



Appeal Decision

Hearing held on 21 and 22 January and 17 June 2015

Site visits made on 21 and 22 January 2015

by M Middleton BA(Econ) DipTP DipMgmt MRTPI

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

Decision date: 3 August 2015

Appeal Ref: APP/H4315/A/14/2224529

Former Ravenhead Glass Warehouse and other land, Lock Street, St Helens, WA9 1HS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Brian Moore against the decision of St. Helens Metropolitan Borough Council.
 - The application Ref P/2013/0475, dated 7 May 2013, was refused by notice dated 31 March 2014.
 - The development proposed was change of use of warehouse building and installation of plant and machinery, including 39 m high flue, to form a 10.6 MW energy from waste plant that will be powered by refuse derived fuel, together with the relocation of the existing materials reclamation and waste recycling facility to accept non-hazardous waste, currently located on Merton Street, to the application site and demolition of the existing materials and waste recycling facility.
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Application

1. The application form describes the proposal as written above. During early discussions between the Applicant and the Council, it became apparent that following the relocation of the waste recycling facility from Merton Street to Lock Street, he would wish to redevelop the Merton Street site for industrial purposes but did not have any detailed proposals. With the Applicant's agreement, the Council therefore amended the application description, considering it to be a hybrid application and added 'outline permission for industrial development of the Merton Street site' to the above description.
2. This description was used in the report to the Council's Planning Committee and was the basis of its determination. I have also considered the appeal on this basis, determining it as a hybrid appeal for three constituent parts of an overall proposal; these being the relocation of a waste recycling facility from Merton Street to Lock Street, the installation of an energy from waste plant at Lock Street to treat the waste from the relocated waste recycling facility and other refuse derived fuel (RDF) and the redevelopment of the vacated site on Merton Street for industrial purposes.

Decision

3. The appeal is dismissed insofar as it relates to the installation of plant and machinery, including 39 m high flue, to form a 10.6 MW energy from waste plant that will be powered by refuse derived fuel.

4. The appeal is allowed insofar as it relates to the change of use of the warehouse building together with the relocation of the existing materials reclamation and waste recycling facility to accept non-hazardous waste, currently located on Merton Street, to the Lock Street application site and planning permission is granted for the change of use of the warehouse building together with the relocation of the existing materials reclamation and waste recycling facility to accept non-hazardous waste, currently located on Merton Street, to the application site at Former Ravenhead Glass Warehouse, Lock Street, St Helens, WA9 1HS, in accordance with the terms of the application, Ref P/2013/0475, dated 7 May 2013, and the plans submitted with it, so far as relevant to that part of the development hereby permitted and subject to the conditions in Schedule 1.
5. The appeal is also allowed insofar as it relates to the demolition of the existing materials and waste recycling facility and industrial development at the Merton Street Site and outline planning permission is granted for industrial development at the Waste Recycling Facility, Merton Street, St Helens, WA9 1HS in accordance with the terms of the application, Ref P/2013/0475, dated 7 May 2013, and the plans submitted with it, so far as relevant to that part of the development hereby permitted and subject to the conditions in Schedule 2.

Procedural matters

6. The Hearing opened on 21 January 2015. It was attended by a large number of members of the general public who were opposed to the proposal and the discussion extended into a second day. During the discussion it became clear that the evidence presented by the Council concerning the need for and the amount of comparable energy from waste facilities within the Merseyside and Halton Waste Local Plan area was far from clear, as was the Appellant's evidence on the carbon credentials of the proposed energy from waste (EfW) plant. In addition a significant amount of technical evidence had been submitted by United Kingdom Without Incineration Network (UKWIN), not all of which was fully understandable. However UKWIN were not represented at the Hearing and therefore unable to be questioned about its evidence.
7. I therefore adjourned the Hearing until 17 June to give the Appellant and Council an opportunity to revise and improve the evidence on need for and capacity of energy from waste facilities in the sub-region and the carbon credentials of the proposal. I also took the opportunity to write to UKWIN, seeking further clarification on aspects of their evidence and informing them of the date of the reconvened Hearing.
8. The reconvened Hearing was well attended by the public and as well as discussion on need and capacity and carbon credentials, transport and other environmental matters were revisited. UKWIN submitted a supplementary statement but again no one was officially present to represent them. This statement had not been seen by the Appellant or Council, both of whom considered that they were not in a position to discuss it at that point. I therefore closed the Hearing sessions on 17 June but allowed a supplementary period of 21 days within which representations could be made concerning the UKWIN submission of 18 May 2015. The Council subsequently indicated that it did not wish to make any further representations. Those that were received on behalf of the Appellant on 8 July have been taken into account when making my decision.

