

David Pedlow
Redcar & Cleveland Borough Council
Development Department
Belmont House Rectory Lane
Guisborough
Cleveland
TS14 7FD

Our ref: NA/2020/115106/01-L01
Your ref: R/2020/0411/FFM
Date: 24 September 2020

Dear David,

CONSTRUCTION OF THE REDCAR ENERGY CENTRE (REC) CONSISTING OF A MATERIAL RECOVERY FACILITY INCORPORATING A BULK STORAGE FACILITY; AN ENERGY RECOVERY FACILITY; AND AN INCINERATOR BOTTOM ASH RECYCLING FACILITY ALONG WITH ANCILLARY INFRASTRUCTURE AND LANDSCAPING. LAND AT REDCAR BULK TERMINAL, REDCAR, TS10 5QW.

Thank you for consulting us on the above EIA planning application which we received 12 August 2020.

Environment Agency position

We have reviewed the submitted proposals and **OBJECT** for the application for the following reasons:

Objection 1: Insufficient information submitted to assess if the activity could prevent a WFD water body from reaching good potential.

We object to the proposed development, as submitted, as it could have a detrimental impact upon the ecology of the Tees Estuary and may result in the continued failure of the water body to achieve Good Ecological Potential objectives.

Reason

The Environment Statement (ES) statement, in respect to the effects of atmospheric nitrogen deposition, has not considered the potential impacts upon the water quality of the Tees Estuary. The Tees Estuary fails for both Dissolved Inorganic Nitrogen (DIN) and macroalgae (biological response to eutrophication).

Overcoming our objection

The following should be amended to include an assessment of environmental impacts from the effects of air borne nitrogen loading on the water quality of the adjacent Tees Estuary:

- Water Framework Directive (WFD) Assessment. We note that the matter of air quality is not considered in the WFD assessment: scoping template for activities in estuarine and coastal waters” in Section 3: Water Quality and should be discussed within the assessment to understand the potential harm and whether this should be considered further.
- The ES should be updated with an assessment of the environmental impact from

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the effects of air borne nitrogen loading on the water quality of the adjacent of Tees Estuary

Objection 2: Works within 16 metres (tidal) of a main river – inadequate evidence that the risk to ecology, physical habitats and water quality has been assessed

The submitted planning application and outline drainage strategy indicate a new outfall discharging into the Tees Estuary would be required as part of the surface water drainage strategy. This may require a flood risk activity permit under the Environmental Permitting (England and Wales) Regulations 2016.

The outline drainage strategy (Appendix 8.2) and appended plan (Document no. 019216-RPS-EW-ZZ-DR-D-0302) shows a proposed location of the outfall and route to the outfall from the site. We do not have enough information to know if the proposed development can meet our requirements for ecology, physical habitats and water quality because an inadequate assessment of these risks has been provided. We therefore object to the proposal, as submitted.

Reason

In determining the flood risk activity permit for this development, we will assess its compliance with the Northumbria River Basin Management Plan (RBMP). We'll also consider how the development will affect water biodiversity and the wetland environment. The RBMP states that the water environment should be protected and enhanced to prevent deterioration and promote the recovery of water bodies.

The Tees Lower and Estuary TraC (GB510302509900) has an overall water body status of 'moderate' with an ecological status of 'moderate' and a chemical status of 'fail'. The water body is heavily modified for flood protection and navigation, ports and harbours and therefore seeks to attain Good Ecological Potential (GEP).

An updated ecological assessment and updated WFD assessment is required to assess how the proposal, and specifically the proposed outfall, would impact species, habitats and water quality. It is noted that the Preliminary Ecological Appraisal Report (PEAR) (Appendix 7.2) includes a 100m buffer (shown on place ref: A7.7) but does not include the outfall location or route, therefore the appraisal is not satisfactory. The submitted location plan/red line boundary will need to be amended to include the outfall area as part of the overall development for clarity. Further, the submitted WFD assessment only considers the impact of the outfall in respect to hydromorphology and is not screened in respect to "habitats:biology" and therefore is not satisfactory.

This objection is supported by paragraphs 170 and 175 of the National Planning Policy Framework (NPPF) which recognise that the planning system should conserve and enhance the environment by minimising impacts on and providing net gains for biodiversity. If significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, planning permission should be refused. Opportunities to incorporate biodiversity in and around developments should be encouraged.

Overcoming our objection

To overcome our objection, we would require submission of the following:

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- An updated red line boundary including the location of the proposed outfall into the Tees.
- An updated Phase 1 ecology report considering the entirety of the development area through the updated red line boundary. This should consider the potential loss of priority habitat and demonstrate mitigation, where necessary, from the construction of the outfall. Chapter 7 of the ES should be amended to reflect this.
- Scouring Assessment to include flow rates and the dimensions of the outfall.
- Update to the WFD assessment considering the impact of the outfall in respect to habitats and biology.

