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Strategic Planning Board

Agenda

Date:	**Monday, 26th April, 2010**
Time:	**2.00 pm**
Venue:	**Main Hall, Middlewich Civic Centre, Lewin Street, Middlewich**

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**

   To receive any apologies for absence.

2. **Declarations of Interest**

   To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests and for Members to declare if they have made a pre-determination in respect of any item on the agenda.

3. **Public Speaking**

   The Council has adopted a Protocol governing public speaking at Strategic Planning Board meetings. It provides that "In exceptional circumstances the Chairman may, with the approval of the Board, extend the speaking period for some or all speakers, or allow more speakers if appropriate. This power will be treated with caution for controversial or complex schemes and if additional time is granted for objectors, a similar allowance will be given to supporters and/or to the applicant." The application below has attracted several thousand representations and the normal time limits for speaking will need to be extended.

   When the full number of those wishing to speak, is clear, the Chairman will draw up a draft timetable which balances running the meeting expeditiously and allocating a broadly equal amount of time to hear those in favour and those against the application, promoting a fair hearing overall. She will propose this to the Board, at the outset of the Meeting, for their approval.

For any apologies or requests for further information, or to arrange to speak at the meeting
Contact: Sarah Baxter
Tel: 01270 686462
E-Mail: Sarah.Baxter@cheshireeast.gov.uk

4. **09/0738W-Erection of an energy from waste facility with associated buildings, car park and hardstanding areas, Land off Pochin Way, Middlewich for Covanta Energy Ltd** (Pages 1 - 32)

To consider the above application.

Agenda Item 4

Planning Reference No:	09/0738W
Application Address:	Land off Pochin Way, Middlewich
Proposal:	Erection of an energy from waste facility with associated buildings, car park and hardstanding areas.
Applicant:	Covanta Energy Ltd
Application Type:	Major Waste
Grid Reference:	712 655
Ward:	Middlewich
Earliest Determination Date:	7 July 2009
Expiry Dated:	8th July 2009
Date of Officer's Site Visit:	24th March 2009
Date Report Prepared:	14 April 2010
Constraints:	

SUMMARY RECOMMENDATION:
Refuse on grounds relating to deficient information to accompany an EIA application, need, not a preferred site, unsustainable development, visual impact and failure to demonstrate adequate provision for energy recovery.

MAIN ISSUES:
Need for the facility and overprovision of waste facilities in Cheshire.
Compliance with waste policy at national, regional and development plan level.
The adequacy of detail to demonstrate that Renewable Energy can be provided.
The adequacy of detailed information to support an EIA application.
The potential impact on issues such as Health, Residential Amenity, Traffic, Landscape and Ecology.

Reason for Referral

1. This matter has been referred to the Board as it is a major waste application supported by an Environmental Impact Assessment.

Introduction

2. Covanta Energy Ltd, have submitted an application, initially to Cheshire County Council but later becoming the responsibility of Cheshire East Council after Local Government Reorganisation, for an Energy from Waste facility off Pochin Way, Middlewich. The proposal falls under Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 and is therefore supported by an Environmental Statement. Supplementary Information adding to the initial submission was received in December 2009 and was duly advertised.

Site Location and description

3. The proposed site, which extends to 9.45ha, is located on Plot 63 of the Midpoint 18 Business Park on the west side of Pochin Way, Middlewich, approximately 1km south of the roundabout with the A54. Middlewich town centre lies within a kilometre to the north-west of the site. Junction 18 of the M6 motorway lies 5km to the east.

4. The site is allocated for employment commitment within the Congleton Borough Local Plan. It is currently in agricultural use being used for grazing and consists of three relatively flat fields bounded by Pochin Way to the east and Sanderson Brook to the north and east with existing new large industrial and commercial units beyond. Further east is open agricultural land. A railway line, slightly elevated on embankment, lies immediately to the west of the site beyond which lies the Brook's Lane Industrial Estate, elevated lime lagoons (Site of Biological Importance) and British Salt's Cledford Works. Further west, running in a north south direction is the Trent and Mersey Canal, designated as a Conservation Area, with the residential areas of southern Middlewich beyond the A533. To the south of the site, Cledford Lane and the remaining future parts of the Midpoint 18 estate are still within agricultural use.

Details of Proposal

5. It is proposed to construct and operate an Energy from Waste Facility capable of incinerating 370,000 tonnes of domestic, commercial and industrial waste collected from within East and West Cheshire annually, with the potential to produce 35MW of electricity and with the possible future use of surplus heat in a Combined Heat and Power scheme.

6. Five separate buildings are proposed, together with car parking, internal access roads, weighbridges, hardstanding for ash storage, lagoon, landscaping and a short addition to the existing length of Pochin Way.

7. An additional 100m length of Pochin Way would be constructed south of that existing, providing access to the development. Internal roads would then lead to a 65 space car park, and via weighbridges to either the material recovery building and energy from waste plant, or the ash processing and storage area. Incoming wastes would be directed to either the material recovery building or straight to the tipping apron of the incinerator.

Material Recovery Building

8. Waste material would generally flow through the development from north to south. The material recovery building is the most northern and would be capable of receiving up to 185,000 tonnes of waste a year. The purpose of the building is to extract and recycle ferrous and non-ferrous metals from the waste stream, although it is stated that the flexible building may be capable of

extracting further recyclables such as glass and plastics in the future. It is anticipated that 3% of the feedstock would be recycled. The residue from this would be taken by conveyor to the Energy from Waste Plant and dropped into the waste bunker. The building would be 98m long by 60m wide and 16.5m high. This and the other buildings would be constructed from a steel frame and clad with colour coated metal sheet with areas of composite microrib profile placed at key positions on elevations to provide interest to facades and unify the overall appearance. The majority of buildings would be shades of grey and silver with stronger accent colours to define key elements.

Energy from Waste Plant

9. The second building, moving south, and largest is the Energy from Waste Plant with a maximum height of the main structure being 48m with a 80m high chimney stack. The main building would measure a maximum 177m long by 63m wide consisting of a number of boxed elements contained within an arched structure extending to 246m long. The building would have an elevated waste reception and tipping area accessed by ramp. Vehicles would reverse within this enclosed area tipping their loads into a large waste bunker capable of holding 3-4 days feed stock for the incinerator. Overhead cranes with grabbers then mix the waste within the bunker and deliver it to hoppers that feed the furnace grates. Movement within a sloping grate transfers the waste within a combustion chamber where primary and secondary air injection ensures a complete and appropriate burn. Two furnaces are proposed, which would apart from maintenance, work continuously round the clock.

10. Combustion gases are treated with flue gas cleaning equipment comprising dry or semi-dry gas scrubbers, activated carbon injection and fabric bag house filter. Emissions and operation would be subject to an environmental permit issued and monitored by the Environment Agency. It is understood this permit has recently been applied for. Heat from the incinerator would be passed over boilers to raise steam which can be used to generate the 35MW of electricity anticipated. The low pressure saturated steam that is exhausted from the turbine is condensed using an air cooled condenser which blasts air using large fans over a radiator containing the saturated steam. Water resulting from the process would be re-circulated. The applicant has indicated this surplus heat could in future be used in a combined heat and power scheme although this is not detailed within the application. Bottom ash, the residue from the furnaces, would be water cooled and then transferred on to the unprocessed ash storage area on site. It is estimated that just over 100,000 tonnes of bottom ash will be produced. Fly ash, captured from the stack emissions, would be transported to a suitable disposal facility which would be capable of receiving hazardous wastes. It is estimated 16,000 tonnes of fly ash would be produced annually.

11. The building also includes various other elements such as air condensers, fire water tanks, electricity sub-station (all located to the rear), offices, staff facilities, stores, visitor centre and education facility, appended to it. The long axis of the building is orientated parallel to the railway and Pochin Way. Access for vehicles would be via electronically controlled roll shutter doors. Twin chimneys, 80m high, would be within a perforated enclosure reminiscent of a sail.