9. As well as on accompanied site visits on 21 and 22 January 2015, I also viewed the appeal sites and their locality, unaccompanied, on these dates as well as on 20 January and 16 and 17 June 2015.
10. The part of the application that relates to industrial development on Merton Street is in outline with all matters reserved for subsequent approval. It is accompanied by a concept proposals plan (Drawing No. 2589/529/17) that shows fourteen workshop units grouped around a central parking and servicing courtyard and with vehicular access from Merton Street. It is agreed that the information shown on this drawing is to be treated as for illustrative purposes only and that it simply demonstrates a way in which the Merton Street site could be developed for industrial purposes.

Main Issues

11. From all that I have read, seen and heard I consider the main issues to be whether the proposal is sustainable development and in accordance with the Development Plan, with particular reference to

- a) The overall need for the proposal,
 - b) The carbon output of the proposal,
 - c) The impact on environmental quality and residential amenity,
 - d) The impact of the proposal on the setting of the listed lock;
- and if not

whether there are any material considerations of sufficient weight to outweigh the presumption in favour of determining planning applications in accordance with the Development Plan.

Reasons

Planning Policy

12. The Development Plan for the area includes the Merseyside and Halton Joint Waste Plan (WP) 2013. Whilst it was prepared and adopted before the National Policy for Waste was published (2014), the relevant policies are consistent with that document and I should give them full weight.
13. Among other things, Policy WM12 requires proposals for waste management development to be accompanied by an assessment of the short, medium and long term, as well as cumulative impacts, of the proposal on its neighbours and the surrounding environment, in terms of the overall sustainability of the proposal, including carbon and energy management performance. This approach is supported by government policy, which expects waste disposal facilities not to prejudice the movement of waste up the waste hierarchy and to contribute to waste recovery rather than disposal, a principle advanced in the Waste Framework Directive.
14. Among other things, Policy WM13 requires written evidence to accompany applications on unallocated sites to demonstrate that a suitable allocated site is not available and that the site will be sustainable in terms of its social, economic and environmental impacts. This is also reflected in Policy WM1.

15. Policy WM14 requires proposals for energy from waste facilities to be assessed in relation to operational and consented capacity within the plan area and the requirement for new facilities. Proposals must demonstrate that existing operational and consented capacity cannot be accessed to meet the identified need. The policy also requires energy from waste facilities to provide combined heat and power unless it can be demonstrated that this requirement would prevent important waste infrastructure being brought forward.
16. The supporting text clearly states that in the context of the perceived over capacity to treat refuse derived fuel within Halton and Merseyside and the level of imports of this type of waste to the area from other parts of the region, if combined heat and power is not proposed then the proposal should be accompanied by a justification.
17. Policy CP1 of the St Helens Local Plan Core Strategy sets standards that proposals for development are expected to meet. They include safeguarding the historic environment, avoiding detrimental impact on the amenities of the local area and minimising and mitigating against the effects of pollution. The policy also requires proposals to incorporate renewable and low carbon energy generation.

