

BY E-MAIL

PRIVATE AND CONFIDENTIAL

Secretary of State for Business, Energy &  
Industrial Strategy  
Energy Infrastructure Planning  
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15 April 2021

Dear Secretary of State,

**APPLICATION TO VARY CONSENT GRANTED UNDER SECTION 36 OF THE  
ELECTRICITY ACT 1989 - CORY RIVERSIDE RESOURCE RECOVERY FACILITY**

**1. INTRODUCTION**

1.1 We act for Cory Environmental Holdings Limited and Riverside Resource Recovery Limited ("**Cory**") and write in respect of Cory's application to vary the current section 36 consent for the Riverside Resource Recovery Facility ("**RRRF**") pursuant to section 36C of the Electricity Act 1989 (the "**1989 Act**").

1.2 This letter encloses the following documents that, together with this letter, comprise the variation application:

- (a) an EIA Report (which includes a carbon assessment);
- (b) a planning statement;
- (c) a Habitats Regulations Assessment;
- (d) the proposed wording of the variation to the 2015 s.36 Variation (the "**Variation of Section 36 Consent**") and the proposed wording of the variation to the 2017 Permission (the "**Section 90(2) Direction**"); and
- (e) a plan showing the RRRF (drawing no. D1.2 from the original application);
- (f) drawing no. D2.4A from the original application; and

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- (g) Sheet 2 of the Works Plans (dated May 2019, Revision 2) forming part of the Riverside Energy Park Order 2020.

## 2. BACKGROUND

- 2.1 Cory is one of the UK's leading resource management, recycling, and energy recovery companies. RRRF, located on the south bank of the River Thames in Belvedere in the London Borough of Bexley ("**LB Bexley**"), is one of the UK's largest energy from waste facilities and plays a vital role in providing London with a safe, secure, affordable and sustainable energy supply. RRRF is currently able to process a maximum of 785,000 tonnes of waste per annum and has a grid connection agreement permitting it to export to the grid up to 80.5MW of electricity. The RRRF site is shown on the plan enclosed with this letter (labelled D1.2).
- 2.2 Consent under section 36 of the 1989 Act was first granted for RRRF in June 2006 (the "**Original s.36 Consent**"). At the same time, the Secretary of State made a direction under section 90(2) of the Town and Country Planning Act 1990 granting deemed planning permission for RRRF (the "**Original Deemed Planning Permission**").
- 2.3 Currently, RRRF operates under a variation to the Original s.36 Consent which was granted in March 2015 (the "**2015 s.36 Variation**"<sup>1</sup>) and a planning permission issued by the LB Bexley in October 2017 (the "**2017 Permission**"<sup>2</sup>), which is a variation to a 2015 direction issued by the Secretary of State when he granted the 2015 s.36 Variation. Both of these permissions were varied by the Riverside Energy Park Order 2020 (the "**REP DCO**"), but *for the purposes of [the Order] only*<sup>3</sup>, and not more generally. For further information, a brief summary of the consenting history of RRRF is set out at Appendix 1.

## 3. APPLICATION

### Amending the power generation description of RRRF

- 3.1 Cory seeks to amend the power generation description of RRRF in the 2015 s.36 Variation which currently states that "*the development shall be of up to 72 MW capacity*". The amendment sought is to change this description so it reads, "*the development shall be of up to 80.5 MW capacity*". To secure this amendment, the proposed Variation of Section 36 Consent enclosed with this letter amends the 2015 s.36 Variation as follows:
- (a) at Paragraph 2, "*up to 72 MW capacity*" is replaced with "*up to 80.5 MW capacity*"; and
- (b) at Paragraph 3(1), a new part (iv) "*the Company's variation application of [x] 2021*" is included.
- 3.2 Cory seeks this amendment in order to align the consented capacity of RRRF with the amount of power that the facility is currently able to export to the grid. The installed steam turbine at RRRF can generate a maximum of 80.5MW of power and the grid connection is also for a maximum of 80.5MW, and therefore the current consented limit prevents RRRF from operating as efficiently as it is able to. No physical development is required to increase the export capacity of the RRRF; the RRRF can already export this amount, which its grid connection allows, but the 2015 s.36 Variation prevents.

<sup>1</sup> Ref: GDBC/003/00001C-06

<sup>2</sup> Ref: 16/02167/FUL

<sup>3</sup> Article 6(3) of the Riverside Energy Park Order 2020.