Unprocessed Ash Storage

12. Ash from the main building, which is likely to be between 25% and 30% of total imports, would be stored within a building approximately 51m by 20m by 12m high with a single pitched roof. The two end elevations and roof would be of metal sheet cladding, whilst the two long elevations would be open. Ash would be stored upon the covered concrete pad for 2 to 3 weeks to dry out. This building lies to the south of the main building and car park.

Ash Processing Building

13. The ash processing building south of the above building, would be a square steel framed, metal clad building, measuring 30m by 30m by 13m high. The building would be used to process the bottom ash for potential use as a secondary aggregate and further recover any metals within it.

Staff / Admin Building

14. A building measuring 14m by 8m by 6.6m high and consisting of two storeys, would provide office and staff facilities for the ash processing activities. The building would be a steel framed, metal clad building, with single pitched roof, located next to the above buildings.

Processed ash storage area

15. It is proposed to store processed ash prior to be taken off site upon a concrete pad measuring a maximum of 80m by 110m, surrounded by a 3m high wall. Mounds of ash are proposed to be limited to 8/10m high. Drainage from the area would be captured and diverted to a settling lagoon on the southern end of the site. Subject to market demand the ash could be used as a secondary aggregate or building material, however if there is no demand the ash would be disposed of to landfill. It is estimated that the quantity of residual ash is likely to be just over 100,000 tonnes a year.

Construction

16. It is anticipated that the construction period would be 36 months, employing 300-400 people, with an average staff compliment during that period of 150.

Hours of construction would be limited to Monday to Friday 0730-1800 and Saturdays 0730-1300 with no working on Sundays or bank holidays.

17. Once the site is operational, waste deliveries would be restricted to the hours of 0730-1800 Monday to Friday and 0730-1300 Saturdays with no working on Sundays or bank holidays. Apart from shut down and maintenance periods, the plant would run continuously 24 hours a day, 7 days a week and employ 45 – 50 staff.

18. The applicant, Covanta, has indicated a willingness to contribute to community benefits for the area including subsidised electricity for Middlewich residents, a community trust fund of £150,000 in the first year and £50,000 annually, a contribution of £2.5m towards the cost of constructing the Middlewich by-pass, and to commit to local employment of staff and use of local suppliers were possible.

Planning History

19. The Midpoint 18 Business Park and the Middlewich by-pass are being constructed on a phased basis. The northern part of the by-pass, and the business park, have been constructed and several large units have been occupied for some years. The southern part of the business park, phase 3 of the development, has planning permission for the by-pass and a range of B1, B2 and B8 uses together with leisure, tourism and hotel use, none of which has been commenced to date. The central part of the business park, including the application site (Plot 63) has previous permissions for B1, B2 and B8 uses (outline consent 8/31584/1 granted in 2002) but remains partially undeveloped.

Planning Policy

20. The Government published Waste Strategy for England 2007 in May 2007. The Strategy seeks to enact the European Union Landfill Directive (1999/31/EEC) and introduces targets for reducing the percentage of both municipal, and commercial and industrial wastes sent to landfill. A prime aim of the Strategy is to move the treatment and disposal of waste up the waste hierarchy, favouring those waste management methods that lie at the top of the hierarchy. Reduction lies at the top of this hierarchy, followed by re-use, then recycling and composting, followed by energy recovery and finally landfill.

21. National Policy for Waste – PPS10 Planning for Sustainable Waste Management (July 2005) sets out the key planning objectives for waste management and gives guidance on preparing development plan documents and determining planning applications. PPS10 advises that waste planning authorities should allocate sites to support the pattern of waste management

facilities and apportionment set out in the Regional Spatial Strategy (RSS) and that waste should be managed and disposed of in one of the nearest appropriate facilities to minimise the environmental impacts which arise from the transport of wastes.

22. Planning Policy Statement 22 (PPS22) 2004, and its Companion Guide, Renewable Energy, is intended to assist regional and local decision makers and other stakeholders in understanding the various often complex issues relating to renewable energy.

23. Planning Policy Statement 1 (PPS1) 2005, Delivering Sustainable Development, sets out overarching planning policies for the delivery of sustainable development through the planning system.

24. Planning Policy Statement 4 (PPS4) 2009, Planning for Sustainable Economic Growth, sets out the Government's comprehensive policy framework for planning for sustainable economic development in urban and rural areas and is a material consideration as the scheme provides employment opportunities.

25. Planning Policy Statement 9 (PPS9), Bio-diversity and Geological Conservation sets out the Government's policies covering ecological and geological conservation and enhancement, including protected habitats and species.

26. Planning Policy Statement 23 (PPS23) 2004, Planning and Pollution Control and its Annexes sets out advice and policy in relation to pollution control.

27. Planning Policy Statement 23 (PPS25) 2006, Development and Flood Risk sets out Government policy on development and flood risk and encourages sustainable urban drainage schemes.

28. The Development Plan for this area consists of the approved North West Regional Spatial Strategy (September 2008), the Cheshire Replacement Waste Local Plan (July 2007) and the Congleton Borough Local Plan (2005).

29. The Regional Spatial Strategy which replaces Regional Planning Guidance for the North West was adopted in September 2008. The Strategy seeks to identify, protect, enhance and manage environmental assets. It sets out a number of spatial principles that are of some relevance to the application namely DP4 which seeks to make the best use of existing resources and direct new development to areas with existing infrastructure, DP5 which seeks to reduce travel needs, DP7 which promotes environmental quality, and DP9 that covers reducing emissions and adapting to climate change. Policy EM1 seeks to enhance and protect the regions environmental assets, EM10 sets out regional waste targets for both municipal waste and commercial and industrial wastes, EM11 seeks to encourage the handling of waste as high up the waste hierarchy as possible, EM12 which looks at locational principles,

encourages final disposal of waste at the nearest appropriate location to its source, often called the proximity principle, its aim is to ensure communities take responsibility for the waste they produce, and reduce carbon emissions from transporting waste over unnecessary distances, and EM13 the provision of waste facilities. The RSS apportions the waste arising within the North West Region to each of the sub-regions; each of these areas is then expected to make provision to treat and dispose of their allocated annual tonnage. The commercial and industrial waste (C+I) apportionment for Cheshire to the year 2020 is 749,000 tonnes annually of which the indicative waste treatment capacity (composting/recycling/treatment/thermal) is 403,000 tonnes and a landfill requirement of 346,000 tonnes.

30. The Cheshire Replacement Waste Local Plan was adopted in July 2007. The Plan seeks to achieve a balance between ensuring adequate provision of waste management facilities and protecting the environment and the quality of life of local communities. It sets out policies against which planning applications for waste development will be assessed and identifies sites that may in principle be suitable for new facilities. The Plan provides an indicative annual capacity requirement for the management of non-hazardous wastes for a range of facilities such as composting, recycling, mechanical biological treatment, energy recovery and landfill. A number of policies within the Plan are relevant to this proposal namely:

    P1 – Sustainable Waste Management

    P2 – The Need for Waste Management Facilities

    P3 – Phasing of Sites for Landfill/Landraising and/or Thermal Treatment

    P4 – Preferred Sites for Waste Management Facilities

    P5 – Other Sites for Waste Management Facilities

    P12 – Impact of Development Proposals

    P14 – Landscape

    P17 – Natural Environment

    P18 – Water Resource Protection and Flood Risk

    P23 – Noise

    P24 – Air Pollution: Air Emissions including Dust

    P25 – Litter

    P26 – Odour

P27 – Sustainable Transport of Waste and Waste Derived Material

P28 – Highways

P29 – Hours of Operation

P33 – Liaison Committees

P34 – Energy Recovery

P36 – Design

31. The Congleton Borough Local Plan was adopted in January 2005 and designates the site as a committed employment site subject to policy E2. Other relevant policies are:

GR1- New Development

GR2 – Design

GR4 and 5- Landscaping

GR6 and 7 - Amenity and Health

GR9 and 10 Accessibility, Servicing and Parking Provision

GR11 – Development Involving New Roads and Other Transportation Projects

GR13 and 14 – Public Transport and Cycling Measures

GR17 – Car Parking

GR18 – Traffic Generation

GR 19 – Infrastructure

GR20 – Public Utilities

GR21 – Flood Prevention

GR24 – Wider Environmental Considerations

SPD4- Supplementary Planning Document on Sustainable Development (April 2005)

32. Applications for planning permission should be determined in line with the development plan, unless material considerations indicate otherwise.