Overall need

18. The WP points out that Merseyside and Halton is in the unusual position of having a significant amount of consented and available EfW capacity. It suggests that in 2012 capacity exceeded need by about 450,000 tonnes of RDF and that even if all of the consented capacity is not built, there is sufficient capacity to meet the identified needs of the area.
19. The Appellant's experience does not support this. The RDF fuel produced from the residual waste recycling facility at Merton Street is exported to EfW plants on the Continent because, it is alleged, there is no local capacity to process the material.
20. The revised evidence broadly agreed by the Appellant and Council suggests that only one of the four consented plants at the time of the adoption of the WP is actually operating (Ineos Chlor at Runcorn). Phase 2 of this development was to be commissioned in the spring of 2015, increasing the capacity to 850,000 tonnes, which in itself is likely to be significantly greater than the Merseyside and Halton requirement. Whether this had occurred at the time of the reconvened Hearing was not known.
21. There was no concrete evidence to contradict the Appellant's assertion that the other three projects had not progressed and that it was by no means certain that any of them would. Surprisingly, there was no evidence of direct communication with the promoters of these schemes, to ascertain the current position, by either principle party but particularly from the Appellant, whose responsibility it is to demonstrate a need for his proposal.
22. Verbal evidence at the Hearing suggests that significant amounts of the Runcorn capacity are taken up by waste imported from other parts of the North West and that a significant proportion of this waste is the subject of long term contracts. Looking at the location of this facility in the context of the region's centres of population and strategic road network, this is not surprising. Much

of north Cheshire is closer to this facility than most of Merseyside and the western part of Greater Manchester is close by.

23. Both the Appellant and the Council consulted Ineos Chlor about their imminent capacity at Runconn. The Email to the Council, which is dated January 2015 says that there was 50,000 tonnes pa of spare capacity that Viridor has control over. Whether that would or could be available to other waste suppliers is not clear. The correspondence also says that phase 2 has a capacity of about 425,000 tonnes pa but nothing is said about the extent to which this is committed. The communication received by the Appellant suggests that there may be an opportunity for 30,000 tonnes at a gate fee of £85/tonne. Without sight of the letter from the Appellant to Ineos Chlor and therefore the context of its reply, one cannot conclude that there is only 30,000 tonnes of spare capacity overall at Runcorn. Nor can one conclude that there is currently 475,000 tonnes pa of uncommitted capacity as the Council's evidence implies. In my experience it is most unlikely that the capital expenditure involved in such a project as phase 2 would be committed without significant medium term commitment from RDF suppliers.
24. The Appellant has shown interest from potential RDF suppliers that could deliver over 280,000 tonnes pa of non hazardous waste to a new EfW plant at Lock Street. Whilst not all of this may be forthcoming, as most of the suppliers already supply the existing facility, it seems probable that the Appellant could source the 150,000 tonnes pa required to efficiently operate the proposed EfW plant.
25. It is a fact of life that EfW capacity at Merseyside is used to process RDF from other parts of the region. Despite the duty to cooperate there is no available information as to the extent of this and thereby no conclusive evidence that there is in fact sufficient EfW capacity at Merseyside and Halton to meet the sub-region's future requirements.
26. Nevertheless, this site is not proposed in the WP. Despite the weaknesses in the Council's case, the Appellant has not clearly demonstrated that existing operational and consented capacity cannot be accessed to meet the identified need. The proposal is therefore contrary to WP Policy WM14. Furthermore the National Planning Policy for Waste (NPPfW) expects applicants to demonstrate the quantitative or market need for new waste management facilities where proposals are not consistent with an up to date LP. I conclude that the overall need for the proposal has not been clearly demonstrated.

Carbon Output

27. National Planning policy for Waste (NPPfW) expects applicants to demonstrate that waste disposal facilities, not in line with the LP, will not undermine the objectives of the LP by prejudicing the movement of waste up the Waste Hierarchy. The WP has the vision of waste as a resource that is moved up the Waste Hierarchy and an objective of all new waste management facilities contributing to reductions in greenhouse gas emissions.
28. Energy from Waste¹ points out that such waste infrastructure has a long life (normally 20-30 years) and that steps should be taken at the start to ensure that systems drive waste up the Waste Hierarchy and do not constrain it. In

¹ Energy from Waste, a guide to the debate: Department of Energy and Climate Change, 2014

