

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING AND DEVELOPMENT CONTROL COMMITTEE**

DATE: **7TH SEPTEMBER 2016**

REPORT BY: **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

SUBJECT: **VARIATION OF CONDITION NO. 4 ATTACHED TO PLANNING PERMISSION REF: 053393 TO ALLOW INCREASE OF THE DURATION OF EXISTING PERMISSION AT PORT OF MOSTYN, COAST ROAD, MOSTYN.**

APPLICATION NUMBER: **055805**

APPLICANT: **AETERNIS ENERGY LIMITED**

SITE: **PORT OF MOSTYN, COAST ROAD, MOSTYN.**

APPLICATION VALID DATE: **29/07/2016**

LOCAL MEMBERS: **MOSTYN: COUNCILLOR DAVID RONEY.**

TOWN/COMMUNITY COUNCIL: **MOSTYN COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **REQUESTED BY LOCAL MEMBER.**

SITE VISIT: **NO**

1.00 SUMMARY

- 1.01 On 4th August, 2015 planning permission 053393 was granted for the installation and operation of a mobile advanced thermal treatment plant (ATT) and associated operations in existing buildings comprising a 1MW pyrolysis unit and associated gas engine. Condition 4 of this permission requires the development to cease 5 years from commencement. This Section 73 planning application is to amend the condition to require that the development shall cease 15 years from commencement. The fundamental reason for this application is that the government has altered the funding and subsidy schemes applicable to a range of renewable energy schemes, and the private investment funding sources who will finance the development will

require a return and repayment on the investment over a longer time period than the currently consented 5 year period.

- 1.02 In May, 2016 Planning Application 055363 was submitted to attempt to amend Condition 4 to 15 years. A resolution was made at Planning Committee for a refusal, however, that application was withdrawn prior to final determination due to concerns raised during the planning committee presentation. To address these concerns this application has been submitted with a covering letter and a document that contains additional information to provide comments and clarifications following the planning committee meeting on 22nd June, 2016.
- 1.03 This application is a request for an extension in time to the original application that was given consent on 4th August, 2015. This original application that was approved was for a small scale commercial demonstration facility utilising commercially available equipment that has been fully tested and complies with all necessary operational regulations. The purpose of this development is to install commercially available equipment on a small scale to demonstrate it to funders, prior to investment in larger plants in other parts of the country. The reason for this request to a time extension is to prevent the funder from making a loss on the capital cost of the plant due to recent and significantly changed economic factors.
- 1.04 In response to comments made at the planning committee on 22nd June, 2016 the applicant confirms that the plant is not experimental, unproven, or for the testing of its component parts. It is for demonstrating a commercially working plant on a small scale to potential funders. The emissions from the development are known, monitored and within legal limits. The application for the 5 years originally was not in order to test any part of the plant or equipment. The reason for the 5 years was because subsidies available at the time allowed for the capital expenditure cost to be recovered within that period. The subsidy regime has since changed requiring an extension to the time to reach payback. Extending beyond 5 years allows the funder to recover the cost of capital.
- 1.05 Since the original application the plant has received an environmental permit. This demonstrates that there is no danger to human health or the environment. The equipment will be fully compliant with emissions regulations and the plant will be continually monitored to ensure ongoing compliance.
- 1.06 Mostyn Docks is already designated an Energy Park, servicing the offshore wind farms and is one of the premier UK ports involved in the Renewable Energy sector. The energy unit is small and produces renewable energy. It is not an incineration process as with many large plants but is classed as ATT (Advanced Thermal Treatment). The energy unit uses non-hazardous commercial and industrial feedstock or biomass and not municipal black bag wastes. Heat is

intended to be used on site and electricity is to be delivered commercially to the grid. The development to be housed in existing buildings which are currently unused. The lease entered into by the Company will require the site to be left in the same condition as it originally existed or better.

- 1.07 The original application was approved at a time when the 5 year time limit was not a significant factor. If the development is considered acceptable for 5 years then it is logical that it is acceptable for 10 or 15 years given that the operation of the facility is the same. The facility is on an operational industrial complex and the impact on the adjacent community and surrounding environment will be minimal as the development is strictly controlled by an environmental permit that has recently been issued by Flintshire County Council. The reception office and welfare units that were approved in the first application are mobile and modular (portacabins) and external to a permanent existing brick and steel clad building which will house the small energy unit. They are not brick or block construction and so are naturally 'temporary' in nature and will be leased to the applicant annually.

