

Dated 24 July

2020

THE COUNCIL OF THE BOROUGH OF REDCAR AND CLEVELAND

and

SOUTH TEES DEVELOPMENTS LIMITED

and

THE COUNCIL OF THE BOROUGH OF HARTLEPOOL

Section 106 Agreement and Planning Obligation relating to an energy recovery plant at  
Grangetown Prairie South Bank

THIS DEED is made the 24 day of July 2020

Between:-

1. THE COUNCIL OF THE BOROUGH OF REDCAR AND CLEVELAND of Redcar and Cleveland House Kirkleatham Street Redcar TS10 1RT ("the Council")
2. SOUTH TEES DEVELOPMENTS LIMITED (company registration number 11747311) whose registered office address is St Ann's Wharf 112 Quayside Newcastle upon Tyne ("the Owners")
3. THE COUNCIL OF THE BOROUGH OF HARTLEPOOL of Civic Centre Victoria Road Hartlepool TS24 8AY ("the Applicant")

#### RECITALS

- A. Words and clauses in this Deed are defined in clause 1.1
- B. For the purposes of the 1990 Act the Council is the Local Planning Authority for the area within which the Site is situated
- C. The Owners are the freehold owners of the Site which is registered at HM Land Registry under title number CE175032.
- D. The Applicant has applied to the Council for planning permission for the Development under reference R/2019/0767/OOM
- E. On 15 April 2020 the Council resolved to grant Planning Permission subject, among other things to the completion of this Agreement.
- F. The Applicant and the Owners have agreed (subject to formal agreement) that the Owner shall grant a lease to the Applicant of the Site for the purposes of implementing the Planning Permission whereupon the Applicant shall relieve the Owners of all obligations contained in this agreement.
- G. The parties have agreed to enter into this Agreement with the intention that the obligations contained in this Agreement may be enforced by the Council against the Owners and their respective successors in title.

It is hereby agreed

#### 1 Definitions

- 1.1 In this agreement the following words and expression have the following meanings:  
"1990 Act" means the Town and Country Planning Act 1990.

"Commencement of Development" means the date on which any material operation (as defined in section 56 (4) of the 1990 Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, ground investigations, archaeological investigations and works associated with any remains, archaeological investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements, temporary access construction works and "Commence Development" shall be construed accordingly.

“Contributions” means such contributions due from the Owners to the Council under this Deed to be indexed linked.

“Development” means the construction of an Energy Recovery Facility and associated development.

“Director of Growth, Enterprise and Environment” means the Director of Growth, Enterprise and Environment of the Council for the time being or such other officer of the Council nominated by them for the purposes of this Deed.

“Employment Return” means a statement identifying the number of Local People and Local Businesses employed by the Owners or selected contractors in the construction of the Development.

“Grangetown Employment Hub contribution” means the payment of £250,000 ( two hundred and fifty thousand pounds ) to be used towards the provision of employment and training at the Grangetown Employment Hub or such equivalent centre as may be agreed in writing between the Council and the Owners.

“Index Linked” means such increase to any sum or sums payable to the Council under this Deed on an annual basis or pro rata calculated from the date hereof to the date of payment based upon the specified Index last published immediately prior to the date hereof or any publication substituted for it.

“Interest” means interest at 4 per cent above the base lending rate of the National Westminster Bank PLC from time to time.

“Local Businesses” means businesses (including sole traders) whose principal established place of business is within the Borough of Redcar and Cleveland or which have regional operating centres within the Borough.

“Local People” means persons whose principal or only home is within the Borough of Redcar and Cleveland.

“Plan” means the plan attached to this Deed at Schedule 4.

“Planning Application” means the application for planning permission for the carrying out of development received by the Council on 20.12.2019 carrying the reference R/2019/0767/OOM.

“Planning Permission” means the planning permission that may be granted in pursuance of the Planning Application in the form set out in Schedule 3.

“Retail Price Index” means the Retail Price Index published by the Office for National Statistics or any official publication substituted for it.

“Site” means the freehold property known as land and buildings on the west side of Tees Dock Road Middlesbrough registered at HM Land Registry under Title number CE175032 and shown for identification edged red on the Plan.

“Vacancies” means the employment vacancies to be described by reference to a detailed job description available either with the Owners, a contractor or sub-contractor relating to the construction of the Development.



## 2. Construction of this Deed

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against all of them jointly and against each individually unless there is an express provision otherwise.
- 2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.6 References to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Council the successors to their statutory functions.

