

DOCUMENT 8a

LOSTOCK SUSTAINABLE ENERGY PLANT VARIATION OF CONSENT UNDER SECTION 36C OF THE ELECTRICITY ACT 1989

DIRECTION UNDER SECTION 90(2ZA) OF THE TOWN AND COUNTRY PLANNING ACT 1990 TO VARY THE CONDITIONS OF THE 2012 DEEMED PLANNING PERMISSION (TRACK CHANGE)

CONSTRUCTION AND OPERATION OF UP TO A 90 MWe¹ ENERGY FROM WASTE ELECTRICITY GENERATING STATION AT LOSTOCK, NORTHWICH, CHESHIRE

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:

Definitions

In these Conditions unless the context otherwise requires:

"BS 4142:1997" means British Standard 4142:1997 - Method for rating industrial noise affecting mixed residential and industrial areas;

"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;

"Public Holiday" means a day that is, or is to be observed as a public holiday;

"CHPQA Standard issue 3" means the CHPQA Standard document issued in January 2009 which sets out the definitions, criteria and methodologies for the operation of the UK's CHP Quality Assurance (CHPQA) programme;

"the commencement of the Development" means the date on which the Development shall be taken to be initiated by the carrying out of material operations in accordance with section 56 of the Town and Country Planning Act 1990 (as amended);

"the commissioning of the Development" means the date on which, following completion of the testing of the Development, the Development first supplies electricity on a commercial basis;

"the Company" means Tata Chemicals Europe Limited and E.ON Energy from Waste UK Limited and its assigns and successors;

"the Council" means Cheshire West and Chester Council and its successors;

"the Development" means the energy from waste electricity generating station proposed to be constructed on land known as the Lostock Works Site, Griffiths Road, Northwich, Cheshire;

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

"Environment Agency" means the Environment Agency and its successors;

"Highways Agency" means the Highways Agency and its assigns and successors;

"Natural England" means Natural England and its assigns and successors;

"the Site" means the area of land outlined red on the map annexed hereto.

The Site

- (1) The construction of the Development shall only take place within the boundary of the Site.

Reason: To ensure that no construction takes place beyond the boundary of the area that is the subject of this planning permission.

Time limits¹

- ~~(2) The commencement of the Development shall not be later than the expiry of five years from the date of this permission.~~¹

~~**Reason:** To limit the consent to reflect the time it may reasonably take to put in place the necessary pre-construction measures required, for example tendering, obtaining the necessary financing and detailed design of the proposal.~~¹

Demolition Method Statement

- (3) The Development shall *be undertaken in accordance with the scheme details submitted to and approved by the Council on 15th June 2017 under planning reference 17/01347/DIS unless alternative scheme details are submitted to and approved in writing by the Council as to the following details:*¹ ~~The commencement of the Development shall not take place until there has been submitted to, approved in writing by and deposited with the Council a Demolition Method Statement and Management scheme. No Development shall take place except in accordance with the approved Demolition Methodology Statement and~~

~~Management Scheme. The scheme shall include:~~

- i) measures to control dust, noise, vibration, light and odour and appropriate mitigation techniques that prevent unnecessary disturbance to neighbouring properties;
- ii) details of the environmental management of the demolition of the existing buildings on the Site including the mitigation measures necessary for any protected species;
- iii) provision to restrict the hours of demolition to 07.00-19.00 Monday – Friday; 07:00 – 13:00 Saturdays, with no demolition work at all on Sundays and Bank/Public Holidays; and,
- iv) a waste audit, setting out the steps to be taken to ensure that the maximum amount of waste arising from the demolition process is incorporated within the Development so far as is reasonably practicable, and the steps to be taken to reuse and recycle the waste that cannot be incorporated within the Development.

Reason: To ensure the proper control of dust, noise vibration, light and odour, to ensure the welfare of protected species during the Site clearance period, and to ensure proper management of clearance waste.

