

BERRRef 01.08.10.04/8C
YourRef

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Runcorn HQ
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Cheshire WA7 4JE

16 September 2008

Dear Sir

ELECTRICITY ACT 1989 ("the Act")
TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION FOR CONSENT TO CONSTRUCT AND OPERATE AN ENERGY FROM
WASTE COMBINED HEAT AND POWER (CHP) GENERATING STATION AT RUNCORN,
CHESHIRE

1. THE APPLICATION

1.1 I am directed by the Secretary of State for Business, Enterprise and Regulatory Reform ("the Secretary of State") to refer to the application dated 19 January 2007 ("the application") made by RPS Planning & Development Ltd on behalf of INEOS Chlor Limited ("the Company") for both the consent of the Secretary of State under section 36 of the Act ("section 36 consent") to construct and operate a 100 MW energy from waste CHP generating station at Runcorn in Cheshire ("the development"), and a direction under section 90(2) of the Town and Country Planning Act 1990 ("section 90 direction") that planning permission for the Development be deemed to be granted.

1.2 In accordance with the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000 ("the 2000 Regulations") the Company also submitted on 19 January 2007 documents, entitled "Environmental Statement Volume I Text [Non-Technical Summary]", "Environmental Impact Assessment Volume II Figures & Appendices", "Transport Assessment", "Human Health Risk Assessment" and "Addendum to Environmental Statement of January 2007". A further document entitled "Additional Environmental Information" was also submitted in November 2007. The documents describe the Development and give an analysis of its environmental effects.

1.3 The Environmental Statement, and its supplements, were advertised and placed in the public domain and an opportunity given to those who wished to comment on them to do so. The documents are collectively hereafter referred to in this letter as the "Environmental Statement".

1.4 The statutory process recognises that relevant planning authorities have a key role to play since they represent the local community and are familiar with the planning requirements of the locality. Thus they are the only participants given the statutory power to trigger a public inquiry under the Electricity Act 1989. Halton Borough Council ("the relevant planning authority" for this application) was consulted and made its formal view known on the application in August 2007. However, they chose not to fully complete the required Form B or to give an unequivocal view on whether or not they were objecting to the application. Instead they resolved:

'This application raises a number of important and complex issues. The Council and its consultees, including the Primary Care Trust, would wish the Secretary of State to address the issues raised within the attached report and asks that the Secretary of State is satisfied that the proposal will not have any adverse impacts upon the health of the Borough's residents before authorising the proposal. Particular attention is drawn to the observations of the Director of Public Health and the request for further information made therein. Unless the matters raised are satisfactorily addressed by the Secretary of State, the Council would wish to object to the granting of permission.'

If the Secretary of State is minded to approve the application then he is requested to consider the imposition of conditions as set out in appendix 7 and those added by the Development Control Committee (additional conditions added to the recommendation are attached) and the need for a Section 106 agreement between the Local Planning Authority and Ineos.'

1.5 Subsequent attempts by officials in the Department to clarify the Council's position as to whether or not they were objecting proved unsuccessful. In the absence of any clear and unambivalent response and given the Secretary of State's view on the appropriate way of handling health concerns, set out below in paragraph 3.5(a), it was concluded that the Council's response did not constitute an objection and a public inquiry was therefore not mandatory under paragraph 2(2) of Schedule 8 of the Electricity Act 1989. As is normal practice in such circumstances, officials circulated for comment draft conditions that might be attached to any section 90(2) direction on 'a without prejudice to the Secretary of State's decision' basis. Conditions ("the Planning Conditions") were subsequently agreed with the Company, Natural England and the Environment Agency (EA). However, the Council again '*resolved that the Committee's original recommendation be endorsed...*'. With specific reference to the Secretary of State's second draft set of conditions circulated the Council stated:

'the Committee, although acknowledging there would be elements of duplication, emphasized that they did not agree with their originally requested conditions being relaxed or materially changed. It was the view of the Committee that the conditions requested were required, as they did not believe

that the control of operations and process available under the PPC regime was adequate.'

