



**ANNEX 4**

Date 15 June 2006

Riverside Resource Recovery Limited  
c/o John Boldon  
Director of Planning  
Cory Environmental  
2 Coldbath Square  
London EC1R 5HL

Dear Sirs

ELECTRICITY ACT 1989  
TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION FOR CONSENT TO CONSTRUCT AND OPERATE AN ENERGY  
FROM WASTE GENERATING STATION AT NORMAN ROAD, BELVEDERE

I. THE APPLICATION

1.1 I am writing at the direction of the Secretary of State for Trade and Industry (the Secretary of State) with regard to the application dated 29 September 1999 by Riverside Resource Recovery Limited (the Company) for the consent of the Secretary of State under section 36 of the Electricity Act 1989 to construct and operate a 72MW energy from waste generating station at Norman Road, Belvedere and for a direction under section 90(2) of the Town and Country

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Planning Act 1990 that planning permission be deemed to be granted. The Company varied that application on 1 August 2002 to take into account comments made on the 29 September 1999 application. The application of 29 September 1999 and the variation application of 1 August 2002 are together hereafter referred to in this letter as "the Application".

## II. PUBLIC INQUIRY

2.1 Following objections from the relevant planning authority, the London Borough of Bexley, to the Application, the Secretary of State was obliged to cause a public inquiry to be held under Schedule 8 to the Electricity Act 1989 into the Application. On 28 March 2003 the Secretary of State appointed Mr Keith Smith BA(Econ) DipTP DPA FRTPI ACIS (the Inspector), to preside over the public inquiry. The Inspector was assisted for parts of the public inquiry by Ms Elaine Quinn BSc (Hons) MSc PhD, a planning officer in the Planning Inspectorate. The public inquiry was governed by the Electricity Generating Stations and Overhead Lines (Inquiries Procedure) Rules 1990, as amended (the Inquiries Procedure Rules).

2.2 The public inquiry was held at the Bexleyheath Marriott Hotel on 41 days between 1 July 2003 and 3 October 2003. In addition to the main inquiry venue, evening sessions were held at St Augustine's Primary School, Belvedere on 24 July 2003 and at the Lakeside Complex, Thamesmead on 14 August 2003. The Inspector submitted his Report of the public inquiry to the Secretary of State on 7 May 2004.

2.3 The Inspector concluded, amongst other things, the following:

"12.264 I am satisfied that the planning conditions and unilateral undertaking offered, together with the limitations imposed under other consent regimes, would provide a suitable basis for regulation of the development during all phases of the project.

12.265 On the majority of the issues examined at the inquiry I reach the discrete conclusions. However, I have identified one area where the conclusions are in direct conflict. The strict application of the proximity principle, as recommended in *Waste Strategy 2000*, results in strong objection to the project. Set against this are the considerations of regional self-sufficiency and the waste hierarchy on which I conclude in favour of the project. These considerations are, I conclude,



finely balanced. However, I consider that there is compelling evidence of need and a lack of suitable alternatives to the present project within the time scale necessary to achieve statutory and policy targets relating to landfill diversion. These are, I conclude, sufficient to tip the balance in favour of the project.

12.266 I reach this conclusion on the basis of the evidence presented to the inquiry and my consideration of the extant policy background as at the close of the inquiry. The relevance of any changes in policy or other circumstances since the close of the inquiry would be for consideration by the Secretary of State."

2.4 The Inspector recommended the following:

"13.1 If it is decided that the proximity principle objection to the project is outweighed by considerations of regional self-sufficiency and the need to make provision for strategic waste management facilities in Greater London then I recommend that project consent be granted under Section 36 and Schedule 8 of the Electricity Act 1989.

13.2 In relation to Section 90 of the Town and Country Planning Act 1990 I recommend that the Secretary of State directs that planning permission for the development be deemed to be granted subject to the conditions set out in Annex A to this report."

2.5 Following receipt of representations, the Secretary of State directed that the public inquiry be re-opened to consider developments since the close of the Inquiry, in particular updated national waste policy and the London Plan. The Inspector, Mr Keith Smith, was reappointed to preside over the reopened inquiry. The reopened public inquiry was held between 6 September and 23 September 2005 and the Inspector submitted his Report to the Secretary of State on 16 December 2005, a copy of which is attached.

2.6 The Inspector in the conclusions to his Report determined:

"13.103 The background of national policy with regard to waste planning and management has altered materially since the close of the 2003 inquiry. The proximity and self-sufficiency principles have been reformulated and the waste hierarchy redefined. PPS10 provides up to date guidance for the preparation of

Development Plans and development control.