- consequence new infrastructure, particularly where there is not clear evidence of a need for additional capacity, needs to contribute to recovery and not disposal. It seeks to maximise the benefits of energy generation and points out that to comply with the Waste Framework Directive the process needs to constitute recovery.
29. The WP policies that require proposals to demonstrate that facilities would not prejudice the movement of waste up the waste hierarchy and would contribute to waste recovery rather than disposal are clearly in accordance with this advice. Whilst the attainment of R1 status is not a mandatory process by which planning proposals should be considered, it is nevertheless a method of demonstrating whether or not a proposal is recovery or disposal.
30. In certain circumstances generating electrical energy from waste can contribute to carbon emissions to a greater extent than depositing the same material as landfill. It is therefore not a simple exercise to demonstrate that an EfW will have a positive effect on overall carbon emissions. Additionally, it is consequently now generally accepted that EfW plants need to provide heat as well as electricity to be considered to be a waste recovery operation.
31. Despite the opportunity provided by the adjournment, the Appeal proposal does not include a detailed specification of the type of gasification technology to be used. Other than indications from potential users in the area, there is also no evidence to demonstrate that the supply of heat, from whatever system is installed, to these users would be commercially viable. Whilst conflicting with the evidence from UKWIN, the Appellant's evidence nevertheless suggests that electrical generation from the plant alone would not enable it to meet R1 status. Consequently the plant would need to recover and facilitate the use of waste heat to realistically be considered as a recovery facility.
32. The proposal alleges that the EfW plant will provide heat for local businesses and I have no reason to doubt that there are genuine potential customers in the area. However, whilst I accept that it is not reasonable to expect applicants to demonstrate a definite commitment from heat end users at this stage, in the absence of more detailed operational and financial information, it is not possible to make a judgement on the plant's potential to perform in this context. Additionally, there is no suggested condition to ensure that the necessary infrastructure, to enable any heat produced by the plant to be readily exported, would be provided. This does not inspire confidence in the Appellant's alleged desire to export heat from the site. As the Appellant points out, "Guidance on the Application of the Waste Hierarchy"² makes it clear that all energy recovery technologies come higher in the waste hierarchy than disposal. However, there is no evidence to suggest that the material to be treated by the proposal would otherwise be disposed of by landfill.
33. Whilst some of the material would be diverted from transportation to the continent and would contribute to greenhouse gas reductions in this respect, a substantial amount would not. There is no evidence as to the nature of the disposal of this material at the present time or indeed whether any of it would be diverted from existing EfW plants in the region. Notwithstanding the carbon savings that would result from the Appellant's existing output of RDF not being transported to the Continent, I therefore conclude that the proposal's carbon output has not been demonstrated to be such that the proposal would be a

² Department for the Environment, Food and Rural Affairs 2011

waste recovery operation that would clearly drive the treatment of waste up the Waste Hierarchy. Consequently the proposal does not meet the requirements of WP Policies WM12 and WM13.

Environmental quality

34. The representations from the general public clearly demonstrate that there is substantial local concern about the traffic implications of the proposal, particularly its impact on Merton Bank Road, and environmental issues associated with the operation of the existing waste recycling facility on Merton Street.
35. The Appellant points out that the anticipated maximum of 622 heavy goods vehicle movements per week from the Lock Street site are substantially less than was indicated when planning permission was applied for and granted for the Merton Street operation. That estimate was 1648. Even when the anticipated HGV traffic generated by the redeveloped Merton Street is added in (the Highway Authority anticipate less than 30 per week), there would still be a substantial reduction. However, the application maximum is unlikely to be the experienced HGV traffic output of the Merton Street operation. Observations on my site visit suggest that it is currently working at operational capacity. However, it appears to be operating with difficulty and with a throughput that is about half of that consented. This suggests, in the absence of any data, that its HGV generation is substantially less than that indicated in the original planning application. Whilst the appeal proposal would not have vehicles visiting the site to collect material for despatch to the Continent, I nevertheless consider that there would be an increase in HGV's visiting the appeal proposal when compared to the actual number visiting the existing operation.
36. However, both sites are within a sizeable industrial area that must overall already generate a significant number of HGV movements. As the Highway Authority points out, the Lock Street site was traditionally used as a warehouse facility and could be so used again. Given the nature of the site and its buildings, the HGV traffic generated by such operations is likely to be significantly greater than that from the appeal proposal.
37. Merton Bank Road is a district distributor road that connects Lock Street and Merton Street to the A58, which is a primary route. There is undoubtedly congestion at the junction of these two roads, particularly at peak periods. However, in the absence of any evidence on vehicular flows it is impossible to conclude that the appeal proposal would materially worsen this situation. There was also no evidence of accidents before the Hearing.
38. The nature of this part of Merton Bank Road is now largely industrial but there are a number of residential properties behind front gardens on the western side and a school on the eastern side. Parked cars in association with these could assist the creation of congestion if HGV's are trying to overtake. However, if this is a major problem then traffic regulations may be able to resolve it. There is also ample space along Merton Bank Road to widen the carriageway in order to provide dedicated residents and school car parking if parking seriously impedes the free flow of traffic and highway improvements can be justified. Similarly the junction capacity could be increased if the alleged rat running to avoid it is significant or queuing traffic is producing unacceptable air quality, noise or vibration.

