

Application Number: 16/11408 Full Planning Permission

Site: UNIT 2C (N), NORTH ROAD, MARCHWOOD INDUSTRIAL PARK, MARCHWOOD SO40 4BL

Development: Biodiesel fuelled Flexible Generation Facility (Facility B); associated infrastructure & alterations

Applicant: Plutus Energy Limited

Target Date: 19/12/2016

Extension Date: 11/08/2017

<p>RECOMMENDATION: Grant Subject to Conditions</p>

<p>Case Officer: Ian Rayner</p>

1 REASON FOR COMMITTEE CONSIDERATION

Deferred by Committee in March 2017 to allow for the submission of more information regarding the impact on nearby properties in terms of noise and vibration and air quality.

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built-up area

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
2. Climate change and environmental sustainability
4. Economy
6. Towns, villages and built environment quality

Policies

- CS1: Sustainable development principles
- CS2: Design quality
- CS3: Protecting and enhancing our special environment (Heritage and Nature Conservation)
- CS5: Safe and healthy communities
- CS6: Flood risk
- CS17: Employment and economic development
- CS24: Transport considerations

Local Plan Part 2 Sites and Development Management Development Plan Document

- DM1: Heritage and Conservation
- DM4: Renewable and low carbon energy generation
- MAR5: Marchwood Industrial Park

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

None

6 RELEVANT PLANNING HISTORY

- 6.1 Lawful Development Certificate for proposed Class B8 use - (10/96036) - granted by County 5/1/11
- 6.2 5 metre high acoustic fence; portable cabin (11/97030) - granted by County 15/6/11
- 6.3 Biodiesel flexible generation plant (Screening Opinion) - EIA not required 29/9/16
- 6.4 Biodiesel fuelled Flexible Generation Facility (Facility A) associated infrastructure (16/11407). Item 3 XX on this Agenda.

7 PARISH / TOWN COUNCIL COMMENTS

Marchwood Parish Council:- Recommend refusal - application is totally inappropriate for the proposed location. The proposal is within 40 metres of dwellings that are Grade II Listed and within a Conservation Area. There are concerns over air quality, noise and low frequency vibration; vibration could damage nearby Listed Building; proposal would have an adverse visual impact and will harm the setting of Listed Buildings; There are many unanswered questions. Following the submission of additional information still strongly object and query whether monitoring for acid rain could be included; request that TRL Real Time Monitoring Facility which has been offered be installed.

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

- 9.1 Hampshire County Council Highway Engineer: no objection
- 9.2 Environment Agency: no objection subject to condition; advise that an Environmental Permit would be required and advise that there would be benefits in parallel tracking the planning and environmental permit applications.
- 9.3 Natural England: no objection
- 9.4 Southern Gas Networks: advise of site's proximity to gas main
- 9.5 Southern Water: no objection - requests informative
- 9.6 Environmental Health (contaminated land): no objection - requests informative

- 9.7 Environmental Health (noise): no objection subject to conditions
- 9.8 Environmental Health (air quality): no objection subject to conditions
- 9.9 Southampton City Council: objects on air quality grounds - proposal will make it more difficult for the city to reach nitrogen dioxide air quality standards; if the application were to be approved would want there to be conditions controlling operating hours and to secure the installation of SCR emission reduction technology.
- 9.10 Conservation Officer: no objection subject to appropriate mitigation which could be secured through conditions

10 REPRESENTATIONS RECEIVED

- 10.1 2 letters of objection from nearby residents:- concerns that proposal could have adverse noise and odour impacts and adverse impact on air quality; concern at amount of development taking place in Marchwood.
- 10.2 1 letter of objection from representee of Clean Air Southampton:- proposal will have an adverse impact on air quality and will adversely affect the Clean Air Zone which the government requires Southampton to create; the use of biodiesel is unsustainable as it will drive up rates of deforestation and loss of habitat; concerns that proposal will be used more than suggested which would cause noise and air pollution to nearby residents; proposal would be expensive; the site is too close to adjacent domestic properties.

11 CRIME & DISORDER IMPLICATIONS

No relevant considerations

12 LOCAL FINANCE CONSIDERATIONS

Local financial considerations are not material to the decision on this application

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.

- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In this case, there has been regular communication with the applicant's agent throughout the application process, and additional information has been requested to address a number of detailed issues. This has enabled a positive recommendation to be made.

14 ASSESSMENT

Introduction

14.1 Members will recall that this application was initially considered at their meeting in March 2017. The Committee report is set out in the following paragraphs 14.2.1 to 14.2.26. An update covering the noise and vibration and air quality issues that had led to the deferral is set out at paragraph 14.3.

14.2 March Committee Report

The Site and The Proposal

14.2.1 The submitted application relates to the northern two-thirds of a large industrial building on the western edge of the Marchwood Industrial Estate, as well as an associated yard area to the north side of the building. This application is one of 2 related applications that seek to provide a biodiesel fuelled Flexible Generation Facility within the building. Specifically, this application seeks to create an energy generation facility at first floor level within building, known as Facility B. The other related application proposes a ground floor energy generation facility, known as Facility A. Each application proposes to install 48 generators and 12 transformers within the building (resulting in 96 generators and 24 transformers in total). Both applications propose the same set of physical alterations to the building, comprising the addition of louvre ventilating panels and steel extract flues to the building's east elevation. Both applications also propose to provide structures within the external yard to the north side of the building, with each application proposing 2 fuel stores and a switch room (4 fuel stores and 2 switch rooms in total), and with both applications proposing the same transformer and switchgear that would be protected by a blast wall on its northern and western sides. The applicant's agent advises that the 2 proposals have been split to provide greater commercial and operational flexibility.

- 14.2.2 The southern third of the building to which this application relates is occupied by a separate business use. More generally, the application site is surrounded by other employment and business uses on its northern, southern and eastern sides. By contrast, to its west side, the site is bounded by a tidal creek, beyond which are areas of residential development and land occupied by the Marchwood Yacht Club. This land to the west is of heritage interest, with the creek and the land to its west side forming part of the Marchwood RNAD Conservation Area, and there also being a number of nearby Listed Buildings, the most noticeable of which is the Grade II Listed Building that is now known as Frobisher Court.
- 14.2.3 The applicant is a company that provides back-up power and balancing services to the National Grid. The proposal is for a Flexible Generation facility that, in essence, aims to provide backup and support to the main energy generation network, thereby ensuring that there is a consistent supply of electricity to the network. The National Grid and Ofgem have predicted that the need for Flexible Generation facilities will double over the next 8 years. This increased requirement to provide Flexible Generation facilities is a result of 3 main factors. Firstly, it is needed to cover an increased reliance on renewable energy projects. Secondly, there will be a need to cover the next generation of nuclear power plants. Thirdly, there will be a need to cover the closure of aging power plants before the full benefits of renewable energy have time to be developed. The 2 facilities that are proposed would have a combined installed generation capacity of 40MW. The applicant estimates that the facilities would operate for between 200 and 300 hours per annum, and that this would principally be during the hours of peak demand, which is during the winter months between 7am and 9am, and then again between 4pm and 7pm. The applicant advises that the generators would generally only operate for a maximum of 1-2 hours at any one time, with an average running time estimated at 55 minutes.
- 14.2.4 The proposed Flexible Generation Facility is intended to be powered by biodiesel. The applicant company has a commercial arrangement with Green Biofuels to purchase its Green D+ Diesel product, which is a Hydrogenated Vegetable Oil manufactured from 100% renewable products at several locations around the world. The biodiesel would be delivered to the site by HGV, with the peak movement estimated to be 2 movements a week during the winter months. The bio-diesel would be stored in 4 tanks that would have a combined capacity of 100,000 litres. The applicant company indicates that they would want to use conventional diesel as a back-up fuel, so that the facility could continue to function if they are not able to access biodiesel for any reason.

Policy Context

- 14.2.5 The provision of Flexible Generation Facilities has broad policy support at the national level. The National Planning Policy Statement for Energy identifies that *"It is critical that the UK continues to have secure and reliable supplies of electricity as we make the transition to a low carbon economy. To manage the risks to achieving security of supply we need sufficient electricity capacity ... to meet demand at all times. Electricity cannot be stored so demand for it must be simultaneously and continuously met by its supply. This requires a safety margin of*

spare capacity to accommodate unforeseen fluctuations in supply or demand."