13.104 I conclude that EfW is now a distinct tier of the waste hierarchy, in contrast to the situation in 2003, below recycling/recovery but above disposal. Given that the RRRL project is intended to deal with residual waste I reiterate my earlier conclusion that it would not serve to crowd out recycling/composting or other options further up the hierarchy but rather displace landfill as a means of disposal. This would be consistent with the regional situation whereby exports of waste from London for landfilling in the Home Counties are set to reduce dramatically by 2020. EfW is an appropriate technology in my view since not all waste is capable of being recycled or composted and there are economic limitations on the extent to which waste can be driven up the hierarchy.

13.105 In contrast to my conclusions in IR1 [The Inspector's first report] on the proximity principle I conclude that with the change in national policy and the decision making principles under Waste Strategy 2000 there is now a better "fit. I conclude that if transport mode is regarded as a key environmental determinant then the RRRL site would represent a *nearest appropriate installation* under the proximity principle. The transport of waste from the Central London Sub-Region (which includes the major part of the WRWA area) for treatment in adjacent sub regions is accepted under the London Plan and emerging Sub-Regional Development Frameworks. River transport is also accepted as an appropriate mode consistent with transportation policy objectives. There still appears to me to be an absence of alternative sites or facilities closer to the source of arisings which I consider unlikely, on the evidence, to be rectified within the timescale of the London Plan unless there is a significant shift in public policy towards site acquisition and facility provision. ."

2.7 The Inspector recommended that:

"14.1 Subject to prior completion of the legal agreement between RRRL/CEL and Crossrail with regard to the overlapping use of the project site I recommend that project consent be granted under section 36 and Schedule 8 of the Electricity Act 1989;

and

14.2 In relation to section 90 of the Town and Country Planning Act 1990 I recommend that the Secretary of State directs that planning permission be deemed to be granted subject to the conditions set out in Annex A to this report."

2.8 The Secretary of State notes that the Department has received a copy of an agreement made on 12 January 2006 between RRRL/CEL and Crossrail and that therefore the Inspector's precondition to the grant of section 36 consent has been fulfilled.

2.9 The Secretary of State accepts the Inspector's findings of fact on the section 36 application and agrees with his updated conclusions and recommendations subject to the comments made below.

#### CONSIDERATION OF UPDATED NATIONAL WASTE POLICY AND THE LONDON PLAN

3.1 The Secretary of State agrees with the Inspector's updated conclusions as to where the present application fits within the existing planning policy framework announced by Ministers in July 2005 and set out in PPS 10 and *Changes to Waste Management Decision Making Principles in Waste Strategy 2000*. In particular he agrees with the assessment that as energy from waste takes up a place in the waste disposal hierarchy above disposal (e.g. landfill) albeit below recycling and recovery of waste it has a valid role to play as waste disposal moves away from landfill. He also agrees with the assessment that the proposed development represents *a nearest appropriate installation* under the proximity principle under the revised national waste policy applying.

3.2 The Secretary of State notes that this energy from waste station will be fuelled by waste which would otherwise have to go to landfill. London has a serious waste problem much of which it currently exports to landfill in the Home Counties. He also agrees with the Inspector that even if London were to meet the ambitious recycling targets envisaged by the London Plan, there would still be ample residual waste to fuel the station. Thus approval of this project would make an important contribution to tackling London's waste problem and be consistent with national policy as to waste disposal.

3.3 The Secretary of State notes that the European Thematic Strategy on the Prevention and Recycling of Waste sets out a long-term goal for the EU to

become a recycling society and takes the view that even with the recycling society aspirations of the EU there would still be sufficient residual waste to fuel energy from waste stations like Belvedere and that energy from waste is higher in the waste hierarchy than landfill.

3.4 The Secretary of State concludes that a decision should be taken now upon this long running application. Any further delay, to await further policy or other developments, would be inappropriate and could have adverse impacts upon the possibility of achieving adequate resolution to the serious challenges facing London's waste management.

#### CONSIDERATION OF IMPACT OF THIS DEVELOPMENT UPON HUMAN RIGHTS

4.1 The Secretary of State notes that various arguments were raised in the course of the first inquiry into the proposed development which alleged that a grant of permission would be incompatible with or infringe UK obligations under the European Convention on Human Rights (ECHR) as incorporated in UK domestic law via the Human Rights Act 1998.

4.2 Complaints were raised relating to:

- a) alleged infringement of Article 2 of the ECHR (right to life) caused by anticipated health effects arguably linked to anticipated premature death and illness caused by pollution from the development;
- b) alleged infringement of Article 6 of the ECHR (fairness of proceedings) caused by an alleged disparity of resources handicapping the involvement of individual interested persons in the public inquiry process; and
- c) alleged infringement of Articles 8 and Article 1 of the First Protocol to the ECHR (respect for private and family life) and (peaceful enjoyment of possessions) caused by impacts upon property prices and a perceived need for local inhabitants to relocate from the area, deriving from concerns as to adverse impacts caused by the nature of the proposed development.