Consultations (External to Planning)

33. **Cheshire West and Chester Council** object to the application on the grounds that there is insufficient information or assessment to confirm that there would not be unacceptable air quality impacts on areas along the A54 through Sproston; that the likely sources of waste are ambiguous and consequently it is likely that waste will be sourced from a wider area than stated which is considered unsustainable and contrary to PPS10 and the Cheshire Replacement Waste Local Plan.

34. **Twemlow and Cranage Parish Council's** have objected to the proposal on the grounds of traffic congestion, pollution and health impacts, and also consider that waste may not be local in source.

35. **Middlewich Town Council** object to the proposal as the site is not identified as a preferred site in the Cheshire Replacement Waste Local Plan and they consider that there is no firm need for the facility in the light of the proposed incinerator in Runcorn and the now successful appeal for an incinerator in Ellesmere Port (Ince Marshes).

36. **Holmes Chapel Parish Council** objects to the proposal on need grounds and considers there are ample proposals planned or with permission to more than adequately handle the anticipated quantities within the Cheshire Consolidated Joint Municipal Waste Management Strategy and both the Regional Spatial Strategy and the Cheshire Replacement Waste Local Plan. In view of the level of proposed provision waste to feed the plant would need to be imported from outside the County contrary to policy seeking disposal at one of the nearest appropriate installations and resulting in increased traffic congestion and pollution.

37. **Bradwall Parish Council** object to the proposal as the site is not an identified preferred site within the Waste Local Plan, would increase local traffic congestion affect air quality and increase likelihood of accidents, would adversely impact on the local dairy industry, and as other facilities with planning permission exist to meet the capacity of Cheshire derived waste there is no further need for this facility.

38. **Goostrey Parish Council** object on the grounds the site is not a preferred site within the Waste Local Plan and is not allocated for thermal treatment, would cause traffic congestion, does not have a guaranteed waste source, is unnecessary as sufficient facilities already exist and would add to CO^2 production.

39. **Congleton Town Council** has objected to the proposal on grounds that there is no requirement for this type of development, it does not form part of the Cheshire Waste Plan, the site is unsuitable and the pollution from the plant, which is demonstrated to cause cancer and respiratory problems, would affect Congleton.

40. **Sandbach Town Council** has objected to the proposal as it contravenes the policies GR1, GR2 (1a and d), GR2 (2a,b,c); GR6, GR7, GR18, GR20 and GR21 of the Congleton Borough Local Plan; policies 1 (A,B, C, E), 2, 3, 4, 5, 12, 24, 27 and 36 of the Cheshire Replacement Waste Local Plan, and in addition, policies DP7, RDF1, EM2, EM13, PP10, and PS1 of the North West Regional Spatial Strategy.

41. **The Highways Agency** considers there is unlikely to be any adverse material impact on the trunk road network and have therefore no objections to the proposal.

42. **The Highway Engineer** raises no objection to the proposed development subject to conditions and a requirement to enter into a Section 278 Agreement under the Highways Act 1980 for off site highway works.

43. **4NW** notes that the proposal is low on the waste hierarchy but preferable to landfilling. It further notes that undifferentiated waste is not a sustainable energy source and contravenes the principles of sustainable waste management. 4NW concludes that the proposal appears to support the relevant policies of the Regional Spatial Strategy by providing additional waste reprocessing facilities and increasing the region's energy recovery capacity. The proposal would aid the regional self sufficiency principle and help manage waste closer to source.

44. **Central and Eastern Cheshire Primary Care Trust (CECPCT) and the Health Protection Agency** have not objected to the proposal but have made several observations and seek conditions to be added to any permission. They have indicated that traffic surveys may not be fully representative; that road accident rates are higher than the national average to the west of Middlewich and recommend a condition that all HGV's to the site approach from the east, but also note 35% of accidents on the A54 (the eastern approach) involve HGV's and moves to ameliorate this should be considered. This situation would be further affected by the Kinderton Landfill and more development on Midpoint 18 leading to cumulative effects. They consider air quality objectives may be exceeded on some roads which would be unacceptable and a condition requiring air quality monitoring for a year before operation of the plant and a year during operation should be applied. They note the release of dioxins raise public concern but expected releases from the incinerator are exceedingly low and that most dioxin toxicity is linked not to inhalation but ingestion through food. They also wish to see controls applied to ensure there are no problems from odour and water discharge. The CECPCT have offices off Pochin Way and their Board have also expressed concern over local traffic congestion, safety of cycle users and HGV's parking up outside operational hours.

45. **The Environment Agency** raises no objection to the proposal subject to conditions covering flood risk precautions, ecological surveys and mitigation measures, and measures in case contamination is found during site excavation. The Agency points out that approval will be required from them under the Land Drainage Act 1991 to relocate ditches and culverts and that the proposal will require licensing under the Environmental Permitting Regulations 2007.

46. **Natural England** has not objected to the proposal but in a lengthy letter requested that details of proposed mitigation measures covering protected species should be submitted and assessed prior to determination (see section on ecology). They also comment on alternative sites, traffic, air quality, noise, public health and odour, and hydrology, all are which are further considered in the main body of this report. They further express concerns regarding the proposal which would be a prominent visual feature within the landscape.

47. **Cheshire Wildlife Trust** has indicated a number of issues that need to be resolved in terms of the proposed habitat enhancement scheme, landscape scheme and requirement for off-site mitigation particularly in relation to the Sanderson Brook Corridor and protected species.

48. **The CPRE** has objected on the grounds that the site is not allocated in the Waste Plan and the site is unsuitable, traffic congestion and impact on residents and local business and damage to landscape character due to the scale of the main building.

49. **The National Grid** considers the risk to their gas and electricity networks is negligible.

50. **Network Rail** has raised no objection subject to conditions being applied to protect the operation of the railway.

51. The Council's archaeologist has no objection to the proposal subject to a condition requiring pre-commencement site investigations to be undertaken as part of phased programme of archaeological investigations.

52. The Environmental Protection Officer has not objected to the scheme subject to the imposition of conditions to limit the environmental impact of construction and operation of the development (see issues below).

53. The Landscape Officer whilst not objecting to the proposal considers the impacts have been underestimated within the environmental assessment (see section on landscape and visual assessment).

54. The Council's Ecologist has had considerable correspondence with the applicants which has resulted in amended schemes being submitted (see

section on ecology), subject to conditions and a Section 106 agreement he has no objection to the proposal.

Other Representations

55. The applicants have carried out a public consultation exercise comprising the issue of a newsletter and public meetings prior to the submission of the application. There have been numerous releases of publicity information from both the applicant and the anti-incinerator opposition group, CHAIN (Cheshire Against Incineration), throughout the determination process. Members will have been circulated into most of this information exchange.