2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION, SUBJECT TO THE FOLLOWING:-

- 2.01
1. Commencement.
 2. Notification of commencement.
 3. In accordance with stated plans and particulars.
 4. Cessation 15 years from commencement.
 5. Removal of plant and machinery.
 6. Copy of permission and permitted plans to be kept at the site.
 7. Limit on fuel/waste storage capacity.
 8. Limit on annual fuel/waste throughput.
 9. Environmental Management Scheme including noise limits, storage of liquids and materials, dust and lighting.

3.00 CONSULTATIONS

**3.01 Local Member for Mostyn:
Councillor David Roney:**

The Planning Committee specifically requested details of why this application requires 15 years and not 5 years. The details submitted with this application appear to differ in the fact that the applicant has criticized Councillor David Roney and the way in which Councillor David Roney described the application that was withdrawn. Members of the Committee want to know why the applicant now needs 15 years and not 5 years.

In response to the application that was withdrawn Councillor David Roney stated that he would like this application to be determined by the Planning Committee due to such a major increase in length of time. Objects to changing the period of duration from five to fifteen

years. Advised that the applicants must provide an explanation of why they were previously wrong about how long it would take to break even and make a profit. If they were wrong about this, can they prove they are correct in averring they will employ between seven and ten local people - some twelve months since approval was given on the basis of their proposed "facts" they still do not have definitive numbers. They list "Temporary Staff Welfare Unit" and "Temporary Reception and Office". Five years could be regarded as temporary - fifteen years is a generation.

Under the three criteria which are noted as not contravened, the first (and arguably most germane to Planning Committee decision) - IS A DEPARTURE FROM THE DEVELOPMENT PLAN is flagged as "NO". However the Development plan states that any waste disposal management must not import waste from outside of Flintshire, and the applicants admit that they do not know where the waste will be sourced but that most if not all of it will probably not come from Flintshire.

Mostyn Community Council:

Object to this planning application. Requested answers to the questions that Mostyn Community Council asked in response to the application that was withdrawn.

In response to the application that was withdrawn Mostyn Community Council stated that they would like this application to be determined by the Planning Committee due to such a major increase in length of time. Objects to changing the period of duration from five to fifteen years. Advised that the applicants must provide an explanation of why they were previously wrong about how long it would take to break even and make a profit. If they were wrong about this, can they prove they are correct to aver they will employ between seven and ten local people - some twelve months since approval was given on the basis of their proposed "facts" they still do not have definitive numbers. They list "Temporary Staff Welfare Unit" and "Temporary Reception and Office". Five years could be regarded as temporary - fifteen years is a generation.

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Head of Public Protection:

No adverse comments to make regarding this proposal to extend the duration of the existing permission.

Natural Resources Wales

No comments to make on the proposed development.

4.00 PUBLICITY

- 4.01 Press Notice, Site Notice,
Publicity: Press Notice and Site Notice. No representations have been received to date.

5.00 SITE HISTORY

- 5.01 The area of the Port that the project site is situated has been previously used as ironworks until the 1960's. Since then a number of warehouses have been constructed. The Stena Line ferry service operated at the Port between 2001 and 2003 which accommodated up to 100,000 Heavy Goods Vehicles movements per annum. The Port of Mostyn is one of the oldest Ports in the country, and has a history of handling a wide range of cargoes from steel to coal to fertilisers. However, today, the Port of Mostyn is acknowledged for being one of the main centres for the assembly and installation of offshore wind turbines. The Port of Mostyn is designated as an Energy Park. As the majority of the business is now dedicated to the offshore renewable energy sector, the existing warehouses provide a perfect hub for a new sector of renewable energy to be added to the port. On 4th August, 2015 Planning Application 053393 was granted for Installation and operation of a mobile advanced thermal treatment plant (ATT) and associated operations in existing buildings comprising a 1MW pyrolysis unit and associated gas engine.

