

**HAMPSHIRE COUNTY COUNCIL****Decision Report**

<b>Decision Maker:</b>	Regulatory Committee
<b>Date:</b>	15 June 2016
<b>Title:</b>	Application for change of use to energy recovery centre ERC comprising the use of Advanced Conversion Technology (ACT) (gasification) to convert non-hazardous waste into electricity and heat together with erection of 2 no. flue stacks to existing building and provision of 2 no. dry air cooling towers at Plot 37, Central Way, Walworth Industrial Estate, Andover, SP10 5AN. (Application No. 16/00058/CMAN) (Site Ref: TV256)
<b>Reference:</b>	7599
<b>Report From:</b>	Head of Strategic Planning

**Contact name:** Rob Storey

**Tel:** 01962 847981

**Email:** rob.storey@hants.gov.uk

## 1. Executive Summary

- 1.1. Planning permission is sought for the change of use of an existing building and ancillary land to an Advanced Conversion Technology (ACT) (gasification) waste management facility to convert non-hazardous wood waste into electricity (up to 10 mega watts of electricity (MWe)) and heat.
- 1.2. A report was taken to the [Regulatory Committee meeting on 18 May 2016](#) (item 7504). The item was deferred to allow additional information to be sought from the applicant and the Environment Agency.
- 1.3. The May 2016 Officers Report is set out in Appendix B along with its associated appendices (including conditions, plans and reasons for the decision). The associated update report presented to the May committee is also set out in Appendix C of this report. The content of these reports still stand.
- 1.4. This report provides an update to the May 216 Officer's Report, focusing only on the reasons for the deferment and additional representations received. This report covers the following areas where further information has been sought for clarification purposes, at the request of the committee:
  - Waste Framework Directive and application of the Waste Hierarchy;
  - Waste Technologies;

- Consultation response from the Environment Agency;
  - Waste Permitting; and
  - Further representations received responses since the May 2016 committee.
- 1.5. Taking into account the May 2016 Officer's Report and in light of the additional information contained in this report, the proposal is considered to be in accordance with the policies of the adopted [Hampshire Minerals and Waste Plan \(2013\)](#) and the Test Valley Borough Revised Local Plan (2016). Therefore, it is recommended that planning permission should be granted subject to the conditions listed in integral Appendix B.
- 2. Waste Framework Directive and application of the Waste Hierarchy**
- 2.1. The [Waste Framework Directive](#) (Directive 2008/98/EC on waste) sets out the basic principles, concepts and definitions related to waste management, such as definitions of waste, recycling, recovery and disposal. It explains when waste ceases to be waste and becomes a secondary raw material (so called end-of-waste criteria), and how to distinguish between waste and by-products.
- 2.2. The Directive also requires waste legislation and policy of the EU Member States to apply the priority order set out in the '[waste hierarchy](#)' from prevention through to disposal (prevention, preparation for reuse, recycling, other recovery and disposal). The principles of the Directive are translated into UK law through the [Waste \(England and Wales\) Regulations 2011](#) and the amendments laid out in the [Waste \(England and Wales\) \(Amendment\) Regulations 2012](#) as well as [national waste policy](#) and [associated guidance](#). It is then transposed into the policies of the adopted [Hampshire Minerals and Waste Plan \(2013\)](#), in particular through Policies 25, 27, 28 and 29.
- 2.3. A range of social, economic, practical and technological reasons mean that different waste streams are currently best dealt with at different levels of the '[waste hierarchy](#)', including through energy recovery. [Government guidance on energy recovery](#) readily acknowledges that many waste materials that could theoretically be recycled are not currently, and go to energy recovery or landfill. It also recognises that it is important that the presence of energy recovery as an option does not diminish efforts to overcome the range of barriers to capturing and recycling these materials. However, it also notes that it is equally important that while those barriers do exist, energy from waste is used effectively to ensure those materials do not go to a worse environmental fate in landfill.
- 2.4. The '[waste hierarchy](#)' order means that energy from waste is generally considered to have an environmental performance inferior to recycling but superior to disposal through landfill or combustion without energy recovery. [Government guidance on energy recovery](#) clearly states that energy from waste will be a better environmental solution than landfill provided the waste

being used has the right (high) biogenic content and the plant is efficient at turning that waste into useable energy. In the case of this application, there is potential to generate energy through gasification.