## 3. Legal basis

- 3.1 This Deed is made pursuant to section 106 of the 1990 Act, section 111 of the Local Government Act 1972 and section 2 of the Local Government Act 2000.
- 3.2 The covenants restrictions and requirements imposed upon the Owners under this Deed create planning obligations pursuant to Section 106 of the Planning Act and are enforceable by the Council as the local planning authority against the Owners and to the extent that the obligations are not planning obligations within the Act they are entered into pursuant to the powers contained in section 111 of the Local Government Act 1972 and section 2 of the Local Government Act 2000 and all other enabling powers.
- 4. Conditionality  
This Deed is conditional upon the grant and issue of the Planning Permission
- 5. The Council's Covenants  
The Council's Covenants with the Owners as set out in Schedule 1
- 6. The Owners Covenants  
The Owners Covenants with the Council as set out in Schedule 2
- 7. Miscellaneous
  - 7.1 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999
  - 7.2 This Deed shall be registerable as a Local Land Charge



- 7.3 Where the agreement, approval, consent or expression of satisfaction is required by the Owners from the Council under the terms of this Deed such agreement approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such notices to be served under this Deed shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered address (as appropriate) of the relevant party.
- 7.4 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall upon written request of the Owners forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.
- 7.5 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or unenforceability of the remaining provisions of this Deed.
- 7.6 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.
- 7.7 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site or that part of the Site in relation to which the breach occurs but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 7.8 Nothing in the Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.

## 8 Waiver

No waiver (whether expressed or implied) by the Council of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

## 9 Change in Ownership

The Owners agree with the Council to give immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company ) or usual address if not.

THE COMMON SEAL OF THE  
COUNCIL OF THE BOROUGH OF  
REDCAR AND CLEVELAND was hereunto

SEAL

Affixed in the presence of :

Signature .....

Name (block  
capitals) .....

**Authorised Signatory**

Signature .....

Name (block  
capitals) .....

**Authorised Signatory**

EXECUTED as a DEED by  
SOUTH TEES DEVELOPMENTS LIMITED

Acting by:

Signature .....

Name (block  
capitals) .....

**Director**

Signature .....

Name (block  
capitals) .....

**Director**

THE COMMON SEAL OF THE  
COUNCIL OF THE BOROUGH OF  
HARTLEPOOL was hereunto

SEAL

Affixed in the presence of :\_

Signature .....

Name (block  
capitals) .....

**Authorised Signatory**

Signature .....

Name (block  
capitals) .....

**Authorised Signatory**



## SCHEDULE 1

### Council's Covenants

The Council hereby covenants with the Owner:-

1. To place the Contributions in an Interest bearing account or in separate accounts as the Council shall in its discretion decide.
2. Not to apply the Contributions for any purpose otherwise than for the purposes set out in this Deed
3. That in the event that the Contributions or any part or parts thereof are not expended within five (5) years of the date of payment then the sum or sums not expended plus Interest accrued will be repaid to the Owners or its nominee.

## SCHEDULE 2 OWNERS COVENANTS

### 1. LOCAL LABOUR AGREEMENT

- 1.1 The Owners will use reasonable endeavours to employ or secure the employment of Local People and Local Businesses in the construction of the Development.
- 1.2 The Owners shall liaise with the Council's Routes to Employment Service and take account of its reasonable requirements so as to issue a written statement to all prospective contractors and sub-contractors at the stage of tendering in relation to any works associated with the Development:
  - (a) Indicating the commitment of the Owners to ensuring that Local People and Local Businesses are given reasonable opportunities to benefit directly from employment opportunities arising from the construction of the Development
  - (b) Indicating that the Owners are committed to ensuring equal opportunities of employment and training for Local People and Local Businesses
  - (c) Stating that any company invited by the Owners its contractors or sub-contractors to tender for work in relation to the Construction of the Development will be given clear and written details of the expectation that they will endeavour to employ Local People and use Local Businesses such statement also to include details of the Council's Routes to Employment Service.
- 1.3 To submit to the Council within three (3) months of the completion of the Development an Employment Return in relation to the entire period of the Construction of the Development.

### 2. GRANGETOWN EMPLOYMENT HUB PAYMENT

The Owners shall pay £250,000.00 (two hundred and fifty thousand pounds) to the Council within twenty eight days of financial close of the contract to commence construction of the Development.

