

Public Document Pack



Development Control Committee

Monday, 4 February 2019 6.30 p.m.
Civic Suite - Town Hall, Runcorn

A handwritten signature in black ink, appearing to read 'David W R', written over a faint rectangular stamp.

Chief Executive

COMMITTEE MEMBERSHIP

Councillor Paul Nolan (Chair)
Councillor Keith Morley (Vice-Chair)
Councillor Chris Carlin
Councillor Ron Hignett
Councillor Valerie Hill
Councillor Joan Lowe
Councillor Carol Plumpton Walsh
Councillor June Roberts
Councillor Dave Thompson
Councillor Bill Woolfall
Councillor Geoff Zygadlo

*Please contact Ann Jones on 0151 511 8276 Ext. 16 8276 or
ann.jones@halton.gov.uk for further information.
The next meeting of the Committee is on Tuesday, 5 March 2019*

**ITEMS TO BE DEALT WITH
IN THE PRESENCE OF THE PRESS AND PUBLIC**

Part I

Item No.	Page No.
1. MINUTES	1 - 8
2. DECLARATIONS OF INTEREST	
Members are reminded of their responsibility to declare any Disclosable Pecuniary Interest or Other Disclosable Interest which they have in any item of business on the agenda, no later than when that item is reached or as soon as the interest becomes apparent and, with Disclosable Pecuniary Interests, to leave the meeting prior to discussion and voting on the item.	
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In accordance with the Health and Safety at Work Act the Council is required to notify those attending meetings of the fire evacuation procedures. A copy has previously been circulated to Members and instructions are located in all rooms within the Civic block.

DEVELOPMENT CONTROL COMMITTEE

At a meeting of the Development Control Committee on Monday, 7 January 2019 at Civic Suite - Town Hall, Runcorn

Present: Councillors Nolan (Chair), Morley (Vice-Chair), Carlin, R. Hignett, V. Hill, J. Lowe, C. Plumpton Walsh, June Roberts, Thompson, Woolfall and Zygadlo

Apologies for Absence: None

Absence declared on Council business: None

Officers present: A. Jones, J. Tully, T. Gibbs, A. Plant, G. Henry and P. Peak

Also in attendance: Councillor Joe Roberts and 10 Members of the public

**ITEMS DEALT WITH
UNDER DUTIES
EXERCISABLE BY THE COMMITTEE**

DEV21 MINUTES

The Minutes of the meeting held on 5 November 2019, having been circulated, were taken as read and signed as a correct record.

DEV22 PLANNING APPLICATIONS TO BE DETERMINED BY THE COMMITTEE

The Committee considered the following applications for planning permission and, in accordance with its powers and duties, made the decisions described below.

DEV23 - 18/00285/WST - PROPOSED CHANGE OF USE TO WASTE TRANSFER AND TREATMENT FACILITY, CONSTRUCTION OF WASTE TRANSFER BUILDING AND ANCILLARY DEVELOPMENT INCLUDING WEIGHBRIDGE, WELFARE FACILITIES, STORAGE BAYS AND FENCING AT FORMER J BRYAN (VICTORIA) LTD, PICKERINGS ROAD, WIDNES

The consultation procedure undertaken was outlined in the report together with background information in respect of the site.

Action

Since the publication of the agenda Officers advised the Committee of the following updates:

- A further two letters of objection had been received raising concerns already addressed in the report;
- Safeguarding issues and suggested conditions had been discussed with Liverpool Airport, who were satisfied that the issues relating to bird hazard management and construction cranes could be adequately addressed by informative attached to any planning permission;
- With reference to objections made by Halebank Parish Council (HBPC), it was confirmed that the proposal was in accordance with Waste Policy WM5 as the site was within the vicinity of the area for search;
- The Council's retained adviser had confirmed that they considered that sufficient information had been provided to demonstrate compliance with the Waste Local Plan;
- Further to the claims made by HBPC that the proposals contradicted Waste Plan Policy S06; Members were referred to their comments and the Policy extract on page 17 of the report. It was noted that the proposals were considered consistent with the Policy and that the issues and impacts identified for consideration within the Policy were addressed in the report ;
- The Environmental Health Officer had confirmed that they raised no objections; and
- By way of clarification, the reference within the highways considerations to comparisons with the site being brought back into lawful use was an error, and the comparisons were made with a general industrial use; the results of these comparisons and advice of the Highways Officer were as stated within the report.

The Committee was addressed by Mr Bain, a Halebank resident since the 1960's, who spoke in objection to the application. He commented that Halebank was now thriving with successful industries and commercial facilities; however he stated that this application would not be good for Halebank. He argued that this type of industry would affect residents in the area and asked the Committee to consider the children and future of the area; referring to a quote from the World Health Organisation.

A further objector then addressed the Committee, Mr John Anderton, a Halebank Parish Councillor, who had been a resident in the area since birth. His objections relating to

noise, odour, pollution and traffic were addressed in the report. He argued that the application was not in an allocated site (referring to Policy WM1 of the Joint Waste Management Plan) and was not a site within an area of search; both of these matters were addressed in the report. He also commented that the site would be accessed through a residential area using heavy industrial vehicles which would impact on the residents. He advised the Committee that if a decision was made to approve the application the HBPC would challenge this.

Mr Bridgewood then addressed the Committee on behalf of the applicant and addressed the objectors' concerns relating to noise, odour and traffic. He stated that this site would be one of 350 sites all over the UK, which were run very effectively by the applicant.

Councillor Joe Roberts, a Ward Councillor for Ditton, then addressed the Committee in support of the objectors and also on behalf of his Ward colleagues. He raised concerns over the application as there were similar sites in Halton that had problems relating to odour, dust, noise, infestation due to food waste, and increased traffic. He stated that Hale Road was already polluted by traffic and this application would only add to the problems. He had concerns over the proximity of the site to a housing estate and that it would have a negative effect on future house building in the area. He urged the Committee to refuse the application.

Members discussed the application and requested clarification of the objectors' comments with regards to noise and odour; increased traffic into the area; suitability of the site in Ditton and how the figure of 85,000 tonnes was derived.

As stated in the report it was noted that the application had been determined in accordance with the Halton Unitary Development Plan, Halton Core Strategy Local Plan and the Joint Waste Local Plan (JWLP). Officers advised that Policy WM5 within the JWLP addressed areas of search, (which included areas within the vicinity of the industrial areas of Ditton). In relation to noise and odour, it was reported that the Environmental Health Advisor had stated this would be minimal so raised no objections. Officers advised that the tonnage of 85,000 was not large in comparison with larger sites, so this amount was consistent with a smaller sized operation as this was, so was considered acceptable.

In response to traffic and highway concerns, the Highways Officer explained the breakdown of movements of vehicles resulting from the 85,000 tonnes and advised that the increase in traffic on Hale Road would not be significant enough to have an impact, so they raised no objections to the application.

Members requested the advice of the Council's Legal Advisor in relation to potential legal challenges made by HBPC should the application be approved; and made by the applicant should the application be refused. He advised that a judicial review in the instance of a challenge made by HBPC made on the ground put forward that evening (namely, that Policy WM5 of the JLWMP did not apply because the application site was not in the vicinity of an area of search and that it was an unallocated site) was unlikely to be successful. If the Council was to refuse the application on the basis of the issues discussed during the debate, a public inquiry would most certainly go in favour of the applicant – no evidence having been put forward to dispute the technical evidence included within the agenda.

After taking into consideration the application before them including updates and after hearing the speakers' objections and comments and responses provided, the Committee voted on the application which was approved by majority, subject to the conditions listed below.

RESOLVED: That the application be approved subject to conditions relating to the following:

1. Standard 3 year timescale for commencement of development;
2. Specifying approved and amended plans;
3. Requiring submission and agreement of a Construction Environmental Management Plan to include wheel wash and construction hours;
4. Materials condition(s), requiring submission and agreement of building external finishing materials (BE2);
5. Condition requiring submission and agreement of details of weighbridge office;
6. Boundary treatment condition(s) requiring replacement entrance gates/fencing to be colour coated with colour to be agreed (BE2);
7. Vehicle access, parking, servicing etc to be constructed prior to occupation of properties/commencement of use (BE1);
8. Grampian style condition relating to off-site highway works to facilitate parking provision (TP12);

9. Requiring submission and agreement of cycle parking details (TP6);
10. Condition restricting waste throughput to 85,000 tonnes per annum;
11. Condition restricting waste types accepted/processed;
12. Condition restricting hours of waste delivery, processing and export;
13. Condition(s) restricting external storage locations, height and processing;
14. Condition(s) requiring waste to be delivered/exported in sealed/covered wagons (BE1);
15. Condition relating to contamination/requiring development be carried out in accordance with the approved plan for unexpected contamination (PR14/15);
16. Conditions relating to/requiring submission and agreement of detailed surface water / highway drainage scheme including attenuation / interceptors (BE1/PR5); and
17. Submission and agreement of Site Waste Management Plan (WM8).

DEV24 MISCELLANEOUS ITEMS

The following Appeals had been received / were in progress:

- | | |
|---------------------|--|
| 18/00282/FUL | Proposed new boundary wall to front and side at 112 Lunts Heath Road, Widnes, Cheshire, WA8 5BA. |
| 18/00363/OUT | 18/00363/OUT Application for outline planning permission with appearance, landscaping and scale reserved for single two storey dwelling in side garden area at 3 Nickleford Hall Drive Widnes. |

The following Appeals had been determined:

- | | |
|------------------------|---|
| 18/00005/REFUSE | 18/00001/FUL Proposed single storey rear extension with rear /side facing balcony over at 6 Walsingham Drive Runcorn. |
|------------------------|---|

Appeal Dismissed

18/00008/REFUSE 18/00282/FUL Proposed new boundary wall to front and side at 112 Lunts Heath Road Widnes.

Appeal Dismissed

17/00548/FUL Proposed demolition of existing stables building and construction of 1 no. single storey detached dwelling with access from Chester Road at land to the North of Junction between Keckwick Lane and Chester Road, Daresbury, Warrington, Cheshire.

Appeal allowed

The following Appeals had been withdrawn:

16/00495/OUTEIA Resubmission of outline planning application 15/00266/OUTEIA by application for Outline planning permission (with all matters other than access reserved) for mixed-use development comprising: up to 550 residential dwellings; up to 15,000 sq m of employment floorspace (Use Class B1); new local centre of up to 3,000 sq m (Use Classes A1 - A5 and D1 - dual use); provision of infrastructure including a new junction on to A558 Daresbury Expressway and details of access at Land Adjacent To Delph Lane.

17/00406/FULEIA Resubmission of application 14/00539/FULEIA for the erection of 295 residential dwellings with associated landscaping and site infrastructure, construction of a new road junction onto Daresbury Expressway (A558), installation of a signalised junction to Delph Lane, provision of public open space and play facilities and associated works on Land adjacent to Delph Lane.

17/00407/OUTEIA Resubmission of application 13/00206/OUTEIA hybrid planning application for up to 300 residential dwellings comprising: full planning

application for 122 residential dwellings (mix of 2, 3 and 4 bedroom houses), new spine road, turning head to the east of Delph Lane canal bridge, new junction between the proposed spine road and the A56, pedestrian/cycle routes and associated works (Phase A); and outline planning application for up to 178 residential dwellings (all matters are reserved) (Phase B) at land adjacent to Delph Lane West.

The following Applications had been withdrawn:

- 16/00347/S73** Application under Section 73 of the Town and Country Planning Act to vary Condition 1 of permission 15/00286/FUL to amend the house design in respect of Plot 1 by the inclusion of a new drawing RG-PL-001.1 on land between the Old Post Office and Rock Garth, Chester Road, Daresbury, Warrington, Cheshire.
- 17/00606/FUL** Proposed erection of substation at Fresenius Kabi, Cestrian Court, Eastgate Way, Runcorn, Cheshire, WA7 1NT.
- 18/00482/S73** Application under Section 73 of the Town and Country Planning Act to vary condition 2 of permission 15/00430/FUL substituting approved plans BHNW/028-01G, 028-11F and 028-13B for 028-O1L, 028-11F and 028-13F to amend the layout at The Former Marley Eternit Site, Derby Road, Widnes, Cheshire, WA8 9NQ.
- 18/00495/FUL** Proposed extension to side, replacement of roof with higher roof to incorporate bedroom with Juliette balcony to rear elevation at 33 Swynnerton Way, Widnes, Cheshire, WA8 9RX.
- 18/00497/PDE** Proposed single storey rear extension projecting from the rear wall by 3.8 metres the extension has a maximum height of 2.9 metres and an eaves

height of 2.1 metres at 19 Catford Close, Widnes, Cheshire, WA8 4GG.

New Listed Building

Council had been notified that Pius X Church had been listed at Grade II. The reasons for designation are set out below.

Reasons for Designation

The former Roman Catholic Church of St Pius X, including the attached campanile, is listed at Grade II for the following principal reasons:

Architectural interest:

- * it is an architecturally bold example of a relatively small-scale mid-C20 Roman Catholic Church;
- * the Church and campanile have a well-executed overall design, to create a successful stripped-back and free interpretation of a traditional architectural style;
- * internally the main worship space demonstrates an impressive simplicity and is unified through the dramatic full-height pointed arches to the nave which are echoed in the side windows, niches for the altars and the entrances to the confessionals.

Historic interest:

- * FA Kelly was part of Jones and Kelly, a prominent Irish architectural firm responsible for several ecclesiastical buildings in the C20; this Church is one the few identified examples of the firm's work in England.

DEV25 ENVIRONMENTAL FUND MANAGEMENT MINUTES

The minutes from the Environmental Fund Management Board's meeting held on 25 July 2018 were submitted to the Committee for information.

RESOLVED: That the minutes be noted.

Meeting ended at 7.17 p.m.

REPORT TO: Development Control Committee

DATE: 4 February 2019

REPORTING OFFICER: Strategic Director – Enterprise, Community and Resources

SUBJECT: Planning Applications to be Determined by the Committee

WARD(S): Boroughwide

Application No	Proposal	Location
18/00417/S73	<p>Application under Section 73 of the Town and Country Planning Act 1990 to amend Condition 1 of the Planning Inspectorate Decision dated 5/3/14 (App/D0650/A/13/220120) which restricts the amount of fuel delivered by road to 480,000 tonnes in any 12 month period to read as follows: The total number of HGV's associated with the operation of the permitted energy recovery facility (waste importation and the exportation of incinerator bottom ash air pollution control residues) shall not exceed 1930 movements (965 in and 965 out) in any calendar week and shall not exceed a maximum of 386 movements (193 in and 193 out) in any single day.</p>	Runcorn Energy from Waste Facility, Barlow Way, off Picow Farm Road, Runcorn.

