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  Peel Environmental Management UK Ltd	Bilsthorpe Energy Centre	
	APP/NR/2-Q	
	Plan showing the location of the former Sherwood Forest Special Landscape Area	
	Scale 1:75,000@A3	Date October 2015



Appeal Decision

Inquiry held on 27-30 September, 4-6, 11-14, 18-21, 25 and 27 October, and 4 November 2011

Site visit made on 28 October 2011

By John Woolcock BNatRes(Hons) MURP DipLaw MPIA MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 January 2012

Appeal Ref: APP/L3245/A/11/2146219

Battlefield Enterprise Park, Vanguard Way, Shrewsbury, Shropshire SY1 3TG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (hereinafter the 1990 Act) against a refusal to grant planning permission.
 - The appeal is made by Veolia ES Shropshire Limited (hereinafter abbreviated to VESS) against the decision of Shropshire Council (hereinafter the Council).
 - The application No.SC/MS2009/0125/SY, dated 20 January 2009, was refused by notice dated 22 September 2010.
 - The development proposed is an energy from waste facility for the combustion of residual municipal and similar wastes and the erection of ancillary buildings and plant and extension to the existing household recycling centre.
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Decision

1. I allow the appeal and grant planning permission for an energy from waste facility for the combustion of residual municipal and similar wastes and the erection of ancillary buildings and plant and extension to the existing household recycling centre, at Battlefield Enterprise Park, Vanguard Way, Shrewsbury, Shropshire SY1 3TG, subject to the conditions set out in Schedule One of this decision.

Preliminary matters

2. A list of abbreviations used below is included on the last two pages of this decision.
3. Shropshire County Council, as waste disposal authority, and VESS entered into a project agreement in 2007 concerning the design, construction, funding and operation of suitable waste management facilities and the delivery of services in accordance with the terms of a Private Finance Initiative (PFI) contract (hereinafter the Contract).¹ The Contract includes supplemental agreements made in 2008 and 2009, which altogether provide for an integrated waste collection and treatment service for Shropshire. VESS's proposals for an integrated waste management service include; a waste minimisation and education plan, developing services to increase recycling and composting, such as kerbside collection of plastic bottles, new integrated waste management facilities (IWMF) at Oswestry and Bridgnorth, with expansion of the IWMF at Craven Arms, an in-vessel composting (IVC) facility to handle 50,000 tonnes per annum (tpa) of green waste at Granville Telford, the appeal proposal for a

¹ CD 38.

proposed development. Nonetheless, routes likely to be used could be influenced by appropriate signage both on and off the appeal site. Given the nature of much of the local road network, I consider that it would be necessary and reasonable to require such signage, and that this is a matter that could be the subject of planning conditions. Subject to the imposition of appropriate conditions, I find no conflict with Policy CS7 concerning safe transport infrastructure.

Tourism

159. Tourism is very important to the local economy, accounting for some 6% of all jobs in Shropshire. It is clear from the CS what a significant contribution historic, built and natural environment assets make to the unique qualities of the area, and its attraction to tourists. However, the limited harm to the urban fringe landscape and minor harm to the setting of the battlefield that would result from the proposed EWF, would in my view, be inconsequential in terms of the tourism offer available in Shrewsbury. The EWF would at most marginally diminish the enjoyment tourists gained from visiting or passing through this part of Shrewsbury. It is highly unlikely that the EWF would have any effect on the number of tourists visiting the area, their length of stay, or their contribution to the local economy.

160. I have taken into account all the evidence about likely tourist impact, including references to an incinerator in Maidstone, which is sited in a quarry. The circumstances in that case are not comparable to those which apply in Shrewsbury, and the experience there cannot be used to reliably inform any conclusions about the likely impact on tourism from the appeal scheme. I do not share The Battlefield Trust's view that the proposal would blight the tourist potential of the battlefield and the town. Policy CS16 acknowledges the vital role tourism plays in the local economy, but there is no compelling evidence that the proposed development would significantly affect tourism.

Ecology

161. The limited wildlife interest on the appeal site derives mostly from the brook and its surrounds. The scheme proposes landscaping and a pond for Great Crested Newt (GCN) in this area. I am satisfied on the evidence submitted about local ecology that nature conservation interests on the site, including protected GCNs, could be adequately safeguarded by the imposition of conditions concerning how and when construction work was undertaken as part of a Construction Management Plan (ConstMP), along with the approval of details for a landscaping scheme.