Construction Environmental Management Plan

(4) The Development shall be undertaken in accordance with the scheme details submitted to and approved by the Council on 7th June 2017 under planning reference 17/01348/DIS unless alternative scheme details are submitted to and approved in writing by the Council as to the following details:¹ ~~The commencement of the Development shall not take place until there has been submitted to, approved in writing by and deposited with the Council a Construction Environmental Management Plan (CEMP). No construction of the Development shall take place except in accordance with the approved CEMP subject to any variation which has the prior written approval of the Council. The Plan shall include:~~

- i) measures to control dust, noise, vibration, light and odour from construction activities and appropriate mitigation techniques that prevent unnecessary disturbance to neighbouring properties;
- ii) details of the environmental management of the construction of the Development;

iii) provision to ensure that, with the exception of:

a) construction activities using the concrete slip-forming method;

b) construction activities requiring constant pouring concrete; and

c) process works within the Site boundary relating to mechanical and/or electrical equipment installation, no noise and vibration from the construction works will be audible at noise sensitive premises outside the hours of 07.00 – 19.00 Monday - Friday; 07:00 – 13:00 Saturdays and not at all on Sundays and Bank Holidays;

iv) details of parking of site operatives" and visitors" vehicles;

v) loading and unloading of plant and materials and their storage;

vi) a scheme for recycling/disposing of waste from construction works.

Reason: To ensure the proper control of dust, noise vibration, light and odour during the Site construction period.

Construction Traffic Management Plan

(5) *The Development shall be undertaken in accordance with the scheme details submitted to and approved by the Council on 7th June 2017 under planning reference 17/01349/DIS unless alternative scheme details are submitted to and approved in writing by the Council, ¹ The commencement of the Development shall not take place until there has been submitted to, approved in writing by and deposited with the Council, in consultation with the Highways Agency. -a- Construction Traffic Management Plan¹ Any such details¹ which¹ shall include provisions for addressing any abnormal wear and tear to the highway and¹ The Construction Traffic Management Plan shall be complied with for the duration of the construction of the Development. subject to any variation which has the prior written approval of the Council in consultation with the Highways Agency. ¹*

(6) *The Development shall be undertaken in accordance with the scheme details submitted to and approved by the Council on 7th June 2017 under planning reference 17/01349/DIS unless alternative scheme details are submitted to and approved in writing by the Council as to the¹ The commencement of the Development shall not take place until there has been submitted to, approved in writing by and deposited with the Council¹ details of wheel-cleaning facilities to be provided during the demolition and construction phases of the Development. The approved details shall include the type, location and layout of the facilities together with measures to ensure use by all construction vehicles leaving the Site. All areas used for the washing of vehicles shall be contained to prevent the*

discharge of wastewater to underground strata or controlled waters. This shall apply to all areas of the Site including the construction lay-down areas. The demolition and construction phases of the Development shall be carried out in accordance with the approved scheme.

Reason: To reduce the impact of construction traffic movements on the locality.

Prevention of contamination of watercourses

(7) The commissioning of the Development shall not take place until all areas of the Site including natural habitat, drains and watercourses that are to be retained as part of the Development hereby approved, have been fenced off or otherwise delineated to avoid incursion and disturbance by construction activity. This protection shall be maintained for the duration of the construction period and no construction materials, machinery or equipment are to be stored within these areas.

Reason: To ensure the prevention of contamination of drains and watercourses on the Development Site during construction.

Road deliveries of fuel

(8) No waste delivery HGVs shall enter or leave the Site by road outside the hours of 07:00 and 19:00 on weekdays and the hours of 07:00 and 13:00 on Saturdays. No HGVs shall enter or leave the Site outside these times or at any time on Sundays or Bank/Public Holidays.

(9) HGV movements to and from the Development once operational shall not exceed 262 round trips (131 movements in, 131 movements out) Monday to Friday on more than 3 days in a continuous 30 day monitoring period and shall not exceed 276 round trips (138 movements in, 138 movements out) on any one day, Monday to Friday. HGV movements to and from the Development once operational shall not exceed 132 round trips (66 movements in, 66 movements out) on Saturdays.