In the circumstances officials concluded that further attempts to agree draft planning conditions with the Council would be unsuccessful.

II. SECRETARY OF STATE'S CONSIDERATION OF THE PLANNING CONDITIONS

2.1 The Secretary of State has therefore formed his own view on the planning conditions and notes that planning policy guidance advises that the planning system should not be used to duplicate controls which are the statutory responsibility of other bodies and that planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced.

2.2 The Secretary of State has considered proposed Planning Conditions for the development carefully and agrees that the 67 conditions and their definitions covering matters such as construction and construction noise, operational noise, layout and design, traffic movements, delivery of fuel, protection of Great Crested Newts and habitats, landscaping and creative conservation, control of invasive species including Japanese Knotweed and the protection of watercourses etc are suitable for inclusion in any section 90(2) direction which he may give.

2.3 The Secretary of State is aware that the Company has also entered into a 'section 106 agreement' under the Town and Country Planning Act 1990 with the Council, which covers off site matters. He notes that the agreement requires the Company to make to the Council an annual lump sum payment for every tonne of fuel received and processed and is to be used to fund off site environmental matters for the benefit of local residents, which may include measures to improve public transport, highway network improvements, travel plan monitoring, waste recycling and wider community improvements such as landscaping and nature conservation measures. The Council has agreed to convene a management board including three elected members to identify the environmental matters proposed. The agreement also covers the setting up of a Local Liaison Forum, Travel Plan, Environmental Monitoring scheme and a requirement that no fuel should be received or burnt from outside the UK without the Council's written approval.

III. SECRETARY OF STATE'S DECISION ON THE HOLDING OF A PUBLIC INQUIRY

3.1 As indicated in paragraph 1.4 above, the Secretary of State has taken the view that the Council's concerns can be addressed and that for the purposes of paragraph 2(2) of Schedule 8 to the Electricity Act 1989 it has not maintained any objection to the Application. The Secretary of State is therefore not obliged to cause a public inquiry to be held.

3.2 Paragraph 3(2) of Schedule 8 to the Act, however, requires the Secretary of State to consider all objections that he has received pursuant to the Electricity (Applications for Consent) Regulations 1990 (made under paragraph 3(1) of Schedule 8), ('the

Applications Regulations”), together with all other material considerations, in order to determine whether it would nevertheless be appropriate to hold a public inquiry.

3.3 The Secretary of State received 1096 objections during the advertised period, two petitions and 109 letters of support pursuant to the Applications Regulations. A similar number of letters objecting to the proposal and calling for the Secretary of State to use his discretionary power to hold a public inquiry were subsequently received. Although these were received after the period allowed for pursuant to the Application Regulations, he has nonetheless considered them also.

3.4 The Secretary of State considers that the key objections (in summary) relating to the Development were:

- a) Its impact on the health of local residents;
- b) Its impact on flora and fauna;
- c) its impact on local amenity;
- d) waste strategy/waste handling issue concerns;
- e) there are better alternative sites available;
- f) it is incompatible with the Local Development Plan.

3.5 The Secretary of State has carefully considered the objections which have been made and comments as follows:

- a) The Secretary of State notes that the Environment Agency (EA) has not objected to the application subject to the imposition of conditions covering the prevention of pollution during the construction stage. Planning Conditions (7) and (8) cover a scheme for the environmental and waste management of the site. Planning Condition (56) will ensure that all waste handled externally is under cover at all times. Planning Conditions (60) and (61) also exercise control of air pollution monitoring and Planning Condition (42) exercises control over the suppression of dust from waste ash. However, the Company will also need to obtain a separate Environmental Permit from the EA before the generating station can be operated and it is the Secretary of State’s view that the Council’s underlying concerns which prompt their suggested conditions relating to monitoring and control of the combustion process, calibration of monitoring equipment and minimising and monitoring of dioxin emissions would more properly be left to the regulator under that pollution control regime. This conforms with planning policy guidance, specifically ‘Planning Policy Statement 23: Pollution and Planning Control’.