6.00 PLANNING POLICIES

- 6.01 Flintshire Unitary Development Plan

Local –Flintshire Unitary Development Plan (2011)

Policy STR1 - New Development
Policy STR3 - Employment
Policy STR10 - Resources
Policy GEN1 - General Requirements for Development
Policy D4 - Outdoor Lighting
Policy AC13 - Access and Traffic Impact
Policy EM1 - General Employment Land Allocations
Policy EM3 - Development Zones and Principle
Employment Areas
Policy EM5 - Expansion of Existing Concerns
Policy EM7 - Bad Neighbour Industry
Policy EWP1 - Sustainable Energy Generation
Policy EWP5 - Other Forms of Renewable Energy

Policy EWP6 - Areas of Search for New Waste
Management Facilities
Policy EWP7 - Managing Waste Sustainably.
Policy EWP8 - Control of Waste Development and
Operations
Policy EWP12 - Pollution
Policy EWP13 - Nuisance
Policy EWP16 - Water Resources
Policy EWP17 - Flood Risk

Government Guidance

Planning Policy and Guidance

Planning Policy Wales (2014)
Technical Advice Note 5 – Nature Conservation and Planning (2009)
Technical Advice Note 8 – Renewable Energy (2005)
Technical Advice Note 11 – Noise (1997)
Technical Advice Note 12 – Design (2009)
Technical Advice Note 15 – Development and Flood Risk (2004)
Technical Advice Note 18 – Transport (2007)
Technical Advice Note 21 – Waste (2014)
Technical Advice Note 22 – Sustainable Buildings (2010)
Technical Advice Note 23 – Economic Development (2014)
The Waste Framework Directive

Waste Strategy Policy and Guidance

Towards Zero Waste: The overarching Waste Strategy Document for
Wales, June 2010
Collections, Infrastructure and Markets Sector Plan, 2012
Construction and Demolition Sector Plan, 2012
The Waste (England and Wales) Regulations 2011

National Energy Policy

The Energy Act 2013
UK Renewable Energy Strategy (2009)
UK Low Carbon Transition Plan (2009)
Climate Change Act (2008)
Energy Wales: A Low Carbon Transition (2012)

The proposal **would** comply with the above policies.

7.00 PLANNING APPRAISAL

7.01 Summary

On 4th August, 2015 Planning Application 053393 was granted for Installation and operation of a mobile advanced thermal treatment plant (ATT) and associated operations in existing buildings comprising a 1MW pyrolysis unit and associated gas engine. Condition 4 of this planning application requires that the development shall cease 5 years from commencement. This planning application is to amend the

condition to require that the development shall cease 15 years from commencement. The fundamental reason for this application is that the funding sources will require a return and repayment on investment over a number of years so the years as stated is not sufficient.

Condition 4 currently reads:

The development hereby permitted shall cease 5 years from commencement.

REASON: The planning application was for a temporary facility. To ensure that the site is not left in a derelict state. In the interests of public safety and the amenity of the area. To maximise the potential for the future development of the site. To comply with Policies STR1, GEN1 and EWP8 of the Flintshire Unitary Development Plan.

It is proposed that the following wording is substituted:

The development hereby permitted shall cease 15 years from commencement.

REASON: The planning application was for a temporary facility. To ensure that the site is not left in a derelict state. In the interests of public safety and the amenity of the area. To maximise the potential for the future development of the site. To comply with Policies STR1, GEN1 and EWP8 of the Flintshire Unitary Development Plan.

7.02 **Site Location**

The existing energy centre is located in immediately outside of an existing warehouse situated on the far north west side of the Port of Mostyn, and adjacent to Gibbs Steel Fabricators Ltd located immediately to the south west. The majority of the port complex is located to the south east, with Warwick Chemicals some 500 metres distant. The site is separated from the residential areas to the south east by the port access road, the main railway line, the A541 and a block of woodland. The site is in excess of 500 metres from the main residential areas of Mostyn to the south east and the nearest businesses and residences located along the coast road are 150 metres away. The site boundary is within 25m of the nearest water course and the sea defence which defines the boundary to the Port. The sea defence is programmed to be upgraded in 2016 by The Port of Mostyn.

7.03 **Description of the Development**

The consented development is a pyrolysis plant that produces bio-oil, bio-gas and char, a gas cleaning unit and a gas powered engine electricity generator set. It is predicted that the energy centre will use 16 tons per day of refuse derived fuel and generate up to 1 MWh of electricity. The development includes associated temporary staff units and car parking. It is noted that a similar plant operated by Refgas

Ltd in Sandycroft has been working since 2009 in an industrial estate which is close to residential housing without complaint.

7.04 **Description of the Process**

The approved development is a 1 MW pyrolysis plant which is capable of converting a range of biomass and waste recovered fuels into a synthetic gas which is then fed into a conventional combustion engine driven electricity generator set. The fuel is processed using pyrolysis which causes gasification in the absence of Oxygen, ie, there is no combustion, and the plan is not an incinerator. The purpose of proposed development is to generate electricity.