(10) Records shall be kept of waste delivery HGVs entering and leaving the Site each day, and shall include numbers, origins and times of arrival and departure and these records will be made available to the Council on written request.

(11) The Company shall keep under review opportunities to use, and/or make further use of, non-road modes of transport for the delivery of fuel to and from the Site (particularly over distances of more than 70 miles) where such modes may reasonably be considered both commercially feasible and more sustainable than

road transport. The commissioning of the Development shall not commence until there has been submitted to, approved in writing by, and deposited with the Council, a scheme for evaluating and responding to such opportunities, which shall be adhered to.

Reason: To reduce the impact of fuel delivery traffic movements on the locality and to ensure that opportunities for non-road transport of fuel, particularly over long distances, are kept under review where these may reasonably be considered commercially feasible and more sustainable than road transport of fuel.

Rail deliveries of fuel

(12) Fuel deliveries by train shall not be made to the Site outside the hours of 07:00 and 23:00.

(13) Fuel deliveries by train shall not be unloaded at the Site outside the hours of 07:00 and 23:00. Vehicles used to load and unload the trains, that are permanently based on the Site for this purpose, shall be fitted with reversing alarms of a type to be agreed in writing with the Council, before commissioning of the Development.

Reason: In the interests of amenity.

Sustainable travel plan and parking

(15) The commissioning of the Development shall not take place until there has been submitted to, approved in writing by and deposited with the Council a scheme for proposed staff and visitor vehicular parking. The parking provision shall be completed as agreed prior to operation of the Development and thereafter retained.

(16) The commissioning of the Development shall not take place until the following measures to encourage staff to travel via sustainable modes are introduced at the Site:

i) Covered and secure storage for 10 bicycles, with additional space for the storage of 7 additional bicycles should they be required in the future;

ii) Walking and cycling routes will be identified and communicated to staff;

iii) Shower and changing facilities;

iv) Car sharing databases and information will be communicated to staff; and

v) Information display boards in foyer areas detailing public transport timetables and frequencies.

Reason: To establish measures to encourage more use of sustainable non-car modes of transport during the construction and operation of the Development.

Site layout and design etc

(17) *The Development shall be undertaken in accordance with the scheme details submitted to and approved by the Council on 7th June 2017 under planning reference 17/01350/DIS unless alternative scheme details are submitted to and approved in writing by the Council as to the following:* ¹ ~~The commencement of the main Development shall not take place until there has been submitted to, approved in writing by, and deposited with the Council, a scheme for the construction of the Development which shall include provisions for the:~~ ¹

- a) details of the siting, design and external appearance of all buildings, structures to be erected and retained following the commissioning of the Development;
- b) details of the colour, materials and surface finish in respect of those buildings and structures referred to in (i) above;
- c) details of ground levels and dimensions of all permanent buildings and structures together with cross-sections through the Site showing existing and proposed ground levels;
- d) details of fire suppression measures and access of fire appliances to all major buildings, structures and storage areas;
- e) details of permanent fencing or other enclosure; and
- f) phasing of works included in the scheme.

In addition, prior to commencement of construction of any building within the Development, samples of all materials to be used on the exterior of that building shall be submitted to and approved in writing by the Council. All buildings and structures shall be constructed in accordance with the approved scheme.

(18) *The Development shall be undertaken in accordance with the scheme details submitted to and approved by the Council on 30th March 2017 under planning reference 17/01351/DIS unless alternative scheme details are submitted to and approved in writing by the Council as to the*¹ ~~commencement of the Development shall not take place until there have been submitted to, approved in~~

~~writing by and deposited with the Council~~¹ details of vehicular circulation roads, parking, hardstanding, loading and unloading facilities and turning facilities on site, including in particular details of the two-way internal road and access details between the Ash Handling Facility and the main Sustainable Energy Plant building. The approved details shall be implemented prior to commissioning of the Development.

