(1)

Town and Country Planning Act 1990

PLANNING PERMISSION

Name and Address of applicant

Mr Fernando Capelastegui
Mercia Waste Management
The Marina
Kings Road
Evesham
Worcestershire, WR11 3XZ

Name and Address of Agent (if any)

Mr Nick Roberts
Axis PED
Axis, Camellia House
76 Water Lane
Wilmslow
SK9 5BB

Part I - Particulars of application

Date of Application:

23 November 2018

Application No:

18/000057/CM (19/00006/CM)

Particulars and location of development:

The carrying-out of development pursuant to planning permission reference number 10/000032/CM (Planning Inspectorate Ref: APP/E1855/V/11/2153273) (as amended), without complying with condition 3 (waste throughput) of that permission so as to increase the throughput of the EnviRecover Energy from Waste (EfW) Facility from 200,000 to 230,000 tonnes per annum at Mercia EnviRecover, Plot H600, Oak Drive, Hartlebury Trading Estate, Hartlebury, Worcestershire.

Part II - Particulars of decision

Worcestershire County Council hereby give notice in pursuance of the provisions of the above Acts and Regulations that having taken the environmental information into account **permission has been granted** for the carrying out of the development referred to in **Part I** hereof in accordance with the application and plans submitted subject to the following conditions:-

1. The development hereby approved shall only be carried out in accordance with the following documents and drawings, except for where measures are required by the conditions set out elsewhere in this permission which shall take precedence over those documents listed here:

Documents:-

- The Planning Application Document Volume 1 and 2 (April 2010)
- The Environmental Statement Volume 1: Main Report and Volume 2: Technical Appendices (April 2010)
- The Transport Assessment (April 2010)

Drawings:-

- 1204 PL0002 Planning Application Boundary Plan (April 2010)
- 1204 PL0003 Rev F Proposed Site Plan (August 2016)
- 1204 PL0004 Rev E Proposed Traffic Plan (August 2016)
- 1204 PL005 Rev E Proposed Basement Floor Plans (August 2016)
- 50053010 Rev 3.0 Ground and First Floor Level General Arrangement (February 2015)
- 50053012 Rev 3.0 Second and Third Floor Level General Arrangement (February 2015)
- 50053014 Rev 3.0 Fourth and Fifth Floor Level General Arrangement (February 2015)
- 1204 PL0009 Rev B Proposed Roof Plan (August 2016)
- 1204 PL0011 Rev F Proposed Site Sections AA and BB (August 2016)
- 1204 PL0012 Rev E Proposed North Elevation (August 2016)
- 1204 PL0013 Rev E Proposed East Elevation (August 2016)
- 1204 PL0014 Rev E Proposed South Elevation (August 2016)
- 1204 PL0015 Rev E Proposed West Elevation (August 2016)
- 1204 PL0016 Rev E Proposed Turbine Building Elevations (August 2016)
- 1204 PL0017 Rev D Proposed Weighbridge Plan and Elevations (August 2016)
- 1202 PL0018 Virtual Samples Board (April 2010)
- 1506-01-001 Rev O Landscape Scheme (August 2016)
- 1506-01-002 Rev J Soft Landscape Details (August 2016)
- 1506-01-003 Rev G Hard Landscape Details (August 2016)
- Figure 12: Transport Assessment – Proposed Site Access Arrangements and Internal HGV Queuing Space (August 2016)
- 50052200 Rev 0.0 Section on GLD Indicating Base, Louvre and Capping Detail (September 2014).

Date 26 MARCH 2019

County Hall
Worcester WR5 2NP

Proper Officer

Note: This permission refers only to that required under the above Acts and Regulations and does not include any consent or approval under any other enactment, byelaw, order or regulation.

2. The operator shall ensure that the amount of wastes treated at the facility hereby approved does not exceed 230,000 tonnes per year.

3. No material shall be accepted at the site directly from members of the public, and no retail sales of waste or processed materials to members of the public shall take place at the site.

Highway Safety and Access

4. The only means of access and egress to the site shall be from Oak Drive as shown in drawing number 1204 PL003 Rev F 'Proposed Site Plan and Figure 12: Transport Assessment – Proposed Site Access Arrangements and Internal HGV Queuing Space (August 2016).