162. Hencott Pool is a Site of Special Scientific Interest (SSSI) located some 1.7 km to the west of the appeal site. It is one of a number of SSSIs which are components of the Midland Meres and Mosses Phase 1 and 2 Ramsar sites, which support wetland habitats. There is evidence, confirmed by Natural England (NE), that the process contribution from the proposed EWF would not exceed 1% of the critical load for either acid or nitrogen deposition at the Ramsar sites.¹⁶³ NE has no objection to the proposal. I find that the proposed development would not be likely to have a significant effect on a European site, either alone or in combination with other plans or projects. A change from a semi-dry to a dry FGT system would not alter this finding. A requirement to undertake an appropriate assessment pursuant to the Conservation of Habitats and Species Regulations 2010 does not arise for the purposes of determining

¹⁶³ ID 35 and ID 59.

before the Inquiry. Such an approach would be consistent with WLP Policy 26, which advocates use of obligations to achieve sustainable waste management where this cannot be achieved by the imposition of planning conditions. In addition, it would accord with the guidance in Circular 11/95 *The Use of Conditions in Planning Permissions*, which advises that it may be possible to overcome a planning objection to a development proposal equally well by imposing a condition or by entering into an obligation, and that in these circumstances the former is to be preferred. The Circular does add that where conditions are imposed on a planning permission they should not be duplicated by a planning obligation. However, in determining the appeal the obligation already exists, and so this is not a choice that is open to me. Furthermore, if in the future the validity of the Planning Agreement were to be successfully challenged then there would be no duplication.

Planning balance

172. The Government's objectives for the planning system include the integration of four aims for sustainable development; these concern social progress, environmental protection, use of resources, and economic growth/employment.¹⁷⁰ Applying this guidance to the specific circumstances of the appeal before me involves a balancing exercise between the benefits of the proposed development and its disadvantages. Square brackets [] in this section refer to previous paragraphs of this decision.

173. I deal with the harm or disadvantages first. The likely harm to the character and appearance of the area from the proposed EWF would be significant [63]. This is a consideration of some substance in the overall balance. The scheme would also result in minor harm to cultural heritage [84]. PPS5 Policy HE10.1 advises that the greater the negative impact on the significance of the heritage asset, the greater the benefits that would be needed to justify approval. It seems to me that such proportionality should also apply lower down the scale, so that more modest benefits might be sufficient to justify lesser degrees of negative impact on the significance of assets. In the circumstances that apply here, the minor harm I have identified could readily be outweighed by other considerations. Turning to health considerations, I have found no justification, by reason of likely actual harm to human health, agriculture, food production or processing, for this to weigh significantly against the proposal. Some weight should be given to perceived risk, and the fear and anxiety that this has generated [100]. But I consider this to be a minor factor in the overall balance. I have also taken into account and given some weight to the extent of public objection to this proposal, expressed in the written representations, petitions and submissions to the Inquiry, which far exceed representations in support of the scheme [6 and 9].¹⁷¹ However, I have not given much weight to the financial issues raised against the proposal [134], or to the likely harm to tourism [160]. Neither can much weight be given to any adverse effects on ecology [163], highway safety [158] or other amenity considerations [165].

174. I turn next to the benefits of the proposed development. The scheme would contribute to sustainable waste management by diverting waste from landfill and moving the management of waste up the hierarchy [155-157]. This is a major benefit of the proposed development, to which I give significant weight. The scheme would accord with the Government's objectives concerning carbon

¹⁷⁰ PPS1 paragraph 4.

¹⁷¹ CD 14 and CD 14.a-q. Mr Hume spoke in favour of the appeal scheme at the Inquiry ID 57.



Report to the Secretary of State for Communities and Local Government

by Elizabeth Hill BSc(Hons), BPhil, MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 30 September 2013

TOWN AND COUNTRY PLANNING ACT 1990

CALLED-IN APPLICATION BY CORY ENVIRONMENTAL MANAGEMENT
LTD/WHEELABRATOR TECHNOLOGIES INC FOR AN ENERGY FROM WASTE PLANT
AND RECYCLING CENTRE

AT

THE WILLOWS BUSINESS PARK, HIGH (SADDLEBOW) ROAD, SADDLEBOW
INDUSTRIAL AREA, KING'S LYNN, NORFOLK, PE34 3RD

Inquiry commenced on 26 February 2013

Land at the Willows Business Park, High Saddlebow Road, Saddlebow Industrial Area, King's Lynn,
Norfolk, PE34 3RD

File Ref: APP/X2600/V/12/2183389

unlikely that there would be any significant adverse impact on the fabric of the buildings concerned.

1126. The industrial area at Saddlebow is visible in distant views from the quayside in King's Lynn and the proposal would influence those views as shown in the wireframes and photomontages submitted by the applicants. However, the distance and the physical detachment of the proposal amongst the other industrial development in views across the River Great Ouse would be sufficient to ensure that there would be no adverse impact on the setting of the Conservation Area and views out of it. English Heritage came to a similar view in that there would be change to the setting of the historic parts of King's Lynn as a result of the development but that would not amount to harm to heritage assets.
1127. Mr de Whalley objects on the grounds of the impact of the proposal on the ruined church at Bawsey, which is a Scheduled Ancient Monument. Bawsey is a deserted settlement, with only the ruins of the former church remaining. The proposed development would be visible in distant views from Sandy Lane, with the church ruins in the foreground. However, proposal would be so distant that its presence would not have an adverse effect on the scheduled ancient monument.
1128. Therefore, I conclude that there would not be a harmful effect on the significance of heritage assets and that the proposal would be in accordance with policy DM8 of the MWCS and para 132 of the NPPF.