7.05 The system is modular, and self- contained, and is intended to be located within an existing unused warehouse. The material for the processing unit is to be derived from commercial industrial sources and is non-hazardous, clean and odourless. It consists of shredded Refuse Derived Fuel (RDF) or Solid Recovered Fuel (SRF) and is principally paper, cardboard, wood, textiles and very light plastics (bags). This material is widely available as a fuel and is provided by specialist biomass fuel companies. It is anticipated 10,000 tonnes per annum being required for the consented development which is less than one 30 tonne delivery per day if used on a 7 day week basis.

7.06 The technology to be used will be from an established provider who manufactures pyrolysis/gasification plant. These small scale modular plant are not experimental, and have been in use across the UK at a number of locations. The development will be used as a demonstrator site to assist prospective investors for similar but larger development at other locations.

7.07 **Policy Context**

The site is at the Port of Mostyn which is allocated as a Development Zone by the Flintshire County Council Unitary Development Plan (Policy EM3). There are a number of similar warehouses on The Port of Mostyn land in B2 and B8 employment uses, and the application site is on previously developed land and within an existing warehouse.

7.08 This development is a hybrid in that it is primarily a power generation plant and is also intended to be fuelled by waste derived materials, but could also use virgin or other manufactured fuels. Policies for renewable energy and waste development are both applicable. Policy EWP1 *Sustainable Energy Generation* and EWP5 *Other Forms of Renewable Energy Generation* apply, as the development is considered to be a renewable energy project. The fuel can be derived from a range of sources, and can be originated from waste or virgin materials or a combination of both. Whichever is the case, the fuel is manufactured and provided by a 3rd party commercial enterprise who operate in the wider fuel market and guarantee to meet the necessary calorific value and composition, and are sold as a fuel, and not as a waste. Whilst there is an element of waste

management, Policy EWP7 Managing Waste Sustainably requires that waste is managed close to the source of generation, however, the development is not intended as a primary facility for the management of waste, and will only accept solid and refuse derived waste which has already been subject to waste processing to create a secondary product specifically for use as a fuel. The development is therefore considered to be compliant with this policy.

7.09 **Environmental Assessment**

The proposed development does not require an Environmental Impact Assessment as it falls below the relevant thresholds, and the impacts are controllable and localised. The project site lies outside of ecologically sensitive areas but the larger lease site is adjacent to the Dee Estuary European designated Special Areas of Conservation and Special Protection Areas, and the Site of Special Scientific Interest. Given that the development is to be containerised and located within an existing building, including the storage of the fuel, there is very little risk to the environmental designations.

7.10 **Need and Sustainability**

The investment at Port of Mostyn will be circa £5 m and will provide employment to approximately 7 – 10 local people who will be trained in 24 hour operation of the plant. There is an increasing need for a network of small scale electricity generation plants to be developed capable of feeding into the local electricity distribution network as the UK generation capacity de-carbonises. This is to make up shortfalls in generating capacity as coal fired capacity is taken out of service. The site has an existing electricity grid connection point, and has the potential for multi modal transportation of fuels, though in practice this is likely to remain a road haulage given the low tonnages required.

7.11 **Flood Risk**

This application does not introduce any new flood risk considerations from the 053393 planning permission, which was considered to be acceptable.

7.12 **Pollution Control**

This application does not introduce any new pollution control considerations from the 053393 planning permission, which were considered to be acceptable.

7.13 **Access**

The existing energy centre is accessible from the A541 Coast Road via the traffic light controlled junction. There is also rail access. This application does not introduce any new highways considerations from the 053393 planning permission, which were considered to be acceptable.

7.14 **Amenity and Nuisances**

This application does not introduce any new amenity and nuisances considerations from the 053393 planning permission which were considered to be acceptable.

8.00 **CONCLUSION**

8.01 The development is in accordance with the objectives and policies set out in the Flintshire Unitary Development Plan. This Section 73 proposal does not introduce any new impacts or effects which have not previously been considered. The only consideration is extending the existing duration of the temporary permission from 5 years to 15 years. It is recommended therefore that permission be granted for the development.

8.02 **Other Considerations**

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

The Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

The Council has had due regard to its public sector equality duty under the Equality Act 2010.

The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents
National & Local Planning Policy
Responses to Consultation
Responses to Publicity

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