

TOWN AND COUNTRY PLANNING ACT 1990
NORTH YORKSHIRE COUNTY COUNCIL

**NOTICE OF DECISION OF PLANNING AUTHORITY ON APPLICATION FOR
PERMISSION TO CARRY OUT DEVELOPMENT**

TO:

Keady Generation Limited
Keady Power Station
Trentside
Keady
Scunthorpe
DN17 3EF

Mr Robert Booth
6 New Bridge Street
London
EC4V 6AB

The above-named Council being the Planning Authority for the purposes of your application dated 26 August 2021 in respect of proposed development for the purposes of Planning application for engineering works including earthworks required to infill former ash disposal lagoons, construction of a new spillway, associated track laying and biodiversity enhancements on land within the Brotherton Ings ash disposal site, land at Brotherton Ings Ash Disposal Site, High Street, near Knottingley, North Yorkshire, WF11 8SQ, have considered your said application and have granted permission for the proposed development subject to the following conditions:-

(please see attached sheets for conditions)

Date: 15 February 2022

Corporate Director, Business and Environmental Services

NOTE:-

No consent, permission or approval hereby given absolves the applicant from the necessity of obtaining the approval, under the Building Regulations, of the District Council in whose area the site of the proposed development is situated; or of obtaining approval under any other byelaws, local acts, orders, regulations and statutory provisions in force; and no part of the proposed development should be commenced until such further approval has been obtained.

FOR RIGHTS OF APPEAL SEE OVERLEAF

Dated: 15 February 2022

RIGHTS OF APPEAL

- (1) If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development, or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.

If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.

Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at <https://acp.planninginspectorate.gov.uk>

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

- (2) If permission to develop land is refused or granted subject to conditions, whether by the local planning authority or by the Secretary of State for Communities and Local Government, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he/she may serve on the Council of the county district in which the land is situated, a purchase notice requiring that Council to purchase his/her interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Conditions:

Time limits

1. The development to which this permission relates must be implemented no later than the expiration of three years from the date of this Decision Notice.

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

2. Written notification of the commencement of each of the following stages of the development shall be provided in writing to the County Planning Authority within seven (7) days of the commencement of each stage:

- a) Stripping of vegetation;
- b) Draining of the settling lagoons;
- c) Re-grading of the lagoon embankments;
- d) Completion of the regrading works;
- e) Vegetation establishment.

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Reason: *To enable the County Planning Authority to monitor the development to ensure compliance with this permission.*

3. The permission hereby granted authorises the commencement of the earthworks at the settling lagoons for a period of 6 calendar months following the notification to the County Planning Authority under condition 2 (c). Thereafter the development hereby permitted shall be discontinued and all plant and machinery shall be removed from the site and the site shall be restored, managed and maintained in accordance with the Biodiversity Enhancement, Management and Monitoring Plan (BEMP) for the purposes of condition 13.

Reason: *To ensure the restoration of the land with the minimum of delay in the interests of the amenities of the area.*

Approved documents and plans

4. The development hereby permitted shall be carried out in accordance with the application details dated 25 August 2021 and the following approved documents and drawings and all schemes and programmes approved in accordance with this permission:

<u>Ref.</u>	<u>Date</u>	<u>Title</u>
70074481-WSP-ELS-DR-LE-00 REV P01	16-06-2021	Red Line Boundary
GEN/1874A(REV)	03-01-2020	Existing Surface
GEN/1874B(REV)	03-01-2020	Proposed Restoration Contours
GEN/1874C(REV)	03-01-2020	Location of Section Lines
GEN/1874D(REV)	03-01-2020	Selected Cross Sections
GEN/1874E(REV)	03-01-2020	Long Cross Sections
Fig 1	Undated	Site Location
Fig 2	Undated	Planning Application – Tree removal works
Fig 10	Undated	Restoration proposals
SE410-011 REV B	22-03-2018	Lagoon Drainage Works Channel Plan and long section(1/3)
SE410-012 REV B	22-03-2018	Lagoon Drainage Works Channel Plan and long section(2/3)
SE410-013 REV B	22-03-2018	Lagoon Drainage Works Channel Plan and long section(3/3)
SE410-014 REV B	22-03-2018	Lagoon Drainage Works Channel Sections and Details
Report No W5501/ACP	August 2021	Aftercare Plan - SOCOTEC
Report No W5501/AQA/001	August 2021	Air Quality Assessment - SOCOTEC
	August 2021	Ecological Impact Assessment – RDF Ecology
	October 2021	Flood Risk Assessment –SMF
	March 2018	Flood Study – Stillwater Associates
W5501/1 Issue 1	August 2021	Framework Construction Environmental Management Plan - SOCOTEC
W5501/LQ	August 2021	Land Quality - SOCOTEC
W5501/NMP	August 2021	Noise Management Plan - SOCOTEC
W5501/TS/001	August 2021	Transport Statement - SOCOTEC
70074481_LVIA	August 2021	Landscape and Visual Assessment - WSP

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Reason: To ensure that the development is carried out in accordance with the application details.

