

DELEGATED

AGENDA NO.

REPORT TO PLANNING COMMITTEE

29th August 2007

**REPORT OF THE CORPORATE
DIRECTOR OF DEVELOPMENT AND
NEIGHBOURHOOD SERVICES**

07/1650/ARC

Vopak Terminal Teesside Limited, Seal Sands Road

Application under Section 73 to alter condition no. 1 (approved plans) of planning approval 06/1918/EIS for Erection of renewable fuels plant with associated infra-structure and utilities work, admin building and workshops, roads, pipe bridges and car parking.

Expiry date: 6th September 2007

SUMMARY

Planning permission was granted in October 2006 to erect buildings, plant, equipment with a new access and car parking as a renewable fuels plant to produce rapeseed oil and meal on a site at Seal Sands. The oil would be used to produce biodiesel at off-site facilities and the meal as fuel for power production. The biodiesel will be used instead of ordinary diesel as a cleaner renewable energy source. Because of the nature of the proposal the application was the subject of a formal Environmental Impact Assessment. This did not reveal any significant environmental concerns with the operation, and any adverse impacts can be mitigated with their implementation secured by planning conditions.

An "Appropriate Assessment" has been carried out in accordance with the Habitat Regulations 1994 and agreed with English Nature (now Natural England)

An application to revise the permission has now been submitted seeking approval for changes to the approved layout of the site resulting from both design and operational changes. The main operational change is that that biodiesel would be produced on the site from the derived vegetable oil instead of being transported off site for processing.

The main planning considerations are whether the internal re-arrangement of plant and buildings on the site is acceptable and whether there are any adverse environmental effects arising from process changes particularly in respect of the potential impact on the local ecology given that the site is close to the Seal Sands SSSI, which is part of the SPA and Ramsar site. The views of Natural England are awaited.

RECOMMENDATIONS:

It is recommended that subject to receiving no objections from Natural England the application 07/1650/ARC be approved subject to the following conditions below:

In the event an objection is received from Natural England, the application be refused.

- 1. The development hereby approved shall be in accordance with the following approved plan(s); unless otherwise agreed in writing with the Local Planning Authority.***

<i>Plan Reference Number</i>	<i>Date on Plan</i>
<i>SBC0001</i>	<i>31 May 2007</i>
<i>052300/PL/002</i>	<i>7 June 2007</i>
<i>052300/PL/004</i>	<i>7 June 2007</i>
<i>052300/PL/005</i>	<i>7 June 2007</i>
<i>052300/PL/006</i>	<i>7 June 2007</i>
<i>052300/PL/007</i>	<i>7 June 2007</i>
<i>052300/PL/008</i>	<i>7 June 2007</i>
<i>052300/PL/009</i>	<i>7 June 2007</i>
<i>052309/004</i>	<i>31 May 2007</i>
<i>052309/005</i>	<i>31 May 2007</i>
<i>052300/PL/01 Rev A</i>	<i>26 July 2007</i>
<i>052300/PL/03 Rev A</i>	<i>26 July 2007</i>

- 2. The permission hereby granted shall have the effect of varying condition No 1 of 06/1918/EIS in respect of the approved plans, which shall be implemented in accordance with the plans approved by the permission hereby granted. All other conditions of 06/1918/EIS shall remain in force***

Reason: For the avoidance of doubt and to define the consent

The submitted environmental information set out in the original Environmental Statement and its addendum submitted with this application have been taken into consideration in the permission hereby granted.

The decision to grant planning permission has been taken having regard to the policies and proposals in the Structure Plan and Stockton on Tees Local Plan set out below

***Stockton on Tees Local Plan policies GP 1, IN5b, IN6, EN 1, EN34, EN36
Tees Valley Structure Plan policies EMP10, ENV4, ENV5
Planning Policy Statements 1 and 23 and Guidance Notes Nos, 4, 9, 13, 24
and 25***

BACKGROUND

- 1. An application for permission to construct and operate a rapeseed processing facility at Seal Sands, Teesside was granted approval last October***

(06/1918/EIS). The application site lies in an existing industrial area of Seal Sands between the A178 and the River Tees. The site extends to some 5.2 (13 acres) hectares and although vacant is occupied by a small derelict hut.