SCHEDULE 3  
DRAFT PLANNING PERMISSION



**TOWN AND COUNTRY PLANNING ACT 1990**  
**DRAFT NOTICE –**  
**OUTLINE PLANNING PERMISSION**

**Agent Name and Address**

JBA CONSULTING  
MISS DELLA ADAMS  
FLOOR 4  
MAYBROOK HOUSE  
31/35 GRAINGER STREET  
NEWCASTLE UPON TYNE  
NE1 5JE

**Applicant Name and Address**

DIRECTOR OF REGENERATION &  
NEIGHBOURHOODS,  
HARTLEPOOL BOROUGH COUNCIL  
MS DENISE MCGUCKIN  
CIVIC CENTRE  
VICTORIA RD  
HARTLEPOOL  
TS24 8AY

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**Reference No: R/2019/0767/OOM**

The Council as the Local Planning Authority **HEREBY GRANT OUTLINE PLANNING PERMISSION** for the development proposed by you in your application valid on: 20 December 2019

**Details:**        **OUTLINE APPLICATION FOR THE CONSTRUCTION OF AN ENERGY RECOVERY FACILITY (ERF) AND ASSOCIATED DEVELOPMENT**

**Location:**     **GRANGETOWN PRAIRIE LAND EAST OF JOHN BOYLE ROAD AND WEST OF TEES DOCK ROAD GRANGETOWN**

Subject to the following condition(s):

1.     **Details of the access, appearance, landscaping, layout and scale (hereinafter called the reserved matters) shall be submitted to and approved by the Local Planning Authority before any development takes place and the development shall be carried out as approved. Application for the approval of the Reserved Matters shall be made within 3 years of the date of this permission.**



**REASON:** Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 (as amended)

2. The development hereby permitted shall be begun not later than the expiration of two years from the final approval of the Reserved Matters or, in the case of approval on different dates, the final approval of the last of the reserved matters to be approved, whichever is later.

**REASON:** Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 (as amended)

3. Upon the approval of the Reserved Matters, and prior to the implementation of the approved scheme, the development shall be the subject of an updated Habitats Regulations Assessment and additional supplementary air quality assessment. The HRA and additional air quality assessment shall confirm, based on the approved detail of the development and its processes, the conclusions of the Environmental Impact Assessment and Air Quality Assessment that the development will not give rise to significant adverse impacts on designated sites. Where significant impacts not previously identified are assessed to arise from the approved detailed scheme, the additional information shall set out those mitigation measures to be employed to minimise or eliminate such impacts.

**REASON:** Whilst the Local Planning Authority and Natural England are satisfied based on the information submitted with the outline application, that the development is unlikely to have significant impacts on local designated sites, this conclusion partly based on modelling of data and an outline planning application with limited information as to the final technical design of the development, the Local Planning Authority considers it appropriate to adopt the precautionary principle to confirm those conclusions once the detail of the scheme and its operational process are confirmed.

4. No development shall take place until a Construction Environmental Management Plan (CEMP) for the development has been submitted and approved in writing by the Local Planning Authority. The approved CEMP shall be adhered to throughout the construction phase and shall include of all those mitigation measures set out in Chapter 15 of Volume 1 of the submitted Environmental Impact Assessment December 2019 and Chapter 7 (Mitigation) of the Air Quality Assessment Rev 02 6 March 2020, unless alternative approaches to biodiversity and archaeology mitigation are submitted to and approved by the Local Planning Authority, in accordance with condition nos. 7 and 13, and thereafter carried out in the required timescales. In addition, the CEMP shall set out;
  - i. The method to be used to control the emission of dust, noise and vibration from construction works, including any details of any mitigation measures required;

- ii. Measures to control the deposit of mud and debris on adjoining public highways
- iii. Site fencing and security
- iv. Temporary contractors' buildings, plant, storage of materials, lighting and parking for site operatives
- v. The use of temporary generators
- vi. The arrangement or turning of vehicles within the site so that they may enter and leave in forward gear
- vii. A risk assessment of construction activities with potentially damaging effects on local ecological receptors including any measures to protect those receptors during construction
- viii. Roles and responsibilities for the implementation of the CEMP requirements and measures.

**REASON:** To mitigate the impact of the development in accordance with the strategy set out in the Environmental Assessment.

**REASON FOR PRE-COMMENCEMENT:** A pre-commencement condition is required as the environmental impact of the development will occur on the commencement of development.