56. The application was advertised by press notice, site notices and letters to neighbours and has attracted over 3,300 letters of objection and a petition with over 7,000 signatures. Several letters have been received from the Utility Workers Union of America, criticizing Covanta. Objectors have raised numerous issues which are further considered within the issues section of this report, but the main points of objection are;

- The site is not a preferred site within the Cheshire Replacement Waste Local Plan (CRWLP)
- The proposal is contrary to a number of the policies within the CRWLP.
- The applicant has no guaranteed source of waste, has been excluded from Cheshire's domestic waste contract yet is reliant on 105,000 tonnes of Municipal Solid Waste that will need to be imported into Cheshire contrary to the proximity principle.
- Existing facilities and those within the planning pipeline including approved schemes such as the INEOS incinerator in Runcorn, and the Ince Marshes incinerator in Hapsford provide sufficient facilities for Cheshire's commercial and industrial waste and all household waste will be treated within the Council's long term waste contract; there is no need for this incinerator.
- The proposals do not enable renewable energy or heat to be utilised and the plant must therefore be viewed as a stand alone waste incinerator.
- The traffic generated will add to existing congestion in and around Middlewich.
- The Company should not be allowed to buy a planning permission by making a contribution to the cost of the Middlewich by-pass. The benefits of which have been exaggerated.

- Incinerators are not sustainable; they are low on the waste hierarchy, discourage recycling, and burning waste produces carbon dioxide and contributes to climate change.
- Incinerators are a pollution source discharging dioxins, forans and particulate matter over large areas. Some emissions are bio-accumulative and will build up in the environment, crops and animals, and people with serious health implications and impact on the County's dairy industry.
- Nuisance from smells and noise from both the plant and traffic accessing it
- There will be a significant visual impact, it will change the character of the area, it will be a blot on the landscape visible from considerable distance, the environmental assessment underestimates the visual impact
- It will increase local flooding problems
- Existing business will be blighted and new business discouraged
- It is too close to housing
- It will have a significant adverse impact on house prices
- This will turn Middlewich into a dumping ground as the nearby Kinderton Landfill is still likely to be worked despite suggestions to the contrary
- A leak within the many underground gas storage cavities in the area if ignited by the incinerator could result in a disaster
- Covanta have a bad track record; they have been fined by a number of US States for exceeding emission limits, are bad employers and are under labour law investigations in the USA.

57. Two letters of support have been received. British Salt state that they intend to purchase steam from the plant to reduce their gas usage and hence carbon footprint and thereby help secure employment at their works. Pochin's the developer of the Midpoint 18 Business Park indicate that the preferred site WM5 within the CRWLP is no longer available but support this site as it will result in £200m of inward investment, provide high quality buildings, cheap electricity, heat and power for British Salt and other business park users and opportunities for local employers.

Applicants Supporting Information

58. As the application falls under Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, it was supported by an Environmental Statement; an Environmental Scoping Report dated October 2007 and a Scoping Opinion from Cheshire County

Council dated November 2007 advised on the issues to be covered, which have generally been incorporated within the various chapters of the Environmental Statement, however as detailed later in the report the Environmental Statement is deficient in relation to energy provision. The Statement as submitted includes the following;

- Non-technical Summary
- Supporting Planning Statement
- Statement of Community Involvement
- Transport Assessment
- Travel Plan
- Rail Feasibility Study
- Baseline Noise Report
- Indicative Landscape Proposals
- Photomontages and methodology
- Archaeological Survey
- Flood Risk Assessment
- Geo-environmental Study and Preliminary Risk Assessment
- Badger Survey
- Otter and Water Vole Survey
- Breeding bird Survey
- Great Crested Newt Survey and Mitigation Strategy
- Lesser Silver Water Beetle Survey
- Letter from Pochin indicating the unavailability of WM5 preferred waste site
- Supporting letter from British Salt regarding CHP interest
- Representation to the Cheshire Replacement Waste Local Plan made on behalf of Pochin and Congleton Borough Council

59. Following initial submission there has been considerable exchange of correspondence and the submission of additional and clarifying information including;

- A Socio-economic Addendum
- Landscape and Ecological Addendum to supersede that in the Environmental Statement
- Revised Transport Assessment incorporating technical notes
- Various letters clarifying issues regarding air quality, noise, vibration, health, archaeology and cultural heritage, between the applicant the Council and the Health Protection Agency and Primary Care Trust.
- An Addendum to the Planning Statement
- A Draft Contract between British Salt and Covanta to supply steam
- A Statement on the Need for the waste facility
- Middlewich Eastern Bypass Employment Impact Assessment
- Proposed Heads of Terms for a Section 106 agreement
- A Draft Policy 5 Sequential Site Assessment, later withdrawn
- Counsel Opinion on the Policy Approach to Need
- A Note on Electricity Grid Connection

Copies of all documents received are available for inspection on the Councils website.

Officer Appraisal

Health Issues

60. Considerable concern has been expressed over the health impacts of the proposed development in terms of traffic visiting the site and emissions from the incinerator.

61. Objectors have raised concerns over the emission of toxic particles particularly dioxins, forans, heavy metals, chemical pollutants and small particulate matter, and cite reports by groups such as the British Society for Ecological Medicine to support the case against incineration. Toxic material can be carcinogenic and cause chronic illness, it can be a mutagen and hormone disrupter, and it is claimed it may be a cause of many emotional and behavioural disorders. Dioxins are bio-accumulative and their presence can

increase within the body over time particularly through ingestion either directly from crops or through milk and dairy produce. Particulate matter can be linked to heart disease and cancer.

62. This is clearly a very emotive issue and the views of the Central and Eastern Cheshire Primary Care Trust (PCT) and Health Protection Agency (HPA) were specifically sought. Neither body has objected to the proposal, whilst noting the role of ingestion and bio-accumulation they consider that the airborne emission of dioxins from the proposed facility should be extremely low and do not present a health hazard. This reflects the Government view on this issue, which is basically that an efficiently run incinerator should not pose a risk to health.

63. This plant would also need a waste permit from the Environment Agency. The Agency would be responsible for setting emission limits, monitoring them and ultimately enforcing them. It is not the role of the Planning Authority to duplicate such controls and the Local Authority needs to work on the basis that other environmental bodies will discharge their functions appropriately.

64. Objectors have cited several reports indicating environmental and emission breaches at Covanta facilities in the USA and provided evidence of numerous fines imposed on the Company. In considering the issue of a waste permit, the Environment Agency will need to assess whether based on past performance and another country's different regulatory system, the Company is fit and proper to hold a permit. This is however not an issue that is material to the determination of this planning application.

65. Objectors have also raised concern relating to the clustering of waste incinerators within north and central Cheshire and the cumulative impacts that may result. Within a 15 km (9 mile) radius there is an existing hazardous waste incinerator, two large incinerators with planning permission, three incinerators (including Covanta) awaiting determination. A possible cluster could develop in this small area of 6 waste incinerators. Objectors point out that such a cluster is unprecedented and the cumulative impacts on health have not been assessed and as such a precautionary principle should be adopted and the application refused. The HPA and PCT have been specifically requested to comment on this further matter.

66. Cheshire West and Chester Council, the HPA and the PCT have raised concerns regarding air quality along the A54 at Sproston. The A54 provides the link between Middlewich and Junction 18 of the M6 and is a heavily used road. Air quality is already causing concern and it is feared further development would only worsen the situation. This however would be the case for any further development in the Middlewich and Winsford area.

Nuisance

67. Vehicles delivering waste to the site will deposit it either within the Material Recovery Building or the Energy from Waste Plant, no delivered waste would be stored outside and there should therefore not be a problem with dust or litter arising from deliveries. This can further be controlled and assured by condition. The main building is designed to work under negative air pressure with air being drawn into the building and used within the furnace and hence expelled through the stacks. Odour from within the building, particularly the waste bunker should not therefore escape. The Material Recovery Building will also need odour control measures to be incorporated, this may be achieved by drawing air through ducting and along the conveyor connecting to the main building; these can be controlled by condition.

