



**Tilbury Energy Recovery Facility
Phase 2 Development**

SECTION 36C VARIATION

SUPPORTING STATEMENT

December 2018

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Tilbury Energy Recovery Facility
SECTION 36C VARIATION
SUPPORTING STATEMENT

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1. Introduction

- 1.1 It is proposed to vary the section 36 consent (Ref No. 12.04.09.04/266C) granted to Tilbury Green Power Limited, in accordance with the provisions of the Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013. The section 36 consent is for the construction and operation of a biomass and energy from waste fuelled electricity generating station on a site at Tilbury Docks, Essex.
- 1.2 This supporting statement accompanies the application submitted by Tilbury Green Power Limited to the Secretary of State under section 36C of the Electricity Act 1989 to update the design to reflect improvements in technology since the date of the Original Consent. The Application complies with Regulation 3 of the Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013.
- 1.3 Along with the application to vary the section 36 consent, the Secretary of State is also requested to direct under section 90(2ZA) of the Town and Country Planning Act 1990 (as amended) that the deemed planning permission be varied to reflect the changes proposed.

2. Project Background and History

- 2.1 Tilbury Green Power Limited (TGP) was granted the original consent under Section 36 of the Electricity Act 1989 (ref. 12.04.09.04) on 27 August 2009. The consent provided for the construction and operation of a 60 megawatt (MW) generating station on land within the Port of Tilbury. The consent was subsequently amended on 19 July 2011 to extend the development commencement date by two years.
- 2.2 An application to further extend the expiry date by one year was granted under Section 36C of the Electricity Act 1989 which extended the latest date for commencement of development to 27 August 2015.
- 2.3 The consented development consists of two generation units, namely (a) biomass/waste wood generating unit (Phase 1) and (b) energy from waste generating unit (Phase 2), having a combined electrical capacity of 60MW, and processing up to 650,000 tonnes of waste per annum. Construction commenced on phase 1 of the development in August 2014 and it commenced operation in early 2018. Phase 1 has an electrical generating capacity of 40MW approximately.

3. Associated Permits and Consents

- 3.1 In addition to the section 36 consent and deemed planning permission, a number of related permits, licences and consents that have been granted in respect of the development which are described briefly below,
 - (a) Environmental Permit EPR/KP3936ZB (21 November 2014)
This permit controls the operation of both phases of the development. Under the Environmental Permitting Regulations 2010, the relevant activity is Section 5.1 Part A (1) (b) for the incineration of non-hazardous waste in a waste incineration plant or waste co-incineration plant with a capacity exceeding 3 tonnes per hour. The permit implements

primarily the requirements of the EU Directives on Industrial Emissions (IED) and Waste. A copy of the permit is included in the Appendices.

(b) Planning permissions 11/503361/TTGETL, 11/50376/TTGCND

In 2012, Thurrock Thames Gateway Development Corporation granted planning permissions confirming extension of the commencement date to 26 August 2014 and to vary the waste quantities stated in the S36. A combined total of up to 650,000 tonnes per year of waste was permitted, comprising waste wood, solid recovered fuel, biomass, municipal solid waste and commercial and industrial.

(c) Flood Defence Consent FDC-ENS-2015-747 (17 April 2015)

The flood defence consent permits the construction of elements of Phase 1 of the development within 9 m of the existing flood defences. A copy of the consent is included in the Appendices.

4. Reasons for the Application

- 4.1 The purpose of the application is to amend the design and layout of Phase 2 of the development and to increase the overall electricity capacity to 80 MW by employing a more efficient generating system while retaining the previously consented maximum waste throughput, which will result in the optimal utilisation of the consented site. The proposed variations to the S36 consent and deemed planning permission are in marked up documents attached in Appendix 3.
- 4.2 The consented development consists of two generation units (Phase 1 and 2) having a combined electrical capacity of 60MW, processing up to 650,000 tonnes of waste per annum.
- 4.3 The design concept for the project envisaged in the 2009 consent was for two separate generating units; this concept remains unchanged. The principal change proposed to the Tilbury Green Power Project relates to its generating capacity.
- 4.4 For the Phase 1 generating unit which commenced operation in April 2018, improvements in the fuel quality and in the efficiency of the combustion technology has resulted in a generating capacity of 40MW from approximately 300,000 tonnes per annum of waste wood biomass.
- 4.5 For the second generating unit, it is proposed to convert 350,000 tonnes per annum of waste material delivered to the Phase 2 unit to electricity in an efficient energy recovery facility to produce a further 40 MW approximately of electricity. The original proposal was to undertake on-site waste processing of municipal solid waste and commercial/industrial waste materials (MSW/C&I) whereby approximately one-third of materials delivered to site with recycling potential (for example paper and plastics) would otherwise have been removed from site.
- 4.6 Following a review of the current waste market and the commercial viability of the second generating unit (Phase 2), Tilbury Green Power Limited undertook an investigation of available options to utilise the full potential of the facility. From discussions with potential technology providers, Tilbury Green Power Limited now proposes to make a number of changes to the consented development.
- 4.7 The proposal will increase the overall electrical output to 80 MW, an uplift of 20 MW over the capacity permitted in the current S36 consent. This increased overall capacity will be achieved