APPLICATION NO:	18/00417/S73
LOCATION:	Runcorn Energy from Waste Facility, Barlow Way, Off Picow Farm Road, Runcorn,
PROPOSAL:	Application under Section 73 of the Town and Country Planning Act 1990 to amend Condition 1 of the Planning Inspectorate Decision dated 5/3/14 (App/D0650/A/13/2201280) which restricts the amount of fuel delivered by road to 480,000 tonnes in any 12 month period to read as follows: The total number of HGV's associated with the operation of the permitted energy recovery facility (waste importation and the exportation of incinerator bottom ash and air pollution control residues) shall not exceed 1930 movements (965 in and 965 out) in any calendar week and shall not exceed a maximum of 386 movements (193 in and 193 out) in any single day.
WARD:	Heath
PARISH:	None
AGENT(S) / APPLICANT(S):	SLR Consulting Ltd Treenwood House Rowden Lane Bradford On Avon BA15 2AU Viridor Waste Management Limited Unit 10 Kennedy Way Astley Business Park Astley Manchester M29 7LD
DEVELOPMENT PLAN: Halton Unitary Development Plan (2005) Halton Core Strategy (2013) Joint Merseyside and Halton Waste Local Plan (2013)	ALLOCATIONS: Action Area 4 'Runcorn & Weston Docklands' – Unitary Development Plan Proposals Map. Key Area of Change – West Runcorn – Policy CS10 of the Core Strategy.
DEPARTURE	No.
REPRESENTATIONS:	Twenty individuals have made representations on the proposal from the publicity given to the application.
KEY ISSUES:	Air Quality, Ecology, Highways and Traffic, Noise and Climate Change.

RECOMMENDATION:	Grant planning permission subject to conditions.
SITE MAP	



1. APPLICATION SITE

1.1 The Site

The site subject of the application is the Runcorn Energy from Waste (EfW) Facility which is also known as an Energy Recovery Facility (ERF) located on Barlow Way, Off Picow Farm Road in Runcorn. The site is located adjacent to the existing INOVYN industrial chemical manufacturing works to which it supplies energy. It is bounded to the east by Picow Farm Road and a large complex of chemical plants to both the south and west. Also to the south is the residential area of Weston Point.

The River Mersey is located some 500m to the west of the centre of the site and the Manchester Ship Canal is located on the eastern side of the Mersey at this point.

Picow Farm Road provides direct access to and from the A557 Weston Point Expressway which is part of the strategic road network linking with the national motorway network.

The site is also served by a short freight-only line, connecting with the Liverpool branch of the West Coast mainline.

The site is located within the Runcorn & Weston Docklands Action Area as designated by the Halton Unitary Development Plan. It is also located in the West Runcorn Key Area of Change as set out in Policy CS10 of the Core Strategy.

1.2 Planning History and Background

Prior to 2008, the planning history of the Site is not material.

In 2008, the Secretary of State for Business Enterprise and Regulatory Reform (BERR) granted planning permission (01.08.10.04/8C) for the Energy from Waste Plant at INEOS Chlor at the site.

The 2008 application was on the basis of 480,000 tonnes of Refused Derived Fuel (RDF) being imported per annum by road but following a recommendation by the Development Control Committee, a planning condition was attached restricting importation by road to 85,000 tonnes per annum. Whilst this condition may have been imposed, there was no technical / highway capacity objection to the transportation arrangements suggested within the original application by Officers.

Following the determination of above application, there were two further applications submitted (11/00013/S73 & 11/00186/COND) which sought an increase in tonnage by road from 85,000 tonnes to 480,000 tonnes which were both subsequently withdrawn.

The condition in dispute was condition 57 of the BERR permission (01.08.10.04/8C) which states that:

Unless agreed in writing with the Council, the quantity of refuse derived fuel imported for use in the operation of the Development by road 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.

On 19 December 2012 an application (application reference 13/00011/S73) was submitted for the proposed variation of condition 57 of BERR permission 01.08.10.04/8C (Halton Ref 07/00068/ELC) to vary (by increase) the maximum amount of RDF which may be transported by road to the site from 85,000 tonnes per annum up to 480,000 tonnes per annum and to place an obligation on the operator of the site to report annually to Halton Borough Council the actions taken to secure the delivery of RDF by rail and/or water over the previous 12 month period together with recommendations for the year ahead.

The Development Control Committee resolved that application 13/00011/S73 be refused in order to minimise road traffic movements in the locality. The application was refused on 17 June 2013. An appeal was then made under section 78 of the Town and Country Planning Act 1990 (The 1990 Act) against the refusal to grant planning permission under section 73 of the 1990 Act for the development of land without complying with the condition subject to which a previous planning permission was granted.

The appeal was allowed on 5th March 2014 and condition 1 of the appeal decision stated:

The quantity of refuse derived fuel (RDF) imported by road, for use in the operation of the permitted Energy from Waste Facility, shall not exceed 480,000 tonnes in any twelve month period.

The planning permission which was granted on appeal on 5th March 2014 has now been implemented and the Energy from Waste Facility has now been operational for four years.

2. THE APPLICATION

2.1 The Proposal

This application seeks to amend condition number 1 attached to the existing permission for the EfW facility (Appeal Decision APP/D0650/A/13/2201280 dated 5 March 2014) as set out above which imposes a tonnage limit for RDF imported by road.

The applicant proposes to remove the tonnage restriction to be imported by road and restrict the number of Heavy Goods Vehicles (HGV's) that can visit the site.

This application therefore seeks permission to amend the wording of condition number 1 attached to Appeal Decision APP/D0650/A/13/2201280 dated 5 March 2014 to read as follows:

The total number of HGV's associated with the operation of the permitted energy recovery facility (waste importation and the exportation of incinerator bottom ash and air pollution control residues) shall not exceed 1930 movements (965 in and 965 out) in any calendar week and shall not exceed a maximum of 386 movements (193 in and 193 out) in any single day.

The effect of the proposal would be to allow an increased throughput whilst maintaining the same number of vehicle movements as used for calculations in the Environmental Statement which accompanied the above application (APP/D0650/A/13/2201280).

2.2 Documentation

The application is accompanied by a planning statement, a non-technical summary, an Environmental Statement (ES) along with the associated Technical Appendices. These documents include assessments in relation to air quality, transport, noise, ecology, carbon and other environmental effects.

3. POLICY CONTEXT

Members are reminded that planning law requires for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.

THE DEVELOPMENT PLAN

3.1 Halton Unitary Development Plan (UDP) (2005)

The site is designated as Action Area 4 'Runcorn & Weston Docklands' in the UDP. (Policy RG4). This application relates to an existing development rather than a new development to which the policy relates.

The following policies within the adopted Unitary Development Plan are considered to be of particular relevance;

- BE1 General Requirements for Development;
- GE21 Species Protection;
- PR1 Air Quality;
- PR2 Noise Nuisance;
- PR3 Odour Nuisance;
- PR12 Development on Land Surrounding COMAH sites;
- MW1 All Minerals and Waste Management Developments;
- MW2 Requirements for All Applications.
- TP14 Transport Assessments;

3.2 Halton Core Strategy (2013)

The wider site is partly located in the West Runcorn Key Area of Change in the Core Strategy (Policy CS10). The ERF itself is located outside of this area. Policy CS1 – Halton's Spatial Strategy identifies the quantum and broad location of development across the borough including the identification of four Key Areas of Change of which the application site is one. This proposal relates to an existing development rather than new proposal and will not conflict with the development and regeneration aspirations in the West Runcorn area.

The following policies, contained within the Core Strategy are of particular relevance:

- CS1 Halton's Spatial Strategy;
- CS2 Presumption in Favour of Sustainable Development;
- CS7 Infrastructure Provision;
- CS15 Sustainable Transport;
- CS19 Sustainable Development and Climate Change;
- CS20 Natural and Historic Environment;
- CS23 Managing Pollution and Risk;
- CS24 Waste.

3.3 Joint Merseyside and Halton Waste Local Plan (2013)

The following policies, contained within the Joint Merseyside and Halton Waste Local Plan are of relevance:

- WM0 Presumption in Favour of Sustainable Development;
- WM7 Protecting Existing Waste Management Capacity for Built Facilities and Landfill;
- WM12 Criteria for Waste Management Development;

MATERIAL CONSIDERATIONS

The majority of material considerations are identified in the analysis section of this report but because of the importance of national policy, this section looks at the National Planning Policy Framework

3.4 National Planning Policy Framework

The National Planning Policy Framework (NPPF) was published in July 2018 to set out the Government's planning policies for England and how these should be applied.

Achieving Sustainable Development

Paragraph 7 of the NPPF states that *the purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.*

Paragraph 8 states that *achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):*

*a) **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*

*b) **a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*

*c) **an environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.*

Paragraph 9 states that *these objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.*

Paragraph 10 states so that *sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development. As set out in paragraph 11 below:*

The Presumption in Favour of Sustainable Development

Paragraph 11 states that *for decision-taking this means:*

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Decision-making

Paragraph 38 states that *local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.*

Determining Applications

Paragraph 47 states that *planning law requires for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on application should be made as quickly as possible and within statutory timescale unless a longer period has been agreed by the applicant in writing.*

Planning Conditions and Obligations

Paragraph 54 states *Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.*

Paragraph 55 states *planning conditions should be kept to a minimum and only imposed where they are **necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.** Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.*

Paragraph 56 states *planning obligations must only be sought where they meet all of the following tests:*

a) necessary to make the development acceptable in planning terms;

b) directly related to the development; and

c) fairly and reasonably related in scale and kind to the development.

Promoting Sustainable Transport – Considering Development Proposals

Paragraph 108 states that *in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:*

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- b) safe and suitable access to the site can be achieved for all users; and*
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

Paragraph 109 states that *development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*

Paragraph 110 states that *within this context, applications for development should:*

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;*
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;*
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;*
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and*
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.*

Paragraph 111 states that *all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.*

Meeting the Challenge of Climate Change, Flooding and Coastal Change.

Paragraph 148 states that *the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.*

Paragraph 154 states that *when determining planning applications for renewable and low carbon development, local planning authorities should:*

a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and

b) approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.

Habitats and Biodiversity

Paragraph 175 states that *when determining planning applications, local planning authorities should apply the following principles:*

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and

d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

Ground Conditions and Pollution

Paragraph 180 states that *planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:*

a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;

b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and

c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

Paragraph 183 states that *the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control*

of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

3.5 National Planning Policy for Waste

The Waste Management Plan for England sets out the Government's ambition to work towards a more sustainable and efficient approach to resource use and management.

Positive planning plays a pivotal role in delivering this country's waste ambitions through:

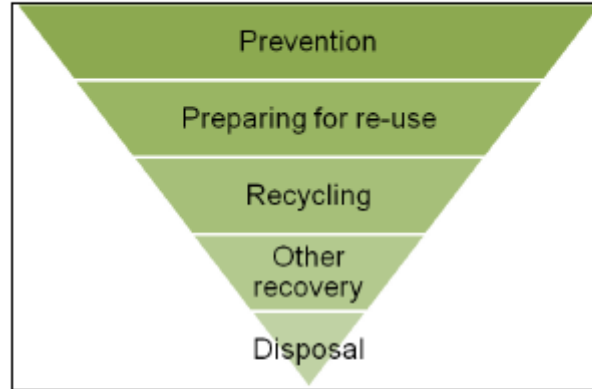
- delivery of sustainable development and resource efficiency, including provision of modern infrastructure, local employment opportunities and wider climate change benefits, by driving waste management up the waste hierarchy;
- helping to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment.

When determining waste planning applications, waste planning authorities should:

- only expect applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan. In such cases, waste planning authorities should consider the extent to which the capacity of existing operational facilities would satisfy any identified need;
- recognise that proposals for waste management facilities such as incinerators that cut across up-to-date Local Plans reflecting the vision and aspiration of local communities can give rise to justifiable frustration, and expect applicants to demonstrate that waste disposal facilities not in line with the Local Plan, will not undermine the objectives of the Local Plan through prejudicing movement up the waste hierarchy;
- consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B and the locational implications of any advice on health from the relevant health bodies. Waste planning authorities should avoid carrying out their own detailed assessment of epidemiological and other health studies;
- ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located;
- concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced;

- ensure that land raising or landfill sites are restored to beneficial after uses at the earliest opportunity and to high environmental standards through the application of appropriate conditions where necessary.

The Waste Hierarchy



- the most effective environmental solution is often to reduce the generation of waste, including the re-use of products – *prevention*⁴
- products that have become waste can be checked, cleaned or repaired so that they can be re-used – *preparing for re-use*
- waste materials can be reprocessed into products, materials, or substances – *recycling*
- waste can serve a useful purpose by replacing other materials that would otherwise have been used – *other recovery*
- the least desirable solution where none of the above options is appropriate – *disposal*

3.6 National Policy Statements on Energy – EN-1 (Overarching National Policy Statement for Energy) & EN-3 (National Policy Statement for Renewable Energy Infrastructure)

This National Policy Statement (NPS) sets out national policy for the energy infrastructure defined in Section 1.3 below. It has effect, in combination with the relevant technology-specific NPS, on the decisions by the Infrastructure Planning Commission (IPC) on applications for energy developments that fall within the scope of the NPSs.

In England and Wales this NPS is likely to be a material consideration in decision making on applications that fall under the Town and Country Planning Act 1990 (as amended). Whether, and to what extent, this NPS is a material consideration will be judged on a case by case basis.

Paragraph 2.1.2 of EN-1 states that *energy is vital to economic prosperity and social well-being and so it is important to ensure that the UK has secure and affordable energy.*

Paragraph 2.2.1 of EN-1 states that *we are committed to meeting our legally binding target to cut greenhouse gas emissions by at least 80% by 2050, compared to 1990 levels.*

Paragraph 3.3.10 of EN-1 states that *as part of the UK’s need to diversify and decarbonise electricity generation, the Government is committed to increasing*

dramatically the amount of renewable generation capacity (see Section 3.4). In the short to medium term, much of this new capacity is likely to be onshore and offshore wind, but increasingly it may include plant powered by the combustion of biomass and waste and the generation of electricity from wave and tidal power.