Socio-economic factors

1129. A number of local objectors and groups like the local Round Table and Trades Council have raised the issue of the impact of the proposed development on the town's socio-economic development, both in terms of inward investment/regeneration and tourism. However, the development would be a large investment in its own right with up to 300 jobs created during construction and about 40 jobs during operations. In addition, there would be further jobs created indirectly within the service sector and within support operations for the facility. There is little to suggest that the landscape of the area would be adversely affected by the proposal and that tourism would be reduced as a result. The CHP potential might either support existing industry or encourage new industry to take advantage of the energy that would be produced from the facility. In addition, there is evidence from other appeals, such as the examples in para 2078 of the Cornwall appeal [CD/A/6] that such facilities do not deter or discourage nearby economic activity, regeneration or tourism.
1130. There are also comments stating that there would be an adverse effect on house prices in the local area. However, house prices and sales are more likely to be the result of the local and national economic situation, and, as there is little to suggest that the economic prospects of the area would be adversely affected by the proposal, it is unlikely to have any undue effect on house prices generally.

Living conditions

1131. A small number of local residents objected to the proposed development on the grounds of noise. Surveys were carried out as part of the ES and mitigation would be achieved by suitably-worded conditions to ensure no significant adverse effect on the living conditions of the closest local residents, including those held for a period at the PIC. Piling would be also the subject of a suitably-worded condition,



Report to the Secretary of State for Communities and Local Government

by A Mead BSc (Hons) MRTPI MIQ
an Inspector appointed by the Secretary of State
for Communities and Local Government

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☎ GTN 1371 8000

Date

Ardley Landfill Site, Ardley Fields Farm, Ardley

Oxfordshire County Council

Town and Country Planning Act 1990

Appeal by Viridor Waste Management Ltd

Proposed construction and operation of an Energy from Waste (EfW) facility

Inquiry held between 6 - 28 July 2010

Ardley Landfill Site, Ardley Fields Farm, Ardley, Oxfordshire

File Ref: APP/U3100/A/09/2119454

Other Effects

- 16.28 Concerns have been raised about noise. However, the appellant's assessment demonstrates that, for the four nearest houses, noise during the construction phase would, at worst, be only just above ambient levels for those properties, and predicted operational noise would be well below background noise levels. It also shows that there would be no noise increases from traffic and from any cumulative effects with other developments. Consequently, the impact would be minor. This is agreed in the Statement of Common Ground (SoCG). I have no other technical evidence before me to justify a departure from this position and, therefore, I accept that there would be no significant noise effects. [10.25, 11.68, 6.6]
- 16.29 Objections have been made about possible odour problems. However, there is little evidence to challenge the appellant's position that the scheme is designed to minimise the risk of fugitive releases of odour. In any event, this is a matter for the EA. Vibration has been raised as an issue, but has not been substantiated with evidence. Consequently, I give it limited weight. Whilst there is a suggestion that the proposal would not sit well with the environmental aims of the north west Bicester eco development, there is no evidence before me of future residents being significantly affected by it. Although there is concern that the site's dinosaur tracks would be harmed, to the detriment of education and tourism, the proposed retention of the relevant limestone faces would be a benefit over the permitted restoration, which would result in them being underground. Therefore, I take the view that all of these objections are unfounded. [10.25, 7.186, 11.24, 11.68, 7.119]

The Impact on the Countryside

Ecology

- 16.30 There was no substantive evidence submitted to the inquiry that the appeal should be dismissed on the grounds of harm to nature conservation interests, although submissions were made by AwFPC about the inaccuracies of the boundaries of the Ardley Cutting and Quarry SSSI a small part of which, it was discovered at the inquiry, extends into the appeal site. [2.5, 7.89, 10.10]
- 16.31 Whereas certain relatively scarce species may be present at or near to the appeal site, it is already subject to planning permission for the extension of the continuing landfill operations and so the appropriate mitigation schemes and licences are already in place in order to safeguard nature conservation interests. [10.32, 7.90, 7.91]
- 16.32 So far as the Ardley Cutting and Quarry SSSI and the Ardley Trackways SSSI are concerned, the proposal involves no change to the approved landfill restoration scheme for those parts of the site. Therefore, there would be no change to the impact already permitted. Accordingly, I consider that there are no reasons on nature conservation grounds to dismiss the appeal and that the proposal would not be contrary to Policies C1 and C2 of the CLP and Policy PE14 of the OMWLP. My conclusion is consistent with those of OCC, NE and the Berks, Bucks and Oxon Wildlife Trust, none of whom object to the scheme on ecological grounds. [5.2, 5.3, 7.95, 7.97]