5. The route to be used for vehicular access during operation of the development hereby approved shall only be in accordance with the document titled: 'Site Operational Travel Plan', dated April 2016.

6. All loads of waste materials carried on HGV into and out of the development hereby approved shall be enclosed or covered so as to prevent spillage or loss of material at the site or on to the public highway.

7. Heavy goods vehicles associated with operation of the development hereby approved shall only enter or exit the site between 06:00 hours and 19:00 hours.

8. The development shall be carried out and maintained in accordance with the document titled: 'Hard Standing Construction Details', dated May 2016. The driveway, parking for site operatives and visitors and vehicular turning spaces shall be retained and kept available for those uses at all times.

Materials, Design and Layout

9. The development shall be carried out and maintained in accordance with the document titled: 'Condition 12 Colour Study', by Studio E LLP, dated April 2014. The curtain walling, glazing and mesh shall be as shown on the approved drawing titled: 'Virtual Samples Board', numbered: 1204 PL0018, dated April 2010; and the following samples submitted to the County Planning Authority on 26 March and 15 April 2014:-

- Cladding Material A and B – Vertically orientated trapezoidal panel, Ref: Euroclad 32/1000 Reverse, Corus HPS200 Ultra;
- Wall Cladding Material C – Colour coated composite steel cladding panels, Ref: Eurobond Rockspan;
- Stack colour – Colorcoat HPS200 Ultra, Albatross colour;
- Building Base Plinth – Staffordshire Slate Blue Engineering Brick;
- Flat Roofing – Single ply membrane system, Ref: FLAG, FLAGON EP/PR RAL 7012; and
- Fencing – Weld mesh security fencing, polyester powder coated green by Zaun Limited;

Landscaping

10. The development shall be carried out and maintained in accordance with drawing number: 1506-01-001 Rev O, titled: 'Landscape Scheme'; drawing number: 1506-01-002 Rev J, titled: 'Soft Landscape Details'; and drawing number: 1506-01-003 Rev G, titled: 'Hard Landscape Details'. Any plants which within five years of planting or seeding die, are removed, damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

11. The development shall be carried out and maintained in accordance with the document tilted: 'Condition 15: Soil Management Plan', by Axis, dated March 2014.

Lighting

12. The development shall be carried out and maintained in accordance with document titled 'Condition 16: Operational Lighting Scheme', dated August 2016; and amended drawing numbered: P-3225, DBS-ROH-70080401, Rev 2.2, titled 'External Lighting LUX Plot – Overall', as amended by drawing numbered: DBS-AFN-70080398, Revision 1.1, titled: 'External Lighting'. No lighting or illumination shall be affixed to or emitted from the chimney stack higher than the level of the boiler house roof. Any lighting that is fixed to the chimney stack shall relate to emissions monitoring only and shall be switched off when not in use. The approved scheme shall be implemented for the duration of the development.

Nature Conservation Management Plan

13. The development shall be carried out and maintained in accordance with document titled: 'Condition 17 Nature Conservation Management Plan', Version 4, by Argus Ecology, as amended by Figure 2: 'Landscape Plan', and drawing number: 1506-01-001 Rev O, titled: 'Landscape Scheme'. The approved scheme shall be implemented for the duration of the development.

Pollution

14. Clean, uncontaminated rock, subsoil, brick rubble, crushed concrete and ceramic only shall be permitted as infill materials.

Emissions

15. The development shall be carried out and maintained in accordance with document titled: 'Vehicle Alarms' dated May 2016. Only such approved alarms shall be used for the duration of the development.

16. All vehicles, plant and machinery operated solely within the site shall be maintained in accordance with the manufacturer's specification at all times, this shall include the fitting and use of effective silencers.

17. The development shall be carried out in accordance with document titled: 'Dust Management Plan', dated April 2016. The approved scheme shall be implemented for the duration of the development.

18. All doors to the building shall be kept closed except to allow entry and exit.

19. No handling, deposit, processing, storage or transfer of waste shall take place outside the confines of the building hereby approved with the exception of the movement of Incinerator Bottom Ash (IBA) from the ash bay to IBA disposal lorries. The IBA disposal lorries must only receive IBA when parked adjacent to the ash bay illustrated on drawing 1204-PL003 Rev A and 1204-PL005 rev B (or subsequently approved revised drawings which illustrate the location of the ash bay).

