

Our Ref: 2774-01/WOODS73/AR

24th July 2020

Planning and Building Control
Neath Port Talbot CBC
Civic Centre,
Port Talbot
SA13 1PJ

planning

transportation
planning

environment

design

Dear Ms Bowen

APPLICATION UNDER SECTION 73 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) FOR THE VARIATION OF CONDITIONS 3, 4, 5, 6, 7, 8, 11, 19, 12 and 20 OF PLANNING PERMISSION P2015/0992.

MARGAM GREEN ENERGY PLANT, PORT TALBOT, SA13 2NW

We are writing on behalf of our client, Margam Green Energy Ltd ("the Applicant") to apply under Section 73 of the Town and Country Planning Act 1990 ("S73 application") to vary Conditions 3, 4, 5, 6, 7, 8, 11, 19, 12 and 20, of planning permission P2015/0992 which permits the construction of the wood storage building for the Margam Green Energy Plant ("MGEP").

The application has been submitted via the Planning Portal, Reference PP-08921904.

The application submission comprises the following information:

- Application form;
- This letter;
 - Appendix A - Revised Landscape Plan (2774-01-05 Rev B)
 - Appendix B – Revised Landscape and Ecology Management Plan
 - Appendix C – Noise Report

The requisite planning application fee of £190 will be paid via the Planning Portal.

Background

Margam Green Energy Ltd has submitted a planning application to vary a number of conditions associated with the planning permission for the main MGEP. The supporting letter to that application (reference 2774-01/MGEPS73/AR) provides details of the site location and planning history for the MGEP, including the wood storage building.

In summary the planning permission for the construction of the biomass storage building at the MGEP was granted on the 6th January 2016, reference P2015/0992. A non-material amendment to this permission was granted on the 8th December 2016 to modify the western elevation of the building, reference P2016/1020.

A review of all of the relevant planning permissions relating to the MGEP, including P2015/0992 has been undertaken. The review has identified a number of conditions which: could no longer be complied with; contained erroneous references; or, were no longer relevant.

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The planning conditions attached to P2015/0992 make reference to various planning permissions and schemes which have now been superseded as a result of the grant of subsequent planning permissions associated with the MGEP; noting that the operative planning permission for the MGEP is P2016/0949 and this is currently subject to Section 73 application.

In order to regularise the planning permission it is proposed to modify a number of the planning conditions so they better reflect the development undertaken and ensure that the permission does not contain any conflicting referencing, ensuring consistency with the main MGEP permission.

Proposed Modifications to P2015/0992

The following table sets out the proposed modifications to the permission.

Current condition	Proposed modification / rationale
<i>Construction Related Conditions</i>	
Condition 3: If the development is not going to be constructed and developed in full compliance with the construction method statement as approved under Planning Permission P2014/0752, a scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works as required under condition 6 of Planning Permission P2014/0705. The development shall then be undertaken in full compliance with these approved details.	Proposed that this condition is now removed as it is considered no longer necessary as the facility has been constructed and is operational. As such it is proposed to remove this condition.
Condition 4: If the development is not going to be constructed and developed in full compliance with the scheme for the removal of suspended solids as approved under Planning Permission P2014/0920, a scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works as required under condition 8 of Planning Permission P2014/0705. The development shall then be undertaken in full compliance with these approved details.	Proposed that this condition is now removed as it is considered no longer necessary as the facility has been constructed and is operational. As such it is proposed to remove this condition.
<i>Surface and Foul Water Management</i>	
Condition 5: If the development is not going to be constructed and developed in full compliance with the scheme for the foul drainage scheme as approved under Planning Permission P2014/0790, a scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works as required under condition 9 of Planning Permission P2014/0705. The development shall then be undertaken in full compliance with these approved details.	Proposed replacement condition: <i>The foul and surface water management scheme shall be constructed and developed in full accordance with MLM-581146-SBU-C524 (Rev P11).</i> Rationale: Drawing MLM-581146-SBU-C524 (Rev P11) forms one of the approved drawings for the MGEP (P2016/0949). This drawing includes drainage from the biomass storage building. The foul and surface water drainage scheme at the site has been constructed in accordance with this approved scheme. As such it is considered appropriate to reference this