The Secretary of State is aware that any permit application will also need to include an assessment of the potential impact of the development on the environment and human health. He notes the Company has also expressed a willingness to undertake a full, independent Health Impact Assessment as part of the Environmental Permitting process, where the EA has confirmed that

consultees will include the Council and Halton and St Helens Primary Care Trust. He understands that the specification of the waste to be burned would also need to be agreed with the EA before the Development could become operational. Similarly, with regard to concerns raised that inadequate information on the technology to be used has been provided and there are better technologies available, the Company will need to demonstrate to EA in any Environmental Permit application that it is using best available techniques (BAT).

With regard to concerns over the suitability of Randle Island hazardous waste landfill site for the disposal of fly ash waste and Flue Gas Treatment (FGT) residues, the Secretary of State notes that the site is monitored and regulated by the EA and is considered to have sufficient capacity to take fly ash and FGT residues from the Development.

Concerns have also been raised that the proposed stack height is inadequate for the safe dispersal of emissions. The Secretary of State notes that the proposed height of the stack was determined by computer modelling using methods approved by the EA. Although the exact height of the stack will be determined by the EA under the Environmental Permitting process, the Secretary of State is aware that no concerns have been raised by them over the adequacy of the proposed stack, the information contained in the ES on emissions data or the conclusion that predicted emission contributions, including PM10 and PM2.5 particulates, are of '*neutral significance*'. The Secretary of State also notes that the Council commissioned an independent report from Entec, who reviewed the air quality assessment in the ES and evaluated the assumptions made. While he notes the conclusions and recommendations of that report, he remains of the view that this is a matter that can be adequately addressed in the Environmental Permitting process.

In conclusion the EA will be required under any Environmental Permit granted to set limits, which should ensure that there will be no increase in emission levels sufficiently significant to cause harm to life or damage the health of local residents. The Secretary of State considers that in line with planning policy guidance he should not seek to duplicate the role of the EA. While the Secretary of State acknowledges therefore that there is concern over the impact of health in the locality, he is satisfied that such concerns can be addressed in the Environmental Permitting process for the operation of the Development and through planning conditions relating to the construction phase of the development.

b) As indicated in a) above, the EA will be responsible for the Environmental Permitting. Natural England will be consulted by the EA as part of the Environmental Permitting process regarding the changes in emission to air and an 'Appropriate Assessment' under the Conservation (Natural Habitats, &c.) Regulations 1994 (the Habitats Regulations) would be required at that stage if it is considered that the Development is likely to have a significant effect on the Mersey European Sites. Site specific concerns have also been raised over the impact on Great Crested Newts and the presence of Japanese Knotweed found on site. The Secretary of State considers Planning Condition (48) will ensure Great Crested Newts and their habitats are protected or are not infringed without

full and proper mitigation. Similarly, Planning Condition (46) provides for a plan of control and management of invasive plants, such as Japanese Knotweed.

c) Concerns have been raised that the Development will increase noise to local residents both during the construction period and during operation of the generating station. Similarly, some local residents have also raised concerns that trains associated with the transportation of waste for use in the operation of the Development and using the existing rail link will increase noise at their properties to an unacceptable level. The Secretary of State notes from the Environmental Statement that an assessment of noise effects due to the use of the West Coast Main Line (WCML) and rail link by operational trains was undertaken on a 'worst-case' basis, which assumes 2 additional train pass-bys during the daytime period of 07.00 to 23.00 hours and 8 pass-bys during the night-time period of 23.00 to 07.00 (i.e. 5 trains in total per day). The Secretary of State notes the conclusion that the operation of trains are not anticipated to give rise to significant effects on the mainline due to the current volume of passenger express and freight trains that currently use the Runcorn Branch of the WCML and noise contribution from local roads. Furthermore, the noise change at the most potentially affected residences to the rail link is predicted on a 'worst-case' assumption of operational train movements to be less than 1dB during the day and 2.1dB during the night and the conclusion that the noise contribution of the trains is not therefore considered significant and no further mitigation is required. However, the Secretary of State notes that the noise assessment has been challenged by local residents and Planning Conditions (58) and (59) have been included therefore to exercise control over the night-time delivery of refused derived fuel by rail. Planning Conditions (23) to (33) will also exercise control over construction and operational noise and include provision for noise monitoring and a noise complaints procedure. He believes therefore that there is no need to refuse consent on noise grounds.