39. Paragraph 32 of the National Planning Policy framework says that development should only be refused on transport grounds where the residual cumulative impacts of the development are severe. In the absence of any evidence to suggest that this would be the case, I agree with the Council and conclude that the proposal's impact on the local highway network would not be severe.
40. There have been a number of environmental issues accompanying the operations at the existing Merton Street site, including flies and fires. Whilst clearly important and of concern, they are matters that are the responsibility of the Environment Agency through the Environmental Permit regime. The cramped operating conditions at Merton Street, in the context of the permitted and actual throughput of the site, do not lend themselves to easy management of the process to avoid such nuisances. The appeal site is substantially larger than the Merton Street site and despite the proposed higher throughput it should be much easier to process the waste at this site, without creating environmental problems, than is currently the case at Merton Street. The site is also noticeably further away from residential properties than is the Merton Street facility.
41. The Lock Street site is located beyond the existing Merton Street Industrial area and in part screened by trees. These could be strengthened by additional planting through the landscaping condition. The proposed 39 metre high stack would be located behind a large warehousing building and only the upper part would be visible from the public realm and only from a distance. In this context it would be seen as a part of St Helen's traditional skyline and would not be obtrusive.
42. I conclude that the proposal would have a beneficial impact on environmental quality and residential amenity and is in accordance with the environmental aspects of WP Policies CP12 and CP13 and CS Policy CP1.

Setting of the listed lock

43. The double lock on Lock Street is a Grade II listed structure. The appeal proposal does not materially affect the lock. Indeed, the implementation of an accompanying landscaping scheme provides an opportunity to improve vegetative screening along the appeal side of the canal. As a result, the setting of the lock could be improved. I conclude that the proposal could have a positive impact on the setting of the listed lock.

Other matters

44. There is no objection to the redevelopment of the waste recycling facility on Merton Street to create industrial starter units. This aspect of the proposal could create a number of new jobs in a town that is promoting economic development and job growth to widen local opportunity. Similarly, the new waste treatment facility and EfW plant would create over 40 new jobs and protect the 25 existing jobs. The significant investment needed to build the facility would also provide work in the construction industry and increased business for local suppliers, contributing to and supporting sustainable economic development to deliver the business and infrastructure that the country needs. This is particularly important in times of economic austerity and is emphasised in paragraphs 17 and 18 of the Framework.

45. The proposal would also by producing 10.6 MW of sustainable energy per hour for export to the national grid and removing the need to transport some of the waste that it would use, over long distances, make some contribution to the government's drive to reduce greenhouse gas emissions. The energy supplied to the grid being equivalent to the annual usage of more than 25,000 homes would not be insignificant.

Conclusion

46. The evidence before me as to overall need for an additional EfW plant at Merseyside and Halton is inconclusive. However, on balance I consider that it suggests that there is more likely to be a need for the appeal proposal than not. The evidence certainly suggests that the proposal could effectively source sufficient RDF to run at capacity. However, this proposal is locationally not in accordance with the WP and the Appellant has not convincingly demonstrated that the carbon credentials of the proposal are likely to be such that I should have confidence in considering it as a waste recovery facility. Were the proposal to be a waste disposal facility, then the benefits of the proposal that have been identified do not outweigh the harm to local, National and European policy that seeks to ensure that waste treatment is driven up the waste hierarchy. The proposal is contrary to WP Policies WM12 and WM13. None of the other material considerations referred to and in favour of the proposal, are sufficient to outweigh the presumption in favour of determining planning applications in accordance with the Development Plan. I therefore conclude that the EfW aspect of the proposal should be dismissed.
47. There are clear advantages in relocating the waste recycling facility to Lock Street, followed by the redevelopment of the Merton Street site for industrial purposes. For the reasons set out above and having considered all of the representations made, including those by local residents, both verbally and in writing, I find that the appeal should be dismissed in as much as it relates to the EfW plant but allowed in the context of the waste recycling facility and the industrial development.

