Our ref: HA/2018/120261/01-L01
Your ref: WSCC/015/18/NH

Date: 04 April 2018

West Sussex County Council
Development Control
County Hall Tower Street
Chichester
West Sussex
PO19 1RH

Dear Sir/Madam

RECYCLING, RECOVERY AND RENEWABLE ENERGY FACILITY AND ANCILLARY INFRASTRUCTURE FORMER WEALDEN BRICKWORKS (SITE HB), LANGHURSTWOOD ROAD, HORSHAM, WEST SUSSEX, RH12 4QD

Thank you for consulting the Environment Agency on the above planning application. We have reviewed the submitted plans and documents relevant to our remit, and have the following comments to make.

Environment Agency Position

We consider that planning permission should only be granted to the proposed development as submitted if the following planning conditions are included as set out below.

Condition 1

No development shall take place until a plan detailing the protection and/or mitigation of damage to populations of Great Crested Newt a protected species under The Wildlife and Countryside Act 1981 as amended and their associated habitat during construction works and once the development is complete. Any change to operational, including management, responsibilities shall be submitted to and approved in writing by the local planning authority. The Great Crested Newt protection plan shall be carried out in accordance with a timetable for implementation as approved.

Reasons

This condition is necessary to protect the Great Crested Newt population and its habitat within and adjacent to the development site. Without it, avoidable damage could be caused to the nature conservation value of the site. Under the Wildlife and Countryside Act 1981 LPAs should take reasonable steps to further the conservation and

enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest. Under section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 local planning authorities must have regard to purpose of conserving biodiversity.

Applicant information - survey licence requirements

Note that a licence will be required from Natural England to survey for, and, where any proposals are made as a last resort, to re-locate legally protected species.
For further information and guidance on European Protected Species and licensing procedures see the Wildlife Management and Licensing Guidance from Natural England.
Further information and guidance on UK protected species and licensing can be found under the Defra web pages for the Wildlife and Countryside Act 1981.

Condition 2

No development shall take place until a scheme for the provision and management of a 5 metre wide buffer zone alongside the ponds shall be submitted to and agreed in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority. The buffer zone scheme shall be free from built development including lighting, domestic gardens and formal landscaping; and could form a vital part of green infrastructure provision. The schemes shall include:

- plans showing the extent and layout of the buffer zone.
- details of any proposed planting scheme (for example, native species).
- details demonstrating how the buffer zone will be protected during development and managed/maintained over the longer term including adequate financial provision and named body responsible for management plus production of detailed management plan.
- details of any proposed footpaths, fencing, lighting etc.

Reasons

Development that encroaches on ponds has a potentially severe impact on their ecological value. Land alongside ponds is particularly valuable for wildlife and it is essential this is protected.

his condition is supported by the National Planning Policy Framework (NPPF), paragraph 109 which recognises that the planning system should aim to conserve and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. The Natural Environment and Rural Communities Act which requires Local Authorities to have regard to nature conservation and article 10 of the Habitats Directive which stresses the importance of natural networks of linked corridors to allow movement of species between suitable habitats, and promote the expansion of biodiversity.

Paragraph 118 of the NPPF also states that opportunities to incorporate biodiversity in and around developments should be encouraged

Advice to Applicant and LPA

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Permitting requirements
This development will require an Environmental Permit from the Environment Agency under the Environmental Permitting (England and Wales) Regulations 2010.

The site already has a bespoke permit in place for a waste transfer station with a capacity of up to 250,000 tonnes of waste (EAWML 401997). The applicant should seek pre-application advice with us to either surrender this permit and apply for a new IED Installations permit, or apply for a variation to incorporate the new incinerator within the existing permit (primary activity will be the incinerator).

The applicant will also need to ensure that all risk assessments, environmental management systems and procure documents, etc are revised to meet the different risks associated with this type of permit. In addition, they will need to update their Fire Prevention Plan before submission of any application forms.

Under the Environmental Permitting (England and Wales) Regulations 2010 permitted sites should not cause harm to human health or pollution of the environment. The operator is required to have appropriate measures in place at the site to prevent pollution to the environment, harm to human health the quality of the environment, detriment to the surrounding amenity, offence to a human sense or damage to material property. If this is not included with the application then it is likely that we would reject any application received for an Environmental Permit under the Environmental Permitting (England and Wales) Regulations 2010.

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

Scope of controls for waste incineration facilities
The proposed incinerator building will require a permit under Schedule 5.1 Part A(1) of the Environmental Permitting Regulations 2010. We will be including the following key areas of potential harm when making an assessment for the Permit:

- Management – including accident management, energy efficiency, efficient use of raw materials and avoidance, recovery and disposal of wastes.

- Operations – including incoming waste and raw material management, waste charging, furnace types and requirements, validation of combustion conditions, combined incineration, flue gas recirculation, dump stacks and bypasses, cooling systems and boiler design.

- Emissions – to surface water, sewer and air, odour, noise and vibration, monitoring and reporting of emissions.

Ash
Ash is a typical residue from an incineration plant produced in either the furnace or collected in the gas cleaning plant. The permit will prevent these two types of ash being

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mixed and will contain conditions to ensure that there are no significant emissions from the site from the handling or treatment of the ash. When ash is sent elsewhere, both for disposal or recovery, other waste legislation will apply and the operator will be responsible for characterising their ash and using a registered waste carrier to transport the material to an appropriately licensed facility. During the lifetime of the permit we will routinely assess compliance with this 'duty of care'.

Environmental performance standards
We expect new incineration developments to comply with the environmental performance standards in the EPR Technical Guidance Note: the Incineration of Waste (EPR5.01). We will justify any derogation we allow from these standards in our decisions.

Waste arising from site during development
The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/ or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution

- treated materials can be transferred between sites as part of a hub and cluster project

- some naturally occurring clean material can be transferred directly between sites.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear.

Waste to be taken off site
Contaminated soil that is, or must be, disposed of is waste. Therefore, its handling, transport, treatment and disposal are subject to waste management legislation, which includes:

- Duty of Care Regulations 1991

- Hazardous Waste (England and Wales) Regulations 2005

- Environmental Permitting (England and Wales) Regulations 2010

- The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear.

If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register

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with us as a hazardous waste producer. Refer to the Hazardous Waste pages on GOV.UK for more information.

If in doubt of any of the above, we should be contacted for advice at an early stage to avoid any delays.

The need for an environmental permit is separate to the need for planning permission. The granting of planning permission does not necessarily lead to the granting of an environmental permit.

Groundwater

The proposed development site has been the subject of past industrial activity which could pose a risk of pollution to controlled waters. However, as a result of the geology at this site the groundwater beneath this site is not considered to be sensitive and we have no site specific advice.

The site is located on the Weald Clay Formation which has a very low permeability and is designated an Unproductive Aquifer. As a result of its low permeability it is considered to have negligible significance for water supply or river baseflow and therefore, there is considered to be a very low risk of contamination to the groundwater underlying the site from any potential contamination that may exist from historical and current activities.

Our 'Guiding Principles for Land Contamination' (GPLC) document is published online, and provides useful guidance on managing risks to the water environment: https://www.gov.uk/government/collections/land-contamination-technical-guidance

We also recommend that you consult with your Environmental Health / Environmental Protection Department for further advice on generic aspects of land contamination management. Where planning controls are considered necessary we would recommend that you seek to integrate any requirements for human health protection with those for protection of the water environment. This approach is supported by Paragraph 109 of the National Planning Policy Framework.

Yours faithfully

Mrs Hannah Hyland
Planning Specialist

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