
**HALTON ACTION GROUP
AGAINST THE INCINERATOR**

**Ineos Energy from Waste Facility
Ineos Chlor
South Parade Weston Point Runcorn**

Halton Ref 07/00068/ELC

**Town and Country Planning Act 1990
Application Number 13/00011/S73.**

**The Action Group's
Objection Relating to the Ineos**

**APPLICATION TO VARY
CONDITION 57**

February 2013

HAGATI'S OBJECTION

We draw your attention to the legal opinion of Mr David Elvin QC, who considered a previous Application by Ineos to vary Condition 57 by use of the 'tailpiece' to Condition 57. (The 'tailpiece' being the prefix "Unless agreed in writing with the Council".) This latest Application seeks to completely replace Condition 57 so that it contains no tailpiece and increases the limit for fuel deliveries from 85,000 tpa to 485,000.

HAGATI believe that HBC does not have sufficient authority to totally and permanently remove the limitation placed in the Planning Permission by The Secretary of State. If this Planning Application is approved then it is likely that an application for a judicial review will be made.

It is important to realise that many aspects of this Planning Application have been considered previously and rejected by The Secretary of State in relation to Condition 57.

Historically, Ineos offered comments on HBC's proposed Condition 57 in September 2007 to the Department of Environment Business and Regulatory Reform (DEBRR). Ineos considered the Condition was not acceptable on the basis that the Transport Assessment and Environmental Impact Assessment concluded that the local highway network indicated that there was sufficient capacity to accommodate the transportation of fuel by highway and that such transportation would not give rise to significant environmental effect.

Despite the Ineos claims (and the present Application is mainly an expansion in greater detail of those arguments), The Secretary of State considered the points, consulted with other Agencies including the Environment Agency and concluded that they were not relevant to the Planning Permission and that the limit was relevant and necessary and then circulated the following version of Condition 57 for comment;

"A minimum of 90% (by weight) of the refuse derived fuel in the operation of the Development shall be delivered by rail or waterway."

In April 2008, Ineos stated its view that the transport Condition included in the DEBRR's first draft set of Conditions was unlawful and did not satisfy the tests set out in *Circular 11/95: 'Use of conditions in planning permissions'*. While the DEBRR was in the process of considering this, Ineos suggested the following revised Condition;

"Unless agreed in writing with the Council the quantity of refuse derived fuel imported by road shall not exceed 85,000 tonnes per year".

The DEBRR considered that this suggestion was reasonable and included it in the second set of draft Conditions circulated in May 2008.

When circulating the draft Conditions they set out their view that it was a better Condition in that it stipulated a specific amount of waste for road delivery, it allowed Ineos **the flexibility of road delivery in the initial operation of the plant**, and it provided for the position to be reviewed by the Council as and when waste handling built up to ensure the most sustainable mode of transport is used. This was, they stated *"as being consistent with planning and transport policy guidance on sustainable development (ie. to encourage the use of more sustainable modes of transport – specifically rail or water)"*.

The transport Condition was subsequently revised by the DEBRR in order to allow the Council to monitor the volumes of waste used in the proposed power station and the following was included in the final Section 36 consent documentation issued on 16 September 2008;

“(57) Unless agreed in writing with the Council, the quantity of refuse derived fuel imported for use in the operation of the development shall not exceed 85,000 tonnes in any twelve month period and the Company shall record the date and volume of waste delivered to the Site and where requested by the Council shall copy records to the Council within five working days.

Reason: To minimise road traffic movements in the locality and ensure that the most sustainable modes of transportation are considered for the delivery of refuse derived fuel.”

It is vital to appreciate that the **first and main** reason given by The Secretary of State for the inclusion of Condition 57 is, **‘to minimise road traffic movements in the locality’**. By limiting the amount of waste to be transported by road to 85,000 tonnes it also limits the number of HGV’s.

The present exercise carried out by Ineos is simply an attempt to expand on their original statement made in 2007;

“That the Condition was not acceptable on the basis that the Transport Assessment and Environmental Impact Assessment concluded that the local highway network indicated that there was sufficient capacity to accommodate the transportation of fuel by highway and that such transportation would not give rise to significant environmental effect”.

Ineos are attempting to prove that road capacity and the logistics of waste availability are factors but they are, as stated by The Secretary of State, not relevant to the Planning Permission.

