

<p><b>Reference:</b> 19/00499/ELEC</p>	<p><b>Site:</b> Tilbury Green Power Tilbury Freeport Tilbury RM18 7NU</p>
<p><b>Ward:</b> Tilbury Riverside and Thurrock Park</p>	<p><b>Proposal:</b> Proposed variation of s36 (Electricity Act) consent and deemed planning permission for the construction and operation of a biomass and energy from waste fuelled electricity generating station (Tilbury Green Power) - proposed increase in generating capacity to 80MW and variations to conditions including restrictions on source and quantity of waste material components.</p>

<b>Plan Number(s):</b>		
Reference	Name	Received
P000272-PE77-0003 Rev. 1	Proposal For Bridge Over Botney Channel Plan & Sections	01.04.19
1290 PL100 Rev. B	Site Layout, Phase 1 and 2	01.04.19
1290 PL101 Rev. B	Site Layout Zoning, Phase 1 and 2	01.04.19
1290 PL300	Main Process Building North West Elevation	01.04.19
1290 PL301 Rev. A	ACCs, Offices and Visitor Centre North West Elevation	01.04.19
1290 PL302 Rev. A	Main Process Building North East Elevation	01.04.19
1290 PL303	Main Process Building South East Elevation	01.04.19
1290 PL304 Rev. A	Main Process Building South East Elevation (ACCs, Office and Visitor Centre in the Foreground)	01.04.19
1290 PL305 Rev. A	Main Process Building South West Elevation	01.04.19
1290 PL306	Security Hut Elevations	01.04.19
1290 PL400	Phase 1 and 2 Aerial View	01.04.19

The application is also accompanied by:

- Covering letter
- Supporting Statement with appendices comprising –
- Section 36 Consent red line boundary plan (original and proposed)

- Relevant Section 36 Consent 2014 and Deemed Planning Permission
- Proposed amendments to Section 36 Consent and Deemed Planning Permission explanatory memorandum
- Planning permissions issued by Thurrock Council, existing Environmental Permit for the operation of Phase 1 and Phase 2 and existing Flood Defence Consent
- Report on consultation with statutory agencies and the public
- Status of existing planning permissions and discharge submissions
- Supplementary Environmental Information Report with appendices comprising –
  - Application drawings
  - Design and Access Statement addendum
  - Air Quality Assessment report
  - Human Health Risk Assessment
  - Landscape and Visual Impact Assessment Addendum Report
  - Transport Assessment
  - Noise Impact Assessment report
  - Ecological Impact Assessment report
  - Flood Risk Assessment (2014)
  - Tilbury CHP Study (2014)

**Applicant:**

Tilbury Green Power Limited (TGP)

**Validated:**

1 April 2019

**Date of expiry:**

7 June 2019

**Recommendation:** That Planning Committee agree that the content of paragraphs references 6.30 to 6.40 (below) comprise the consultation response to be provided by the relevant planning authority to the Department for Business, Energy & Industrial Strategy.

**1.0 BACKGROUND AND DESCRIPTION OF PROPOSAL**

1.1 This report considers the issues raised by an application submitted by Tilbury Green Power (TGP) to the Secretary of State (SoS) for Business, Enterprise & Industrial Strategy (BEIS – formerly the Department for Energy & Climate Change (DECC)) to vary an existing s36 (Electricity Act 1989) consent and deemed planning permission for the construction and operation of a biomass and energy from waste fuelled electricity generation station at Tilbury Docks.

1.2 s36(c) of the Electricity Act 1989 (inserted by s20 of the Growth and Infrastructure Act 2013) allows for the SoS to vary a s36 consent and the process for an applicant

to seek a variation is set out in the Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013. A guidance note (July 2013) accompanying the Regulations confirms that that the SoS has the power to make “such variations as appear to be appropriate”. However, paragraph 26 of the guidance notes that the variation procedure is not intended as a way of authorising any change to a developer’s plans that would result in development that would be fundamentally different in character or scale from what is authorised by the existing consent

1.3 The Council is defined as the ‘relevant planning authority’ and is required to be consulted by BEIS along with the following bodies:

- Natural England;
- Historic England;
- NATS (National Air Traffic Services);
- Met Office
- Defence Infrastructure Organisation;
- Port of London Authority;
- Environment Agency;
- Highways England;
- Civil Aviation Authority;
- Health and Safety Executive; and
- Met Office Property Management.

1.4 A formal consultation was received from BEIS dated 2<sup>nd</sup> April 2019 requesting that any comments are submitted no later than 7<sup>th</sup> June 2019. Paragraph 8 (1) of the Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013 states:

*8(1) The appropriate authority (SoS) may cause a public inquiry to be held into a variation application if it considers it appropriate to do so having considered -*

*(a) any representations made about a variation application to the appropriate authority –*

- (i) which a relevant planning authority makes within two months of the date on which a copy of the application was served on it under regulation 5(2)(b); and*
- (ii) which any other person makes on or before the date specified in accordance with regulation 5(5)(b)(iii),*

*where those representations are not withdrawn; and  
(b) all other material considerations.*

The SoS therefore has discretionary power to hold a public inquiry to consider a variation application and in considering whether to hold such an inquiry the SoS must consider any representations submitted by the relevant planning authority or any other person where those representations are not withdrawn.

- 1.5 Members of the Planning Committee will be aware that with the enactment of the Planning Act 2008 (November 2008) a different consenting regime for onshore electricity generating stations with a capacity of more than 50MW was introduced. Under this Act such proposals are defined as Nationally Significant Infrastructure Projects (NSIPs) where permission is granted via a Development Consent Order issued by the relevant SoS. However, as the TGP proposal was submitted before the 2008 Act came into force, the provisions of the Electricity Act 1989 apply.
- 1.6 By way of background, the s36 consent and deemed planning permission were implemented and a first phase of the development, comprising a waste wood biomass plant with a 40MW output became operational in April 2018. This electrical output is generated from c.300,000 tonnes of waste wood biomass per annum (from a consented total of 650,000 tonnes waste input per annum).
- 1.7 In summary, the current submission to the SoS seeks firstly to vary the s36 consent to amend the design and layout of the second phase of the facility in order to increase the total generating capacity (from 60MW to 80MW) while maintaining the already consented maximum waste throughput and secondly seeks a direction from SoS that the deemed planning permission be varied to reflect the revised design. The applicant submits that an increased electrical output of 20MW from the same consented waste inputs (650,000 tonnes per annum) can be achieved through improvements in technology since the facility was first consented. The applicant also notes that the second phase of the development will involve the conversion of 350,000 tonnes of waste material delivered to the site to produce 40MW of electrical power, whereas the original proposal included the on-site processing of municipal solid waste (MSW) and commercial / industrial (C&I) waste materials.
- 1.8 The principal changes to the scale and operation of the TGP development are summarised in the applicant’s Supporting Statement as:

<b>Proposed Change</b>	<b>Description</b>
Electricity generating capacity	Increase from 60MW (consented) to 80MW
Building dimensions	Overall massing of the development (Phases 1 and 2) will be “slightly less” than the original scheme

Stack location	Altered to optimise layout – stack height unchanged
Transport of waste materials	Proposed removal of current restrictions (conditions) controlling the delivery of waste to allow all waste to be delivered by road
Nature of waste materials	Proposed removal of restrictions (conditions) on the proportion of waste types
Source of waste materials	Removal of restrictions (conditions) on geographical sourcing of waste
Site connectivity	Proposed bridge over Botney Channel with associated change to red-line site plan

- 1.9 The detailed proposals for amendments to the s36 consent and deemed planning permission are set out as track changes at Appendix 1 to this report.

## 2.0 SITE DESCRIPTION

- 2.1 The TGP site is located within the Port of Tilbury, at the north-western end of the port complex and covers an area of some 9.3 hectares. The River Thames is located to the south-west of the site. The north and north-western boundary of the site is formed by a drainage channel known as Botney Channel, which is defined as a 'main river' by the Environment Agency. On the northern side of this channel is Grays Beach park, with mixed commercial and residential areas located further east at Manor Way and Curzon Drive. The north-eastern boundary of the site is formed by the Grays to Tilbury railway corridor. Land and buildings within the Port of Tilbury complex, including the internal port access roads, form all other boundaries to the site.
- 2.2 The TGP site is irregular in shape and comprises three main elements. Firstly, the southern part of the site comprises an existing jetty and associated conveyor line adjacent to the river frontage. The jetty has a river frontage of some 300m and projects approximately 230m beyond the mean high water mark. The conveyor line increases in height above ground level as it runs in a north-westerly direction parallel to the shoreline. This conveyor line terminates close to the south-eastern corner of the site. On the landward (north-eastern) side of the flood defence is an open area used for the storage of biomass awaiting use at the facility. The westernmost part of the site is occupied by Phase 1 of the TGP facility comprising principally a waste wood processing building, boiler hall, turbine building, air cooled condensers, chimney stack and associated ancillary buildings and plant.
- 2.3 The remainder of that part of the site south of Botney Channel comprises a largely open and hardsurfaced area containing the vehicle access (from an internal port estate road) and the electrical switching station for the facility.

- 2.4 The final component of the site is a small triangular-shaped area of open rough grassland located on the northern side of Botney Channel and immediately east of the Curzon Drive industrial estate.
- 2.5 The TGP site formerly comprised factory buildings, plant, warehousing and car parking areas operated by Cargill for the production of sweeteners from cereals. Production ceased in 2005 and the site remained unused thereafter. De-commissioning of the site and demolition of all buildings and structures, apart from a small gatehouse building, was undertaken in 2011/12.
- 2.6 The area surrounding the TGP site contains a variety of land uses. To the south, and within the dock complex, is a flour mill, substantial warehouse buildings, with lorry parking, service areas and areas used for the storage of containers and other materials. To the east of the site are a number of railway sidings aligned parallel with the main Grays to Tilbury railway line. To the east of this railway corridor are mainly small-scale modern industrial and warehouse units located on Thurrock Parkway. Small commercial units are also located to the north of the site at Curzon Drive. Public open space and the Grays Beach play facility are located adjacent to the north-eastern boundary of the site with residential properties on Manor Way, Crest Avenue and Conway Gardens beyond. The nearest existing residential properties are located approximately 100m from the TGP site boundary. However, at the time of writing this report there is an extant planning permission (ref. 14/00810/FUL) for the development of 27 flats at the former pumping station site in Manor Way which is located approximately 30m to the north of the TGP. A planning application (ref. 18/00386/FUL) for 44 flats on the former pumping station site is currently under consideration.

**3.0 RELEVANT PLANNING HISTORY**

- 3.1 Historically the site formed an undeveloped part of Grays Thurrock Marshes but was developed from the 1970’s for industrial purposes associated with the manufacture of derivatives from cereals. This use ceased in 2005. There is an extensive recent planning history associated with the TGP facility which is set out in the table below.

<b>Application Ref</b>	<b>Description of Proposal</b>	<b>Decision</b>
08/00175/ELEC	Application for s36 Electricity Act consent and deemed planning permission to develop a 60 MW renewable electricity generating plant at Tilbury Docks	Consent and deemed planning permission issued by the Secretary of State (SoS) for the Department of

		Energy & Climate Change) (DECC) August 2009
10/50148/TTGDCD	Discharge of conditions 4 & 5 (wheel cleaning details) and 39 & 40 (archaeology) of 08/00175/ELEC	Approved
10/50179/TTGDCD	Discharge of conditions 6 & 7 (dust suppression) and condition 8 (demolition protocol) of 08/00175/TTGELEC	Approved
10/50188/TTGDCD	Discharge of condition 27 (noise and vibration monitoring scheme) of 08/00175/ELEC	Approved
10/50250/TTGDCD	Discharge of conditions 47 & 48 (bat surveys / protection / mitigation scheme) and conditions 49 & 50 (reptile surveys / protection / mitigation scheme) of 08/00175ELEC	Approved
11/50361/TTGETL	Extension of time limit for implementation of planning permission ref. 01.08.04/87C (08/00175/ELEC) to construct and operate a biomass and energy from waste fuelled generating station for a period of two years to 26 Aug 2014.	Approved
11/50376/TTGCND	Variation of conditions 58, 59 & 60 (source and transportation of fuels for the development) attached to planning permission 01.08.04/87c (08/00175/ELEC) and any corresponding conditions attached to any permission granted from planning application 11/50361/TTGETL	Approved
12/01088/CONDC	Discharge of condition 41 (contamination risk) of 11/50376/TTGCND	Approved
13/00422/SCR	Request for EIA Screening Opinion for a proposed waste wood storage and processing facility at Tilbury Green Power Biomass and Energy from Waste Power facility	EIA Required
13/00427/SCO	Request for Scoping Opinions for a proposed waste wood storage and	Advice given