Paragraph 3.4.4 of EN-1 states that *Biomass and EfW can be used to generate 'dispatchable' power, providing peak load and base load electricity on demand. As more intermittent renewable electricity comes onto the UK grid, the ability of biomass and EfW to deliver predictable, controllable electricity is increasingly important in ensuring the security of UK supplies.*

Paragraph 2.5.2 of EN-3 states that *the recovery of energy from the combustion of waste, where in accordance with the waste hierarchy⁸, will play an increasingly important role in meeting the UK's energy needs. Where the waste burned is deemed renewable, this can also contribute to meeting the UK's renewable energy targets.*

3.7 Waste Framework Directive (WFD) (2008/98/EC)

Article 4 (1) of the WFD states that *the following waste hierarchy shall apply as a priority order in waste prevention and management legislation and policy:*

- (a) prevention;*
- (b) preparing for re-use;*
- (c) recycling;*
- (d) other recovery, e.g. energy recovery; and*
- (e) disposal.*

Article 13 (Protection of human health and the environment) of the WFD

Member States shall take the necessary measures to ensure that waste management is carried out without endangering human health, without harming the environment and, in particular:

- (a) without risk to water, air, soil, plants or animals;*
- (b) without causing a nuisance through noise or odours; and*
- (c) without adversely affecting the countryside or places of special interest.*

Article 16 (Principles of self-sufficiency and proximity) of the WFD states:

1. Member States shall take appropriate measures, in cooperation with other Member States where this is necessary or advisable, to establish an integrated and adequate network of waste disposal installations and of installations for the recovery of mixed municipal waste collected from private households, including where such collection also covers such waste from other producers, taking into account best available techniques.

By way of derogation from Regulation (EC) No 1013/2006, Member States may, in order to protect their network, limit incoming shipments of waste destined to incinerators that are classified as recovery, where it has been established that such shipments would result in national waste having to be disposed of or waste having to be treated in a way that is not consistent with their waste management plans. Member States shall notify the Commission of any such decision. Member States may also

limit outgoing shipments of waste on environmental grounds as set out in Regulation (EC) No 1013/2006.

2. The network shall be designed to enable the Community as a whole to become self-sufficient in waste disposal as well as in the recovery of waste referred to in paragraph 1, and to enable Member States to move towards that aim individually, taking into account geographical circumstances or the need for specialised installations for certain types of waste.

3. The network shall enable waste to be disposed of or waste referred to in paragraph 1 to be recovered in one of the nearest appropriate installations, by means of the most appropriate methods and technologies, in order to ensure a high level of protection for the environment and public health.

4. The principles of proximity and self-sufficiency shall not mean that each Member State has to possess the full range of final recovery facilities within that Member State.

3.8 Other Considerations

The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a persons rights to the peaceful enjoyment of property and Article 8 of the Convention of the same Act which sets out his/her rights in respect for private and family life and for the home. Officers consider that the proposed development would not be contrary to the provisions of the above Articles in respect of the human rights of surrounding residents/occupiers.

4. CONSULTATIONS

4.1 Highways and Transportation Development Control

Traffic Capacity

The previous permission (APP/D0650/A/13/2201280 Inspectorate decision) was granted on the basis of tonnage of waste processed which was estimated to produce 386 HGV movements per day. This application seeks to make this the measure of the restriction rather than volume of waste. It was not necessary to undertake a further traffic capacity analysis. However a verification has been carried out by the applicant, through the completion of additional 2018 traffic counts, that the baseline traffic and assumptions used in the previous capacity analysis are still valid. In addition it is noted that the expected large reduction in traffic on the A557 following the opening of the Mersey Gateway has occurred, which further improves capacity.

Whilst this is not directly presented in the applicant's report, the Highway Authority has carried out a comparison of the traffic count totals from the data available for a comparable PM peak on a Tuesday during 2012 and 2018 surveys. The surveys were both taken at a similar time of year. The results are presented in the tables below:

<p>Weston Point Expressway data comparisons- Tuesday 29 May 2012 16.15-17.15 and Tuesday 19 June 2018 16.00-17.00 hours traffic flows.</p>

	TOTAL MOVEMENTS	HGVs
2012 Northbound	1827	146
2018 Northbound	298 (-84%)	23 (-85%)
2012 Southbound	1597	155
2018 Southbound	274 (-83%)	18 (-94%)

Picow Farm Road and on-off Slips traffic data comparisons- Tuesday 29 May 2012 16.15-17.15 and Tuesday 19 June 2018 16.00-17.00 hours traffic flows.		
2012 Picow Farm Road (2 way)	289	14
2018 Picow Farm Road (2 way)	244 (-16%)	16 (+14%)
2012 Northbound off slip	229	23
2018 Northbound off slip	191 (-17%)	16 (-30%)
2012 Southbound on slip	232	14
2018 Southbound on slip	219 (-6%)	15 (+7%)

As expected, the figures indicate a large decrease in usage of the Weston Point Expressway during the Silver Jubilee Bridge (SJB) closure in 2018 (84% northbound and 83% southbound). The comparison for vehicle movements at the Picow Farm Road junction (including Picow Farm Road and the on and off slips to the Expressway) indicates a smaller reduction in total due to the more local nature of this traffic, with an average total reduction of 13% recorded in the PM peak. Whilst a slight increase is noted in the HGV flows on Picow Farm Road and Southbound on slip, the numbers involved are very small and would be offset in any capacity analysis by the reductions in other vehicles. It is also worth noting that between 2012 and 2018, the inspectorate decision (APP/D0650/A/13/2201280) has been implemented which will have resulted in an increase in baseline HGV flows, which could account for these small increases in HGV movements.

The SJB is currently closed and the re-opening will result in some increase in traffic from the 2018 surveyed flows, the extent of which is currently unknown. However,

given that the new Mersey crossing is designed to ease local traffic congestion, and redistribute traffic through the borough away from West Runcorn, including local roads, it is expected that traffic flows will remain significantly lower than the previous levels which formed the basis of the assessment in 2012. The number of HGVs which is the subject of this application were applied to the model in the earlier capacity testing. Therefore it is agreed that the assessment can be considered valid.

Section 6.77 of the 2018 Environmental Statement (ES) provides a summary of the previous traffic capacity analysis including robust scenario testing and concludes that there are no capacity issues with the previously assessed development traffic. The Highway Authority therefore agrees with the statement in 1.9 of the ES that 386 HGV movements has already been agreed as an acceptable number from a traffic capacity perspective and is still the case. Only HGV movements are considered by the assessment as 6.120 of the ES confirms that there will be no increase in staff (& their movements) to enable the increase in operation sought by this application.

It is noted from section 6.5 of the ES that there is currently no limit set on the number of HGVs which could visit the site. However the actual number of HGVs is limited by a condition restricting the waste tonnage which is allowed to be processed that is brought in by road. Based on ES Section 1.7 there is currently a benefit to local amenity through the efficiencies of larger vehicle payloads (resulting in an average of 216 HGVs per day visiting the site). This application seeks to remove this benefit and instead limit by condition the number of vehicles allowed (with no limit on total waste throughput) to 386 movements as per the original assessment. Of these, 206 were envisaged to be RDF. It is suggested in the ES that the size of HGVs used to transport waste will not be any greater than at present. This is an absolute daily limit and not an average.

A breakdown of the residual material and ancillary daily trips (in addition to import of waste) is included in table 6.9 of the ES, together with a comparison of the actual current averages in 6.10 of the ES. There are some fluctuations in movements and although the average daily HGV movement in 2017 was 216 movements, some days, up to 308 movements were present. It is understood that the percentage increase in waste throughput sought over 2017 levels is around 19%, therefore even if this were applied to the maximum movements in 2017 of 308, this would still be below the 386 movement daily limit sought.

Traffic Routing

Section 6.61 of the ES gives a continuing commitment to ensure access and egress of HGVs is taken from the north and not via Weston Point village/Sandy Lane. This will be secured via existing planning obligations.

Wider Transportation/Rail/Carbon

It is noted that the limitations for transporting the additional amount of waste sought by the application by rail is discussed in sections 3.11-3.14 of the ES. This concludes that 'the ability to import more RDF by rail is, in practice, severely limited'. Also that

there is material currently being imported to landfill in the north west region which is available to this site, and due to the relatively short distances involved (<200km is quoted as a tipping point for rail) is more sustainable to transport by road.

The applicant's Carbon Assessment has made allowance for extra transportation of waste proportionate with the amount sought in the application. It is stated that the benefits of processing waste at the plant rather than landfill significantly outweigh any extra carbon due to transport (assuming a 49km journey which is the current average to the plant, and it is noted that a road journey from Rome would be the tipping point for landfill where the scenarios become equivalent), and it is stated by the applicant that 'currently landfilled waste is available locally' and therefore the comparison is accepted.

Noise/Air pollution

Section 4.65 of the ES states that there would be 'no adverse impacts as a result of the proposed development as traffic levels will not exceed those already considered and found to be acceptable, there would be no significant increase in noise levels and emissions would continue to be monitored as part of the environmental permit.' It is understood that the Council's Environmental Health Officer has considered the calculations relating to road emissions and noise. With respect to emissions it is noted that the calculations account for the worst case 'extra' 170 vehicle movements, even though the 2012 ES has considered this level of traffic already (albeit with a lower payload) and Chapter 5 of the ES concludes air quality effect due to increased tonnage is negligible. It is also concluded in the ES that any increase in road traffic noise will be imperceptible over the baseline. A more detailed report on this topic is given by the Environmental Health Officer.

Representations

A number of representations have been received relating to traffic movements around the following issues which are discussed in turn below:

- *HGVs not using designated routes, affecting Sandy Lane and increased danger.*
 - Claims of Viridor vehicles using Sandy Lane have not been substantiated, and their routing is covered by a legal agreement. There is a record of one Veolia HGV using the route which is not related to the Viridor site. Other instances of HGV use are known to have occurred during an emergency or congestion, which should no longer be evident since Mersey Gateway has opened, or visiting local amenities. It is noted that the weight restriction is only in place from 9pm – 7am.
 - Therefore provided routing to and from the site continues to be well controlled there should be no impact of the development upon highway safety in Sandy Lane.
- *Vehicles parking on Picow Farm Road partly on footway and chevron areas*
 - There was evidence of a HGV stopping for a short period (1 minute possibly to find route) during site visit. The vehicle stopped in a safe location and there were clear sightlines to allow vehicles to pass safely. No offsite parking was evident during the visit.

- *Request for developer to fund HGV weight limit on Russell Road and Westfield Road and speed camera on Russel Road*
 - There was a temporary weight limit on Westfield Road whilst the expressway was being constructed. The signs recently appeared when a hedge was cut but have been removed as there was no TRO to support the restriction.
 - A weight limit on Westfield Road and Russell Road cannot be justified and would not be supported by the police as environmental weight limits are virtually unenforceable, due to the definition of access.
 - Ineos have already funded signage to the EfW site, and access/egress is secured by legal agreement
 - It is noted that the reason is due to traffic jams, but since Mersey Gateway has opened, there is very little traffic on Weston Point Expressway so there would be no advantage in using local routes unless you were going to the shops, which would be classed as access. During the site visit these routes were quiet with only local traffic.
- *Request for a place (layby) for HGVs to park*
 - There was evidence of a HGV stopping for a short period to the north of the site entrance on Picow Farm Road (1 minute possibly to find route) during the site visit. The vehicle stopped in a safe location and there were clear sightlines to pass. No offsite parking was evident. It should be noted that a layby on the Weston Point Expressway in close proximity to the site has recently been closed following complaints being received.
- *Additional HGVs as a result of the application and effect on welfare of future residents*
 - This is dealt with in the applicant's ES and wider report.
- *Appropriateness of Barlow Way/Picow Farm Road junction*
 - The Council is not aware of any recent issues and no issues were observed during the site visit. The Highway Authority consider the access to be acceptable.
- *Waste falling from vehicles*
 - No issues were observed during the site visit nor does the Highway Authority have evidence that this is occurring.
- *The traffic volume survey illustrates that traffic going in the opposite direction to the plant and not one vehicle heading for the plant has been registered.*
 - It was not necessary to undertake a further traffic capacity analysis. However a verification has been carried out by the applicant, through the completion of additional 2018 traffic counts, that the baseline traffic and assumptions used in the previous capacity analysis are still valid.
- *Buses being found in count data on none bus routes*
 - It is normal practice for traffic surveys to pick up buses, and buses/coaches may be present on non-registered routes.

Conclusion

In conclusion, following the examination of the environmental information accompanying the application, the Highway Authority concludes that no significant adverse transport effects would result from the proposed development.

4.2 Environmental Health

Environmental Health Representations

Environmental Health has considered the application in relation to the areas for which the Council has responsibility. The Council is responsible for assessing air quality and enforcing statutory nuisance. The Council's responsibilities for air quality are set out in s82 of the Environment Act 1995 and further supplemented by the National Air Quality Strategy. The responsibilities relate to specific pollutants. Statutory nuisance is defined by the Environmental Protection Act 1990 s79 and can include noise, light, insects and odours that are considered to 'materially impact with the reasonable use and enjoyment' of a property.

In addition to the duties conferred on the local authority the plant is subject to an Environmental Permit. This contains specific conditions for the operator to comply with on site and at the point of emission. Enforcement of the permit conditions is carried out by the Environment Agency rather than the Council. The changes applied for through planning are also subject to a variation to the Environmental Permit which is currently under consideration by the Environment Agency.

The applicant has provided noise and air quality reports to accompany the application. Environmental Health has reviewed these reports in relation to the Council's statutory functions outlined above and in consideration of technical guidance relative to the matters covered. The Environmental Health team has also considered the application in relation to the objections received by residents which cover a more diverse range of issues.

Noise

The noise report submitted by the applicant assesses the potential increase in noise levels in relation to the impact that the increase in HGVs will have on residential properties. The report states that noise from the process itself will not increase as a result of the additional waste being transported by road and Environmental Health acknowledges that the noise levels specifically from the plant will not increase.

The report therefore assesses the noise impact associated with an increase in HGVs along the roads on the approach to the EfW plant. It references methodology compliant with the Design Manual for Roads and Bridges (DMRB) volume 2, section 3 part 7 (2011). It is worth noting that the proposed increase in HGV movements falls below the threshold for which a DMRB assessment is technically required and the applicant could legitimately have screened out the requirement for a noise report entirely. The assessment entails measuring the existing noise levels and comparing them with the predicted noise levels following the implementation of the proposed changes. The report is clear on the locations that background measurements were taken. It identifies the method by which the noise levels of the vehicles are predicted.