without an increase in the combined total waste throughput of up to 650,000 tonnes per year currently permitted in the S36 consent.

4.8 The proposed Phase 2 configuration will consist of conventional moving grate combustion technology which is in operation across many countries worldwide.

4.9 The principal changes to the scale and operation of the development are summarised below,

Table 4.1 Principal Changes Proposed

Proposed Change	Description
Generating capacity	Increase in electricity generating capacity to 80 MW (from 60 MW currently consented)
Building dimensions	The overall massing (total building volume) of the proposed overall development (Phases 1 and 2) will be slightly less than in the original scheme. The building heights will vary from 26m to 55m high.
Stack location	The stack height will remain unchanged although its location on site will be altered slightly to optimise the layout of the plant.
Transport of Waste materials	Removal of the current restrictions that apply to the delivery of waste to site (450,000 tonnes per annum by road, the balance to be delivered by ship) so that all waste can be delivered by road.
Nature of Waste materials	Removal of restrictions on the proportion of waste types (MSW, C&I, RDF/SRF) permitted.
Source of Waste Materials	Removal of the restrictions on the geographical areas from which waste can be sourced.
Site connectivity	A bridge over the Botney Channel will be constructed to connect parts of the consented site located on either side of the channel.

4.10 The red line boundary proposed for the amended S36 consent and deemed planning permission is attached in Appendix 1. The boundary is amended only slightly to include the proposed bridge over Botney Channel. Layout and elevation drawings for the proposed development are included in Appendix 1 to the Supplementary Environmental Information Report.

4.11 The Proposed Development is anticipated to have a 36 month construction period.

4.12 The original application for S36 consent was supported by an Environmental Statement prepared in 2008. The Application includes an update of environmental aspects in a Supplementary Environmental Information Report. The report takes account of comments made from consultation with BEIS, Thurrock Council, statutory consultees and the public.

4.13 The Supplementary Environmental Information Report describes the assessment of likely significant effects of the development on the environment and analyses how these differ from

those described in the Environmental Statement in 2008. The report also considers appropriate mitigation with the aim of reducing or avoiding significant effects.

- 4.14 Reference was made to the Guidance provided by BEIS (Varying consents granted under section 36 of the Electricity Act 1989 for generating stations in England and Wales, July 2013). The following paragraphs in particular are noted,

Paragraph 12:

"generating station development consents are often not implemented until some years after they are granted. Each consent reflects technology and industry practice at the time it was applied for, but such practices do not stand still, even in relatively mature sectors. This means that when a developer comes to construct a generating station, it will sometimes be uneconomic or have more detrimental effects on the environment to do so according to all of the details specified in the consent. In practice, this means changes to the original proposals to make the project feasible. The changes concerned may not be very great, but they may nevertheless involve work which would not be consistent with the terms of the existing consent, for example, installing more efficient technology generating more power without radically changing the physical dimensions of the buildings and/or structures."

Paragraph 22:

Refers to two cases in which the Secretary of State will consider it appropriate to exercise the power in s36C, "namely, to enable (a) the construction or extension of a generating station (whose construction or extension has either not yet commenced or has not yet been completed) along different lines from those set out in the existing consent".