	processing facility at Tilbury Green Power Biomass and Energy from Waste Power facility	
13/00453/NMA	Non-Material Amendment: To allow permitted preliminary works to be undertaken in advance of the submission and approval of details associated with conditions 19 and 23 (Planning Permission - 11/50376/TTGCND)	Approved
13/01079/NMA	Non-Material Amendment: To revise the requirement under Condition 12 of planning permission 11/50376/TTGCND for a green/brown roof on the administration/visitor building, replacing it with alternative ground level habitat adjacent to the proposed ecological area	Approved
13/01170/CONDC	Discharge of condition 13 (rainwater harvesting) of approved planning application 11/50376/CONDC	Approved
13/01179/FUL	The construction and operation of a waste wood processing facility incorporating process building, a visual screen to the River Thames, external plant and equipment, storage areas and car parking	Approved
14/00239/CONDC	Application for approval of details reserved by condition 9 (temporary buildings etc.) of planning permission ref. 11/50376/TTGCND	Advice Given
14/00439/CONDC	Application for approval of details reserved by condition no. 18 (river transport opportunities) of planning permission reference 11/50376/TTGCND	Advice Given
14/00561/CONDC	Application for approval of details reserved by condition 8 (demolition materials recovery target) of planning permission ref. 11/50376/TTGCND	Approved
14/00599/CONDC	Application for approval of details reserved by conditions 19 (travel plan) and 20 (vehicle and accident	Advice Given

	monitoring scheme) of planning permission reference 11/50376/TTGCND	
14/00603/CONDC	reserved by condition 23 (pile driving) of planning permission reference 11/50376/TTGCND	Approved
14/00648/CONDC	Application for approval of details reserved by condition no. 10 (site layout and design) of planning permission ref. 11/50376/TTGCND	Advice Given
14/00658/CONDC	Application for approval of details reserved by condition nos. 49 and 50 (landscaping and creative conservation) of planning permission ref. 11/50376/TTGCND	Advice Given
14/00660/CONDC	Application for the approval of details reserved by conditions 33 and 34 (method and working of drainage) of planning permission ref. 11/50376/TTGCND	Advice Given
14/01139/CONDC	Application for approval of details reserved by condition 9 (Travel Plan) of planning permission ref. 13/01179/FUL	Advice Given
14/01141/CONDC	Application for approval of details reserved by condition no. 3 (Construction Environment Management Plan) of planning permission ref. 13/01179/FUL	Advice Given
14/01212/NMA	Application for a non-material amendment following the grant of planning permission - removal of condition 15 (biomass storage building foundation details) of planning permission ref. 11/50376/TTGCND and s.36 (Electricity Act) deemed planning permission variation ref. 12.04.09.04/266C issued by the Department of Energy Climate Change dated 20 August 2014	Approved
14/01287/CONDC	Application for the approval of details reserved by condition 5 (foundation design details) and 6 (pile driving	Advice Given

	scheme) of planning permission ref. 13/01179/FUL	
14/01298/CONDC	Application for approval of details reserved by condition no.15 (surface water management strategy) of planning permission ref. 13/01179/FUL	Advice Given
16/00102/CONDC	Discharge of condition 66 (Stack Aviation Lighting) from approved planning permission 11/50361/TTGFUL. For Phase 1 Stack Only	Approved
16/00873/NMA	Non material amendments to condition 10 of planning application 11/50376/TTGCND; A series of detailed design driven amendments to the layout and design of the generation station phase 1, including the on site electricity substation	Approved
16/00991/CONDC	Application for the approval of details reserved by condition no. 64 (air pollution monitoring) of deemed planning permission ref. 12.04.09.04/266C (biomass and energy from waste fuelled electricity generating station at Tilbury Docks) in respect of phase 1 of the development (biomass power plant).	Approved
16/01709/CONDC	reserved by condition nos. 4 (wheel washing) and 5 (wheel washing) of DECC deemed planning permission ref. 12.04.09.04/266	Approved
17/00843/CONDC	Application for the approval of details reserved by condition no. 29 (noise and vibration management plan) of the deemed planning permission for the Tilbury Green Power power plant facility (as amended by 11/50376/TTGCND).	Advice Given
17/00844/CONDC	Application for the approval of details reserved by condition no. 13 (noise and vibration management plan) of planning permission ref. 13/01179/FUL	Advice Given
17/01093/CONDC	Application for the approval of details	Advice Given

	reserved by condition no. 53 (pest and vermin control) of DECC deemed planning permission ref. 12.04.09.04/266 - Thurrock Council ref. 11/50376/TTGCND	
17/01266/CONDC	Application for the approval of details reserved by condition nos. 63 (disposal and re-use of post combustion residues) of planning permission ref. 11/50376/TTGCND	Advice Given
17/01590/CONDC	Application for the approval of details reserved by condition no. 17 (flood response plan) of planning permission ref. 11/50376/TTGCND	Advice Given
17/01591/CONDC	Application for the approval of details reserved by condition nos. 68 of planning permission ref. 11/50361/TTGETL	Advice Given

### 3.2 The applications of principal importance from the above table are:

- 08/00175/ELEC – this refers to an application submitted to the SoS (DECC) for (i) consent under section 36 of the Electricity Act 1989 to construct and operate a 60 megawatt (MW) biomass and energy from waste fuelled electricity generating station and (ii) a direction under section 90(2) of the Town and Country Planning Act 1990 that planning permission for the development be deemed to be granted. Thurrock Council were a consultee and in responding to DECC raised an objection and requested that a public inquiry be held before the SoS reached a decision on the application. The former Thurrock Thames Gateway Development Corporation (TTGDC) were also a consultee (as they performed the function as the relevant planning authority at that time) and did not maintain any objection to the application, subject to planning conditions and obligations within a s106 legal agreement. After considering all material planning matters the SoS granted a s36 consent and a direction (deemed planning permission) in August 2009 (DECC reference 01.08.10.04/87C. In September 2009 DECC issued an errata to one of the planning conditions. In July 2011 TGP sought a direction from the SoS pursuant to condition 3(2) of the s36 consent to extend the period within which commencement of the development was required to occur (from 26.08.12 to 26.08.14). The SoS issued a s36 direction in July 2011 allowing commencement of development no later than 26.08.14. However the SoS noted that consent from the relevant planning authority would also be required to extend the life of the deemed planning permission.

- In 2011 TGP submitted two applications to TTGDC (the relevant planning authority at that time). Application ref. 11/50361/TTGETL sought an extension to the time limit for implementing the deemed planning permission (DECC ref. 01.08.10.04/87C) for two further years until 26.08.14. This application was approved by TTGDC subject to planning conditions and a deed of variation to the s106 unilateral undertaking signed by TGP. At the same time TGP submitted a s73 (Planning Act) application to TTGDC seeking variation of condition nos. 58-60 of the deemed planning permission which related to the sources and transportation of fuels to the site. The Council (as a consultee) raised no strategic policy objection to the proposal and permission was granted, subject to a deed of variation to the s106 unilateral undertaking, in January 2012.
- In April 2014 TGP applied to the SoS (DECC) for (i) a variation to the s36 (Electricity Act) consent to extend the time period for implementation by one year (until 26.08.15) (ii) clarification that TGP has the right to assign the benefit of the s36 consent and (iii) a s90 direction (deemed planning permission) the extending the time period for commencement until 26.08.15 and replication of planning permission ref. 11/50376/TTGCND with regards to conditions and progress on discharging the requirements thereof. In August 2014 the SoS approved the application (ref. 12.04.09.04/266C).

#### **4.0 CONSULTATIONS AND REPRESENTATIONS**

4.1 As this is an application submitted by TGP to the SoS pursuant to the Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013 there is no requirement for the relevant planning authority to undertake any formal consultation or notification. Instead the applicant is required to include within their submission to the Department for Business, Energy & Industrial Strategy (BEIS - formerly DECC) a statement of what account has been taken of views expressed by persons consulted by the applicant. The application includes, at Appendix 5, a 'Report on Consultation with Statutory Agencies and the Public' (November 2018). This report confirms that TGP consulted with the following bodies:

- Natural England;
- Historic England;
- Environment Agency;
- Defence Infrastructure Organisation;
- Thurrock Council;
- Highways England;
- Met Office Property Management;

- Civil Aviation Authority;
- Health & Safety Executive;
- NATS En-route; and
- Port of London Authority.

4.2 BEIS has received the following consultation responses which have been forwarded to the local planning authority for information:

4.3 ENVIRONMENT AGENCY:

Provide comments referring to Environmental Permitting in relation to flood defence consents and installations.

4.4 HISTORIC ENGLAND:

The proposals would not alter the negligible impact of the consented development on Tilbury Fort. The proposed variation meets the aims and objectives of the National Policy Statement for the historic environment.

4.5 MET OFFICE:

No objection.

4.6 PORT OF LONDON AUTHORITY:

With reference to the proposed removal of restrictions applying to the delivery of waste so that all waste can be delivered by road, there is no justification for this proposed change. Given the emphasis on sustainable transport, the proposed removal of restrictions applying to delivery would appear to be contrary to planning policy and as such the PLA objects to the proposed amendment.

4.7 NATURAL ENGLAND:

Draw attention to potential impacts on SSSIs close to the site and responsibilities for the decision-maker under relevant legislation.

4.8 NATIONAL AIR TRAFFIC SERVICES (NATS):

Anticipates no impact and has no comments.

4.9 HEALTH & SAFETY EXECUTIVE (HSE):

No comments.

4.10 (CIVIL AVIATION AUTHORITY (CAA):

No comments.

4.11 BEIS has also forwarded one letter received by them from a member of the public objecting to the application on environmental grounds (pollution).

4.12 In November 2018 the applicant also distributed an information leaflet with an e-mail address for feedback to c.4,000 local residents and businesses including the local MP and ward councillors. A public exhibition was held on 20<sup>th</sup> November 2018.

4.13 A number of relevant internal departments have been consulted as follows:

4.14 ENVIRONMENTAL HEALTH:

Air Quality

The applicant's Air Quality Assessment considers impacts from stack emissions and increases in movements of heavy and light goods vehicles. The Assessment is satisfactory and it is considered that the overall impact will be insignificant for all pollutants and well within the relevant air quality objectives.

For the plant generated emissions the process contribution (PC) for all pollutants is insignificant. The maximum PC for NO<sub>2</sub> is 1.7µg/m<sup>3</sup> for the annual mean and 11.57µg/m<sup>3</sup> against the short term objective 99.79th percentile, this is not significant. The maximum impact is within the site boundaries of the proposed plant and the impact on nearby receptors and AQMA's will be much lower. The Thurrock (Air Quality Management Area) AQMA in terms of the PC for NO<sub>2</sub> will be 0.41 µg/m<sup>3</sup> for the annual mean, which equates to 1% of the objective level. The assessment uses a conservative approach to the modelling inputs and, in reality, will likely have a lower impact than what has been assessed.

For road traffic generated emissions, the Design Manual for Roads and Bridges (DMRB) screening model was used to assess the impact of extra HGV's/ LGV's in terms of NO<sub>2</sub> & PM<sub>10</sub> at sensitive receptors along the A1089 and A13 receptors in AQMA 5. The results indicate a slight increase in NO<sub>2</sub> of 0.13 µg/m<sup>3</sup> and 0.07 µg/m<sup>3</sup> for PM<sub>10</sub>, this change is less than 0.5% of the annual mean objective and is a negligible impact and not deemed significant. In terms of air quality there are no objections to the proposals.

## Noise

The applicant has submitted an updated Acoustic Assessment in support of the proposal. The assessment, dated May 2018, references survey data from previous assessments and uses the same criteria that we have previously agreed. The model inputs are satisfactory, and the results are still predicted to meet the agreed criteria with the proposed increase in power generation. The conclusions in paragraph 6.0 of the assessment (i.e. the sound levels at all designated noise sensitive receptors will be below the background noise level +5dB, are therefore accepted.

### 4.15 HIGHWAYS:

The potential changes in vehicle movements arising from the proposed changes to the development will predominantly affect the trunk road network (A13 / A1089). This is both in respect of actual traffic impact and policy issues associated with potential vehicle kilometres travelled. It would therefore be reasonable to defer to the Highways Agency in respect of these issues. Nevertheless the Transport Statement relies on assumptions concerning the Tilbury 2 Transport Assessment and further supporting information should be supplied to support these assumptions.

### 4.16 FLOOD RISK MANAGER:

No comments.

### 4.17 LANDSCAPE & ECOLOGY:

The applicant's Landscape and Visual Impact Assessment (LVIA) Addendum has reviewed the proposed revised building design. Three key close viewpoints were agreed with the Council and photomontages prepared for each of these. It is agreed that the proposed scheme will not have any additional effects on the local landscape character as it will comprise many similar elements of a similar scale and massing to that which was previously assessed.

The scheme would have the most significant visual effects for residents in Curzon Road where the proposed taller buildings would be above the height of existing trees. Artificial lighting will be chosen to minimise uplighting and skyglow and should not be visible from this viewpoint. It is noted that a new five storey development has been permitted between the existing dwellings and the site which would largely screen the new buildings for existing residents. The effects from the other two viewpoints (view east from open space south of Argent Street and south-east from Elm Road recreation ground) would only be slightly adverse and not

significant.

The majority of the site consists of hardstanding with negligible ecological value. The main habitat features are associated with Botney Channel running along the northern site boundary and triangle of land north of the channel and south of the railway. Overall the effects on the existing habitat can be reduced and mitigated. The reedbeds are considered to have the highest importance in a site context (County) and disturbance of these will be minimised. The other habitat features are of local importance only. Mitigation measures for these are considered appropriate. There is a need to ensure that additional off-site migration is provided to achieve a biodiversity net gain by enhancing other local sites. The details of this need to be finalised with suitable biodiversity management plans produced for the site. In conclusion there are no objections to this scheme on landscape or ecology grounds subject to the appropriate mitigation measures being implemented.