### **Tonnage capacity increase to 850,000 tpa**

- 3.3 In addition, Cory seeks to increase the consented tonnage capacity of RRRF from a maximum waste throughput of 785,000 tonnes per annum (“tpa”) to 850,000 tpa.
- 3.4 Under condition 4 of the 2017 Permission, the maximum amount of waste that RRRF can process is 785,000 tpa and, accordingly, this is the amount of waste that RRRF currently processes. Since the date of the 2017 Permission, further technological advances have enabled RRRF to operate more efficiently thereby enabling the potential for increased waste inputs to be made without the consequent requirement for physical development or for material process changes.
- 3.5 Cory therefore requests that the Secretary of State gives a direction under section 90(2) of the Town and Country Planning Act 1990 to vary the tonnage restriction in condition 4 of the 2017 Permission to read as follows:

*"The total tonnage of waste received at the site shall not exceed 850,000 tonnes in any calendar year."*

- 3.6 In addition, Cory requests that the Proposed Section 90(2) Direction includes, at paragraph 1, a new part (iv) stating *'the Company's variation application of [x] 2021.'*
- 3.7 These amendments are shown in the proposed Section 90(2) Direction enclosed with this letter.
- 3.8 No further variations to the 2017 Permission are sought in this application that relate to waste throughput and hence any additional waste delivered to the RRRF as a consequence of this proposed variation would accord with the terms of the conditions attached to the 2017 Permission. The proposed tonnage increase can be accommodated within existing limits on road transport movements and the existing restrictions relating to river-borne waste. It is important to note that this amendment is not as a direct consequence of the proposal to align the consented capacity of RRRF with the amount of power that the facility is currently able to export to the grid.

### **Amendments made in the Riverside Energy Park Order 2020 (REP DCO)**

- 3.9 The REP DCO was made by the Secretary of State in April 2020 and this authorises the development of Riverside Energy Park (“REP”), which, once constructed, will be situated adjacent to RRRF. Article 6(3) of the REP DCO provides that the 2015 s.36 Variation and the 2017 Permission “*are to be amended for the purposes of this Order only as set out in Schedule 13 (modifications to the section 36 consent and RRRF planning permission).*” The purpose of these amendments is to dovetail the two developments, given both RRRF and REP will utilise the jetty and part of the approved REP is to be constructed on land that is identified as an open storage area for ash containers relating to RRRF. Regarding the latter, we enclose with this application drawing number D2.4A, which identifies at item 32 the “ash container storage area”. We also enclose with this application Sheet 2 of the Works Plans (dated May 2019, Revision 2) forming part of the Riverside Energy Park Order 2020 and which clearly shows that REP (work number 1A) would be constructed on the same area as the “ash container storage area.”
- 3.10 On a strict interpretation of Article 6(3), the amendments provided for in Schedule 13 to the REP DCO have not been made in a general sense, rather they have only been authorised in the context of the REP DCO.
- 3.11 Accordingly, also included in this application is a request that the amendments made by the Secretary of State in the REP DCO to the 2015 s.36 Variation and the 2017 Permission are carried through into any new s.36 variation and deemed planning



permission that the Secretary of State may grant having considered this application. To secure this amendment, the proposed Variation of Section 36 Consent enclosed with this letter amends the 2015 s.36 Variation as follows:

- (a) delete “*associated open storage areas for ash container storage*” in paragraph 2(f) of the 2015 s.36 Variation.

3.12 Cory then requests that that the Secretary of State gives a direction under section 90(2) of the Town and Country Planning Act 1990 to amend the 2017 Permission as follows:

- (a) Delete the current condition 23 in the 2017 Permission which conditions how storage containers are to be stored on the storage area as shown on drawing D2.4A and substitute a new condition 23 as follows:

*“23. Bottom ash shall only be stored in the bunkers to the development hereby approved.”*

- (b) Add the words “*(except for the development authorised by the Riverside Energy Park Order 2020)*” to the end of condition 7 (which restricts the use of the Jetty to RRRF).

3.13 These amendments are shown in the proposed Section 90(2) Direction enclosed with this letter.

3.14 It is considered appropriate for the Secretary of State to incorporate these amendments into any new s.36 variation and deemed planning permission that the Secretary of State may grant. This is because the amendment to the 2015 s.36 Variation and to condition 23 of the 2017 Permission reflect how RRRF currently operates. Indeed, it is an environmental improvement on how RRRF can currently operate under the 2015 s.36 Variation and 2017 Permission, as the new condition 23 restricts the storage of bottom ash to underground bunkers only, and the REP DCO authorises REP to be constructed on what would have been the area for above ground ash storage. This is described in further detail in section 2.2.18 of the Planning Statement enclosed with this application. Failure to incorporate these amendments into any new s.36 variation and deemed planning permission would be to grant consents that are inconsistent with the current operations of RRRF and the extant planning position of the site.