- 4.15 The proposed changes in the application are consistent with the Guidance as being appropriate to a variation under S36C.
- 4.16 Tilbury Green Power Limited has sought informal pre-application advice from the Department for Business, Energy and Industrial Strategy and Thurrock Council in relation to the application, through a series of correspondence and meetings from 2017 to date. The advice and guidance provided is incorporated into the application documents.
- 4.17 Tilbury Green Power Limited has also sought the views of statutory consultees through pre-application consultation. In addition, the views of local Ward Councillors and residents were sought through a public exhibition event at Thurrock Adult Community College in Grays on 20 November 2018. A report describing the consultations undertaken and the comments received is included in Appendix 5 to this Supporting Statement.

5. Variation of Consents Regulations 2013 - Compliance Checklist

- 5.1 The application requirements contained in the Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013 are summarised in the table below and the relevant part of the application where each requirement is addressed has been identified.

Table 6.1 Regulatory Compliance Checklist

Regulatory Requirement	Supporting Application Document
Variation of Section 36 Consent	
Description of the location of the proposed development by reference to a map. <i>(Regulation 3(1)(b))</i>	Paragraph 4.10 and Appendix 1 in the Supporting Statement
Statement as to why it is proposed that the relevant section 36 consent should be varied. <i>(Regulation 3(1)(c)(i))</i>	Section 4 in the Supporting Statement.
Statement as to what account has been taken of views expressed by persons who have been consulted by the applicant about the proposed variation. <i>(Regulation 3(1)(c)(ii))</i>	Paragraph 4.16 and 4.17 of the Supporting Statement and the Consultation Report attached as Appendix 5 to this Supporting Statement.
A draft of the variations which the applicant proposes should be made to the relevant section 36 consent. <i>(Regulation 3(1)(d)(i))</i>	Appendix 3 in the Supporting Statement. The proposed variations are shown as track changes.
Copies of any maps or plans not referred to in the relevant section 36 consent but which the applicant proposes that the relevant section 36 consent should refer to after it is varied. <i>(Regulation 3(1)(d)(ii))</i>	The drawings included in Appendix 1 to the Supplementary Environmental Information Report show the preliminary layout of the proposed development.
Particulars of the relevant section 36 consent, and, if that consent was not granted to the applicant, how the applicant has the benefit of that consent. <i>(Regulation 3(2)(a))</i>	The relevant Section 36 Consent (issued in 2014) is contained in the Supporting Statement at Appendix 2.
Where the appropriate authority is the Secretary of State, particulars of any section 90 direction given on granting the relevant section 36 consent. <i>(Regulation 3(2)(b))</i>	The deemed planning permission granted with the Section 36 Consent is included in the Supporting Statement at Appendix 2.
Particulars of any permit, licence, consent or other authorisation (other than the relevant section 36 consent) given in connection with the construction or operation of the proposed development (a "relevant authorisation"), including any variation or replacement of a relevant authorisation. <i>(Regulation 3(2)(c))</i>	Details of all other existing consents, permits and licences (including the environmental permit) for the Proposed Development are contained in section 3 of the Supporting Statement and in Appendix 4.
Particulars of any application that has been made for a relevant authorisation or variation of a relevant authorisation. <i>(Regulation 3(2)(d))</i>	The current position and future proposals with respect to applications for authorisation are described in section 3 of the Supporting Statement.

Request for Variation of Section 90(2ZA) Deemed Permission	
Identify the section 90 development in respect of which that request is made and describe its location by reference to a map. <i>(Regulation 3(3)(a))</i>	Supporting Statement paragraph 4.10 and Appendix 1
State why it is proposed that the direction should be made. <i>(Regulation 3(3)(b)(i))</i>	Paragraph 3 in the Supporting Statement
State what account has been taken of views expressed by persons who have been consulted by the applicant about the proposed direction <i>Regulation 3(3)(b)(ii)</i>	Paragraph 4.16 and 4.17 of the Supporting Statement and the Consultation Report attached as Appendix 5 to the Supporting Statement.
Include a draft of the proposed direction. <i>(Regulation 3(3)(c)(i))</i>	Appendix 3 of the Supporting Statement with proposed variations shown as track changes.
Include copies of any maps or plans to which it is proposed that the section 90 direction should refer which are not referred to in the relevant section 36 consent or any section 90 direction given on granting the relevant section 36 consent; or included in the application in accordance with paragraph (1)(d)(ii). <i>(Regulation 3(3)(c)(ii))</i>	The drawings attached in Appendix 1 to the Supplementary Environmental Information Report show the preliminary layout of the proposed development.
If, under the EIA Regulations as modified by regulation 7, an environmental statement has been prepared, or is required to be prepared, in relation to the proposed development, the environmental statement must accompany the application. <i>(Regulation 3(4))</i>	A Supplementary Environmental Information Report is provided with the application.