There has also been concern that there will be an increase in traffic movements from the Development, which will pose an increased risk to the safety of local residents. The Secretary of State is aware that the Development will be accessed by a new access road covered by Planning Condition (5) that will form a priority junction with Picow Farm Road. The new access road will provide access to Salt Union and eventually to Weston Docks, removing HGV traffic from Sandy Lane and the Weston Point residential area. It will also allow full development of Weston Docks, which at present is restricted due to poor access through a residential area. While the Secretary of State accepts that there will still be an increase in road traffic in the locality, particularly during the construction phase of the Development, he notes the conclusion in the ES that there is no evidence of existing deficiencies in the local highway network that could be exacerbated by the proposed development and that it would have no significant impact on the adjacent local highway network. He is aware that further information was provided to the Council in April 2007, which included information on traffic and transportation and concluded that no modifications were required to the existing Picow Farm Road/Expressway junction on safety grounds. The Secretary of State notes the Planning Officer's report to the Council's Development Control Committee concluded that construction traffic will have '*little impact*' on the highway network and operational traffic '*is not considered*

significant, however a contribution for minor highways improvements is required'. He also notes that the section 106 agreement covers measures to improve public transport and highway network improvements. He further notes that Planning Conditions (16) to (22) and (57) will assist in minimising the impact of construction and operational traffic on the local population.

Concerns have also been raised that the Development will be a visual eyesore to the local residents. The Secretary of State notes that the Development is to be sited on an existing industrial site and will replace existing workshops, stores and fuel oil storage tanks. He understands that some screening of the Development will be provided from some residential viewpoints by existing offsite flora and other buildings in the area. He also notes that the section 106 agreement covers wider community improvements such as landscaping. The Secretary of State also notes that Planning Conditions (49) to (51) exercise control of landscaping and creative conservation on the Development site. Furthermore, Planning Conditions (13) to (15) also require the layout, design, colour size of buildings and structures of the Development to be approved by the relevant planning authority. While the Secretary of State accepts that no power station can ever be completely hidden from view, he believes that the measures provided go some way to meeting the grounds of objection and that there is no need to refuse consent on visual grounds.

Some local residents also consider that the Development will increase light pollution and have concerns that there will be odour emitted from it. The Secretary of State notes that Planning Condition (13) will exercise control over temporary and permanent artificial lighting required during the construction and operation of the Development in order to minimise the impact of light pollution. He also notes that Planning Conditions (7) and (8) and (56) exercise control over waste management and require the external handling of waste to be under cover at all times in order to prevent the nuisance of odour to local residents. Furthermore, the Secretary of State is aware that the waste reception hall will be fully enclosed with roller shutter doors normally closed, save when a vehicle is entering or leaving. The air in the unloading hall will form the primary air feed supply to the boiler furnace and will operate under a slight negative pressure to ensure combustion and to minimise potential emissions of odorous gases and dust.

While also noting some local residents' concerns that the Development will impact on house process, this is not a planning matter. Planning blight and compensation are covered by other legislation such as the Town and Country Planning Act 1990.