Mr Lee Gordon
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Our Ref: APP/R0660/A/10/2129865
APP/R0660/A/10/2142388

20 July 2012

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)
APPEALS BY COVANTA ENERGY LIMITED
APPLICATION REFS: 09/0738/W (Appeal A) & 10/2551/W (Appeal B).
LAND OFF POCHIN WAY, AND LAND TO THE SOUTH OF ERF WAY AND
NORTH OF CLEDFORD LANE LAND, MIDDLEWICH, CHESHIRE.**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, R J Tamplin BA(Hons), MRTPI, Dip Cons Studies, who held a public local inquiry, which opened on 8 March 2011, into your client's appeals under Section 78 of the Town and Country Planning Act 1990, against:

Appeal A: the decision of Cheshire East Council to refuse planning permission for the erection of an Energy from Waste facility with associated buildings, car parking and hard standing areas, in accordance with planning application ref:09/0738/W, dated 5 March 2009;

Appeal B: the failure of the same Council to give notice within the prescribed period of a decision on an application for a Great Crested Newt receptor site to include the creation of three ponds, creation of four hibernaculums, wet grassland and areas of scrub, in accordance with planning application ref: 10/2551/W, dated 29 June 2010.

2. Appeal A was recovered for the Secretary of State's determination on 16 August 2010 in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves proposals of major significance for the delivery of the Government's climate change programme and energy policies. Appeal B was recovered on 13 December 2010 because it would be more efficiently and effectively decided alongside Appeal A.

Inspector's recommendation and summary of the decision

3. The Inspector, whose report is enclosed with this letter, recommended that both appeals be dismissed and planning permission refused. For the reasons given in this letter, the Secretary of State agrees with the Inspector's conclusions and recommendations except where otherwise stated. All paragraph references, unless otherwise stated, refer to the Inspector's report (IR).

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Consideration 3: the sustainability of the appeal site in terms of its location and operations

24. The Secretary of State does not agree with the Inspector that Article 4(2) of the Waste Framework Directive applies to individual planning decisions (IR573). The Waste Framework Directive transposed in England and Wales through the Waste (England and Wales) Regulations 2011 and through an amendment to Planning Policy Statement 10 (PPS10). Both the first and second stage consultation (CD2/19 and CD2/20) make it clear that transposition of the hierarchy into planning would be through an update to PPS10, a point confirmed by the Chief Planner's letter of 30 March 2011. As a result, the Secretary of State believes that individual waste management proposals should be assessed against planning policy in PPS10 which has incorporated the revised waste hierarchy. Therefore the Secretary of State cannot accept the Inspector's conclusions in IR582 that the proposal would have an unacceptable conflict with this part of the Waste Framework Directive and that it is necessary for the appellant to demonstrate best overall environmental outcome.

25. The Secretary of State has also had regard to the Inspector's concerns and arguments in IR575- 586 that allowing the proposed scheme could, through the oversupply of waste management facilities, potentially prejudice renewable or low-carbon energy supplies. In coming to this conclusion, the Secretary of State notes that the Climate Change Supplement to PPS 1 has been cancelled. He has not therefore considered the extent of the conflict, if any, with the now cancelled PPS and does not consider that this issue represents a factor for consideration in determining this decision. The Secretary of State's considerations on overcapacity are set out in paragraphs 18-20 above.

Consideration 4: effects on protected species

26. The Secretary of State agrees with the Inspector's reasoning and conclusions on the effect on protected species, as set out in IR587-610. He agrees that, as the proposals fail to satisfy all three of the tests required in Article 16 of the Habitats Directive (IR591), there is a strong likelihood that Natural England (NE) may refuse to grant a licence (IR603). However, as that would be dealt with under a separate regime it is not directly relevant to his decisions on these appeals. He also agrees that in relation to other species no serious harm is likely to result (IR608).

27. The Secretary of State has noted the Inspector's comments on the potential air quality impacts on the European designated site (Bagmere SSSI), including that no submissions have been made on this matter (IR609-610). Had he been minded to grant planning permission for the proposals before him, then he may have taken up the Inspector's suggestion to ask parties to comment on this issue. However, given that he is refusing planning permission, and in so doing considers that those other factors he has identified which weigh against the proposal provide sufficient reasons in themselves, he does not consider it necessary to do so.