- 5. Development shall not commence until a scheme to deal with any site contamination has been submitted and approved in writing by the Local Planning Authority. The approved scheme shall include an investigation and assessment to identify the extent of contamination and the measures to be taken to avoid risk to the site occupants when the site is developed. Development shall not proceed until the measures approved in the scheme have been implemented.

**REASON:** To ensure that the development takes account of any contamination present on the site in the interests of the safety and amenity of occupiers and visitors to the site.

**REASON FOR PRE-COMMENCEMENT:** A pre-commencement condition is required because the risk from contamination will be present on the commencement of works.

- 6. If, during the course of development and contamination not previously considered is identified, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

**REASON:** To ensure that the development takes account of any contamination present on the site in the interests of the safety and amenity of occupiers and visitors to the site. A pre commencement



condition is required because the risk form contamination will be present on the commencement of works.

7. No development shall take place until a written scheme of investigation (WSI) for archaeological work has been submitted to and approved in writing by the local planning authority. The WSI shall as a minimum make provision for:
- (i) Before remediation or development commences, archaeological evaluation of borehole and trenching data
  - (ii) Before remediation or development commences, initial archaeological survey (drawn and photographed) of the whole application site, with particular emphasis on the remains the subject of preservation in situ
  - (iii) Where practical and before remediation or construction works takes place on site an archaeological strip, map and sample of remains of high significance suggested by the borehole/trenching data, or observed during the initial survey
  - (iv) An archaeological watching brief of all ground disturbance during the remediation works and during construction ground works in areas identified as archaeologically sensitive
  - (v) Protection during development, followed by consolidation and preservation of high value remains left in situ
  - (vi) a general programme of works and monitoring arrangements, including reasonable notification to the Local Planning Authority of commencement of works
  - (vii) details of staff involvement in carrying out the work (including specialists), and their qualifications and responsibilities
  - (viii) the timetable for completing post-excavation assessment.
- (a) Provision for the analysis, archiving and publication of the results of the archaeological surveys and excavations shall be secured to the satisfaction of the local planning authority by the developer before the development is brought into use.
- (b) The development shall not without the prior written approval of the local planning authority be carried out otherwise than in accordance with the approved WSI, and the consolidation and preservation of on-site remains as provided for in the WSI (or as otherwise agreed at any time in writing by the local planning authority) shall be secured by the developer and/or landowner on an on-going basis.

**REASON:** The site contains remains of significant archaeological interest, some of which merit preservation in situ.



**REASON FOR PRE-COMMENCEMENT:** A pre-commencement condition is required to ensure that no remains are disturbed or otherwise compromised by site excavation of other ground works.

8. Development shall not commence until a detailed scheme for the disposal of foul water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and the Lead Local Flood Authority. Thereafter the development shall take place in accordance with the approved details.

**REASON:** To prevent the increased risk of flooding from any sources in accordance with the NPPF.

**REASON FOR PRE-COMMENCEMENT:** A pre-commencement condition is required to ensure that excavations and groundworks do not compromise the installation of the approved foul water drainage infrastructure.

9. Prior to the commencement of the development, or in such extended time as may be agreed in writing with the Local Planning Authority, details shall be submitted and approved of the surface water drainage scheme and the development shall be completed in accordance with the approved scheme.

The design of the drainage scheme shall include;

- (i) Restriction of surface water greenfield run-off rates (QBAR value) with sufficient storage within the system to accommodate a 1 in 30-year storm.
- (ii) The method used for calculation of the existing greenfield run-off rate shall be the ICP SUDS method. The design shall also ensure that storm water resulting from a 1 in 100-year event, plus climate change surcharging the system, can be stored on site with minimal risk to persons or property and without overflowing into drains, local highways or watercourses.
- (iii) Full Micro Drainage design files (mdx files) including a catchment plan
- (iv) The flow path of flood waters for the site as a result on a 1 in 100-year event plus climate change

**REASON:** To ensure the development is supported by a suitably designed surface water disposal infrastructure scheme and to minimise the risk flooding in the locality.

**REASON FOR PRE-COMMENCEMENT:** A pre-commencement condition is required to ensure that excavations and groundworks do not compromise the installation of the approved surface water drainage infrastructure.