- 2.5. The [Waste Framework Directive](#) includes annexes which set out lists of what are considered to be recovery or disposal operations. The classifications of particular relevance to energy from waste are recovery (R1) – Use principally as a fuel or other means to generate energy and disposal (D10) – Incineration on land. The Directive classifies municipal waste incinerators as recovery operations, provided they contribute to the generation of energy with high efficiency. This recovery classification is to promote the use of waste to produce energy in energy efficient municipal waste incinerators and encourage innovation in waste incineration.
- 2.6. The Directive only includes guidelines on the interpretation of the recovery (R1) energy efficiency formula for incineration facilities processing municipal solid waste. This is in accordance with Annex II of the Directive. There are no other guidelines for other types of waste such as commercial and industrial wastes.
- 2.7. Further comments from the Environment Agency are expected in relation to the classification of the plant and will be reported to committee in a subsequent update report.
- 2.8. Irrespective of whether the plant is classed as recovery or disposal, Environmental Permitting Regulations requires that plants recover as much energy as practicable. This issue will therefore be addressed in more detail through Environmental Permitting by the Environment Agency in due course.
- 2.9. The [Court of Appeal Skrytek Decision \(2013\)](#) stated that the [Government 'Guidance on the Application of the Waste Hierarchy'](#) makes it clear that all energy recovery technologies, whether electricity only, heat only or heat and power combined, come higher in the waste hierarchy than disposal. The same guidance states that for lower grade wood waste (as proposed in relation to this application) energy recovery options are more suitable than recycling. The Judge in the Skrytek case concluded that the energy from waste proposal before him would subsequently lie higher in the hierarchy than 'disposal' and would meet the requirement for the management of waste to be taken up the waste hierarchy.
- 2.10. Paragraph 6.131 of the adopted [Hampshire Minerals and Waste Plan \(2013\)](#) notes a 'zero waste economy' can best be achieved where material resources are re-used, recycled or recovered wherever possible with only negligible amounts being disposed. It is acknowledged that some wood waste can be reused or recycled. However, where this is not possible, wood waste can be managed through energy recovery. In the case of this proposal, lower grade waste wood would ultimately need to be disposed of at landfill if no other processes which are considered to be higher up the waste hierarchy (such as gasification) are available. Therefore, it is considered that the proposal provides an opportunity to divert waste from landfill.

- 2.11. Regardless of the differences between Government guidance, recent case law and local policy, what is clear is that the gasification of wood waste with some form of energy recovery will be more sustainable than the disposal of waste wood to landfill. The proposed waste treatment facility lies higher in the hierarchy than disposal to a landfill in the waste hierarchy. This is supported by the adopted [Hampshire Minerals and Waste Plan \(2013\)](#) which has achieving 'zero waste to landfill' as a long-term aim of the plan. The adopted plan also acknowledges that commercial energy recovery is expected to play an increasingly important role to ensure that Hampshire continues to divert as much waste from landfill as possible.

### **3. Waste Technologies**

- 3.1. Gasification is a type of Advanced Thermal Treatment (ATT) process that involves the application of heat to organic (carbonaceous) matter in low levels of oxygen. Heat energy is generated by the resultant chemical reactions and also by the combustion of gases that are emitted from the matter as it is broken down.
- 3.2. Following the deferment, officers sought further clarification from the applicant on the following areas in relation to the proposed technology which will be explained in turn:
1. Type of technology; and
  2. Clarification of power output/efficiency of the process and what happens to the heat generated.
- 3.3. The applicant has confirmed that the Hurst Hybrid Boiler is a close coupled Gasifier and this has been certified as such. This is documented in supporting documents for the [planning application](#).
- 3.4. The applicant has clarified in writing, and as stated verbally at the May 2016 Committee meeting, that the facility would have an energy conversion efficiency of 29.35%. The applicant also asserts that the facility will produce an amount of waste heat for a district heating system, to be made available to the local businesses and local domestic properties. The applicant intends to deliver this heat to businesses within the Walworth Business Park/Industrial Estate first. As detailed in the previous Committee Report, Policy 28 (Energy recovery development) of the adopted Hampshire Minerals & Waste Plan (2013) states that energy recovery development should: wherever practicable, provide combined heat and power, but as a minimum, recover energy through electricity production. The proposal would therefore be in accordance with Policy 28 (Energy recovery development) of the adopted [Hampshire Minerals and Waste Plan \(2013\)](#). Paragraph 6.182 of the adopted [Hampshire Minerals and Waste Plan \(2013\)](#) defines recovery facilities as 'energy recovery facilities such as anaerobic digestion, energy from waste or other thermal treatment facilities' and paragraph 6.185 highlights gasification as one of a number of different technologies for energy recovery which can be achieved through combustion (with direct or indirect use of the energy produced). The debate about whether the technology is gasification or not is