5. A copy of the planning permission, together with all the approved documents, and any agreed variations together with all the approved plans shall be kept available at the site office at all times.

Reason: To ensure all employees are aware of the conditions of the planning permission

Hours of working

6. No work relating to the development hereby approved, including the delivery and removal of plant and machinery, works of construction or site preparation prior to works of construction or demolition shall take place except between the following hours:

08:00 hours and 18:00 hours Mondays to Fridays

08:00 hours to 13:00 hours on Saturdays

No work relating to the development hereby approved, including the delivery and removal of plant and machinery, works of construction or site preparation prior to works of construction shall take place at any time on Sundays, Bank, or National Holidays. This condition shall not apply to emergency works within the site.

Reason: To protect the amenities of the area.

Highways

7. Visibility Splays at existing access onto High Street. Existing visibility splays are to be maintained ensuring visibility of at least 45 metres measured along both channel lines of the major road from a point measured 2.4 metres down the centre line of the access road. In measuring the splays, the eye height must be 1.05 metres and the object height must be 0.6 metres. The visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: In the interests of highway safety.

Construction Environmental Management Plan

8. Prior to the commencement of development, a Construction Environmental Management Plan shall be submitted to the County Planning Authority for approval in writing. The Construction Environmental Management Plan (CEMP) shall include details of the proposed mitigation and management measures for the following as set out in the Framework Construction Environmental Management Plan dated August 2021 reference W5501/1, Issue 1, submitted in support of the planning application:

- Traffic and access;
- Air Quality;
- Noise and Vibration;
- Ecology;

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- Water Resources and Flood Risk;
- Ground Conditions;
- Landscape and Visual;

The approved CEMP shall thereafter be implemented in full.

Reason: This is a pre-commencement condition necessary to ensure that the proposal does not have an unacceptable impact on the highway, air quality, and amenities of the area from noise and vibration, water resources, ground conditions or on the landscape.

Lighting

9. Prior to the commencement of vegetation stripping details of any external lighting at the site, including lighting for site security purposes, shall be submitted to and approved in writing by the County Planning Authority. All lighting shall be installed thereafter as approved and shall be maintained in accordance with the approved details and shall not be used beyond half an hour outside of the operational hours set out in condition 6.

Reason: This is a pre-commencement condition necessary to ensure that the proposal does not have an adverse effect adversely impact on the amenities of residential properties on High Street.

Flood risk and drainage

10. Prior to the commencement of development, a scheme and programme for the maintenance and management of the drainage infrastructure shall be submitted to the County Planning Authority for approval in writing. The scheme and programme shall be prepared in accordance with the following submitted designs;
 - Brotherton Ings Ash Disposal Site Flood Study, Stillwater Associates, March 2018;
 - The Lagoon Drainage Works Channel Sections and Details, SE410-014, 23/03/2018.

The flowrate from the site shall be restricted to a maximum flowrate of 1.73m³ /s. A 30% allowance shall be included for climate change. Storage shall be provided to accommodate the minimum 1 in 100 year plus climate change plus urban creep critical storm event. The approved scheme and programme shall be implemented in full and thereafter maintained for the operational life of the site.

Reason: This is a pre-commencement condition necessary to ensure that the development is built to the submitted drainage design; to prevent the increased risk of flooding; to ensure the provision of adequate and sustainable means of drainage.

11. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than to the existing local public sewerage, for surface water have been completed in accordance with details to be first submitted to and approved in writing by the County Planning Authority.

Reason: To ensure that the site is properly drained and in order to prevent overloading, surface water is not discharged to the public sewer network.