Noise

20. Throughout duration of operations of the development hereby approved noise from the site shall not exceed the levels set out below at the receptor locations identified at Figure 12.1 of the Environmental Statement, Volume 1, Main Report when measured in terms of an LAeq 1 hr level (free field) based on the BS4142 rating levels plus 5dB, between the hours of 07.00 and 22.00:

- Manor Lane: LAeq, 1-hour 37 dB.
- Crown Lane: LAeq, 1-hour 46 dB.
- Walton Road: LAeq, 1-hour 39 dB.
- Ryeland Lane: LAeq, 1-hour 35 dB.

21. Throughout operation of the development hereby approved noise from the site shall not exceed the levels set out below at the receptor locations identified at Figure 12.1 of the Environmental Statement, Volume 1, Main Report when measured in terms of night time criteria levels (5-minutes), based on the BS4142 rating level plus 5dB between the hours of 22.00 and 07.00:

- Manor Lane: LAeq, 5-min 35dB
- Crown Lane: LAeq, 5-min 39dB
- Walton Road: LAeq, 5 min 35dB.
- Ryeland Lane: LAeq, 5-min 35 dB.

22. The development hereby approved shall be carried out in accordance with the documents titled: 'Condition 28 - Noise Monitoring', dated May 2016 and 'Noise Compliance Report', dated 10 February 2017. The approved scheme shall be implemented for the duration of the development.

Drainage

23. There shall be no discharge of foul or contaminated drainage from the development hereby permitted into either the groundwater or any surface waters, whether direct or via soakaways.

24. Surface water from vehicle parking and hard standing areas shall be passed through an interceptor of adequate capacity prior to discharge. Roof drainage shall not be passed through any interceptor.

25. Soakaways shall only be used in areas on site where they would not present risk to groundwater.

26. Water pipes used to serve the development shall not be susceptible to residual contamination on the site and buried services must be laid within a 0.5m surround of clean sand in areas of ash and graphite fill.

27. The development shall be carried out and maintained in accordance with document titled: 'Mercia EnviRecover EfW – Drainage Design Statement', Numbered: 50041038 Rev 2.0, dated 28 November 2016. The approved scheme shall be implemented for the duration of the development.

28. The development shall be carried out and maintained in accordance with document titled: 'Ordinary Watercourse Maintenance Scheme', dated May 2016. The approved scheme shall be implemented for the duration of the development.

Other Matters

29. The operator shall maintain the connection to the district network to enable electricity generated by the facility to be supplied to the district network.

30. On permanent cessation of the development hereby approved, the operator shall inform the County Planning Authority within 30 days in writing that all operations have ceased. Thereafter the site shall be restored within a period of 24 months in accordance with a scheme to be submitted for the written approval of the County Planning Authority prior to the cessation of operations. This shall include for the removal of all buildings, chimney stack, associated plant, machinery, waste and processed materials from the site.

31. The development shall be carried out and maintained in accordance with document titled: 'Condition 39 Great Crested Newt Mitigation Strategy, Version 2', dated January 2013; as amended by document titled: 'LICENCE – Mitigation Licencing', Natural England ref: 2014-3824-EPS-MIT-2, dated 18 June 2015; Document titled: 'E3.2 Hartlebury EnviRecover – Note on minor alterations to site layout required to facilitate diversion of existing surface drainage pipes', dated 21 April 2015; Figure 2: 'Landscape Plan', drawing number: 1506-01-001 Rev O, titled: 'Landscape Scheme'; drawing numbered: E4a revised, titled: 'Amphibian Exclusion Fence Plan', dated 1 December 2014; and document titled: 'Ecological Clerk of Works', Numbered: ESPM 2012-4686 D, 2014-3824-EPS-MIT, produced by Stewart Rampling MCIEEM.

The reasons for the conditions are:-

1. For the avoidance of doubt and to secure a satisfactory form of development.

2. 3. & 29. To define the permission.

4. 5. & 6. In the interests of highway safety in accordance with Policy WCS 8 of the adopted Worcestershire Waste Core Strategy and Policy SWDP 4 of the adopted South Worcestershire Development Plan.