(19) *The Development shall be undertaken in accordance with the scheme details submitted to and approved by the Council on 30th March 2017 under planning reference 17/01352/DIS unless alternative scheme details are submitted to and approved in writing by the Council as to the*¹ ~~The commencement of the Development shall not take place until there have been submitted to, approved in writing by and deposited with the Council~~¹ details of the access to the southern construction lay-down area. The access shall be implemented in accordance with those approved details.

(20) *The Development shall be undertaken in accordance with the scheme details submitted to and approved by the Council on 7th June 2017 under planning reference 17/01353/DIS unless alternative scheme details are submitted to and approved in writing by the Council as to the*¹ ~~The commencement of the Development shall not take place until there have been submitted to, approved in writing by and deposited with the Council~~¹ details of measures to mitigate the effects of emergencies arising from loads carried by rail and details to ensure access for emergency vehicles along the rail track.
The agreed measures shall be implemented prior to the commissioning of the Development.

Reason: To enable the Council to exercise reasonable and proper control over the design and appearance of the Development and to ensure adequate fire prevention measures are in place.

Landscaping

(21) *The Development shall be undertaken in accordance with the scheme details submitted to and approved by the Council on 17th May 2017 under planning reference 17/01354/DIS unless alternative scheme details are submitted to and approved in writing by the Council as to the details of*¹ ~~The commencement of the Development shall not take place until there has been submitted to, approved in writing by and deposited with the Council~~¹ a landscape management plan for soft landscaping works (such as planting and maintenance of plants and shrubs etc). The landscape management plan shall include: a timetable for implementation, details of vegetation to be retained and its means of protection, proposed earthwork materials, finished levels or contours, proposed plant species locations and mixes and details of its long-term

management. The soft landscape works shall thereafter be implemented in accordance with the approved scheme unless otherwise agreed in writing with the Council.

(22) If within a period of five years from the date of the planting of any tree or shrub within the Development, that tree/shrub, or any tree/shrub planted in replacement for it, is removed, uprooted, destroyed or dies, another tree of the same species and size as that originally planted shall be planted at the same place unless the Council gives its written consent for any variation.

(23) *The Development shall be undertaken in accordance with the scheme details submitted to and approved by the Council on 17th May 2017 under planning reference 17/01355/DIS unless alternative scheme details are submitted to and approved in writing by the Council as to the* ¹ ~~Prior to commencement of any phase of the Development,~~ ¹ full details of hard landscaping works (such as earthmoving, erection of fences etc) relating to that phase shall have been submitted to and approved in writing by the Council and the works shall be carried out in accordance with the approved plans. These details shall include proposed finished levels or contours, means of enclosure, street furniture, hard surfacing materials and a programme of implementation and maintenance. The landscaping works shall include the installation of a footpath (fenced with a buffer of hedgerow shrubs) within the proposed coke store site of the Development.

Reason: To ensure proper landscaping for the Development.

Ecology and Nature Conservation

(24) *The Development shall be undertaken in accordance with the scheme details submitted to and approved by the Council on 13th June 2017 under planning reference 17/01357/DIS unless alternative scheme details are submitted to and approved in writing by the Council, in consultation with Natural England. Any such details* ¹ ~~Prior to the commencement of any phases of the Development a scheme detailing the ecological mitigation and enhancement measures identified in the Environmental Statement shall be submitted to and approved in writing by and deposited with the Council in consultation with Natural England. The scheme~~ ¹ shall include the following: details of the measures to be taken to protect the barn owl nest site from disturbance; details of the measures to be taken to mitigate any impact on bat populations using the Site; and the other ecological measures referred to in Chapter 9 and Figure 8.21 of the Environmental Statement. The Development shall be carried out in accordance with the approved scheme.

Reason: To mitigate the impact of the Development on protected species and

safeguard ecology and nature conservation.