Conditions

48. The planning system exists in part to safeguard the amenity of local residents and other receptors. As with other industrial processes, often at recycling facilities other machinery, which was not a part of the original proposal, can be introduced subsequently. This can have environmental impacts that were not originally considered. Existing machinery as it ages can also have an increasing impact on the environment, particularly as a result of increased operating noise. What is critical is that the continued performance of the operations does not have an undue effect on amenity. It is therefore important that the nature of an initially acceptable operation is able to be subsequently controlled through conditions.
49. The forty seven conditions suggested in the Statement of Common Ground were considered in the context of the Framework and the advice in the National Planning Practice Guidance (NPPG). They were rationalised, amended and added to in discussion at the Hearing and following reconsultation with statutory consultees during the adjournment and subsequently in correspondence with the Appellant and Council. They include the standard time limits for the commencement of the use and development,

- reserved matters and a plans condition. To enable the development to meet Development Plan policies that seek to protect and maintain the quality of the environment and achieve sustainable development, other conditions concerning landscaping and tree protection, transport, drainage, contamination, noise, dust suppression, pollution control, site waste management and hours of working have been suggested and discussed.
50. I consider all of the conditions to be necessary in order to ensure that the development is of a high standard, protects the living conditions for nearby residents, is sustainable and minimises the impact on the environment.
51. The Appellant and Council have suggested a noise condition that would allow vehicles to access the site well into the evening and on Sundays and Bank and Public Holidays. This is consistent with the current operations at Merton Street. Others suggested limiting the hours on all operations to 07:00 to 19:00 hours on Mondays to Fridays and to 07:00 to 13:00 hours on Saturdays but this point of view was not unanimous. In the opinion of most local residents who were present, there should be no operations on Sundays or on Bank and Public Holidays. There is clearly substantial local concern about environmental harm and disruption as a result of the existing operations. There is no evidence other than historic precedent justifying the necessity for vehicles to access the site beyond those usually applied to similar operations.
52. Nevertheless, the Appellant points out that if the hours during which deliveries can take place are reduced, then there would inevitably be more vehicles visiting the operation during these hours than would otherwise be the case, thereby adding to the operation's contribution to any congestion. Given that the approved waste recycling operation would in part be transferred from Merton Street, I consider it appropriate to retain the existing delivery hours on weekdays. Without further evidence I do not see a need for deliveries to take place on Saturday afternoons, Sundays or Bank and public holidays. In my view it would not be appropriate to depart from the standard hours without a proper business case for longer delivery hours at a redeveloped Merton Street site.
53. If the permitted operations are proven to be operationally unacceptable and monitoring of the permitted operations demonstrates that there would be no environmental nuisance, then there is no reason why the Appellant could not successfully apply to vary the delivery hours conditions.

M Middleton

INSPECTOR

Schedule 1

CONDITIONS RELATING TO THE FULL PLANNING PERMISSION :

CHANGE OF USE OF WAREHOUSE BUILDING TO ENABLE THE RELOCATION OF THE EXISTING MATERIALS RECLAMATION AND WASTE RECYCLING FACILITY TO ACCEPT NON-HAZARDOUS WASTES, CURRENTLY LOCATED ON MERTON STREET