Consideration 5: effects on the health of surrounding communities

28. The Secretary of State recognises the concerns expressed about the health effects from incineration set out in IR616-IR618. He agrees with the Inspector that this is a matter for the Environment Agency who would be responsible for setting and enforcing emission limits (IR611). Given that the purpose of the permit (a requirement under European legislation) is to ensure that the operation of the facility



Report to the Secretary of State for Communities and Local Government

by R J Tamplin BA(Hons) MRTPI Dip Cons Studies

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 24 February 2012

Town and Country Planning Act 1990

Appeals by Covanta Energy Limited

Cheshire East Council

Inquiry opened on 8 March 2011

Land off Pochin Way, Middlewich, Cheshire, and land to the south of ERF Way and north of Cledford Lane, Middlewich, Cheshire

File Refs: APP/R0660/A/10/2129865 & APP/R0660/A/10/2142388

283. There are two aspects of relevance to this, firstly, the waste hierarchy, and secondly, the sustainable management of waste. The waste hierarchy, as defined by Article 4, accords with the refined description of the hierarchy provided by the Chief Planner on 30 March as an amendment to PPS10 paragraph 1.³³² Article 4(2) which applies to individual planning decisions provides that:
- "when applying the waste hierarchy....Member States shall take measures to encourage the options that deliver the best overall environmental outcome".
284. Thus, if the Secretary of State concludes that managing Cheshire's (or Merseyside's or Greater Manchester's) C&I (or MSW) at a different location than the appeal site would lead to a better "overall environmental outcome" then he is under a mandatory obligation to reject this proposal. To grant consent in the circumstances, would be to encourage the option which delivers a sub-optimal environmental outcome.
285. "Best" appears in Article 4(2) as a comparative adjective. It is essential that, in making a decision, the Secretary of State considers whether a different site (existing or planned) will or may provide a better overall environmental outcome. The Appellant has failed to understand this; it denies the relevance of other sites and considers only the (dubious) virtue of the appeal proposals. This is the wrong approach.
286. Article 16(3) of the Directive provides that:
- "The network shall enable waste to be disposed of or....recovered in one of the nearest appropriate installations...."
287. These provisions in the Directive are all cast in mandatory terms and they impose constraints on the Secretary of State's discretion in determining this appeal. If there is an appropriate installation which is more proximate to the sources of waste arising and/or which delivers a superior overall environmental outcome then the Secretary of State shall not grant consent for this proposal.
288. The Secretary of State should determine this appeal on the material in the Urban Mines Report as corroborated by the Scott Wilson Report because these are current, expertly informed and independent. The Urban Mines report provides a landfill figure of 164,646 tpa.³³³ Not all of this is capable of diversion up the hierarchy, and that which is capable should be encouraged to move higher up than thermal treatment. In the light of this aim, even if 100,000 tonnes of this figure were available for thermal treatment, and if the appeal site managed to capture all of it, that would still leave the appeal site importing the balance from outside Cheshire by road and/or diverting waste from other beneficial uses further up the hierarchy for thermal treatment. Mr Wright was clear that the Appellant is well placed to compete aggressively in the market for waste and will do so. In the light of his statement it is reasonable to conclude that about 250,000 tonnes of C&I will be pulled down the waste hierarchy to supply the appeal proposals and make up the balance from landfill diversion. This is entirely at odds with Article 4 of the Directive, PPS10, the RSS and CRWLP.

³³² CD2/5A

³³³ CD4/24, p32

EM17. The weight to be attached to this compliance should be very great, but there are some considerations which the Secretary of State may consider would reduce this weight.

Consideration 3: The Sustainability of the Appeal Site in Terms of its Location and Operations

572. I have already concluded on the unsustainability of the appeal proposals in relation to the first main consideration in the light of CRWLP Policies 1, 3 and 27.[521, 534, 545] Therefore it is unnecessary to repeat the reasons which led to those conclusions, but two other aspects of sustainability should be addressed. These are, firstly, whether the development offers the best overall environmental outcome, in accordance with application of Article 4(2) of the WFD, and secondly, whether the appeal proposals would compromise other renewable or low carbon energy supplies in the light of Policy LCF15 of "Planning for a Low Carbon Future".[283, 295, CD2/21 and CD2/12, p26]
573. On the first point, it appears that Article 4(2) of the WFD applies to individual planning decisions; that accords with the advice of the Chief Planner to LPAs in England, that the waste hierarchy contained in Article 4(1) is capable of being a material consideration in determining individual planning applications. [CD2/5A] But it does not seem to me to follow, as the Council suggest, that if the Secretary of State concludes that managing Cheshire's waste at a different site would or might lead to a better overall environmental outcome, he is under a duty to reject the appeal proposals.[284] To do that would require him to make a decision, not only on the appeal proposals, but on the best way of managing Cheshire waste. Not only would the logistical requirements of doing so be disproportionate, but such a course of action would seem to be beyond the powers of Section 79 of the 1990 Act.
574. Nevertheless, I have concluded that the Appellant has failed to show that there is inadequate waste management capacity in the county, and that permission for this facility would be likely to cause harm by leading to the import of unsustainable waste from beyond Cheshire. In turn, and to the extent that the appeal proposals may accept MSW, this would conflict with the principles of self-sufficiency and proximity in Article 16(3) of the WFD.[536] That conclusion was in the context of CRWLP Policy 1, but the applicability of Article 16(3) means that the matter of sustainability is no longer constrained by the specific sub-regional context of Cheshire. Thus consideration of waste management capacity in this context can include the Ineos Chlor facility at Runcorn, now under construction and only a few kilometres beyond the Cheshire boundary.[506]
575. The Appellant says that the first phase of the Ineos Chlor facility is restricted to treating MSW and is intended to serve the Greater Manchester waste contract.[168] But Ineos Chlor have applied to the LPA to vary Condition 57 of the deemed planning permission of 2008 in order to be able to increase the amount of refuse derived fuel imported by road to the facility. In assessing the carbon benefits of varying the condition, they consider the definition of domestic waste in condition 2(a) should include C&I waste drawn from the North West region.[CEC44, pp54, CD5/1 and APP/1/d, App1] Whether or not the Appellant's objections to this application are warranted, it expresses a clear intention for that facility to use road-based imports and to import C&I waste from an area which includes Cheshire.

