



# TOWN AND COUNTRY PLANNING ACT 1990

## NOTICE OF OUTLINE PLANNING PERMISSION

### Agent Name and Address

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### Applicant Name and Address

DIRECTOR OF REGENERATION &  
 NEIGHBOURHOODS,  
 HARTLEPOOL BOROUGH COUNCIL  
 MS DENISE MCGUCKIN  
 CIVIC CENTRE  
 VICTORIA RD  
 HARTLEPOOL  
 TS24 8AY

**Reference No: R/2019/0767/OOM**

The Council as the Local Planning Authority **HEREBY GRANT OUTLINE PLANNING PERMISSION** for the development proposed by you in your application valid on: 20 December 2019

**Details: OUTLINE APPLICATION FOR THE CONSTRUCTION OF AN ENERGY RECOVERY FACILITY (ERF) AND ASSOCIATED DEVELOPMENT**

**Location: GRANGETOWN PRAIRIE LAND EAST OF JOHN BOYLE ROAD AND WEST OF TEES DOCK ROAD GRANGETOWN**

Subject to the following condition(s):

1. **Details of the access, appearance, landscaping, layout and scale (hereinafter called the reserved matters) shall be submitted to and approved by the Local Planning Authority before any development takes place and the development shall be carried out as approved. Application for the approval of the Reserved Matters shall be made within 3 years of the date of this permission.**

**REASON: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 (as amended).**

2. **The development hereby permitted shall be begun not later than the expiration of two years from the final approval of the Reserved Matters or, in the case of approval on different dates, the final approval of the last of the reserved matters to be approved, whichever is later.**

**REASON: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 (as amended).**

3. Upon the approval of the Reserved Matters, and prior to the implementation of the approved scheme, the development shall be the subject of an updated Habitats Regulations Assessment and additional supplementary air quality assessment. The HRA and additional air quality assessment shall confirm, based on the approved detail of the development and its processes, the conclusions of the Environmental Impact Assessment and Air Quality Assessment that the development will not give rise to significant adverse impacts on designated sites. Where significant impacts not previously identified are assessed to arise from the approved detailed scheme, the additional information shall set out those mitigation measures to be employed to minimise or eliminate such impacts.

**REASON:** Whilst the Local Planning Authority and Natural England are satisfied based on the information submitted with the outline application, that the development is unlikely to have significant impacts on local designated sites, this conclusion partly based on modelling of data and an outline planning application with limited information as to the final technical design of the development, the Local Planning Authority considers it appropriate to adopt the precautionary principle to confirm those conclusions once the detail of the scheme and its operational process are confirmed.

4. No development shall take place until a Construction Environmental Management Plan (CEMP) for the development has been submitted and approved in writing by the Local Planning Authority. The approved CEMP shall be adhered to throughout the construction phase and shall include of all those mitigation measures set out in Chapter 15 of Volume 1 of the submitted Environmental Impact Assessment December 2019 and Chapter 7 (Mitigation) of the Air Quality Assessment Rev 02 6 March 2020, unless alternative approaches to biodiversity and archaeology mitigation are submitted to and approved by the Local Planning Authority, in accordance with condition nos. 7 and 13, and thereafter carried out in the required timescales. In addition, the CEMP shall set out;
- i. The method to be used to control the emission of dust, noise and vibration from construction works, including any details of any mitigation measures required;
  - ii. Measures to control the deposit of mud and debris on adjoining public highways
  - iii. Site fencing and security
  - iv. Temporary contractors' buildings, plant, storage of materials, lighting and parking for site operatives
  - v. The use of temporary generators
  - vi. The arrangement or turning of vehicles within the site so that they may enter and leave in forward gear
  - vii. A risk assessment of construction activities with potentially damaging effects on local ecological receptors including any measures to protect those receptors during construction
  - viii. Roles and responsibilities for the implementation of the CEMP requirements and measures.

**REASON:** To mitigate the impact of the development in accordance with the strategy set out in the Environmental Assessment.

**REASON FOR PRE-COMMENCEMENT:** A pre-commencement condition is required as the environmental impact of the development will occur on the commencement of development.