d) Concerns have been raised that the Development it is not needed given other energy from waste proposals in the area and that energy from waste is inefficient compared to other types of generation and there should be more recycling and less packaging. The Government's 'Waste Strategy for England 2007' recognises that we are consuming natural resources at an unsustainable rate and the contribution that waste sent to landfill, and the subsequent methane

gas produced from the biodegradable part of the waste, has on climate change. It sets out the waste hierarchy for handling waste, which is that it should be i) prevented; ii) re-used; iii) recycled/composted; iv) used for energy recover and v) disposed to landfill (i.e. the least desirable option). The Government's key objectives are to: i) decouple waste growth (in all sectors) from economic growth and put more emphasis on waste prevention and re-use; ii) meet and exceed the European Landfill Directive diversion targets for biodegradable municipal waste in 2010, 2013 and 2020; iii) increase diversion from landfill of non-municipal waste and secure better integration of treatment from municipal and non-municipal waste; iv) secure the investment in infrastructure needed to divert waste from landfill and for the management of hazardous waste; and v) get the most environmental benefit from that investment, through increasing recycling of resources and recovery of energy from residual waste using a mix of technologies.

The Government's policy on energy is set out in the Energy White Paper 'Meeting the Energy Challenge' May 2007 and considers that a diverse mix of energy technologies, including energy from waste generation, will be required to combat climate change and provide secure, clean and affordable energy. The market then brings forward proposals to meet the needs of those policies, which then need to be considered on their individual merits or otherwise. There can be no guarantee, therefore, that other prospective energy from waste facilities will be approved and/or constructed, each has to be considered on its merits. At the same time the Secretary of State sees no grounds for concluding the proposal is inconsistent with waste or energy policy.

The Secretary of State also notes that concerns have been raised that the source of fuel and waste treatment facilities have not been identified and waste should be disposed of where it is generated. It is also suggested that the size of the proposal will discourage recycling and could lead to waste coming from outside the North West region. The Secretary of State considers that the sourcing of fuel for the generating station is a commercial matter for the Company. Similarly, the location of waste treatment facilities is a matter for the respective waste disposal authorities to decide. However, the Secretary of State notes from the ES that it is the Company's intention to source waste from the North West region and they are only tendering for local contracts. Furthermore, the Company has stated that in the ES it will only be building the plant if they have secured contracts with the local authorities to provide waste fuel and that no waste is to be imported. He also notes that the section 106 agreement requires that the operator agrees not to accept receipt of or use or burn fuel for the Development from sources outside of the United Kingdom without the written approval of the Council. The Secretary of State is therefore content that fuel sourcing is not a ground for refusing the Development.

On method of delivery, the Secretary of State notes that Planning Condition (57) should ensure that the most sustainable mode of transport is used for the delivery of fuel used in the operation of the Development.

The Secretary of State notes that concerns have also been raised by some local residents that the Company does not have the relevant experience to build and operate the development. However, he is aware that any developer will be subject to legislation (including legislation on the control of emissions and health and safety) during the construction and operation of the site and the Company's experience is therefore not a relevant planning consideration.

e) The Secretary of State notes that some local residents consider that there are better alternative sites for the Development and that the height of the chimney stack at the proposed location will be a danger to air traffic using Liverpool John Lennon Airport. He considers that the choice of a specific location for a generating station is a commercial matter for the applicant, subject to meeting environmental and planning considerations. However, the Secretary of State notes that the purpose of the Development is to provide heat and electricity to the INEOS Runcorn Site and therefore has to be sited near to that steam demand and have access to the existing infrastructure. He also notes that alternative sites were considered, but were discounted for a variety of reasons including poor road or rail transportation links, insufficient land, loss of amenity and health and safety concerns. No evidence has been produced to support the other alternative sites suggested by objectors. He also notes that while the Development is within the Liverpool Airport Height Restriction Zone, no objection has been received from the Airport.

It has also been suggested that located where it is the Development is at risk from flooding, which could lead to contamination of watercourses. The Secretary of State notes that the Development is not sited in a flood risk area and any flood risk would arise solely from surface water runoff. He further notes that Planning Conditions (34) to (39) exercise control over the prevention of contamination of water courses.

f) The Secretary of State is aware that concerns have been raised that the proposal does not meet fully the criteria set out in the Halton Unitary Plan 2003 and that some local residents are unhappy with the Council's handling. It is the Secretary of State's view that the consideration of the proposal by the Council is a matter for them. Any concerns relating to the conduct of the Council are a matter for the Local Government Ombudsman. He does note that the Council has not objected on the grounds that the proposal is contrary to regional or local development policy and even if there were some conflict he is satisfied that the needs of energy and waste policy override that concern.