- 14.2.6 The Council's own policies are supportive of development that contributes towards energy supply from renewable and low-carbon technologies where there is no over-riding adverse local impact. The development proposed is not a renewable means of energy generation, but it would support the national transition to a low carbon power generation economy. Therefore, in principle, it is felt that the proposal would be consistent with the Council's own policy objectives relating to climate change and environmental sustainability.
- 14.2.7 Policy MAR5 of the Local Plan Part 2 encourages the development, redevelopment and intensification of employment uses at Marchwood Industrial Park. Although 2 full time employees would be employed at the site when it is fully operational, the proposed Flexible Generation Facility would not be an employment use in the strictest sense. Notwithstanding this, a Flexible Generation Facility is, by its very nature, of an industrial character and it is therefore, in principle, considered to be a suitable use to provide on Marchwood Industrial Park, noting the park's heavily industrial character, and the other significant power station use nearby.

Heritage Considerations

- 14.2.8 The existing building on the application site is already quite a notable presence from the adjacent Conservation Area, although it is softened to a degree by vegetation growing alongside the eastern edge of the creek. Because the proposed physical alterations to the building would be on its east side, facing away from the Conservation Area and Listed Buildings, it is not considered that this particular part of the proposed development would have any adverse impact on adjacent heritage assets. The switch room and fuel stores that this application proposes are relatively low structures that would be set fairly close to the Conservation Area boundary. Nonetheless, their impact on the adjacent heritage assets would be limited and would be acceptable. It should also be noted that there is no evidence that adjacent heritage assets would be harmed by low frequency vibration arising from the proposed use.
- 14.2.9 The part of the development that would impact most significantly on adjacent heritage assets are the transformer and switchgear and the associated blast wall, which the plans indicate would be 5.23 metres in height. This part of the development would be appreciated from the adjacent Conservation Area, and because of its height and appearance, it would to a very small degree harm the setting of the Listed Buildings and the character and appearance of the Conservation Area. However, this harm would be very modest in view of the much greater impact of existing adjacent buildings, and would be minimised by existing creekside vegetation. This harm could be further minimised by the use of a sympathetic finish to the wall and additional landscape planting to strengthen the site's western boundary.
- 14.2.10 The National Planning Policy Framework advises that where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against

the public benefits of the proposal, including securing its optimum viable use. In this case, there would be significant public benefits associated with a need to meet the nation's energy requirements that would materially outweigh a very slight adverse impact on adjacent heritage assets that could be largely mitigated through conditions. As such, it is not considered that permitting this proposal would conflict with local and national planning policies that seek to safeguard the historic environment.

- 14.2.11 It should be noted that the applicant has not provided full illustrative details for the transformer and switchgear, but has merely specified their maximum dimensions. Further detail on these features therefore needs to be secured by condition to ensure an acceptable visual relationship to adjacent heritage assets.

Flood Risk Considerations

- 14.2.12 Although the majority of the application site is outside a defined Area at Risk of Flooding, a small section of land adjacent to the site's western boundary is at risk of flooding. The application is accompanied by a detailed Flood Risk Assessment (FRA). The Environment Agency are satisfied that the development will not be at undue risk of flooding or increase flood risk elsewhere provided the mitigation measures contained within the FRA are adhered to.