10. Prior to the commencement of the development, or in such extended time that may be agreed with the Local Planning Authority, details of a Surface

**Water Drainage Management Plan shall be submitted and approved by the Local Planning Authority. The Management Plan shall include;**

- (i) The timetable and phasing for construction of the drainage system**
- (ii) Details of any control structure(s)**
- (iii) Details of surface water storage structures**
- (iv) Measures to control silt levels entering the system and out falling into any watercourse during the construction process. The development shall, in all respects, be carried out in accordance with the approved Management Plan.**

**REASON:** To ensure the development is supported by an appropriately designed surface water disposal infrastructure scheme and to minimise the risk of increased flooding and contamination of the system during the construction process.

**REASON FOR PRE-COMMENCEMENT:** A pre-commencement condition is required to ensure that excavations and groundworks do not compromise the installation of the approved surface water drainage infrastructure.

- 11. The development shall not be occupied until a Management & Maintenance Plan for the surface water drainage scheme has been submitted to and approved by the Local Planning Authority; the plan shall include details of the following;**

- (i) A plan clearly identifying the sections of surface water system that are to be adopted**
- (ii) Arrangements for the short- and long-term maintenance of the SuDS elements of the surface water system**

**REASON:** To ensure that the surface water drainage infrastructure is maintained to minimise the risk flooding in the locality.

- 12. Prior to the commencement of the development final details shall be agreed of the finished floor levels of the development and the development completed in accordance with the approved details.**

**REASON:** To confirm the finished floor level of the development in the light of any necessary groundworks to meet the requirement of other planning conditions and confirm the overall height of the final scheme in the context of the information provided in the Environmental Statement.

**REASON FOR PRE-COMMENCEMENT:** A pre-commencement condition is required so that the final agreed levels for the site are not compromised by the start of groundworks.

- 13. No development, other than site preparation works, shall take place unless details have been submitted and approved of a biodiversity improvement**



plan for the site has been submitted to and approved by the Local Planning Authority. The Plan shall set out those measures identified in the Environmental Statement or alternative measures to be submitted to and agreed with the Local Planning Authority for on or off-site mitigation and net gain provision that will be implemented to offset predicted impacts on the biodiversity value of the site and those measures to be implemented to improve the biodiversity value of the area.

**REASON:** To mitigate the impact of the development on the biodiversity interest on the site and to secure net improvement to that value in accordance with national and local planning policy.

14. No development, other than site preparation works, and construction of the works compound shall take place unless details have been submitted and approved of a landscaping scheme for the site. The scheme shall include size, type and species of plant and the proposed layout and surfacing of all landscaped areas. A programme of implementation and subsequent maintenance shall also be submitted, and the development completed in accordance with the approved details.

**REASON:** To ensure the satisfactory implementation of the approved scheme in the interests of the visual amenity of the locality and the appearance of the development.

15. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

**REASON:** To ensure the satisfactory implementation of the approved scheme in the interests of the visual amenities of the locality.

16. A detailed scheme for vehicular access and egress to the site during construction and once operational shall be submitted and approved by the Local Planning Authority. This scheme shall demonstrate how the majority of vehicles to / from the development shall access/egress via Eston Road. Thereafter the scheme shall be implemented prior to construction of the development in accordance with the approved details.

**REASON:** On order to confirm the access arrangements to the site for construction and operational traffic as set out in the Environmental Statement



## **1. Informative Note: Network Rail**

### **Asset Protection**

We would advise that developer that if for any reason construction work is required to take place within 10m of the railway boundary, they should consult with our Asset Protection Team (details below) to ensure that there will be no impact on operational railway safety. This will include use of crane, plant and machinery and any excavation or construction work within that distance.

### **Drainage**

All surface and foul water arising from the proposed works must be collected and diverted away from Network Rail property. All soakaways must be located so as to discharge away from the railway infrastructure. The following points need to be addressed:

1. There should be no increase to average or peak flows of surface water run off leading towards Network Rail assets, including earthworks, bridges and culverts. There should be no ponding of water near the railway boundary caused by the development.
2. All surface water run-off and sewage effluent should be handled in accordance with Local Council and Water Company regulations.

### **Fail Safe Use of Crane and Plant**

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

### **Excavations/Earthworks**

All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken. Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or vibration arising from the normal use and/or maintenance of the operational railway. No right of support is given or can be claimed from Network Rails infrastructure or railway land.

## Cranes

With a development of a certain height that may/will require use of a crane, the developer must bear in mind the following. Crane usage adjacent to railway infrastructure is subject to stipulations on size, capacity etc. which needs to be agreed by the Asset Protection Project Manager prior to implementation.