4.3 The Secretary of State notes the conclusions reached by the Inspector as

to this issue (see paragraphs 12.242 to 12.247 of the first public inquiry report). The Secretary of State does not consider that a grant of permission would be incompatible with or infringe UK obligations under the European Convention on Human Rights (ECHR) as incorporated in UK domestic law via the Human Rights Act 1998. Specifically, in respect of the lettered paragraphs above:

a) in the Secretary of State's view there is no significant risk of harm to life resulting from this project. The emissions from such developments are carefully monitored and controlled by the Environment Agency to ensure compliance with the UK's international obligations.

b) the Secretary of State does not accept on the evidence that the "equality of arms" issue has rendered the proceedings of either of the two public inquiries unfair to any individual or organisation partaking. Consideration of both reports suggests that a thorough examination of issues raised by all participants has occurred regardless as of their means or expertise.

c) the Secretary of State notes the arguments put forward and the balancing of competing considerations undertaken by the Inspector. Whilst the concerns raised by persons who feel affected by the proposed development should not be dismissed lightly, the Secretary of State agrees with the Inspector's conclusion that the public policy imperative of resolving London's waste problems in a sustainable manner outweigh opposing environmental and social impacts affecting the locality of the proposed development.

### III. SECRETARY OF STATE'S CONSIDERATION OF THE PLANNING CONDITIONS

5.1 The Secretary of State has carefully considered the Planning Conditions recommended by the Inspector following the main and reopened public inquiry. The Secretary of State agrees that the conditions as modified following the reopened inquiry are suitable for inclusion in any planning permission he may deem to be granted.

5.2 The Secretary of State agrees with the Inspector's conclusion at paragraph 13.98 of his second report that an additional planning condition relating to emission controls is unnecessary on the grounds that this would be a duplication of controls operated by the Environment Agency as licensing authority relating to that issue.



#### IV UNILATERAL OBLIGATION UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990

6.1 The Secretary of State notes that a Unilateral Undertaking was completed following the 2003 inquiry (paragraph 13.100 of the second public inquiry report) which helps regulate the development during its construction and operational phases as well as securing benefits for the locality that meet the policy and legal tests of Circular 1/97.

#### V DEVELOPMENTS SINCE THE REOPENED PUBLIC INQUIRY CLOSED

7.1 The Inspector closed the reopened public inquiry on 23 September 2005 and has reported on the basis of the evidence he received before that date. The Secretary of State has considered whether anything has occurred since that date which is material to any decision he may make on the granting of a section 36 consent.

7.2 Since the close of the public inquiry the Secretary of State has received certain further submissions from interested parties. He has received numerous representations from local residents, including petitions, individual letters and the responses to a campaign by the local Press. All these representations call on the Secretary of State to take into account the views of local residents and community and refuse to grant consent. The matters relating to the impact on the local community were discussed in some detail at the main and re-opened inquiries and the Secretary of State does not consider there is a need to consider them further.

7.3 Mr John Austin MP, requested that no decision is taken until after the Government has announced how it will be taking its Waste Strategy in light of the public consultation of 16 February 2006. The Secretary of State is satisfied that energy from waste plays and will continue to play its part in waste management and that to delay a decision until after the outcome of the Waste Strategy Review would be unreasonable.

7.4 Representations have been made about the use of plasma waste elimination technology rather than mass incineration. While noting the possibilities of this technology the Secretary of State is satisfied that it would be unreasonable to stipulate use of it to the applicant as it is not yet proven technology for the size of waste facility required of the Belvedere proposal. The Secretary of State is aware that there are pilot schemes which can treat between 25 and 100 kg/hour (up to 2.4 tonnes per day). For comparison

Belvedere has a throughput of over 200 tonnes per day.

7.5 Representations about the health effects were also received. The Secretary of State notes that the Inspector considered this issue at some length at the first public inquiry. It did not feature in the re-opened inquiry. In his conclusions to his first report the Inspector concluded (between paragraphs 12.155 and 12.186) that the evidence did not provide sufficient justification to reject the application. The Inspector indicated that the control of emissions should be left to the Environment Agency to control. The Secretary of State has considered the matter, agrees the conclusions as to impacts upon health and in any event agrees with the Inspector that the control of emissions is for the Environment Agency to regulate under the provisions of the Environmental Protection Act 1995 and the Pollution, Prevention and Control regime. He further notes that planning policy guidance states that the planning system should not be used so as to duplicate controls which are the statutory responsibility of other bodies. In the circumstances the Secretary of State is satisfied that health effects can be adequately addressed and are therefore not a reason for refusing planning permission.

7.6 The Secretary of State notes the Inspector's comments in paragraph 13.52 of his report in regard to traffic impact of this project and the Thames Gateway Bridge project. No further representations raising new issues on this subject have in fact been received and the Secretary of State therefore considers the matter closed and not a reason for re-opening the Inquiry or refusing consent.