6. Planning and Waste Policy

- 6.1 The Guidance Note on varying S36 consents (July 2013) at paragraph 23 states that in determining whether a proposed variation is appropriate to be made under s36C, the Secretary of State is potentially required to exercise judgment on two distinct questions;
- (a) Whether the change proposed to the generating station (or proposed generating station) concerned is of a kind that it would be reasonable to authorise by means of the variation procedure (regardless of its merits in planning / energy policy terms);*
- (b) if the answer to question(a) is positive, whether (from a planning / energy policy point of view) the variation should in fact be made, thereby authorising whatever development the making of the variation will permit to be carried out.*

- 6.2 Question (a) in relation to the rationale and positive benefits of the proposal is addressed above under section 4. In relation to question (b), paragraph 24 of the guidance states that *"it will be necessary for applicants to make a case for the changes in planning and energy policy terms"*
- 6.3 National legislation and policy guidance has undergone significant changes in the structure of the policy framework since the original S36 consent was granted in 2009. Most notably, the National Planning Policy Framework (NPPF) has replaced the former Planning Policy Statements.

National Planning Policy Framework

- 6.4 The NPPF was introduced in March 2012 and amended most recently in July 2018. The NPPF establishes a presumption in favour of sustainable development which it defines as having three dimensions, economic, social and environmental. These dimensions need to be considered jointly and simultaneously given their mutual dependence.
- 6.5 The NPPF makes clear that it does not change the status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts refused unless other material considerations indicate otherwise.
- 6.6 The NPPF sets out a number of Core Planning Principles, which underpin both plan-making and decision taking. Planning should, inter alia:
- Proactively drive and support economic development to contribute towards the development of a strong and competitive economy;
 - Support the transition to a low carbon future in a changing climate by encouraging the use of
 - renewable resources, including the development of renewable energy and taking full account of flood risk;
 - Contribute to environmental protection and to reducing pollution;
 - Conserve and enhance the historic environment;
 - Encourage the effective use of previously developed land; and
 - Actively manage patterns of growth to promote sustainable transport.

A strong and competitive economy

- 6.7 The NPPF looks to the planning system to offer positive support to economic growth in order to create jobs and move towards a low carbon future. This represents a continuation and reinforcement of the policy position prevailing in 2011 (PPS4 Planning for Sustainable Growth and Ministerial Statement 'Planning for Growth'). The Proposal remains in accordance with the principles of this objective and hence no further assessment is required.

Transition to a low carbon future

- 6.8 The NPPF offers positive support to low carbon and renewable energy generation and associated infrastructure, seeking radical reductions in greenhouse gas emissions, and describing it as central to the economic, social and environmental dimensions of sustainable development. The Proposal remains in accordance with the principles of this objective and hence no further assessment is required. The NPPF also looks to patterns of development to adapt to climate change, including steering inappropriate development away from areas at highest risk of flooding.

Contribution to environmental protection and to reducing pollution

- 6.9 The NPPF places weight on the protection and enhancement of the natural and local environment. Planning permission should be refused where significant harm to biodiversity cannot be avoided, mitigated or compensated. The Proposal remains in accordance with the principles of this objective and hence no further assessment is required.
- 6.10 The NPPF seeks to protect the environment and amenities and health of local communities against pollution, noise and adverse impacts on air quality and planning should concern itself with the acceptable use of land and not the control of the processes themselves where these are controlled under other regimes. Local Planning Authorities must assume that other pollution control regimes will operate effectively. As processes will properly be controlled through the Environmental Permit for the site, no further assessment is required at the planning stage.

Conservation and enhancement of the historic environment

- 6.11 The NPPF places great weight on the conservation of designated heritage assets. The Proposal remains in accordance with the principles of this objective and hence no further assessment is required.

Effective use of previously developed land

- 6.12 The NPPF encourages the use of previously developed land and thereby continues the policy approach in force in 2008. The Proposal remains in accordance with the principles of this objective and hence no further assessment is required.

Promotion of sustainable transport

- 6.13 The NPPF seeks to promote sustainable travel by encouraging solutions that reduce both greenhouse gas emissions and congestion. The Proposal remains in accordance with the principles of this objective. A revised Transport Assessment is included in the application.

