

Reference: 22/00048/ELEC	Site: Tilbury Green Power Tilbury Freeport Tilbury RM18 7NU
Ward: Tilbury Riverside and Thurrock Park	Proposal: 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 amendment to increase electrical capacity from 80MW to 88MW.

Plan Number(s):		
<u>Reference</u>	<u>Name</u>	<u>Received</u>
Figure 1.1	Proposed Site Location Plan	31.07.2020
Figure 1.2	Section 36 Application Boundary March 2020	31.07.2020
Figure 1.2	Section 36 Boundary Modifications June 2020	31.07.2020
Figure 1.2A	Section 36 Application Boundary	31.07.2020

<p>The application is also accompanied by:</p> <ul style="list-style-type: none"> • Covering letter • Supporting Statement (January 2022) with appendices comprising – <ul style="list-style-type: none"> - Location Plan and Section 36 Consent Boundary Plan - Relevant Section 36 Consent, Feb 2021 and Deemed Planning Permission - Proposed amendments to Section 36 Consent and to Deemed Planning Permission Explanatory Memorandum - Pre- Application Consultation Correspondence 	
Applicant: Tilbury Green Power Limited (TGP)	Validated 2 nd March 2022 Date of expiry: 11 th May 2022
Recommendation: That Planning Committee agree that the content of paragraph reference 8.1 (below) comprises the consultation response to be provided by Thurrock Council in its role as 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 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 2nd March 2022 requesting that any comments are submitted no later than 11th May 2022. 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 c.40MW output became operational in April 2018. This electrical output is generated from no more than 300,000 tonnes of waste wood biomass per annum (from a consented total of no more than 650,000 tonnes waste input per annum).
- 1.7 In summary, the current submission to the SoS seeks to amend paragraph 2 of the Section 36 Consent and Condition (1) in the Section 90 (2ZA) deemed planning permission to increase the electrical export capacity of the development from 80 MW to 88 MW.
- 1.8 The applicant's background and reason for submitting the application is described as:

"Since Tilbury Green Power was first permitted in 2009, significant developments in

technology have led to very substantial improvements in the conversion of waste to electrical energy. At Tilbury Green Power this has resulted in the electrical capacity of the operating waste wood biomass facility (Phase 1) increasing up to 43 MW. The electrical capacity of the energy from waste facility (Phase 2) is expected to be up to 45 MW. Therefore, the total electricity export capacity for the Tilbury Green Power development is now predicted to be up to 88 MW.

The increase in electrical capacity will be achieved mainly due to technology improvements leading to higher energy conversion efficiency. No increase in annual waste throughput, traffic, air emissions, noise or any other matter assessed in the Environmental Impact Assessment will arise as a result. Therefore, the significance of the environmental effects will not differ from that predicted for the original Consent. Moreover, the increase in efficient use of energy is beneficial to the environment in that more electricity is produced for the same waste throughput thus avoiding the need for electricity generation from other sources including fossil fuels ... No amendment to the previously consented maximum annual waste throughput of 650,000 tonnes is being sought ... This application seeks to increase the electricity capacity of the development from 80 MW to 88 MW. The increase results in the main from more efficient technology now available in the marketplace which generates more power. Otherwise, the application does not seek any changes to the development, either in character or scale, from what is authorised by the existing consent. Likewise, no change to the S36 consent red line boundary is proposed by this application.”

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 the following elements. 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. A recent 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 lapsed last year. 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.

Application Ref	Description of Proposal	Decision
08/00175/ELEC	Application for s36 Electricity Act consent and deemed planning	Consent and deemed planning permission issued

	permission to develop a 60 MW renewable electricity generating plant at Tilbury Docks	by the Secretary of State (SoS) for the Department of Energy & Climate Change) (DECC) August 2009
10/50148/TTGDCCD	Discharge of conditions 4 & 5 (wheel cleaning details) and 39 & 40 (archaeology) of 08/00175/ELEC	Approved
10/50179/TTGDCCD	Discharge of conditions 6 & 7 (dust suppression) and condition 8 (demolition protocol) of 08/00175/TTGELEC	Approved
10/50188/TTGDCCD	Discharge of condition 27 (noise and vibration monitoring scheme) of 08/00175/ELEC	Approved
10/50250/TTGDCCD	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	EIA Required

