

# Cabinet Agenda

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**Date:** Tuesday, 15th September, 2009  
**Time:** 2.00 pm  
**Venue:** The Capesthorpe Room - Town Hall, Macclesfield SK10 1DX

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The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

## **PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT**

1. **Apologies for Absence**

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests in any item on the agenda

3. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a total period of 10 minutes is allocated for members of the public to address the Committee on any matter relevant to the work of the Committee.

Individual members of the public may speak for up to 5 minutes but the Chairman will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers.

Where a member of the public wishes to ask a question of a Cabinet Member three clear working days notice must be given to the Democratic Services Manager, and the question must be submitted in writing.

4. **Minutes of Previous meeting**

To approve the minutes of the meeting held on 8 September 2009.  
(*To be circulated.*)

5. **Key Decision 09/10-24 Joint Waste Treatment PFI Project - Acquisition of Site for Waste Transfer Station Facilities** (Pages 1 - 8)

To consider the recommendations of the Corporate Scrutiny Committee following the call in of the decision made by the Cabinet on 11 August 2009. The following documents are attached: -

1. Cabinet report, 11 August 2009. The appendix to this report can be found in part 2 of the agenda.
2. Corporate Scrutiny Committee report, 14 September 2009.

The minutes of the Corporate Scrutiny Committee will be circulated at the meeting.

6. **Exclusion of the Press and Public**

The report relating to the remaining item on the agenda has been withheld from public circulation and deposit pursuant to Section 100(B)(2) of the Local Government Act 1972 on the grounds that the matter may be determined with the press and public excluded.

The Committee may decide that the press and public be excluded from the meeting during consideration of the following item pursuant to Section 100(A)4 of the Local Government Act 1972 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 and public interest would not be served in publishing the information.

**PART 2 – MATTERS TO BE CONSIDERED WITHOUT THE PUBLIC AND PRESS PRESENT**

7. **Key Decision 09/10-24 Joint Waste Treatment PFI Project - Acquisition of Site for Waste Transfer Station Facilities** (Pages 9 - 12)

Appendix A to the Cabinet report of 11 August 2009.

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Cabinet**  
held on Tuesday, 8th September, 2009 at Committee Suite 1,2 & 3,  
Westfields, Middlewich Road, Sandbach CW11 1HZ

**PRESENT**

Councillor W Fitzgerald (Chairman)  
Councillor (none)

Councillors R Domleo, D Brickhill, P Findlow, F Keegan, A Knowles and  
P Mason

Councillors in attendance:

Rhoda Bailey, R Fletcher, L Gilbert, D Hough, O Hunter, S Jones, A Kolker,  
R Menlove, A Moran, B Moran, D Neilson, L Smetham, A Thwaite and  
R Westwood.

Officers in attendance:

Chief Executive, Borough Treasurer and Head of Assets, Borough Solicitor,  
Head of HR and Organisational Development, Head of Policy and  
Performance, Head of Safer and Stronger Communities, Strategic Director  
People, Strategic Director Places and Extended Services Strategy Manager  
(Children and Families).

**87 COUNCILLOR ALLAN RICHARDSON**

The death was announced of Councillor Allan Richardson and a minute's  
silence was observed in his memory.

**88 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors D Brown, J Macrae  
and B Silvester.

**89 DECLARATIONS OF INTEREST**

None.

**90 PUBLIC SPEAKING TIME/OPEN SESSION**

Councillor Bob Edwards of Congleton Town Council made a statement in  
respect of car parking control and charging in the former Borough of  
Congleton.

**91 MINUTES OF PREVIOUS MEETING**

**RESOLVED**

That the minutes of the meeting held on 11 August 2009 be approved as a correct record.

**92 KEY DECISION 2009/10-07 SINGLE FUNDING FORMULA FOR EARLY YEARS PROVISION**

Consideration was given to proposals for the delivery of the single funding formula for funding the free early years provision for 3 and 4 year olds, to be implemented in Cheshire East from 1 April 2010.

