

PLANNING COMMITTEE MEETING: 14 January 2009

**PLANNING APPLICATION FOR DETERMINATION BY THE LTGDC
REPORT OF THE DIRECTOR OF PLANNING**

UDC CASE NUMBER:	LTGDC-09-082-FUL	DATE MADE VALID:	21/10/2009
APPLICATION NUMBER:	U0017.09/LBHG	TARGET DATE:	20/01/2009

APPLICANT:	Biossence
AGENT:	Enzygo
PROPOSAL:	Section 73 application: Variation of Conditions 6 and 9 to Planning Permission U0004.06 - To allow minor amendments to the power generation strategy and ancillary plant and equipment
LOCATION:	East London Sustainable Energy Facility(ELSEF) land west of Fairview Industrial Park off Marsh Way Rainham

1. SUMMARY

1.1 The application before Members seeks changes to a scheme approved by the Corporation in 2008 for the East London Sustainable Energy Facility. The approved facility provides for the conversion of Solid Recovered Fuel (SRF), created from left over waste following recycling and composting, into a synthetic gas which is then burnt to create electricity. This electricity is used to provide power to both the Ford site and into the local grid.

1.2 The proposal seeks to change the method by which the synthetic gas is burnt to generate electricity. The approved scheme uses a boiler plant to combust the synthetic gas, whereas the proposal seeks to combust this gas using gas generators. The reason for the change is that the gas generators create more electricity from the same quantity of SRF and are therefore a more efficient method of generating sustainable power.

1.3 The principal area of consideration in this report is whether there will be any discernable environmental impact by the use of gas generators. The applicant has provided supplementary information demonstrating there are no implications over and above those detailed in the original Environmental Statement in terms of visual impact, air quality or noise. This information has been assessed by the Corporation and is deemed to be acceptable and the application is accordingly recommended for approval.

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1.4 The application is submitted under Section 73 of the Town and Country Planning Act 1990 (as amended) and specifically seeks changes to condition 6 and 9 of the approved scheme. These conditions ensure that the development is carried out in accordance with the approved plans, and in accordance with the details contained within the Environmental Statement respectively. The recommended conditions below incorporate amendments to conditions 6 and 9 to reflect this submission. The new amended permission will be otherwise subject to the same conditions as the previous consent. Members will also note that a Deed of Variation to the Section 106 legal agreement will be entered into to reflect the changes to the scheme.

2. SITE AND PROPOSAL

Site Description

- 2.1 The site is a 2.95ha parcel of land located at the southern end of Marsh Way, Rainham and sits on the north bank of the River Thames. The site is within a designated Strategic Industrial Location and is surrounded by industrial land uses. To the north west is a large expanse of open hard stand used by Ford as a holding area for vehicles. To the east is the Flogas LPG bottling facility and the Shanks waste processing plant. The opposite bank of the Thames, within the London Borough of Bexley, has similar industrial uses.
- 2.2 There are no sensitive land uses within a perceptible distance from the site. Rainham Village is the closest such area, located 1.6 kilometres to the north.
- 2.3 Access to and from the site is achieved via Marsh Way, which links to the A13 via a junction 1.4 kilometres to the north west. The A13 then provides direct access to central London and the M25. Public transport accessibility to the site is poor.
- 2.4 Historically, the site has had piecemeal usage for vehicle storage and repairs until an application was submitted by Novera Energy Limited in May 2006 for a sustainable energy plant utilising synthetic gas created from Solid Recovered Fuel (SRF) sourced from the adjacent Shanks waste facility. This was approved by the Development Corporation in July 2008, subject to conditions and a Section 106 legal agreement. The approved facility is known as the East London Sustainable Energy Facility (ELSEF), however the permission has not been implemented. In April 2009, Biossence Renewable Energy acquired the ELSEF project from Novera and intends to develop the facility.

Development Proposal

- 2.5 The application has been lodged on behalf of Biossence and seeks to allow relatively minor amendments to occur to the approved ELSEF scheme. These amendments allow for a modified power generation process and changes to the layout of the approved facility. The intention is to replace steam boilers with gas generators in order to generate more power from the same amount of SRF. This requires changes to the layout and design of certain buildings and structures.
- 2.6 The mechanism by which these changes are intended to occur is through a variation of conditions 6 and 9 of the extant permission under Section 73 of the Town and Country Planning Act 1990 (as amended). Condition 6 states:

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“The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans, particulars and specifications, unless otherwise agreed by the Local Planning Authority.”