5. **Development shall not commence until a scheme to deal with any site contamination has been submitted and approved in writing by the Local Planning Authority. The approved scheme shall include an investigation and assessment to identify the extent of contamination and the measures to be taken to avoid risk to the site occupants when the site is developed. Development shall not proceed until the measures approved in the scheme have been implemented.**

**REASON:** To ensure that the development takes account of any contamination present on the site in the interests of the safety and amenity of occupiers and visitors to the site.

**REASON FOR PRE-COMMENCEMENT:** A pre-commencement condition is required because the risk form contamination will be present on the commencement of works.

6. **If, during the course of development and contamination not previously considered is identified, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.**

**REASON:** To ensure that the development takes account of any contamination present on the site in the interests of the safety and amenity of occupiers and visitors to the site. A pre commencement condition is required because the risk form contamination will be present on the commencement of works.

7. **No development shall take place until a written scheme of investigation (WSI) for archaeological work has been submitted to and approved in writing by the local planning authority. The WSI shall as a minimum make provision for:**
- (i) Before remediation or development commences, archaeological evaluation of borehole and trenching data**
  - (ii) Before remediation or development commences, initial archaeological survey (drawn and photographed) of the whole application site, with particular emphasis on the remains the subject of preservation in situ**
  - (iii) Where practical and before remediation or construction works takes place on site an archaeological strip, map and sample of remains of high significance suggested by the borehole/trenching data, or observed during the initial survey**
  - (iv) An archaeological watching brief of all ground disturbance during the remediation works and during construction ground works in areas identified as archaeologically sensitive**
  - (v) Protection during development, followed by consolidation and preservation of high value remains left in situ**
  - (vi) a general programme of works and monitoring arrangements, including reasonable notification to the local planning authority of commencement of works**

- (vii) details of staff involvement in carrying out the work (including specialists), and their qualifications and responsibilities
- (viii) the timetable for completing post-excavation assessment.

(a) Provision for the analysis, archiving and publication of the results of the archaeological surveys and excavations shall be secured to the satisfaction of the local planning authority by the developer before the development is brought into use.

(b) The development shall not without the prior written approval of the local planning authority be carried out otherwise than in accordance with the approved WSI, and the consolidation and preservation of on-site remains as provided for in the WSI (or as otherwise agreed at any time in writing by the local planning authority) shall be secured by the developer and/or landowner on an on-going basis.

**REASON:** The site contains remains of significant archaeological interest, some of which merit preservation in situ.

**REASON FOR PRE-COMMENCEMENT:** A pre-commencement condition is required to ensure that no remains are disturbed or otherwise compromised by site excavation of other ground works.

8. Development shall not commence until a detailed scheme for the disposal of foul water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and the Lead Local Flood Authority. Thereafter the development shall take place in accordance with the approved details.

**REASON:** To prevent the increased risk of flooding from any sources in accordance with the NPPF.

**REASON FOR PRE-COMMENCEMENT:** A pre-commencement condition is required to ensure that excavations and groundworks do not compromise the installation of the approved foul water drainage infrastructure.

9. Prior to the commencement of the development, or in such extended time as may be agreed in writing with the Local Planning Authority, details shall be submitted and approved of the surface water drainage scheme and the development shall be completed in accordance with the approved scheme.

The design of the drainage scheme shall include;

- (i) Restriction of surface water greenfield run-off rates (QBAR value) with sufficient storage within the system to accommodate a 1 in 30-year storm.
- (ii) The method used for calculation of the existing greenfield run-off rate shall be the ICP SUDS method. The design shall also ensure that storm water resulting from a 1 in 100-year event, plus climate change surcharging the system, can be stored on site with minimal risk to persons or property and without overflowing into drains, local highways or watercourses.
- (iii) Full Micro Drainage design files (mdx files) including a catchment plan
- (iv) The flow path of flood waters for the site as a result on a 1 in 100-year event plus climate change

**REASON:** To ensure the development is supported by a suitably designed surface water disposal infrastructure scheme and to minimise the risk flooding in the locality.

**REASON FOR PRE-COMMENCEMENT:** A pre-commencement condition is required to ensure that excavations and groundworks do not compromise the installation of the approved surface water drainage infrastructure.