2. The proposal envisaged that the plant would process approximately 500,000 tonnes of oilseed per annum, principally rapeseed, to produce 225,000 tonnes of vegetable oil for biodiesel production elsewhere and 275,000 tonnes of meal to be used as a renewable fuel. At that time, the applicant envisaged that the primary use of the oil would be by the Biofuels Corporation Biodiesel site on the opposite side of Seal Sands Road, and the meal exported in containers as fuel for electricity generation in UK power stations.
3. The development comprised 8 distinct elements; Office Administration Building, Workshop, Power Station, Extraction Building, Crushing Plant, Seed Silo Storage, Seed Reception Facility, Meal Loading Station and Storage. Access would be taken from Seal Sands Road; the existing access would be improved. Parking would be provided adjacent to the Office Administration Building, in the north east of the site.
4. It was estimated at that time that the employees to operate the first plant would total 15, with a mix of day and shift working. The full five-unit development would ultimately employ up to 70 people and the intention would be to recruit staff locally wherever possible.
5. As the development had *potential* for significant adverse impacts on the environment, as judged against the Town and Country Planning (Environmental Impact Assessment (England and Wales) Regulations and the location adjacent to part of the Teesmouth and Cleveland Coast Special Protection Area (SPA), an **Environmental Impact Assessment (EIA)** was submitted with the application.
6. Because the site is adjacent to the Teesmouth and Cleveland Coast Special Protection Area (SPA) and Ramsar site and as the proposed works are not directly related to the management of the site, at the request of the then English Nature, an “**appropriate assessment**” of implications of the development for conservation objections was carried out by the Borough Council as the “competent authority”.

THE PROPOSAL

7. A revision of the approved scheme is now sought and it follows a change from exporting the derived vegetable oil for biodiesel production to actually carrying out the production on the site itself. This will also require the importation of additional crude vegetable oil.
8. The main changes to the approved scheme are:
 - Revision of the plant layout to accommodate the process and design changes
 - Reduction of the Seed Pressing Plant capacity from 500,000 tonnes/year to 400,000 tonnes/year
 - Reduction of Rape Seed Storage from 26,000 tonne to 16,000 tonne
 - Removal of the Solvent Extraction Plant from the scheme

- Removal of 2 x 900 tonne Rape Meal Silos from the scheme
 - Removal of Hexane usage from the scheme
 - Addition of an Esterification Plant for the production of up to 400,000 tonnes/year of Bio Diesel
 - Addition of a Day Storage Tank Farm
 - Addition of a Rape Cake Warehouse
 - Addition of a Water Treatment Plant
9. The main feed stock of raw material to the plant will remain as locally grown oil seed rape supplemented by imported vegetable oil. The co-product of vegetable meal will be in the form of a pressed cake instead of meal but will be used in power stations as part of the government's renewable fuels policy.
10. A related planning application is likely to be submitted to develop an area of land near to the site for use as a railhead loading facility for the pressed cake. This would be developed so that the transport of cake could be removed from the public roads.
11. A more detailed description of the process to be used in the proposed development is set out in the addendum to the Environmental Statement accompanying the application, and a copy of the Non-Technical Summary of that addendum is set out as an appendix to this report.

ENVIRONMENTAL IMPACT ASSESSMENT

12. The Environmental Impact Assessment process undertaken by the applicant to support the previous application aimed to establish the extent to which **potentially** significant adverse effects on the environment are likely to arise. The scope of the Tees Valley Biofuels Environmental Impact Assessment included the following areas of potentially significant environmental impact: geotechnical contamination and water quality, flood risk and site drainage, ecology and nature conservation, landscape and visual effects, archaeology and cultural heritage, traffic and transport, air quality, noise and vibration, socio-economics.
13. The Environmental Impact Assessment process undertaken for the Biofuels Plant considered the value and importance of various key environmental receptors against the magnitude of change likely to arise from the proposals. This enabled the identification of potentially significant impacts associated with the proposals. Where appropriate, specific measures to mitigate for potentially significant impacts have been identified. An assessment of any residual impacts has then been undertaken.
14. The addendum to this report updates those findings primarily in respect of the landscape and visual effects as well as air quality. It concludes *"it is not considered that the proposed changes to the scheme will result in any additional significant adverse impacts when mitigation is applied to both the construction and operational phases of the development."* However, in respect of air quality the report does state in relation to ecology and nature conservation:

"The previous assessments also examined the potential for indirect impacts on the nearby SPA resulting from the deposition of airborne emissions. Such impacts were found to be insignificant. The proposed changes to the scheme include some

changes to predicted emissions to the air (see Section 5). Detailed modelling of predicted impacts on air quality as a result of changes to emissions has yet to be completed and will be submitted separately. Any changes to the previous assessment relating to the impacts upon the SPA as a result of deposition of airborne emissions will be reported alongside the results of the modelling.”

15. The submission of those results is awaited.

CONSULTATIONS

16. No response to the consultation on the development has been received from:

- Tees Valley Wildlife Trust
- Tees and Hartlepool Port Authority
- Northumbrian Water
- Royal Society for the Protection of Birds
- CPRE
- Environment Agency
- British Energy Generation Ltd
- RSPB

17. Natural England notes that the “*detailed modelling of predicted impacts on air quality as a result of changes to emissions has yet to be completed and will be submitted separately*”. Until it is received it is unable to provide comments.

18. Urban Design:

Highways Comments

The applicant has highlighted within the EIS Addendum that the proposed amendment to the site will result in a less intensive use upon the site. Therefore, I have no adverse comments to make on this application.

Landscape & Visual Comments

No comments

Built Environment Comments

No comments

19. The Environmental Health Unit has no objections but recommends conditions in respect of noise abatement and working hours.

20. Northern Gas Networks has no objection to the proposals

21. C E Electric UK has no objection to the proposals

22. County Fire Officer no objection provided the access to the site is in accordance with Building regulations and its notes that the exact requirements for the location and fixed installations will follow

23. HM Nuclear Safety Directorate: No objection

24. Health And Safety Executive: No objection

25. Councillor Jean O'Donnell has no concerns

26. The application has also been advertised on-site and in the press and affected landowners notified. No representations have been received as a result of this process.

PLANNING POLICY

National Planning Policy

27. National Planning policies are set out in Planning Policy Guidance Notes (PPG) and the newer Planning Policy Statements (PPS).

Particularly relevant to this application are:

- PPS 1 “Delivering Sustainable Development”
- PPG 4 “Industrial, Commercial Development and Small Firms”
- PPG 9 “Nature Conservation”
- PPG 13 “Transport”
- PPS 23 “Planning and Pollution Control”
- PPG 24 “Planning and Noise”
- PPG 25 “Development and Flood Risk”

28. Regard also has to be given to the emerging Regional Spatial Strategy

29. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. In this case the relevant Development Plans are the Regional Spatial Strategy (RSS), Tees Valley Structure Plan (TVSP) and the Stockton on Tees Local Plan (STLP).

Tees Valley Structure Plan

30. The Tees Valley Structure Plan indicates the development is in an area broadly identified for potentially polluting or hazardous industrial development (Policy EMP 10).

31. Other relevant policies include:

- ENV4 which seeks protect for the SPA and Ramsar site
- ENV5, which seeks to protect SSSIs

Stockton Borough Local Plan

32. Policy GP1 is the general policy and sets out ten criteria that all development proposals need to be assessed against. These criteria are as follows: -

- The external appearance of the development and its relationship with the surrounding area.
- The effect on the amenities of the occupiers of nearby properties.
- The provision of satisfactory access and parking arrangements.
- The contribution of existing trees and landscape features.
- The need for a high standard of landscaping.
- The desire to reduce opportunities for crime.