Planning Practice Guidance

- 6.14 The Government's on-line planning practice guidance was published in November 2016 (last revised October 2018). This supplements the guidance provided within the NPPF on a range of issues, including the key areas of Renewable and Low Carbon Energy and Climate Change.
- 6.15 In addition, guidance is provided on a range of factors that are relevant to the consideration of development including air quality, conservation and enhancement of the historic environment, flood risk, health and wellbeing, light pollution, natural environment and noise.
- 6.16 In respect of the aforementioned key areas, the guidance reiterates the important role of planning in delivering the objectives of energy security and climate change and highlights the legally binding target to reduce the UK's greenhouse gas emissions by at least 80% in 2050 from 1990 levels.
- 6.17 Overall, the Guidance is targeted more towards consolidating and simplifying existing guidance than on introducing new technical guidance. The Guidance does not therefore materially affect the previous consideration of the Proposed Development in 2011. No further assessment is therefore deemed necessary as a consequence of its introduction.

National Energy Policy

- 6.18 The National Policy Statements for Energy Infrastructure (EN-1 and EN-3) remain the key planning policy documents pertaining to large scale renewable and low carbon energy developments. These policies are unchanged since their publication in July 2011. The Proposal remains in accordance with both documents and hence no further assessment is required.
- 6.19 The policy reaffirm the Government's commitment to invest in the UK's ageing energy infrastructure and to replace it with a diverse, low carbon and efficient energy mix thereby creating an opportunity to accelerate progress towards decarbonising our economy and providing greater energy security to meet increasing energy demands at a time of international uncertainty over fossil fuel supplies.
- 6.20 The main change in the policy approach comes through the Bioenergy Strategy and the update to the UK Renewable Energy Roadmap, which recognise that not all biomass energy generation is beneficial given the possibility that energy crops could displace food production and/or divert biomass resources from their optimal use i.e. the use of virgin timber by the construction industry.
- 6.21 The TGP Facility (Phases 1 and 2) will source its fuel supplies from a combination of waste wood, municipal household waste, commercial and industrial waste and waste processed off-site (RDF/SRF). Given the intended diversity of fuel supplies which will power the TGP Facility and the potential for the development to recover energy from waste products, the Proposal is not inconsistent with this policy position.

National Planning Policy for Waste

- 6.22 Waste policy within England remains as defined by European Directives, the Waste (England and Wales) Regulations SI 2011/988.
- 6.23 The National Planning Policy for Waste (October 2014) identifies the need for waste management facilities. Waste planning authorities should prepare Local Plans which identify sufficient opportunities to meet the identified needs of their area for the management of waste streams.
- 6.24 In preparing Local Plans, waste planning authorities should identify the tonnages and percentages of municipal, and commercial and industrial, waste requiring different types of management in their area over the period of the plan (In London, waste planning authorities should have regard to their apportionments set out in the London Plan when preparing their plans. Waste planning authorities should also consider the need for additional waste management capacity of more than local significance and reflect any requirement for waste management facilities identified nationally.

Local Planning Policies

- 6.25 The Thurrock Core Strategy in relation to waste (CSTP29) was adopted in January 2015. As a unitary authority Thurrock Council must plan for the management of waste by setting the planning framework for an adequate supply of waste treatment and disposal facilities. Those facilities must enable the Borough to be self-sufficient in the way it manages its own waste and contribute to the management of a reducing proportion of wastes from London.
- 6.26 As well as managing Thurrock's own waste, CSTP30 requires the Borough is also required to plan for a reducing amount of waste imports for landfill from London. After 2015, provision for

waste originating outside the Borough should only be made for residual waste. Policy CSTP30 sets out Thurrock's approach in meeting the apportionment for London's waste imports.

Changes Proposed to S36 Consent to remove restrictions on Waste Sources and Quantities

6.27 It is not proposed to increase the combined total waste throughput of up to 650,000 tonnes per year currently permitted in the S36 consent. However, to provide a more commercially viable development with increased operational flexibility, it is proposed to remove the restrictions on the proportion of waste types (MSW, C&I, RDF/SRF) permitted, the mode of transport and the geographical area from which waste can be sourced. The restrictions are set down in Conditions 55 to 60 of the deemed planning permission.