**RESOLVED**

For the reasons set out in the report: -

That approval be given for the draft single funding formula to go out to consultation with stakeholders in the autumn of 2009.

**93 KEY DECISION 2009/10-10 CAR PARKING CONTROL AND CHARGING IN THE FORMER BOROUGH OF CONGLETON: CONSIDERATION OF OUTCOME OF STATUTORY CONSULTATION PERIOD**

Consideration was given to the results from the statutory consultations carried out in respect of the introduction of car parking control and parking charges in the former Borough of Congleton. The report summarised the key grounds for objections, gave detailed responses to those objections and set out options on how to proceed.

The Portfolio Holder (Environmental Services) confirmed that although the report had been written and circulated before the end of the consultation period on 2 September 2009 all responses received up to and including the end of 5 September 2009 had been assessed. To take into account specific concerns regarding Fairview Car Park, Alsager, and Parkway and London Road Car Parks, Holmes Chapel, it was now suggested that the proposals be modified as follows: -

- Fairview Car Park, Alsager – to remove the provision for a free first thirty minutes parking.
- Parkway and London Road Car Parks, Holmes Chapel – to introduce an amended tariff as follows:
  - Monday to Saturday 8.00 am to 6.00 pm up to 2 hours maximum stay: 10p.
  - Sundays no charge

In addition it was proposed that the implementation date be revised to take effect from 11 January 2009 to accommodate the period of time required for the acquisition and installation of the car park ticket machines.

**RESOLVED**

For the reasons set out in the report and as stated above: -

1. That approval be given, subject to any legally necessary further consultation, for the following modifications to be made to the order as it relates to:

Fairview Car Park, Alsager – to remove the provision for a free first thirty minutes parking

Parkway and London Road Car Parks, Holmes Chapel – to introduce an amended tariff as follows:

- a. Monday to Saturday 8.00 am to 6.00 pm up to 2 hours maximum stay: 10p.
- b. Sundays no charge

and, in the event of there being no objections to the proposed modifications and subject to the Borough Solicitor taking action to remove any legal impediments regarding the affected landholdings, the Borough Solicitor be authorised to make the Cheshire East Borough Council (Off Street Parking Places)(Congleton Area) Order 2009 duly modified as set out above.

2. That the implementation date for the introduction of control and charging in the former Congleton Borough Council area be agreed as 11 January 2009.

**94 RESERVES STRATEGY UPDATE**

Consideration was given to the Council's reserves position in relation to current budgetary issues and medium term planning.

**RESOLVED**

For the reasons set out in the report: -

That the reserves strategy for 2009- 2013 be agreed.

**95 JOINT WASTE PFI SCHEME**

Consideration was given to this report on the steps to be taken to ensure that the proposed joint waste PFI scheme receives the necessary legal certification to satisfy external financial sources.

**RESOLVED**

For the reasons set out in the report: -

1. That approval be given to issue certificates under the Local Government (Contracts) Act 1997 for the purpose of the PFI waste procurement contract referred to above;

2. That the Borough Treasurer and Head of Assets as section 151 officer be invited to sign and issue certificates on the council's behalf as the Certifying Officer;
3. Given that the certificate is being given in a personal capacity by the certifying officer, that an indemnity be provided to the Certifying Officer ;
4. That authority be given to the Borough Solicitor and Monitoring Officer to execute a form of indemnity (prepared on advice) in favour of the Certifying Officer and to ensure that appropriate insurance cover is either in hand, or can be written to back up that indemnity by the date of its execution;
5. That the Certifying Officer be allowed to take independent legal advice on the form of certificate and related due diligence which may be necessary, and to pay for that legal advice. (Noting that the appointment of legal advisers will form a permitted exception under Contract Standing Order E24).
6. That confirmation be given that the Council's common seal can be affixed to the appropriate deeds of indemnity.
7. That it be noted and confirmed that arrangements will need to be made for the deposit of the certificate, for copies to be made available to the public and for it to be placed for inspection, and for the taking of copies of the certificate if the members of the public require, and for copies to be lodged with the Council's Monitoring Officer and Auditor;
8. That this report be approved as a matter of record.