Prevention of contamination of watercourses - drainage

(25) The commissioning of the Development shall not take place until there has been submitted to, approved in writing by and deposited with the Council, in consultation with the Environment Agency a scheme for the management of surface water (including a surface water regulation system) and foul water, based on Appendix 10.2 of the Environmental Statement. The scheme shall thereafter be fully implemented and operated as approved.

Reason: To ensure proper drainage of the Site and to ensure that contamination is controlled and not allowed to cause harm to the health of human beings nor impact on the integrity of environmentally sensitive areas.

Prevention of contamination of land

(26) *The Development shall be undertaken in accordance with the scheme details submitted to and approved by the Council on 11th July 2017 under planning reference 17/01357/DIS unless alternative scheme details are submitted to and approved in writing by the Council as to* ¹ ~~The commencement of the Development shall not take place until there has been submitted to, approved in writing by and deposited with the Council a scheme to deal with the risks associated with any contamination of the Site. Any measures identified as being necessary shall be carried out to a timetable to be agreed in writing with the Council. That scheme shall include~~ ¹ the following elements unless any are specifically excluded in writing by the Council:

- a) a desk study identifying:
 - i) all previous uses;
 - ii) potential contaminants associated with those uses;
 - iii) a conceptual model of the Site indicating sources, pathways and receptors;
 - iv) potential unacceptable risks arising from contamination at the Site;
- b) a Site investigation scheme based on a) above to provide information for an assessment of risk to any receptors that may be affected on and off the Site;
- c) a method statement based on results of the Site investigation and risk assessment, giving details of any remediation measures required and details of how these measures are to be undertaken;
- d) a verification report on any remediation measures that have been undertaken; and

e) a timescale for implementation.

Reason: To ensure that contamination is controlled and not allowed to cause harm to the health of human beings nor impact on the integrity of environmentally sensitive areas.

Fuel Storage

(27) All fuels, oils and other liquids with the potential to contaminate the Site shall be stored in a secure bunded area at the Site. The storage area shall not drain to any surface water system.

Reason: To provide adequate long-term protection to the water environment at the Site.

Operational Noise

(28) The commissioning of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with the Council a programme for the monitoring and control of noise generated by the normal commercial operation of the Development. The programme shall specify the locations from which noise will be monitored, the method of noise measurement (which shall be in accordance with BS 4142 1997) and the maximum permissible levels of noise at each such monitoring location. At the approved measurement locations noise levels during the operation of the Development shall not exceed the levels specified in the approved programme, except in so far as any variation has been approved in writing by the Council or in an emergency.

Reason: To ensure the proper control of noise during the operation of the Development.

Control of Odour

(29) The commissioning of the Development shall not take place until a scheme for the management of odour generated from the operation of the Development has been submitted to, approved in writing by and deposited with the Council. The scheme shall thereafter be implemented and operated as approved throughout the life of the Development.

Reason: In the interests of local amenity.

Lighting

(30) The commissioning of the Development shall not take place until there has been submitted to, approved in writing by and deposited with the Council a scheme of lighting of the Development hereby permitted for both its construction and operational phases. The Development shall be illuminated in accordance with the approved scheme.

Waste Hierarchy

(31) *The Development shall be undertaken in accordance with the scheme details submitted to and approved by the Council on 9th May 2018 under planning reference 18/01644/DIS unless alternative scheme details are submitted to and approved in writing by the Council as to the details of*¹ ~~The commissioning of the Development shall not take place until a scheme setting out~~¹ arrangements for the maintenance of the waste hierarchy in priority order by minimising recyclable and reusable waste received as a fuel feedstock during the operational life of the Development. ~~has been submitted to and approved in writing by and deposited with the Council.~~¹ The scheme shall include details of:

a) the type of information that shall be collected and retained on the sources of the residual waste after the recyclable and reusable waste has been removed;

b) the arrangements that shall be put in place for ensuring that as much reusable and recyclable waste as is reasonably possible is removed from the waste to be supplied for use as a fuel feedstock in the Development; so that the feedstock is as far as practicable only residual waste that is from a waste stream that has been comprehensively recycled;