irrelevant to the proposal. The planning process is about determining whether the location and use of the land is suitable. The precise process does not have any policy significance as it will still be considered to be energy recovery in line with the provisions of the adopted plan.

#### **4. Consultation response from the Environment Agency**

- 4.1. Paragraph 6.2 of the original committee report sets out the Environment Agency's response to the planning application. This indicated that the Agency did not have any objection to the proposal and the site would require an Environmental Permit.
- 4.2. Following the deferment, officers sought further clarification from the Environment Agency on the following areas:
  1. Confirmation that the process proposed is acceptable in principle from an Environment Agency's perspective, subject to a permit being granted;
  2. Whether the Environment Agency constitutes gasification as a form of 'recovery' under permitting; and
  3. What issues the permit would cover.
- 4.3. As indicated in Integral Appendix C of the original committee report, the Environment Agency would undertake [public consultation on any application received for a waste permit](#).
- 4.4. Further comments from the Environment Agency are expected in relation to areas noted above and will be reported to committee in a subsequent update report.

#### **5. Waste Permitting**

- 5.1. The Environment Agency is the regulator responsible for regulating activities that could pollute the environment by granting Environmental Permits. Environmental Permitting is a separate process to the planning process but is often closely linked. Permitting determines if an operation can be managed on an ongoing basis to prevent or minimise pollution to the environment.
- 5.2. Planning and permitting decisions are made separately to each other and developers can choose the order in which they apply for them. The applicant has informed the Waste Planning Authority that they have already commenced discussions with the Regulator (Environment Agency) in respect of obtaining an Environmental Permit for the development.
- 5.3. The [Environmental Permitting \(England and Wales\) Regulations 2010](#) list certain "listed" industrial activities and businesses require an Environmental Permit from the regulator before they can lawfully conduct these activities. The aim of the regime is to:
  - protect the environment so that statutory and Government policy environmental targets and outcomes are achieved;

- deliver permitting and compliance with permits and certain environmental targets effectively and efficiently in a way that provides increased clarity and minimises the administrative burden on both the regulator and the operators
- encourage regulators to promote best practice in the operation of facilities; and to
- continue to fully implement European legislation.

5.4. The scope of an Environmental Permit is defined by the activities set out in the [Environmental Permitting \(England and Wales\) Regulations 2010](#). The permitted activities may form a part of, but not all, of the development needing planning permission. In these cases, the planning application will need to address environmental considerations from those parts of the development that are not covered by the permit. The permit will cover a number of onsite activities and processes including emissions. Further clarification of the scope of the permits is expected from the Environment Agency and will be reported to committee in a subsequent update report

5.5. As reported in paragraph 8.9 of the original committee report, paragraph 012 of the National Planning Practice Guidance clearly states that ‘Local Planning Authorities are required to assume that other regulatory regimes will operate effectively rather than seek to control any processes, health and safety issues or emissions themselves where these are subject to approval under other regimes’. The role of the planning process is therefore not to duplicate specific emissions regulation that will subsequently be required but to check that the site is not inherently unsuitable for the intended use.

5.6. In the event a permit is issued, the Environment Agency will include conditions. The Agency will also monitor compliance and enforce conditions as necessary. They also review environmental permits from time to time to make sure the permits continue to protect people and the environment.