10. Prior to the commencement of the development, or in such extended time that may be agreed with the Local Planning Authority, details of a Surface Water Drainage Management Plan shall be submitted and approved by the Local Planning Authority. The Management Plan shall include;

- (i) The timetable and phasing for construction of the drainage system
- (ii) Details of any control structure(s)
- (iii) Details of surface water storage structures
- (iv) Measures to control silt levels entering the system and out falling into any watercourse during the construction process. The development shall, in all respects, be carried out in accordance with the approved Management Plan.

**REASON:** To ensure the development is supported by an appropriately designed surface water disposal infrastructure scheme and to minimise the risk of increased flooding and contamination of the system during the construction process.

**REASON FOR PRE-COMMENCEMENT:** A pre-commencement condition is required to ensure that excavations and groundworks do not compromise the installation of the approved surface water drainage infrastructure.

11. The development shall not be occupied until a Management & Maintenance Plan for the surface water drainage scheme has been submitted to and approved by the Local Planning Authority; the plan shall include details of the following;

- (i) A plan clearly identifying the sections of surface water system that are to be adopted
- (ii) Arrangements for the short- and long-term maintenance of the SuDS elements of the surface water system

**REASON:** To ensure that the surface water drainage infrastructure is maintained to minimise the risk flooding in the locality.

12. Prior to the commencement of the development final details shall be agreed of the finished floor levels of the development and the development completed in accordance with the approved details.

**REASON:** To confirm the finished floor level of the development in the light of any necessary groundworks to meet the requirement of other planning conditions and confirm the overall height of the final scheme in the context of the information provided in the Environmental Statement.

**REASON FOR PRE-COMMENCEMENT:** A pre-commencement condition is required so that the final agreed levels for the site are not compromised by the start of groundworks.

13. No development, other than site preparation works, shall take place unless details have been submitted and approved of a biodiversity improvement plan for the site has been submitted to and approved by the Local Planning Authority. The Plan shall set out those measures identified in the Environmental Statement or alternative measures to be submitted to and agreed with the Local Planning Authority for on or off-site mitigation and net gain provision that will be implemented to offset predicted impacts on the biodiversity value of the site and those measures to be implemented to improve the biodiversity value of the area.

**REASON:** To mitigate the impact of the development on the biodiversity interest on the site and to secure net improvement to that value in accordance with national and local planning policy.

14. No development, other than site preparation works, and construction of the works compound shall take place unless details have been submitted and approved of a landscaping scheme for the site. The scheme shall include size, type and species of plant and the proposed layout and surfacing of all landscaped areas. A programme of implementation and subsequent maintenance shall also be submitted, and the development completed in accordance with the approved details.

**REASON:** To ensure the satisfactory implementation of the approved scheme in the interests of the visual amenity of the locality and the appearance of the development.

15. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

**REASON:** To ensure the satisfactory implementation of the approved scheme in the interests of the visual amenities of the locality.

16. A detailed scheme for vehicular access and egress to the site during construction and once operational shall be submitted and approved by the Local Planning Authority. This scheme shall demonstrate how the majority of vehicles to / from the development shall access/egress via Eston Road. Thereafter the scheme shall be implemented prior to construction of the development in accordance with the approved details.

**REASON:** On order to confirm the access arrangements to the site for construction and operational traffic as set out in the Environmental Statement.

## 1. Informative Note: Network Rail

### Asset Protection

We would advise that developer that if for any reason construction work is required to take place within 10m of the railway boundary, they should consult with our Asset Protection Team (details below) to ensure that there will be no impact on operational railway safety. This will include use of crane, plant and machinery and any excavation or construction work within that distance.

### Drainage

All surface and foul water arising from the proposed works must be collected and diverted away from Network Rail property. All soakaways must be located so as to discharge away from the railway infrastructure. The following points need to be addressed:

1. There should be no increase to average or peak flows of surface water run off leading towards Network Rail assets, including earthworks, bridges and culverts. There should be no ponding of water near the railway boundary caused by the development.
2. All surface water run-off and sewage effluent should be handled in accordance with Local Council and Water Company regulations.