Conclusion

3.6 The Secretary of State has carefully considered the views of the relevant planning authority, the comments of the objectors (including their requests that he use his discretionary power to hold a public inquiry), the matters set out above and all other objections raised. He takes the view there is nothing further that needs probing and therefore it would not be appropriate to cause a public inquiry to be held into the Application.

IV. SECRETARY OF STATE'S CONSIDERATION OF THE ENVIRONMENTAL INFORMATION

4.1 The Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000 ("the 2000 Regulations") prohibit the Secretary of State from granting section 36 consent unless he has first taken into consideration the environmental information, as defined in those Regulations.

4.2 The Secretary of State is satisfied that the Environmental Statement is sufficient to allow him to make a determination on the Application and that the Company has followed the applicable procedures in the 2000 regulations.

4.3 The Secretary of State has considered the environmental information carefully; in addition to the Environmental Statement, he has considered the comments made by the relevant planning authority, those designated as statutory consultees under regulation 2 of the 2000 Regulations and by others including objectors.

4.4 Taking into account the extent to which any environmental effects will be modified and mitigated by measures the Company has agreed to take or will be required to take either under the conditions attached to the section 36 consent or the Planning Conditions or by regulatory authorities including the EA, the Secretary of State believes that any remaining adverse environmental effects will not be such that it would be appropriate to refuse section 36 consent for the Development or the deemed planning permission.

V. SECRETARY OF STATE'S CONSIDERATION OF POSSIBLE EFFECTS ON A EUROPEAN SITE

5.1 The Conservation (Natural Habitats, &c) Regulations 1994 as amended ("the 1994 Regulations") require the Secretary of State to consider whether the Development would be likely to have a significant effect on a European Site, as defined in the 1994 Regulations.

5.2 The Secretary of State notes that the Development is located near to the Mersey Estuary European Site. However, he has been informed by Natural England that an "Appropriate Assessment (AA)" does not need to be undertaken by the Secretary of State pursuant to regulation 48 of the 1994 Regulations. However, the EA will consult Natural England regarding the changes in operational emissions to air as part of the determination of Environmental Permit application. If required by Natural England, EA, as the most competent authority, has agreed to conduct an AA as part of the Environmental Permitting process and in accordance with their procedures. He is therefore content that adequate measures are in place for the protection of European Sites.

VI. SECRETARY OF STATE'S CONSIDERATION OF COMBINED HEAT AND POWER

6.1 The Energy White Paper 2007 ("Meeting the Energy Challenge") makes clear that the Government strongly supports combined heat and power ("CHP"). The Application is covered by the Departmental published guidance¹ for all fossil fuelled power station proposals, requiring developers to demonstrate opportunities for CHP had been seriously explored before section 36 consent would be granted.

6.2 The Secretary of State is satisfied that the Company has complied with those requirements. He is aware the purpose of the Development is to provide heat and electricity to the INEOS Runcorn Site and therefore has to be sited near to that steam demand and have access to the existing infrastructure. DEFRA were consulted and have no objections to the proposal. Their consultants carried out a technical appraisal assessing the quality of the proposed scheme under normal operation conditions and the conclusion was that the Development *'will make a significant contribution to the Government's 2010 CHP target providing an increase in Good Quality CHP capacity of about 100MWe and will meet the policy objectives in respect of waste management and renewable energy'*.

