



Briefing note to Rookery South RRF Community Liaison Panel

Date: 19th July 2010 (Meeting No. 12)

Overview, decision and next steps for Covanta's proposed Energy from Waste Facility planning application at Middlewich, Cheshire.

1. Overview of the Project

Covanta Energy submitted a planning application and Environmental Statement to the former Cheshire County Council (CCC) in March 2009 for the construction and operation of a Waste Management facility on a 9.45ha site at Midpoint 18 Business Park, Pochin Way, Middlewich (Ref. No. 09/0738W). Figure 1.1 attached shows the location of the application site. Following local authority reorganisation CCC was abolished in April 2009 and the application fell to be determined by the new Cheshire East Unitary Authority referred to hereafter as the Local Planning Authority (LPA)

The application proposal comprised of a mechanical waste treatment facility, an EfW facility (with visitor centre) and a bottom ash recycling facility. The proposed development would have an annual capacity for the processing of up to 370,000 tonnes of non-hazardous MSW and C&I waste. See Figure 1.2 for the application site and Figure 1.3 for the site layout.

The mechanical treatment element of the facility would have the capacity to process up to 185,000 tonnes of residual MSW waste (or similar C&I waste) recovering materials from the waste stream. These recovered materials would predominantly be ferrous and non-ferrous metals for recycling.

The proposed EfW facility would produce 35 megawatts (MWe) of electricity when operational. This electricity would either be exported to the National Grid or exported locally to provide local households with a cheap, locally derived and sustainable source of electricity.

The EfW facility would also have the capacity to provide CHP to local indigenous industries such as British Salt by exporting steam created during the burning of the waste stream. Heads of Terms of a legal agreement to provide steam to British Salt have been agreed.

As part of Covanta's proposal a contribution of approximately £2.5 million would be made available to help fund the completion of the Middlewich Eastern Bypass. This contribution would supplement funding from Pochin, the lead developer for Midpoint 18, and public sector support from the North West Development Agency and Cheshire East Council.

2.0 Pre-application Consultation

Prior to preparing the Environmental Statement (ES) and lodging the planning application, Covanta engaged in full consultation which included:

- liaisons with statutory and non-statutory consultee's;
- meetings with interested parties;
- the issuing of newsletters to almost 6,000 households in the locality; and
- staffed public exhibitions at Middlewich Community Church at which local residents were invited to share their views on the proposed development.

3.0 Planning Application

Following the public consultation process that took place on submission of the application, the LPA requested additional information based on issues such as traffic, noise, ecology etc. This is often the case with complex applications. This information was duly submitted by Covanta in December 2009. Ultimately this led to a position where all issues with technical/statutory consultee's had been successfully addressed and no objections remained on environmental grounds.

The report to the Strategic Planning Board (dated 14 April 2010) recommended that planning permission be refused. The main issues summarised by the case officer in his recommendation for refusal included concerns about:

- the need for the facility and overprovision of waste facilities in Cheshire;
- the level of information provided to accompany an EIA application;
- location of the proposal on a site which is not identified as a preferred site in the Cheshire Replacement Waste Local Plan (CRWLP);
- adequacy of detail to demonstrate that renewable energy can be provided;
- potential visual impacts associated with the building envelope.

On the 29th April 2010 the Strategic Planning Board of the LPA refused the application. The reasons for refusal were issued as follows:

1. *The proposed site is not shown as a preferred site on the proposals map of the Cheshire Replacement Waste Local Plan, as adopted by Cheshire East Borough Council and the applicant has not demonstrated that the preferred sites are no longer available or in view of the proximity to housing are less suitable for the proposed development. The proposal is therefore contrary to policy 5 of the Cheshire Replacement Waste Local Plan as adopted by Cheshire East Borough Council.*
2. *The applicant has failed to demonstrate that existing capacity with planning permission is inadequate to meet waste management needs. It is therefore considered that there is no requirement for further capacity to be released and that the proposal is contrary to policy 3 of the Cheshire Replacement Waste Local Plan as adopted by Cheshire East Borough Council.*
3. *The proposed development would result in the overprovision of waste facilities and lead to a requirement to import wastes from outside Cheshire, thereby undermining*