2.7 Condition 9 states:

“The development shall not be carried out unless in accordance with the environmental standards, mitigation measures, requirements and methods of implementing the development contained in the environmental statement relevant to the development and the appendices thereto, submitted with the planning application, the development specification and framework and any Regulation 19 submission documents, unless and to the extent that such standards, measures, requirements and documents are altered by the express terms of this permission and the approved strategies, frameworks, protocol and other documents submitted pursuant to it.”

2.8 The decision notice for the Novera scheme is appended to this report (Appendix 1).

3. MAIN ISSUES

- Principle and Reason for the Changes
- Visual Impact
- Air Quality
- Noise

4. RELEVANT SITE HISTORY

4.1 As mentioned earlier in this report, prior to the extant permission being granted, the site was used primarily for vehicle storage purposes. The permission of most relevance to this application is the current permission, being:

U0004.06 – Construction of sustainable energy facility comprising the erection of gasification power generation plant and associated building and plant – Approved 2 July 2008

5. STATUTORY CONSULTATIONS AND RESPONSES

London Borough of Havering

5.1 The application was considered by Havering’s Regulatory Services Committee on the 10th of December 2009, who resolved to raise no objection to the proposal on the proviso that all other conditions and legal obligations originally imposed on planning permission U0004.06 are retained.

Environment Agency

5.2 The EA advised that they have no comments to make on the proposal.

London Borough of Bexley

5.3 Bexley performed their own assessment of the proposal and confirm that they have no objection to the proposal.

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Other Consultations

5.4 The London Borough of Barking and Dagenham, Government Office for London and the Greater London Authority were also consulted on the application, however no response was received.

6. APPLICATION PUBLICITY

6.1 Site Notice Display Date: 16 November 2009

6.2 Press Notice Display Date: 16 November 2009

6.3 Neighbour Notification: 3 November 2009

7. NEIGHBOUR CONSULTATION AND REPRESENTATIONS

7.1 A total of 150 neighbouring commercial occupiers were notified by mail of the application, none of whom commented on the proposal. Notifications were not sent to any residential properties due to their distance from the site.

8. RELEVANT PLANNING POLICY

8.1 Planning Policy Guidance

PPG4 - Industrial and Commercial Development
PPS10 - Waste
PPS22 - Energy
PPG24 - Noise