The difference between the existing background levels and the predicted levels has been calculated. Table 7-13 of the applicant's report assesses the worst case scenario, where the quietest background levels are compared to the predicted increase in noise levels. Table 7-14 then looks at the internal levels, again assuming the worst case scenario by predicting that the highest background levels recorded (day and night respectively) are always present and then adding the predicted

increase in noise levels. It then compares this to the World Health Organisation/BS 8233:2014 standards, which are appropriate standards. The report indicates that any increase in noise level will be below 1dB in all cases except for the night-time noise levels at Russell Road. This increase is 1.6dB. In acoustic terms an increase below 3dB is imperceptible to the human ear. It is also notable that the plant does not routinely accept deliveries by road between 23:00hrs and 07:00hrs.

Some representations have been received citing figures across a number of reports to suggest that there have been inconsistencies with the approach that has been taken by the applicant. In fact the objectors make observations using different reports that have been carried out for other purposes in the past. It is not therefore appropriate to compare the figures within these reports to the figures identified in earlier reports without understanding the different methodologies and the reason for their use in specific circumstances.

In respect of noise, it is concluded that the proposal would not have a significant noise impact with the increased levels imperceptible to the human ear.

It is noted that the granting of this application would result in a new planning permission for the ERF.

The normal commercial operation of the development results in some tonal and impulse noise. When considered in relation to statutory nuisance and residential amenity, this should be taken in the context of the impact on the community. Investigations have concluded that the tonal and impact noise have no detrimental impact on residential amenity. Therefore any condition stating that no tonal or impulse noise should be exhibited does not meet the test of a valid condition.

Air Quality

Environmental Health's responsibility with regard to air quality relates to specific pollutants; nitrogen dioxide (NO₂), sulphur dioxide SO₂, and particulate matter (PM10 and PM2.5), and their impact on human health. Therefore Environmental Health's review of the air quality assessment is limited to the levels of the specific pollutants in areas of relevant human exposure (ie existing residencies). Technical guidance (TG09:2016) outlines the parameters and methodologies for carrying out air quality assessments and the applicant has used the DMRB volume 11 section 3 to assess the impact of the emissions from the HGVs on air quality.

Local air quality is assessed and reported through to Government on an annual basis. Monitoring carried out in Runcorn, including Weston, demonstrates that the air quality in the area comfortably complies with the objective levels set by Government and that there are no air quality concerns in this area. In addition traffic levels along the Weston Expressway have reduced since the opening of the Mersey Gateway Bridge. Whilst traffic levels along this route will increase once the Silver Jubilee Bridge is reopened the levels are still considered to be lower than the levels prior to the opening of the Mersey Gateway Bridge. Evidence across 20 years of monitoring nationally demonstrates that breaches of air quality objectives occur, due to traffic emissions,

where there are long periods of standing traffic enclosed on narrow streets such that the pollution cannot dissipate rapidly. In addition pollution concentrations from road vehicles fall rapidly within 20m of a carriageway. The traffic assessment does not predict standing traffic and the carriageway is not flanked by tall buildings preventing the dissipation of the pollutants.

The applicant carried out a NO₂ diffusion tube survey in 13 residential locations for 4 months. These levels were measured and adjusted in line with TG09:2016 to provide the annual average levels in these areas, to assess the annual average concentration exposure of residents in these areas. These results replicate those obtained by the Council over a number of years in this area and confirm that air quality is not an issue of concern to the Council. The results of the diffusion tube survey when compared to the survey carried out in 2012 demonstrates a fall in all locations due entirely to the reduction in traffic levels along the Weston Expressway.

The Land-Use Planning and Development Control: Planning for Air Quality guidance published by the Institute of Air Quality Management provides the methodology for comparison of background levels with predicted concentrations. This states that where the background pollution is less than 75% of the Government's objective levels and where the increase due to development is less than 5% of the objective levels then the impact on air quality of a development is considered negligible. The air quality assessment demonstrates that the impact of the development will fall into the negligible category and Environmental Health are satisfied that pollution levels will not have a detrimental impact on the community.

The existing air quality monitoring has demonstrated that the emissions from the plant have a negligible impact on the surrounding environment in relation to specific pollutants listed above. It therefore follows that no further air monitoring is required as a result of this application.

Complaints Concerning the Existing Operation of the Plant

The ERF has been subject to numerous complaints to the Council since its construction 4 years ago. A number of representations have been received from residents citing the impact that the plant is having on daily life in relation to noise, odours, light, flies and steam. Environmental Health has received 96 complaints from residents since May 2018 concerning potential statutory nuisance. 60% of these complaints have come from the same 3 households.

Whilst the Council does not investigate every complaint, a concentrated programme of observations was undertaken in May and June 2018 and observations have continued throughout the year, albeit at a lesser frequency. Officers visited residents' properties and locations close by, during daytime hours and also undertook some night time observations.

Statutory nuisance is defined by statute and further elaborated in case law. The mere presence of a noise, odour etc does not in itself constitute statutory nuisance. It is a question of context and degree, much of which has been clarified by case law through

the Courts. Each individual case is determined in relation to the facts and evidence obtained by Environmental Health staff.

In relation to noise it is accepted that some noises are audible off-site. Our investigations have determined that at times some noises can be heard at properties close to the perimeter of the site. Our observations indicate that whilst noise is audible, in particular from vehicle movements during daytime hours only (07:00-23:00hrs), the degree to which it is audible has not constituted a statutory nuisance and therefore no action has been taken.

Similarly it is accepted that on rare occasions there have been odours at the boundary of the premises. The odours have not been detected at complainants' homes and the intensity and duration of the incidents have been so minor such that we could not establish the existence of a statutory nuisance.

For steam to constitute a statutory nuisance it would need to ground at residential premises. Environmental Health staff have not witnessed steam at ground level despite visiting at times when the weather conditions are most likely to result in the plume grounding. On this basis we have not established statutory nuisance from steam emissions.

Environmental Health staff have visited the area at night to establish the likelihood of statutory nuisance from lights on the site. All lights that are used to illuminate the site are adequately angled to prevent light spill at the boundary. The red lights at the top of the stack are obviously visible but are too high to actually impact the light environment in any area on the ground. Without substantial changes to the lighting on site it is the opinion of Environmental Health that light from the site could not cause a statutory nuisance.

Environmental Health received complaints of flies in the area in the summer of 2018 which it was claimed originated from the site. Staff undertook a visit to the site which included an inspection the tipping hall and bunker, however no flies were observed on site. We could not establish a statutory nuisance based on the lack of evidence.

On the basis of the above evidence collected by Environmental Health staff the Council has not found the existence or indeed any likelihood of a statutory nuisance from the site and by inference there is no material loss of amenity.

Rail noise will not be affected by the proposed development under consideration. It has, however, been considered in relation to its impact on the local community in line with the exercise outlined above. Noise from trains on Network Rail accessing the plant would not be considered to materially impact the residential amenity in the area. In coming to this conclusion consideration is given to the number of trains per day (3) and the number of trains that enter the site after 23:00 hours per week (up to 2). Whilst in considering the original planning condition the Secretary of State both set time restrictions on the entry of trains to the site, but also acknowledged that trains may enter the site between these times and as such set maximum noise levels at the site. These 2 conditions act to contradict one another and cause a lack of clarity for

operators, residents and residents. The noise limit imposed is expressed as being compliant with BS7445 and to be measured in line with this standard which is consistent with current Government policy on controlling noise from railway lines.

Conclusion

Officer investigations cannot uphold the view put forward by some objectors that the operation of the plant is causing disruption to residents' daily life constituting a statutory nuisance. Therefore in considering this application, and based on the evidence collected by Council officers, we have to start with the premise that the plant is not materially impacting on residents' daily lives.

The assessment provided in relation to noise demonstrates that there will be no perceptible increase in noise and therefore the increase in vehicle numbers will not impact on residents. The air quality assessment demonstrates that the impact of the development will fall into the negligible category and pollution levels will not have a detrimental impact on the community.

Following the examination of the environmental information accompanying the application, Environmental Health concludes that no significant adverse effects in respect of noise and air quality would result from the proposed development.

4.3 Merseyside Environmental Advisory Service – Ecological and Waste Advisor

EIA Conformity

The Environmental Impact Assessment Regulations 2017 set out in Schedule 4 the general requirements for the content of Environmental Statements. These comprise information on: the nature of the development; consideration of alternatives; relevant aspects of the environment; likely environmental impacts arising; proposed mitigation measures; and an indication of any difficulties in compiling the information needed. A non-technical summary of the contents of the Environmental Statement is also required.

Having reviewed the submitted Environmental Statement we advise that, subject to the satisfactory receipt of any additional information required by the Council under paragraph 25 of the EIA Regulations, it satisfies these requirements and can be used as a basis for determination of the application.

Habitats Regulations Assessment

The development site is near to the following European designated sites and Local Plan policy CS20 applies:

- Mersey Estuary SPA; and
- Mersey Estuary Ramsar site.

Due to the development's potential pathways and impacts on the above sites, this proposal requires Habitats Regulations Assessment for likely significant effects.

Source-Pathway-Receptor table and Assessment of Likely Significant Effects (ALSE)

The source-pathway-receptor model is used to assess individual elements of the project likely to give rise to effects on the Natura 2000 sites. In using this method all potential effects are assessed to determine whether there is a pathway which could lead to an effect on the Mersey Estuary SPA and Ramsar site. If there is a source-pathway-receptor link for any potential effect then this effect is assessed for likely significant effects within the HRA. Where no source or pathway is present then these effects are screened out at this stage. All potential effects, no matter how small are identified and the assessed for their level of significance. Even if the potential effects are small and thought likely to be insignificant they must be assessed to confirm this is the case. Figure 1 below shows how the model works.

On 12 April 2018, the ECJ issued a judgement (*Sweetman v Coillte Teoranta*) which ruled that measures intended to avoid or reduce the harmful effects of a proposed project on a European site may no longer be considered by competent authorities at the Assessment of Likely Significant Effects (ALSE) stage and should be considered during the Appropriate Assessment. This requires a distinction to be made between essential features and characteristics of a project (e.g. its nature, scale, design, location, frequency, timing and duration) and measures which are intended to avoid or reduce the harmful effects of a project on a European site.

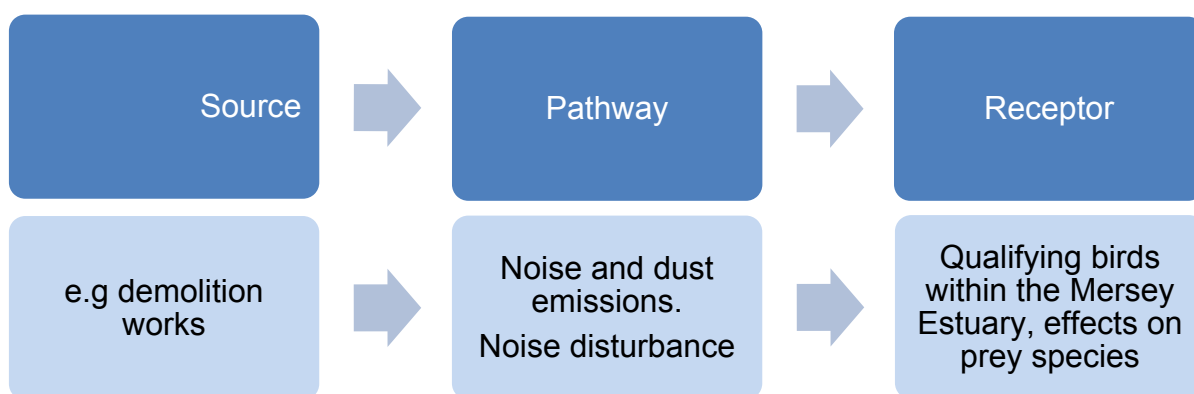


Figure 1 – Source-Pathway-Receptor Model

Table 1: Test of Likely Significant Effects

Source	Pathway	Receptor	Likely Significant Effects
Site operation – noise disturbance	Noise disturbance to qualifying bird species	Qualifying features of: <ul style="list-style-type: none"> Mersey Estuary SPA non-breeding birds; and Mersey Estuary Ramsar site. 	<p>I previously advised (3 July 2018) that noise impacts on the qualifying features of the Mersey Estuary SPA and Ramsar sites should be included in the scope of the applicant’s Environment Statement Ecological Impact Assessment (EclA).</p> <p>The environmental consultant SLR Consulting (<i>Jeff Eaton to Chris Herbert, 12/10/2018</i>) has since advised that in respect of noise the permitted approved limits at sensitive receptors were considered and approved at public inquiry and were accepted as not having a significant effect on the Mersey Estuary SPA.</p> <p>The noise assessment undertaken for the current application demonstrates that these limits will continue</p>

Source	Pathway	Receptor	Likely Significant Effects
			<p>to be complied with so there is no change to the currently permitted baseline on noise limits. On this basis no further, ecological assessment of noise impacts has been undertaken. I accept this position.</p> <p>The noise impact assessment (chapter 7) concludes that during the daytime, the worst-case noise impact would be minor (Table 7-14) on residential monitoring locations. The daytime 'noisiest noise level' at Clarks Terrace which is closest to the estuary (415m east) is 57.4 dB. Predicted noise levels are in the envelope of 'low noise level effects' as identified by Cutts (2013). Redshank which are a particularly noise sensitive bird, for example, are tolerant of noise up to 70 dB with caution over 55 dB noise events. The predicted noise level will dissipate over the separation distance to the estuary therefore it is likely that noise levels at the bird will be significantly lower than those at Clarks Terrace.</p> <p>I therefore advise that there will be no adverse effect on the integrity of the European sites.</p> <p>No Likely significant effects.</p>
Site operation – aerial emissions	Transfer of dust and operational-related pollutants to qualifying habitats	Qualifying features of: <ul style="list-style-type: none"> • Mersey Estuary SPA; and • Mersey Estuary Ramsar site. 	<p>There is no hydrological connectivity between the proposed development site and European sites.</p> <p>Transfer of dust and operational-related pollutants from vehicle movements and the ERF stack have the potential to cause harm and degradation of the qualifying features of the European sites through smothering, eutrophication and/or acidification of qualifying habitat features. Impact on saltmarsh is of principle concern although at the closest point saltmarsh is 1.5km from the site.</p> <p>The applicant has undertaken an atmospheric dispersal modelling assessment of the ERF plant combustion and road traffic related emissions to inform their Ecological Impact Assessment (EclA) which is acceptable. The assessment concludes that the aerial emissions would not result in any adverse effects on European sites or the other designations included in their assessment. Full details of the modelling is set out in Appendix 5-1.</p> <p>Embedded 'designed-in' mitigation is provided as part of the Environment Permit requirements to control aerial emissions. The outcome of the air quality impact assessment and embedded mitigation is sufficient to conclude there will be no adverse effect on the integrity of the European sites.</p> <p>No likely significant effects.</p>

Conclusion of Test of Likely Significant Effects

The Test of Likely Significant Effects demonstrates that the proposed development is unlikely to have significant effects on European sites. Embedded mitigation for aerial emissions control will be secured and implemented through the Environmental Permitting process. **No adverse effect on the integrity of the European sites.**

Merseyside and Halton Joint Waste Local Plan

During 2017, the site received 920,000 tpa at the weighbridge which equated to 890,000 tpa processed through the ERF (the difference results in a loss of moisture content), and therefore resulted in substantial diversion of waste from landfill and generation of low carbon energy for the adjacent chemical works. Due to improvements in availability of the plant (less routine and unplanned maintenance) and decreased calorific value of RDF (both identified and forecast) the ERF has additional capacity to process RDF. It is envisaged this will arrive by road.