7. 10. 11. 12. & 19. In the interests of the amenity of the surrounding area in accordance with Policy WCS 14 of the adopted Worcestershire Waste Core Strategy and Policy SWDP 31 of the adopted South Worcestershire Development Plan.

8.	To prevent indiscriminate parking in the interests of highway safety in accordance with Policy WCS 8 of the adopted Worcestershire Waste Core Strategy and Policy SWDP 4 of the adopted South Worcestershire Development Plan.
9.	In the interests of the visual amenity of the area in accordance with Policies WCS 12 and WCS 14 of the adopted Worcestershire Waste Core Strategy and Policy SWDP 21 of the adopted South Worcestershire Development Plan.
13. & 31.	To protect, conserve and enhance the site's value for biodiversity in accordance with Policy WCS 9 of the adopted Worcestershire Waste Core Strategy and Policy SWDP 22 of the adopted South Worcestershire Development Plan.
14.	To ensure that the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecosystems, and to ensure that the development can be carried out safely without unacceptable risks to neighbours and other offsite receptors, in accordance with Policy SWDP 31 of the adopted South Worcestershire Development Plan.
15. 16. 20. 21. & 22.	To control noise emissions in accordance with Policy WCS 14 of the adopted Worcestershire Waste Core Strategy and Policy SWDP 31 of the adopted South Worcestershire Development Plan.
17.	To control dust emissions in accordance with Policy WCS 14 of the adopted Worcestershire Waste Core Strategy and Policy SWDP 31 of the adopted South Worcestershire Development Plan.
18.	To control noise, odours and dust emissions from the building, in accordance with Policy WCS 14 of the adopted Worcestershire Waste Core Strategy and Policy SWDP 31 of the adopted South Worcestershire Development Plan.
23. 24. & 25.	To prevent pollution of the water environment in accordance with Policy WCS 10 of the adopted Worcestershire Waste Core Strategy and Policy SWDP 31 of the adopted South Worcestershire Development Plan.
26.	To protect future users of the site from contamination associated with the historic use of the site in accordance with Policy SWDP 31 of the adopted South Worcestershire Development Plan.
27. & 28.	To ensure that the site can be adequately drained as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Policy WCS 10 of the adopted Worcestershire Waste Core Strategy and Policy SWDP 29 of the adopted South Worcestershire Development Plan.
30.	To ensure the site is restored to a condition capable of beneficial after use and in the interest of amenity.

Reason(s) for Approval

The original development fell within Schedule 1, Category 10 "*Waste disposal installations for the incineration or chemical treatment of non-hazardous waste with a capacity exceeding 100 tonnes per day*" of the then Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, now update by the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (The EIA Regulations). As this development is a change to an Environmental Impact Assessment (EIA) development, the applicant submitted a voluntary Environmental Statement (ES) Addendum, which accompanied this planning application (Ref: 18/000057/CM). The submitted ES Addendum, the original and amended (Regulation 19) Environmental Statement and Non-Technical Summary, and other information submitted to the County Planning Authority, is considered sufficient to properly understand the proposals and assess their likely environmental effects.

As set out in the officer report to the Planning and Regulatory Committee relating to the determination of this application, the County Planning Authority has considered the development against the relevant policies in the Development Plan, in particular Policies WCS 1, WCS 2, WCS 4, WCS 6, WCS 8, WCS 9, WCS 10, WCS 11, WCS 12, WCS 13, WCS 14 and WCS 15 of the adopted Worcestershire Waste Core Strategy, and Policies SWDP 1, SWDP 2, SWDP 4, SWDP 5, SWDP 6, SWDP 8, SWDP 21, SWDP 22, SWDP 24, SWDP 25, SWDP 27, SWDP 28, SWDP 29, SWDP 30 and SWDP 31 of the adopted South Worcestershire Development Pan, and is considered to be broadly in accordance with the National Planning Policy Framework and the Development Plan.

It is considered that there is a both a national and local need for 'other recovery' capacity for the treatment of residual non-hazardous waste and that this development would contribute towards meeting this need. Furthermore, the development would make a positive contribution towards national energy needs, including the need for more renewable energy generation. The principle of the development in this location has already been established and it is considered that the proposed development accords with Policies WCS 4 and WCS 6 of adopted Worcestershire Waste Core.