#### 4.18 EMERGENCY PLANNING:

As the site is located within Flood Zone 3a (High Risk) a site-specific flood warning and evacuation plan will be required for the construction and operational phases of the development.

*(NB – condition no.17 of the deemed planning consent addresses this issue)*

## 5.0 POLICY CONTEXT

### 5.1 National Policy Statements (NPS)

As noted above the TGP was consented under the Electricity Act 1989 as the proposal was submitted prior to the provisions of the Planning Act 2008 coming into force. Proposals for onshore generating stations with a capacity of more than 50mW submitted after 1<sup>st</sup> March 2010 qualify as NSIPs where consent is obtained via a DCO. The Planning Act 2008 requires that applications for a DCO are determined by the SoS in accordance with relevant National Policy Statements (NPS). Although the existing consent and current submission were not considered under the Planning Act 2008, the following NPS are nevertheless relevant to the consideration of the application.

### 5.2 Overarching National Policy Statement for Energy (EN-1)

Identifies a general need for new electricity infrastructure projects and highlights the role of renewable electricity generation, including biomass and energy from waste. Generic impacts associated with proposals for generating stations include traffic and transport and waste management. Paragraph 5.13.2 states that the

consideration and mitigation of transport impacts is an essential part of the Government's wider policy objectives for sustainable transport. Paragraph 5.14.2 refers to the 'waste hierarchy' for sustainable waste management comprising: a) prevention; b) preparing for reuse; c) recycling; d) other recovery, including energy recovery; and e) disposal.

### 5.3 Renewable Energy Infrastructure (EN-3)

Part 2 of this NPS refers to assessment and technology-specific information and part 2.5 covers biomass and waste combustion. Paragraph 2.5.1 notes that the combustion of biomass for electricity generation is likely to play an increasingly important role in meeting the UK's renewable energy targets. Paragraph 2.5.2 states that the recovery of energy from the combustion of waste, where in accordance with the waste hierarchy, will play an increasingly important role in meeting the UK's energy needs. Under the heading of 'transport infrastructure', paragraph 5.2.24 notes that biomass and energy from waste generating stations are likely to generate considerable transport movements. Paragraph 5.2.25 states that Government policy encourages multi-modal transport and expects materials to be transported by water or rail routes where possible.

### 5.4 **National Planning Guidance**

#### National Planning Policy Framework (NPPF)

The revised NPPF was published on 24 July 2018 (and subsequently updated with minor amendments on 19 February 2019). The NPPF sets out the Government's planning policies. Paragraph 11 of the Framework sets out a presumption in favour of sustainable development. Paragraph 2 of the NPPF confirms the tests in s.38 (6) of the Planning and Compulsory Purchase Act 2004 and s.70 of the Town and Country Planning Act 1990 and that the Framework is a material consideration in planning decisions.

The following headings and content of the NPPF are relevant to the consideration of the current proposals:

- 6. Building a strong, competitive economy;
- 9. Promoting sustainable transport;
- 12. Achieving well-designed places; and
- 14. Meeting the challenge of climate change, flooding and coastal change.

### 5.5 Planning Policy Guidance (NPPG)

In March 2014 the Department for Communities and Local Government (now

known as Ministry of Housing, Communities and Local Government) launched its planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning policy guidance documents cancelled when the NPPF was launched. NPPG contains a range of subject areas, with each area containing several sub-topics. Those of particular relevance to this application include:

- Air quality
- Climate change;
- Design;
- Environmental Impact Assessment;
- Flood risk and coastal change;
- Health and wellbeing;
- Natural environment;
- Renewable and low carbon energy;
- Travel Plans, Transport Assessments and Statements;
- Use of planning conditions; and
- Waste.

#### 5.6 Waste (England and Wales) Regulations 2011

The Regulations transpose the European Directive on waste and, inter-alia, impose duties in relation to waste management and the improve use of waste as a resource. The Regulations refer to a waste hierarchy comprising: prevention; preparing for re-use; recycling; other recovery (for example energy recovery); and disposal.

#### 5.7 Waste Management Plan for England 2013

Sets out the Government's aim to work towards a more sustainable and efficient approach to waste management.

#### 5.8 National Planning Policy for Waste 2014

Sets out detailed waste planning policies to be read in conjunction with the NPPF, the Waste Management Plan for England and National Policy statements.

#### 5.9 **Local Planning Policy**

### Thurrock Local Development Framework (2015)

The Council adopted the “Core Strategy and Policies for the Management of Development Plan Document” (as amended) in 2015. The following Core Strategy policies in particular apply to the proposals:

#### Overarching Sustainable Development Policy:

- OSDP1 (Promotion of Sustainable Growth and Regeneration in Thurrock).

#### Spatial Policies:

- CSSP3 (Infrastructure)

#### Thematic Policies:

- CSTP13 (Emergency Services and Utilities)
- CSTP14 (Transport in the Thurrock Urban Area)
- CSTP15 (Transport in Greater Thurrock)
- CSTP16 (National and Regional Transport Networks)
- CSTP17 (Strategic Freight Movement and Access to Ports)
- CSTP25 (Addressing Climate Change)
- CSTP26 (Renewable or Low-Carbon Energy Generation)
- CSTP27 (Management and Reduction of Flood Risk)
- CSTP28 (River Thames)
- CSTP29 (Waste Strategy)
- CSTP30 (Regional Waste Apportionment)

#### Policies for the Management of Development:

- PMD1 (Minimising Pollution and Impacts on Amenity)
- PMD2 (Design and Layout)
- PMD3 (Tall Buildings)
- PMD7 (Biodiversity, Geological Conservation and Development)
- PMD8 (Parking Standards)
- PMD9 (Road Network Hierarchy)
- PMD10 (Transport Assessments and Travel Plans)
- PMD11 (Freight Movement)
- PMD13 (Decentralised, Renewable and Low Carbon Energy Generation)
- PMD15 (Flood Risk Assessment)

### 5.10 Thurrock Local Plan

In February 2014 the Council embarked on the preparation of a new Local Plan for the Borough. Between February and April 2016 the Council consulted formally on an Issues and Options (Stage 1) document and simultaneously undertook a 'Call for Sites' exercise. The Council consulted on an Issues and Options (Stage 2 Spatial Options and Sites) document earlier this year.

#### 5.11 Thurrock Design Strategy

In March 2017 the Council launched the Thurrock Design Strategy. The Design Strategy sets out the main design principles to be used by applicants for all new development in Thurrock. The Design Strategy is a supplementary planning document (SPD) which supports policies in the adopted Core Strategy.

### 6.0 ASSESSMENT

- 6.1 As set out above, this application is submitted to the SoS for consideration and decision, although the Council as the relevant planning authority is invited by BEIS to submit its views. The purpose of this report is to provide the Committee with an appraisal of the proposed variation to the s36 consent and deemed planning permission in order to inform a consultation response to BEIS. Also as confirmed above, before determining the application the SoS may cause a discretionary public inquiry to be held if it is deemed appropriate to do so having considered the representations received and all other material considerations.
- 6.2 The structure of the assessment below sets out the variations applied for (with reference to the track-changes at Appendix 1) and a suggested response.

#### Proposed Variation of s36 Consent

- 6.3 Paragraph 1: proposed variation to refer to s36C of the Act and the SoS for BEIS and not DECC.

**Response:** No objection.

- 6.4 Paragraph 2: proposed variations to include reference to –

- 80mW generating capacity instead of 60mW
- 'Two boilers' instead of 'up to two boilers'
- 'Two steam turbine buildings' instead of a single building
- 'Two air cooled condensers' instead of one

- A 'waste wood / biomass storage building' instead of a 'biomass storage building'
- Deletion of 'solid recovered fuel (SRF) production building' and replacement with 'waste material reception and bunker storage facilities'
- Addition of 'buildings' to 'ancillary plant and equipment'
- Addition of 'up to three battery storage units'
- Additional of 'car parking, laydown areas and bridge' to the list of ancillary development.

**Response:** No objection to these proposed changes which largely reflect the two phases associated with delivering the development. Condition no. 10 of the deemed planning permission requires submission and approval of details of siting, layout and design of all buildings, structures, etc.

6.5 Paragraph 3(2): proposed amendment to delete reference to commencement of development no later than 27.08.15.

**Response:** No objection – the commencement of development has already occurred (Phase 1).

#### Proposed Variation of Deemed Planning Permission

6.6 Condition no. 1 (Definitions):

Definition of 'Public Holiday' replaces 'Bank Holiday'; Deletion of the definition for 'Commencement of the Development' which is no longer required as commencement has taken place; Amend definition of 'commissioning' to reflect that the development is in two phases; Amend definition of the 'Development' to increase the generating capacity to 80 MW and to define the two phases of development; deletion of definitions 'catchment areas' which are no longer used; definition of waste stream in Phase 2; reference to the updated travel plan prepared in 2018.

**Response:** No objections to the proposed amendments to the definitions of:

- 'Public Holiday';
- 'Commencement of the Development'
- 'Commissioning'
- 'The Development'
- definition of waste stream

- 'Travel Plan Strategy'

'Catchment Areas' are considered below.

6.7 Condition no. 3 (Time Limits):

Proposed deletion as commencement of the development has taken place.

**Response:** No objection.

6.8 Condition nos. 4, 6 and 7 (Suppression of Dust and Dirt during Demolition and Construction):

Proposed amendment to refer specifically to commencement of Phase 2 of the Development (Phase 1 of the Development was commenced in August 2014 and is constructed and in operation).

**Response:** No objection.

6.9 Condition no. 8 (Demolition Protocol):

Proposed deletion to reflect the fact that the industrial buildings previously occupying the site were demolished prior to commencement of Phase 1 of the Development and the material recovery targets have been achieved.

**Response:** No objection.

6.10 Condition no. 10 (Site Layout, Design and Fire Prevention):

Proposed amendment to refer to Phase 2 of the development.

**Response:** No objection.

6.11 Condition no. 11 (Site Layout, Design and Fire Prevention):

Proposed amendment to include a reference to the updated Design and Access Statement Addendum, November 2018.

**Response:** The original s36 consent and deemed planning permission dating from August 2009 did not refer to a list of approved plan or drawing numbers as is usual practice in the case of conventional applications for planning permission. Instead the original s36 submission included a site layout plan, a massing plan and a number of conceptual elevation and sectional plans indicating how the facility could be developed. The guidance note on varying s36 consents produced by DECC

recognises that generating station development consents are often not implemented until some years after they are granted. Furthermore, paragraph 12 of the guidance notes that *“each consent reflects technology and industry practice at the time it was applied for, but such practices do not stand still”*.

Condition no. 10 of the deemed planning consent requires (inter-alia) the submission and approval of details of siting, design and external appearance of all buildings and structures and condition no. 11 requires these submitted details to conform with the principles of a Design and Access Statement (DAS - dated August 2008). This DAS includes potential architectural treatments for buildings and a massing plan based on the conceptual elevation plans. In respect of Phase 1 of the facility, the development which has now been implemented conforms to the DAS and in some respects, such as the height of the power island building, is of a lower height than previously envisaged.

A DAS Addendum (November 2018) accompanies the application and a series of detailed site layout and elevation drawings form an appendix to the Supplementary Environmental Information Report. With regard to the proposed layout of Phase 2, the DAS indicates that the layout of the development would not be significantly different from the arrangement of buildings on-site suggested in the 2008 DAS. With reference to the bulk or massing of the development (i.e. the combined effect of the arrangement, volume and shape of the group of buildings) there are differences between the 2008 and 2018 DAS. In particular, along the north-western facing elevation of the development (as seen from Grays Beach and Curzon Drive) the completed Phase 1 development, located at the far-west of the site, is generally lower in height and has less bulk than suggested by the 2008 DAS. Buildings within Phase 2 of the development would however be taller than originally envisaged. As seen from the eastern part of Grays Beach Riverside Park and Curzon Drive the 2008 DAS suggested the location of a solid recovered fuel (SRF) building c.23m in height. The 2018 DAS and site layout drawing now indicates a combined flue gas treatment / boiler / waste bunker / tipping hall building with roof parapet heights ranging between 26-55m. The proposed increases in building height and mass for Phase 2 are partly a function of the phased delivery of the development and the need for a separate boiler hall building (the tallest element) to serve the energy from waste element.

An addendum to the 2008 Landscape and Visual Impact Assessment (LVIA) has been submitted. Regarding landscape impacts, the LVIA concludes that the proposed amendments to the development would not result in any significant impacts beyond those already assessed. Three viewpoints for visual impacts are considered comprising: (1) views SE from the open space south of Argent Street; (2) view south from Curzon Street close to its junction with Manor Way; and (3)

view SW from the Elm Road play area. These viewpoints replicate those originally considered in 2008.