- The intention to make development as accessible as possible to everyone.
 - The quality, character and sensitivity of existing landscapes and buildings.
 - The effect upon wildlife habitats.
 - The effect upon public rights of way.
33. Policy IN5 of the adopted Stockton on Tees Local Plan permits within the Seal Sands area, potentially polluting or hazardous industrial uses provided they do not significantly affect neighbouring uses or discourage the development of adjacent sites.
34. Policy IN6 states that hazardous installations will normally be permitted on land at North Tees to the east of Seal Sands Branch Railway provided that they meet the criteria outline in policies (EN36 and EN 37)
35. Policy EN34 states that development will be permitted provided that:
- The nature and extent of the contamination has been established,
 - The proposal will not add to the site's contamination,
 - Measures are included to reduce the hazard posed by contaminants to an acceptable level at which it can be maintained,
 - No significant adverse effect on the environment results from any disturbance of contaminants or their movement into surrounding ground during and after development.
36. Policy EN36 states that any new hazardous installations will only be permitted if:
- a. It is on land identified in policies IN6 and IN7; and
 - b. It does not prejudice the development of adjacent land;
 - c. There is no increased hazard to existing residential areas, prestige industrial sites or any site attracting large numbers of people.
37. Policies EN 1(a) and EN 1(b) state proposals in or likely to affect a SSSI or European (SPA) or Ramsar site will be subject to a special and rigorous scrutiny and examination to safeguard their integrity. No development will be permitted that has a significant adverse effect unless the benefits outweigh the costs and no other sites are available.

MATERIAL PLANNING CONSIDERATIONS

38. In view of the of the location and nature of the development, planning policy and consultation responses, the main material planning considerations with this development are the principle of development, landscape and visual amenity, the likely impact on the local ecology given its location adjacent to Sites of Special Scientific Interest and the SPA, and access and highway safety.

Principle of Development

39. The site is allocated in the Local Plan as suitable for potentially polluting or hazardous industrial uses, provided that they do not significantly affect neighbouring uses or discourage the development of adjacent sites, and does not increase the hazard for existing residential areas, prestige industrial sites or any site attracting large numbers of people. The previous permission 06/1918/EIS also established the site was suitable for the production of

renewable fuels. In principle, it is considered that the proposed development would be appropriately located on this site, but subject to the remaining individual environmental considerations set out below.

Landscape and Visual Impact

40. The site, albeit close to the River Tees, is within a landscape dominated by existing industrial features, and the changes now proposed would not result in the loss of important landscape features. The previous requirement for a scheme for hard and soft landscaping would remain a requirement of any approved development.

Nature Conservation

41. The views of Natural England (previously English Nature) are awaited. In respect of the previous application it initially objected to the because of concerns as the potential to damage the SPA and Ramsar site. Of particular concern was potential disturbance to feeding and roosting birds during construction and potential indirect effects on habitat extent and character, and the impact of and noise disturbance to SPA bird populations using the Vopak land and foreshore to the east of the application site caused by piling operations. However, this objection was withdrawn after it was ascertained that the proposed development would not adversely affect the integrity of the SSSI or the SPA and Ramsar site. This followed from the consideration of an "Appropriate Assessment" drafted in accordance with the Habitat Regulations 1994. The scope of the assessment followed that recommended by Natural England utilising additional information provided by the applicant's ecological consultant.
42. Natural England is unable at present to comment on this revised scheme as detailed information on the predicted emissions to air arising from the changes now proposed has not yet been provided. The concern is a possible indirect impact on the nearby SPA resulting from the deposit of airborne emissions. The information is promised from the applicant's consultant. However, whilst the response from Natural England is awaited, it should be recognised that the previous study which the current one will update, found such impacts to be insignificant. Furthermore, the applicant's consultant does not expect the findings to change in any significant way from the previous modelling work carried out
43. From the planning standpoint, it is considered that adequate safeguards and mitigation measures are already secured by use of appropriate planning conditions to protect features of ecological importance. These conditions will remain in force.

Access and Highway Safety

44. Highway issues were fully addressed in the previous submission and no objections were raised subject to a Sustainable Travel Plan, the requirement for which was made a condition of approval. The present proposal may actually result in a fall of traffic levels particularly if the separate proposal for a railhead loading facility for the pressed cake comes to fruition. The worse case assessment is that traffic levels will remain unchanged. The Head of Technical Services has no objections from the highway standpoint.