With regard to impacts upon the Green Belt, the applicant has confirmed that the proposal would not result in any new built development or modification to the EfW facility and primarily arises from the plant being able to operate for more hours in a given year than was originally planned. In view of this, it is considered that the proposal would not have an adverse impact on the openness of the Green Belt and does not conflict with the purposes of including land within it.

It is considered that the proposal would have no adverse air quality, noise or litter impacts upon residential amenity or that of human health, subject to the imposition of conditions as imposed on the extant planning permission reference number 10/000032/CM (Planning Inspectorate Ref: APP/E1855/V/11/2153273). The proposal would increase the total number of daily HGVs servicing EnviRecover by approximately 15 HGV movements per day from approximately 178 to 193 HGV movements per day. The County Planning Authority is satisfied that the development would not have an unacceptable impact upon traffic and highway safety, subject to the imposition of conditions as imposed on the extant planning permission reference number 10/000032/CM (Planning Inspectorate Ref: APP/E1855/V/11/2153273).

The various benefits of the development are not significantly and demonstrably outweighed by the adverse impacts and overall the proposals are considered to represent sustainable development.

The County Planning Authority in reaching a decision to grant planning permission has taken into account all of the environmental information submitted with it and in support of the application and all of the consultation responses and third party public representations received. Overall, it is considered that there will

not be any major adverse effects that cannot be adequately mitigated. Where necessary, adequate mitigation to avoid and reduce any adverse effects including but not limited to traffic and transportation, landscape and visual, ecology and nature conservation, geology, soils and groundwater, surface waters and flood risk, noise and vibration, air quality, human health, archaeology and cultural heritage and cumulative effects has been secured through the use of the planning conditions attached to this permission.

The public had opportunities to participate in the decision making process through statutory and non-statutory consultations, through Public Notices erected on site and published in two local newspapers circulating in the locality in which the land to which the application is situated, and on a website maintained by the County Planning Authority. In response to the planning consultation, 2 letters of representation objecting to the proposal were received by the County Planning Authority. These letters objected to the development on a number of grounds including traffic, litter and noise impacts. As set out above, where necessary, adequate mitigation to avoid and reduce any adverse effects has been secured through the imposition of conditions.

Positive and Proactive Statement

Worcestershire County Council works positively and proactively in order to determine planning applications in an efficient and effective manner and in accordance with the presumption in favour of sustainable development, as described in the National Panning Policy Framework.

In dealing with the application the County Council has worked with the applicant in the following way:-

Pre-application discussions were held with the applicant, and the advice followed, subsequently no problems have arisen in dealing with this planning application. Planning Officers communicated all consultee responses and letters of representation in a timely manner in order to address any material planning concerns raised. Planning Officers acted positively and proactively in discussing the planning process with the applicant. In addition, draft conditions were shared with the applicant to ensure conditions were to the satisfaction of the applicant and the County Planning Authority.

Right to Challenge the Decision at the High Court

The general public does not have a right of appeal as such in respect of planning decisions, although persons aggrieved may have the right to challenge such decisions in the High Court. This process is known as Judicial Review and is a means for challenging the administrative decisions of local planning authorities. It is not really concerned about the merits of the decision reached as long as the appropriate procedure has been followed in reaching that decision.

The time limits for bringing such challenges are very strict, and applications need to be made as soon as possible after the issue of the decision notice and in any event within 6 weeks. So, if you think you may have grounds to challenge a decision by Judicial Review you are advised to seek professional advice as soon as possible.

These notes are provided for guidance only and apply to challenges under the legislation specified. If you require further advice on making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000). Further information on judicial review can be found on the web site of the Judiciary for England and Wales (https://www.judiciary.gov.uk/you-and-the-judiciary/judicial-review/)

Notes

If the applicant is aggrieved by the decision of the local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.

Appeals can be made online at: https://www.gov.uk/planning-inspectorate.

If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on Tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by the Secretary of State.

Purchase Notices

If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that the owner can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (that is, where the land is situated in a National Park, the National Park authority for that Park, or in any other case the district council (or county council which is exercising the functions of a district council in relation to an area for which there is no district council), London borough council or Common Council of the City of London in whose area the land is situated). This notice will require the Council to purchase the owner's interest in the land in accordance with the provisions of Chapter I of Part VI of the Town and Country Planning Act 1990.