From viewpoint (1) the proposed changes would only result in a minimal impact, with the only noticeable change being the introduction of an additional emissions stack of a similar height to the existing Phase 1 stack (c.100m high). As seen from viewpoint (2) and the closest existing residential receptors to the site at Tenney House, Curzon Drive, new buildings would be introduced to views and although existing tree planting along Botney Channel would partly screen the lower parts of the structures, the upper elements would be visible. As a guide the minimum intervening distance between Tenney House and proposed Phase 2 buildings is approximately 120m. The LVIA concludes a moderate adverse impact on these receptors. As existing residential receptors further west along Crest Avenue would be at a greater distance from Phase 2 and as there is further existing planting along the northern edge of Grays Beach Riverside Park, the impact on views from these receptors is reduced. As noted above, at the time of writing this report there is an extant planning permission (ref. 14/00810/FUL) for the development of 27 flats at the former pumping station site in Manor Way which is located closer to the TGP site than existing flats at Tenney House. If this permission were to be implemented the resulting new buildings would filter views from Tenney House towards Phase 2. However, views from the southern elevation of the new flats (if constructed) would be closer to buildings at Phase 2. From viewpoint (3) the Phase 2 buildings would be visible, although partly screened by vegetation along the railway line. The impact of the development on this viewpoint is assessed as slight adverse.

In summary, the proposed changes to building heights and massing indicated in the updated DAS and submitted plans confirm that the impact of the Phase 1 buildings (closest to the riverfront and Grays Beach play space) is less than originally envisaged by the 2008 DAS. However, building height and mass for the proposed Phase 2 structures are greater than originally suggested. To a degree these elements 'balance-out' although a small number of existing and potential future residential receptors in Curzon Drive will now experience a moderate adverse impact whereas the 2008 LVIA identified a moderate / slight adverse impact.

Consequently it is advised that no objection is raised to the proposed variation although the SoS is requested to consider the potential visual impacts on receptors at viewpoint (2) resulting from the increased height and massing of buildings and structures forming Phase 2 of the development as indicated in the DAS Addendum and application drawings. The Council has not undertaken any assessment of impact on existing or future residential amenity with reference to sunlight and daylight.

#### 6.12 Condition no. 12 (Landscaping and Creative Conservation):

Proposed amendment to reflect proposed changes to the provision of landscaping on-site.

**Response:** The proposed amendments now refer to the phased nature of development and delete reference to compliance with a previous Ecology Review and Mitigation Plan (2008). Comments received from the Council's landscape and ecology advisor refer to a need to ensure off-site mitigation is provided to secure a biodiversity net gain. The applicant's submitted Ecological Impact Assessment (Table 7) also refers to off-site mitigations. Accordingly, it is suggested that the wording of this condition includes reference to off-site mitigation measures.

6.13 Condition no. 13 (Rainwater Harvesting):

Proposed amendment to refer specifically to Phase 2 of the Development.

**Response:** No objection.

6.14 Condition no. 14 (River Thames Flood Defences):

Proposed amendment to include a reference to the Flood Defence Consent issued by the Environment Agency in 2015.

**Response:** No objection.

6.15 Condition no. 15 (River Thames Flood Defences):

Proposed deletion as the requirements prior to construction of the biomass building were satisfied as part of the development of Phase 1.

**Response:** No objection.

6.16 Condition no. 16 (Flood Protection Measures):

Proposed amendment to refer specifically to Phase 2 of the Development.

**Response:** No objection.

6.17 Condition no. 17 (Flood Protection Measures):

Proposed amendment to refer specifically to Phase 2 of the Development.

**Response:** No objection.

6.18 Condition no. 18 (River Transport):

Proposed amendment to refer specifically to Phase 2 of the Development.

**Response:** No objection.

6.19 Condition no. 19 (Road Traffic Management):

Proposed amendment to include a reference to the approved Travel Plan, the updated Travel Plan submitted with the application and to refer specifically to Phase 2 of the Development.

**Response:** No objection.

6.20 Condition 20 (Road Traffic Management):

Proposed amendment to include a reference to the approved and the updated Vehicle and Accident Monitoring Scheme submitted with the application.

**Response:** No objection.

6.21 Condition 21 (Road Traffic Management):

Proposed amendment to refer specifically to Phase 2 of the Development.

**Response:** No objection.

6.22 Condition nos. 22 to 27 (Demolition, Construction and Associated Noise and Vibration):

Proposed amendments to refer specifically to Phase 2 of the Development.

**Response:** No objection.

6.23 Condition no. 29 (Operational Noise and Vibration):

Proposed amendment to refer specifically to Phase 2 of the Development.

**Response:** No objection.

6.24 Condition nos. 33, 35 and 36 (Prevention of Contamination to Watercourses):

Proposed amendments to refer specifically to Phase 2 of the Development.

**Response:** No objection.

6.25 Condition nos. 39 and 40 (Archaeology):

Proposed deletion to reflect the fact that the archaeological investigations described in the approved Written Scheme of Investigation were carried out in July 2014.

**Response:** No objection.

6.26 Condition nos. 41, 43, 44 and 45 (Contamination):

Proposed amendments to refer specifically to Phase 2 of the Development.

**Response:** No objection.

6.27 Condition no. 46 (Protection and Mitigation for Bats):

Proposed deletion as investigations in 2017 and 2018 indicated that bats are not present on the site.

**Response:** No objection.

6.28 Condition no. 47 (Protection and Mitigation for Reptiles):

Proposed deletion as investigations in 2018 indicated that reptiles are not present on the site.

**Response:** No objection.

6.29 Condition nos. 50 and 51 (Landscaping and Creative Conservation):

Proposed amendment to refer specifically to Phase 2 of the Development.

**Response:** No objection.

6.30 Condition no. 52 (Fugitive Odour):

Proposed amendment to refer specifically to Phase 2 of the Development and reflect the change in technology proposed for Phase 2 as it is no longer proposed to construct a SRF production facility.

**Response:** No objection.

6.31 Condition no. 53 (Pest / Vermin Control):

Proposed amendment to refer specifically to Phase 2 of the Development.

**Response:** No objection.

6.32 Condition no. 54 (Hours of Operation):

Proposed amended to reflect the phases of the development.

**Response:** No objection.

6.33 Condition no. 55 (Material Inputs):

Proposed amendment to reflect the intended removal of restrictions on the quantities of component waste streams, while retaining the overall limitation on total waste throughput of 650,000 tonnes per annum (p.a.).

**Response:** The current wording of this condition requires:

- (i) no more than 650,000 tonnes of biomass, waste wood, SRF, C&I waste and / or MSW to be brought onto the site per annum; and
- (ii) the total of 650,000 tonnes per annum to include no more than 40,000 tonnes of MSW and no more than a combined total of 300,000 of MSW, C&I waste and SRF.

The proposed amendments to this condition would add refuse derived fuel (RDF) to the list of included feedstocks. RDF is a fuel produced from waste such as Municipal Solid Waste (MSW) and Commercial & Industrial Waste (C&I) waste and is therefore similar to Solid Recovered Fuel (SRF). Consequently, no objection is raised to the inclusion of RDF as a feedstock.

The proposal includes the deletion of the second limb of the planning condition and would potentially remove the restriction limiting MSW imports to a maximum of 40,000 tonnes within a total 300,000 tonnage p.a. for MSW, C&I waste, SRF and RDF. Currently the remaining balance of 650,000 tonnes (i.e. 350,000 tonnes) is made up by biomass and waste wood imports. The implication of the proposed change is that any combination of biomass, waste wood, RDF, SRF, C&I waste and MSW up to 650,000 tonnes p.a. could be brought onto the site.

At paragraph 6.27 of the applicant's supporting statement it is stated that *"... to provide a more commercially viable development with increased operational flexibility, it is proposed to remove the restrictions on the proportion of waste types*

*(MSW, C&I, RDF / SRF) permitted ...". However at paragraphs 4.4 and 4.5 of the supporting statement it is noted that "... for the Phase 1 generating unit which commenced operation in April 2018 ... resulted in a generating capacity of 40 MW from approximately 300,000 tonnes p.a. of waste wood biomass ... for the second generating unit, it is proposed to convert 350,000 tonnes p.a. of waste material delivered to the Phase 2 unit ... to produce a further 40MW".*

As it is stated that Phase 1 relies on 300,000 tonnes p.a of waste wood biomass (indeed a waste wood processing building has been developed as part of Phase 1 pursuant to planning permission ref. 13/01179/FUL) and as paragraph 6.27 of the supporting statement refers only to the proposed removal of restrictions on waste types MSW, C&I and RDF / SRF it is queried why the applicant is seeking such a wide flexibility i.e. as Phase 1 is operational it would seem that the importation of 300,000 tonnes p.a of waste wood biomass is 'fixed' and does not require amendment.

The Thurrock development plan for waste in Thurrock includes the National Planning Policy for Waste (2014) and adopted Core Strategy (2015) policies CSTP29 and CSTP30. Core Strategy CSTP29 (Waste Strategy) includes the following relevant sections:

1. *Waste Planning Strategy*

*The Council will seek to drive waste management up the waste hierarchy by (inter-alia):*

*III. Creating a sustainable network of waste management facilities that complements the sustainability objectives in accordance with the Thurrock Sustainable Communities Strategy.*

*IV. Seeking to treat waste as a 'resource' and where possible use waste to drive forward local renewable energy objectives.*

2. *Waste Management Capacity*

*Provision will only be made for total waste management capacity equivalent to the requirements for Thurrock (including imports) as set out in the Core Strategy (Tables 5, 6 and 7) or latest capacity requirements as identified through an update of the regional or local data as a result of a review of the LDF.*

Tables 5, 6 and 7 refer to forecast or estimated arisings of MSW, C&I waste and construction & demolition waste for Thurrock respectively and based on the former East of England Plan (Regional Spatial Strategy - RSS). Forecast Thurrock MSW arisings increase from 82,600 tonnes in 2015/6 to 94,000 tonnes in 2025/6, with forecast Thurrock C&I arisings increasing from 157,600 tonnes and 2015/6 to 189,500 tonnes by 2025/6.

The applicant's proposals to 'relax' condition no. 55 in order to remove restrictions on the quantities of component waste streams is potentially in conflict with Core Strategy policy CSTP29 (2.) above, in particular if it is intended to rely on unrestricted quantities of MSW and / or C&I waste beyond the forecast tonnages. However, it is notable that Tables 5, 6, and 7 referred to by the Core Strategy policy are based on RSS figures and the RSS was revoked by Government in 2013. Nevertheless, the forecast arisings from the RSS evidence base are used and published in the Council's own waste Arisings and Capacity Study which forms part of the Council's evidence base for the Core Strategy. This includes an upwards adjustment of the RSS figures which is included in Tables 5, 6 and 7 of Core Strategy policy CSTP29. Published DEFRA datasets on local authority collected waste and C&I waste reveal arisings similar to the forecasts within Core Strategy policy. It is a matter for the SoS to consider the weight to be applied to Core Strategy policy. However, in light of the content of the applicant's supporting statement it is suggested that condition no. 55 should instead be worded as follows:

*"No more than 650,000 tonnes of Biomass, Waste Wood, Refuse Derived Fuel, Solid Recovered Fuel, Commercial & Industrial Waste and Municipal Solid Waste (MSW) shall be brought onto the site per annum. This will include no more than 350,000 tonnes per annum of MSW, Commercial & Industrial Waste, Solid Recovered Fuel and Refuse Derived Fuel".*

6.34 Condition nos. 56 to 60 (Material Inputs):

Proposed deletion as it is proposed to remove restrictions on the source and quantity of waste material components.

**Response:** Existing conditions nos. 56 to 60 control the operation of the development as follows:

Condition no. 56 – no more than 450,000 tonnes p.a. of biomass, waste wood, SRF, C&I waste and / or MSW to be delivered by road;

Condition no. 57 – MSW imported from Thurrock, Essex, Hertfordshire, South Bedfordshire and Luton only;

Condition no. 58 – SRF or waste wood imported from the East of England Region and / or within a 50 mile radius of the site only;

Condition no. 59 – C&I waste imported from the East of England Region only;

Condition no. 60 – biomass imported from the East of England Region and / or within a 50 mile radius of the site only unless delivered by river.

In summary, these conditions firstly limit the tonnage of deliveries by road (condition no. 56) and secondly require local sources of feedstock (apart from biomass imports by river) (condition nos. 57-60).

With regard to condition no. 56, the proposed amendment would allow all deliveries of feedstock by road. The site is located at the northern-end of the Tilbury Docks complex and is accessed from an internal estate road within the Port. The Port itself is accessed from the A1089 which connects to the A13. Both the A1089 and A13 (west of the A1089 junction) form part of the Strategic Road Network (SRN) where Highways England (HE) are the responsible highways authority. At the time of writing no consultation response has been provided by HE. As noted by the Council's Highways Officer, the highway impacts of the proposed amendment will predominantly affect the trunk road network in respect of actual traffic impact and policy issues associated with potential vehicle kilometres travelled. Accordingly it is reasonable for the Council to defer to HE on the issue of potential impacts of additional vehicle movements on the SRN. The applicant has submitted a 'Technical Appendix Update – Traffic and Transport (December 2018)', which at paragraph 6.2.1 refers to the Port of Tilbury expansion (Tilbury2). The SoS is advised that the Port of Tilbury (Expansion) Order 2019 (SI 2019 no. 359) was made on 20<sup>th</sup> February 2019 and construction activities have commenced. Tilbury2 is therefore now a committed development.