## Access to Railway

All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development. In particular access to adjacent railway structures should remain clear and unrestricted at all times to ensure that our ongoing programme of inspection and maintenance is not hindered.

## **2. Informative Note - Environment Agency**

### Advice to Applicant

The proposed incinerator will require a permit under Schedule 5.1 Part A (1) of the Environmental Permitting Regulations (England and Wales) 2016. We will consider the following areas of potential harm when assessing the permit:

Management - including accident management, energy efficiency, efficient use of raw materials and avoidance, recovery and disposal of wastes,

Operations - including incoming waste and raw material management, waste charging, furnace types and requirements, validation of combustion conditions, combined incineration, flue gas recirculation, dump stacks and bypasses, cooling systems and boiler design,

Emissions - to surface water, sewer and air, odour, noise and vibration, monitoring and reporting of emissions

Receiving pre-application advice will help the Applicant submit a good quality application that can be processed (determined) smoothly and quickly. If the Applicant wishes to request either basic (free), or enhanced (chargeable) pre-application advice, they should complete the pre-application advice form.

### Movement of Waste Offsite – Advice to Applicant

The application notes that there will be some waste that cannot be used after the energy recovery process.

The Environmental Protection (Duty of Care) Regulations 1991 for dealing with waste materials are applicable to any off-site movements of wastes.

The code of practice applies to you if you produce, carry, keep, dispose of, treat, import or have control of waste in England and Wales.

The law required anyone dealing with waste to keep it safe and make sure it's dealt with responsibly and only given to businesses authorised to take it. The code of practice can be found [here](#).



In order to meet the objectives of the waste hierarchy and obligations under the duty of care, it is important that waste is properly classified. Some waste (e.g. wood and wood-based products) may with be hazardous or non-hazardous waste dependent upon whether or not they have had preservative treatments.

Proper classification of the waste both ensures compliance and enables the correct onward handling and treatment to be applied. In the case of treated wood, it may require high temperature incineration in a directive compliant facility. More information on this can be found here: <https://www.gov.uk/how-to-classify-different-types-of-waste>.

If you require any local advice or guidance please contact your local Environment Agency office.

Best Available Techniques (BAT) – Advice to Applicant Whilst the Environment Agency has no objections to this application based on the information available, we would like to draw the Applicant's attention to the following informative comments:

The latest Waste Incineration Best Available Techniques Reference (BREF) document and inclusive BAT Conclusions (BATC's) will be published before the date of permit issue for the proposed development. Therefore, the permit for the proposed development will be written with the latest BATC's and revised emission limits, which the development will need to comply with from the date of permit issue.

The Environment Agency require all new proposed incineration facilities to be built Combined Heat and Power (CHP)-ready by imposing specific permit conditions. Environmental permit applications for these types of plants will therefore need to include a Best Available Technique (BAT) assessment for CHP-readiness. Permits for these plants are also likely to contain conditions that state opportunities to realise CHP should be reviewed from time to time. These opportunities may be created by building new heat loads near the plant or be due to changes in policy and financial incentives that make it more economically viable for the plant to be CHP.

Water Abstraction – Advice to Applicant

The submitted Environment Statement notes that "There are no proposed water abstractions for the site" therefore no licence should be required. However, if the Applicant does plan on temporary abstractions or dewatering of over 20,000 litres per day to enable the works a licence may be required. If they plan to abstract over 20,000 litres of water per day from the attenuation pond for any intervening purpose, they may require an abstraction or transfer licence.

Water Framework Directive (WFD) and Biodiversity Net Gain – Advice to Applicant

We agree with the conclusions of the WFD Assessment Report regarding the potential impacts and proposed mitigation of the proposed development relevant



to adjacent waterbodies. The WFD should be updated upon submission of the reserved matters application having regard to the details of the proposal.

The proposed development site is located in an area of non-reportable waterbody under the Water Framework Directive (WFD). As such there is no specific monitoring that identifies the status of the water environment in this location or specific objectives that must be achieved. The general objectives of the WFD to prevent deterioration, protect and improve the ecological condition of waters does still apply to non-reportable waterbodies. The site was formerly coastal grazing marsh associated with the Tees estuary. The development site has been heavily physically modified such that this original habitat has been lost in entirety and restoration is considered infeasible.