Air Quality and Pollution considerations

- 14.2.13 The proposed development has the potential to have a significant impact on air quality. Two pollutants are of particular concern, namely Nitrogen Dioxide (NO_x) and Particulate Matter (PM₁₀). The applicants have submitted a detailed air quality assessment with their application which considers impacts on air quality based on a worst case scenario. Accordingly, if the 2 facilities were to operate continuously, then European Union Air Quality objectives would be exceeded by a significant margin, irrespective of whether conventional diesel or the proposed biodiesel were to be used. However, the applicant's air quality assessment concludes that if the facilities are only operated for 300 hours per year (on either diesel or biodiesel), then EU Air Quality Objectives would not be exceeded and, as a consequence the impact on local air quality would not be significant.
- 14.2.14 The Council's environmental health officer has given detailed consideration to the applicant's Air Quality Assessment and has a number of concerns. Specifically, there is a concern that there could be a concentration of pollutant exceedances at certain times of the year (i.e. the winter months). Furthermore, there is a concern that the Air Quality Assessment does not consider the impact of emissions on air quality in general and EU limit values. It is important to note that the proposed biodiesel would be materially less polluting than conventional diesel (generating 31% less NO_x emissions). If the more polluting conventional diesel was used, then the Council's environmental health officer is concerned that there could be significant pollution offering other places of work on the Marchwood Industrial Park and on public areas at Magazine Lane in breach of EU air quality limit values. Even with the less polluting biodiesel, the proposed facilities would still emit substantial volumes of nitrogen oxides when operational, which would have an adverse impact on air quality.

- 14.2.15 The impact on air quality needs to be considered in the light of a policy context where there is currently no specific air quality guidance relating to the impact of processes which are only operational for a limited period of the year, but which are highly polluting for the periods when they are operational. This situation may change if and when the Medium Combustion Plan Directive becomes law, but for now the current lack of guidance makes it difficult to assess what level of air pollution would be acceptable in this instance. The Environment Agency have advised that it will be necessary for the applicant to obtain an Environmental Permit through which pollution risks can be assessed and controlled. However, the fact that an Environmental Permit may be required does not negate the Local Planning Authority's need to consider whether the impact on air quality is acceptable. Notwithstanding the current lack of guidance, the proposal ought to be considered in the light of a context where the government is actively working to reduce nitrogen oxides across the UK to ensure compliance with EU limit values (which the UK is currently exceeding). It is of significance that the government recognises that unabated diesel generators are highly polluting, which could lead to 'avoidable increases in national NOx emissions'. It is also of note that Southampton City Council and other neighbouring authorities (but not New Forest District Council) have been asked to implement further measures to reduce nitrogen dioxide and nitrogen oxide emissions to include the implementation of a Clean Air Zone in Southampton. The proposed development would, due to prevailing wind directions, result in an increase in NOx emissions that would be carried towards Southampton and the Clean Air Zone that they are required to create. This is an important factor when considering what level of impact on air quality would be acceptable.
- 14.2.16 Ultimately, any Flexible Generation Facility would cause some pollution that would have some local adverse impact on air quality. However, given the government's broad support for Flexible Generation facilities to ensure the nation has an adequate energy supply at all times, some air pollution would be justified. What is important is that the levels of air pollution are reasonably minimised, having regard to all relevant EU and national guidance, and taking into account local circumstances. Absolutely critical, will be a requirement to restrict hours of operation, both within the calendar year and for a single period of operation. It is also felt that the type of fuel to be used should be restricted to the proposed biodiesel (or equivalent) because the use of more polluting conventional diesel would have unreasonably harmful effects on the air quality of nearby areas. Moreover, the technology does exist to reduce NOx emissions by 50% if specific pollution abatement measures (such as Selective Catalytic Reduction) are applied. The applicant has indicated that they do not intend to apply any such abatement techniques unless required to do so by future legislation (as could potentially happen through the implementation of the Medium Combustion Plant Directive). Notwithstanding the applicant's reluctance to introduce such measures, it is felt that they should be required to apply abatement technology in order to reasonably minimise NOx emissions and thereby minimise impact on local air quality. There is also considered a need to ensure that NOx emissions are carefully monitored. If all of these mitigation measures are applied, it is felt that the development's impact on air quality would be acceptable.