Landscape

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12. Prior to the commencement of the stripping of vegetation, a landscaping scheme and programme shall be submitted to the County Planning Authority for approval in writing. The scheme and programme shall include:
- a) Details for the soil spreading, tipping and grading to be carried out in order to achieve the habitats referenced on the approved Fig. 10 'Restoration Proposals'.
 - b) Details of protection measures and management of the restored areas.
 - c) Details for the management of any landscaping areas including maintenance of regraded areas to ensure desired habitats and species mix set out in the approved Fig. 10 'Restoration Proposals'.

The approved scheme and programme shall be implemented in the first available planting season following the certification in writing by the County Planning Authority of the completion of the construction works and shall thereafter be maintained for a period of five years including weed control, replacement of dead and dying trees and shrubs with species of similar size and species and maintenance of protection measures.

Reason: This is a pre-commencement condition necessary to ensure a good standard of restoration in the interests of the amenities of the area

Biodiversity Enhancement and Aftercare

13. Within 3 months of the commencement of development in accordance with condition 2 (a), a 30-year adaptive Biodiversity Enhancement, Management and Monitoring Plan (BEMP) for the site detailing how the proposed habitat creation and management measures will be implemented shall be submitted to the County Planning Authority for approval in writing. The BEMP shall detail the following:
- a) Aims and Objectives of the habitat creation and management proposals
 - b) Objectives relating to the timescales of expected progression towards meeting target habitat conditions.
 - c) Habitat establishment measures to be undertaken
 - d) Habitat management of the restored areas including an annual work programme (to cover an initial 5-year period)
 - e) A commitment to adaptive management that allows a review of the management plan to be undertaken and changes implemented if agreed in writing by the County Planning Authority and if monitoring shows that progress towards target conditions is not progressing as set out in the agreed objectives.
 - f) That monitoring reports shall be provided to the County Planning Authority on the 1st of November of each year of monitoring (Years 1, 2, 3, 5, 10, 15, 20, 25 and 30) immediately following habitat creation. In the first five years, this will include an annual inspection to be undertaken in conjunction with representatives of the County Planning Authority to assess the aftercare works that are required the following year.
 - g) The review data to be provided in an agreed standard format to allow for collation into a district-wide biodiversity network database.

The approved BEMP shall be implemented in the first available planting season following the commencement of the construction works and shall thereafter be maintained in accordance with the management prescriptions set out in the BEMP.

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***Reason:** To ensure a good standard of restoration and to ensure the habitats proposed in the application EclA are maintained in the years following the completion of the development to secure the proper aftercare of the site.*

Informatives:

1. The applicant should note that prior to the proposed works on the lagoons being undertaken an application to the Environment Agency may need to be made for a variation of the existing Environmental Permit. At the earliest opportunity, the operator of the site should contact the Environment Agency's National Permitting Service, on telephone 03708 506 506, to request enhanced pre-application discussions in relation to the proposed works to be undertaken and whether a variation of the permit is necessary to ensure that the landfill closure requirements are appropriately formalised. Should a variation to the permit be required, this will need to be in place prior to the proposed works commencing. The Operator will be required to submit a revised Closure and After Care Plan, which is acceptable to the Environment Agency.
2. The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:
 - on or within 8 metres of a main river (16 metres if tidal)
 - on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal) • on or within 16 metres of a sea defence
 - involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
 - in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permissionFor further guidance, visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>, or contact the Environment Agencies National Customer Contact Centre on 03708 506 506. The applicant should not assume that a permit would automatically be forthcoming once planning permission has been granted.
3. The Canal Trust advise in their capacity as Navigation Authority of the River Aire that should the proposals require any works in proximity to the River Aire, then compliance with the Trust's 'Code of Practice for Works affecting the Canal & River Trust' may be required. The Trust's Works Engineering TEAM can be contacted on 0303 040 4040 or by email at enquiries.tpwnorth@canalrivertrust.org.uk

Statement of Compliance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015

In determining this planning application, the County Planning Authority has worked with the applicant adopting a positive and proactive manner. The County Council offers the opportunity for pre-application discussion on applications and the applicant, in this case, chose to take up this service. Proposals are assessed against the National Planning Policy Framework, Replacement Local Plan policies and Supplementary Planning Documents, which have been subject to proactive publicity and consultation prior to their adoption. During the course of the determination of this application, the applicant has been informed of the existence of all consultation responses and representations made in a timely manner, which provided the applicant/agent with the opportunity to respond to any matters raised. The County Planning Authority has sought solutions to problems arising by liaising with consultees, considering other representations received and liaising with the applicant as necessary. Where appropriate, changes to the proposal were sought when the statutory determination timescale allowed.

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