## VI. SECRETARY OF STATE'S DECISION ON THE APPLICATION

8.1 The Secretary of State, having carefully considered the Inspector's Reports, the views of the relevant planning authorities, the objections received, other representations made to him by various bodies, the environmental information and all other relevant matters, has decided to grant section 36 approval to the Application subject to a condition that the Development shall be in accordance with the particulars submitted unless otherwise agreed, and to a condition concerning the time limit for the start of the construction of the Development.

8.2 The Secretary of State believes that the Planning Conditions referred to in section III above form a sufficient basis on which the Development might proceed. He has therefore decided to give a section 90 direction that planning permission for the Development be deemed to be granted subject to those planning conditions.

8.3 I accordingly enclose the Secretary of State's consent under section 36 of the Electricity Act 1989 and a direction under section 90 of the Town and Country Planning Act 1990.

8.4 The Inspector's second report at Annex A3 requests the provision of a note dealing with the circumstances of a possible challenge to the decision of the Secretary of State. Accordingly there now follows certain information for guidance purposes only. The validity of the Secretary of State's decision may be challenged by making an application to the High Court for leave to seek a judicial review. Such application must be made as soon as possible and in any event not later than three months after the date of the decision. Parties seeking further information as to how to proceed should seek independent legal advice from a solicitor or legal adviser, or alternatively may contact the Administrative Court at the Royal Courts of Justice, Strand, London WC2 2LL (General Enquiries 020 7947 7220).

8.5 This decision does not convey any approval or consent that may be required under any enactment, by-law, order or regulation other than section 36 and Schedule 8 of the Electricity Act 1989 and section 90 of the Town and Country Planning Act 1990.

8.6 Attention is drawn to the requirements of section 76 of the Town and Country Planning Act 1990 concerning provisions for the benefit of the disabled.

8.7 Copies of this letter together with a copy of the Inspector's Report from the reopened Inquiry have been sent to the London Borough of Bexley, Statutory Authorities or Agencies, adjacent landowners or other legal interests, interest groups and Residents' Associations and interested persons identified in pages 109 and 110 of the Report. The Secretary of State notes that copies of the main Inquiry report were distributed with the Department's notification of 20 January 2005 which preceded the reopening of the Inquiry.

Yours sincerely

Richard Mellish  
Director, Electricity Consents



DEPARTMENT OF TRADE AND INDUSTRY  
ELECTRICITY ACT 1989  
TOWN AND COUNTRY PLANNING ACT 1990  
CONSTRUCTION AND OPERATION OF A GENERATING STATION AT  
NORMAN ROAD, BELVEDERE, BEXLEY, KENT

1. Pursuant to section 36 of the Electricity Act 1989 the Secretary of State for Trade and Industry (the Secretary of State) hereby consents to the construction by Riverside Resource Recovery Limited (the Company), on the area of land outlined red on drawing no. D1.2 of an energy from waste generating station at Norman Road, Belvedere, Bexley in the County of Kent, and to the operation of that generating station.
2. Subject to paragraph 3(1), the development shall be of up to 72 MW capacity and comprise:
  - (a) one or more steam turbines and heat recovery boilers;
  - (b) air cooled condensers;
  - (c) pier, jetty and approach arm including bridge over flood defence walls and riverside footpath and works to raise the level of footpath 3;
  - (d) ancillary plant and equipment and buildings to accommodate the development, including provision for continuous environmental monitoring;
  - (e) not more than three waste processing streams consisting of a reciprocating grate incinerator and associated air pollution control system in each stream. The design capacity not to exceed 670,000 tonnes per year of mixed municipal waste, including a proportion of waste from commercial and industrial premises, based on an overall average calorific value of 10.2MJ/kg and 7800 hours operation. The annual average capacity of 585,000 tonnes specified in the application for project consent and the accompanying Environmental Statement is based on an average calorific value of waste of 11MJ/kg and the average throughput over the life of the plant. With all three streams in operation the hourly tonnage of waste burned would vary between 66-96 tonnes, dependent upon the calorific value of the waste;

- (f) associated open storage areas for ash container storage, landscaping, car parking and habitat creation with any related fencing or boundary treatments;
- (g) accesses to the site from Norman Road together with the improvement/upgrading of Norman Road, provision of footpath and cycleways and footpath linkages; and
- (h) the demolition of existing buildings and structures on the site, including any remnants of the former Borax Wharf.