3.15 In relation to the amendment to condition 7 of the 2017 Permission, as the REP DCO has been made by the Secretary of State on the basis of an environmental assessment that assessed the use of the jetty by both RRRF and REP, it is requested in this application that the same amendment be made in any new deemed planning permission given that would reflect the extant planning position of the site.

3.16 Given that they have already been authorised in the REP DCO, we do not consider that there is a reason why these amendments should not be made directly into any new s.36 variation and deemed planning permission that the Secretary of State may grant following consideration of this application.

#### 4. **REP DCO AMENDMENT APPLICATION**

4.1 If the Secretary of State grants consent for the new s.36 variation and deemed planning permission as set out in this application, some minor consequential amendments will need to be made to the REP DCO. We consider that this will need to be done by way of a non-material amendment application to the REP DCO.



4.2 The amendments are needed to ensure consistency between the REP DCO and RRRF in the event that the enclosed application is granted consent. It is Cory's intention to submit this non-material amendment application shortly and we will keep the Department updated as to when this application is to be expected.

## 5. EIA PROCESS AND STAKEHOLDER ENGAGEMENT

5.1 The programme for the preparation and submission of the application has been driven by the requirements of the Electricity Generating Stations (Variation of Consent) England and Wales Regulations 2013<sup>4</sup> and associated procedural guidance.

5.2 As part of the pre-application process, Cory engaged with the Department in November 2020 to discuss the proposals. In accordance with the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017 (the '**EIA Regulations**') Cory then submitted a request for a scoping opinion to the Secretary of State in December 2020, and received the scoping opinion in February 2021. This scoping opinion was then used to prepare the EIA Report that is enclosed as part of this application. As part of the scoping process, the Department undertook consultation with relevant stakeholders, and their views on the proposals have been taken into account in the preparation of the EIA Report.

5.3 Cory is grateful for your Department's engagement with the proposals to date and looks forward to receiving confirmation of whether the application is suitable for publication in due course. In addition, Cory looks forward to receiving notice under Regulation 23(1) of the EIA Regulations from the Department regarding whether any public authorities, other than those stakeholders consulted at the EIA scoping stage, are required to be sent a copy of the application documents.

Yours faithfully

### **Pinsent Masons LLP**

Enclosures: EIA Report;  
Planning Statement;  
Habitats Regulations Assessment;  
the proposed Variation of Section 36 Consent and the proposed Section 90(2) Direction;  
a plan showing the RRRF (drawing no. D1.2 from the original application);  
drawing no. D2.4A from the original application; and  
Sheet 2 of the Works Plans (dated May 2019, Revision 2) forming part of the Riverside Energy Park Order 2020.

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<sup>4</sup> S.I. 2013/1570





## APPENDIX 1

### SUMMARY OF CONSENTING HISTORY

The planning and consenting history for RRRF is as follows:

#### 15 June 2006

- Consent under section 36 Electricity Act 1989 (**the Original s.36 Consent**); and
- Direction under section 90(2) Town and Country Planning Act 1990 (**the Original Deemed Planning Permission**).

#### 11 January 2008

- Planning Permission under section 73 Town and Country Planning Act 1990 (**the 2008 Permission**) varying the conditions attached to the Original Deemed Planning Permission

#### 13 March 2015

- Variation under section 36C Electricity Act 1989 (**the 2015 Variation**) of the Original s.36 Consent; and
- Direction under section 90(2) Town and Country Planning Act 1990 (**the 2015 Deemed Permission**) replacing the Original Deemed Planning Permission.

#### 4 October 2017

- Planning Permission under section 73 Town and Country Planning Act 1990 (**the 2017 Permission**) varying the conditions attached to the 2015 Deemed Planning Permission.

#### 9 April 2020

- The 2015 Variation and the 2017 Permission are varied by the Riverside Energy Park Order 2020 '*for the purposes of this Order only*' and so the amendments are only authorised in the context of the Order and not more generally. The variations relate to the storage of bottom ash and use of the jetty.

Condition 4 of the Original Deemed Planning Permission limited RRRF's waste throughput to 670,000 tonnes per year. Condition 41 limited the amount of waste to be delivered by road to 85,000 tonnes per year – except in the case of a jetty outage.

The 2015 Deemed Planning Permission increased the maximum waste throughput to 785,000 tonnes.

The 2017 Permission added the following conditions to the 2015 Deemed Planning Permission:

- not more than 195,000 tonnes by road, and not more than 85,000 tonnes of waste from outside Greater London by road - except in case of jetty outage (condition 26).
- maximum of 90 two-way HGV movements to site per day – except in case of jetty outage or with agreement of LB Bexley (condition 28).