68. Dust generated during construction will need to be controlled by a dust monitoring and management scheme regulated through condition. Waste would only be received and discharged within buildings and therefore no external dust should arise from this source. The bottom ash from the plant would initially be wet as it is discharged from the furnace into a water bath before being delivered to the ash processing plant and storage area. Whilst it is claimed that the ash on drying out crusts over therefore reducing the possibility of a dust problem occurring, a dust control scheme would be required by condition that limits the height of any storage mounds, and provides for watering of surfaces.

69. Noise is likely to be generated throughout the lengthy construction period and would need to be controlled by conditions to an acceptable level and subject to hours of working. Once operational the plant would be run 24 hours a day, although vehicle deliveries would be restricted. The Environmental Protection Officer considers that night time working within the plant should not present a problem but does recommend stringent noise conditions that also control tonality.

Traffic

70. There has been considerable local objection to this application on the grounds of traffic congestion. Objectors indicate that the existing road network particularly in rush hours is very congested and thereby dangerous and a pollution source, and that any further increases in traffic numbers is unacceptable.

71. The applicants have submitted a transport assessment which looks at the impact during the three year construction period and during the operation of the site. It compares the impact likely to be created by the proposed development to that of the extant permission for B1, B2 and B8 uses approved by Congleton BC for this site.

72. The Strategic Highway Manager considers the difference in impact during construction between the extant permission and proposed is not significant, that construction traffic is likely not to be concentrated at rush hour, and the impact on the A54 is likely to be negligible. Peak movements during construction have been estimated at 13 incoming HGV's and 250 cars daily, although this will vary considerably over the 3 year construction period.

73. During operation of the site waste imports and exports of material are likely to generate 292 HGV trips a day (146 in 146 out). It is estimated this accords to 30 trips during the busy morning rush hour, or one every 2 minutes. Light vehicle movements are estimated at 72 trips a day and would be spread over three shift periods. The Strategic Highway Manager considers the HGV movements for the proposed development would be a little higher than would be generated by the extant permission, however light vehicle flows would be much less. He considers in conclusion that the traffic generated in low enough not to have a material impact on the local network and that there is no sustainable reason to resist the proposal based on the evidence of the transport assessment.

74. Whilst the applicants have indicated their willingness to contribute to the cost of the construction of the remainder of the Middlewich by-pass, this has not been considered in terms of the transport assessment, which looks only at the current position of the road network.

Ecology

75. Detailed habitat and protected species surveys and reports have been submitted with the application. The site is predominantly poor quality grazing land which is crossed by a culvert and open ditch and houses three ponds of which two are temporary and one which contains a small population of great crested newts. The surveys also indicate that otters have been recorded within Sanderson Brook to the immediate north of the site and that whilst there are no badger setts on the site there is evidence of foraging. Breeding birds are also likely to use the site.

76. Both the culvert and open ditch would be affected by the proposed development and both would be relocated on site. The culvert will be of no ecological importance however, measures will need to be taken to enhance the habitat and value of the ditch which can be secured by condition.

77. Otters are a European Protected Species and are known to be active along the brook although no evidence of a holt or resting place was recorded. A 10 metre stand-off zone from Sanderson Brook is proposed to protect any otters together with additional scrub planting between the brook and the development. It is therefore not anticipated that there is likely to be a significant adverse impact on the species.

78. Breeding birds, some of which are BAP (Biodiversity Action Plan) species, can be protected by the imposition of a condition limiting clearance and construction work in the breeding season. Hedgerows are a BAP priority habitat, however, those on the site do not have a particular importance for nature conservation. Whilst there will be a loss of habitat to development affecting breeding birds and badgers, landscaping and careful selection of tree and scrub species will provide mitigation that is considered acceptable.

79. It is proposed to retain and enhance the existing pond containing newts. However, whilst it was initially proposed to protect the newts and retain them on site, following further consideration it has been agreed that the loss of habitat due to the development and also that expected as and when the Middlewich by-pass is further constructed would undermine the viability of the population surviving. It is now proposed to capture and relocate the newts to a specifically designed site to the east within the Sanderson Brook corridor. Three new ponds, hibernaculas and enhanced habitat are proposed. The Council's ecologist considers the proposal adequate. This off-site improvement would need to be secured through a Section 106 agreement and implemented along with other landscape and ecological matters through a construction environmental management plan and a habitat enhancement scheme. The two temporary ponds would be lost to construction a compensatory water body on site is proposed.

80. As European Protected Species are affected by this proposed development the EC Habitats Directive as implemented by the Conservation (Natural Habitats etc) Regulations 1994, are significant.

81. Article 12 (1) of the EC Habitats Directive requires Member states to take requisite measures to establish a system of strict protection of certain animal species prohibiting the deterioration or destruction of breeding sites and resting places. Art. 16 of the Directive provides that if there is no satisfactory alternative and the derogation is not detrimental to the maintenance of the populations of the species at a favourable conservation status in their natural range, then Member States may derogate "in the interests of public health and public safety or for other imperative reasons of overriding public interest, including those of a social and economic nature and beneficial consequences of primary importance for the environment" among other reasons.

82. The Directive is then implemented in England and Wales by the Conservation (Natural Habitats etc) Regulations 1994 ("the Regulations"). The Regulations set up a licensing regime dealing with the requirements for derogation under Art. 16 and this function is carried out by Natural England.

83. Regulation 3(4) of the Regulations provides that the local planning authority must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of their functions.

84. It should be noted that since a European Protected Species has been recorded on site and is likely to be adversely affected by the proposed development, the planning authority must have regard to the requirements for derogation referred to in Article 16 and the fact that Natural England will have a role in ensuring that the requirements for derogation set out in the Directive are met.

85. If it appears to the planning authority that circumstances exist which make it very likely that the requirements for derogation will not be met then the planning authority will need to consider whether, taking the development plan and all other material considerations into account, planning permission should be refused. Conversely if it seems from the information that the requirements are likely to be met, then there would be no impediment to planning permission in this regard. If it is unclear whether the requirements will be met or not, a balanced view taking into account the particular circumstances of the application should be taken and the guidance in PPS9.

86. In line with guidance in PPS9, appropriate mitigation and enhancement should be secured if planning permission is granted.

87. It is accepted that should it be necessary to translocate the affected newts the mitigation proposed is acceptable, however the Habitat Regulations set out two additional tests, firstly that there is no satisfactory alternative to the proposed development and secondly that the development is of overriding public interest. Other sections of this report indicate that neither of these tests may be met and that the Council would therefore not be able to support an application to Natural England for a protected species licence.

Landscape and Visual Impact

88. A public consultation exercise carried out by the applicants in advance of the submission included two design options for the main building, the selected option was by far the more favoured of the two displayed by those attending the exhibition.

89. The proposal consists of a number of buildings but is dominated by the Energy from Waste building which at its maximum is 48m high with an 80m high chimney stack. The building height is dictated by the various elements of plant contained within its envelope, and the stack height is necessary to enable appropriate dispersion of emissions. The applicants have sought to reduce the impact of the building by utilising an arched design and encasing the chimney in a partially perforated enclosure reminiscent of a sail, and also

by alignment of the buildings, design and finish and landscaping. Whilst the footprint of the building is less than some of the existing buildings upon Midpoint 18, its height is considerably more, as other units rarely exceed 20m high.

90. Objectors consider the building to be too large, too tightly fitted to the site and unsightly. They consider it will be dominant both close up and in the wider landscape, being prominent and highly visible from considerable distance.