The current permission was assessed and approved on the basis of 386 HGV movements per day. Due to larger payloads, the current actual movements equate to an average of 216 HGV movements per day (108 in and 108 out), which having taken account of residual waste and ancillary movements, leaves an additional 120 movements (60 in and 60 out) per day available.

The Planning Statement (*SLR Consulting Ltd Ref: 402.00036.00824 July 2018*) indicates that there is an assumption that the variation of condition to allow up to 386 HGV movements will enable 1,100ktpa of waste fuels to be processed at the facility. The current planning permission does not include a condition that restricts the tonnage of waste that can be accepted at the facility.

It would be prudent to include a condition is included that restricts the tonnage of waste fuels to 1,100ktpa, as this tonnage has formed the basis for the EIA including noise, air quality, carbon and traffic assessments; and would form an upper limit on processing capacity. Anything above this has not been assessed. This increased capacity can be reported in the Monitoring Report for the Waste Local Plan.

Policy WM7 (Protecting Existing Waste Management Capacity for Built Facilities and Landfill) aims to keep existing operational and consented waste management sites in use to maintain essential waste management infrastructure for Merseyside and Halton. The Runcorn ERF comprises a significant waste facility in terms of meeting local needs and helping achieve self sufficiency in the plan area. Therefore, this policy is supportive of the proposal.

Policy WM11 (Sustainable Waste Transport) the Runcorn ERF currently utilises both road and rail in terms of transporting fuel to the site, and also has capability to make use of nearby wharfage at the ship canal. Although the proposal will result in an increase in carbon emissions due to increased HGV movements to the facility, the Carbon Assessment (*SLR Consulting Ltd Ref: 402.00036.00824 July 2018*) has shown an overall carbon saving in terms of reducing the amount

of waste going to landfill. Other requirements of this policy will have been addressed in the original planning applications. Therefore, I am satisfied that the proposed variation to condition 1 complies with policy WM11.

The planning submission included several supporting documents. Subject to technical specialists being satisfied with the submitted information relevant to their disciplines, then I am satisfied that sufficient information has been submitted to demonstrate compliance with policy WM12 (Criteria for Waste Management Development).

Policy WM14 (Energy from Waste) is relevant as the application relates to an EfW. However, the site itself comprises part of the operational capacity referred to in the policy. The existing facility uses combined heat and power. Other consented capacity in the City Region had not been built out. Therefore, the proposal to increase throughput at this site is valid. It has been supported by a Fuel Supply Assessment (*SLR Consulting Ltd Ref: 402.00036.00824 July 2018*). Therefore, compliance with policy WM14 is demonstrated.

Carbon Assessment

A Carbon Assessment (*SLR Consulting Ltd Ref: 402.00036.00824 July 2018*) has been undertaken as part of the impact assessment using the WRATE model. I am satisfied with assumptions made in the model and the proposed scenarios that have been run.

The CA shows that the carbon impacts of increased transport are relatively minor when compared to the impacts of diverting waste from landfill. It also shows that the carbon burden of the ERF element is lower for treatment/recovery of 1,100ktpa compared to 920ktpa. The reason for this which is related to more waste being processed through the Combined Heat and Power element of the facility as part of the modelling.

Overall it can be seen that there is a significant carbon saving by diverting 180ktpa from landfill. There is no longer any non hazardous landfill available within Merseyside and Halton, and therefore alternative disposal routes, such as that proposed, are necessary to deal with residual waste requirements. No further information on the Carbon Assessment is required.

4.4 Environment Agency

Environment Agency position

We have no objection in principle to the proposed amendment from a planning regime perspective but make the following comments;

Environmental Permitting Regulations

The planning application to swap the quantity of waste arriving by road at Viridor's energy-from-waste (EfW) plant (480,000 tonnes in a 12-month period) for a limit on vehicle movements is part of a scheme to increase the overall quantity of waste burned. The proposed increase is greater than the threshold prescribed in UK and EU legislation and is therefore a 'substantial change'

requiring a variation to the EfW environmental permit. Viridor submitted an application to vary their permit on 17 August 2018.

4.5 Health and Safety Executive (HSE)

Having reviewed the planning application and the location of the site I can offer the following advice. HSE would not advise against the change in condition as long as there are less than 100 occupants in any one building at any one time situated within the HSE Inner zones.

The following clarification has since been sought on the HSE's advice. They just consider the development within the outline of the area defined in the planning application. We do not consider buildings outside the application site.

The applicant has confirmed that the maximum (for a limited period of time during handovers) there would be 61 personnel on site

4.6 Natural England

The proposal is in close proximity to the Mersey Estuary SSSI, SPA and Ramsar. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on the above mentioned sites and has no objection. To meet the requirements of the Habitats Regulations, we advise you to record your decision that a likely significant effect can be ruled out.

5. REPRESENTATIONS

5.1 The application was advertised by a press advert in the Widnes & Runcorn Weekly News on 06/09/2018, five site notices (two on Russell Road, two on Sandy Lane and one on Picow Farm Road) posted on 30/08/2018 and 634 neighbour notification letters sent on 30/08/2018.

5.2 A total of fifty six representations from twenty individuals have been received from the publicity given to the application along with two representation from a Councillor and one representation from Derek Twigg M.P.

5.3 Councillor Norman Plumpton-Walsh – Mersey Ward

REPRESENTATION ONE

In respect of this application, Mersey Ward councillors would like:

INEOS to pay for, and enforce signage for HGV weight limits to be introduced on Russell and Westfield Roads so that HGV's aren't using these roads when, and if, there is log jam. I am hopeful that HGV drivers would be mindful to adhere to them.

I hope to can add this as a condition to the application.

REPRESENTATION TWO

Sorry, I was meant to add to the above for INEOS to pay for, and install a speed camera on Russell Road in view of section 106.

Thanks for considering views above.

5.4 Derek Twigg M.P.

I have had a number of constituents contact me regarding this application, expressing concerns about greater number of lorry movements bringing in waste. If passed this would be the second time the original agreed limit has been amended. At the time of the original application, before the EfW plant was built, great play was made by the applicant about keeping lorry movements to a minimum. Clearly, any additional lorry movement will impact on local roads and add to pollution.

Since the EfW opened I have had a continuous stream of complaints made to me by local residents about the operating of the plant, including noise, smells and huge vapour clouds engulfing the local community. Therefore there are great concerns about the ability of the plant to cope with even more waste without negatively impacting on my constituents who live near the facility.

It is very important that the Council give due weight to these views when determining this application, I have concerns about the further impact of increased fuel delivery to the EfW plant.

5.5 Individual Objections

A total of fifty six representations from twenty individuals have been received from the publicity given to the application. The representations have raised the following planning concerns which are considered to be (or potentially to be) material planning considerations.

- Too many HGV movements that do not use the designated route;
- Increased danger for pedestrians and car users;
- Potential increased parking on Picow Farm Road causing a hazard for other road users;
- Junction at Picow Farm Road / Barlow Way not fit for purpose;
- Waste falling from vehicles;
- Somewhere for the lorries to park is suggested. This could be accommodated in a lay by;
- The HGV movements would be to the detriment of the amenity of future residents if houses are built opposite the site;
- The traffic volume survey illustrates traffic going in the opposite direction to the plant and not one vehicle heading for the plant has been registered;

- The applicant has not demonstrated that the increase in capacity would be of a manner which minimises impacts on local residents and the environment.
- Insufficient detail has been provided by the applicant in respect of historic impacts on amenity including noise and odour
- Loss of amenity due to tailgates crashing, noise from the cooling tower turbines and trains delivering fuel;
- The noise levels in the 2018 survey are unacceptably different to the 2016 survey. The survey should be resubmitted;
- The proposal would result in the existing noise conditions being exceeded to an unacceptable level;
- The totality of noise from all sources experienced by residents is a reason to refuse the additional vehicle movements;
- How do all the complaints raised not constitute a statutory nuisance?
- In the manner in which the Council considers complaints of statutory nuisance, they are already guilty of wilful blindness which is a criminal offence;
- How many complaints have been received since the plant commenced operations?
- Nearby residential properties have had a Council Tax reduction due to the loss of amenity that the plant has caused;
- The application should not be determined until the Parliamentary & Health Ombudsman has reached a decision on investigations into the monitoring of the plant by the Environment Agency;
- The Local Government and Social Care Ombudsman are currently investigating the way in which the Council deal with complaints;
- The Council do not want any dissenting voices at any forums;
- Steam is already enshrouding both residential and commercial premises;
- Where the diffusion tubes are located and what are the readings?
- The diffusion tube on Picow Farm Road cannot monitor vehicles using the site as the tubes are too far away;
- There are no diffusion tubes monitoring where all the extra traffic would be;
- More HGV movements will result in a reduction in air quality;
- Odour issues from household waste from both vehicles and the tipping hall;
- Documentation indicates that odour complaints have not been substantiated in the last two years. This is an inaccurate statement;
- Lack of regulatory controls with regard to odour;
- Planning conditions should be put in place to control odour and litter from vehicles accessing the facility;
- The existing plant is contrary to policy PR3 of the Halton Unitary Development Plan as there is an odour nuisance beyond the boundary of the site;
- Light pollution;

- The submission contains errors and is not set out in a manner which allows for clear comparison;
- The proposal does not demonstrate that the extension to the existing waste management facility will make use of alternatives to road transport for movement of wastes (sustainable transport modes);
- The proposition of water transport should be considered further;
- The plant goes against the vision and overall aims of Halton;
- The proposal is in breach of Article 13 'Protection of Human Health and the Environment' of the Waste Framework Directive;
- Carbon footprint will increase and it would have an adverse impact on climate change;
- Plant originally intended to burn Solid Recovered Fuel (SRF);
- The additional tonnage is roughly the same as the Manchester contract. Have Viridor been awarded the Manchester contract?
- Where would the new fuel originate from? A vehicle from Durham City has recently been noted entering the plant.
- The proposal to increase capacity is unnecessary;
- The EfW capacity in the sub-region exceeds the identified EfW management need;
- Increased problems with flies;
- Loss of a view of a major part of the Mersey Estuary.

6. ASSESSMENT

6.1 Assessment Introduction

This application (to amend the wording of condition number 1 attached to Appeal Decision APP/D0650/A/13/2201280 dated 5 March 2014 as set out in section 2.1 of the report) needs to be determined in accordance with the development plan unless material considerations indicate otherwise.

The recently published NPPF is a material consideration in planning decisions. Annex 1: Implementation states that *existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).*

Members should note that paragraph 108 of the NPPF as set out at section 3.4 states that it should be ensured that *appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location.* It does not set any levels or targets for any particular mode of transport nor does it say that freight should not be transported by road.

It should be noted that the existing EfW facility included significant investment into railway sidings, the Site is also next to the port of Weston and Runcorn docks which means that the site could be served by water too. Therefore in

terms of location and available infrastructure the EfW facility satisfies the NPPF in this respect due to the sustainable transport modes available.

Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. The three overarching objectives (economic objective, social objective and an environmental objective) are set out in full in section 3.4. The presumption in favour of sustainable development is also contained in Policy CS2 of the Core Strategy.

Compliance with the achievement of sustainable development will be considered throughout the assessment and concluded at the end of the report.

6.2 Continuing relevance of the Inspector's reasoning in the March 2014 appeal decision (APP/D0650/A/13/2201280)

The ES in that appeal was prepared on the basis of justifying a maximum importation by road of RDF into the Site of 480,000 tonnes per annum - which was the tonnage originally proposed in 2008. The imposed tonnage limit had been 85,000 tonnes. The Inspector was therefore considering the impact of the increase tonnage being requested.

The Inspector considered the main issues at the appeal to be:

- the effect of the likely increase in traffic movements as a result of the proposal on the amenity of those living nearby, by reason of air quality and noise;
- the effect of the likely increase in traffic movements on vehicular and pedestrian safety;
- and whether, having regard to the roles set out in the National Planning Policy Framework, the proposal would constitute sustainable development.

Although expressed in different terms the main issues for the current application are substantially the same.

- The inspector was looking at average payloads of 18.3 tonnes per vehicle for RDF, and 15 tonnes per vehicle for the import of lime and the export of fly and bottom ash. Trips for activated carbon and ammonia water were rounded up to one a day. These figures were shown to be very conservative estimates and were considered to indicate a robust worst case scenario.
- With regard to air quality and noise, the Inspector noted the concerns of those objecting to the proposal relating to the health of local residents, and the ecological interest of Runcorn Hill and the proximity of the site to the Mersey Estuary Special Protection Area (SPA), Ramsar Sites and a SSSI.
- While the Inspector understood the level of fear and anxiety, it was not supported by any objective review of the evidence submitted and no substantiated evidence of actual harm in terms of impact of air quality arising from the proposal had been demonstrated.