6.28 Guidance on Waste published by Ministry of Housing, Communities & Local Government on 15 October 2015 (<https://www.gov.uk/guidance/waste>) provides further information in support of the implementation of waste planning policy.

6.29 In defining the obligation on waste planning authorities towards implementing the proximity principle, the guidance states that,

“The principles of self-sufficiency and proximity (commonly referred to as the ‘proximity principle’) are set out in Article 16 of the Waste Framework Directive, Local planning authorities are required, under regulation 18 of the 2011 Regulations which transposed the Directive, to have regard to these requirements when exercising their planning functions relating to waste management.”

6.30 The guidance goes on to provide the following response to the question “Do the self-sufficiency and proximity principles require each waste planning authority to manage all of its own waste?”,

“Though this should be the aim, there is no expectation that each local planning authority should deal solely with its own waste to meet the requirements of the self-sufficiency and proximity principles. Nor does the proximity principle require using the absolute closest facility to the exclusion of all other considerations. There are clearly some wastes which are produced in small quantities for which it would be uneconomic to have a facility in each local authority.

Furthermore, there could also be significant economies of scale for local authorities working together to assist with the development of a network of waste management facilities to enable waste to be handled effectively.

The ability to source waste from a range of locations/organisations helps ensure existing capacity is used effectively and efficiently, and importantly helps maintain local flexibility to increase recycling without resulting in local overcapacity.”

6.31 It is evident that waste contractors will seek to minimise the overall cost of disposal. Transport costs are a significant component part of overall cost and to reduce these it is likely contractors will seek to use the nearest waste disposal facility. Clearly, transport costs would be considered along with other costs such as the gate fee. Where the nearest Energy Recovery Facility (ERF) is already near capacity, the gate fee may not be competitive with other ERFs which may be further away. For these reasons, flexibility in the application of the Waste Framework Directive is essential to ensure the efficient use of available waste management infrastructure and to maintain flexibility locally. The application of restrictions on waste sources is contrary to this approach, as set out in the Guidance above.

6.32 A Waste Policy Review is included as an Appendix to the Transport Assessment attached to the Supplementary Environmental Information Report. The review sets out the basis for amending

the S36 consent in respect of the removal of restrictions such as in Conditions 55-60. The policy review concludes that the removal of waste catchment restrictions in Conditions 55-60 could enable the United Kingdom as a whole to move towards the aim of becoming self-sufficient in waste disposal. In addition, effective integration with other installations in the East of England region should ensure that waste is treated in one of the nearest appropriate installations where that installation is outside the East of England region and /or within a radius of 50 miles from the Site boundary.

- 6.33 In the context of the aforementioned policies, the proposed changes will contribute towards reducing greenhouse gas emissions and promoting greater energy security as well as providing a sustainable means by which to manage waste. It is therefore consistent with, and strongly supportive of current Government policy. For this reason it is considered that the assessment of the original application by the Secretary of State at paragraph 3.7 of the decision letter on 27 August 2009 and the consideration given at the time of the review in 2011 and 2014 remains unchanged.
- 6.34 In conclusion therefore, those changes to policy and guidance that have occurred since the time of the original decision are supportive of the development and would further reinforce a decision to approve the amendments proposed in the Section 36C Application.

7. Status of Existing Planning Permissions and Discharge Submissions

- 7.1 Tilbury Green Power Limited (TGP) was granted a Section 36 consent by the Secretary of State at the Department for Energy and Climate Change (DECC) in August 2009 for the construction and operation of a (a) biomass and (b) an energy from waste fuelled generating station up to 60 MWe in total at Tilbury Port in London. The development was initially conceived as two 30 MWe plants to be constructed in two separate phases.
- 7.2 The latest date for commencement of the development under the original consent was August 2012 i.e. three years from the date of issue. In July 2011, DECC issued an extension to the development commencement date of two years i.e. to 26 August 2014.
- 7.3 Thurrock Thames Gateway Development Corporation (TTGDC) was the relevant local planning authority when the Section 36 planning consent application was submitted to the Department of Energy and Climate Change (DECC) in 2008. Following the change in Government in 2010, the Corporation was merged into Thurrock (Borough) Council on 1 April 2012. All planning matters relating to TGP (discharge of remaining conditions, amendment to existing conditions or new planning applications) are administered by Thurrock Council as the relevant Local Planning Authority for the project.
- 7.4 In 2012, TTGDC granted planning permissions (11/503361/TTGETL, 11/50376/TTGCND) confirming extension of the commencement date to 26 August 2014 and to vary the waste quantities stated in the S36. A combined total of up to 650,000 tonnes per year of Waste Wood Fuel (WWF), Solid Recovered Fuel (SRF), biomass, Municipal Solid Waste (MSW), Commercial and Industrial (C&I) waste was permitted.