Brunner Mond are being developed by large chemical manufacturers and will supply heat and power to the adjacent industrial facility. Because the industrial facilities will provide a constant and reliable user of heat and power then, in the absence of sufficient waste feedstock supply they may need to source or utilise secondary fuels. The report concludes that it is likely that once these facilities become operational they would be able to compete aggressively for feedstock.[ibid] This is a very different scenario to that on which I have concluded, and was not explored at the Inquiry. However, it does support my conclusion that the risk of overcapacity in the southern Mersey Belt/north Cheshire area, where these facilities are located, is real and not imaginary.

581. Competition between companies operating separate waste management operations might appear a purely commercial consideration which should benefit the public interest and is not a matter for planning. But the point here is the effect this would have on sustainability and the environment. Mr Aumonier showed, in his evidence to the Ince inquiry, that there are clear environmental benefits of scale realised by a facility of that size.[CEC11/2, pp9.12-15 & Fig 9.2 and CEC11/3, App B, ppB45 &46 and Table B27] By comparison with Ince, Ineos and Brunner Mond, the appeal proposals, though not insignificant, are substantially smaller in terms of waste inputs. [APP/0/47 and CEC42] Even on the basis that, of those three large plants, only Ineos was to compete for feedstock with the appeal proposals, and accepting that Mr Wright's confidence in his ability to attract residual C&I waste to the appeal site is justified, then Mr Aumonier's Ince evidence indicates that significant environmental disbenefits would arise from every tonne of waste treated at the appeal site.[APP/1, pp6.1.4 and CEC11/2, Ch 9]
582. There is also some evidence that this competitive situation in Cheshire would not necessarily result in waste being forced up the waste hierarchy.[CH1/41] Only limited weight can be placed on such an isolated example, where the author did not give evidence in person. However, in the light of the Scott Wilson conclusions on the effects of potential overcapacity of treatment facilities in this area, it nevertheless suggests that such an adverse effect on the waste hierarchy is more than conjectural. Against this background I conclude that the Appellant has not demonstrated that, as a moderately sized merchant facility prepared to accept both C&I waste and MSW, the appeal proposals offer the best overall environmental outcome. In these circumstances there would be an unacceptable risk of a conflict with Article 4(2) of the WFD were the proposals to be granted permission.
583. The Council's argument on the effect of the proposals on other renewable or low carbon energy supplies, in the light of Policy LCF15 of Planning for a Low Carbon Future, is an extension of that considered above. But Policy LCF15 is contained in a draft PPS, so that the weight it attracts is less than adopted Government policy guidance. However, paragraphs 43 and 44 of PPS1-CCS suggest that draft Policy LCF15 derives from those two paragraphs in the Supplement. Accordingly, in the area of sustainability and emissions reduction, it is the policy guidance of PPS1-CCS which should be applied. As the Council point out, where there is any difference of emphasis on climate change with the guidance in another PPS, that is intentional and PPS1-CCS takes precedence. Moreover, because the Supplement was published in 2007, the same year as the adoption of the CRWLP, the latter could not have reflected the PPS. Hence the

