary duties to taxpayers
- Best Value duty under Section 3 of the Local Government Act 1999
- Public law duties to act reasonably and take into account all material considerations

Given these overlapping roles, the absence of a full EIA significantly increases the risk of unlawful or inadequately informed decision-making.

This is of particular concern given Cornwall Council has made allowances for Geothermal Energy Ltd to breach previous planning conditions on this site with impunity. (*Appendix 17*)

Local residents raised concerns to Cornwall Council about these issues – Cornwall Council's response has been to ignore local residents concerns, and they have refused to engage with the community (*Appendix 19a&b*)

The Local Parish Council has also tried to engage with Cornwall Council, Cornwall Council in return has been obstructive to a Freedom of Information request (*Appendix 18a*). which has resulted in the Parish Council having to incur legal costs to challenge Cornwall Council's inadequate response to the FOI (*Appendix 18b*).

7. Environmental Liability and Risk

The lack of a comprehensive regulatory framework for geothermal drilling raises issues under:

- The Environmental Damage (Prevention and Remediation) Regulations 2015
- General principles of environmental liability

In the event of environmental harm, liability may fall to the landowner—Cornwall Council—exposing public funds to risk. (*Appendix 10*).

This is of greater concern, given that the applicant 'Geothermal Energy Ltd' is a company under foreign control, recourse for compensation in the event of an environmental breach may be impossible (*Appendix 11a shows the Ownership Structure of Geothermal Engineering Ltd (GEL), and Appendix 11b is their articles of association in full*). This is also alarming given the 'Polluter pays' principle under the Environmental principles policy statement (*Appendix 5*).

This reinforces the need for full environmental assessment prior to determination.

8. Material inaccuracies and omissions in the screening request (Wardell Armstong)

Residents wish to draw the Secretary of State's attention to a number of material inaccuracies, omissions, and misleading statements within the EIA Screening Opinion request submitted by Wardell Armstrong on behalf of Geothermal Engineering Ltd (GEL) - (*Appendix 6*).

These issues are directly relevant to the proper application of Regulation 5(4) and the Schedule 3 selection criteria, and further demonstrate why the screening opinion cannot be relied upon.

(a) Protected Landscape Designation

The screening document states:

"The site is not constrained by any international, national or local designation of protected sites."

This statement is incorrect.

The site is located within the St Agnes Coombes Candidate Area of Great Landscape Value (*Appendix 20a*). While this designation has not yet been formally adopted, formal advice from Cornwall Council's Chief Planning Officer (*Appendix 20b*) confirms that:

- Candidate AGLVs should be given increased weight in decision-making
- Landscape character descriptions are material considerations under Policy 23 of the Cornwall Local Plan

This omission materially understates the environmental sensitivity of the site, contrary to Schedule 3 (Location of Development).

Notably, this is the only one of Geothermal Engineering Ltd's proposed geothermal sites located within such a designated landscape context.

(b) Listed Building Proximity

The screening document states that:

- Lambriggan Manor Farmhouse (Grade II listed) is approximately 400m from the site
- The development is not expected to impact the listed building

This is factually inaccurate.

- The distance from the site boundary to the curtilage is approximately 240m (*Appendix 12*)
- The distance to the building itself is approximately 300m

This is a material underestimation of proximity.

By comparison, the refusal of planning permission at Camelford (a previous Geothermal Energy Ltd planning application) cited the proximity of Worthy Vale Manor (listed building) at approximately 500m.

The potential impact on a designated heritage asset is therefore clearly capable of being significant and should be assessed through an EIA in accordance with:

- Schedule 3 (Type and Characteristics of Impact) (*Appendix 3*)
- Impacts on cultural heritage

(c) Omission of Archaeological Evidence

The screening request makes no reference to significant archaeological findings on the site.

An archaeological investigation undertaken by South West Archaeology (SWARCH) in 2025 identified (*Appendix 13*):

- A Bronze Age roundhouse
- Associated Middle Bronze Age Trevisker Ware pottery
- A conclusion that the site has "high archaeological potential"

This is a material omission.

The presence of known archaeological remains directly engages:

- Schedule 3 (Location of Development)
- Potential impacts on cultural heritage assets

An EIA is the appropriate mechanism to:

- Assess risks to these assets
- Identify mitigation strategies

(d) Mischaracterisation of Site Context and Residential Proximity

The screening document describes the site as being in a “predominantly non-residential location”.

This is misleading.