- 7.5 The planning permissions granted by TTGDC in 2012 replicated all conditions in the direction attaching to the original Section 36 (other than those pre-commencement conditions that had by then been discharged).
- 7.6 An application under section 36C of the Electricity Act 1989 to further extend the expiry date in the Section 36 consent by 1 year to 26 August 2015 was granted by DECC on 20 August 2014. This amendment was sought as a backstop in the event that planned work to implement the original consent was delayed. The amended S36 consent includes additional standard conditions relating to biomass sustainability and Council powers to make changes to conditions.
- 7.7 Planning permission (13/01179/FUL) was granted by Thurrock Council for an amended Waste Wood Storage and Processing facility in April 2014.
- 7.8 A non-material amendment decision (16/00991/CONDC) was issued by Thurrock Council in July 2016 authorising a number of minor “as-built” amendments to the layout and design of the Phase 1 waste wood generating station.
- 7.9 The underground electrical cable connection to the grid and any permits required were the undertaken by UK Power Networks, the local distribution network operator.
- 7.10 A decision to change the initial concept (30 MWe waste wood biomass plant and a 30 MWe waste to energy plant) to a 40 MWe waste wood biomass and a 20 MWe waste to energy facility was made in 2013, based on financial assessment of the project.
- 7.11 Commencement of the development took place in August 2014 which implemented the planning consent and permissions. Details of the work carried out (dated photographs and descriptions) were supplied to Thurrock Council for their records on 22 August 2014.
- 7.12 Submissions were made to Thurrock Council to discharge pre-commencement planning conditions to allow commencement of the development in August 2014. A summary of Planning Consents/Permissions/Discharges is provided in Appendix 6.
- 7.13 Other than Condition 10 (Site Layout, Design and Fire Prevention), the pre-commencement planning conditions for the development (Phase 1 and Phase 2) have been discharged. Details relating to the design and layout will be submitted for approval in advance of work commencing on Phase 2 of the development.
- 7.14 Under a Section 106 Planning Obligation, Tilbury Green Power provided a Unilateral Undertaking to Thurrock Council in 2009 (amended 2011 and 2014). The Undertaking describes specific undertakings relating to,
- Travel Plan and Accident Monitoring
 - Routing Plan
 - The Tilbury Liaison Committee
 - Corporate Social Responsibility
 - Local Labour
- 7.15 Thurrock Council approval of submissions for each of the commitments in the Planning Obligation was secured prior to commencement of development in 2014.

8. Environmental Assessment

- 8.1 As already stated, the original application for S36 consent was supported by an Environmental Statement prepared in 2008. The Application includes an update to this in the form of a Supplementary Environmental Information Report in accordance with the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017. The report takes account of comments made from consultation with BEIS and Thurrock Council.
- 8.2 The Supplementary Environmental Information Report describes the assessment of likely significant effects of the development on the environment and analyses how these differ from those described in the Environmental Statement in 2008. The report also considers appropriate mitigation with the aim of reducing or avoiding significant effects.
- 8.3 Following consultation with BEIS, Thurrock Council and statutory consultees, the potentially significant environmental impacts that could arise from the proposed changes to the development are summarised below,

Table 8.1 Potentially Significant Environmental Impacts

Environmental aspect	Significant change likely – detailed assessment required	Significant change unlikely
Air Quality	✓	
Visual	✓	
Transport	✓	
Noise & Vibration	✓	
Ecology		✓
Landscape		✓
Water Quality		✓
Geology, Hydrology, Land Contamination, Flood Risk		✓
Cultural Heritage		✓
Socioeconomics		✓

- 8.4 An assessment of environmental impacts is provided in the Supplementary Environmental Information Report included with the application. The proposed changes are not predicted to result in materially significant environmental impacts compared to the consented development.