Noise considerations

- 14.2.17 The proposed development would generate some noise while operational. The applicants have submitted a detailed noise assessment which looks at potential noise impacts at a number of different nearby locations. This information has been considered and assessed by the Council's environmental health officer, who is satisfied that the proposal would have no adverse noise impact on nearby residential properties as the Noise Rating would not exceed the Background Noise Level (LA90) at these noise sensitive residential properties. The effects of noise have been minimised by siting all flues on the building's elevation that faces away from residential properties.
- 14.2.18 The effects of noise would be much more apparent at a number of other nearby commercial properties on the Marchwood Industrial Estate. However, in the case of Unit 2e (opposite the site), the Council's environmental health officer is satisfied that noise levels, while being noticeable, would be acceptable for a commercial office / industrial environment.
- 14.2.19 The premises that is likely to be most affected by noise is the immediately adjacent unit that occupies the southern third of the building affected by this application. This unit is currently occupied by the company Pfeifier Rope & Tackle Ltd. Without any mitigation, the Council's environmental health officer has concluded that the proposal would increase break-out noise inside this premises to a level that would be 15dB(A) above the existing ambient noise level of 42bD(A) within the premises. Such an increase in noise levels would cause unacceptable harm to the amenities of the people working inside this premises. With appropriate internal acoustic insulation however, it would be possible to reduce noise levels to an acceptable level. This is a matter that could be reasonably agreed through a condition of planning permission.
- 14.2.20 Overall, it is considered that there would be no significant adverse noise impact arising from the generators, flues and transformers, and while there would be some adverse noise impact from the flues, this would affect less sensitive commercial premises rather than residential properties. The overall noise impacts of this development would be acceptable subject to appropriate conditions, setting noise limits, and requiring mitigation where appropriate. A condition should also be imposed to ensure that there is no adverse impact on the occupants of nearby premises arising from structural borne vibration.

Other considerations

- 14.2.21 Having regard to Natural England's comments, it is not considered the proposal would have any adverse impact on the ecological integrity of nearby designated sites. Furthermore, the proposal would not be expected to have a material impact on ecological interests, more generally.
- 14.2.22 The proposal would generate limited traffic movements. Therefore, taking into account the advice of the Highway Authority, it is not considered the proposal would have any material adverse implications for highway safety.

- 14.2.23 A concern has been raised that the proposed fuel to be used would be from environmentally unsustainable sources. However, the applicant advises all biofuel would derive from recycled vegetable oil and that no palm oil would be used. Therefore, there is no evidence that the proposed development would contribute to environmentally unsustainable practices in other parts of the world.
- 14.2.24 The Environment Agency's suggestion that the application be considered in parallel to any environmental permit application is noted and appreciated. However, there is not considered to be a sound planning reason to delay determination of this planning application. Ultimately, should the developer need to adjust their proposals in the light of an Environmental permit application, they may need to submit a further application for planning consent, which would need to be considered on its individual merits.
- 14.2.25 The site is within a Hazard Consultation Zone for a pipeline. However, the use is not a sensitive use in terms of this particular issue.

Summary & Conclusions

- 14.2.26 Overall, it is felt that the proposed development would be an appropriate new development that would be consistent with local and national planning policies. It is felt the development would be acceptable, both in isolation and in combination with the very closely related planning application 16/11407. The development would meet a clear and justified need to provide back-up energy to help meet the nation's energy needs. The development would, of course, have some environmental impacts, with noise, air quality and heritage impacts being the 3 key impacts. However, with appropriate mitigation measures that could be reasonably secured through conditions, it is felt that the development would not have an unacceptable impact on the amenities of nearby properties, air quality, or the adjacent Conservation Area and Listed Buildings. As such, it is felt that this application can be reasonably recommended for permission.

Post March Committee Update

- 14.3 At your previous meeting, members decided to defer consideration of the application to allow further negotiations to take place and to enable the applicants to submit additional information. Specifically, the Committee concluded that the proposal was not supported by sufficient information to demonstrate that the proposed power generation plant could be operated without resulting in noise and vibration that would constitute a nuisance to nearby residents and businesses. Members also felt that there was insufficient information to demonstrate that the proposal would not result in a deterioration in air quality, particularly with respect to nitrogen dioxide and particulate concentrations in the air. Members concerns were informed by the development's close proximity to residential properties, and by the prevailing winds which would take emissions across Southampton Water and into the area where proposals are under development for the declaration of a Clean Air Zone, specifically to address nitrogen dioxide and particulate levels. The Committee noted that technology is available to significantly reduce the emissions of nitrogen dioxide, but the applicant had not chosen to include such measures. The

Committee also noted that the Government is currently consulting on Guidance to control emissions from stand-by generation plants of this type, as the current air quality standards, which are based on longer term operations, are not adequate.