91. Natural England also considers the building would become a prominent feature in what is essentially a flat landscape and that it would be visible on clear days from as far as the Peak District. They consider the level of landscaping proposed would be ineffective and have concerns over colours and finishes, feeling the proposed grey and steel would be reflective and whilst acceptable when viewed against the sky would be very prominent against a landscape backcloth.

92. The Council's landscape architect agrees that the methodology used within the environment statement is appropriate, however that contains a degree of subjective opinion, and he considers the assessment does not fully recognise the scale of development and to some degree underestimates impact. This point is also held by Natural England. Whilst appreciating the design has achieved a measure of mitigation, the scale of the building makes mitigation difficult and landscaping and tree planting is unlikely to be effective. He further considers that whilst the nature of the proposed development may not be out of character in the context of the existing development and the receiving landscape, it is the scale that would have a more significant impact than those developments already in existence.

93. Waste incinerators are of necessity large facilities. The applicant has attempted to reduce the impact of the main building by utilising a modern and attractive design. Prior to the submission of the application a public consultation exercise sought opinion on two designs, the adopted version being by far the most favoured. The degree of attractiveness is of course subjective. There is limited space available on the site to accommodate significant landscaping however thin belts of woodland planting are proposed to the northern boundary adjoining the Sanderson Brook and strips of woodland and ornamental planting are proposed along the Pochin Way boundary to the east. Such planting will have a minimal and localised screening impact and is likely to have little if any value reducing impact to medium and long distance views. It is considered that even if more landscaping area was available it would only have a minimal and local impact. Photomontages prepared by the applicant illustrate that within the built up area of Middlewich existing buildings can often mask the development however, once out of the built up area or in more open spaces within it, the

proposed structure would be a dominant feature. Due to the fairly flat topography of the area, it is considered the main building would become a major feature of the landscape.

94. The scale of the proposed Energy from Waste Plant, particularly in terms of height, exceeds anything currently within Middlewich. Proposed and possible landscaping is likely to have little effect in screening the building and therefore the applicant is seeking to mitigate visual impact by using a modern attractive design. The Landscape Officer has not objected to the proposal feeling that the scale must be dictated by the function and considering the design does go some way to mitigating impact, however, this is a subjective view and many will not agree with it. It is however clear that should other uses be proposed for this site, that don't of necessity require large envelopes, the scale of building now proposed would not be acceptable.

Flooding

95. A number of objectors have expressed concern over the impact the development may have on local flooding and local flooding on the development, providing pictorial evidence of past events. The development is shown as being within the flood plain. The Environment Agency, the body responsible for such issues has not however objected to the proposal but does recommend a number of detailed conditions that pick up on recommendations within the submitted Flood Risk Assessment; that would need to be implemented to make the development acceptable. Further consents will also be required from the Environment Agency such as those under the Land Drainage Act 1991 prior to any development of the site in order to relocate ditches and culverts as proposed.

Other issues raised

96. Objectors have raised a number of other issues including the likely impact on house prices, which is not a material planning consideration. The possible impact on local businesses has also been raised with concerns being expressed that existing business may wish to relocate out of the town, or new business be dissuaded from coming to Middlewich if an incinerator is built. There is no clear evidence to indicate whether this would or would not be the case, however it is noticeable that there is little objection from existing businesses.

97. The environmental and safety record of Covanta's operations within the United States has been questioned. In addition to planning permission the applicant will require a number of other licences and permits in order to construct and run the proposed facility. A permit issued under the Environmental Permitting Regulations 2007 will be required from the Environment Agency who will be responsible for monitoring and enforcing

operations such as emission levels on site. Whilst an applicant's past record, is of relevance to the issue of a permit, it is however, not a material consideration that can be taken into account in the determination of a planning application.

98. Concern has been expressed over the possibility of an incinerator on this site causing the ignition for an explosion at adjacent gas storage fields. The nearest gas storage is Byley over two kilometres to the north and Warmingham 3 kilometres to the south. The possibility that sufficient gas could escape and be ignited by activity on the proposed site is negligible.

Preferred Waste Sites

99. The Cheshire Replacement Waste Local Plan (CRWLP) identifies a series of sites throughout Cheshire for a variety of waste facilities. Policy 4 of the Plan states that applications for specified waste uses will be permitted within these areas subject to compliance with other policies of the Plan. Three preferred sites are identified in the Middlewich area; WM4 Brook Lane Industrial Estate is identified for a material recycling facility, bulking facility and scrap yard; WM5 Cledford Lane is identified for thermal treatment, mechanical biological treatment, in-vessel composting and anaerobic digestion, and WM11 Kinderton Lodge for non-hazardous landfill and open windrow composting. The proposed development would therefore in principle be appropriate for WM5, the Cledford Lane site.

100. WM5 lies within Phase 3 of the Midpoint 18 Industrial Estate Development. Planning permission (07/0323/OUT outline permission and 08/0557/REM detailed permission) was granted by Congleton Borough Council on 6th January 2009 for the realignment of the by-pass and B1, B2 and B8 uses to complete the Midpoint 18 development. The route of the by-pass bisects site WM5. The County Council originally objected to the above applications on the basis that the site was a preferred site (WM5) within the CRWLP, however later withdrew the objection. The landowners (Pochin's) have indicated that WM5 is to be developed in accordance with the above permissions for industrial, distribution and storage units and that these are crucial to the delivery of the by-pass, it is therefore no longer available for the waste facilities identified within the CRWLP.

101. As objectors have clearly pointed out, the proposed site is not identified as a preferred site within the CRWLP. It is therefore necessary under the requirements of policy 5 to prove that preferred sites are no longer available or less suitable, or the proposal would meet a requirement not provided for by the preferred sites, and that the proposed site is located in accordance to the sequential approach to meeting development needs within the Regional Spatial Strategy.

102. The applicants have put the proposed site forward as a direct replacement for WM5 considering it shares the same characteristics as WM5 as it lies within the same industrial estate, is of sufficient size, is directly accessed from Pochin Way (the Middlewich by-pass), also backs onto the railway line and is within 500m of WM5. The sequential approach within the RSS requires firstly that existing buildings and previously developed land be used, secondly suitable infill opportunities are used and thirdly the use of land that is well located in terms of services and infrastructure. It is not possible to locate a facility such as that proposed within an existing building and the proposed site has not previously been developed, but it is within an area allocated for employment uses and is considered to be in accord with the sequential approach advocated. The proposed site also fulfils the site selection criteria set out in Appendix 2 of the CRWLP, but is closer to housing and Middlewich Town Centre.

103. However, before alternatives are considered the policy requires proof that the preferred sites are no longer available or less suitable, or that the proposed site would meet a requirement not provided for by the preferred sites. The applicants were accordingly requested to submit a survey of the availability and suitability of the other preferred sites within the CRWLP identified as potential sites for thermal treatment. A draft report was prepared and submitted to the Council for comment however this was later withdrawn and does not form part of the current submission.

104. There are 9 sites identified within the CRWLP for thermal treatment facilities. Site WM12b Lostock East, Northwich is a preferred site that has recently been the subject of a planning application for a sustainable energy plant (incinerator) submitted to the Secretary of State as the proposed electricity output from the 600,000 tonnes of waste exceeds 50MW. It is very clear therefore that at least one other preferred site is potentially available. No evidence has been provided to indicate that the Covanta site is more suitable than the other preferred sites nor is there an indication that this site would meet a requirement not provided for by the other preferred sites.

105. The applicants have therefore not satisfied the requirements of policy 5 of the CWRLP.

106. As the site is not a preferred site it is considered a departure from the CRWLP and as such must be referred to the Government Office should the Council be minded to approve the application.

Need

107. The Cheshire Replacement Waste Local Plan (CRWLP), which was adopted in July 2007 following a public inquiry, provides indicative annual capacity requirements for the management of wastes within Cheshire. The CRWLP

assessed waste production for Cheshire, projects the demand for waste provision over the plan period and then estimates the indicative quantities of various waste types together with types of treatment or disposal.