3. This consent is granted subject to the following conditions:

- (1) Except where otherwise required by virtue of the planning permission deemed to be granted by paragraph 4, the development shall be constructed and operated in accordance with the details contained in the Company's application of 29 September 1999, as varied by the Company's letter of 28 June 2002 and shown on drawing nos. D1.2; D2.4A; D2.5-10; D2.11A-12A; D10.1A; D10.2B-3B; D10.4A and PA117 Rev A.
- 2) The commencement of the development shall not be later than five years from the date of this consent, or such longer period as the Secretary of State may hereafter direct in writing.

4. The Secretary of State in exercise of the powers conferred on him by section 90(2) of the Town and Country Planning Act 1990 hereby directs that planning permission for the Development be deemed to be granted subject to the following conditions:

(1) In these conditions, unless the context otherwise requires:

"BS 4142" means the British Standard 4142: 1997 method for rating industrial noise affecting mixed residential and industrial areas or any nationally recognised successor document;

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

"bulk materials" means dry, loose aggregates, cement and soil;

"the commencement of development" has the meaning ascribed to it by section 56 of the Town and Country Planning Act 1990;

"the Company" means Riverside Resource Recovery Limited and its assigns, transferees and successors;

"the Council" means the London Borough of Bexley and its successors;

"the development" means the project as described in paragraph 2 above;

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

"Environment Agency" means the currently constituted body or any successor competent authority;

"heavy commercial vehicle" has the meaning given by section 138 of the Road Traffic Regulation Act 1984;

"jetty outage" means circumstances caused by factors beyond the Company's control in which waste has not been or could not be received at the jetty or ash containers have not been or could not be despatched from the jetty for a period in excess of 4 consecutive days;

"operation of the development" begins from the date on which the plant commences to receive waste, excluding any period of commissioning and trials. Operational and operated shall be construed accordingly;

"plant" means the energy from waste generating station forming part of the consented development;

"the site" means the area of land outlined in red on drawing no. D1.2; and

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

- (2) The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.
- (3) The terms of this permission and any schemes, details or consents approved or associated therewith shall be prominently displayed and maintained at the site office and shall be made known to any person or persons given responsibility for the management or control of operations at or from the site.

- (4) The total tonnage of waste received at the site shall not exceed 670,000 tonnes in the year beginning on the commencement of the operations and in subsequent years commencing on the anniversary of the commencement of the operation of the development.
- (5) The plant shall process only waste arising from Greater London or transported to it from a riparian waste transfer station in Greater London, other than the 85,000 tonnes per year specified in condition 41 below;
- (6) Except during periods of jetty outage or emergency the jetty and pier shall remain available at all times for tugs and barges transporting waste, residual materials following incineration, construction materials associated with the development and consumables necessary for the operation of the development and for no other purpose.
- (7) Bottom ash and co-mingled metals shall be taken from the site only via the jetty and the River Thames except in an emergency, following a jetty outage or with the prior written consent of the local planning authority.
- (8) No development shall commence until there has been submitted to and written approval given by the local planning authority, in consultation with the Environment Agency or any other competent authority, details of the jetty structure, materials and design (including timber cladding). These details shall include provision for sufficient clearance (minimum of 5m clear height and width) between the underside of the jetty approach and the top of the flood defence structure. The development shall be carried out in accordance with the approved scheme of details unless the local planning authority gives its prior written consent to any variation.
- (9) Containers used for river conveyance of waste, ash or co-mingled metals to and from the site shall be no larger than the ISO 20 foot specification.
- (10) Movement of materials, waste and residual material following incineration between the jetty and the plant and the ash container storage area shall only take place between the hours of 0700-1900 Mondays to Saturdays except in an emergency or following a jetty outage or following a failure of one or more cranes on the jetty or on a Sunday following a Bank Holiday between the hours of 0700-1900 hours.
- (11) All heavy commercial vehicles carrying bulk materials or waste into and out of the site during the construction, operational and

decommissioning phases of development shall be covered unless the load is otherwise enclosed, except when required to inspect incoming loads of waste.

- (12) No development shall commence until a written scheme of details has been submitted to and approved in writing by the Council setting out measures for the control of windblown dust or debris during the construction phase of the development hereby permitted. The scheme shall include details of fencing and damping down with water of excavated construction and cover materials on site. The scheme shall be implemented in accord with the approved details unless the Council gives its prior written consent to any variation.
- (13) Once the development is operational, noise arising from the development hereby permitted, measured at any point adjacent to the site on footpaths 3 and 4, shall not (except in emergencies or during routine testing of emergency equipment for which written notification has been given to the Council not less than 48 hours in advance) exceed the following levels : 64 dB  $L_{Aeq\ 1\ hour}$  between 0700-1900 Mondays-Fridays (excluding bank holidays) and 0700-1400 hours on Saturdays and 64 dB  $L_{Aeq\ 5\ minutes}$  at all other times.
- (14) Once the development is operational, noise arising from the development hereby permitted shall not cause any exceedance (as measured within any accommodation used as offices existing at the date of this permission adjacent to the site) of a noise level of 50 dB  $L_{Aeq\ 1\ hour}$  except in an emergency or during routine testing of emergency equipment for which prior written notice has been given to the Council and the affected occupiers at least 48 hours in advance.
- (15) Except in case of an emergency, or with the prior written consent of the local planning authority, the Rating Level of the noise emitted from the operation of the development hereby permitted shall not exceed the noise levels listed below, which are numerically equivalent to the background noise levels measured in 2003. The measurements shall be in accordance with BS4142.