If Councillors agree that the limit set by Condition 57, set for the protection of the health and environment of residents, is still required, confirmation of this will mean that the Application to vary the Condition is not approved and this would ratify the earlier decision of the same committee made in July 2007 when they stated that they;

“Emphasized that they did not agree with their originally requested Conditions being relaxed or materially changed.”

The Secretary of State, in the final decision regarding the original Planning Application subsequently included Condition 57 in the form requested by Ineos and this is the Condition they are now trying to remove, nothing has changed since July 2008, so why change Condition 57?

Ineos’s original claims that the (alleged) minimal environmental impacts and adequate road capacities were relevant factors were not accepted by The Secretary of State who still considered the limit on HGV’s valid and necessary.

Is it possible that the Ineos acceptance of the limit was a cynical strategy to obtain Planning Permission that they never intended to honour? Would they merely wait until they could apply the pressure of having spent £300 plus million pounds constructing the Plant as a lever to obtain a variation? The facts certainly appear to fit this scenario very well.

Ineos have made two crucial commercial mistakes. They have not, until now, carried out a comprehensive analysis of waste availability. This should have been completed before construction of the incinerator commenced. Secondly they have built an incinerator with approximately twice the capacity required, as indicated by HBC Officers in their comments on the original Application;

"If the request is not approved then this is likely to lead to the fuel being transported over greater distances, potentially from sources outside of the North West region, which would be in conflict with policies that proposals should meet the needs of the region/sub region".

Ineos also stated in a written response to the Council in July 2007 in response to the question, "If there was a shortage of fuel from the Northwest, could the plant end up taking fuel from up and down the country?"

*"Some supply of fuel from outside the Northwest is possible, but we are only tendering for local contracts (Merseyside, Cheshire, and Manchester) and **we will only be building the plant if we have secured contracts with local authorities to provide us with fuel**".*

It is vital that as a result of these errors and broken promises that residents do not have to pay the price in terms of a massive increase in HGV traffic, exactly the reason that Condition 57 was written and designed to protect us from.

The fundamental commercial errors made by Ineos have resulted in an Application that starts from the wrong position. All the documentation provided by Ineos is an attempt to justify running the incinerator at 850,000 tpa when it was the Ineos lack of business foresight that resulted in them planning an incinerator twice the size as can be supported by RDF available within the terms of the planning consent. This should not result in residents paying the price of the increased road traffic that Condition 57 was expressly designed to protect them from.

Do Ineos believe that compounding the errors and spending more than £300 million on a vastly oversized incinerator is the lever they can use to force Councillors to allow them to ride roughshod over the wishes of Councillors and the interests of residents?

It should be noted that the Incinerator is being built in two distinct phases each capable of burning 425,000 tpa. It seems that Ineos can only source fuel in compliance of planning conditions for around 425,000 tpa, so the phase two build is superfluous and need not be built.

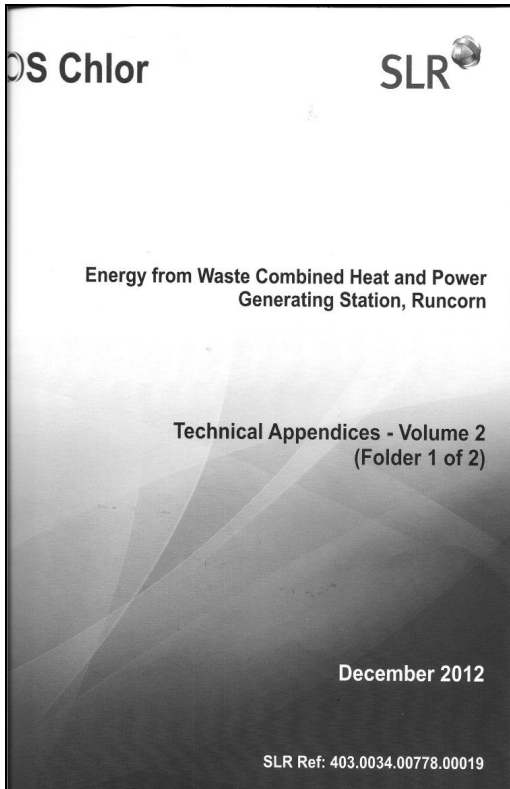
Ineos state that bringing 375,000 tpa of fuel from Greater Manchester by HGV would be cheaper than using rail. However, the agreement has long been in place for all Manchester's fuel to be brought in by rail. If Ineos accept this is commercially viable then their argument that using rail to bring in the remaining fuel is too expensive, is clearly false.