### Fail Safe Use of Crane and Plant

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

### Excavations/Earthworks

All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken. Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or vibration arising from the normal use and/or maintenance of the operational railway. No right of support is given or can be claimed from Network Rails infrastructure or railway land.

### Cranes

With a development of a certain height that may/will require use of a crane, the developer must bear in mind the following. Crane usage adjacent to railway infrastructure is subject to stipulations on size, capacity etc. which

needs to be agreed by the Asset Protection Project Manager prior to implementation.

#### **Access to Railway**

All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development. In particular access to adjacent railway structures should remain clear and unrestricted at all times to ensure that our ongoing programme of inspection and maintenance is not hindered.

## **2. Informative Note: Environment Agency**

### **Advice to Applicant**

The proposed incinerator will require a permit under Schedule 5.1 Part A (1) of the Environmental Permitting Regulations (England and Wales) 2016. We will consider the following areas of potential harm when assessing the permit:

**Management - including accident management, energy efficiency, efficient use of raw materials and avoidance, recovery and disposal of wastes,**  
**Operations - including incoming waste and raw material management, waste charging, furnace types and requirements, validation of combustion conditions, combined incineration, flue gas recirculation, dump stacks and bypasses, cooling systems and boiler design,**  
**Emissions - to surface water, sewer and air, odour, noise and vibration, monitoring and reporting of emissions**

Receiving pre-application advice will help the Applicant submit a good quality application that can be processed (determined) smoothly and quickly. If the Applicant wishes to request either basic (free), or enhanced (chargeable) pre-application advice, they should complete the pre-application advice form.

### **Movement of Waste Offsite – Advice to Applicant**

The application notes that there will be some waste that cannot be used after the energy recovery process.

The Environmental Protection (Duty of Care) Regulations 1991 for dealing with waste materials are applicable to any off-site movements of wastes.

The code of practice applies to you if you produce, carry, keep, dispose of, treat, import or have control of waste in England and Wales.

The law required anyone dealing with waste to keep it safe and make sure it's dealt with responsibly and only given to businesses authorised to take it. The code of practice can be found here.

In order to meet the objectives of the waste hierarchy and obligations under the duty of care, it is important that waste is properly classified. Some waste (e.g. wood and wood-based products) may with be hazardous or non-hazardous waste dependent upon whether or not they have had preservative treatments.



Proper classification of the waste both ensures compliance and enables the correct onward handling and treatment to be applied. In the case of treated wood, it may require high temperature incineration in a directive compliant facility. More information on this can be found here: <https://www.gov.uk/how-to-classify-different-types-of-waste>.

If you require any local advice or guidance please contact your local Environment Agency office.

**Best Available Techniques (BAT) – Advice to Applicant** Whilst the Environment Agency has no objections to this application based on the information available, we would like to draw the Applicant's attention to the following informative comments:

The latest Waste Incineration Best Available Techniques Reference (BREF) document and inclusive BAT Conclusions (BATC's) will be published before the date of permit issue for the proposed development. Therefore, the permit for the proposed development will be written with the latest BATC's and revised emission limits, which the development will need to comply with from the date of permit issue.

The Environment Agency require all new proposed incineration facilities to be built Combined Heat and Power (CHP)-ready by imposing specific permit conditions. Environmental permit applications for these types of plants will therefore need to include a Best Available Technique (BAT) assessment for CHP-readiness. Permits for these plants are also likely to contain conditions that state opportunities to realise CHP should be reviewed from time to time. These opportunities may be created by building new heat loads near the plant or be due to changes in policy and financial incentives that make it more economically viable for the plant to be CHP.

#### **Water Abstraction – Advice to Applicant**

The submitted Environment Statement notes that "There are no proposed water abstractions for the site" therefore no licence should be required. However, if the Applicant does plan on temporary abstractions or dewatering of over 20,000 litres per day to enable the works a licence may be required. If they plan to abstract over 20,000 litres of water per day from the attenuation pond for any intervening purpose, they may require an abstraction or transfer licence.

#### **Water Framework Directive (WFD) and Biodiversity Net Gain – Advice to Applicant**

We agree with the conclusions of the WFD Assessment Report regarding the potential impacts and proposed mitigation of the proposed development relevant to adjacent waterbodies. The WFD should be updated upon submission of the reserved matters application having regard to the details of the proposal.