Residual Matters

Working hours and Noise Insulation

45. The Environmental Health Unit has requested the imposition of conditions, which would limit the construction working hours and provide noise insulation. Given that Seal Sands is an existing industrial estate where businesses typically operate on a twenty-four hour basis, it is not considered reasonable or necessary to impose a restriction on hours of construction. Conditions are already in place with regard to noise protection outside of the site and these will remain in force.

CONCLUSION

46. This application like the previous proposal potentially represents a conflict of the needs of industry against possible damage to areas of national and international ecological interest. However, it should be recognised that any disturbance to roosting birds will be very short-term, and the works designed and timed to avoid critical nesting periods and general disturbance. Mitigation measures are however, already in place and controlled by planning conditions on the previous permission which will remain. Accordingly, notwithstanding the views of Natural England have not yet been received; it is considered the proposed development is acceptable in this location with no identified adverse impact on the environment or visual amenities. Therefore, subject to the views of Natural England, conditional approval is recommended.

Director of Development & Neighbourhood Services

Contact Officer: Peter Whaley - Telephone No. 01642 526061

Financial Implications:

None

Environmental Implications:

See report

Human Rights Implications

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

Community Safety Implications

None

Background Papers:

Application files: 06/1918/EIS and 07/1650/ARC

Ward and Ward Councillors:

Billingham South

Councillor J O'Donnell & Councillor M Smith

Non technical Summary

Tees Valley Biofuels Ltd is proposing to construct a Renewable Fuels plant on Teesside at Seal Sands.

An original environmental statement (E008923-Tees Valley Biofuels-OSR crushing plant - EIA) was issued in June 2006 and planning permission was subsequently granted.

A number of changes to the consented scheme have subsequently been proposed. Stockton Borough Council has decided that this will require a re-submission and hence an addendum to the previous ES will be required

0.1 Air Quality

It is not considered that the revised TVB proposal will affect the assessment of potential air quality impacts associated with the construction phase of the proposed development contained within the ES Technical Paper dated June 2006.

For road vehicle exhaust emissions it was predicted that there would be a negligible impact on air quality from operational phase road traffic exhaust emissions, any reduction in traffic around the site would be considered as beneficial to the local pollutant burden. As such it should be an aim of the operational phase is to reduce vehicle trips to and from the site.

The operation of the TVB plant in accordance with an appropriate IPPC Permit will reduce the potential for air quality impacts associated with process emissions from both the CHP facility and biofuel production process. Use of BAT in the design of abatement systems for all emission points and the production of appropriate fugitive dust and odour management plans would also reduce potential emissions to atmosphere.

The operation of the TVB plant at maximum design efficiency will reduce the requirement for waste energy and therefore likely to reduce emissions to atmosphere.

By ensuring that the TVB plant achieves pollutant emission concentrations at levels below the relevant ELVs, the potential for air quality impacts from operational phase process emissions is further reduced.

The reduction in VOC usage on-site through the use of replacement materials or alternative technologies would reduce the potential for odour emission from the TVB plant. The production of an odour management plan and suitable site management procedures, in accordance with EA guidance on BAT for the processes to be undertaken on site, would also reduce the potential for fugitive odour emissions.

0.2 Landscape and Visual Landscape

Although the development proposals have changed since the original Landscape and Visual Assessment, it is considered that the construction impacts of the development would remain as the original assessment as *minor adverse – negligible*.

The impact on existing landscape features remains unchanged with the amended proposals with the only loss being an area of limited species grassland. There are currently no landscape proposals to support the scheme. It is considered that the impact on existing landscape features would be *minor adverse – negligible*.

Due to the existing heavy industry located within the area the impact on the Tees Lowlands Character Area is considered to be *negligible*.

The majority of road users would remain to be those accessing surrounding existing works units. These users would gain direct views into the site. There would however be a reduction in the number of vehicles making deliveries to this site in comparison to the original proposals.

There is a probability in the future for an extension to the existing rail infrastructure in the area which could be used to deliver materials to the site and take away goods after processing however this potential rail link is not being assessed as part of this scheme. This would further reduce the potential number of road users.

It is considered that due to this overall reduction in road usage from the original proposals that there would be a *negligible impact* on Transport Corridors.