**96 TO CONSIDER THE RECOMMENDATIONS OF THE CHILDREN AND FAMILIES SCRUTINY COMMITTEE UPON A LOCAL GOVERNMENT OMBUDSMAN COMPLAINT AGAINST THE FORMER CHESHIRE COUNTY COUNCIL**

Consideration was given to the recommendations of the Children and Families Scrutiny Committee upon a Local Government Ombudsman Complaint against the former Cheshire County Council. The report of the Ombudsman was considered, along with the minutes of the above meeting. It was noted that the report considered by that Committee had been placed in Part 2 of this agenda as it contained exempt information.

Having considered the advice of the Children and Families Scrutiny Committee the Portfolio Holder (Children and Family Services) proposed that: -

- The Cabinet welcome the support of the Committee given to the proposal to implement the Ombudsman's recommendations and to agree to implement them (Children and Families Scrutiny Committee resolution (a)).
- That the advice given by the Committee about reviewing practices and procedures (Children and Families Scrutiny Committee resolution (c)), about informing Members (Children and Families Scrutiny Committee resolution (d)), and about visits to services (Children and Families Scrutiny Committee resolution (e)) be accepted.
- That the exhortation of the Children and Families Scrutiny Committee about the funding of Children's Social Care Services (Children and Families Scrutiny Committee resolution (b)) be noted.

**RESOLVED**

That approval be given to accepting the advice of the Children and Families Scrutiny Committee as set out above.

**97 EXCLUSION OF THE PRESS AND PUBLIC**

That the press and public be excluded from the meeting during consideration of the following item pursuant to Section 100(A)4 of the Local Government Act 1972 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 5 of Part 1 of Schedule 12A to the Local Government Act 1972 and the public interest would not be served in publishing the information.

**98 TO CONSIDER THE RECOMMENDATIONS OF THE CHILDREN AND FAMILIES SCRUTINY COMMITTEE UPON A LOCAL GOVERNMENT OMBUDSMAN COMPLAINT AGAINST THE FORMER CHESHIRE COUNTY COUNCIL**

Consideration was given to the report considered by the Children and Families Scrutiny Committee on 3 August 2009.

**RESOLVED**

That the report be noted.

The meeting commenced at 2.00 pm and concluded at 3.30 pm

W Fitzgerald (Chairman)

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## CHESHIRE EAST COUNCIL

### REPORT TO: CABINET

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**Date of Meeting:** 11 August 2009  
**Report of:** Strategic Director - Places  
**Title:** Joint Waste Treatment PFI Project – Acquisition of site for Waste Transfer Station Facilities  
**Portfolio Holder:** Councillor Peter Mason

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#### **1.0 Report Summary**

- 1.1 The report provides details of work carried out to identify and acquire a site for Waste Transfer Facilities in the Macclesfield area as part of the Waste Treatment PFI procurement (see Appendix A). The facility would provide for the bulking-up of residual household waste for transport to the Waste Treatment Facility. Details of alternative sites and their merits are provided. A site at Hulley Road, Macclesfield is recommended for acquisition (see Appendix B).
- 1.2 Cheshire West and Chester Council is currently the lead Authority with regard to Joint Waste Contracts and are therefore leading on the acquisition of a site in consultation with Cheshire East Council. Cheshire West and Chester Council's Executive Member for Environment has approved the acquisition, and under the terms of the relevant Inter Authority Agreement, the views and support of Cheshire East Council are now sought.

#### **2.0 Decision Requested**

- 2.1 That the purchase of a site at Hulley Road be approved in order to enable a Waste Transfer Station in Macclesfield to be included within the scope of the Waste Treatment PFI Contract.
- 2.2 That alternative site options continue to be explored with a view to ensuring that a Waste Transfer Station at Hulley Road provides best value.