What follows this summary is a brief assessment of some of the reports submitted by Ineos in support of this, their **fourth** Application, which has been produced by consultants at Ineos' request.

Although the Reports were no doubt very expensive to produce, they all suffer from the same flaws, ie, they repeat the 'irrelevant' submissions made at the planning stage, they assume that as Ineos have built an 850,000 tpa Incinerator they must, by any means, burn that amount of fuel, and they also assume that the decision of The Secretary of State, the concerns of Councillors, and the interests of residents, are less important.

HAGATI'S PRECIS ON EACH OF THE INEOS STATEMENTS

Technical Appendices - Volume 2 - Folders 1 and 2



This folder contains a very detailed Transport Assessment and Traffic Monitoring Survey. This should have been completed before construction of the incinerator.

This should have prevented Ineos from building an over capacity incinerator as it seems from this survey that they cannot transport sufficient fuel to the plant by 'sustainable transport'.

The fundamental point is however, that Condition 57 limits (by restriction on the amount of tonnage) the **number** of lorries.

It is therefore irrelevant that the capacity of the roads is sufficient.

Also in this section the effects of the building of the 47 metre tall main building in close proximity to the two existing 40 metre chimney stacks on the Scottish Power gas fired power station are estimated.

The exercise was initiated in March 2012. However, there was in February 2012 a fully operational air quality monitoring station situated behind the main incinerator building, adjacent to Picow Farm Road, which will be used by all road traffic servicing the site.

During the first fortnight of February 2012 there were;

- 8 Exceedences of the PM10 35 microgram/m³ upper Assessment 24 hour average
- 13 Exceedences of the 25 microgram/m³ 24 hour average
- 1 Exceedance of the PM10 24 hour 50 microgram/m³ objective
- 23 Exceedences of the NO₂ annual average limit

These are real measured values, why does the theoretical exercise not predict them? Importantly, if these exceedences are not from the Scottish Power Station where are they from?

Energy from Waste Combined Heat and Power
Generating Station, Runcorn

Technical Appendices - Volume 2
(Folder 2 of 2)

December 2012

SLR Ref: 403.0034.00778.00019

This folder contains an assessment of road versus rail transport which is fatally flawed. It does not compare 'like for like' situations. In the conclusions it states;

6.2 B) – “Sourcing RDF from sources distant from Runcorn and transporting it by rail will result in significantly higher transport costs and higher greenhouse gas emissions when compared with securing RDF from more local sources which are transported to the Runcorn EfW facility in Runcorn.”

That fact should be blindingly obvious and if Ineos have only just become aware that distance has a direct link to transport costs, it is yet another error to be added to the list of flawed commercial decisions they have taken. In addition, it is argued at great length elsewhere that they have now unexpectedly discovered that they can not source additional RDF from 'more local sources'.

Also at;

6.2 g) “For RDF sourced from within 75km of Runcorn (150km round trip) intermodal rail would cost around £29 per tonne delivered, yet road haulage would offer a more competitive solution at around £18 per tonne delivered (ie. a premium of £11 per tonne delivered in order to comply with Condition 57)”

Any differential existed when Condition 57 was agreed to by Ineos; it is not a factor which is relevant to this condition.

Manchester is within 75km of Runcorn so if these figures are correct it means that Ineos (and GMWDA) are happy that, despite the additional cost, it is commercially viable for 375,000 tpa of fuel from Manchester to be transported by rail. Conversely, if Ineos are claiming that any additional cost of rail over HGV transport makes rail unsustainable, then the existing arrangement with GMWDA to bring in 37,000 tpa from Manchester by train is unsustainable too. They can't have it both ways.

The Report does not consider the offsets and benefits to the community in terms of carbon saving through minimising local HGV traffic. For example, if there was a barge system in place on the Manchester Ship Canal to transport waste from Warrington, the same system could take toxic ash to Randle Island more safely and without the detrimental effect of HGV traffic passing through Wigg Island Community Park.

In the assessment of the use of the Halton Curve there is a fatal flaw in that no account has been taken of the 'Run Round' facility available at Elton. Because of this omission (which would allow the site to be serviced from the north as well as the south) all rail deliveries north of Warrington have been disregarded.