- The Inspector found no conflict with the development plan policies referred to at the appeal.
- With regard to vehicle and pedestrian safety the Inspector held that the assessments demonstrated, among other things, that all the traffic associated with operation of the facility could adequately be accommodated via the Picow Farm Road/ Expressway junction, with no adverse effect on its capacity.
- Other concerns related to HGVs waiting on Picow Farm Road to access the docks. The Inspector found that there was no substantial evidence that this was a common problem.
- The Inspector did not find that there would be in normal circumstances (subject to a routing agreement) HGVs travelling along local residential streets.
- The predicted increase in traffic movements would be insignificant in terms of highway capacity, with no material impact on sensitive receptors including driver delay, road safety and pedestrian/cyclist amenity.
- With regard to sustainable development the Inspector carefully considered the likely impact of the predicted increase of HGVs on the environment, against the benefits of the proposed scheme. The pre-existing condition did not allow for the most resource and cost efficient transport solutions to be adopted. The proposal would deliver significant sustainability benefits. Taking NPPF as a whole the proposal represented a sustainable form of development.

It should be noted that the Inspector was only considering a proposal for a maximum per annum total of 480,000 tonnes of RDF imports and that all modelling was geared to that total. The findings of the Inspector must be taken as binding with respect to that maximum figure which will be considered as a sort of baseline against which the current application can be measured.

It is of particular relevance to quote paragraph 23 of the inspectors report. This states:

“The proposed arrangement is predicted to lead to up to 85 additional HGV trips per day (170 daily movements) raising the predicted currently permitted trip generation from 108 trips per day to 193 trips (386 daily movements). The change in relation to the arrangement proposed relates only to RDF deliveries – the delivery and export of other materials would remain the same. Although those figures were challenged, initially, by HAGATI, no substantiated evidence was presented to discredit the basis for the figures, or the figures themselves and, during the Inquiry, they were accepted by HAGATI. I am mindful, in this regard, that the calculations in both the Transport Assessment and the ES are consistent with the assessment work undertaken for the original planning application and that the information supporting the appeal scheme has been reviewed by technical consultees, with no objections or queries being raised.”

This demonstrates that the calculations relevant to the current application are similar to those in the last appeal in terms of vehicle movements. The only difference is the average tonnage assumptions. The condition the applicant now seeks to vary is expressed in terms of vehicle movements rather than

tonnage. The total number of vehicle movements requested in the current application has already been justified as part of the last appeal.

6.3 Transport

The existing permission to increase the RDF to a maximum of 480,000 tonnes was considered on the basis of 386 HGV movements (193 in and 193 out) a day based on a deliveries occurring across a 255 day year.

Due to operational efficiencies, the actual HGV movements generated by the ERF average 216 movements a day (108 in and 108 out). This has been determined by the 2017 weighbridge data. The level of traffic is lower than that forecasted in the assessment which accompanied the existing permission due to an underestimation of the HGV payloads. 18.3 tonnes was forecasted, however the 2017 weighbridge data revealed the average RDF payload was 23.4 tonnes. It should also be noted that the non-RDF movements have been considerably smaller than originally predicted.

This results in a headroom of 170 HGV movements per day when compared with the approved assessment. The applicant is looking to increase the tonnage of RDF, however this would be accommodated with no increase in the previously assessed HGV movements.

Due to the applicant's desire to increase the tonnage of RDF received due to operational efficiencies, their application seeks to permission to vary condition number 1 from restricting the tonnage of RDF imported by road to the HGV movements considered in the existing permission.

Detailed observations from the Council's Highway Officer can be found at section 4.1 of this report.

In relation to traffic capacity, the new Mersey crossing has and will continue following the reopening of the SJB to result in lower traffic flows in the area of Runcorn adjacent to the Site. Section 6.77 of the 2018 ES provides a summary of the previous traffic capacity analysis including robust scenario testing and concludes that there are no capacity issues with the previously assessed development traffic. The Council's Highway Officer agrees with the statement in Section 1.9 of the ES that 386 HGV movements has already been agreed as an acceptable number from a traffic capacity perspective and is still the case.

Traffic routing of HGV's ensuring access / egress is taken from the north and not via Weston Point or Sandy Lane will continue to be secured through the existing S106 agreement.

The ES concludes that 'the ability to import more RDF by rail is, in practice, severely limited'. Also that there is material currently being imported to landfill in the north west region which is available to this site, and due to the relatively short distances involved (<200km is quoted as a tipping point for rail) is more sustainable to transport by road.

The applicant's Carbon Assessment has made allowance for extra transportation of waste proportionate with the amount sought in the application. It is stated that the benefits of processing waste at the plant rather than landfill significantly outweigh any extra carbon due to transport (assuming a 49km journey which is the current average to the plant, and it is noted that a road journey from Rome would be the tipping point for landfill where the scenarios become equivalent), and it is stated by the applicant that 'currently landfilled waste is available locally' and therefore the comparison is accepted.

The proposal from a transport perspective is considered to be compliant with Policies BE1, MW1, MW2 and TP14 of the Halton Unitary Development Plan, Policies CS7 and CS15 of the Halton Core Strategy Local Plan and paragraphs 108-111 of the NPPF.

6.4 Statutory Nuisance

A statutory nuisance is something that, under the Environmental Protection Act 1990 (EPA), affects a person's health or causes disturbance to them in their property. Nuisance can broadly be defined as something that unreasonably affects somebody's use and enjoyment of their home and property.

Noise is the most frequently complained of nuisance issue although there are other things that can be considered as nuisances. These include smoke (e.g. from garden bonfires), dust, odour, and accumulations. The EPA lists other specific types of nuisance.

The Council is responsible for assessing air quality and enforcing statutory nuisance. This is set out in more detail at section 4.2. In addition to the duties of the local authority in this regard, the plant is also subject to an Environmental Permit. This is dealt with by the EA along with any necessary enforcement of the permit conditions. An application to vary the Environmental Permit which is currently under consideration by the EA. More detail is available in section 6.5.

Planning Policy BE1 of the Halton Unitary Development Plan states that Development will be permitted provided where appropriate, it must avoid unacceptable loss of amenity to occupiers or users of adjacent land or buildings, by virtue of, noise disturbance, noxious fumes, and dust or traffic generation.

The ERF has been subject to numerous complaints to the Council since its operation began 4 years ago. A number of representations have been received from residents citing the impact that the plant is having on daily life in relation

to noise, odours, light, flies and steam. All these aspects have been investigated by Environmental Health Officers over time as set out in their consultation response in section 4.2.

The evidence collated in investigating the complaints has not in the opinion of the Council's Environmental Health Officers, demonstrated that there is a statutory nuisance occurring from the premises in respect of noise, odour, flies, light or steam. This would suggest that currently there is no unacceptable loss of amenity to residents.

In respect of air quality in the area, the air quality report demonstrates that the impact of emission to air as a result of the additional road vehicle movements will not lead to significant impact at relevant exposure locations. Air quality is considered in more detail at Section 6.6 of the report.

Similarly with noise, the submission has demonstrated that based on the worst case scenario (HGVs arriving overnight which currently does not occur) there would have no significant impact. Noise is considered in more detail at section 6.7 of the report.

One representation has stated that planning conditions should be put in place to control odour and litter from vehicles accessing the facility. This is not considered to meet the tests for a planning as set out at section 3.4. Any odour issue resulting from the plant and vehicles accessing it would be investigated by the appropriate body.

One of the representations received has stated that the existing plant is contrary to policy PR3 of the Halton Unitary Development Plan as there is an odour nuisance beyond the boundary of the site. The ERF is existing and as stated above, the Council's Environmental Health Officers are of the opinion that no statutory nuisance with regard to odour is occurring and the ERF will continue to be managed and controlled in the same manner.

It is not considered that any significant loss of amenity would result and the proposal is compliant with Policies BE1, MW1, MW2 and PR3 of the UDP.

6.5 Relevance of Environmental Permit

Members will note that some of the representations received state that the application should not be determined until the Parliamentary & Health Ombudsman has reached a decision on investigations into the monitoring of the plant by the EA.

Paragraph 183 of the NPPF is clear in that the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be

revisited through the permitting regimes operated by pollution control authorities.

It should be noted that the EA have no objection in principle to the proposed amendment from a planning regime perspective but make the comment that Viridor have submitted an application to vary the EfW environmental permit on 17th August 2018. It is noted from the EA website that the consultation closed on 23rd November 2018.

A decision should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions which are subject to a separate pollution control regime.

Therefore, it is not appropriate to defer consideration of this matter until the Parliamentary & Health Ombudsman has reached a decision.

The determination of this planning application should be independent of any future determination maybe be made by the EA.

6.6 Air Quality

The Environmental Health Officer's observations in relation to the Air Quality Assessment which accompanies this application are in section 4.2.

Local air quality is assessed and reported through to Government on an annual basis. Monitoring carried out in Runcorn, including Weston, demonstrates that the air quality in the area comfortably complies with the objective levels set by Government and that there are no air quality concerns in this area.

The applicant carried out a NO₂ (nitrogen dioxide) diffusion tube survey in 13 residential locations for 4 months. These levels were measured and adjusted in line with technical guidance (TG09:2016) to provide the annual average levels in these areas, to assess the annual average concentration exposure of residents in these areas. These results replicate those obtained by the Council over a number of years in this area and confirm that air quality is not an issue of concern to the Council. The results of the diffusion tube survey when compared to the survey carried out in 2012 demonstrates a fall in all locations due entirely to the reduction in traffic levels along the Weston Expressway as a result of the new Mersey crossing. This has been designed to ease local traffic congestion and will continue (following the reopening of the SJB) to result in lower traffic flows in the area of Runcorn adjacent to the Site.

The Land-Use Planning and Development Control: Planning for Air Quality guidance published by the Institute of Air Quality Management provides the methodology for comparison of background levels with predicted concentrations. This states that where the background pollution is less than

75% of the Government's objective levels and where the increase due to development is less than 5% of the objective levels then the impact on air quality of a development is considered negligible. The air quality assessment demonstrates that the impact of the development will fall into the negligible category and the Council's Environmental Health Officer is satisfied that pollution levels will not have a detrimental impact on the community.

The proposal from an air quality perspective is considered to be compliant with Policies BE1, MW1, MW2 and PR1 of the Halton Unitary Development Plan, Policy CS23 of the Halton Core Strategy Local Plan and paragraph 180 of the NPPF.

6.7 Noise

The Environmental Health Officer's observations in relation to the Noise Assessment which accompanies this application are in section 4.2.

The noise report which accompanies the application assesses the potential increase in noise levels in relation to the impact that the increase in HGVs will have on residential properties. The report states that noise from the process itself will not increase as a result of the additional waste being transported by road and Environmental Health acknowledges that the noise levels specifically from the plant will not increase.

The report considers the worst case scenarios and it indicates that any increase in noise level will be below 1dB in all cases except for the night-time noise levels at Russell Road. This increase is 1.6dB. In acoustic terms an increase below 3dB is imperceptible to the human ear. It is also notable that the plant does not routinely accept deliveries by road between 23:00hrs and 07:00hrs, however the report demonstrates the acceptability of such and as with the existing permission justifies why a restriction on the hours of deliveries by road could not be justified.

The proposal from a noise perspective is considered to be compliant with Policies BE1, MW1, MW2 and PR2 of the Halton Unitary Development Plan, Policy CS23 of the Halton Core Strategy Local Plan and paragraph 180 of the NPPF.

6.8 Ecology

The application is accompanied by an Ecological Impact Appraisal (EclA) which is located within Chapter 8 of the ES.

The potential for off-site effects to occur have been scoped out by applicant as this is an existing facility and no changes to the layout which could affect valued ecological features either within the site or in the near vicinity. This is accepted.

In respect of the potential off-site effects to occur through emissions to air and deposition, the site is near (within 10km) to the following European designated sites:

- Mersey Estuary Special Protection Area (SPA); and
- Mersey Estuary Ramsar site.

In terms of statutory designated sites, the site is near (within 2km) of the following sites:

- Mersey Estuary Site of Special Scientific Interest (SSSI);
- Runcorn Hill Local Nature Reserve (LNR); and
- Pickerings Pasture Local Nature Reserve (LNR).

In terms of non-statutory designated sites, the site is near (within 2km) of the following sites:

- Upper Mersey Estuary Local Wildlife Site (LWS);
- Runcorn Hill Local Wildlife Site (LWS);
- Pickerings Pasture Local Wildlife Site (LWS); and
- Frodsham, Helsby and Ince Marshes LWS.

This established the baseline in respect of the ecological sites which are present within 10km (at a European level) and 2km (for national and local sites).

Due to the development's potential pathways and impacts on the above sites, this proposal requires a Habitats Regulations Assessment for likely significant effects. This assessment is set out in full at section 4.3 of this report.

The noise assessment located within Chapter 7 of the ES undertaken for the current application demonstrates that the limits previously considered will continue to be complied with so there is no change to the currently permitted baseline on noise limits.

The applicant has undertaken an atmospheric dispersal modelling assessment of the ERF plant combustion and road traffic related emissions to inform their EclA, however for the purposes of this application, it is the road traffic related emissions that are relevant. The assessment concludes that the aerial emissions would not result in any adverse effects on European sites or the other designations included in their assessment.

The Test of Likely Significant Effects demonstrates that the proposed development is unlikely to have significant effects on European sites. Embedded mitigation for aerial emissions control will be secured and implemented through the Environmental Permitting process. No adverse effect on the integrity of the European sites would result from the proposed development.

The proposal is therefore considered to accord with Policies GE21, MW1 and MW2 of the Halton Unitary Development Plan, Policy CS20 of the Halton Core Strategy Local Plan and Paragraph 175 of the NPPF.

6.9 Carbon Assessment

The application is accompanied by a Carbon Assessment (CA) which is located at Appendix 9.1 of the ES. This has been undertaken as part of the impact assessment using the Waste and Resource Assessment Tool (WRATE) model. The assumptions made in the model and the proposed scenarios that have been run are considered to be satisfactory.

The baseline scenario indicates that the carbon footprint of the disposal of a tonne of waste to landfill is c.16 times greater than that for the treatment of a tonne of waste at the facility.

There is no restriction on the overall amount of RDF which can be processed by this plant through the planning process as this is controlled by the Environmental Permitting process.