The Port of Tilbury, which includes the land within the s36 application boundary is specifically referred to by adopted Core Strategy policy CSTP28 (River Thames). This policy states at (1.) that the Council and partners will ensure that the economic and commercial function of the river will continue to be promoted through (inter-alia): (i) priority being given to allocating riverside sites to uses that require access to the river frontage (ii) safeguarding port-related operational land and (iv) safeguarding existing and promoting new jetties and wharves for transport of goods and materials. Core Strategy policy CSTP17 (Strategic Freight Movement and Access to Ports) is also to a degree relevant as this policy recognises the tradition of port-related and freight activity in Thurrock and seeks to support the logistics and port sectors by, inter-alia, facilitating a shift to river and rail freight. The site has access to the River Thames via both the jetty included within the s36 application boundary and the nearby dock berths accessed by the internal port estate roads.

The NPPF and NPS (Energy) refer to the importance of sustainable transport and the consultation response from the Port of London Authority also mentions the emphasis on moving bulk materials by river. The site is in a location served by sustainable modes of transport and although the applicant's Technical Appendix Update – Traffic and Transport (December 2018) refers to the applicant continuing *"to explore options to utilise rail and river transport as a means of transporting waste to and from the site"* the proposed amendment would, in effect, allow all deliveries by road. The Council queries whether the proposed amendment to condition no. 56 is consistent with policies promoting sustainable transport.

Regarding condition nos. 57 to 60, as originally approved in 2009, the deemed planning permission included a condition addressing sources of MSW, C&I waste and SRF and establishing a cascade comprising a primary catchment area (Thurrock), then a secondary catchment area (Essex, Hertfordshire, South Bedfordshire and Luton) then elsewhere within the East of England region. The reason for this condition was to accord with RSS policies for waste management. A separate planning condition addressed biomass and waste wood sources and allowed unrestricted sources of biomass if delivered by river. Waste wood sources were subject to the primary (Thurrock) catchment area and then sources from the remainder of the East of England region. These conditions were changed via a s73 (Planning Act) permission (ref. 11/50376/TTGCND) to allow greater flexibility in sourcing fuels from within a catchment area based partly upon distance from the site, rather than solely on administrative areas. In light of Government waste planning policy and guidance now emphasising the importance of self-sufficiency and the proximity principle (i.e. recognising that transporting waste has environmental, social and economic costs so as a general rule waste should be dealt with as near to the place of production as possible), it is considered that the catchment restrictions within these conditions are no longer necessary. Consequently, no objections are raised to the proposed deletion of condition nos. 57 to 60 as proposed.

6.35 Condition no. 63 (Disposal and Re-Use of Post-Combustion Residues):

Proposed amendment to refer specifically to Phase 2 of the Development.

**Response:** No objection.

6.36 Condition no. 64 (Air Pollution Monitoring):

Proposed amendment to refer specifically to Phase 2 of the Development.

**Response:** No objection.

6.37 Condition no. 66 (Stack Lighting):

Proposed amendment to refer specifically to Phase 2 of the Development.

**Response:** No objection.

6.38 Condition nos. 67 and 68 (Use of Waste Heat):

Proposed amendment to refer specifically to Phase 2 of the Development.

**Response:** No objection.

6.39 Condition nos. 69 and 71 (Cessation of Works and Restoration of the Site):

Proposed amendment to reflect that Phase 1 and Phase 2 may not cease operation on the same date.

**Response:** No objection.

6.40 Condition no. 76 (Bridge over Botney Channel):

Proposed new condition to address the requirement to obtain an Environmental Permit for Flood Risk Activities from the Environment Agency in advance of construction taking place to erect a bridge structure over a main river (Botney Channel).

**Response:** No objection in principle. However, it is noted that the applicant's draft wording of this condition requires submission to and approval by the Environment Agency of an Environmental Permit before the commencement of construction of the bridge. National Planning Practice Guidance (Paragraph: 010 Reference ID: 21a-010-20140306) advises that "*A negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases ... However, in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk*". The SoS will need to consider whether the proposed wording is appropriate in these circumstances. In any case, for the purposes of discharging this suggested condition evidence of submission and approval of the application for an Environmental Permit should be provided to the Relevant Planning Authority.

## 7.0 CONCLUSIONS AND REASONS FOR RECOMMENDATION

7.1 The purpose of this report is to provide the SoS (BEIS) with the Council's views on an application to amend the s36 (Electricity Act) consent and deemed planning permission for the TGP facility. The majority of the proposed amendments are acceptable and it is recommended that no objections are raised to these elements. However, a number of queries and suggestion are highlighted with regard to condition nos. 11, 55 and 56 to 60 of the deemed planning permission.

## 8.0 RECOMMENDATION

- 8.1 That Planning Committee agree that the content of paragraphs references 6.30 to 6.40 (above) comprise the consultation response to be provided by the relevant planning authority to the Department for BEIS.

**Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online:

[www.thurrock.gov.uk/planning](http://www.thurrock.gov.uk/planning)

**Appendix 1**

Proposed amendments to s36 Consent and Deemed Planning Permission – track changes (new text underlined – deleted text ~~struck through~~)

DEPARTMENT FOR BUSINESS, ENERGY AND INDUSTRIAL STRATEGY

VARIATION OF CONSENT UNDER SECTION 36C OF THE ELECTRICITY ACT 1989

DIRECTION UNDER SECTION 90 (2ZA) OF THE TOWN AND COUNTRY PLANNING ACT 1990 TO VARY THE CONDITIONS OF THE DEEMED PLANNING PERMISSION

CONSTRUCTION AND OPERATION OF A BIOMASS AND ENERGY FROM WASTE FUELLED ELECTRICITY GENERATING STATION AT TILBURY DOCKS, ESSEX

The Secretary of State in exercise of the powers conferred on him by section 36C of the Electricity Act 1989 hereby varies the consent granted for the biomass and energy from waste fuelled electricity generating station proposed to be constructed on the Site at Tilbury Docks, Essex in accordance with the variations shown in italic text in the Annex.

~~20 August 2014~~ Date: XXXXXXX

Giles Scott  
Head of National Infrastructure Consents  
Department for Business, of Energy and Industrial Strategy ~~Climate Change~~

Our ref: 12.04.09.04/266CXXXXXXXXXX

Annex – Variation of Section 36C Consent

CONSENT UNDER SECTION 36C OF THE ELECTRICITY ACT 1989

1. Pursuant to section ~~36~~ 36C of the Electricity Act 1989 the Secretary of State for Business, Energy and Industrial Strategy ~~Climate Change~~ (“the Secretary of State”) hereby consents to the construction by Tilbury Green Power Limited (and its successors and assigns) (“the Company”), on the area of land delineated by a solid red line on Figure 1.2, annexed hereto and duly endorsed on behalf of the Secretary of State, of an energy from waste and biomass fuelled generating station at Tilbury Docks, Essex (“the Development”), and to the operation of that generating station.
2. Subject to paragraph 3(1), the Development shall be up to 860 MW capacity and comprise:
  - (a) ~~up to~~ two boilers;
  - (b) two stacks;
  - (c) two a steam turbine buildings~~hall~~;
  - (d) two air cooled condensers;
  - (e) waste wood/biomass storage building;
  - (f) waste material reception and bunker storage facilities ~~solid recovered fuel production building~~;
  - (g) ancillary plant and equipment buildings;
  - (h) up to three battery energy storage units; and
  - (i) the necessary buildings (including administration offices, workshops and stores), car parking, laydown areas, bridge and civil engineering works.
3. This consent is granted subject to the following conditions:
  - (1) The Development shall be constructed and operated in accordance with the details contained in paragraph 2 of this consent.
  - ~~(2) The Development shall not be commenced later than 27 August 2015.~~

DIRECTION UNDER SECTION 90(2ZA) OF THE TOWN AND COUNTRY PLANNING ACT 1990 TO DEEM PLANNING PERMISSION TO BE GRANTED

CONSTRUCTION AND OPERATION OF A BIOMASS AND ENERGY FROM WASTE FUELLED ELECTRICITY GENERATING STATION AT TILBURY DOCKS, ESSEX

4. The Secretary of State in exercise of the powers conferred on him by section 90(2ZA) of the Town and Country Planning Act 1990 hereby directs that planning permission for the biomass and energy from waste fuelled electricity generating station proposed to be constructed on the Site at Tilbury Docks, Essex be deemed to be granted subject to the following conditions:

Definitions

- (1) In these Conditions unless the context otherwise requires, the following definitions apply:

"BS 4142 1997" means British Standard 4142:1997 - Method for rating industrial noise affecting mixed residential and industrial areas;

~~"Bank Holiday" means a day that is, or is to be observed as, a Bank Holiday or a holiday under the Banking and Financial Dealings Act 1971;~~

"Biomass", except in conditions (72) to (74), and unless otherwise agreed in writing with the Relevant Planning Authority, means material, other than fossil fuel, which is, or is derived directly or indirectly entirely from plant matter, but does not include Waste Wood. Such material includes but is not limited to the following:

- i. Softwoods or hardwoods (untreated with preservatives or coatings) including softwoods or hardwoods derived from forestry works or virgin wood processing; forest wood; arboriculture arisings; cuttings, brash and other woody residues from forestry management operations; and bark;
- ii. energy crops;
- iii. sawdust; and
- iv. coconut shells, olive stones, cocoa husk, olive stone pulp, sunflower hulls, palm kernel meal, rapeseed meal and cereal by-products.

"CHPQA Standard issue 3" means the CHPQA Standard document issued in January 2009 which sets out the definitions, criteria and methodologies for the operation of the UK's CHP Quality Assurance (CHPQA) programme

~~"the Commencement of the Development" means the date on which the~~

~~Development shall be taken to be initiated in accordance with section 56 of the Town and Country Planning Act 1990, as amended;~~

~~"the Commissioning of the Development"~~ means the date on which a phase of the Development (as defined under "the Development") first supplies electricity on a commercial basis;

"the Company" means Tilbury Green Power Limited and its assigns and successors;

"Creative Conservation" means the establishment of areas which are capable of sustaining indigenous species of flora and fauna;

"the Development" means an electricity generating station of up to 80MW, comprising,

Phase 1: a waste wood/biomass fuelled electricity generation unit and,

Phase 2: a SRF/RDF/MSW/C&I fuelled electricity generation unit. ~~a biomass and energy from waste fuelled electricity generating station of up to 60MW at Tilbury Docks;~~

"Emergency" means circumstances in which there is reasonable cause for apprehending imminent injury to persons, serious damage to property or danger of serious pollution to the environment;

"Environment Agency" means the Environment Agency and its successors;

"Heavy Commercial Vehicle" has the meaning given by section 138 of the Road Traffic Regulation Act 1984;

"Natural England" means Natural England and its successors;

"Operating Weight" in relation to a goods vehicle has the meaning given by section 138 of the Road Traffic Act 1984;

"Permitted Preliminary Works" means:

- i. landscaping and Creative Conservation, providing these operations do not require the delivery to or removal from the Site of bulk filling materials;
- ii. installation and diversion of utility services within the Site;
- iii. surveys and geotechnical surveys;
- iv. provision of wheel cleansing facilities required pursuant to Condition (4);
- v. provision for temporary contractors' facilities necessary for (i) to (iv) above within the Site;
- vi. erection of temporary fencing;

- vii. construction of a new access;
- viii. site security;
- ix. preparation of contractors' laydown areas; and
- x. any other works agreed in writing with the Relevant Planning Authority to constitute Permitted Preliminary Works;

~~"the Primary Catchment Area" means the administrative area of Thurrock;~~

"Public Holiday" means a day which is or is to be observed as a public holiday in England, including a bank holiday in England under the Banking and Financial Dealings Act 1971

"the Relevant Planning Authority" means:

- i. Thurrock Thames Gateway Development Corporation in respect of any approval previously given by it in respect of the Development; and
- ii. for all other purposes, Thurrock Borough Council and its successors as local planning authority for the area in which the site is located;

~~"the Second Catchment Area" means the administrative areas of Essex, Hertfordshire, South Bedfordshire and Luton;~~

"the Site" means the area of land outlined red on Figure 1.2 annexed hereto.

"Steam Purging" means any planned release of steam likely to cause noise and be perceptible at residential properties or other land uses in the locality.

"SRF/RDF/MSW/C&I waste" means waste materials from solid recovered fuel/refuse derived fuel/municipal solid waste/commercial and industrial sources.

"Travel Plan Strategy" means the travel plan strategy dated 18 August 2008, reference 236400/3/A, submitted to DECC on 19 August 2008; and updated travel plan 393552|02|B, July 2018.

"Waste wood", unless otherwise agreed in writing with the Relevant Planning Authority, means, other than wood that is Biomass, wood that is waste due to it being discarded or intended to be discarded or required to be discarded by the holder of that waste (the holder being the producer of the waste or the person who is in possession of it and the producer being any person whose activities produce waste or any person who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of the waste). Such material includes but is not limited to the following:

- I railway sleepers;
- li pallets;

- iii furniture off-cuts;
- iv wood recovered from construction and demolition waste;
- v wood recovered from any other waste stream including household and commercial/industrial waste; and
- vi utility poles;

#### The Site

- (2) The construction of the Development shall only take place within the boundary of the Site.

**Reason:** To ensure that no construction takes place beyond the boundary of the area which is the subject of this planning permission.

#### Time Limits

- (3) ~~Not used.~~<sup>1</sup> ~~The Commencement of the Development shall not be later than 27th August 2015.~~

~~Reason: To reflect the time it may reasonably take to put in place the remaining and necessary pre-construction measures required for the Development, including discharge of planning conditions.~~

<sup>1</sup> Condition (3) is no longer required as Commencement of the Development was confirmed by email to Thurrock Council on 24 August 2014 to have taken place.