9. Proposed Conditions

- 9.1 The Relevant S36 Consent (2014) was subject to 4 conditions. When granting the Relevant Consent in 2014, the Secretary of State directed that deemed planning permission be granted subject to 75 conditions. In order to update these, TGP proposes to make changes in the S36 consent and the deemed planning permission.
- 9.2 The proposed changes are shown as track changes in the marked-up S36 consent and deemed permission in Appendix 3 in this Statement. An Explanatory Memorandum is provided which explains the reasons for the proposed changes. The reasons for amending the S36 consent are set out above in section 4.

10. Relevant Consents and Need for Variations

10.1 Paragraph 20 of the Guidance notes that,

“you should seek advice on what variations to non-section 36 consents may be required in respect of the development you are proposing and ensure that the authority to whom you have applied for a section 36 variation is kept informed of your discussions with those responsible for the non-section 36 consent.

For example, it is likely that DECC would wish to know that the Environment Agency saw no reason to believe that it would not make necessary variations to the relevant environmental permit before granting a variation to the section 36 consent for the plant to which the permit related.”

10.2 Other consents and permits relating to the relevant S36 consent are detailed in section 3. TGP will seek to vary the Environmental Permit to take account of the proposed changes well in advance of Phase 2 coming into operation. Consultation was undertaken with the Environment Agency at the pre-application stage. Its response was to highlight a need to make an application to vary the current Environmental Permit to incorporate the proposed changes.

10.3 Arising from discussions with the Environment Agency in 2018, an Environmental Permit for flood risk activities will be required prior to construction of the proposed access bridge over Botney Channel. It is proposed to submit an application to the Environment Agency during 2019.

11. Consultation

11.1 TGP is committed to an open and transparent approach with local and statutory stakeholders throughout all stages of the application process for the development at Port of Tilbury. Consultation afforded TGP the opportunity to provide information about the proposed amendments to the previously consented development.

11.2 TGP undertook consultation with statutory agencies in June 2018 on its proposed application to amend the S36 consent for the development. A letter was issued to inform statutory consultees of the changes proposed and to request comments on the changes described.

11.3 No substantive concerns about the development were raised by the statutory consultees contacted by TGP, with the exception of Port of London Authority who wished that some deliveries of waste should be via the river Thames.

11.4 TGP arranged a public exhibition to take place at Thurrock Adult Community College, Richmond Road, Grays on 20 November 2018 which sought to explain the proposed amendments to the existing planning consent and to identify issues of concern to local businesses and residents. Although attendance at the event was low, some useful feedback was obtained. Feedback was also provided by means of a feedback email address.

11.5 A report on consultation with statutory agencies and the public is included in Appendix 5.

12. Conclusion

- 12.1 Consent is sought for a variation of the Relevant S36 Consent (2014) and amendment to the associated deemed planning permission to incorporate changes in the scale and design of the Development.
- 12.2 A Supporting Statement is provided in Section 4 describing why it is proposed that the relevant section 36 consent should be varied. The proposed development will contribute significantly towards national objectives for waste management and energy recovery from waste materials.
- 12.3 The location for the proposed development is indicated in a map included in Appendix 1. A consultation report is provided in Appendix 5 to the Supporting Statement which describes the views expressed by statutory agencies and persons consulted by TGP about the proposed changes to the development.
- 12.4 The proposed changes to the relevant S36 consent are shown as track changes in the marked-up S36 consent document in Appendix 3.
- 12.5 Potential changes in environmental impacts due to the proposed amendments in the development are assessed in a Supplementary Environmental Information Report included as a separate document in the application. This concludes that there are no significant additional environmental impacts arising from the proposed changes. Mitigation measures are proposed where considered appropriate and necessary.
- 12.6 Section 6 sets out a planning and waste policy assessment of the Development and concludes that the Development is supportive of these policies.
- 12.7 TGP requests that the proposed variation of the relevant S36 consent be granted in the form set out in of the varied Consent in Appendix 3.

Appendix 1 Section 36 Consent Red Line Boundary Plan (original and proposed)

Appendix 2 Relevant Section 36 Consent, 2014 and Deemed Planning Permission

**Appendix 3 Proposed amendments to Section 36 Consent and to Deemed Planning Permission
Explanatory Memorandum**

**Appendix 4 Planning Permissions issued by Thurrock Council
Existing Environmental Permit for the operation of Phase 1 and Phase 2
Existing Flood Defence Consent**

Appendix 5 Report on Consultation with Statutory Agencies and the Public

Appendix 6 Status of Existing Planning Permissions and Discharge Submissions