The CA shows that the carbon impacts of increased transport are relatively minor when compared to the impacts of diverting waste from landfill. The carbon burden of the ERF element is lower for treatment/recovery of 1,100ktpa (amount of RDF which would be processed by the plant) compared to 920ktpa (the amount of RDF received by the plant in 2017) with the remaining 180ktpa being disposed of to landfill. The reason for this is related to more waste being processed through the Combined Heat and Power element of the facility.

Overall it can be seen that there is a significant carbon saving by diverting 180ktpa from landfill. There is no longer any non-hazardous landfill available within Merseyside and Halton, and therefore alternative disposal routes, such as that proposed, are necessary to deal with residual waste requirements.

This proposal also has regard for the waste hierarchy which is set out in National Planning Policy for Waste which looks at waste recovery ahead of disposal. The National Policy Statement on Energy also acknowledges that the recovery of energy from the combustion of waste has an important role to play in meeting the UK's energy needs.

The proposal is therefore considered to accord with Policies CS19 and CS24 of the Halton Core Strategy Local Plan and paragraphs 148 and 154 of the NPPF.

6.10 Other Environmental Effects

Chapter 10 of the ES considers other environmental effects which the applicant considers would not have a significant effect on the environment.

Based on the proposal not resulting in any physical alterations to the site, the conclusions made in respect of Landscape and Visual effects, Cultural Heritage effects, Hydrology & Hydrogeology and requirement for Housing and Public Services are that the proposal would not have a significant impact on the environment. It is also acknowledged that this proposal would reduce the pressure on land and construction materials when compared to the provision of a new standalone ERF.

In relation to Population and Health, the ES acknowledges that health is influenced by a variety of factors, such as education, employment, income, housing, social networks and access to social and public health services. Given the nature of the proposed development, the health impacts are considered to be those arising from bio-physical environment factors of noise, dust and air quality, traffic and ecology all of which have been considered in the sections above.

With regard to Economy and Employment, it is noted that the proposal would not result in the creation of additional jobs at the Site. However, the Site supplies heat and power to the chemical works operated by Inovyn at Runcorn which is a significant employer in the Borough. Inovyn are a global player in the chemical industry and having their own on-site source of heat and power is a key element of the Runcorn operation. The full utilisation of potential processing capacity of this Site is considered to be a significant benefit to the local economy.

In respect of residential amenity, a number of the representations received have raised concerns over the impact that the existing facility has and how the proposal would exacerbate such matters. The technical assessments considered above demonstrate that proposal would not have a significantly detrimental impact on residential amenity.

Considering Human Health, noise has been considered at section 6.7 of the report. Air quality is considered at section 6.6 of the report. The conclusion being that the proposal would not have a significant temporary or permanent effect on the health of the local population.

The ES has identified potential for dust impact and suggests mitigation measures (both existing and proposed) include the use of a mobile water bowser to suppress dust during dry weather and the use of wheel cleaning facilities to prevent the deposition of dust on the public highway. Further clarification on this has been sought from the applicant who have now confirmed that the internal roads and turning areas used by HGVs visiting the ERF are cleaned on a regular basis by roadsweeper to prevent the build-up of material and prevent the generation of dust or the deposit of material on the public highway. These arrangements remove the need for a bowser and

wheelwash as they adequately prevent any adverse effects on the environment. In relation to impact on human health, this response is considered satisfactory.

The ES considers that the risk of accidents as a result of the proposed development are low based on the known technology used within a highly regulated industry. The highway accident data over a 5 year study period within the area of Picow Farm Road and its junctions with the Weston Point Expressway have revealed a total of three accidents, none of which were attributed to a highway deficiency of any kind. It is therefore not considered that the risk of accidents posed by the proposed development is significant.

The ES concludes that having regard to the scale, nature and duration of the proposed development, no significant cumulative effects have been identified. No other planned developments have been identified within the vicinity of the application site that would have the potential to have any significant adverse cumulative impacts on the local environment.

In respect of other environmental effects, the proposal is considered to comply with policies BE1, PR1, PR2 and PR3 of the UDP and Policy CS23 of the Core Strategy.

6.11 Compliance with the Joint Merseyside and Halton Waste Local Plan

Policy WM0 relates to the Presumption in Favour of Sustainable Development. Compliance with the achievement of sustainable development is being considered throughout the assessment and concluded at the end of the report.

During 2017, the site received 920kt at the weighbridge which equated to 890kt processed through the ERF. The difference of 30kt results from a loss of moisture content. This resulted in substantial diversion of waste from landfill and generation of low carbon energy for the adjacent chemical works. Due to improvements in availability of the ERF (less routine and unplanned maintenance) and decreased calorific value of RDF (both identified and forecast) the ERF has additional capacity to process RDF. It is envisaged that this additional capacity will be met by the delivery of RDF by road.

The Council's Ecology and Waste Advisor has stated that it would be prudent to include a condition that restricts the tonnage of waste fuels to 1,100ktpa, as this tonnage has formed the basis for the EIA and would form an upper limit on processing capacity. It has previously been noted that both the Secretary of State and a Planning Inspector have not included a restriction on the overall amount of RDF which can be processed at the Site through the planning process as this is controlled by the Environmental Permitting process so no condition is being suggested as it would not meet the tests for a planning condition which are set out in paragraph 55 of the NPPF which is shown in full at section 3.4 of this report.

Policy WM7 (Protecting Existing Waste Management Capacity for Built Facilities and Landfill) aims to keep existing operational and consented waste management sites in use to maintain essential waste management infrastructure. The Runcorn ERF comprises a significant waste facility. This proposal would maintain the existing waste management use in accordance with Policy WM7 of the Joint Merseyside and Halton Waste Local Plan.

Policy WM10 (High Quality Design and Operation of Waste Management Facilities). This policy is concerned with design and environmental performance of buildings. It post-dates the planning permission authorising the construction of the building and would only have relevance should a future proposal relate to the modification of the building. The policy is therefore not relevant to the determination of this application.

Policy WM11 (Sustainable Waste Transport). This policy relates to new waste management facilities (or extensions to an existing waste management facility). This proposal does not propose a new waste management facility nor is any physical extension proposed to the existing ERF. The policy is therefore not relevant to the determination of this application. However had the policy applied, the application would have been compliant for the following reasons:

Criterion 1 is self-evident as rail transport is included.

Criterion 2 is not relevant.

Criterion 3 & 4 have been assessed.

Criterion 5 is dealt with under the carbon emissions section of the report.

The Criteria for Waste Management Development is set out in Policy WM12 of the Joint Merseyside and Halton Waste Local Plan. The application is accompanied by a planning statement, a non-technical summary and an ES along with the associated Technical Appendices. These documents include assessments in relation to air quality, transport, noise, ecology, carbon and other environmental effects.

Based on the assessment above, it is considered that sufficient information has been submitted to demonstrate compliance with policy WM12 of the Joint Merseyside and Halton Waste Local Plan.

Policy WM14 (Energy from Waste). This policy does not apply to the current application. Although stated to apply to “all proposals for EfW facilities” and that all such proposals must comply with “policies WM12 and WM13” it clearly relates to new applications and applications to amend existing facilities to increase capacity – neither of which scenarios applies here.

Based on the above, the proposal is considered to accord with the Joint Merseyside and Halton Waste Local Plan.

6.12 Agreement with Environmental Statement

Part 5 (26) of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) states that when determining an application or appeal in relation to which an environmental statement has been submitted, the relevant planning authority, the Secretary of State or an inspector, as the case may be, must—

- (a) examine the environmental information;
- (b) reach a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account the examination referred to in sub-paragraph (a) and, where appropriate, their own supplementary examination;
- (c) integrate that conclusion into the decision as to whether planning permission or subsequent consent is to be granted; and
- (d) if planning permission or subsequent consent is to be granted, consider whether it is appropriate to impose monitoring measures.

In accordance with the regulations referred to above, the environmental information has been examined as is demonstrated by the detailed consideration provided above. Based on the considerations set out, no significant adverse effects have been identified as a result of the proposed development.

6.13 Risk

Policy PR12 of the Halton Unitary Development Plan states that development on land within consultation zones around notified Control of Major Accident Hazards (COMAH) sites will be permitted provided that all of the following criteria can be satisfied:

- a) The likely accidental risk level from the COMAH site is not considered to be significant.
- b) Proposals are made by the developer that will mitigate the likely effects of a potential major accident so that they are not considered significant.

The application site is located within the inner consultation zone of a Major Accident Hazard (COMAH) site. This application just relates to the number of road vehicle movements to the existing ERF rather than the provision of a new development. It should be noted that the HSE does not advise against the granting of planning permission on safety grounds in this case. The HSE is based there being less than 100 occupants in any one building at any one time

within the outline of the area defined in the planning application within the HSE Inner zone. The applicant has confirmed that the maximum (for a limited period of time during handovers) there would be 61 personnel on site.

The application is considered to accord with Policy PR12 of the Halton Unitary Development Plan.

6.14 Issues raised in representations not addressed above

Summary of Representation - The additional tonnage is roughly the same as the Manchester contract and questions whether Viridor have been awarded the Manchester contract?

Response - The Local Planning Authority has no additional information other than that set out in the Fuel Supply Assessment which accompanies the application which states Greater Manchester published in October 2017 tendering a contract for the operation of various facilities with the obligation to produce refuse derived fuel and associated rail transport and supply to the Runcorn Thermal Power Station.

Summary of Representation - Where would the new fuel would originate from?

Response - The Fuel Supply Assessment demonstrates that despite improvements to the recycling rates for non-hazardous waste, from both household and commercial & industrial sources, significant volumes of residual waste are being sent to landfill with this amounting to 14 million tonnes in 2016. Also, due to the lack of adequate recovery capacity in England, residual waste is being exported to the continent for energy recovery. The S106 agreement associated with the existing planning permission states that no fuel from outside the UK can be processed without the agreement of the Council. Any fuel that would be processed at the Site would therefore be from the UK which is likely to be sent to either landfill or to the recovery facilities on the continent. Provided that the RDF comes from the UK, the actual location within the UK that it comes from is not a material consideration.

Summary of Representation - The proposal to increase capacity is unnecessary.

Response - Since there is no maximum capacity applicable to the Site, there is no proposal to increase capacity. In this instance, there is no need for the applicant to justify the need for changing throughput year on year.

Summary of Representation - The applicant has not demonstrated that the increase in capacity would be of a manner which minimises impacts on local residents and the environment.

Response – The application considers a variation to the planning condition which restricts the amount of RDF that can be imported by road to a restriction on the number of HGV movements associated with the operation of the permitted energy recovery facility. As set out above, the capacity of the facility is not restricted by the existing planning permission and is controlled by the Environment Permitting Regulations. In respect of the impact on both local residents and the environment which would result from the proposed variation of condition, this is considered in detail above.

Summary of Representation - Insufficient detail has been provided by the applicant in respect of historic impacts on amenity including noise and odour.

Response – The purpose of the application is to consider the impacts of the proposed variation of condition which restricts the amount of RDF that can be imported by road to a restriction on the number of HGV movements associated with the operation of the permitted energy recovery facility. This determines whether the proposed impacts on amenity including noise and odour would be acceptable as considered above.

Summary of Representation - Nearby residential properties have had a Council Tax reduction due to the loss of amenity that the plant has caused.

Response – Council Tax is based on the value of a property. The loss of value of a property is not material to the determination of this application as the planning system does not exist to protect the private rights of one individual against another. Amenity issues are considered above.

Summary of Representation - The Local Government and Social Care Ombudsman are currently investigating the way in which the Council deal with complaints.

Response – With regard to the complaint to the Ombudsman referred to above, the Ombudsman issued a final decision on 30th November 2018. The Summary is as follows: Mr X complained about the Council's failure to take enforcement action for breaches of planning conditions controlling noise from a development near his home. Mr X said the noise badly affected his living conditions. We found no fault in how the Council reached its planning enforcement decisions and the Council has and is acting to improve its overall handling of local peoples' concerns and complaints about the Development.

Summary of Representation - The Council do not want any dissenting voices at any forums.

Response – There is an existing legal agreement between the Council and the Operator which provides for a Local Liaison Forum (LLF) for the Development. This requirement carries forward. The observation that the Council does not

want any dissenting voices at any forums is not material to the determination of this application.

Summary of Representation - Light pollution.

Response – The application relates to an existing ERF and no physical changes are proposed, therefore the lighting situation will remain unchanged.

Summary of Representation - The submission contains errors and is not set out in a manner which allows for clear comparison.

Response - The application is accompanied by a planning statement, a non-technical summary, an ES along with the associated Technical Appendices. These documents include assessments in relation to air quality, transport, noise, ecology, carbon and other environmental effects. It is considered that the application and ES are set out in accordance with Part 5 of the Town and Country (Environmental Impact Assessment) Regulations 2017.

Summary of Representation - The plant goes against the vision and overall aims of Halton;

Response – The ERF has operated for over 4 years and benefits from planning permission and was considered on the relevant planning policies at the time at which the proposed was determined. The vision and overall aims for Halton is reflected in the Council's adopted planning policies.

Summary of Representation - The proposal is in breach of Article 13 'Protection of Human Health and the Environment' of the Waste Framework Directive (WFD).

Response – Article 13 of the WFD is set out in section 3.7 of the report. Based on the ES which accompanies this application and above assessment, it is not considered that the proposal conflicts with Article 13 of the WFD.

Summary of Representation - Plant originally intended to burn Solid Recovered Fuel (SRF).

Response – Planning permission was originally granted by the Secretary of State in 2008 for the Construction and Operation of a Combined Heat and Power Energy from Waste Fuelled Generating Station. The decision makes clear that it comprised of four boilers for burning of fuel derived from domestic waste. The decision does not make reference to Solid Recovered Fuel (SRF).

Summary of Representation - Increased problems with flies.

Response – The Environmental Health Officer has investigated complaints regarding this site and has stated that the plant does not routinely impact on

the quality of residents' lives such that it would cause a statutory nuisance or loss of amenity.

Summary of Representation - Loss of a view of a major part of the Mersey Estuary.

Response – The ERF is existing and no physical alterations are proposed by this application. It should also be noted that in planning terms, you do not have a right to a view over land which you do not own or control.

7. IMPACT OF SECTION 73 APPLICATIONS

The application is made under section 73 of the 1990 Act. The section is entitled “Determination of applications to develop land without compliance with conditions previously attached”. The effect of granting a section 73 application is to leave the existing planning permission in place and to grant a new, freestanding, permission. This means that the LPA must consider which conditions should attach to the new (section 73) permission in addition to the condition which is the subject of the application. This is why the proposals in this agenda remove redundant conditions (e.g. the ‘prior to commencement’ type conditions) and focus on conditions with a continuing function.