c) the arrangements that shall be put in place for ensuring the suppliers of residual waste operate a written Environmental Management System which includes establishing a baseline for recyclable and reusable waste removed from residual waste and specific targets for improving the percentage of such removed reusable and recyclable waste;

d) the arrangements that shall be put in place for discontinuing supply arrangements from suppliers who fail to remove as much reusable and recyclable waste as is reasonably possible from residual waste or who fail to retain Environmental Management Systems;

e) the arrangements that shall be put in place for regularly monitoring the waste delivered to the facility to ensure that it is residual waste; and

f) the form of records that shall be kept for the purpose of demonstrating compliance with the above details and the arrangements in place for allowing inspection of such records by the Council.

The records referred to in paragraph (f) of this condition shall be made available for inspection by the Council at all reasonable times.

Incineration of waste shall not take place except in accordance with the approved scheme, which shall be adhered to at all times that the Development is operational.

Reason: To ensure the proposed facility accords with national, regional and local waste strategies.

Fuel Sustainability

(32) The Development shall not accept as a feedstock:

(a) any material directly produced by conventional forestry management (including thinning, felling and coppicing of trees from any green space);

(b) tree-derived residues directly produced by the processing of material directly produced from conventional forestry management by sawmills or the wood processing or timber industry;

(c) plant material from crops grown primarily for use in energy generation, including „woody“ energy crops such as short rotation coppice (SRC) and miscanthus grass;

(d) agricultural residues such as straw, husks and kernels.

Reason: to ensure the plant remains an energy from waste plant and does not change its purpose or designation.

Air pollution monitoring

(33) The commissioning of the Development shall not take place until there has been submitted to, approved in writing by and deposited with the Council in consultation with the Environment Agency a scheme for the monitoring of air pollution in the vicinity of the Site. The approved scheme shall include the measurement location or locations within the relevant area from which air pollution will be monitored, the equipment and methods to be used and the frequency of measurement. The scheme shall provide for the first measurement to be taken not less than 12 months prior to the commissioning of the Development and for the final measurement to be taken not more than 24 months after commissioning of the Development. The scheme shall be

implemented in accordance with its terms and shall supply full details of the measurements obtained in accordance with the scheme to the Council as soon as possible after they become available.

- (34) Should the Council require continued monitoring of air pollution the scheme approved pursuant to Condition 33 above shall be extended for a period of up to 36 months from the date of the last measurement taken pursuant to Condition 33 above. Full details of the measurements obtained during the extended period shall be provided to the Council as soon as possible after they become available.

Reason: To ensure the Council are kept informed on a regular and programme basis about any changes in the level of air pollution at locations within its area.

Archaeology

- (35) *The Development shall be undertaken in accordance with the scheme details submitted to and approved by the Council on 30th March 2017 under planning reference 17/01358/DIS unless alternative scheme details are submitted to and approved in writing by the Council as to the details of ⁴The commencement of the Development shall not take place until there has been submitted to, approved in writing by and deposited with the Council¹ a scheme of archaeological investigation and an associated implementation programme. Development shall be in accordance with the approved scheme and implementation programme.*

Reason: To allow the surveying of the Site for archaeological artefacts and the recovery of any important archaeological discoveries prior to the commencement of the Development.

Demolition

- (36) Within 18 months of the permanent cessation of the commissioning of the Development, a scheme shall be submitted to the Council, for approval in writing, for the demolition and removal of the Development from the Site. The approved scheme shall include:

- a) details of all structures and buildings which are to be demolished or retained;
- b) details of the means of removal of materials resulting from the demolition;
- c) the phasing of the demolition and removal;
- d) details of the restoration works; and

e) the phasing of the restoration works.

The demolition of the Development shall be implemented in accordance with the approved scheme.

Date: ~~2 October 2012~~¹

~~Giles Scott
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