#### Suppression of Dust and Dirt during Demolition and Construction

- (4) Except for the Permitted Preliminary Works, the ~~c~~Commencement of Phase 2 of the Development shall not take place until wheel cleansing facilities for Heavy Commercial Vehicles and any other vehicle which has an operating weight exceeding three tonnes has been provided in accordance with the scheme approved by the Relevant Planning Authority under application reference 10/50148/TTGCND. These facilities shall be installed in accordance with the timescale approved by the Relevant Planning Authority under application reference 10/50148/TTGCND and shall be maintained throughout the period of the construction of the Development unless otherwise agreed in writing with the Relevant Planning Authority.

**Reason:** To ensure that satisfactory measures are in force so as to alleviate any impact dust and dirt may have on the local environment during construction.

#### ~~Suppression of Dust and Dirt during Demolition and Construction~~

- (5) All Heavy Commercial Vehicles and any other vehicle or mobile plant which has an operating weight exceeding three tonnes associated with the construction of the Development leaving the Site, other than those vehicles exclusively using tarmac or concrete roads, shall on each occasion, prior to leaving, pass

through the wheel cleansing facilities approved by the Relevant Planning Authority under application reference 10/50148/TTGCND.

**Reason:** To ensure that satisfactory measures are in force so as to alleviate any impact dust and dirt may have on the local environment during construction.

- (6) The measures for the suppression of dust, approved by the Relevant Planning Authority under application reference 10/50179/TTGDGD, shall be employed throughout the period of construction of Phase 2 of the Development unless otherwise agreed in writing with the Relevant Planning Authority.

**Reason:** To ensure that satisfactory measures are in force so as to alleviate any impact dust and dirt may have on the local environment during construction.

- (7) All open bodied Heavy Commercial Vehicles carrying dry loose aggregate, cement or soil into and out of the Site associated with the construction of Phase 2 of the Development shall be sheeted or sealed so as to prevent the release of such materials into the local environment.

**Reason:** To ensure that satisfactory measures are in force so as to alleviate any impact dust and dirt may have on the local environment during construction.

#### ~~Demolition Protocol~~

- ~~(8) Not used.<sup>2</sup> Following demolition of the existing buildings on-site, evidence of compliance with the material recovery target contained within the Demolition Protocol approved by the Relevant Planning Authority under application reference 10/50179/TTGDGD, shall be provided in writing to the Relevant Planning Authority.~~

~~Reason: In order to minimise waste arising from the demolition and clearance of the Site and to maximise the re-use of demolition materials in the interests of sustainability.~~

~~<sup>2</sup> Condition (8) is no longer required as evidence of compliance with material recovery targets was confirmed by Thurrock Council letter on 15 July 2014.~~

#### Permitted Preliminary Works

- (9) Unless otherwise agreed in writing with the Relevant Planning Authority, the Permitted Preliminary Works shall be carried out in accordance with the "Scheme Pursuant to Condition 9 (March 2014)" approved by the Relevant Planning Authority under application reference 14/00239/CONDC.

**Reason:** To enable the Relevant Planning Authority to exercise reasonable and proper control over the temporary works associated with the Development.

#### Site Layout, Design and Fire Prevention

- (10) Except for the Permitted Preliminary Works, the commencement of the Phase 2 of

the Development shall not take place until there has been submitted to, approved in writing by, and deposited with, the Relevant Planning Authority a scheme which shall include provisions for the:

- i details of the siting, design, and external appearance of all buildings and structures which are to be retained following the completion of the construction of the Development;
- ii details of the colour, materials and surface finishes in respect of those buildings and structures referred to in (i) above;
- iii details of ground levels and dimensions of all permanent buildings and structures together with cross-sections through the Site showing existing and proposed ground levels;
- iv details of vehicular circulation roads, parking, hardstandings, loading and unloading facilities and turning facilities on the Site;
- v details of all new or modified permanent fencing and gates and boundary treatments including the proposed acoustic barrier and its noise attenuation performance;
- vi details of fire suppression measures and access of fire appliances to all major buildings, structures and storage areas;
- vii details of permanent artificial lighting and its design and installation to prevent glare and lighting overspill from affecting residential areas; and
- viii phasing of works included in the scheme.

**Reason:** To enable the Relevant Planning Authority to exercise reasonable and proper control over the design and appearance of the Development and to ensure adequate fire prevention measures are in place.

- (11) The principles set out within the Design and Access Statement Addendum (dated ~~November 2018~~~~August 2008~~) together with the application drawings shall form the basis for submissions under Condition (10) (i) and (ii). The Development shall proceed thereafter only in accordance with the approved scheme, unless otherwise agreed in writing with the Relevant Planning Authority.

**Reason:** To enable the Relevant Planning Authority to exercise reasonable and proper control over the design and appearance of the Development and to ensure adequate fire prevention measures are in place.

#### Landscaping and Creative Conservation

- (12) Except for the Permitted Preliminary Works, prior to the Commencement of the Phase 2 of the Development, a scheme of landscaping and Creative Conservation; ~~to include the proposed areas adjacent to the Botney Channel as shown on drawings 236400/B.2 and 235400/B.3 in the Ecology Review and Mitigation Plan (dated July 2008) as amended by Figure 4 Alternative Ground Level Habitat submitted to accompany application reference 13/01079/NMA,~~ shall be submitted to, approved in writing by, and deposited with, the Relevant Planning Authority. ~~(in consultation with~~

~~Natural England). Unless otherwise agreed in writing with the Relevant Planning Authority the scheme shall be in accordance with the mitigation measures set out in the Ecology Review and Mitigation Plan (dated 18 July 2008) and in section 5.5 of the Design and Access Statement (dated 8 August 2008).~~

~~**Reason:** In order to ensure proper landscaping for the Development, Creative Conservation and to achieve the sustainable redevelopment of the Site. See also Conditions (50)-(51) below.~~

#### Rainwater Harvesting

- (13) The measures for the harvest of rainwater falling onto the Site approved by the Relevant Planning Authority under application reference 13/01170/CONDC shall be employed throughout the phase of construction permitted under the terms of application 13/01170/CONDC. ~~Prior to the commencement of Phase 2 of the Development, a phase of construction not covered by the terms of application reference 13/01170/CONDC,~~ a scheme detailing measures to harvest rainwater falling onto the part of the Site occupied by the Phase 2 Development during such ~~later phase~~ shall be submitted to, approved in writing by, and deposited with, the Relevant Planning Authority, in consultation with the Environment Agency. The agreed details shall be installed and implemented prior to the Commissioning of the Development unless otherwise agreed in writing with the Relevant Planning Authority.

~~**Reason:** In order to reduce the mains water consumption of the facility and to achieve the sustainable redevelopment of the Site.~~

#### River Thames Flood Defences

- (14) Subject to Flood Defence Consent FDC-ENS-2015-747 dated 17 April 2015, a horizontal strip 9 metres wide landward of, and adjacent to, the existing River Thames flood defences shall be left free of permanent built development and all other significant development unless otherwise agreed in writing with the Relevant Planning Authority, in consultation with the Environment Agency.

~~**Reason:** To retain access to the watercourse for the Environment Agency to carry out its functions and to protect the river environment.~~

- (15) Not used.<sup>3</sup> ~~Prior to the commencement of construction of the proposed biomass storage building, details of the foundation design of this building shall be submitted to, approved in writing by, and deposited with the Relevant Planning Authority, in consultation with the Environment Agency. Construction of the biomass storage building shall proceed in accordance with the agreed details.~~

~~**Reason:** In order to maintain the integrity of the River Thames' flood defences.~~

~~<sup>3</sup> Condition (15) is no longer required as biomass building foundation details were submitted to Thurrock Council.~~

## Flood Protection Measures

- (16) In areas where personnel routinely work, as detailed in Section 4.2 of the submitted Flood Risk Assessment, ~~the~~ Phase 2 of the Development shall be constructed with a minimum finished floor level at or above 3.85m Above Ordnance Datum (1:1,000 year level plus climate change) except for the boiler house where its construction shall be 3.72m Above Ordnance Datum with additional flood defence measures to protect up to the 1:1,000 year level plus climate change.

**Reason:** To ensure the appropriate protection of the development and occupants.

- (17) Prior to the Commissioning of Phase 2 of the Development a flood response plan shall be submitted to, approved in writing by, and deposited with, the Relevant Planning Authority in consultation with the relevant authority Emergency Planning Officer. The agreed measures within the plan shall be operated throughout the lifetime of the Development.

**Reason:** To ensure the appropriate protection of the development and occupants.

## River Transport

- (18) Except for the Permitted Preliminary Works, the ~~C~~ommencement of Phase 2 of the Development shall not take place until an investigation has been carried out into the potential opportunities for the utilisation of river transport for the transportation of materials associated with the construction of the Development. The results of the investigation shall be submitted to the Relevant Planning Authority, and a scheme for the monitoring and reporting of potential opportunities for the use of river transport during the Construction of the Development shall be agreed in writing by, and deposited with, the Relevant Planning Authority. The scheme shall also make provision for taking advantage of such opportunities as it identifies as viable.

**Reason:** In order to ensure the most sustainable mode of transport for construction materials is used.

## Road Traffic Management

- (19) The travel plan approved by the Relevant Planning Authority in 2014 and updated in 2018~~Prior to the commencement of the Development, shall be further~~ updated within 3 months of Phase 2 of the Development being operational and annually thereafter while the Development is in use. The updated ; a travel plan shall be submitted to, approved in writing by and deposited with, the Relevant Planning Authority, in consultation with the Highways Agency. The travel plan shall address both the transport of materials and employees in order to minimise the impact of the development on local roads and shall reflect the objectives of the Travel Plan Strategy and incorporate further objectives to optimise HGV payloads. The travel

plan shall be implemented on the Commissioning of Phase 2 of the Development and maintained thereafter unless otherwise agreed in writing with the Relevant Planning Authority.

**Reason:** To minimise the impact of construction and operational traffic on the motorway and trunk road network.

- (20) ~~The Development shall be implemented in accordance with the Vehicle and Accident Monitoring Scheme approved by the Relevant Planning Authority in 2014 and updated in 2018. Except for the Permitted Preliminary Works, the Commencement of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with, the Relevant Planning Authority, in consultation with the Highways Agency, a Vehicle and Accident Monitoring Scheme based on Environmental Statement Technical Appendix L: Traffic & Transport ADDENDUM February 2009. Unless otherwise agreed in writing with the Relevant Planning Authority, in consultation with the Highways Agency, the construction and operation of the Development shall proceed in accordance with the approved scheme.~~

**Reason:** To minimise the impact of construction and operational traffic on the motorway and trunk road network.

- (21) During the period of construction of Phase 2 of the Development, transport movements of abnormal (indivisible) loads shall not be permitted on the M25 Motorway and A13 and A1089 Trunk Roads between the periods 07.00-09.00 hours and 16.30-18.30 hours, and outside these time periods, shall only be permitted in accordance with the requirements of the Essex Police Authority and the Highways Agency Abnormal Indivisible Loads Team.

**Reason:** To minimise the impact of construction and operational traffic on the motorway and trunk road network.

#### Demolition, Construction and Associated Noise and Vibration

- (22) All activities associated with the demolition of existing buildings and structures and the construction of Phase 2 of the Development shall be carried out in accordance with British Standard 5228, Parts 1 and 2: 1997 and Part 4: 1992; Noise and Vibration Control on Construction and Open Sites.

**Reason:** To ensure reasonable and proper control is exercised over the methods of demolition of existing buildings and structures and construction of Phase 2 of the Development and to ensure the proper control of noise during demolition and construction activities.

- (23) The commencement of Phase 2 of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with, the Relevant Planning Authority a scheme for impact pile, or other means of pile driving, including methods and duration and the scheme shall state criteria according to which the

means of pile driving to be adopted have been chosen. The approved scheme shall be adhered to during the period of construction of Phase 2 of the Development.

**Reason:** To ensure reasonable and proper control is exercised over the methods of demolition of existing buildings and structures and construction of Phase 2 of the Development and to ensure the proper control of noise during demolition and construction activities.

- (24) No impact pile driving required during the construction of Phase 2 of the Development shall take place on the Site on any Sunday or Bank Holiday or on any other day except between the following times:

Monday to Friday 0900 – 1800 hours

Saturday 0900 – 1300 hours

Unless such pile driving:

- (a) is associated with an Emergency; or
- (b) is carried out with the prior approval of the Relevant Planning Authority.

**Reason:** To ensure reasonable and proper control is exercised over the methods of demolition of existing buildings and structures and construction of Phase 2 of the Development and to ensure the proper control of noise during demolition and construction activities.

- (25) No demolition or construction work associated with Phase 2 of the Development shall take place on the Site at any time on any Sunday or Bank Holiday or on any other day except between the following times:

Monday to Friday 0700 – 1900 hours

Saturday 0800 - 1700 hours

Unless such work:

- (i) is associated with an Emergency; or
- (ii) is carried out with the prior written approval of the Relevant Planning Authority; or
- (iii) does not cause existing background noise levels to be exceeded, such existing background noise levels to be set out in accordance with the scheme to be prepared pursuant to Condition (27).