#### **3.0 Reasons for Recommendations**

- 3.1 To enable officers to progress the acquisition of the Waste Transfer Station site for the Macclesfield area as part of the Waste Treatment PFI Contract. This will enable the procurement process to continue to progress expeditiously.
- 3.2 To ensure that other potential options continue to be investigated.

**4.0 Wards Affected**

- 4.1 The following Wards are affected by the proposals:  
Broken Cross, Macclesfield Town and Macclesfield West

**5.0 Local Ward Members**

- 5.1 Local Ward Members for these Wards are:  
Cllr Ainsley Arnold, Cllr John Goddard, Cllr John Narraway,  
Cllr Stephen Broadhurst, Cllr David Neilson, Cllr Christine Tomlinson  
Cllr Darryl Beckford, Cllr Sandy Bentley and Cllr Martin Hardy

**6.0 Policy Implications including**

- 6.1 The provision of a Waste Transfer Station in Macclesfield will reduce both vehicle miles and the carbon impact of the proposals. This will significantly benefit climate change.
- 6.2 There are not considered to be any impacts on health. Potential impacts will be assessed and taken account of in the planning and permitting process.

**7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)**

- 7.1 There are no transitional financial implications.

**8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)**

- 8.1 The cost of acquiring the site is affordable and within the approved capital budget held by Cheshire West and Chester Council for the purpose of Waste Transfer Site acquisition.
- 8.2 The availability of a Waste Transfer Station in the Macclesfield area will mean that Cheshire East waste collection vehicles will not need to travel to the Waste Treatment Facility. This is likely to result in significant cost savings over the long-term. The Hulley Road site has been demonstrated to be sufficient to provide for a bulking-up facility for recyclable waste if required.
- 8.3 Any costs and income associated with the site would be shared in accordance with the Inter Authority Agreement between the Councils. Any additional costs arising from use of the site for the storage of recycle would be borne by Cheshire East Council.

## **9.0 Legal Implications (Authorised by the Borough Solicitor)**

- 9.1 A legal contract will need to be signed for acquisition of the site. This will be done by Cheshire West and Chester Council, who would then hold the site in trust on behalf of itself and Cheshire East Council.

## **10.0 Risk Management**

- 10.1 The purchase of this Waste Transfer Site addresses a key corporate risk. If information on the Authorities' preferred Waste Transfer Sites is not available, this could well lead to them being excluded from the PFI final tender documents. This could have some significant adverse impacts, including the potential to cause delay in establishing waste treatment facilities. This would then result in high costs arising from breach of landfill allowances, as well as increased landfill charges and landfill tax liability.
- 10.2 The subsequent need to establish separate arrangements for a Macclesfield Waste Transfer Station would require a further procurement exercise and increase interface risks, which would be likely to increase costs and compromise value for money. In addition to the significant additional risks and financial impact, there could also be associated poor performance and negative publicity implications. There will continue to be a planning risk until planning permission has been obtained. This risk will vary depending on the site.

## **11.0 Background and Options**

- 11.1 The Waste Treatment PFI Contract will provide waste treatment facilities for Cheshire West and Chester and Cheshire East Council's. The provision of a Waste Transfer Station for the Macclesfield area is integral to the development and implementation of the contract. It will provide one of the two waste delivery points needed within Cheshire East.
- 11.2 A site for a Waste Transfer Station for the Macclesfield area has proved very difficult to identify. After a lengthy search over several years, a suitable site has been identified and the Council's Property Officers have had detailed negotiations with the vendor. Detailed draft contract documents have been received from the vendor's solicitors, reflecting the agreed Heads of Terms.
- 11.3 Cheshire West and Chester Council is the Lead Authority procuring shared waste facilities on behalf of itself and Cheshire East Council. Cheshire West and Chester would acquire the site as a shared 'Project Asset' and hold it in trust for both Councils in accordance with the agreed Inter-Authority Agreement. Associated costs and income would be shared in accordance with the Inter Authority Agreement.
- 11.4 The details of the proposed acquisition are confidential by virtue of their commercially sensitive nature. They constitute exempt information as defined in Schedule 12A to the Local Government Act 1972 in relation to the financial or

business affairs of any particular person (including the Authority holding that information). The author of this report considers that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, which is set out in the confidential appendices attached to this report.