- 14.4 Subsequently your Officers have been back to the applicant in order to seek additional information. Specifically, the applicant has submitted additional information to address 4 of the conditions (7, 8, 10 and 11) that had been recommended in the previous Committee recommendation and report.
- 14.5 To address noise concerns (that were to be addressed through the previous conditions 10 and 11), the applicants have submitted a detailed noise assessment. This noise assessment considers the impact of noise on the neighbouring industrial unit. It also considers how plant and equipment will be mounted so as to minimise the transmission of structure borne sound and vibration. The Council's environmental health officer believes that the applicant's noise assessment adequately demonstrates that the acoustic measures (partition) within the building and the anti-vibration mounts will be effective and will ensure that a suitable acoustic environment will be achieved. Accordingly, subject to conditions to ensure that the measures set out in the Noise Assessment are installed and adhered to, the development is one that can be provided and operated without resulting in noise or vibrations that would be detrimental to the amenities of nearby residential or commercial properties.
- 14.6 To address air quality concerns (that were to be addressed through the previous conditions 7 & 8), the applicants have submitted a detailed Air Quality Mitigation Strategy and a separate detailed Air Quality Monitoring Strategy. To address the Council's requirement to see NO_x emissions reduced to an acceptable level, the applicant's Mitigation Strategy calculates that NO_x emissions will need to be no more than 0.7g/s per vent, which is agreed. To achieve this emission level, the applicants are proposing a series of actions, each of which will need to be tested before the development is commercially operational. These measures firstly entail the use of an enhanced Green D+ fuel, which is a fairly new fuel that is understood to generate fewer emissions than the previously proposed Green B+ fuel. If, by itself, this does not reduce emissions to the required level, the applicant would then look to test a system that involves the addition of water to the Green D+ fuel. If this also fails to reduce emissions to the required level, then Selective Catalytic Reduction (SCR) technology and other physical measures would be applied to the engines to guarantee the required reduction in NO_x levels. Only once tests have shown that the implemented mitigation measures are effective in reducing NO_x levels to the required level, would the development start to be commercially operational. The Council's environmental health officer is satisfied that the mitigation measures and staged approach put forward by the applicant would ensure that NO_x emissions are reduced to an acceptable level.
- 14.7 The applicant's Air Quality Monitoring Strategy details an initial continuous vent emission monitoring system for NO_x to ensure the required NO_x emissions at the vents are obtained. This would be followed by a 3 yearly monitoring programme to assess 25% of the vents. Monitoring in the neighbouring residential area would also be undertaken using real time and passive monitoring for NO_x and

particulate matter. A weather station would also be installed to determine wind speed and direction in the locality. The monitoring would be undertaken by an independent air quality company, with results being made available to New Forest District Council and interested stakeholders. Trigger levels for pollutants being monitored would be agreed with the Council and actions would be agreed should the triggers be exceeded. The Council's environmental health officer is satisfied that the applicant's proposed air quality monitoring scheme would ensure that pollutants would be appropriately monitored, allowing appropriate actions to be taken in the future if necessary, thereby ensuring the approved development continues to operate without causing harmful levels of pollution.

- 14.8 Overall, it is considered that the applicants have submitted adequate additional information to demonstrate that the proposed development (both singly and in combination with the other related application proposal) could operate without generating harmful noise and vibrations and without causing a level of pollution that would be unacceptably harmful to air quality. As such, it is felt that planning permission can be reasonably granted for this proposed development provided new conditions 7, 8, 10 and 11 are imposed to ensure adherence to the applicant's proposed mitigation measures.
- 14.9 The applicant's additional information necessitates a revision to a couple of the other conditions that were previously proposed. The previously proposed Condition 3 needs amending as the applicant has now clarified that they want the flexibility to operate the 2 facilities at different hours, meaning that Facility A could operate a different 300 hours per calendar year to Facility B. The Council's environmental health officer has indicated that this would not be a problem from an air quality perspective. Condition 6 should also be amended to reflect the applicant's proposed change to Green D+ biodiesel.
- 14.10 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