Current condition	Proposed modification / rationale
	drawing in order to maintain consistency between these related planning permissions. It is proposed that this single condition would replace Conditions 5, 6, 7 & 8.
Condition 6: If the development is not going to be constructed and developed in full compliance with the scheme for the disposal of surface water as approved under Planning Permission P2014/0790, a scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works as required under condition 10 of Planning Permission P2014/0705. The development shall then be undertaken in full compliance with these approved details.	Proposed replacement condition: <i>The foul and surface water management scheme shall be constructed and developed in full accordance with MLM-581146-SBU-C524 (Rev P11).</i> Rationale: As per Condition 5 above.
Condition 7 & 8 (both conditions have the same wording): If the development is not going to be constructed and developed in full compliance with the scheme for the separate drainage of foul and surface water including no discharge of surface water into the public sewerage system as approved under Planning Permission P2014/0790, a scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works as required under condition 11 of Planning Permission P2014/0705. The development shall then be undertaken in full compliance with these approved details.	Proposed replacement condition: <i>The foul and surface water management scheme shall be constructed and developed in full accordance with MLM-581146-SBU-C524 (Rev P11).</i> Rationale: As per Condition 5 above.
Landscaping Related Conditions	
Condition 11: If the development is not going to be constructed and developed in full compliance with the program of ecological mitigation ,capture and relocation and landscaping details as approved under Planning Permission P2014/0421, a scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works as required under condition 18, 19 and 25 of Planning Permission P2014/0705. The development shall then be undertaken in full compliance with these approved details.	Proposed replacement condition: <i>The landscaping design shown on drawing 2774-10-05 Rev B – Landscape Plan and the measures set out in the Landscape and Ecology Management Plan (Margam Green Energy Plant, Landscape and Ecology Management Plan 2020, BSG, June 2020) which include appropriate long term management of the attenuation pond, monitoring of habitat establishment and provision of reptile mitigation shall be implemented in full. The monitoring shall be undertaken from 5 years from the date this permission and monitoring reports shall be submitted to and approved by the Local Planning Authority.</i> Rationale: Proposed that a single planning condition is attached requiring the implementation of the revised LEMP and landscaping design. This would provide the necessary control in relation to landscaping at the site and would ensure consistency with the main MGEP permission.
Condition 19: The measures including the landscaping scheme shall be carried out in	Proposed replacement condition: <i>The landscaping design shown on drawing 2774-10-</i>

Current condition	Proposed modification / rationale
accordance with the submitted timetable set out in the Landscape and Environmental Management Plan dated 14.08.14, Reptile Mitigation Strategy Figures dated 25.07.14, Landscape, Environmental Management Plan Addendum dated 17.09.14, figure 8.1 of the Environmental Statement and the specifications for seed mixes and planting included in the landscaping proposals plan 1065/PL/01D.	<i>05 Rev B – Landscape Plan and the measures set out in the Landscape and Ecology Management Plan (Margam Green Energy Plant, Landscape and Ecology Management Plan 2020, BSG, June 2020) which include appropriate long term management of the attenuation pond, monitoring of habitat establishment and provision of reptile mitigation shall be implemented in full. The monitoring shall be undertaken from 5 years from the date this permission and monitoring reports shall be submitted to and approved by the Local Planning Authority.</i> Rationale: Proposed that a single planning condition is attached requiring the implementation of the revised LEMP and landscaping design. This would provide the necessary control in relation to landscaping at the site and would ensure consistency with the main MGEF permission.
Noise	
Condition 12: Within 3 months of commencement of operation of the plant a noise assessment, using the original monitoring locations as identified in the Environmental Statement, shall be submitted to and approved in writing by the local planning authority. The assessment shall include measures, including appropriate timescales, to address any noise issues identified. These shall be implemented as approved within the timescales agreed.	Appendix C contains a noise report which provides an operational noise assessment demonstrating compliance with the noise thresholds set out in Condition 13. This assessment considers the noise impacts from the entire MGEF including the wood storage building. As such it is proposed that this condition is removed as it is no longer necessary.
Condition 20: If the development is not going to be constructed and developed in full compliance with the monitoring and mitigation scheme for construction and site operational noise as approved under Planning Permission P2014/0905, a scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works as required under condition 3 of Planning Permission P2014/0705. The development shall then be undertaken in full compliance with these approved details.	The construction works have now been completed and as set out in Condition 12 the plant is operating in accordance with the noise thresholds set out in Condition 13. As such this condition is no longer necessary.