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with Drawing Nos. 2589/529/03 Rev A 'Site Layout Plan' and 2589/529/05 'Existing and Proposed Elevations (north and west)' in so far as they relate to the waste recycling facility.
- 3) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These shall include full details of all trees, hedges and shrubs to be retained and all new planting; means of enclosure; minor artefacts and structures (e.g. refuse or other storage units, signs, lighting etc.); proposed and existing functional services above and below ground (e.g. drainage infrastructure, power, communications cables, pipelines etc. indicating lines, manholes, supports etc.) and management.
- 4) Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants (noting species, plant sizes and proposed numbers/densities where appropriate); implementation and maintenance programme.
- 5) Any planting which within a period of 5 years of implementation dies, is removed, or becomes seriously damaged or diseased shall be replaced during the next planting season with others of a similar size or species, unless the Local Planning Authority gives written consent to a variation. Should replacement planting be necessary, the Local Planning Authority shall be notified in writing not less than 7 days prior to the replacement planting taking place. Notification shall include details of the problem with the implemented scheme and the specification and timing of the replacement planting.
- 6) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.
- 7) No development shall take place until a method statement, indicating areas of tree thinning, has been submitted to and agreed in writing by the Local Planning Authority. The statement should include thinning densities, location of works, methodology and timing, with works to be completed before the site is operational and undertaken outside of the bird breeding season (between the months of March and September).
- 8) Prior to commencement of development, details of the areas indicated on the submitted plans identified for parking and servicing shall be submitted to and approved in writing by Local Planning Authority. The

- areas identified shall be, surfaced, drained, permanently marked out/demarcated and implemented prior to the first use of the premises and retained for parking/servicing purposes thereafter.
- 9) No development shall take place until a scheme for the provision of cycle parking, in accordance with the Council's current standards, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved before any part of the development is brought into use and shall be retained as such thereafter.
 - 10) Within 3 months of the development being brought into use, a Travel Plan Statement shall be submitted to and approved in writing by the Local Planning Authority. The Statement shall include immediate, continuing and long-term measures to promote and encourage alternative modes of transport to the single-occupancy car. The Approved Travel Plan Statement shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied and in use.
 - 11) A scheme of noise mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to commencement of operations on the site. The scheme shall include details of an acoustic barrier to screen the generator. The scheme shall also include the provision of acoustic insulation to the existing building to a specification to be approved by the Local Planning Authority. The insulation scheme must take account of the roof and any openings to the building.
 - 12) No pathways shall be created by which any contamination may either migrate off-site or affect the proposed site use. Evidence (photographic or otherwise) of the use of a pathway breakage method, for example a comprehensive hard standing layer, capping measures for landscaped areas, protective measures for structures (e.g. specification for buried concrete) and services laid in contaminated made ground, etc, shall be submitted to and approved in writing by the Local Planning Authority prior to the approved use being operated on the site.
 - 13) The proposed mitigation methods for minimising dust from the site during operation as detailed in section 10.4 of the Environmental Statement v1.3 (document ref: 2589-529-B) shall be implemented, operated and maintained on site in accordance with the approved details in perpetuity.
 - 14) Prior to the commencement of development, a Site Waste Management Plan (SWMP) shall be submitted to and approved in writing by the Council as Local Planning Authority. The approved SWMP shall be fully implemented on site before any materials reclamation process commences.
 - 15) The pollution prevention measures, as stated in Section 8.4 of the Environmental Statement v1.3 (document ref: 2589-529-B) relate (in part) to impacts on ecological receptors during the operational phases of the development. The measures stated shall be implemented on site and retained while ever materials reclamation takes place.
 - 16) The maximum throughput of non hazardous waste shall not exceed 150,000 tonnes/annum.

- 17) The facility hereby approved shall not carry out the processing of any hazardous waste materials as defined in legislation.
- 18) There shall be no deliveries or despatch of waste outside the following hours:
 - Mondays to Fridays 07:00 to 21:00
 - Saturdays 07:00 to 13:00
 - Nor at any time on Sundays, Bank or Public Holidays.
- 19) No development shall take place until a phasing plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall provide for the operation at the existing materials reclamation and recycling facility on Merton Street to cease when the material reclamation and recycling facility at Lock Street hereby permitted is brought into use. The development shall proceed in accordance with the approved phasing plan.

Schedule 2

CONDITIONS RELATING TO THE OUTLINE PLANNING PERMISSION

INDUSTRIAL DEVELOPMENT OF THE MERTON STREET SITE (ALL MATTERS RESERVED FOR FUTURE CONSIDERATION).