Other Matters

Socio-economic Effects

683. This was not a RR and was raised principally by CHAIN, who maintained that the proposed EfW facility would create a negative view of Middlewich to prospective employers considering setting up in the town. It would also adversely affect the established industries of tourism and the hospitality sector due to the poor image of incinerators and the additional HGV traffic which would be generated. Mr Molloy did refer to socio-economic matters in his evidence and Mr Shenfield's evidence dealt with that of both CHAIN and Mr Molloy. [APP/5 a-d and CEC1, p26-27]
684. CHAIN and Mr Shenfield agreed that over the previous two years the employment situation in Middlewich had deteriorated.[APP/5/c, pp3.5] That is unsurprising given the situation nationally and internationally during that period. Yet CHAIN said that Kuehne & Nagel had taken a lease on Unit 75 of Midpoint 18, and the Appellant confirmed that Tesco re-occupied their building in June 2011, having previously vacated it in March 2010.[CH1/27, APP/5/d, App 2 and APP/7/d, pp1.35] In addition, APS Salads, who supply Tesco and occupy another building on Midpoint 18, expanded its operations in May 2011.[ibid] All this suggests that the appeal proposals have not deterred significant other businesses, including the food preparation and distribution industry, from establishing on the same business park during difficult economic times.
685. Nor is there cogent evidence of any adverse effect on tourism in the town. CHAIN's arguments regarding the Newhaven incinerator attempted to make a link between alleged effects there and in Middlewich. Though there seem to be superficial similarities between the towns, circumstances always vary from place to place so that to draw conclusions from a single comparison is in my view unsound.[CH1/24] The Newhaven study also appeared to have concentrated more on the effects on house prices than on any other factor, and whilst that was a concern of CHAIN, the same point regarding the dangers of one to one comparisons applies.[CH1/39] In any event, it appears that the Inspector who dealt with the Newhaven appeal appears to have placed little weight on the tourism argument. [APP/5/c, pp3.2] Nor did he conclude there would be adverse effects on social deprivation or regeneration prospects in that town.[ibid, pp3.16, 4.4, 4.5 & 4.11]
686. The situations at the Belvedere RRF, south-east London, and at Eastcroft, Nottingham, were also considered in the study, but in both cases there was no evidence that the presence of an incinerator deterred inward investment.[ibid, pp4.2-3 & 4.7-9] The one example where this may have been a factor was at Edmonton, north London, where firms in the food processing sector were mentioned as a possible exception.[ibid, pp4.5-6] But I have already referred to the expansion of APS Salads on Midpoint 18, which occurred at the time when the appeal proposals were before the Inquiry and thus when representations by, and questions from, such a firm might have been anticipated had they been concerned at the prospect of the development.
687. The position of Messrs Pochin is fully supportive of the appeal proposals and as landowners it is entirely logical that they would not want to see a development taking place which might harm their prospects of attracting others.[APP/5, pp4.5.1-6] Though they have a clear interest in a successful outcome for this

Appeal Decision Notice

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Decision by Richard Dent, a reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2017-1
- Site address: Land at Cromarty Firth Industrial Park, Invergordon, IV18 0LE
- Appeal by Combined Power and Heat (Highlands) Limited against the decision by The Highland Council
- Application for planning permission ref. 08/00455/FULRC dated 9 May 2008 refused by notice dated 24 August 2009
- The development proposed: residual waste to energy combined heat and power plant with ancillary development
- Application drawings: see Schedule 1
- Dates of public local inquiry and hearing: 6 – 15 June & 31 July – 2 August 2012

Date of appeal decision: 29 November 2012

Decision

I allow the appeal and grant planning permission subject to the 16 conditions listed in Schedule 2 at the end of this decision notice. Attention is drawn to the 7 advisory notes listed in Schedule 2 following the conditions.

Background

1. Following the refusal of planning permission on 24 August 2009 an appeal against the decision was submitted to the Scottish Ministers. The reporter appointed to determine the appeal granted planning permission in a notice dated 11 May 2010. The decision to approve the proposal was the subject of an appeal to the Court of Session, dated 16 June 2010, by the Ross Estates Company. That legal challenge was successful and the decision of the reporter was quashed on 21 January 2011. Subsequently, a further letter of appointment was issued authorising the re-determination of the appeal.

2. A pre-examination meeting took place on 28 April 2011 when it was agreed that changes in circumstances since undertaking the environmental impact assessment to support the application justified the updating of the environmental statement. Having taken account of the comments of the statutory consultees and interested parties, a procedure notice dated 8 July 2011 was issued requiring specified sections of the environmental statement to be updated.

195. The updated environmental statement analyses the visual envelope of the proposed chimney and indicates that the greatest impact would be to the immediate north, west and east. The colour of the chimney and its relatively thin profile would minimise the visual impact. Although extensive, it is claimed views to and from the Cromarty Firth would be long and distant. From the Black Isle, the chimney would also be visible but the industrial features associated with the waterfront would remain dominant in the view. The updated environmental statement believes impacts on views from Barbaraville would be negligible.

196. Overall, I believe the updated environmental statement provides a reasonable analysis of the visual impact of the proposed stack. I conclude that in the context of the site itself and, within the wider Cromarty Firth, the visual impact would not give rise to an adverse socio-economic impact to the detriment of either existing or potential tourist activity. In reaching this conclusion I also note the impressive level of local activity that continues to take place in promoting Invergordon as a tourist destination. I do not believe that the proposed development represents a significant threat to any future achievements in this respect.