8. CONDITIONS

8.1 The current permission contains 67 conditions and a significant number of these conditions have now fallen away as many of these were prior to commencement conditions and related to construction activities which are completed. In addition, it should be noted that the ERF has been constructed for over 4 years and conditions relating to what has been constructed are no longer enforceable. The granting of this application would result in a new freestanding permission for the ERF.

8.2 The conditions attached to the existing permission for the ERF are outlined below and their relevance to a new freestanding permission that would result from the granting of this application. The tests for a planning condition are set out in Section 3.4 of this report.

Condition 1 – Definitions – Any definitions required to be incorporated into the wording of any conditions proposed – DELETE.

Condition 2 – Approved Plans – ERF already built and operational so this condition is not required - DELETE.

Condition 3 – Planning Permission – This required a copy of the planning permission to be available for inspection on the site during construction working hours and is no longer required – DELETE.

Condition 4 – Time Limit – Development commenced and has been completed resulting in this condition not being necessary – DELETE.

Condition 5 – New Access Road – This scheme has been previously submitted and implemented and this condition is no longer required - DELETE.

Condition 6 – Demolition Method Statement – This scheme has been previously submitted and implemented and this condition is no longer required - DELETE.

Conditions 7 & 8 – Environmental and Waste Management – Schemes for these conditions have been previously submitted and implemented and the conditions are no longer required - DELETE.

Conditions 9-12 – Suppression of Dust and Dirt during Construction – These conditions relate to the construction of the ERF and are no longer required - DELETE.

Conditions 13-15 – Layout and Design – These conditions relate to the construction of the ERF and are no longer required - DELETE.

Conditions 16-22 – Traffic Movements – These conditions and the required submissions relate to the construction of the ERF and are no longer required - DELETE.

Condition 23-28 – Construction and Construction Noise – These conditions and the required submissions relate to the construction of the ERF and are no longer required - DELETE.

Condition 29 – Operational Noise – The noise monitoring required by this condition has been undertaken previously and noise levels for the normal commercial operation of the development are controlled by condition 30 – DELETE.

Condition 30 – Operational Noise - BS4142:1997 has now been superseded by a later version (2014). “Such noise shall exhibit no tonal or impulse content at those properties in all weather conditions.” shall be deleted from the condition because the normal commercial operation of the development does result in tonal and impulse noise and is not considered that this meets the tests for a planning condition and is therefore unenforceable. This is considered by Environment Health in Section 4.2. RETAIN WITH AMENDMENTS – SUGGESTED CONDITION NUMBER 1 IN THE RECOMMENDATION.

Condition 31 – Operational Noise – This does not meet the tests for a planning condition as it not necessary, neither is it reasonable – DELETE.

Condition 32 – Operational Noise – Remove “So far as is reasonably practicable” from condition wording as this is not precise – RETAIN WITH

AMENDMENTS – SUGGESTED CONDITION NUMBER 2 IN THE RECOMMENDATION.

Condition 33 – Noise Complaints Procedure – The complaints handling is procedural and is not a land use matter. This condition is not relevant to planning, reasonable or enforceable - DELETE.

Conditions 34-39 – Prevention of Contamination of Watercourses – These conditions and the required submissions relate to the construction of the ERF and are no longer required - DELETE.

Conditions 40-45 – Contaminated Waste – These conditions and the required submissions relate to the construction of the ERF and are no longer required - DELETE.

Condition 46 – Invasive Species – This condition relates to the construction of the ERF and is no longer required – DELETE.

Condition 47 – Protection and Mitigation For Birds – This condition relates to the construction of the ERF and is no longer required – DELETE.

Condition 48 – Protection of Great Crested Newts – This condition relates to the construction of the ERF and is no longer required – DELETE.

Conditions 49-51 – Landscaping and creative conservation – These conditions and the required submissions relate to the construction of the ERF and are no longer required. Given that the landscaping and planting has been implemented for over 5 years, the maintenance requirement falls away - DELETE.

Condition 52 – Reinstatement of Contractors' Laydown Area – This condition relates to the construction of the ERF and is no longer required – DELETE.

Conditions 53-54 – Parking – These conditions relate to the construction of the ERF and are no longer required - DELETE.

Condition 55 – Storage – “unless otherwise agreed with the Council” to be deleted as this regarded as a tail piece which case law has emerged making clear that allowing for material changes to a planning permission by negotiation with the Council, in effect side-stepping the formal planning process and the need for consultation, is likely to be unlawful, therefore not acceptable, nor necessary, reasonable or enforceable – RETAIN WITH AMENDMENTS – SUGGESTED CONDITION NUMBER 3 IN THE RECOMMENDATION.

Condition 56 – Storage - “when handled externally” to be deleted as the wording is not necessary as this is a clear assumption as waste or fuel materials shall be under cover – RETAIN WITH AMENDMENTS – SUGGESTED CONDITION NUMBER 4 IN THE RECOMMENDATION.

Condition 57 – Delivery of Refuse Derived Fuel – Condition subject of the application – Last amended by Appeal Decision (APP/D0650/A/13/2201280) dated 5 March 2014 – SUBJECT TO AMENDMENT BY THIS APPLICATION – SUGGESTED CONDITION NUMBER 5 IN THE RECOMMENDATION.

Condition 58 - Delivery of Refuse Derived Fuel – Not required as condition 59 has the necessary controls based on noise levels – DELETE.

Condition 59 - Delivery of Refuse Derived Fuel – “not reasonably practicable” to be deleted as this is not precise – RETAIN WITH AMENDMENTS – SUGGESTED CONDITION NUMBER 6 IN THE RECOMMENDATION.

Condition 60 – Materials, Waste and Residual Material following Incineration – RETAIN – SUGGESTED CONDITION NUMBER 7 IN THE RECOMMENDATION.

Condition 61 - Materials, Waste and Residual Material following Incineration – Clarify that air pollution control residues (hazardous) should be in a sealed vessel and that bottom ash (non-hazardous) should be covered – More appropriate wording which provides suitable controls for the transportation of residual material – RETAIN WITH AMENDMENTS – SUGGESTED CONDITION NUMBER 8 IN THE RECOMMENDATION.

Conditions 62-63 – Air Pollution Monitoring – The monitoring required by these conditions has been previously been submitted and demonstrates no detrimental impact. These conditions are no longer required and further monitoring is not considered necessary or reasonable - DELETE.

Conditions 64-66 – Cessation of works and restoration of the Site – Submissions on these conditions required in due course following the site ceasing to be used for the purposes of electricity generation. It is considered that the three conditions can be combined into one with improved wording – RETAIN WITH AMENDMENTS – SUGGESTED CONDITION NUMBER 9 IN THE RECOMMENDATION.

Condition 67 – Default of Agreement – It allows for a material change to a planning permission by negotiation with the Secretary of State, in effect side-stepping the formal planning process and the need for consultation, is likely to be unlawful, therefore not acceptable, nor necessary, reasonable or enforceable - DELETE.

9. SECTION 106 AGREEMENT

There are two existing Section 106 agreements which affect the Site. The first dates from 2008 (and was approved by the Secretary of State) and the second dates from 2014 (and was approved by the Inspector by the 2014 appeal decision). Both agreements will carry forward.

The existence of the Section 106 agreements constitutes a material consideration but only to the extent that those agreements deal with matters relevant to the current application.

Only the following elements are relevant to the current application and are carried forward:

- HGV routing obligation;
- Sustainable Transport; and
- Acoustic Fencing.

It is not proposed to be appropriate add any further obligations by further Section 106 agreements.

10. CONCLUSIONS

The NPPF states that the application must be determined in accordance with the development plan unless material considerations indicate otherwise.

The application is made under section 73 of the 1990 Act. The result of granting this application is a new freestanding planning permission for the ERF. A detailed review of conditions which should be attached are set out in the assessment.

This application seeks to amend condition number 1 attached to the existing permission for the EFW facility in the 2014 Appeal Decision which imposes a tonnage limit for RDF imported by road.

The applicant proposes to remove the tonnage restriction to be imported by road and restrict the number of Heavy Goods Vehicles (HGV's) that can visit the site.

This application therefore seeks permission to amend the wording of condition number 1 attached to Appeal Decision APP/D0650/A/13/2201280 dated 5 March 2014 to read as follows:

The total number of HGV's associated with the operation of the permitted energy recovery facility (waste importation and the exportation of incinerator bottom ash and air pollution control residues) shall not exceed 1930 movements (965 in and 965 out) in any calendar week and shall not exceed a maximum of 386 movements (193 in and 193 out) in any single day.

The effect of the proposal would be to allow an increased throughput whilst maintaining the same number of vehicle movements as used for calculations in the previous ES subject of the 2014 Appeal Decision which was accepted by the Planning Inspector.

The proposal has been considered in detail in the assessment. The ES and the associated technical appendices (Air Quality, Transport, Noise, Ecology, Carbon Assessment & Other Environmental Effects) demonstrate that no significant adverse effects would occur as a result of the proposed development. The proposal would contribute to the achievement of sustainable development as set out in the NPPF and is considered to be compliant with the Development Plan.

The proposal is therefore considered to be acceptable and is recommended for approval.

11. RECOMMENDATIONS

Grant planning permission subject to the conditions set out in full below.

Condition Number 1 – Operational Noise.

The specific noise generated by the normal commercial operation of the Development shall not exceed the levels provided in the table below, when measured in accordance with BS4142 (2014), as calculated at a height of 1.5 metres and at a distance of 1 metre from the façade of the residential premises below.

Time Period (T)	L_{Aeq,T}(dB)			
	Clarks Terrace	Sandy Lane (west of Picow Farm Road) (and receptors to the south)	Sandy Lane (east of Picow Farm Road) (and receptors to the south)	Russell Road (and receptors to the east)
07:00 to 23:00 hours	55	54	65	67
23:00 to 07:00 hours	52	50	50	53

Reason – To ensure the proper control of noise during the operation of the Development.

Condition Number 2 – Operational Noise.

Except in an emergency, the applicant shall give at least 2 working days written notice to the Council of any proposed operation of emergency pressure valves or similar equipment and steam purging.

Any such operation shall not take place on any Saturday, Sunday or Bank Holiday or any other day except between the following hours;

- Monday to Friday 0900-1700.

Reason – To ensure the proper control of noise during the operation of the Development and to give advance warning of the timing of exceptionally noisy events.

Condition Number 3 – Storage.

No waste, fuel materials and / or containers stored, stacked externally on the Site shall exceed a height of 10 metres.

Reason – To ensure environmental protection and safe working.

Condition Number 4 – Storage.

Waste or fuel materials brought to the Site for use in the operations of the Development shall be under cover at all times.

Reason - To ensure environmental protection and safe working.

Condition Number 5 – HGV Movements.

The total number of HGV's associated with the operation of the permitted energy recovery facility (waste importation and the exportation of incinerator bottom ash and air pollution control residues) shall not exceed 1930 movements (965 in and 965 out) in any calendar week and shall not exceed a maximum of 386 movements (193 in and 193 out) in any single day.

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.

Condition Number 6 - Delivery of Refuse Derived Fuel.

Where the transportation of refuse derived fuel to the Site by rail occurs between 23.00 and 07.00 hours, noise levels shall not exceed the levels provided below, when measured in accordance with BS 7445 2003 at the boundary of the residential properties below.

Time Period (T)	L _{Aeq,6h} (dB)	
	Picow Farm Road	Percival Lane
23:00 to 07:00 hours	55.2	51.2

Reason - To ensure the proper control of noise for the delivery of refuse derived fuel by rail.

Condition Number 7 – Materials, Waste and Residual Material following Incineration.

Materials, waste and residual material following incineration shall be handled under cover at all times.

Reason – To prevent the release of ash and other residual material to the environment.

Condition Number 8 - Materials, Waste and Residual Material following Incineration.

Air Pollution Control Residue (APCr) shall be transported from the Site in sealed vessels and bottom ash shall be transported from the Site under cover.

Reason – To prevent the release of ash and other residual material to the environment.

Condition Number 9 - Cessation of works and restoration of the Site.

Within 12 months of the Site ceasing to be used for the purposes of electricity generation, the applicant shall submit a scheme for the demolition and removal of the Development from the Site to the Council as Local Planning Authority for approval.

The scheme shall include:

- Details of all structures and buildings which are to be demolished;
- Details of the means of removal of materials resulting from the demolition;
- The phasing of the demolition and removal;
- Details of the restoration works; and
- The phasing of the restoration works.

The demolition and removal of the Development and subsequent restoration of the Site shall thereafter be implemented in accordance with the approved scheme.

Reason – To ensure the Site is not allowed to become derelict after the cessation of electricity generation.

12. SUSTAINABILITY STATEMENT

As required by:

- The National Planning Policy Framework (2018);
- The Town and Country Planning (Development Management Procedure) (England) Order 2015; and

- The Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2015.

This statement confirms that the local planning authority has worked proactively with the applicant to secure developments that improve the economic, social and environmental conditions of Halton.

REPORT TO: Development Control Committee

DATE: 4 February 2019

REPORTING OFFICER: Strategic Director – Enterprise, Community and Resources

SUBJECT: Miscellaneous Information

WARD(S): Boroughwide

The following Appeals have been received / are in progress:

Enforcement Notice Without planning permission, the change of use of an incidental residential annex to 256 Birchfield Rd Widnes to a separate dwelling.

18/00363/OUT 18/00363/OUT Application for outline planning permission with appearance, landscaping and scale reserved for single two storey dwelling in side garden area at 3 Nickleford Hall Drive Widnes.

The following Appeals have been determined:

18/00282/FUL Proposed new boundary wall to front and side at 112 Lunts Heath Road, Widnes, Cheshire, WA8 5BA.

18/00005/REFUSE 18/00001/FUL Proposed single storey rear extension with rear /side facing balcony over at 6 Walsingham Drive Runcorn.

Appeal Dismissed

18/00008/REFUSE 18/00282/FUL Proposed new boundary wall to front and side at 112 Lunts Heath Road Widnes.

Appeal Dismissed

17/00548/FUL Proposed demolition of existing stables building and construction of 1 no. single storey detached dwelling with access from Chester Road at land to the North of Junction between Keckwick Lane and Chester Road, Daresbury, Warrington, Cheshire.

Appeal Allowed