Location (to be measured at or adjacent to the address below)	Daytime (0700-2300) hours	Any other time
	$L_{Aeq\ 1\ hour}$ dB	$L_{Aeq\ 5\ minutes}$ dB
No 27 Cherbury Close	43	40
No 1 St Brides Close	43	41



No 68 North Road	47	44
No 1 St Thomas Road	50	46

The noise limits specified in the above table are free-field measurements.

- (16) The operation of the development shall not commence until a written scheme of details has been submitted to and approved in writing by the local planning authority for the monitoring of noise generated by the operation of the development hereby permitted. The scheme shall specify the locations from which noise will be monitored and the method of noise measurement (which shall be in accord with BS 4142, an equivalent successor standard or other agreed noise measurement methodology appropriate to the circumstances). The scheme shall be implemented to establish baseline noise conditions. Throughout the lifetime of the development the monitoring programme shall be reviewed following any change in plant, equipment or working practices likely to affect the baseline noise conditions and any such change shall be notified in writing to the Council; or following a written request by the Council in relation to a noise related complaint. Such review shall be submitted to the Council for its written approval within 4 weeks of the notification or request. At the measurement locations noise levels shall not exceed those specified in conditions (13)-(15) except in an emergency.
- (17) In any incidence where the noise levels specified in conditions (13)-(15) above are exceeded because of an emergency the Company shall notify, within 2 working days, the Council in writing of the nature of the emergency, the reasons for exceedance of the noise limit and its expected duration. If the period of exceedance is expected to last for more than 24 hours then the Company shall inform any consultative body established as a result of the development permitted, the Council and adjoining occupiers or land users. Notification of the exceedance, the reasons therefor and its expected duration shall also be posted on the company's internet web site and on a suitable site notice board (clearly visible from Footpaths 3, 4 or Norman Road).

- (18) Except in an emergency, the Company shall give at least 2 working day's written notice to the Council of any proposed operation of emergency pressure valves or similar equipment. In any incidence where steam purging is to take place, the Company shall give 2 working day's prior written notice to local residents and businesses by informing any consultative body established as a result of the development permitted, the Council and adjoining occupiers or land users. Notification of the incidence, the reasons therefor and its expected duration shall also be posted on the Company's internet web site and on a suitable site notice board (clearly visible from Footpaths 3, 4 or Norman Road).
- (19) So far as reasonably practicable, steam purging shall only take place between the hours of 0900-1700 hours Mondays-Saturdays and not on any Sunday or Bank holiday;
- (20) Prior to the commencement of construction of the building envelope to contain the energy from waste power station an acoustic design report shall be submitted for written approval by the Council. The report shall detail the noise control measures that are proposed to be included in the design of the building envelope, acoustic barriers to the ash container storage yard, pier over footpath 3 and horseshoe ramp; predicted sound power levels and noise emissions from the air cooled condensers; and acoustic attenuation measures for internal plant and equipment. Such agreed measures shall be installed in accord with the approved scheme prior to commencement of operation of the development and thereafter retained and maintained in accord with the manufacturer's specifications unless the local planning authority gives its written consent to any variation. The acoustic design report shall demonstrate compliance with conditions (13)-(15) above.
- (21) Development shall not commence until a scheme of drainage works have been submitted to and approved in writing by the Council, including surface water control measures within the development hereby permitted; provision for any monitoring or corrective action and a timetable for implementation of the scheme in accord with the approved details. The development shall be carried out in accordance with the approved scheme of details unless the Council gives its prior written consent to any variation.
- (22) Development shall not commence until a written scheme of details in relation to the development hereby permitted has been submitted to and approved in writing by the Council setting out details of measures to ensure that surface water is not polluted at the place where it collects before flowing to any watercourse. The

approved scheme shall incorporate a timetable for works, provisions for monitoring and review, corrective action and maintenance. The surface water source measures shall be implemented in accord with the approved scheme of details and thereafter retained for the duration of the development unless the written consent of the Council is obtained for any variation.