108. Annual required capacity up to 2015 has been calculated for Municipal Solid Waste (MSW), Commercial and Industrial Wastes (C+I), Construction and Demolition Wastes and Hazardous Wastes. The two waste types that the Covanta plant proposes to accept are MSW and C+I. The CRWLP projected existing MSW waste figures forward to 2015, increasing the quantity annually by between 1% and 1.5% so that the estimated annual total for 2015 is 488,000 tonnes. The figure for C+I wastes has been projected forward using an increase of between 1.2% and 2.3% so that the estimated annual total for 2015 is 1,207,000 tonnes.

109. The North West of England Plan Regional Spatial Strategy to 2021 (RSS) which was adopted in September 2008, also projects future annual waste capacity requirements, but uses a slightly longer plan period to 2020. Estimated required waste capacity for the North West Region is then apportioned to each of the sub-regions, Cheshire being one of six such sub-regions. The RSS apportionment for C+I waste for Cheshire totals 749,000 tonnes for 2020 (somewhat less than the CRWLP figure of 1,207,000 tonnes for 2015). The RSS apportionment for Cheshire MSW is 515,000 tonnes, which is not too dissimilar to the CRWLP figure (488,000). In reality the downturn in the economy coupled with greater than anticipated success in minimising and recycling waste is likely to lead to less demand for facilities than both Plans provide for.

110. The CRWLP then estimates how the total waste figure will be treated and disposed of over time by indicating quantities for recycling, composting, mechanical and biological treatment (MBT), energy recovery and landfill. For example the Cheshire C+I figure for 2015 of 1,207,000 tonnes is expected to be broken down so that 490,000 is recycled, 81,700 is composted, 245,100 goes to energy recovery and 390,000 tonnes are landfilled. The RSS similarly sub-divides the total C+I wastes into 403,000 tonnes for composting/recycling/treatment and thermal, and 346,000 tonnes for landfill.

111. The figures for Cheshire MSW are approximately 157,000 to recycling, 67,000 to composting and 263,000 to MBT of which 142,000 would then go on to energy recovery. Combined Cheshire energy recovery (C+I and MSW is therefore 387,000 tonnes annually). Early indications point to the 2015 figure for recycling having already been met.

112. All of Cheshire MSW is collected by Cheshire East and Cheshire West and Chester Councils from domestic properties and Household Waste Reception Centres. The Councils are currently seeking to let a Household Waste PFI

Contract that will ensure the treatment and disposal of this waste over the next 25 years. The contract will assist both Councils in meeting the EU Landfill Directive and National Targets to reduce the amount of biodegradable municipal waste going to landfill.

113. Numerous bidders for this contract, including Covanta have now been reduced to two final bidders, Viridor and Resource Recovery Solutions (Cheshire) Ltd. The successful bidder for the contract is expected to provide a waste treatment facility, ideally located centrally within Cheshire. Whilst waste collected locally to the facility would be delivered directly, a series, probably three, of waste bulking stations would be needed to serve more peripheral parts of the two Council areas. Both bidders have now submitted planning applications for a Mechanical and Biological Treatment Plant (Viridor) and a Gasification Plant (RRS Ltd) both within Northwich. The Council has been consulted, by the determining Authority (Cheshire West and Chester Council) on both proposals and this Board has resolved subject to conditions not to object to either application. Under the terms of the contract the successful bidder will be obliged to deliver the facilities proposed, there is no opportunity to sub-contract out and therefore third parties such as Covanta will not be able to source MSW from within Cheshire. In the event that neither of the two remaining bidders is successful the contract procurement exercise would need to start afresh.

114. It is therefore considered that the Covanta Incinerator will need to either source all of its waste feedstock from C+I waste, or import MSW from other Council areas beyond Cheshire.

115. The CRWLP has estimated that the annual thermal/energy recovery (which includes incineration) requirement for C+I wastes by 2015 for Cheshire is 245,100 tonnes. Assuming Covanta are able to capture all of this waste, which is highly unlikely, there will still be a shortfall from the designed plant capacity (370,000 tonnes) of 124,900 tonnes per year. Such a shortfall would need to be imported from outside the County. It is clear the capacity of the proposed Covanta plant considerably exceeds the total tonnage of Cheshire C+I waste anticipated to be treated by all energy from waste plants. Whilst it may be possible to divert more waste away from landfill than the CRWLP figures indicate, this will be limited as not all waste is suitable for burning.

116. Other waste facilities already with planning permission, or in the planning system awaiting decision, will also be targeting the same Cheshire C+I wastes. The Ince Marsh Resource Recovery Park, west of Frodsham was granted permission in August last year following a Public Inquiry. The scheme which includes a variety of waste facilities including a 600,000 tonnes incinerator is anticipated to handle well over a million tonnes of waste annually. Also approved last year was the Weston Point, Ineos Incinerator in

Runcorn, just within Halton District, which has a capacity of 850,000 tonnes annually. Both schemes are proposed to take waste not only from Cheshire but from the Mersey Belt and wider region. The Bedminster bio-energy plant in Northwich has a proposed capacity of 150,000 tonnes of waste (plus 50,000 tonnes bio-mass) was approved in April 2008 and is now under construction.

117. In addition to the Viridor (250,000 tonnes) and RRS plant (200,000 tonnes) mentioned above, and both specifically targeting Cheshire's MSW, two other incinerator applications have been submitted, the Covanta application (370,000 tonnes) and the Brunner Mond plant (600,000 tonnes) in Northwich.

118. The total existing approved annual capacity for incinerators and bio-energy plants in the area is 1.6 million tonnes with a further 1.42 million tonnes in the planning system awaiting decision. As the annual indicative energy recovery capacity figure for Cheshire as identified within the CRWLP is 387,000 tonnes it is very clear there is already an overprovision and no need for further facilities.

119. To operate the existing approved facilities if and when built, will already require the import of significant quantities of waste into Cheshire, any further approvals would only further add to this unsustainable import. The further import of waste into the County is contrary to waste policy at all levels, undermines the apportionment of waste set out in RSS, is contrary to the proximity principle which seeks to limit the transport of waste and thereby reduce carbon dioxide production in support of climate change initiatives. The Companion Guide to PPS22 clearly states 'In order to minimise the adverse environmental effects of transporting waste, they should, wherever possible, be located close to the waste source'.

Renewable Energy Provision

120. The Government's Energy White Paper 2007 sets out the measures the Government intends to adopt to ensure long term energy security and meet reductions in carbon dioxide emissions to support climate change initiatives. Challenging targets have been set to increase the proportion of electricity produced from renewable sources (20% by 2020) together with measures proposed to reduce demand for energy and increase efficiency.

121. Planning Policy Statement 22: Renewable Energy was published in 2004 and provides guidance to planning authorities with regard to assessing renewable energy potential, setting regional targets and formulating policy.

122. In accordance with PPS 22, the Regional Spatial Strategy (RSS) sets the North West regions targets for the supply of electricity from renewable sources leading up to 2020, were a 20% target is also adopted. These targets

are broken down to each of the sub-regions and also by type of generation. The target for thermal waste treatment for Cheshire by 2020 is one plant capable of generating 25MW of electricity. The target for the whole of the North West Region is six plants capable of generating 215MW.

123. Current planning permissions within Cheshire for the thermal treatment of waste if implemented would produce an estimated 107MW from the Bedminister and Ince Marsh plants, and approximately another 100MW from the Ineos Incinerator in Runcorn. Further proposals within the planning system including the 35MW Covanta proposal would produce a further 108MW, bringing the potential total for Cheshire by 2020 to 215MW. This is considerably greater than the 25MW Cheshire target in the RSS and equals the total capacity expected for the whole region by 2020.