Planning Policy

Application P2015/0992 was considered against the policies of the Neath Port Talbot Unitary Development Plan and the emerging Neath Port Talbot Local Development Plan and was found to comply.

Subsequent to the decision the Neath Port Talbot Local Development Plan was adopted. The currently operative consent for the MGEP (P2016/0949) was determined against the adopted development plan. It demonstrated that the development was supported by Policy SP 1 Climate Change and SP 18 Renewable and Low Carbon Energy. The decision notice for P2106/0949 noted that the development was considered to be in accordance with Policies SP1, SP11, SP16, SP18, SP19, SP21, EC1, EC3, EN8, M2, TR2, BE1, BE2 and RE1 of the development plan. On the basis that the biomass storage facility forms an integral part of the MGEP it is considered that biomass storage building is in accordance with the development plan.

The minor material amendments proposed are not considered to affect the planning judgements made on the planning application for the biomass facility or the main MGEP, and as such it is considered that the development would be in full compliance with the adopted development plan.

Planning Policy Wales (PPW) has been updated since P2015/0992 was granted planning permission. However, sustainable development remains at the heart of PPW. The importance of renewable and low carbon energy generation features heavily within PPW stating that *“Planning authorities should facilitate all forms of renewable and low carbon energy development. In doing so, planning authorities should seek to ensure their area’s full potential for renewable and low carbon energy generation is maximised and renewable energy targets are achieved.”*

Conclusions

Construction of Margam Green Energy Plant started in 2017 and the facility became fully operational in 2019. A review of the relevant planning permissions for the facility has been undertaken, including the permission for the biomass storage facility (P2015/0992). The review identified a number of conditions which: could no longer be complied with; contained erroneous references; or, were no longer relevant. Following pre-application discussions with the Council it was agreed that the most appropriate route to resolve the matters identified would be to make an application under Section 73 of the Town and Country Planning Act.

Accordingly this application proposes the following minor material amendments to P2015/0992:

- Removal of **Condition 3 and 4** which relate to construction phase controls that are now not required.
- Replacement of **Condition 5, 6, 7 & 8** (Surface water and foul water) with a single condition requiring compliance with the foul and surface water drainage scheme approved for the main MGEP.
- Replacement of **Condition 11 and 19** with a single condition requiring the full implementation of a revised landscape design and Landscape and Ecology Management Plan.
- Removal of **Condition 12 and 20** following the submission of the required reports to demonstrate compliance with the noise threshold set out in Condition 13.

The proposed modifications would not result in a development that is substantially different to that which has been approved and would not introduce any new material planning considerations. The development is considered to accord with the Neath Port Talbot Local Development Plan adopted in January 2016. There are no relevant material considerations which would justify determining the application other than in accordance with the statutory Development Plan. Accordingly, applying s. 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should be granted.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Andrew Russell', with a stylized flourish extending from the end.

Andrew Russell
Technical Director

Encl.: Appendix A – Revised Landscaping Scheme (2774-01-05 Rev B)
Appendix B – Revised Landscape and Ecology Management Plan
Appendix C – Noise Assessment

Cc: Nicola Lake, Neath Port Talbot Council (by email)
John Williams, Margam Green Energy Plant (by email)
Dafydd Williams (ECO2) (by email)