We encourage and support the proposal to provide on-site mitigation to improve the ecological condition. There are currently areas of open standing water within brownfield open mosaic habitat. We support the conclusions of the Ecology report dated 18 November 2019 which states:

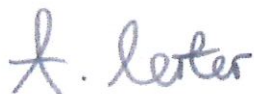
Mitigation measure to include the safeguarding and enhancement of 5.73 Ha of Brownfield habitat, which is adequate to mitigate the loss of habitat, harm to priority species and to deliver a 10% biodiversity net

We also support the notion that areas of open water habitat are preserved and incorporated into such mitigation.

### **3. Informative Note - Remediation**

Any scheme of works to remediate and prepare the site in order to implement the scheme hereby approved is likely to require planning permission by way of a separate planning permission for the associated engineering operations.

**Statement of Co-operative Working:** The Local Planning Authority considers that the application as originally submitted is a satisfactory scheme and therefore no negotiations have been necessary.



Signed:

**Andrew Carter**  
**Assistant Director Economic Growth**

Date:     xxxxxxx

## **YOUR ATTENTION IS DRAWN TO INFORMATIVE NOTES BELOW:**

### **INFORMATIVE NOTE:**

The conditions above should be read carefully and it is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

Please note that in order to discharge any conditions, a fee is payable in respect to this.

Failure on the part of the developer to fully meet the terms of any conditions which require the submission of details prior to the commencement of development may result in the development being considered unlawful and may render you liable to formal enforcement action.

Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal action in the form of a Breach of Condition notice.

### **APPROVAL INFORMATIVE:**

This permission refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, byelaw, order or regulation.

Consent under the current Building Regulations may also be required for the development before work can commence.

### **County of Cleveland Act, 1987 – Facilities for Fire Fighting**

Section 5 of this Act requires that, where building regulation plans for the erection or extension of a building are deposited with the Council, the Council must reject the plans if it is not satisfied:

- That there will be adequate means of access for the Fire Brigade
- That the building or extension will not make means of access for the Fire Brigade to any neighbouring building inadequate
- If the building could be used for commercial or industrial purposes, that there is provision for installation of fire hydrants or other provision for an adequate supply of water for fire fighting purposes

### **Appeals to the Secretary of State**

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, then you must do so within six months of the date of this notice (8 weeks in the case of any advertisement) 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://www.gov.uk/planning-inspectorate>. The Secretary of State can allow a longer period for giving notice of an appeal, but he 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 him that the local planning authority could not have granted planning permission for the proposed development or could not have it granted without the conditions it imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order. In practice, the Planning Inspectorate does not refuse to consider appeals solely because the local planning authority based its decision on a direction given by him.

### **Purchase Notices**

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In the circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of part VI of the Town and Country Planning Act 1990.

### **Compensation**

In certain circumstances compensation may be claimed from the local planning authority if permission is refused or granted subject to conditions by the Planning Inspectorate on appeal or on reference of the application to them. These circumstances are set out in Sections 114 and related provisions of the Town and Country Planning Act 1990.

### **The Highways Act 1980 (Sections 131, 133 and 171)**

Prior to commencing work on any development which entails interference with an adopted Highway a developer/contractor is required to obtain the consent of the Engineering (Highways Team). Such consent will not unreasonably be withheld but will be conditional upon obtaining a "Road Opening And Reinstatement" Consent and signing an "Undertaking To Pay For Works".