	Green Power Biomass and Energy from Waste Power facility	
13/00427/SCO	Request for Scoping Opinions for a proposed waste wood storage and processing facility at Tilbury Green Power Biomass and Energy from Waste Power facility	Advice given
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	Approved

	permission ref. 11/50376/TTGCND	
14/00599/CONDC	Application for approval of details reserved by conditions 19 (travel plan) and 20 (vehicle and accident monitoring scheme) of planning permission reference 11/50376/TTGCND	Advice Given
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	Approved

	Department of Energy Climate Change dated 20 August 2014	
14/01287/CONDC	Application for the approval of details reserved by condition 5 (foundation design details) and 6 (pile driving scheme) of planning permission ref. 13/01179/FUL	Advice Given
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	Advice Given

	11/50376/TTGCND).	
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 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	Advice Given
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
19/00499/ELEC	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.	Consultation response provided to SoS – Variation approved by SoS March 2020
20/00983/ELEC	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 amendment to	Consultation response provided to SoS – Variation approved by SoS February 2021

	<p>condition no. 56 in order to remove the restriction on the tonnage of feedstock material to be delivered to the site by road and replace with a requirement to regularly assess alternative modes of transport to minimise impact on the road network and also amend the site boundary to exclude jetty infrastructure.</p>	
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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).
- In March 2019 TGP applied to the SoS (DECC) for (i) a variation to the s36 (Electricity Act) consent to increase the generating capacity of the facility to 80MW and (ii) vary planning conditions attached to the deemed planning consent, including restrictions on source and quantity of waste material components. It is notable that this application included a proposal to delete condition no. 56. In March 2020 the SoS approved the application, but considered that condition no. 56 should be retained.
- In August 2020 TGP applied to the SoS to vary the s36 consent to firstly amend the extent of the application site (as delineated by a red line boundary) in order to exclude a jetty and associated infrastructure from the application site and secondly to amend planning condition no. 56 of the deemed planning permission to remove restrictions on the amount of feedstock to be delivered by road. In February 2021 the SoS approved the application, but with amendments to condition no. 56 to require the submission of reports on the delivery modes of feedstock and investigation of more sustainable modes of transport.

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 4, details of 'Pre-Application Consultation Correspondence'. This report confirms that TGP consulted with the following bodies:

- Thurrock Council;
- Environment Agency; and
- Natural England.

4.2 TGP received the following consultation replies:

4.3 ENVIRONMENT AGENCY:

Having considered the proposal, based on the information provided, we would not object to this proposal. The increase in total electricity exported is a positive outcome of technological improvements and supported by a requirement of the site Environmental Permit to improve energy efficiency.

4.4 NATURAL ENGLAND:

No comments to make on this proposed variation.

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 1st 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 and urgency for new energy infrastructure to be consented and built with the objective of contributing to a secure, diverse and affordable energy supply and supporting the Government's policies on sustainable development, in particular by mitigating and adapting to climate change and also highlights the role of renewable electricity generation,. Generic impacts associated with proposals for generating stations include traffic and transport and waste management.

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. Part 2.5.1 states that the combustion of biomass for electricity generation is likely to play an increasingly important role in meeting the UK's renewable energy targets. Part 2.5.2 goes on to note 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. Where the waste burned is deemed renewable, this can also contribute to meeting the UK's renewable energy targets. Further, the recovery of energy from the combustion of waste forms an important element of waste management strategies in both England and Wales.

5.4 **National Planning Guidance**

National Planning Policy Framework (NPPF)

The revised NPPF was published on 20th July 2021. Paragraph 11 of the Framework sets out a presumption in favour of sustainable development. This paragraph goes on to state that for decision taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date¹, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed²; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

¹ This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites ...

² The policies referred to are those in this Framework relating to: habitats sites and/or SSSIs, land designated as Green Belt, Local Green Space, AONBs, National Parks, Heritage Coast, irreplaceable habitats, designated heritage assets and areas at risk of flooding or coastal change.

