

Victoria Perkin
North Yorkshire County Council
Planning & Countryside Unit
County Hall
Northallerton
North Yorkshire
DL7 8AH

Our ref: RA/2009/110536/01-L01
Your ref: NY/2009/0176/FUL
Date: 19 June 2009

Dear Ms Perkin

**DEMOLITION OF EXISTING WAREHOUSE AND ERECTION OF ENERGY FROM WASTE FACILITY WITH ASSOCIATED AIR COOLED CONDENSERS AND CHIMNEY STACK, PROVISION OF NEW WEIGHBRIDGE, DRUM STORE, ELECTRICITY SUB-STATION, NEW MEANS OF ENCLOSURE AND ACCESS GATES, CAR PARKING AND LANDSCAPING:
86 MARSTON BUISNESS PARK, TOCKWITH.**

We **OBJECT** to the proposed development, as submitted, because the chimney stack is too low to satisfactorily disperse the emissions associated with the plant.

We have reviewed the dispersion modeling data submitted and found that the worst-case, long-term Arsenic ground-level concentrations are significantly greater than the target levels specified in the 4th Air Quality Daughter Directive (AQDD). The 4th AQDD sets target values to be attained as far as possible for arsenic, cadmium, nickel and benzo(a)pyrene (BaP). We have a direct obligation under the Environmental Permitting Regulations to ensure that the facilities we regulate do not contribute significantly to a breach of a limit value.

Whilst we are confident that it will, in principle, be possible to overcome our objection by increasing the stack height so that satisfactory dispersion is achieved, given the potential impact on the size, scale and visual impact of the plant, it is essential that these issues are fully addressed now.

In the interests of clarity, it is worth confirming that the planning process seeks to establish whether the proposed development is, in principle, appropriate for the site in question. Consideration of the detailed design and operation of the plant will be deferred to the Environmental Permit stage, where we will act as the regulatory authority. We would like to provide the following information on Environmental Permits.

Environmental Permits

The proposed development includes one or more of the activities listed in Part 1 of Schedule 1 of the Environmental Permitting (England & Wales) Regulations 2007 (EPR). Such activities are therefore subject to control by ourselves under the Environmental Permitting (England & Wales) Regulations 2007. The developer will need to make an application to us for a Permit under regulation 12 of the Environmental

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Permitting (England & Wales) Regulations 2007, and must obtain such a permit before the installation can be operated.

The basic purpose of the EPR regime is to introduce a more integrated approach to controlling pollution from industrial sources. This means that emissions to air, water (including discharges to sewer) and land, plus a range of other environmental effects, are considered together. We set permit conditions so as to achieve a high level of protection for the environment as a whole.

The determination of such an application will include a rigorous assessment of any impacts the new installation will have on Human Health and the Environment. We will not issue any permit unless the installation is designed and operated in accordance with Best Available Techniques (BAT).

The Permit will:-

- Apply an integrated approach so that the regulation of emissions to air, water (including discharges to sewer) and land are combined.
- Apply stringent Emission Limit Values on all the potential emissions from the site. These are decided as part of the comprehensive determination process required through the EPR application. The setting of these levels will take full account of the nature and land-use of the surrounding area. If an Emission Level Value is exceeded the Permit imposes stringent mitigation measures appropriate to the level of risk associated with the given measure, right up to forcing the facility into shut-down.
- Impose a requirement that the facility is continuously monitored for specific substances as directed by the legislation. It will also require that surrogate methods of monitoring are in place should the standard monitoring methods fail. The facility will not be allowed to operate in the absence of adequate monitoring.
- Require the facility to be subjected to periodic testing by external contractors to provide spot checks and facilitate the calibration of the continuous emission monitors (CEMs).
- Include the capability to request further improvements over time; for example a requirement that the facility considers future legislative requirements (such as the incorporation of new technologies or monitoring methods) and proposes methods of meeting these requirements, with timescales.
- Require the facility to manage and maintain an environmental accident management plan for the prevention of environmental accidents (for example, identifying situations where fires may start and imposing control and mitigation measures e.g. the retention and disposal of firewater)
- Impose stringent controls on all emissions to the water environment.
- Impose conditions that the Operator use BAT to manage odorous activities from the Installation.
- Impose conditions that the Operator use BAT to manage Noise and Vibration from the Installation.
- Impose conditions that the Operator use BAT to manage Waste storage and handling
- Impose conditions for the Management of the Installation (to include staff training, supervision and competency, operate an effective preventative maintenance regime and a system for prompt remedial actions, and the investigation of any incidents or complaints).

As the Regulator, we will review the permit periodically to make sure the operator keeps pace with changing circumstances. It is important to make sure that permit conditions remain protective of the environment.

We will also carry out inspections and audits and have a range of enforcement powers that are applied consistently towards any breach of Permit Conditions.

It is important to add that our response to the planning applications can in no way prejudice or pre-empt our determination of an application for an EPR Permit. The determination of any application will include a separate rigorous environmental risk assessment which will follow Environment Agency Guidance and will include consultation with the appropriate statutory consultees. Those statutory consultees will include the local Primary Health Care Trust, the Food Standards Agency and English Nature.

Other Issues

Please note that we have reviewed the Flood Risk Assessment submitted with the application and find it acceptable. However, we will withhold detailed comments and suggested planning conditions until the above **objection** is resolved.

We have some detailed comments regarding the operation of the plant and the protection of controlled waters. These will be helpful to the applicant and should be forwarded to them at the earliest opportunity. Please refer to Appendix 1 for this information.

If you have any queries regarding the above please contact myself using the details provided.

A copy of the subsequent decision notice would be appreciated.

Yours sincerely

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cc CgMs Ltd

Appendix 1

Description of Wastes (Appendix 3.1):

EWC Code 20 01 31 – Cytotoxic & Cytostatic medicines – The application states that a minimum combustion temperature of 850C will be used when burning waste. However, incineration of Cytotoxic & Cytostatic medicines must be undertaken at a minimum combustion temperature of 1000C. Guidance from the World Health Organisation recommends a temperature of 1000C whilst a combustion temperature of 1000C is also outlined in Table 2.2 of Environment Agency Sector Guidance Note IPPC S5.01.

Environmental Permit (EP) Application:

The applicant will have to apply for and be issued with an EP permit before the proposed installation can be brought into operation. The applicant must provide a robust options appraisal against alternative technologies in order to justify the use of the proposed technology. Additional information will be required to allow us to determine a range of installation specific issues such as noise and the impact on human health.

Groundwater and Contaminated Land:

We consider that the controlled waters at this site are of low environmental sensitivity; therefore we will not be providing detailed site-specific advice or comments with regards to land contamination issues for this site.

It is recommended that the requirements of PPS23 are followed. This document states that it is the developer's responsibility to ensure the site is safe and suitable for its intended purpose, having regard to previous contamination. The framework to achieve this is to carry out investigations in accordance with CLR11, Model Procedures for the Management of Contamination.

The Water Resources Act 1991, s85 makes it an offence to cause or knowingly permit poisonous, noxious or polluting matter to enter controlled waters unless you are in possession of a discharge consent or other relevant permit. Controlled waters include all water below the surface of the ground. This legislation is not restricted to any listed substances.

Discharge consents issued under the WRA1991 constitute authorisations for the purposes of the Groundwater Regulations provided the relevant conditions have been applied.