15. RECOMMENDATION

Grant Subject to Conditions

Proposed Conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development permitted shall be carried out in accordance with the following approved plans: PLSK1B rev A, PLSK15B rev D, PLSK14B rev E, PLSK13B rev C, PLSK8B rev B, PLSK12B rev B, PLSK7B rev B, PLSK11B rev A, PLSK10B rev A, PLSK9B rev A, PLSK16B rev A, PLSK6B rev B, PLSK5B rev C, PLSK3B rev B, PLSK2B rev A, PLSK4B rev A.

Reason: To ensure satisfactory provision of the development.

3. The Facility hereby approved (Facility B) shall operate for no more than 300 hours per calendar year.

Reason: To ensure that the proposal does not have an adverse impact on air quality and to comply with policies CS2 and CS5 of the Core Strategy for New Forest District outside of the National Park.

4. The Facility hereby approved (Facility B) and the facility approved under planning permission 16/11407 shall, together, not operate for more than 5 hours continuously.

Reason: To ensure that the proposal does not have an adverse impact on air quality and to comply with policies CS2 and CS5 of the Core Strategy for New Forest District outside of the National Park.

5. The operator of the development hereby approved shall keep a written record of the hours of operation and make it available to the Local Planning Authority within 14 days of any such request to see the actual hours of operation.

Reason: To allow use of the facility and its impact on air quality to be properly monitored in compliance with policies CS2 and CS5 of the Core Strategy for New Forest District outside of the National Park.

6. The facility hereby approved shall only operate on biodiesel (Green D+) or an alternative fuel with equivalent or reduced pollutant emissions, the precise emission details of which shall be sent to the Local Planning Authority 14 days in advance of the alternative fuel first being used.

Reason: To ensure that the proposal does not have an adverse impact on air quality and to comply with policies CS2 and CS5 of the Core Strategy for New Forest District outside of the National Park.

7. The air quality mitigation Implementation Programme as specified in the submitted document Air Quality Mitigation Strategy (dated 23 June 2017) shall be carried out as specified before the first commercially operational use of the approved development, and following this, the mitigation measures set out in the Implementation Programme shall be permanently adhered to and maintained throughout the operational lifetime of the

development so as to ensure NOx emissions from the Facility hereby approved do not exceed the emission rate of 0.7g/s per vent (with each vent emitting NOx emissions from 4 generators).

Reason: To ensure that the proposal does not have an adverse impact on air quality and to comply with policies CS2 and CS5 of the Core Strategy for New Forest District outside of the National Park.

8. The air quality monitoring scheme as specified in the submitted Air Quality Monitoring Strategy (dated 23 June 2017) shall be implemented fully in accordance with the details, measures and timescales set out in this Strategy for the duration of the operational lifetime of the development hereby approved.

Reason: To ensure that the proposal does not have an adverse impact on air quality and to comply with policies CS2 and CS5 of the Core Strategy for New Forest District outside of the National Park.

9. The combined Noise Rating Level from all plant and equipment on the site (including Facility A), shall not exceed the Background Noise Level (LA90) at the boundary of any noise sensitive premises in accordance with BS4142:2014. The Background Noise Level (LA90) for the daytime period (07:00 to 23:00 hours) is stated as 41dB LA90 15 mins and the Background Noise Level (LA90) for the night-time period (23:00 to 07:00 hours) is stated as 39 dB (LA90) 15 mins.

Reason: To ensure that the proposed development does not generate a level of noise that would be detrimental to the amenities of nearby residential properties and to comply with Policy CS2 of the Core Strategy for New Forest District outside of the National Park.

10. Prior to the approved development's first operational use, the noise mitigation scheme specified in the submitted Noise Assessment (Reference A099702; Dated: 19 May 2017 – First Issue) shall be installed and thereafter permanently retained and maintained to ensure that the application building is acoustically insulated, so that any internally generated noise from the approved development site (comprising both Facility B and the separate Facility A) does not exceed a Noise Rating Curve level of NR35 as measured within the adjoining premises.