- (23) No surface water shall be discharged to ground where the soil or sub-strata is found to be contaminated.
- (24) Development hereby permitted shall not commence until a scheme of works for the disposal of foul drainage have been submitted to and approved in writing by the Council. The development shall not become operational until the foul drainage works have been implemented in accord with the approved scheme of details unless the Council gives its written consent to any variation.
- (25) Development hereby permitted shall not commence until a scheme to deal with contamination of the site has been submitted to and approved in writing by the Council, in consultation with the Environment Agency or other competent authority, the scheme shall include an investigation and assessment to identify the extent of contamination and the measures to be taken to avoid risk to the public, damage to buildings or harm to the environment when the site is developed, together with a timetable for the implementation of such measures. Development shall not commence until the measures approved in the scheme have been implemented unless the Council gives its prior written consent to any variation. This condition shall not be discharged until a validation (closure) report has been submitted to and approved in writing by the local planning authority. Details of any post contamination sampling and analysis to show the site condition shall be included in the closure report together with details of materials imported to or removed from the site in connection with any remedial works.
- (26) Development shall not commence until there has been submitted to and approved in writing by the Council a scheme of lighting of the development hereby permitted for both its construction and operational phases, taking into account the effects on ecology and the requirements for safety illumination of the stack. The development shall be illuminated in accordance with the approved scheme unless the Council gives its prior written consent to any variation.
- (27) Development hereby permitted shall not commence until a written scheme of details has been submitted to and approved in writing



by the Council, in consultation with the Environment Agency or other competent authority, relating to the works to be undertaken to the flood defence structure, including the raising in level of footpath 3, within the site and the land edged blue on drawing no. D1.2. These details shall include reference to the proposed planting (species, root depth, height, spacing and timing thereof) and shall be implemented as approved unless the Council gives its written consent to any variation.

- (28) Work shall not commence on the construction of the jetty and approach arm until a written scheme of details has been submitted to and approved in writing by the Council, in consultation with the Environment Agency or other competent authority, containing a structural survey to determine the condition and lifetime of the flood defences within the site and the land edged blue on drawing no. D1.2. The details shall include an assessment of any identified defects and necessary remedial works required to ensure that the life of the flood defence wall is commensurate with that of the development hereby permitted. Any necessary works shall be carried out in accordance with the agreed scheme unless prior written consent is given by the Council.
- (29) Development shall not commence until a written scheme of details has been submitted to and approved in writing by the Council, in consultation with the Environment Agency or other competent authority, for monitoring the effect of the development and its operation on the inter-tidal foreshore. Such monitoring shall be undertaken in accordance with the approved scheme for a period to be agreed in writing by the Council. The approved monitoring scheme shall be adhered to unless the Council gives its written consent to any variation.
- (30) Development hereby permitted shall not commence until a written scheme of details has been submitted to and approved in writing by the Council, in consultation with the Environment Agency or other competent authority, for the realigned ditch alongside Norman Road together with a scheme of remedial works required to be undertaken to the ditches each side of Norman Road following the road improvement works. The details shall include cross sections of the ditch in relation to the improved road. The scheme shall be implemented before the operation of the development commences unless the Council gives its prior written consent to any variation.
- (31) Development hereby permitted shall not commence until a written scheme of details has been submitted to and approved in writing by the Council, in consultation with the Environment Agency or

other competent authority, for the provision of new water bodies and associated wetland habitat capable of sustaining water voles. The details shall include the siting, cross sections, method of construction, dimensions and materials and associated planting (of native species only) including a timetable for the implementation of the approved scheme. The scheme as approved shall be implemented in accordance with the agreed timetable unless the Council gives its prior consent to any variation.

- (32) Development hereby permitted shall not commence during the months of March to July inclusive unless a written survey of bird species has been submitted to and approved in writing by the Council, in consultation with the Environment Agency or other competent authority, in order to establish whether any bird species are breeding on site. If breeding birds are present development shall not commence except in accordance with an agreed scheme for the protection of such species and their habitat during construction operations.
- (33) Development hereby permitted shall not commence until a written scheme of details has been submitted to and approved in writing by the Council, in consultation with the Environment Agency or other competent authority, for an ecological protection and management plan to cover the subsequent management of all habitats, water bodies and associated wetlands during the construction and operation of the development. The plan shall include details of measures to secure bio-diversity benefits, measures to monitor and review the work undertaken including corrective action. The approved scheme shall be implemented unless the Council gives its prior written consent to any variation.
- (34) Development hereby permitted shall not commence until a written scheme of details has been submitted to and approved in writing by the Council, in consultation with the Environment Agency or other competent authority, of the pebble and shingle wasteland habitat including layout, levels, materials and timetable for implementation. The approved scheme shall be implemented before operation of the site commences unless the Council gives its prior written consent to any variation.
- (35) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Council and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg. furniture, refuse or

other storage units, signs, lighting etc); proposed and existing functional services above and below ground (eg. drainage, power, communications cables, pipelines etc. indicating lines, manholes, supports etc.).