8.2 The London Plan, consolidated with change since 2004 (2008)

3B.4 - Strategic Industrial Locations

4A.19 – Improving Air Quality

4A.20 – Reducing Noise and Enhancing Soundscapes

4A.21 – Waste Strategic Policy and Targets

4A.22 – Spatial Policies for Waste Management

4A.23 – Criteria for the Selection of Site for Waste Management and Disposal

4A.26 – Numbers and Types of Recycling and Waste Management Facilities

4A.27 – Broad Locations Suitable for Waste Treatment Facilities

4B.2 – Promoting World Class Architecture and Design

4B.10 – Large Scale Buildings Design and Impact

8.3 London Borough of Havering Local Development Framework

CP11 – Sustainable Waste Management

CP15 – Environmental Management

DC50 – Renewable Energy

DC52 – Air Quality

DC55 – Noise

9. ASSESSMENT OF MAIN ISSUES

Principle and Reason for the Proposed Changes

- 9.1 The land use principle of the ELSEF facility has been established with the grant of full planning permission in 2008. At the time, the proposal was considered to be in line with the (then) adopted 2004 London Plan and the Havering's previous UDP, being located within a designated Strategic Industrial Location, providing a waste management solution for locally generated wastes, generating electricity from renewable sources, providing investment into the area and being of an interesting design. The original application (being EIA development) was accompanied by an Environmental Statement, which found that the facility would bring environmental improvements to the area when compared to the baseline situation. Although the London Plan has been consolidated with changes since 2004 and Havering has now adopted its LDF, there are no policy change implications for the proposed development.
- 9.2 The application before Members seeks relatively minor amendments to this approved scheme. As the application is made under Section 73 of the Act, only the question of the changes to the approved scheme (i.e. the changes to conditions 6 and 9) are considered. The established principle of the development is therefore not revisited.
- 9.3 The reason for the proposed changes stems from a different technique of power generation put forward by Biossence. Under the approved Novera arrangement, the synthetic gas converted from the SRF is burnt in a single boiler plant to generate steam which is then used in a condensing steam turbine to generate electrical power. The Biossence proposal intends to replace the steam boiler with a set of 13 gas engines, as these have greater conversion efficiency when compared to the steam boiler. No change to the waste throughput is proposed, however the proposal will result in an increase electricity export from 13.5MW to 18MW. In other words, the proposal intends to generate more power from the same quantity of fuel, thereby increasing the efficiency of this renewable energy source while reducing the carbon footprint of the land uses benefiting from the electricity generated. Therefore, the principle of the change is considered to be acceptable.

Visual Impact

- 9.4 As a result of the alterations to the power generation technique, minor changes are required to the layout and design of the approved facility. For the best illustration of the physical changes, Appendix 2 contains the approved scheme, Appendix 3 contains the proposed scheme and Appendix 4 show the approved and proposed schemes overlaid along with a schedule of proposed changes.
- 9.5 It is the view of officers that the proposed changes to the approved scheme are minor in nature and as such do not represent a detrimental visual impact upon the surrounding area. The height and massing of the two primary buildings on site remain the same as approved, however the central gasification island has been moved northward 12 metres. Also of note is the change to the site office and car park. The site office has been moved 15 metres northward while the car parking arrangement has been consolidated alongside the power generation island and now provides 15 spaces at this location and 3 at the site entrance, rather than the

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previous split of 10 at the site entrance and 8 near the southern boundary. All other changes to the layout relate to equipment and storage tanks rather than built structures.

9.6 The statement supporting the proposal assesses the magnitude of change from the approved scheme and finds that of the 23 visual receptors scoped into the original Environmental Statement, 22 experience a low magnitude of change, with the remaining receptor experiencing a negligible visual change. The low to negligible visual change is attributed to the limited visual envelope of the buildings themselves, the degraded surrounding industrial built context, the high quality design and the location of the largest building centrally on the site.

9.7 When considering the potential visual impact of the changes, the viewpoint with the greatest potential for harm is from the River Thames. It is recognised that the approved facility is designed in such a way as to respect its riverside setting, being a single building frontage of simple design set back from the Thames to allow the aspiration of the Thames Path extension to run along the southern boundary of the site. Therefore, when considering the design approach coupled with the nature of the amendments, the overall conclusion of the visual impact brought about by the changes is not materially significant.

Air Quality

9.8 The Environmental Statement that supported the original planning application contained a detailed Air Quality Impact Assessment which determined the potential air quality impacts upon local receptors during construction and operation against the UK practice and protocols of the time. One of the key parameters used in the assessment was derived from the emission limit values given in the Waste Incineration Directive 2000/76/EC (WID) which considers the following pollutants

- Oxides of nitrogen (NO_x)
- Sulphur dioxide (SO₂)
- Particulate matter (PM₁₀)
- Carbon monoxide (CO)
- Hydrogen chloride (HCl)
- Hydrogen fluoride (HF)
- Dioxins and Furans
- Group 1 Metals (Cadmium and Thallium)
- Group 2 Metals (Mercury)
- Group 3 Metals (Antimony, Arsenic, Lead, Chromium, Cobalt, Copper, Manganese, Nickel and Vanadium)

9.9 The conclusion of the original assessment was that none of the pollutants emitted exceed their respective environmental benchmarks at any identified receptor and therefore the impact upon human health was not of potential significance.

9.10 In support of the current application, the applicant has provided a Supplementary Air Quality Impact Assessment detailing the potential changes from the scheme. The assessment criteria were updated to include the requirements under the Air Quality Standards Regulations 2007, otherwise the basis upon which the assessment was made remains consistent across the original and supplementary reports. The Corporation's environmental consultants undertook a technical review of this supplementary report and in the process sought clarification

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on a range of aspects including meteorological data, guideline values for metals and metalloids, abnormal operational conditions, impacts during maintenance, justification of NO_x to NO₂ conversion factors and contours plots for key pollutants. The applicant was able to respond to all of these points to the satisfaction of officers. The overall conclusion is that the changes would make a negligible change in the predicted atmospheric concentrations of the listed pollutants at local receptors.