VIII. SECRETARY OF STATE'S DECISION ON THE APPLICATION

7.1 The Secretary of State considers the following issues material to the merits of the section 36 consent application:

- i) adequate environmental information has been provided for him to judge its impact;
- ii) the matters specified in paragraph 1(2) of Schedule 9 to the 1989 Act;
- iii) the issues raised in Part II and III of this letter;
- iv) the matters specified in paragraph 1(2) of Schedule 9 to the Electricity Act 1989 have been adequately addressed by means of the Environmental Statement and he has judged that the likely environmental impacts are acceptable or can be properly dealt with by conditions or by the EA under the Environmental Permitting process;
- v) the fact that legal procedures for considering a generating station application have been properly followed;

vi) the views of the relevant planning authority, the views of Statutory Consultees under the 1994 Regulations and others, the environmental information and all other relevant matters have been considered; and

viii) the proposed development is consistent with the Government's energy policy as set out in the Energy White Paper 'Meeting the Energy Challenge' May 2007 and waste strategy for England as set out in 'Waste Strategy for England 2007' May 2007.

7.2 The Secretary of State, having regard to the matters specified in paragraph 7.1 above, has decided to grant consent for the Development pursuant to section 36 subject to:

i) a condition that the Development shall be in accordance with the particulars submitted with the Application, and

ii) a condition as to time within which the Development must commence.

7.3 The Secretary of State believes that the Planning Conditions form a sufficient basis on which the Development might proceed, and therefore he has decided to issue a section 90(2) direction that planning permission be deemed to be granted subject to the Planning Conditions.

7.4 I accordingly enclose the Secretary of State's consent under section 36 of the Electricity Act 1989 and a direction under section 90(2) of the Town and Country Planning Act 1990.

IX. GENERAL GUIDANCE

8.1 The validity of the Secretary of State's decision may be challenged by making an application to the High Court for leave to seek a judicial review. Such application must be made as soon as possible and in any event not later than three months after the date of the decision. Parties seeking further information as to how to proceed should seek independent legal advice from a solicitor or legal adviser, or alternatively may contact the Administrative Court at the Royal Courts of Justice, Strand, London WC2 2LL (General Enquiries 020 7947 6025/6655).

8.2 This decision does not convey any approval or consent or waiver that may be required under any enactment, by-law, order or regulation other than section 36 and Schedule 8 of the Electricity Act 1989 and section 90 of the Town and Country Planning Act 1990.

Yours faithfully



Richard Mellish

Director

Development Consents and Planning Reform

DEPARTMENT FOR BUSINESS, ENTERPRISE AND REGULATORY REFORM
ELECTRICITY ACT 1989
CONSTRUCTION AND OPERATION OF A COMBINED HEAT AND POWER ENERGY FROM
WASTE FUELLED GENERATING STATION AT RUNCORN, CHESHIRE

1. Pursuant to section 36 of the Electricity Act 1989 the Secretary of State for Business, Enterprise and Regulatory Reform ("the Secretary of State") hereby consents to the construction by INEOS Chlor Limited ("the Company"), on the area of land delineated by a solid red line on Figure 1.1 Revision B, annexed hereto and duly endorsed on behalf of the Secretary of State, of a combined heat and power energy from waste fuelled generating station at Runcorn in Cheshire ("the Development"), and to the operation of that generating station.
2. Subject to paragraph 3(1), the Development shall be about 100 MW capacity and comprise:
 - (a) four boilers for burning of fuel derived from domestic waste;
 - (b) four flue gas treatment plants;
 - (c) one stack;
 - (d) two steam turbine generators;
 - (e) two banks of water cooling towers;
 - (f) fuel feedstock reception facilities, including rail sidings;
 - (g) fuel feedstock storage and fuel handling plant;
 - (h) electrical transformers and switchgear building;
 - (i) demineralised water plant;
 - (j) ancillary plant and equipment;
 - (k) the necessary buildings (including administration offices, workshops and stores) and civil engineering works; and
 - (l) access road.
3. This consent is granted subject to the following conditions:
 - (1) The Development shall be constructed and operated in accordance with the details contained in paragraph 2 of this consent.
 - (2) The commencement of the Development shall not be later than three years from the date of this consent, or such longer period as the Secretary of State may hereafter direct in writing.