4. *It is considered that the objections to the proposed development, including the impact on the landscape, outweigh any benefits, and that as no overriding need for the facility has been demonstrated it is contrary to policies 2, 14 and 36 of the Cheshire Replacement Waste Local Plan as adopted by Cheshire East Borough Council, policy DP7 of the Regional Spatial Strategy, and policies GR1, 2, 5 and 6 of the Congleton Borough Local Plan.*
5. *The applicant has not satisfactorily demonstrated that the application makes adequate provision by means of a grid connection for the recovery and export of energy from the facility. The proposed development falls low on the waste hierarchy and is considered contrary to policies 1, 12 and 34A of the Cheshire Replacement Waste Local Plan as adopted by Cheshire East Borough Council and EM11 of the Regional Spatial Strategy*

5.0 Covanta's Grounds for Appeal

Having reviewed the reasons for refusal, Covanta is appealing the decision. Covanta consider that each of the claimed grounds for refusal are unjustifiable, and as such cannot be given any weight. The Planning Inspectorate confirmed the appeal to have been validly made on the 4th June 2010.

Covanta's' Grounds of Appeal respond directly to the LPA's reasons for refusal and are summarised below:

- a. In determining the application it is necessary to have regard to the substantial and material benefits associated with the proposed development, the LPA have failed to do so.
- b. The LPA failed to determine the application in accordance with the policies encompassed in the Development Plan and the wider strategic policy framework or to consider/attach proper weight to regional and national energy policies in determining the application.
- c. The LPA has failed in its legal duty to consider or attach weight to other material considerations including the benefits of the proposal, the lack of adverse impacts, current national and local policies on EfW and recent precedent set by Secretary of State decisions.
- d. The LPA failed to provide a reasonable interpretation of its own adopted policies in addition to regional and national policies having regard to the nature of the proposed development and extant planning precedents.

The basis upon which Covanta's grounds for appeal are based are further discussed hereunder:

Refusal Reason 1: Site Allocation

Covanta's view is that the development in no way conflicts with Policy 5 of the CRWLP. On the contrary the application site is a direct and logical substitution for an equivalent and adjacent site identified as suitable for an EfW facility in the CRWLP which is now unavailable for future development (see figure 1.4 attached).

The Authority has previously confirmed that the application site is the most appropriate location for a waste site given that the plan allocated site at Midpoint 18 cannot now come forward for development.

Refusal Reasons 2, 3 and 4: Existing Capacity and Need

In reference to refusal reason number 2, Covanta has demonstrated that there is a need for the development and that extant waste management capacity remains inadequate to meet the waste management needs for Cheshire.

The LPA is incorrect to state that there is no need for the development and that the additional provision of waste management capacity is contrary to Policy 3 of the CRWLP. This considered, Policy 3 itself is in conflict with recent Secretary of State decisions at Ince Marshes for example, where the Secretary of State noted that there is no guarantee that consented developments will come forward, therefore, there should be no "rigid cap" on consenting capacity in the short to medium term. It follows that the construction of the proposed EfW facility would not result in an overprovision of waste facilities leading to a requirement to import wastes from outside Cheshire.

Policy 2 of the CRWLP provides that where material planning objections to a proposal outweigh its benefits 'need' will be considered. The Councils Landscape Officer was consulted and did not raise any material objections in terms of visual impact on landscape. In this instance it is Covanta's case that it is not required to demonstrate 'need' given that the objections in no way outweigh its benefits. Therefore, consideration of the 'need' for the development is not required.

Covanta refutes the suggestion that the development would be unsustainable as it would burn undifferentiated waste. Waste will either be "source segregated" prior to arrival at the Middlewich Facility, or it will be differentiated within the Materials Recovery Facility at the site. The Development will produce a renewable (and sustainable) supply of clean energy by using a carbon negative process which is acknowledged by European and National energy and waste management policies.

Refusal Reason 5: Recovery and Export of Energy

The final refusal reason alludes to the application providing insufficient information on CHP and the proposed electricity grid connection without which the development cannot be considered as EfW. This interpretation is erroneous and consequently the LPA incorrectly conclude the development to be lower in the Waste Hierarchy than is the case.

Numerous planning permissions in respect of Energy from Waste plants have been granted without finalised details relating to grid connection and CHP infrastructure. The grid connection would simply comprise an underground cable and replacement pylon in the same location - this does not preclude the LPA from determining the application subject to the imposition of appropriate conditions.

If the LPA was concerned about the scope of the EIA, Covanta would have expected to receive a 'Regulation 19' request for further information during the determination period. No such request was made.

6.0 Actions going Forward

The Inquiry is scheduled to commence on the 30th of November 2010. Covanta have instructed the necessary professional and technical teams to prepare Inquiry documents.

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