- (36) All hard and soft landscape works for the development hereby permitted shall be carried out in accordance with the approved details. The works shall be carried out in accordance with the programme agreed with the Council. No development shall take place until a schedule of landscape maintenance for a minimum period of 5 years has been submitted to and approved in writing by the Council. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule unless the Council gives its prior written consent to any variation.
- (37) Bottom ash storage containers, whether full or empty shall be stored not more than two high and restricted to the storage area shown on drawing no. D2.4A for that purpose.
- (38) On commencement of the operation of the development hereby permitted there shall be no storage of materials or equipment on roadways or landscaped areas unless written consent thereto is given by the Council.
- (39) The operation of the development shall not commence until a travel plan has been submitted to and approved in writing by the Council, such travel plan to include positive scheduling to encourage heavy commercial vehicles carrying materials to or from the site to avoid peak hours and measures to reduce car traffic by encouraging staff and visitors to travel to or from the site by other means. The development shall not be operated other than in accordance with the approved travel plan.
- (40) the construction of the development hereby permitted shall not commence until the highway improvements to Norman Road shown on drawings nos. D10.1A; D10.2B; D10.3B and 10.4A, the scheme for traffic signals at the junction of Norman Road and Picardy Manorway shown on drawing no. D200159/100 or any variations to such works as may be approved in writing by the Council, have been carried out.
- (41) Except in the case of jetty outage, not more than 85,000 tonnes of waste shall be delivered to the development by road in the year beginning with the date of commencement of operation and in subsequent years commencing on the anniversary of the commencement of the operation of the development.

- (42) In the case of jetty outage, the number of heavy goods vehicles carrying waste in peak hours along Norman Road shall be restricted as follows : between 0730-0900 hours a maximum of 30 heavy goods vehicle movements two-ways; between 1630-1800 hours a maximum of 30 heavy goods vehicle movements two-ways and subject to there being a maximum of 300 heavy goods vehicle movements two-ways between 0000 hours and 2400 hours on any day.
- (43) A documentary record of the movements of all heavy commercial vehicles to and from the site shall be made and retained for inspection by nominated officers of the Council following commencement of operation of the development in a form (paper or electronic) to be agreed before development commences.
- (44) Operation of the development hereby permitted shall not commence until all roads within the site and parking areas serving them have been constructed, surfaced, and drained in accordance with the details shown on the submitted plans unless the Council gives its written consent to any variation.
- (45) From the commencement of operation of the development there shall be made available on site a vehicle or equipment suitable for removing broken down heavy goods vehicles. Such vehicle or equipment shall be retained onsite for such use at all times during the operation of the development.
- (46) Except in the case of jetty outage or following the failure of one or more cranes on the jetty, once the development is operational waste and other materials shall only be delivered to and collected from the site by road between 0700-2000 on Mondays-Fridays and between 0700-1400 hours on Saturdays and not at all on Sundays except on Sundays which fall each side of a Bank Holiday when waste can be brought by road between 0700-2000 hours.
- (47) A facility shall be provided and maintained within the development to enable steam pass-outs and/or hot water pass-outs and reserve space for the provision of water pressurisation, heating and pumping systems for off-site users of process or space heating.
- (48) Development shall not commence until a written scheme of details has been submitted to and approved in writing by the Council of the external treatment of the buildings, structures, plant and machinery including full architectural drawings, colours and materials, including details of the junction between the cladding and concrete plinth (so designed and constructed as to achieve effective disposal of run-off water). The development shall be



implemented in accord with the approved scheme of details unless the Council gives its written consent to any variation.

- (49) No development shall take place on the site until the Company has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Council.
- (50) On the 27<sup>th</sup> anniversary of the commencement of operation of the development or upon the permanent cessation of the operation of the development whichever is the earlier, details of a scheme of restoration and aftercare of the site shall be submitted for approval in writing by the Council. The scheme shall include any proposed future uses for the site; details of structures and buildings to be demolished or retained; details of the means of removal of materials of demolition; phasing of demolition and removal; details of restoration works and phasing thereof. The approved scheme shall be implemented following the permanent cessation of the operation of the development.
- (51) Within 12 months of the completion of construction of the development the use of the former Borax storage area as a temporary car park and construction compound shall cease and the area restored to its former condition unless the Council gives its written approval to any variation.
- (52) Ash and recyclables shall be handled under cover at all times.
- (53) Before development commences details of lorry parking areas shall be submitted to for approval in writing by the local planning authority. The approved areas shall be laid out, constructed, surfaced, drained and be available for use before the operation of the development commences.
- (54) Where any matter is required to be agreed or approved by the Council under any of the foregoing conditions, that matter shall in default of agreement or approval, within a reasonable time, be determined by the Secretary of State for Trade and Industry.

Date: 15 June 2006

Richard Mellish  
Director, Electricity Consents  
Department of Trade and Industry