- 20) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 21) The development hereby permitted shall begin either before the expiration of three years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 22) No development shall take place until existing and proposed site levels have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed levels.
- 23) Any planting (as approved under condition 20), which within a period of 5 years of implementation dies, is removed, or becomes seriously damaged or diseased shall be replaced during the next planting season with others of a similar size or species, unless the Local Planning Authority gives written consent to a variation. Should replacement planting be necessary, the Local Planning Authority shall be notified in writing not less than 7 days prior to the replacement planting taking place. Notification shall include details of the problem with the implemented scheme and the specification and timing of the replacement planting.
- 24) Prior to the commencement of the development hereby approved details of the areas to be identified for parking and servicing shall be submitted to and approved in writing by the Local Planning Authority. The areas identified shall be, surfaced, drained, permanently marked out/demarcated and implemented prior to first use of the premises and retained for parking/servicing purposes thereafter.
- 25) No development shall take place until a scheme for the provision of cycle parking, in accordance with the Council's current standards, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved before any part of the development is brought into use and shall be retained as such thereafter.
- 26) Within 3 months of the development being brought into use, a Travel Plan Statement shall be submitted to and approved in writing by the Local Planning Authority. The Statement shall include immediate, continuing and long-term measures to promote and encourage alternative modes of transport to the single-occupancy car. The Approved Travel Plan Statement shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied and in use.

- 27) No development shall take place until measures to prevent the transfer of detritus, including mud and soil, onto the highway during the construction phase have been submitted to and approved in writing by the Local Planning Authority. The agreed measures shall be implemented as agreed.
- 28) No development shall take place until details of a mitigation scheme for dust suppression during the construction phase has been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.
- 29) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority) shall be carried out until the Local Planning Authority has considered and approved in writing a remediation strategy detailing how this unsuspected contamination will be dealt with. The remediation strategy shall be implemented as approved.
- 30) No development, except for site clearance, shall take place until a scheme of noise mitigation measures has been submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented prior to any part of the development coming into use and retained as such thereafter.
- 31) Prior to the commencement of development, a Site Waste Management Plan (SWMP) shall be submitted to and approved in writing by the Local Planning Authority. The approved SWMP shall be fully implemented on site during the construction phase and thereafter.
- 32) There shall be no deliveries or despatch of materials outside the following hours:
 - Mondays to Fridays 07:00 to 19:00
 - Saturdays 07:00 to 13:00nor at any time on Sundays, Bank or Public Holidays.

APPEARANCES

FOR THE APPELLANT:

Brian Moore	Waste to Energy North West
John Williams	Oak Tree Environmental
David Young	Oak Tree Environmental
Marco Muia	Oak Tree Environmental

FOR THE LOCAL PLANNING AUTHORITY:

Melanie Hale	St Helens MBC
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INTERESTED PERSONS:

Linda Maloney	Local Councillor
Ronnie Waugh	Bodmin Grove resident
Malcolm Johnstone	Bramcote Avenue resident
John Beirie	Blackdown Grove resident
Martin Gray	Hinckley Road resident
Trevor McLaughlin	Mowbray Avenue resident
John McDonald	Enderby Avenue resident
John Holt	Linford Grove resident
Walter Higginson	Wood Street resident
T Dempsey	Merton Bank Road resident
L Marsh	Merton Bank Road resident
Kathleen Bluck	Bosworth Road resident

DOCUMENTS SUBMITTED TO THE HEARING

- 1 Email of 21/01/2014, confirming Appellant's agreement to revised scope and description of application proposal
- 2 Merseyside and Halton Joint Waste Plan
- 3 Extracts from the Planning Practice Guidance relating to renewable energy and waste
- 4 Letter with newspaper article and signatures from FINTRA opposing the development
- 5 Appellant's response to UKWIN's observations on appeal
- 6 Current and potential future suppliers of waste to facilities at Merton Street/Lock Street, submitted by the Appellant
- 7 Indications of potential waste streams from existing and potential suppliers, submitted by the Appellant
- 8 Update on availability and suitability of sites consented and allocated for energy from waste facilities at Merseyside and Halton, submitted by the Council
- 9 Additional representations from the Appellant and Council on availability of energy from waste capacity at Halton and Merseyside and the carbon credentials of the proposal
- 10 Observations on the additional representations from UKWIN
- 11 Revised conditions
- 12 Email with amended conditions submitted by the Council on 8 July
- 13 Email of 8 July from the Appellant with response to UKWIN's submission and his observations on delivery hours and the issuing of a split decision