**Reason:** To ensure reasonable and proper control is exercised over the methods of demolition of existing buildings and structures and construction of Phase 2 of the Development and to ensure the proper control of noise during demolition and construction activities.

- (26) Within 2 working days following any instance where a time limitation referred to in Conditions (24) and (25) is not observed because of an Emergency, the Relevant Planning Authority shall be notified and such notification shall be followed up within 2 working days with a written statement detailing the nature of the Emergency and the reason why the time limit could not be observed.

**Reason:** To ensure reasonable and proper control is exercised over the methods of

demolition of existing buildings and structures and construction of Phase 2 of the Development and to ensure the proper control of noise during demolition and construction activities.

- (27) The demolition of the existing buildings and construction of Phase 2 of the Development shall be undertaken in accordance with the scheme of noise and vibration monitoring approved by the Relevant Planning Authority under application reference 10/50188/TTGDCD. At the specified noise monitoring locations, noise and vibration levels during the demolition and construction operations shall not exceed the levels specified in the approved monitoring scheme approved under application reference 10/50188/TTGDCD, unless otherwise agreed in writing with the Relevant Planning Authority or in an Emergency.

**Reason:** To ensure reasonable and proper control is exercised over the methods of demolition of existing buildings and structures and construction of Phase 2 of the Development and to ensure the proper control of noise during demolition and construction activities.

- (28) In any instance where a noise level approved pursuant to Condition (27) is exceeded because of an Emergency the Relevant Planning Authority shall be notified. The notification shall be followed up within 2 working days with a written statement detailing the nature of the emergency and the reason why the maximum permissible noise level could not be observed.

**Reason:** To ensure reasonable and proper control is exercised over the methods of demolition of existing buildings and structures and construction of the Development and to ensure the proper control of noise during demolition and construction activities.

#### Operational Noise and Vibration

- (29) The Commissioning of Phase 2 of the Development shall not take place until there has been submitted to, approved by, and deposited with, the Relevant Planning Authority, a noise and vibration management plan including provision for the monitoring of noise and vibration generated by the normal commercial operation of the Development. The plan shall specify:
- (i) the locations from which noise and vibration will be monitored;
  - (ii) the method of noise measurement (which shall be in accordance with BS 4142 1997);
  - (iii) the maximum permissible levels of noise and vibration at each such monitoring location; and
  - (iv) the arrangements for making noise and vibration monitoring results available to the Relevant Planning Authority and for notifying local residents affected by an Emergency (as provided for in Condition (30)).

The plan shall make provision for such noise and vibration measurements to be

taken as soon as possible following requests by the Relevant Planning Authority and such measurements shall be given to the Relevant Planning Authority within 2 working days. At the approved monitoring locations, noise levels during the operation of the Development shall not exceed the levels specified in the approved plan, unless otherwise agreed in writing with the Relevant Planning Authority or in an Emergency.

**Reason:** To ensure the proper control of noise during the operation of the Development and to give advance warning of the timing of exceptionally noisy events.

- (30) In any instance where a noise or vibration limitation level approved pursuant to Condition (29) is exceeded because of an Emergency the Relevant Planning Authority shall be provided within two working days with a written statement detailing the nature of the Emergency and the reason why the noise level and/or vibration limitation could not be observed. If the emergency period is expected to be for more than twenty-four hours then those residents affected by the Emergency shall be informed of the reasons for the Emergency and the expected duration.

**Reason:** To ensure the proper control of noise during the operation of the Development and to give advance warning of the timing of exceptionally noisy events.

- (31) Except in an Emergency, at least 2 working day's written notice shall be given to the Relevant Planning Authority of any proposed operation of emergency pressure valves or similar equipment. In any instance where Steam Purging is to take place the Company shall give two working days prior notice to local residents and businesses affected by the noise of such purging. So far as is reasonably practicable, any such operation should take place between 09.00 and 17.00 hours on any day other than Saturdays, Sundays, Bank Holidays or public holidays.

**Reason:** To ensure the proper control of noise during the operation of the Development and to give advance warning of the timing of exceptionally noisy events.

#### Noise and Vibration Complaints Procedure

- (32) In any instance where a local resident makes a complaint about noise and/or vibration generated by demolition works or the construction or operation of the Development, investigations shall be carried out to establish the justification, or otherwise, of the complaint, the likely cause and possible remedial measures. A written report to the complainant shall be made as soon as reasonably practicable following the investigation and/or remedial work. All such reports shall be kept in an appropriate location on Site and made available to the Relevant Planning Authority on request.

**Reason:** To ensure that any complaints on the grounds of noise and vibration are

properly dealt with so as to reduce the impact of the Development on local residents.

#### Prevention of Contamination of Watercourses

(33) Except for the Permitted Preliminary Works the Commencement of Phase 2 of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with, the Relevant Planning Authority, in consultation with the Environment Agency, a scheme showing the method and working of drainage facilities on the Site. Such facilities shall be put in place in accordance with the approved scheme.

**Reason:** To ensure proper drainage of the Site and that proper containment facilities are built.

(34) The scheme referred to in Condition (33) shall include:

- (i) measures to ensure that no leachate or any contaminated surface water from the Site shall be allowed at any time to enter directly or indirectly into any watercourse or underground strata or onto adjoining land;
- (ii) provision so as to ensure that all existing drainage systems continue to operate and that riparian owners upstream and downstream of the Site are not adversely affected;
- (iii) provision for trapped gullies in car parks, hardstandings and roadways;
- (iv) measures to ensure that all foul sewage must drain to an approved foul sewerage and/or sewage disposal system;
- (v) provisions to distinguish between temporary and permanent parts of the works; and
- (vi) phasing of works.

**Reason:** To ensure proper drainage of the Site and that proper containment facilities are built.

(35) Any surface water contaminated by hydrocarbons which are used during the construction of Phase 2 of the Development shall be passed through oil/grit interceptor(s) prior to being discharged to any public sewer or watercourse or to any other surface water disposal system approved by the Environment Agency.

**Reason:** To ensure proper drainage of the Site and that proper containment facilities are built.

(36) All facilities required for the storage of hydrocarbons, process chemicals or similar liquids which are used during the construction of Phase 2 of the Development must be sited on impervious bases and surrounded by impervious bund walls. The size of the bunded compound(s) shall be at least equivalent to the capacity of the largest tank plus 10%. All filling points, vents and sight glasses must be located within the bund and there must be no drain through the bund floor or walls.

**Reason:** To ensure proper drainage of the Site and that proper containment facilities

are built.

- (37) All bunded compound(s) referred to in Condition (36) in which acids, alkalis or sulphides are stored shall, in addition to being contained in suitable facilities, have appropriate protective lining applied to the inner walls of the bunds.

Reason: To ensure proper drainage of the Site and that proper containment facilities are built.

- (38) Any storage facility to which Conditions (36) or (37) refer shall be completed in accordance with the requirements of those Conditions before being brought into use.

**Reason:** To ensure proper drainage of the Site and that proper containment facilities are built.

### Archaeology

- ~~(39) Not used. <sup>4</sup>The construction of the Development, including the Permitted Preliminary Works, shall be undertaken in accordance with the Written Scheme of Investigation for Archaeology approved by the Relevant Planning Authority under application reference 10/50148/TTGCND.~~

~~Reason: To allow the surveying of the Site for archaeological artefacts and the recovery of any important archaeological discovery before construction of the main Development begins.~~

- ~~(40) Not used. Any further investigations and recording of such finds as are considered necessary by the Relevant Planning Authority shall be undertaken prior to the construction of any part of the Development on that part of the Site where such finds are identified, and in the case of finds of national importance, in accordance with the phasing of works within the Written Scheme of Investigation for Archaeology approved by the Relevant Planning Authority under application reference 10/50148/TTGCND, unless otherwise agreed in writing with the Relevant Planning Authority.~~

~~Reason: To allow the surveying of the Site for archaeological artefacts and the recovery of any important archaeological discovery before construction of the main Development begins.~~

<sup>4</sup> Conditions (39) and (40) are no longer required as a Written Scheme of Investigation was approved by Thurrock Council and a report on subsequent archaeological investigations at site was provided to Thurrock Council by email on 8 July 2014.

### Contamination

- (41) Unless any variation has been agreed in writing with the Relevant Planning Authority

in consultation with the Environment Agency, the construction of Phase 2 of the Development shall take place in line with the scheme approved by the Relevant Planning Authority under application reference 12/01088/CONDC, being a scheme covering the following matters:

- (a) a desk study identifying
- all previous uses;
  - potential contaminants associated with those uses;
  - a conceptual model of the Site indicating sources, pathways and receptors; and
  - potentially unacceptable risks arising from contamination at the Site;
- (b) a Site investigation scheme based on (a) to provide information for an assessment of the risk to all receptors that may be affected, including those off-Site; and
- (c) the results of the Site investigation and risk assessment pursuant to (b) and a method statement based on those results giving full details of the remediation measures required and how they are to be undertaken.

**Reason:** To ensure that Phase 2 of the Development does not cause pollution of Controlled Waters and that it complies with approved details in the interest of protection of Controlled Waters. To ensure that any potential contaminated waste found on the Site is disposed of properly.

(42) Not used.<sup>5</sup>

<sup>5</sup> Condition (42) is no longer required as it required compliance with the scheme approved under Condition 41. Condition 41 covers compliance.

(43) If, during construction of Phase 2 of the Development, contamination not previously identified is found to be present at the Site then no further work shall be carried out until there has been submitted to, approved in writing by, and deposited with, the Relevant Planning Authority an amendment of the scheme approved under application reference 12/01088/CONDC detailing how this unsuspected contamination shall be dealt with.

**Reason:** To ensure that Phase 2 of the Development does not cause pollution of Controlled Waters and that it complies with approved details in the interest of protection of Controlled Waters. To ensure that any potential contaminated waste found on the Site is disposed of properly.

(44) Contaminated material arising from the construction of Phase 2 of the Development shall be treated on the Site in accordance with a scheme to be submitted to, approved in writing by, and deposited with, the Relevant Planning Authority, in

consultation with the Environment Agency, or shall be disposed of to licensed disposal facilities.

**Reason:** To ensure that Phase 2 of the Development does not cause pollution of Controlled Waters and that it complies with approved details in the interest of protection of Controlled Waters. To ensure that any potential contaminated waste found on the Site is disposed of properly.

- (45) Prior to the Commissioning of Phase 2 of the Development, a verification report shall be provided on completion of the works set out in Condition (41)(c) confirming the remediation measures that have been undertaken in accordance with the method statement and setting out measures for maintenance, further monitoring and reporting.

**Reason:** To ensure that Phase 2 of the Development does not cause pollution of Controlled Waters and that it complies with approved details in the interest of protection of Controlled Waters. To ensure that any potential contaminated waste found on the Site is disposed of properly.

#### Protection and Mitigation for Bats

- ~~(46) Not used.<sup>6</sup> The demolition of existing buildings and construction of the Development shall be undertaken in accordance with the Bat Mitigation and Enhancement measures approved by the Relevant Planning Authority under application reference 10/50250/TTGDGD.~~

~~Reason: For the protection of bats which are protected under the Wildlife and Countryside Act 1981 (as amended).~~

<sup>6</sup> Condition (46) is no longer required as investigations in 2017 and 2018 indicate that bats are not present on the site

#### Protection and Mitigation for Reptiles

- ~~(47) Not used.<sup>7</sup> Construction of the Development shall be undertaken in accordance with the Scheme for the Protection and Mitigation of Reptiles approved under application reference 10/50250/TTGDGD.~~

~~Reason: For the protection of reptiles which are protected under the Wildlife and Countryside Act 1981 (as amended).~~

<sup>7</sup> Condition (47) is no longer required as investigations in 2018 indicate that reptiles are not present on the site

#### Protection and Mitigation for Birds

- (48) No trees, hedges, scrub, dense vegetation or other nesting sites shall be cleared

from the Site during the bird breeding season of 1 March to 30 September inclusive, except where a suitably qualified ecological consultant, appointed by the Company, has confirmed that such clearance works should not affect any nesting birds, unless otherwise agreed in writing with the Relevant Planning Authority.

**Reason:** To cause that breeding birds are not disturbed or nests destroyed. Breeding birds are protected under the Wildlife and Countryside Act 1981 (as amended).

(49) Not used.<sup>8</sup>

8 Condition (49) is no longer required as it duplicated provision made in Condition (12).

#### Landscaping and Creative Conservation

(50) The scheme referred to in Condition (12) shall deal with the treatment of any environmentally sensitive areas as well as the general provision of screening, shrub and tree planting and grassed areas and means of integrating the Development with the surrounding landscape and shall include the following matters:

- (i) planting;
- (ii) management of existing and new planted areas including the protection of existing planting during construction;
- (iii) restoration of areas affected by construction works;
- (iv) details of grass seed mix for areas of the Site set out in the scheme referred to in Condition (12) to be restored to grassland;
- (v) details of the height, type, size and species of the shrubs and trees to be planted;
- (vi) details of the measures to be taken to create new flora and fauna habitats and the management of such new habitats; and
- (vii) phasing of works to be included in the scheme referred to in Condition (12).

**Reason:** To ensure proper landscaping for Phase 2 of the Development, Creative Conservation and to achieve the sustainable redevelopment of the Site.