- 11.5 The Joint Waste Board, which comprises of members of Cheshire West and Chester and Cheshire East Councils, has considered and supported the need for a Waste Transfer Station in the Macclesfield area. Cheshire West and Chester Council's Executive Member for the Environment has approved the acquisition.
- 11.6 Alternative site options have been explored at Danes Moss Landfill Site; Land at Lyme Green, south of Danes Moss; Lyme Green Highways Depot and Land off Moss Lane. All of these sites are subject to significant risk and uncertainty. Recognising the significant benefits of including a Waste Transfer Station in Macclesfield within the scope of the Waste Treatment PFI Contract, the Joint Waste Board at its meeting on 26 June 2009 supported the purchase of the site at Hulley Road. It has requested that alternative site options continue to be explored alongside this. If it transpires that an alternative site can be demonstrated to provide better value for money this could be 'swapped' with Hulley Road, which would then become available for resale.

## **12.0 Overview of Year One and Term One Issues**

- 12.1 The acquisition and availability of a Waste Transfer Station in the Macclesfield area would address key cost risks as set out in paragraphs 4.2 and 6.1 above.

## **13.0 Access to Information**

- 13.1 The background papers relating to this report can be inspected by contacting the report writer:

Name: Harold Collin  
Designation: Waste PFI Project Director and Joint Team Manager  
Tel No: 01244 973559  
Email: [harold.collin@cheshirewestandchester.gov.uk](mailto:harold.collin@cheshirewestandchester.gov.uk)

Name: Phil Sherratt  
Designation: Head of Environmental Services  
Tel No: 01270 529685  
Email: [phil.sherratt@cheshireeast.gov.uk](mailto:phil.sherratt@cheshireeast.gov.uk)

**RESPONSE TO CALL-IN OF KEY DECISION 09/10-24 JOINT WASTE TREATMENT PFI PROJECT –  
ACQUISITION OF SITE FOR WASTE TRANSFER STATION FACILITIES**

**INTRODUCTION**

1. The provision of waste treatment facilities at a central location in Cheshire or the closure of Danes Moss landfill site requires a waste transfer station in Macclesfield to allow refuse collection vehicles to continue to tip locally before the waste is bulked up for transfer to the waste treatment plant. Failure to provide a waste transfer station would require the refuse collection vehicles to travel direct to the treatment facility. This would impact on the collection rounds and greatly increase costs.
2. A site has been identified at Hulley Road on the Hurdsfield Industrial Estate after many years of searching. The appendix to the Cabinet Report sets out the alternative sites considered and the reasons why they have been discounted. This Appendix addresses the reasons given for the call-in which were:
  - The appropriateness of the site close to a housing estate
  - The proximity to Astrazeneca
  - The suitability of the Hurdsfield Industrial Estate and the impact on future investment by Astrazeneca or other companies

**SITE**

3. The site off Hulley Road is located on the Hurdsfield Industrial Estate. This well established industrial estate contains a variety of employment uses. Hulley Road has direct access off the By-Pass, The Silk Road. Vehicles would access the site without passing any houses.

**PLANNING POLICY**

4. The development of the site for a waste transfer station could only take place if planning permission was granted. The planning process would assess in detail the suitability of the proposed use of the site and its impact on the site and the surrounding area. Consultation would take place with nearby properties.
5. The adopted Cheshire Replacement Waste Local Plan allocates a large part of the Hurdsfield Industrial estate for waste development. Potential uses identified are Material Recycling Facility; Mechanical Biological Treatment; Anaerobic digestion; Bulking Facility and In-vessel composting. The proposed site lies within this allocation.
6. The Hurdsfield Industrial Estate is allocated for employment use for General Industry (B2); Warehousing (B8); High Technology (B1b) and Light Industry (B1c).
7. Detailed policies in the Development Plan are designed to protect the environment and the amenity of local residents.