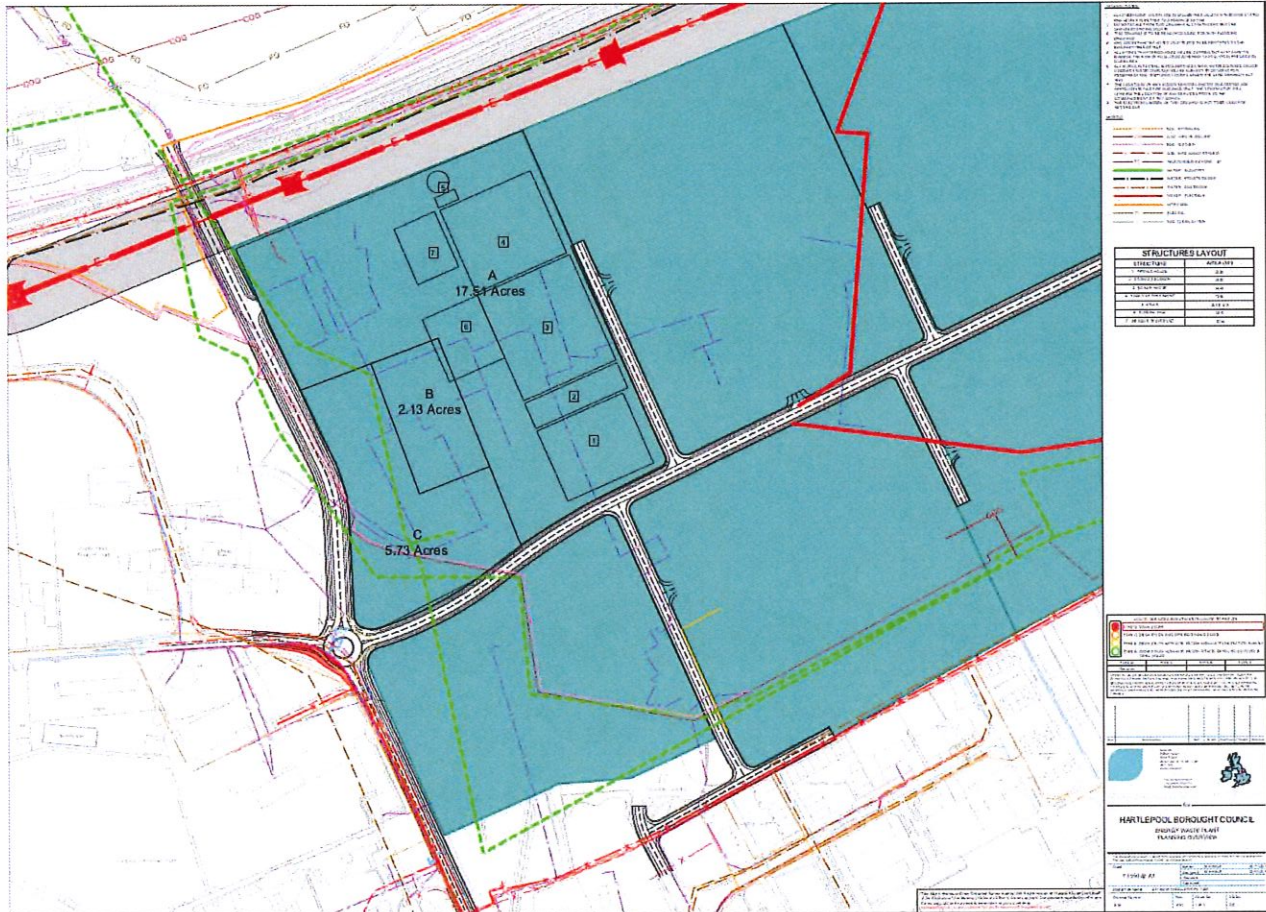
### **The Building Act 1984 (Section 80)**

Prior to commencing work on any development which entails the demolition of part, or all of a building a developer or contractor is required to obtain the consent of the Engineering Team. Consent will be conditional on the Local Authority receiving the appropriate forms. Forms can be obtained direct from the Engineering Team.



# SCHEDULE 4

## PLAN



THE COMMON SEAL OF THE  
COUNCIL OF THE BOROUGH OF  
REDCAR AND CLEVELAND was hereunto

Affixed in the presence of :

Signature

Name (block  
capitals)

Signature

Name (block  
capitals)



OFF 12/11/28

EXECUTED as a DEED by  
SOUTH TEES DEVELOPMENTS LIMITED

Acting by:

Signature .....

Name (block  
capitals) .....

**Director**

Signature .....

Name (block  
capitals) .....

**Director**

THE COMMON SEAL OF THE  
COUNCIL OF THE BOROUGH OF  
REDCAR AND CLEVELAND was hereunto

SEAL

Affixed in the presence of :

Signature .....

Name (block  
capitals) .....

**Authorised Signatory**

Signature .....

Name (block  
capitals) .....

**Authorised Signatory**

EXECUTED as a DEED by  
SOUTH TEES DEVELOPMENTS LIMITED

Acting by:

Signature .....

Name (block  
capitals) .....

D

Signature .....

Name (block  
capitals) .....

D





THE COMMON SEAL OF THE  
COUNCIL OF THE BOROUGH OF  
HARTLEPOOL was hereunto

Affixed in the presence of

Signature ...

Name (block  
capitals) ...

Signature ...

Name (block  
capitals) ...