Therefore not only has all the area north towards the Scottish Borders not been included, Warrington is also on the rail route for Trans Pennine traffic, another vast area that has been ignored.

In the Summary of Analysis and Conclusions;

6.3 One of the principle reasons given for the imposition of Condition 57 was "to ensure that the most sustainable modes of transport are considered for the delivery of refused derived fuel". This reason is not supported by the analysis, assessment and conclusions contained in this Report...

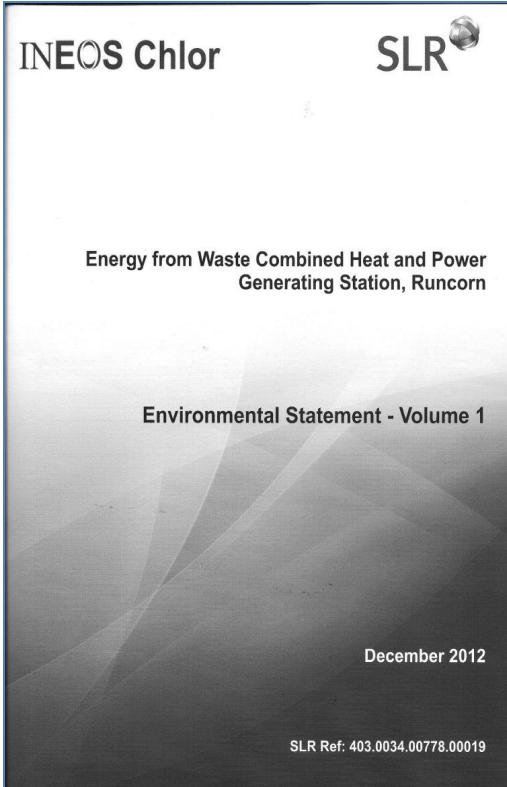
Only two reasons were given for Condition 57. The principle reason was to minimise local HGV traffic. It was the **secondary** reason that related to sustainable modes of transport.

Planning Permission was granted subject to Condition 57 being met. If it could not be complied with, such a large Incinerator should not have been built.

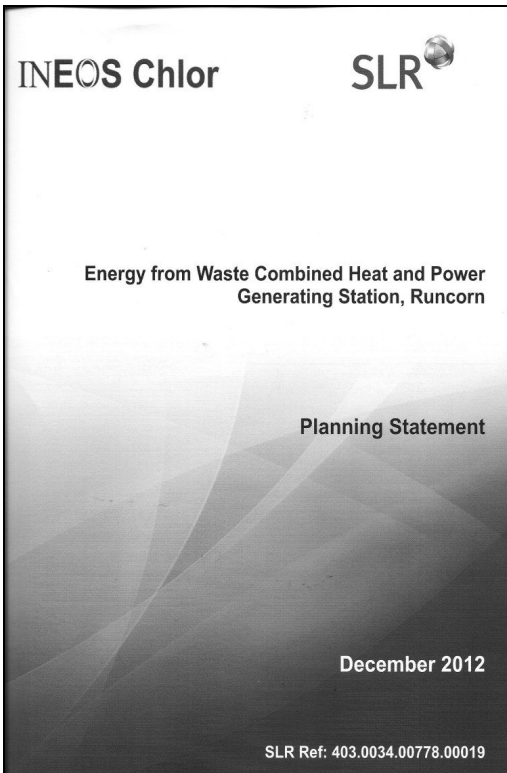
6.8 ".....and comply with the Condition using intermodal rail, an additional £5 million (approximate) in transport cost will be incurred...".

The figure of £5M is a wild guess and although it may be that some costs were not taken into account by Ineos these are not 'additional' and not related to Condition 57 which has been in existence for 5 years. All costs should have been taken into account prior to proceeding with an Incinerator twice as large as the availability of local supplies of RDF.