Reason: To safeguard the reasonable amenities of the adjacent business use from potential adverse noise impacts and to comply with Policy CS2 of the Core Strategy for New Forest District outside of the National Park.

11. Prior to the approved development's first operational use, the anti-vibration mounts specified in the submitted Noise Assessment (Reference A099702; Dated: 19 May 2017 – First Issue) shall be installed and thereafter permanently retained and maintained.

Reason: To ensure that structure borne noise and vibration transmitted from plant and equipment used on the site is minimised, thereby ensuring that the proposed development does not generate noise and vibration that would be detrimental to the amenities of nearby properties and to comply with Policy CS2 of the Core Strategy for New Forest District outside of the National Park.

12. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) 16/12/17 and the following mitigation measures detailed within the FRA:

1. Finished floor levels shall be no lower than 600mm above the Q100 flood level including climate change (3.623mAOD).
2. The site owner shall sign up to the Environment Agency early warning system.
3. A safe route or routes shall be identified and provided into and out of the site to an appropriate safe haven.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason: To ensure the structural integrity of proposed flood defences thereby reducing the risk of flooding; to ensure safe access and egress from and to the site; to reduce the risk of flooding to the proposed development and future occupants and to comply with Policy CS6 of the Core Strategy for New Forest District outside of the National Park.

13. The transformer and switchgear that are to be provided within the external yard shall not be provided until precise elevational details of these features, which shall not exceed the dimensions shown on the approved plans, have been submitted to and approved in writing by the Local Planning Authority. Development shall only proceed in accordance with the approved details.

Reason: To ensure that the appearance of this part of the development is acceptable and to safeguard the setting of adjacent heritage assets in accordance with policies CS2 and CS3 of the Core Strategy for New Forest District outside of the National Park and Policy DM1 of the Local Plan Part 2: Sites and Development Management.

14. Before the transformer and switchgear in the external yard area is first provided, details of the precise external finish of the associated blast wall, including, as appropriate, samples of materials, shall be submitted to and approved in writing by the Local Planning Authority. Development shall only proceed in accordance with the approved details.

Reason: To ensure that the appearance of this part of the development is acceptable and to safeguard the setting of adjacent heritage assets in accordance with policies CS2 and CS3 of the Core Strategy for New Forest District outside of the National Park and Policy DM1 of the Local Plan Part 2: Sites and Development Management.

15. Before development commences a scheme of landscaping for the site's western boundary shall be submitted for approval in writing by the Local Planning Authority. This scheme shall include :
- (a) the existing trees and shrubs which have been agreed to be retained;
 - (b) a specification for new planting (species, size, spacing and location);
 - (c) a method and programme for its implementation and the means to provide for its future maintenance.

No development shall take place unless these details have been approved and then only in accordance with those details.

Reason: To ensure that the appearance of this part of the development is acceptable and to safeguard the setting of adjacent heritage assets in accordance with policies CS2 and CS3 of the Core Strategy for New Forest District outside of the National Park and Policy DM1 of the Local Plan Part 2: Sites and Development Management.

Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case, there has been regular communication with the applicant's agent throughout the application process, and additional information has been requested to address a number of detailed conditions. This enabled a positive recommendation to be made.

2. There are a number of sites near to this property which have had past contaminative uses. It is possible that some contamination may have migrated through the ground and groundwater. Whilst the Authority has no evidence to suggest that this is the case, any observed presence of contamination during any ground invasive works should be reported to the Local Authority Environmental Health Officer and works halted whilst the matter is considered. It is advisable to obtain specialist advice concerning the potential for contamination and its recognition. Under the National Planning Policy Framework, where a site is affected by contamination, responsibility for securing a safe development and/or new use, rests with the developer and/or landowner and as a minimum requirement the land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990.

Further Information:

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New Forest DISTRICT COUNCIL

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Planning Development
Control Committee
August 2017

Item No: 3a & 3b
Unit 2c
North Road
Marchwood Industrial Estate
16/11407 & 16/11408
SU3811

Scale 1:3000

N.B. If printing this plan from
the internet, it will not be to
scale.