197. I have had regard to the concern emanating from the perception of the proposed incinerator on tourism but I am not persuaded that this concern is justified or well-founded. Similarly, I have noted the concern over house prices but, as previously indicated, property values are not generally a consideration for land use planning. Although it has been suggested that house prices would fall in response to a decline in the local economy, again I am not convinced that this is a valid concern in the context of the proposal.

198. Insofar as socio-economic impact is concerned, I consider that, when taken into account with the landscape character and visual assessment, an adequate level of information has been presented in the updated environmental statement.

199. All in all, under criterion 7a, I conclude that the level of information provided is as required by Policy 70.

7b. A design statement in support of the application, where the development would have more than a local landscape and visual impact

200. The appellant believes a design statement is not required and points out that no other party has raised an issue in this regard. Scottish Natural Heritage (SNH) recognised that the chimney would be visible with a height of 65 metres but, in the context of the surrounding industrial buildings and the port facilities of Invergordon, the visual impact would be small.

201. Situated on the northern periphery of Invergordon, the large incinerator building would undoubtedly be visible from various locations along the A9. Local topography shields the site from most of the town of Invergordon. As pointed out by SNH, I agree the chimney would be a particularly visible feature but I share the opinion that the setting of the proposal within an area of large industrial structures would significantly diminish the impact. Similarly, in terms of landscape character, I am of the opinion that impact would be insignificant.

Press release

New energy deal to save £84m from government bill

From: Cabinet Office, The Rt Hon Lord Maude of Horsham and Efficiency and Reform Group

First published: 10 April 2013

Part of: Government buying

This news article was published under the 2010 to 2015 Conservative and Liberal Democrat coalition government

The Energy for Growth pilot will save money and create jobs by harnessing government's buying power.

CAB 037-13

A new deal was agreed today that will significantly lower the cost government pays for energy and create hundreds of local jobs, the Minister for the Cabinet Office Francis Maude announced.

The new 20 year contract with Air Products, worth 2% of government's energy spend, is expected to deliver £84 million in savings over the life of the contract through an innovative fixed agreement that will provide stability in what the public sector pays for energy.

Energy for Growth - [view a diagram of expected benefits](#) over the next 20 years.

As part of the deal, Air Products expects to invest an amount similar to that of their first plant – £300 million – to build a new 'energy from waste' facility in Tees Valley, Teesside, bringing new jobs to the local area from the initial construction phase and beyond.

The new agreement means government – via the Government Procurement Service (GPS) – will buy a portion of its energy directly from a UK-based generator at a low fixed price via an innovative Power Purchase Agreement rather than buying entirely through short-term wholesale markets which are subject to unpredictable price fluctuations.

Francis Maude said:

This is the beginning of a pioneering approach to how government uses its collective buying power and long term demand to buy energy. Not only have we secured £84 million of savings for taxpayers by signing a new, low cost energy deal with Air Products, but we're also helping the UK compete in the global race by investing in growth and creating hundreds of new jobs through the construction of a new 'energy from waste' plant.

Our aspiration is to develop world-leading, exportable technology, and the new state-of-the-art site in Teesside will help the UK become a centre of renewable technology. This is about changing the way we work to not only get the best out of our suppliers, but the best out of the UK.

Lisa Jordan, Air Products' Business Manager for Bio-Energy Europe, said:

We are delighted that the Cabinet Office has agreed to purchase the power which we expect to produce at a new Tees Valley Renewable Energy facility, subject to planning and approval later this year.

By buying the electricity we produce, the Cabinet Office will help Air Products divert up to 350,000 tonnes of non-recyclable waste from landfill every year, which we will turn into reliable, controllable, renewable energy.

This deal only relates to 2% of government's total energy use – the new approach will now lead to government and GPS engaging with the energy industry to assess opportunities for further energy procurements over the next five years. This could mean a significant increase in generating capacity in the UK and help drive down bills for everyone through increased competition.

Notes to editors

1. As part of the deal, subject to planning and approval, Air Products will build a new advanced gasification energy from waste plant to provide the agreed energy demand (37MW) for the agreement in Tees Valley, Teesside. This is the second plant of this kind in the area – the first represented an investment of £300 million, and Air Products expects to invest a similar amount in this second project.
2. Air Products has longstanding expertise in building and operating large, complex industrial gas and energy plants ensuring its projects are delivered safely, reliably and cost-effectively.
3. Advanced gasification is a more efficient energy-from-waste process than incineration and has a lower overall environmental impact. Raw waste is collected from local businesses and then converted into a clean fuel gas which is then used to generate valuable electricity.
4. For media queries regarding Air Products, please contact Rob Jeffery on 020 3047 2465 or 07966 151 753.