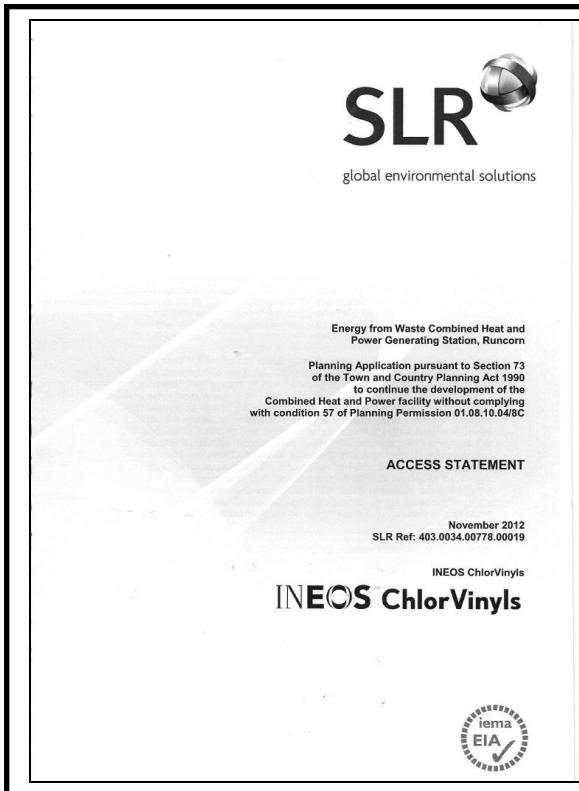
Environmental Statement - Volume 1

 <p>The cover of the Environmental Statement - Volume 1 features the INEOS Chlor and SLR logos at the top. The title 'Environmental Statement - Volume 1' is centered, with 'Energy from Waste Combined Heat and Power Generating Station, Runcorn' above it and 'December 2012' below it. The SLR reference number 'SLR Ref: 403.0034.00778.00019' is at the bottom.</p>	<p>This volume contains a section on Air Quality.</p> <p>For the monitoring period when from the 1st November 2011 until 13th February 2012 the average values quoted for NO₂ was 25.5 microgram/m³ and for NO_X 45.5 microgram/M³.</p> <p>However it was not until February 2012 when the girder framework of the main building was clad to make it into a solid block that any effect on the emissions from the adjacent Scottish Power chimney stacks would be expected.</p> <p>During this period the average values were high enough to cause multiple exceedences of the measured pollutants.</p> <p>These levels are not only a danger to nearby residents and pupils and staff at Weston Point Primary School, the staff working on site are also exposed to levels above those deemed to be capable of causing concerns.</p>
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Planning Statement

 <p>The cover of the Planning Statement features the INEOS Chlor and SLR logos at the top. The title 'Planning Statement' is centered, with 'Energy from Waste Combined Heat and Power Generating Station, Runcorn' above it and 'December 2012' below it. The SLR reference number 'SLR Ref: 403.0034.00778.00019' is at the bottom.</p>	<p>This folder contains a recent ruling from The Secretary of State where he gave permission for an incinerator in Lostock in which it is stated that it would not be appropriate;</p> <p><i>“to impose restrictions on how much waste should be delivered in particular ways”</i></p> <p>However it must be remembered that in this case not only did Ineos agree to the limitation of Condition 57, they themselves suggested the exact wording whilst The Secretary of State was considering that point in 2007.</p> <p>The proximity of residential properties to the final traffic destination is also a factor taken into account by The Secretary of State in respect of Runcorn but not so relevant in Lostock.</p>
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Access Statement



The Access Statement describes the site and access available to it.

It details that there are, to the west of the site the Weaver Navigation Canal, Runcorn and Weston Canal and the Manchester Ship Canal, together with Weston Docks.

The Statement does not however even mention that these facilities could or should be used despite their convenient proximity to the Incinerator Site.

The Manchester Ship Canal has an entrance at Liverpool which is a gateway to any port in the British Isles as well as wastes from the Merseyside area. The Weaver Navigation Canal could serve any of the RDF manufacturing facilities in mid or East Cheshire.

There is no need for 'double handling' the tipping hall is provided with an overhead crane to unload HGV's. If, for instance, a cable railway line ran from the docks to the tipping hall a single electric motor could pull the same type of rail wagons capable of carrying two containers back and forth with insignificant costs and pollution.

Statement of Community Engagement



This is typical of the way in which Ineos present their company image. The detailed listing of what they have done in 'Engaging with the Community' needs only to be looked at in the light of two significant facts before it can be awarded its correct degree of value.

- 1) Being a member of HAGATI excludes any resident from serving on the Local Liaison Forum.
- 2) The Local Liaison Forum should have been the ideal place for discussions regarding the air quality and noise monitoring schemes proposed by Ineos.

Neither item has been on any Forum Agenda in the last two years.