The proposed development site is located in an area of non-reportable waterbody under the Water Framework Directive (WFD). As such there is no specific monitoring that identifies the status of the water environment in this location or specific objectives that must be achieved. The general objectives of the WFD to prevent deterioration, protect and improve the ecological

condition of waters does still apply to non-reportable waterbodies. The site was formerly coastal grazing marsh associated with the Tees estuary. The development site has been heavily physically modified such that this original habitat has been lost in entirety and restoration is considered infeasible.

We encourage and support the proposal to provide on-site mitigation to improve the ecological condition. There are currently areas of open standing water within brownfield open mosaic habitat. We support the conclusions of the Ecology report dated 18 November 2019 which states:

Mitigation measure to include the safeguarding and enhancement of 5.73 Ha of Brownfield habitat, which is adequate to mitigate the loss of habitat, harm to priority species and to deliver a 10% biodiversity net

We also support the notion that areas of open water habitat are preserved and incorporated into such mitigation.

### 3. Informative Note: Remediation

Any scheme of works to remediate and prepare the site in order to implement the scheme hereby approved is likely to require planning permission by way of a separate planning permission for the associated engineering operations.

**Statement of Co-operative Working:** The Local Planning Authority considers that the application as originally submitted is a satisfactory scheme and therefore no negotiations have been necessary.



Signed:

**Andrew Carter**  
**Assistant Director Economic Growth**

Date: 24 July 2020

**YOUR ATTENTION IS DRAWN TO INFORMATIVE NOTES BELOW:**

#### **INFORMATIVE NOTE:**

The conditions above should be read carefully and it is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

Please note that in order to discharge any conditions, a fee is payable in respect to this.

Failure on the part of the developer to fully meet the terms of any conditions which require the submission of details prior to the commencement of development may result in the development being considered unlawful and may render you liable to formal enforcement action.

**Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal action in the form of a Breach of Condition notice.**

### **APPROVAL INFORMATIVE:**

This permission refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, byelaw, order or regulation.

Consent under the current Building Regulations may also be required for the development before work can commence.

### **County of Cleveland Act, 1987 – Facilities for Fire Fighting**

Section 5 of this Act requires that, where building regulation plans for the erection or extension of a building are deposited with the Council, the Council must reject the plans if it is not satisfied:

- That there will be adequate means of access for the Fire Brigade
- That the building or extension will not make means of access for the Fire Brigade to any neighbouring building inadequate
- If the building could be used for commercial or industrial purposes, that there is provision for installation of fire hydrants or other provision for an adequate supply of water for fire fighting purposes

### **Appeals to the Secretary of State**

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.

If you want to appeal, then you must do so within **six months** of the date of this notice (8 weeks in the case of any advertisement) using a form which you can get from the Secretary of State at **Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN, (Tel: 0303 444 5000)** or online at <https://www.gov.uk/planning-inspectorate>. The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances, which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have it granted without the conditions it imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order. In practice, the Planning Inspectorate does not refuse to consider appeals solely because the local planning authority based its decision on a direction given by him.

### **Purchase Notices**

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In the circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of part VI of the Town and Country Planning Act 1990.

### **Compensation**

In certain circumstances compensation may be claimed from the local planning authority if permission is refused or granted subject to conditions by the Planning Inspectorate on appeal or on reference of the application to them. These circumstances are set out in Sections 114 and related provisions of the Town and Country Planning Act 1990.

**The Highways Act 1980 (Sections 131, 133 and 171)**

Prior to commencing work on any development which entails interference with an adopted Highway a developer/contractor is required to obtain the consent of the Engineering (Highways Team). Such consent will not unreasonably be withheld but will be conditional upon obtaining a "Road Opening And Reinstatement" Consent and signing an "Undertaking To Pay For Works".

**The Building Act 1984 (Section 80)**

Prior to commencing work on any development which entails the demolition of part, or all of a building a developer or contractor is required to obtain the consent of the Engineering Team. Consent will be conditional on the Local Authority receiving the appropriate forms. Forms can be obtained direct from the Engineering Team.