(51) The landscaping and planting, including grass sowing, shall take place in accordance with the phasing of works specified in Condition (50)(vii) and no later than the appropriate planting and sowing season following the completion of construction of the Development and shall be carried out in accordance with the scheme approved under Condition (12) unless otherwise agreed in writing with the Relevant Planning Authority. Any trees or shrubs, including hedges, which die, become seriously damaged or diseased or are removed within five years from the date of planting shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing with the Relevant Planning Authority.

**Reason:** To ensure proper landscaping for **Phase 2 of** the Development, Creative

Conservation and to achieve the sustainable redevelopment of the Site.

#### Fugitive Odour

- (52) The Commissioning of Phase 2 of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with the Relevant Planning Authority a scheme for the control of fugitive odours from Phase 2 of the Development. ~~the Solid Recovered Fuel (SRF) production facility~~. Unless otherwise agreed in writing with the Relevant Planning Authority, the Development shall proceed in accordance with the approved scheme.

**Reason:** In the interests of amenity.

#### Pest/Vermin Control

- (53) The Commissioning of Phase 2 of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with the Relevant Planning Authority a scheme for the control of pests and vermin at the Site. Unless otherwise agreed in writing with the Relevant Planning Authority, the Development shall proceed in accordance with the approved scheme.

**Reason:** In the interests of amenity.

#### Hours of Operation

- (54) Unless otherwise agreed in writing with the Relevant Planning Authority, the operating hours of the Development will be between the following times:

##### Phase 2 of the Development: ~~SRF Production Facility:~~

Activity:	Operation:
Materials delivery	0700-1830 Mon-Fri 0700-1300 Sat
Materials processing and fuel production	Continuous
Removal of recyclate and residues	0700-1830 Mon-Fri 0700-1300 Sat

##### Phase 1 of the Development: ~~Biomass Store:~~

Activity:	Operation:
Delivery by river	At any time during a 24 hour period
Delivery by road	0700-1830 Mon-Fri 0700-1300 Sat

##### Power Islands:

Activity:	Operation:
-----------	------------

Power generation and CHP      Continuous

**Reason:** In the interests of amenity.

(55) No more than 650,000 tonnes of Biomass, Waste Wood, Refuse Derived Fuel, Solid Recovered Fuel, Commercial & Industrial Waste and ~~/or~~ Municipal Solid Waste (MSW) shall be brought onto the site per annum. ~~This will include no more than 40,000 tonnes per annum of MSW and no more than a combined total of 300,000 tonnes per annum of MSW, Commercial & Industrial Waste and Solid recovered Fuel.~~

**Reason:** In order for the Relevant Planning Authority to exercise reasonable control over the input of materials into the Site.

(56) Not used. <sup>9</sup> ~~No more than 450,000 tonnes of Biomass, Waste Wood, Solid Recovered Fuel, Commercial & Industrial Waste and / or Municipal Solid Waste shall be delivered by road to the Site per annum.~~

~~Reason: To minimise the impact of imports on the road network.~~

Source of Municipal Solid Waste, Solid Recovered Fuel or Waste Wood, Commercial & Industrial Waste and Biomass

(57) Not used. ~~No Municipal Solid Waste other than that derived from within Thurrock, Essex, Hertfordshire, South Bedfordshire and Luton shall enter the site.~~

~~Reason: In order for the Relevant Planning Authority to exercise reasonable control over the input of materials into the Site.~~

(58) Not used. ~~No Solid Recovered Fuel or Waste Wood other than that derived from within the East of England region and / or within a radius of 50 miles from the Site boundary shall enter the Site.~~

~~Reason: In order for the Relevant Planning Authority to exercise reasonable control over the input of materials into the Site.~~

(59) Not used. ~~No Commercial & Industrial Waste other than that derived from within the East of England Region shall enter the site.~~

~~Reason: In order for the Relevant Planning Authority to exercise reasonable control over the input of materials into the Site.~~

(60) Not used. ~~No Biomass other than that derived from within the East of England region and / or within a radius of 50 miles from the Site boundary shall enter the Site unless delivered by river.~~

~~Reason: In order for the Relevant Planning Authority to exercise reasonable control over the input of materials into the Site.~~

<sup>9</sup> Conditions (56), (57), (58), (59) and (60) are no longer required as restrictions no

longer apply to the source or quantity of waste material components.

- (61) Records of the type and origin of material entering the Site and the mode of transport used for delivery shall be kept by the operator and made available to the Relevant Planning Authority within 7 days of a written request.

**Reason:** In order for the Relevant Planning Authority to exercise reasonable control over the input of materials into the Site.

#### External Storage

- (62) Unless otherwise agreed in writing with the Relevant Planning Authority, or unless in an Emergency, the external handling of biomass, waste, materials or products shall be under cover at all times during the operation of the Development.

**Reason:** In the interests of amenity.

#### Disposal and Re-use of Post-Combustion Residues

- (63) The Commissioning of Phase 2 of the Development shall not take place until a scheme detailing the proposed disposal and potential re-use and recycling of post-combustion residues, including means of transport, has been submitted to, approved in writing by, and deposited with, the Relevant Planning Authority. Unless otherwise agreed in writing with the Relevant Planning Authority, the agreed scheme shall be implemented for the duration of the Development.

**Reason:** In order to ensure the appropriate disposal of and sustainable re-use of post-combustion residues.

#### Air Pollution Monitoring

- (64) The Commissioning of Phase 2 of the Development shall not take place until there has been submitted to, and approved in writing by, the Relevant Planning Authority, in consultation with the Environment Agency, a scheme for monitoring air pollution in their area. The scheme shall include the measurement location or locations within the relevant area from which air pollution will be monitored, the equipment and methods to be used and the frequency of measurement. Unless otherwise agreed in writing with the Relevant Planning Authority, the scheme shall provide for the first measurement to be taken not less than 12 months prior to the Commissioning of Phase 2 of the Development and for the final measurement to be taken not more than 24 months after Commissioning of Phase 2 of the Development. Full details of the measurements obtained in accordance with the scheme shall be supplied to the Relevant Planning Authority as soon as reasonably practicable after they become available.

**Reason:** To ensure that the Relevant Planning Authority is kept informed on a regular and programmed basis about the changes in the level of air pollution at

locations within its area.

- (65) Should the Relevant Planning Authority require continued monitoring of air pollution the Scheme pursuant to Condition (64) shall be extended for a period of up to 36 months from the date of the last measurement taken pursuant to that Condition. Full details of the measurements obtained during the extended period shall be provided to the Relevant Planning Authority as soon as reasonably practicable after they become available.

**Reason:** To ensure that the Relevant Planning Authority is kept informed on a regular and programmed basis about the changes in the level of air pollution at locations within its area.

#### Stack Lighting

- (66) The Commissioning of Phase 2 of the Development shall not take place until a scheme detailing the lighting of the flue stacks with a steady red light of 200 candelas visible from the highest most practicable point, have been submitted to, approved in writing by, and deposited with, the Relevant Planning Authority. The stacks shall be lit in accordance with the approved scheme prior to the Commissioning of Phase 2 of the development and maintained thereafter.

**Reason:** In the interests of air traffic safety.

#### Use of Waste Heat

- (67) The Commissioning of Phase 2 of the Development shall not take place until sufficient plant and pipework has been installed to facilitate the future supply of heat to the boundary of the Site under Condition (68) at a later date if opportunities to do so are identified pursuant to Condition (68).

**Reason:** To ensure that waste heat is available for use to the benefit of the local domestic, commercial and industrial users when the demand arises.

- (68) Prior to the Commissioning of Phase 2 of the Development, an updated CHP Feasibility Review assessing potential opportunities for the use of heat from the Development shall be submitted to, approved in writing by, and deposited with, the Relevant Planning Authority. This shall provide for the ongoing monitoring and full exploration of potential opportunities to use heat from the Development as part of a Good Quality CHP scheme (as defined in the CHPQA Standard issue 3), and for the provision of subsequent reviews of such opportunities as necessary. Where viable opportunities for the use of heat in such a scheme are identified, a scheme for the provision of the necessary plant and pipework to the boundary of the site shall be submitted to, approved in writing by, and deposited with, the Relevant Planning Authority. Any plant and pipework installed to the boundary of the Site to enable the use of heat shall be installed in accordance with the agreed details.

**Reason:** To ensure that waste heat is available for use to the benefit of the local domestic, commercial and industrial users when the demand arises.

#### Cessation of works and restoration of the Site

(69) Unless otherwise agreed in writing with the Relevant Planning Authority, within 12 months of Phase 1 or Phase 2 ~~the Site~~ ceasing to be used for the purposes of electricity generation, a scheme for the demolition and removal of that Phase of the Development from the Site shall be submitted to the Relevant Planning Authority, for approval in writing.

**Reason:** To ensure the Site is not allowed to become derelict after the cessation of electricity generation.

(70) The scheme referred to in Condition (69) shall include:

- (i) details of all structures and buildings which are to be demolished;
- (ii) details of the means of removal of materials resulting from the demolition and methods for the control of dust and noise;
- (iii) the phasing of the demolition and removal;
- (iv) details of the restoration works; and
- (v) the phasing of the restoration works.

**Reason:** To ensure the Site is not allowed to become derelict after the cessation of electricity generation.

(71) The demolition and removal of a Phase of the Development (which shall include all buildings, structures, plant, equipment, areas of hardstanding and access roads) and subsequent restoration of the Site shall thereafter be implemented in accordance with the approved scheme referred to in Condition (69), unless otherwise agreed in writing with the Relevant Planning Authority.

**Reason:** To ensure the Site is not allowed to become derelict after the cessation of electricity generation.

#### Biomass Sustainability

(72) With the exception of any other fuels used during boiler start up or stabilisation (excluding coal, which shall not be used in the operation of the Development), only the material inputs referred to in Condition (55) shall be burnt in the main boiler(s). From the first date on which the Development is subject to mandatory sustainability criteria as a condition of eligibility for financial assistance under a relevant assistance regime any biomass fuel feedstocks burnt in the main boilers(s) after that time must comply with the applicable mandatory sustainability criteria.

(73) Throughout the operational life of the Development, there shall be submitted to the Council an annual report on the sustainability of all biomass fuel feedstocks burnt in

the main boiler(s) which provides the same information and level of assurance and verification which the operator of the Development is required (or would be required, if claiming financial assistance in respect of the electricity generated for such biomass fuel feedstocks) to provide in respect of the sustainability of biomass under any relevant assistance regime. Where other forms of biomass are burnt in the main boiler(s), the report should provide equivalent information, assurance and verification in respect of those fuels.

(74) For the purposes of conditions (72) and (73):

“applicable mandatory sustainability criteria” means:

- i. the mandatory sustainability criteria which the Development must comply with from time to time as a condition of eligibility for financial assistance under a relevant assistance regime; or
- ii. if financial assistance has been granted under a relevant financial assistance regime in respect of the Development for a limited period of time and that period has elapsed so that the Development is no longer eligible for financial assistance under any relevant assistance regime, those criteria by compliance with which the operation of the Development was most recently eligible for such assistance unless otherwise agreed in writing with the Relevant Planning Authority, and, at the time when they are burnt, biomass fuel feedstocks shall be taken to comply with the applicable mandatory sustainability criteria if, at that time, the Company has reason to believe that they comply with the applicable mandatory sustainability criteria;

“biomass fuel feedstocks” means fuel, excluding material which is, or is derived directly or indirectly from animal matter, which qualifies as ‘biomass’ under:

- i. article 4 of the Renewables Obligation Order 2009 (S.I. 2009/785) (as amended);
- ii. such provisions of a relevant assistance regime incorporating applicable mandatory sustainability criteria as define biomass for the purposes of that regime from time to time;

“mandatory sustainability criteria” means criteria relating to the sustainability of biomass for energy use (other than biofuels and bioliquids) which are prescribed in a relevant assistance regime; and

“relevant assistance regime” means the provisions of any legislation or other legally binding arrangements established or approved by Government under or by virtue of which the generation of electricity from biomass fuel feedstocks on a commercial basis qualifies for financial assistance by reason of the burning of biomass fuel feedstocks which comply with prescribed sustainability criteria.

**Reason:** To ensure the scheme is fuelled only by sustainable biomass fuel feedstocks as proposed by the Company in its application for consent under s. 36 of the Electricity Act 1989.

Immaterial Changes to Conditions by the Council

(75) Where the words, “any other works agreed in writing with the Relevant Planning Authority”, “unless otherwise agreed in writing with the Relevant Planning Authority” or “with the prior written approval of the Relevant Planning Authority” appear, such agreement or approval may only be given in relation to immaterial changes where it has been demonstrated to the satisfaction of the Council that the subject matter of the approval is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

**Reason:** To make clear that where provision is made for the Council to agree to variations to the application of planning conditions, the scope of any such variations will be limited to immaterial changes.

#### Bridge over Botney Channel

(76) Except for the Permitted Preliminary Works the commencement of work on the construction of the bridge over Botney Channel shall not take place until there has been submitted to and approved by the Environment Agency, an application for an Environmental Permit for Flood Risk Activities. Such works shall be carried out in accordance with the Environmental Permit.

**Reason:** To ensure that the necessary permit from the Environment Agency has been obtained before construction work commences on the bridge over Botney Channel.

Date: XXXXXX 20 August 2014

Giles Scott  
Head of National Infrastructure Consents  
Department of Business, Energy and Industrial Strategy Climate Change