Please consult us on additional information submitted to overcome the above objections. Without the submission of additional information it is likely we would maintain our objection.

Subject to the above matters being resolved, and the LPA being minded to approve, we would likely require the addition of the following **CONDITION**:

Condition

To maintain fish passage during construction, the following is required in respect to piling:

- Between the 1 March and 30 November, in any given year, no percussive piling shall take place for 3 hours following low water to allow migration of adult salmon and sea trout on the flood tide.
- During the month of May, in any given year, no percussive piling shall take place. If this is impossible, then no piling of any type should take place for the first 5-hours of the ebbing tide to allow migration of juvenile salmon and sea trout.

Reason

The act of piling has the potential to affect runs of migratory fish. It has been established that fish are very sensitive to noise and vibration disturbance which can be transmitted through the water column. Piling work is likely to cause this type of noise disturbance that could affect fish migration through this section of the river.

Beyond this, I have the following comments:

Environmental Permit – Advice to LPA/Applicant

Both the IBA recycling plant and MRF would be permitted under the EPR, and depending who the operator(s) are, if they were to be different to the EfW operator, then those facilities may require separate permits as part of the same single installation. This may be covered by the initial application from the main applicant, but depending on Operator and level of control of the IBA recycling plant, it may equally require a separate permit under the Operator of the IBA recycling plant.

It is noted from the application that SNCR for NOX abatement is proposed. It is not clear from the documentation whether or not standard or 'advanced' SNCR technology is proposed. In order to confidently comply with the lower NOX limits in the BATc's, EFw's should adopt advanced SNCR systems capable of injection reagents at various levels in the boiler depending on temperature profile.

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Regardless of stack height submitted in the application, the Environment Agency will review the air modelling for an environmental impact and may require a higher stack depending on the outcome of the assessment. Should the modelling demonstrate an adverse impact on local air quality, then stack height may need to be increased. We are satisfied that this can be dealt with at a later stage through an application to vary the proposal.

Permit pre-application guidance – Advice to Applicant

The Environment Agency is temporarily reducing its pre-application advice services for customers applying for installations permits. This is due to high demand on our National Permitting Service and reduced capacity because of the coronavirus pandemic. This reduced service will run from 1 August 2020 until 1 February 2021. Our pre-application advice services for other types of permit applications will not change. Further information can be found at the link below:

<https://www.gov.uk/government/publications/environmental-permit-pre-application-advice-form>

Biosecurity – Advice to LPA/Applicant

Strict biosecurity measures should be implemented to avoid the importing of non-native invasive species. Equipment, plant and PPE brought to site should be clean and free of material and vegetation. To ensure measures are implemented, it is recommended biosecurity toolbox talks are given to all site staff and rigorous inspections are undertaken of all equipment delivered to site, following the Check Clean and Dry campaign. Further information on biosecurity can be found at the following link <https://secure.fera.defra.gov.uk/nonnativespecies/checkcleandry/index.cfm>

Buffer Zones from Watercourses – Advice to LPA

Development that encroaches on watercourses can have a potentially severe impact on their ecological value. Encroachment from development activities has potential to cause habitat loss, disturbance and nutrient enrichment. The setback development area needs to maintain this corridor around any watercourses on site and should be maintained and enhanced as part of the development work.

Groundwater and Contaminated Land Remediation Advice – Advice to Applicant

This development site appears to have been the subject of past industrial activity which poses a medium risk of pollution to controlled waters.

However, we are unable to provide site-specific advice relating to land contamination as we have recently revised our priorities so that we can focus on:

- Protecting and improving the groundwater that supports existing drinking water supplies
- Groundwater within important aquifers for future supply of drinking water or other environmental use.

Please be aware that whilst we consider the site to be located within a lower environmental sensitive area, **we are not stating in any way that the pollution risk to controlled waters underlying the site is acceptable, should not be considered further by appropriate investigation and assessment.**

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We would kindly remind the LPA that they are responsible for ensuring that the applicant appropriately investigate and address the risk to controlled waters, both surface waters and groundwaters. In doing so, this would promote remediation where required and an enhancement of the water environment through the planning regime. We would kindly ask the LPA to take into consideration our comments above with respect to controlled waters risk assessment.

We would highlight that the applicant be reminded of our current guidance which can be found on gov.uk and include Groundwater Protection, EA Approach to Groundwater Protection, Land Contamination Risk Management and the Guiding Principles of Land Contamination.

Should you have any queries in respect to this response, please don't hesitate to contact me.

Yours sincerely,

Ms Caitlin Newby
Planning Adviser

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