Noise

9.11 As with the air quality assessment, the application compares the approved scheme with the proposed changes by providing a Supplementary Noise Impact Assessment to that contained within the Environmental Statement. In addition to assessing the noise implications of the change in power generation technique, the supplementary report went further in assessing the noise during construction and as a result of vehicle movements, neither of which are subject to change. The Corporation's environmental consultants undertook a technical review of the supplementary report, and following clarification of a number of points concluded that there would be a negligible change in noise levels between the original and proposed power generation techniques.

Technical Matters

9.12 This Section 73 application, if approved, will lead to the issue of a new permission subject to the two varied conditions as well as the remaining conditions from the original permission, leaving the applicant with a choice of implementing either the original permission or the varied permission. Conditions 6 and 9 will be re-worded to reflect the updated plans and elevations. This re-wording can be found in paragraph 11 of this report.

9.13 The original application was also the subject of a section 106 legal agreement to secure a contribution towards environmental improvements, details of the Solid Recovered Fuel, provision of a conveyor link between the plant and the Shanks facility and the submission of a landscaping scheme to provide a cycle and pedestrian route along the river frontage. As a matter of course, a Deed of Variation needs to be entered into in order to apply the same section 106 obligations in the event of the amended permission being implemented. The applicant has also expressed a desire to make other minor amendments to the agreement, however these are all based on points of interpretation rather than being major changes to the spirit of the original agreement. Specifically, these are:

- Confirm that the ELSEF fuel will be supplied by Shanks via the East London Waste Authority (ELWA) contract
- Reference to the phrase "majority of fuel to be derived from the Frog Island plant" shall be calculated over an annual period
- The proposed SRF fuel derived from within the Shanks facilities at Frog Island and Jenkins Lane will include suitable residual fuel derived from the Frog Island/Jenkins Lane facilities
- Shanks would also be able to deliver suitable qualifying biomass fuel to the ELSEF plant that is derived from within the ELWA area to ensure that the biomass specification and content of the SRF is able to maintained. This is to ensure that any variations or reductions within the biomass content of the SRF fuel as currently defined can be managed throughout the ELWA contract period.

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9.14 These points are not considered to be material to the application and it is suggested that authority be delegated to the Director of Planning to agree these minor amendments. However should more significant changes to the legal agreement arise, the matter will be brought back to the Committee for consideration.

10. CONCLUSION

10.1 The application seeks a more efficient method of producing a sustainable source of renewable power and has demonstrated that there will be no discernable environmental impact over and above those described in the previous Environmental Statement. The changes to the layout are minor and, if anything, constitute an improvement over the approved scheme. The application is brought before Members due to the requirement for a Deed of Variation on the original Section 106 and is recommended for approval.

11. REWORDED CONDITIONS

Condition 6

"The development hereby permitted shall be carried out in accordance with plan numbers:

*PL 010 E Site Layout and Cycleway
PL 001 C North and East Elevation
PL 002 C South and West Elevation*

Reason: The Local Planning Authority consider it essential that the whole of the development is carried out and that no departure whatsoever is made from the details approved, since the development would not necessarily be acceptable if partly carried out or carried out differently in any degree from the details submitted."

Condition 9

"The development shall not be carried out unless in accordance with the environmental standards, mitigation measures, requirements and methods of implementing the development contained in the Environmental Statement and appendices thereto, submitted in support of the approved planning application U0004.06 and the supplementary information to the Environmental Statement submitted in support of application U0017.09 dated October 2009 produced by Enzygo Limited, unless and to the extent that such standards, measures, requirements and methods are altered by the express terms of this permission and the approved strategies, frameworks, protocols and other documents to be submitted pursuant to it.

Reason: To ensure the development is carried out in accordance with the assessment carried out as part of the environmental statement and the mitigation measures proposed therein."

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CASE OFFICER: Stephen Allen

Appendix 1: Decision Notice U0004.06

Appendix 2: Approved Scheme

Appendix 3: Proposed Scheme

Appendix 4: Approved/Proposed Overlay with Schedule of Changes