## POTENTIAL IMPACT ON HOUSING

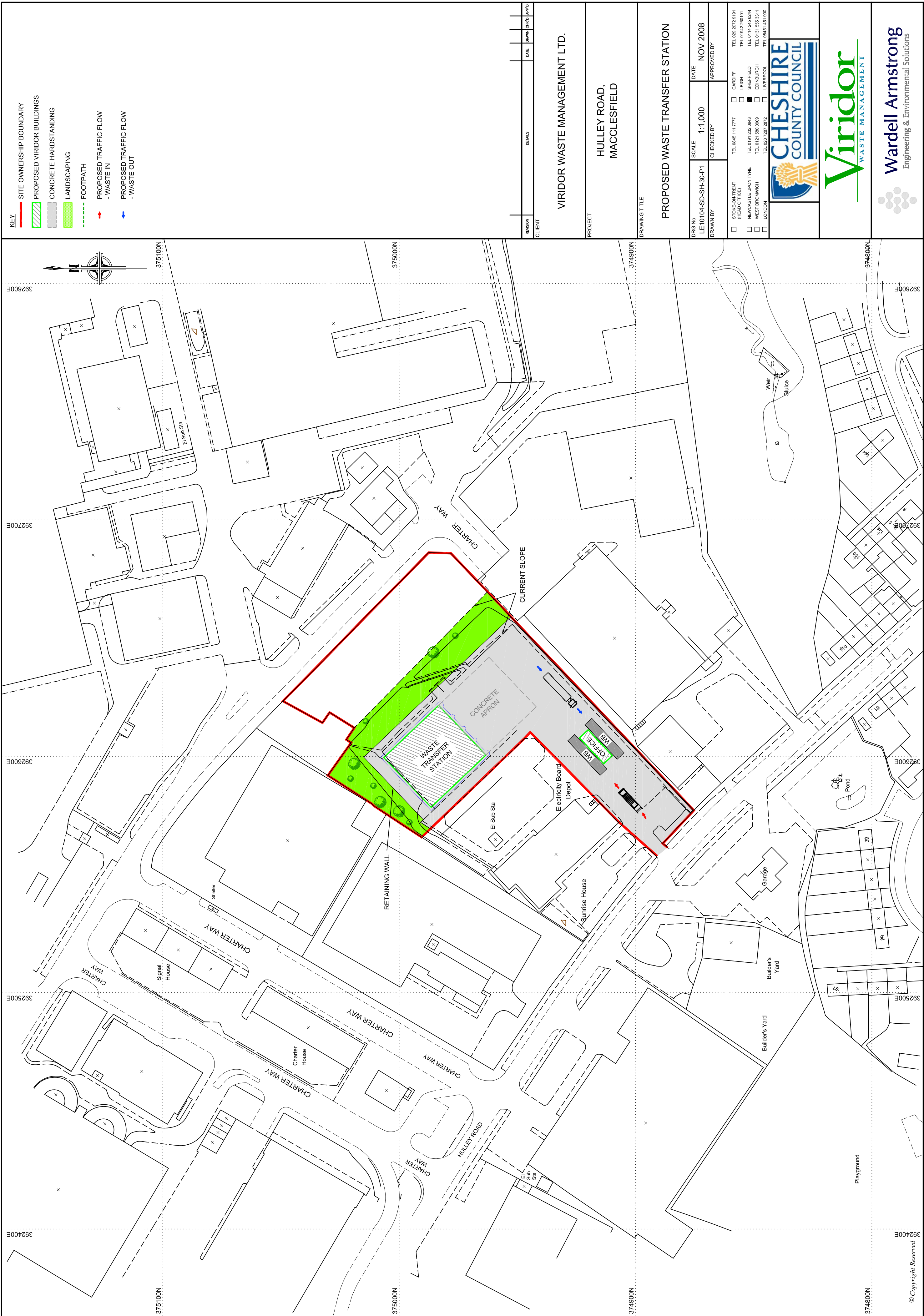
8. The proposed Waste Transfer Station site lies to the north of nearby housing at Balmoral Crescent, Hurdsfield. The site is surrounded by other industrial premises, Hulley Road and a garage. The distance from the boundary of the site to the nearest house is about 80m and the distance from the proposed waste transfer station building is about 160m.
9. Vehicular access to the site is off Hulley road and virtually all vehicles would access the site direct from the By-Pass, The Silk Road. The only exception may be the occasional RCV that was collecting household waste locally. It is estimated that there would be approximately 30 vehicles accessing the site per day of which 5 would be heavy goods vehicles and most of the others refuse collection vehicles. This equates to about 60 vehicle movements.
10. The site would be operational during weekdays between normal working hours though there may be some weekend use but with very few movements as refuse collection vehicles normally do not operate at weekends.
11. The Waste Transfer Station building is to be sited to the rear of the site furthest away from the housing. All unloading and loading of waste would take place within the building. The building would have doors which would open on the approach of a vehicle and shut when they were inside. The building would be under slight negative pressure so that air would be drawn in. Air from the building would be treated before passing back to the atmosphere. These measures will ensure that there is no detrimental impact on any nearby properties arising from noise, dust or odour. These aspects would be closely examined through the planning process.