124. However, unlike Waste Policy targets, the Renewable Energy targets are viewed as minima and should be exceeded if possible. The difference between the planned target of 25MW and potential 215MW is however considerable and permitted capacity alone, if developed, would see a four fold increase above the target.

125. Whilst developing renewable energy is important and accepting that the targets are minima, it is considered Cheshire as a sub-region is likely to contribute considerably more than the RSS expects. There is therefore no urgent requirement for further development, especially if such development is likely to have unsustainable environmental impacts.

126. Whilst this application has been submitted and described as an Energy from Waste Facility, and alludes to electricity production of 35MW and the potential of Combined Heat and Power, the infrastructure needed to export energy from the site has not been incorporated within the application. To export electricity a further application will be required for cables to link the site to the nearest National Grid Powerline and an amendment to existing pylons, all on land outside the applicant's control. The Covanta application is a Schedule 1 development under the EIA Regulations, those regulations are very clear that schemes should be submitted in their entirety so that the full environmental impacts can be assessed. It is not acceptable to salami slice schemes into smaller separate elements for individual assessment. PPS22 Companion Guide indicates under a section of 'Information to Accompany a Planning Application' that a planning application for a thermal energy from waste plant could usefully include the following: information on grid connection works, including transformer and transmission lines. The application is therefore deficient if it is to be considered as an energy from waste facility with electricity export.

127. The applicant has also indicated within the application and supporting environmental statement that they desire to export surplus steam from the site and provided a draft agreement with British Salt in support. However despite the obvious interest of British Salt there is no provision within the application for the infrastructure that would be required to enable steam to be exported. Such infrastructure, including pipework, regulators and control equipment it is contended, would need a further planning application and approval.

128. In view of the omission of any infrastructure to enable energy to be exported from the site, the application can be either considered deficient as an energy from waste application as a full assessment of impacts, as required by the EIA Regulations and policy 12 of the CRWLP has not been provided, or that the production of energy can only be considered as aspirational and the submitted application should be considered as a stand alone incinerator. Policy 34 of the CRWLP is very clear stating, 'An application to develop a thermal treatment facility for the management of waste will not be permitted unless: 1) it makes provision for energy recovery….'. As no demonstrable provision has been made in terms of this application, it is considered to be contrary to the policy.

Conclusions

129. This application, submitted by Covanta Energy Ltd, is for development that falls under Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 and is therefore accompanied by an Environmental Statement. The proposed energy from waste facility would be located off Pochin Way, Middlewich. The facility would consist of a number of elements including a material recovery building accepting up to 185,000 tonnes of waste a year, which would recover ferrous and non-ferrous metals and potentially other recyclates prior to feeding the main energy from waste plant. This plant would be capable of incinerating 370,000 tonnes of waste collected within Cheshire annually and would run continuously, although waste and material coming into and going out of the site would be limited to set operational hours.

130. Two forms of ash are created by the incineration process; fly ash captured from the emissions is a hazardous waste and would need to disposed of at a suitably licensed facility, and bottom ash would be processed and stored on site and either used as a secondary aggregate or disposed of to landfill. Between 25 to 30% of the import would leave as ash following incineration.

131. The plant has the potential to produce 35MW of electricity and the capacity for a combined heat and power scheme which could supply steam energy to nearby premises. The applicants have indicated their desire to provide reduced price electricity to residents in Middlewich, a community trust fund, a

contribution to the construction of the Middlewich by-pass and to commit to employing local staff and using local suppliers where possible.

132. The application has attracted over 3,300 letters of objection together with a petition containing over 7,000 signatures.

133. The scale of the building (48m high with an 80m high stack) is considerably larger than existing buildings within the Middlewich area. The applicants have sought to mitigate the visual and landscape impact, which will be considerable over a large area, by submitting a flowing and not unattractive design. However, such issues are quite subjective and many people will have different opinions on the impact this proposed building will have. The scale of the building is dictated by its function. It is considered that a building of such scale should only be judged as acceptable if the function is necessary.

134. There has been considerable objection in terms of traffic congestion within the area, however, the Strategic Highway Manager, comparing the proposed development to the impact anticipated under an existing B1, B2 and B8 permission for the site considers the impact in terms of construction and operational traffic movements to be acceptable.

135. There has also been considerable concern over the potential health impacts an incinerator would create. Both the Central and Eastern Primary Health Care Trust and the Health Protection Agency consider the proposed incinerator if operated efficiently should not present a health risk.

136. The proposed site is not identified within the Cheshire Replacement Waste Local Plan (CRWLP) as a preferred site for a thermal waste facility. The applicants have sought to demonstrate that the preferred site WM5, 500m south of the Covanta site, is no longer available and that this is a suitable alternative. Whilst there may be some merit to this argument as the site does share some of the criteria used to identify WM5, it is closer to housing and the centre of Middlewich. The CRWLP however requires, through policy 5, that applicants prove that the other preferred sites are not available or are less suitable. The applicant in only looking at the availability of WM5 alone has not met the requirements of the policy.

137. The scale of the proposed annual incineration at the proposed plant, 370,000 tonnes, compares very closely to the CRWLP identified quantity of municipal, commercial and industrial wastes (C+I and MSW) for Cheshire expected to be thermally treated by 2015 (387,000 tonnes). The application has been predicated on the basis of capturing all such wastes within Cheshire. However the MSW wastes collected by Cheshire East and Chester West and Chester Councils is the subject of a PFI contract bid that is no longer open to Covanta and they cannot therefore rely on this waste stream. This then leaves the 245,100 tonnes of C+I waste. Other waste facilities within Cheshire and

immediately on the boundary to it, have already received planning permission and will once built, also seek to treat Cheshire's waste. These existing permissions already considerably exceed Cheshire's waste figures for thermal treatment (the Ince Marsh facility alone is 600,000 tonnes). In such circumstances it is considered that in order to operate, the Covanta plant would need to import considerably quantities of waste from outside the County, which in terms of transport is unsustainable, would undermine climate change initiatives and runs contrary to the objective of treating and disposing of waste close to its source, and as such is contrary to policy 1 of the CRWLP. As there are other facilities with planning permission that can contribute to the integrated network of waste management facilities, there is little benefit to be gained from overprovision and planning objections will outweigh such benefit. In such circumstances applicants should demonstrate overriding need or permission should not be granted. It is considered the proposed development does not demonstrate that there is a need for the facility and it is therefore contrary to policy 2 and 3 of the CRWLP.

138. Whilst the proposed development has been submitted as an energy from waste plant and there are many references to such within the submission, there is however no detail submitted within the application to enable energy to be exported from the site. Further planning applications will be required in order to link the site to the national grid so that electricity can be exported and further infrastructure will need to be approved to enable steam to be exported. As the proposal is EIA development, the determining authority needs to assess the full environmental impact of the development, it is not permissible to leave necessary parts of a scheme for future and separate consideration. The application, as an energy from waste plant is therefore considered deficient. Without energy capture the proposal falls low on the waste hierarchy and does not satisfy policy 34A of the CRWLP.

Recommendation.

139. The Strategic Planning Board are recommended to refuse the application on the following grounds:

- 1. The proposed site is not shown as a preferred site on the proposals map of the Cheshire Replacement Waste Local Plan 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.

- 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.

- 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 the objective of enabling waste to be disposed of in one of the nearest appropriate installations. The proposed development is therefore considered unsustainable and contrary to policy 1 of the Cheshire Replacement Waste Local Plan and Sections 9 and 10 of PPS1 Climate Change Supplement, DP1, DP5, DP9, EM10, EM12 and EM13 of the Regional Spatial Strategy.

- 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, 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 satisfactory demonstrated that the application makes adequate provision 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 and EM11 of the Regional Spatial Strategy.