## **6. Representations**

6.1. At the time of writing the original committee report, a total of 90 representations had been received by the Waste Planning Authority in relation to this proposal. This was set out in paragraph 7.1 of the original report. The update report provided to committee at the May committee meeting updated this to 143 representations received and this was set out in paragraph 2.1 of the update report. The officer’s presentation on the day of committee also highlighted the increase in response received to 172.

6.2. At the time of writing this report an additional 29 responses have been received by the Waste Planning Authority all objecting to the proposal. This gives a total of 201 responses received by the Waste Planning Authority in relation to this proposal.

- 6.3. At the previous committee meeting, representors indicated that the Waste Planning Authority had received many more objections to the proposal than what was reported. This was not the case. The case officer reported the correct number of representation received by the Council in his presentation as noted above. The County Council cannot take into account any representations which are not received directly by the Council. Subsequent correspondences have indicated that a large number of comments have been left on the BioFuel website in relation to the proposal. The responses noted on the BioFuel website cannot be taken into account as they have not been directly received by the Council.
- 6.4. In relation to the additional responses received, the main areas of concern raised are covered by the issues identified in paragraph 7.1 of the original committee report and paragraph 2.1 of the accompany update report.

## **7. Amendments to conditions**

- 7.1. As reported at the May 2016 committee meeting, condition 3 (as set out in Integral Appendix B of the original committee report) shall be amended as follows:

No heavy commercial vehicles shall enter or leave the site except between the following hours: 0730-1800 Monday to Friday and 0730-1400 Saturday.

Reason: In the interests of local amenity in accordance with Policies 10 (Protecting public health, safety and amenity) and 12 (Managing traffic) of the Hampshire Minerals & Waste Plan (2013).

## **8. Summary**

- 8.1. It is considered that the proposal is in accordance with the policies of the [Hampshire Minerals and Waste Plan \(2013\)](#) and the [Test Valley Borough Revised Local Plan \(2016\)](#). The development would create additional capacity for the recovery of non-hazardous wood waste. The development would encourage the diversion of wood waste from landfill, recover energy through the generation of electricity and be located on previously developed land benefiting from permission for general industry/storage within an existing industrial estate along a strategic road corridor. The development will not have an unacceptable impact on air quality or landscape and visual amenity and will be acceptable in terms of highway safety and capacity and impact on ecology.

## **9. Recommendation**

- 9.1. That planning permission shall be GRANTED subject to the conditions listed in integral Appendix B of the May 2016 Regulatory Committee report and the amendments to condition 3 highlighted in this report.

### Appendices:

Integral Appendix A – Corporate or Legal Information

Appendix B – May 2016 Regulatory Committee Report

Appendix C – May 2016 Regulatory Committee Update Report

### Other documents relating to this application:

<http://www3.hants.gov.uk/mineralsandwaste/application-details.htm?id=16998>

RefRpt/7599/RS

**CORPORATE OR LEGAL INFORMATION:****Links to the Corporate Strategy**

<b>Hampshire safer and more secure for all:</b>	No
Corporate Improvement plan link number (if appropriate):	
<b>Maximising well-being:</b>	No
Corporate Improvement plan link number (if appropriate):	
<b>Enhancing our quality of place:</b>	No
Corporate Improvement plan link number (if appropriate):	
<b>OR</b>	
<b>This proposal does not link to the Corporate Strategy but, nevertheless, requires a decision because:</b>	
The proposal does not link to the Corporate Strategy but, nevertheless, requires a decision because the proposal is an application for planning permission and requires determination by the County Council in its statutory role as the minerals and waste planning authority.	

**Section 100 D - Local Government Act 1972 - background documents**

**The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)**

DocumentLocation

Change of use to energy recovery centre ERC comprising the use of Advanced Conversion Technology (ACT) (gasification) to convert non-hazardous waste into electricity and heat together with erection of 2 no. flue stacks to existing building and provision of 2 no. dry air cooling towers	Strategic Planning Hampshire County Council Elizabeth II Court Sussex Street Winchester SO23 8UD
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