## POTENTIAL IMPACT ON ASTRAZENECA

12. The Astrazeneca facility lies to the north of the proposed site. There are a variety of buildings the nearest being 80-100m from the boundary of the site. The site lies at a lower level than Astrazeneca and there are a number of mature trees between the site and Astrazeneca.
13. The measures described in Para 11 above should equally ensure that there is no detrimental impact on Astrazeneca. Again the potential impact would be closely examined through the planning and permitting process.
14. Astrazeneca currently own the site. They are aware of the intended use of the site and have not so far indicated that they have any concerns. They clearly control whether the site is sold and it is hard to believe that they would agree to sell the site if they thought it would have a detrimental impact on their business.

## SUMMARY

15. Cheshire East Council needs a site in the Macclesfield area for a Waste Transfer Station when Danes Moss Landfill Site is full or a waste treatment facility introduced. The site at Hulley Road is one of only a few potential sites identified. It is allocated for waste uses in the Development Plan. It has access off the Macclesfield By-pass. Measures should ensure that there is no detrimental impact on either nearby housing or other employment uses on the Hurdsfield Industrial Estate.



- KEY**
- SITE OWNERSHIP BOUNDARY
  - PROPOSED VIRIDOR BUILDINGS
  - CONCRETE HARDSTANDING
  - LANDSCAPING
  - FOOTPATH
  - PROPOSED TRAFFIC FLOW
  - WASTE IN
  - PROPOSED TRAFFIC FLOW
  - WASTE OUT

REVISION	DETAILS	DATE	DRAWN	CHECK'D	APP'D

VIRIDOR WASTE MANAGEMENT LTD.

HULLEY ROAD,  
MACCLESFIELD

DRAWING TITLE

PROPOSED WASTE TRANSFER STATION

DRG No	SCALE	DATE
LE10104-SD-SH-30-P1	1:1,000	NOV 2008
DRAWN BY	CHECKED BY	APPROVED BY

<input type="checkbox"/> VIRIDOR WASTE MANAGEMENT HEAD OFFICE	TEL 0845 111 7777	<input type="checkbox"/> CARDIFF	TEL 020 2072 8191
<input type="checkbox"/> VIRIDOR WASTE MANAGEMENT HEAD OFFICE	TEL 0191 232 0843	<input type="checkbox"/> LEIGH	TEL 01542 280101
<input type="checkbox"/> NEWCASTLE UPON TYNE	TEL 0121 580 0069	<input type="checkbox"/> SHEFFIELD	TEL 0114 245 6244
<input type="checkbox"/> WEST BROMWICH	TEL 020 7287 2872	<input type="checkbox"/> EDINBURGH	TEL 0131 555 3311
<input type="checkbox"/> LONDON		<input type="checkbox"/> LIVERPOOL	TEL 0845 1451 900



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