The NPPF sets out the Government's planning policies. 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 (DCLG) 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:

- CSTP28 (River Thames)

Policies for the Management of Development:

- PMD1 (Minimising Pollution and Impacts on Amenity)

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. In December 2018 the Council began consultation on an Issues

and Options (Stage 2 Spatial Options and Sites) document, this consultation has now closed and the responses have been considered and reported to Council. On 23 October 2019 the Council agreed the publication of the Issues and Options 2 Report of Consultation on the Council's website and agreed the approach to preparing a new Local Plan.

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 Unlike the previous amendments to the s36 consent and deemed planning permission referred to above, the current application is relatively straightforward in proposing limited changes. Two amendments are proposed as follows (deletions to existing wording shown as ~~striketrough~~, new wording shown in *italics*):

S36 Electricity Act Consent – paragraph 2

“Subject to paragraph 3(1), the Development shall be up to ~~80~~ 88MW capacity and comprise...”

Deemed Planning Permission – Condition no.1 (Definitions):

““the Development” means an electricity generating station of up to ~~80~~ 88MW, comprising...”

- 6.3 In simple terms the application only seeks to increase the generating capacity of the development from 80MW to 88MW. As summarised at paragraph 1.8 (above), the reasons for the application and technical justification are that since the project received consent from the SoS in 2009 technological advances have improved the

conversion of waste to electrical output. The operational waste wood and biomass power plant (Phase 1 of the project) has a generating capacity of 43MW and it is intended that the energy from waste facility (Phase 2) will generate 45MW of electrical power. As noted at paragraph no. 1.2 above, the process of amending a s36 Electricity Act consent is set out by the Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013. An accompanying guidance note published by the former Department of Energy and Climate Change (now BEIS) in July 2013 states that:

“Generating station development consents are often not implemented until some years after they are granted. Each consent reflects technology and industry practice at the time it was applied for, but such practices do not stand still, even in relatively mature sectors. This means that when a developer comes to construct a generating station, it will sometimes be uneconomic or have more detrimental effects on the environment to do so according to all of the details specified in the consent. In practice, this means changes to the original proposals to make the project feasible. The changes concerned may not be very great, but they may nevertheless involve work which would not be consistent with the terms of the existing consent, for example installing more efficient technology generating more power without radically changing the physical dimensions of the buildings and/or structures.”

The guidance therefore recognises that there is delay between the approval of electricity generating stations and their operation, during which time technology advances. Changes to approved projects are inevitable, including:

“installing more efficient technology generating more power without radically changing the physical dimensions of the buildings and/or structures”, as is the case here.

6.4 The applicant emphasises that, as no increases to the annual tonnage of feedstock imported to the facility (650,000 tonnes) are proposed, there will be no additional impacts beyond those already assessed and approved. The findings of the original Environmental Impact Assessment, as supplemented by a previously submitted Supplementary Environmental Information Report and a Further Environmental Information report remain relevant and are not affected by the current proposal. Accordingly, there are no changes to the assessed impacts on:

- ecology;
- water quality;
- geology, hydrology, land contamination, flood risk;

- transport;
- noise & vibration;
- visual impact;
- cultural heritage;
- air quality; and
- socio-economics.

6.5 The applicant refers to the terms of the Environmental Permits, granted by the Environment Agency, which require (inter-alia) the operator to:

- take measures to ensure that energy is recovered with a high level of efficiency;
- regularly review opportunities to improve energy efficiency; and
- take measures if identified by a review.

The proposals comply with these requirements.

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 proposed increase in electrical capacity will be achieved as a result of technological improvements leading to higher energy conversion efficiency. No increase in annual feedstock throughput is proposed and there would be no additional impacts on traffic, air emissions, noise or any other matter relevant to Environmental Impact Assessment beyond those already assessed. In light of the above analysis it is concluded that no objection should be raised to the application to vary the s36 consent as proposed,

8.0 RECOMMENDATION

8.1 That Planning Committee agree that the consultation response to be provided by the relevant planning authority to the Department for BEIS raises no objection to the proposal.

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