- The site lies on the edge of the community of Penhallow
- Residential properties are located immediately adjacent to the southern and eastern boundaries (*Appendix 14*)

This mischaracterisation has implications for:

- Noise impacts
- Lighting impacts
- Human health considerations

These are explicitly relevant under Schedule 3.

(e) Uncertainty and Potential Removal of Previous Planning Conditions

The screening document indicates that GEL may seek to vary or remove key planning conditions previously imposed under application PA21/09826.

This introduces additional uncertainty which has not been assessed.

Key areas include:

(a) Drill Rig Height

- Previously restricted to 27m (from an original proposal of 55m)
- Screening suggests a return to greater heights may be sought

(b) Power Supply and Emissions

- Previous condition required grid connection prior to drilling
- Current document suggests possible reliance on on-site generators, with unclear emissions implications

(c) Noise Impacts

- Screening asserts no significant noise effects
- This conflicts with the close proximity of residential properties

(d) Site Access and Transport

- Previous conditions required a dedicated access arrangement
- Current document provides only vague statements
- No formal transport assessment is proposed

These issues demonstrate that:

- The development parameters are not clearly defined
- The screening exercise is based on uncertain assumptions

Case law (including *R (Loader) v Rother DC*) confirms that uncertainty itself is a reason to require EIA.

(f) Inadequate Consideration of Transport Impacts

The screening request states that:

“A formal transport assessment is not proposed”

Given the nature of geothermal drilling, this is a significant omission.

The development is likely to involve:

- Heavy Goods Vehicle movements
- Delivery of drilling equipment
- Removal of drilling spoil

Failure to assess transport impacts is inconsistent with:

- Schedule 3 (Characteristics of Development and Impact)
- Consideration of impacts on local communities and infrastructure

7. Overall Conclusion on Screening Document Reliability

The screening request is materially flawed due to:

- Factual inaccuracies (landscape designation, distances)
- Omission of key environmental information (archaeology)
- Mischaracterisation of site context
- Lack of clarity regarding development parameters
- Reliance on unsupported assertions

Taken together, these issues significantly undermine the reliability of the screening request and the validity of the resulting screening opinion.

(g) Implication for Screening Direction

Given these deficiencies, it is clear that:

- The Schedule 3 criteria have not been properly applied
- The environmental sensitivity of the site has been understated
- The potential for significant effects has not been adequately assessed

This provides further justification for the Secretary of State to:

Issue a Screening Direction requiring a full Environmental Impact Assessment.

9. Expert Evidence on Seismic Risk

Evidence submitted by Ian Roche Managing Director, Aurora Energy Resources (2022) (*Appendix 15a shows correspondence from Ian Roche and Appendix 15b is the Science for Clean Energy Report highlighting the inherent risks of Geothermal Drilling*) highlights:

- The risk of induced seismicity from injection into critically stressed faults
- Modelling indicating potential for significant seismic events
- Absence of regulatory safeguards comparable to those in the shale gas industry

This constitutes credible expert evidence that significant environmental effects cannot be ruled out. Cornwall Council chose to disregard Mr Roche's evidence on the risks of this unregulated industry.

10. Human Health, Traffic, and Cumulative Impacts

Under Schedule 3, impacts on human health must be considered.

The proposal involves:

- Prolonged 24-hour operations
- Noise, lighting, and visual impacts
- Heavy goods vehicle movements

No formal transport assessment has been provided, and cumulative impacts have not been adequately assessed.

11. Aarhus Convention and Public Participation

The UK is a signatory to the Aarhus Convention (*Appendix 16*), which establishes rights to:

- Access environmental information
- Public participation in decision-making
- Access to justice

Failure to require an EIA risks undermining these principles by limiting the transparency and scope of environmental assessment.

12. Conclusion and Request

For the reasons set out above, residents submit that:

- The proposal falls within Schedule 2 development
- The Schedule 3 criteria clearly indicate potential for significant environmental effects
- The precautionary principle requires that an EIA be undertaken

We therefore respectfully request that the Secretary of State:

Issues a Screening Direction under Regulation 6 confirming that the proposed development constitutes EIA development and requires a full Environmental Impact Assessment.

This would ensure compliance with the EIA Regulations, relevant case law, and principles of sound environmental governance.

We would be grateful for confirmation of receipt and any guidance on the next steps.

Yours faithfully,

Rebecca Harrod

On behalf of residents of Penhallow and Callestick