4. The Secretary of State in exercise of the powers conferred on him by section 90(2) of the Town and Country Planning Act 1990 hereby directs that planning permission for the Development be deemed to be granted subject to the following conditions:

Definitions

(1) In these Conditions unless the context otherwise requires -

"BS 4142 1997" means British Standard 4142: 1997 - Method for rating industrial noise affecting mixed residential and industrial areas;

"BS 7745 2003" means British Standard 7445:2003 – Description and Measurement of Environmental Noise, Part I. Guide to Quantities and Procedures;

"Bank Holiday" means a day that is, or is to be observed as, a Bank Holiday or a holiday under the Banking and Financial Dealings Act 1971;

"the commencement of the Development" means the date on which the Development shall be taken to be initiated by the carrying out of material operations in accordance with section 56 of the Town and Country Planning Act 1990 (as amended) with the exception of those operations defined as Permitted Preliminary Works;

"the commissioning of the Development" means the date on which the Development first supplies electricity on a commercial basis;

"the Company" means INEOS Chlor Limited and its assigns and successors;

"contractor's laydown area" means the area hatched blue in Figure 1.1 Revision B, annexed hereto;

"the Council" means Halton Borough Council and its successors;

"creative conservation" means the establishment of areas which are capable of sustaining indigenous species of flora and fauna;

"the Development" means the energy from waste CHP generating station at Weston Point, Runcorn in Cheshire;

"emergency" means circumstances in which there is reasonable cause for apprehending imminent injury to persons, serious damage to property or danger of serious pollution to the environment;

"Environment Agency" means the Environment Agency and its successors;

"heavy commercial vehicle" has the meaning given by section 138 of the Road Traffic Regulation Act 1984;

"Natural England" means Natural England and its successors;

“New Access Road” means the proposed vehicular access road leading directly to the Site from Picow Farm Road as shown at Appendix 2.1 of Volume 2 of the Environmental Statement dated January 2007;

“operating weight” in relation to a goods vehicle has the meaning given by section 138 of the Road Traffic Act 1984;

“Permitted Preliminary Works” means:

- (i) landscaping and creative conservation, providing these operations do not require the delivery to or removal from the Site of bulk filling materials;
- (ii) installation and diversion of utility services within the Site;
- (iii) surveys and geotechnical surveys;
- (iv) relocation of existing auxiliary plant, buildings and facilities on the Site;
- (v) provision of wheel cleansing facilities required pursuant to Condition (9);
- (vi) provision for temporary contractors’ facilities necessary for (i) to (v) above within the Site; and
- (vii) any other works agreed in writing with the Council

“the Site” means the area of land outlined red on Figure 1.1 Revision B, annexed hereto.

“steam purging” means any planned release of steam likely to cause noise and be perceptible at residential properties or other land uses in the locality.

Approved plans

- (2) The development hereby approved shall be carried out in accordance with the written application, dated 19 January 2007 submitted to the Secretary of State and made pursuant to the Electricity Act 1989 Section 36 and the following plans hereby approved:

Location Plan Drawing No.: 14839/00/13/00002, Sheet 1
Location Plan Drawing No.: 14839/00/13/00002, Sheet 2
Land Ownership Plan Drawing No.: 14839/00/13/00005
Plan of Existing Facilities Drawing No.: 14839/00/13/00006
Elevation on Existing Facilities Drawing No.: 14839/00/13/00007
Demolition Plan Drawing No.: 14839/00/13/00008
Construction Laydown Plan Drawing No.: 14839/00/13/00009
Proposed EfW Plant Layout Drawing No.: 14839/00/13/00016, Sheet 1
Proposed EfW Plant Layout Drawing No.: 14839/00/13/00016, Sheet 2
Proposed EfW Plant Drawing No.: 14839/00/13/00017, Sheet 1
Proposed EfW Plant Drawing No.: 14839/00/13/00017, Sheet 2

Reason: To ensure the development is carried out in accordance with the written application and plans.

Planning Permission

- (3) From the date of commencement of the development until the date of restoration of the site, as detailed by Conditions (64) to (65), a copy of this planning permission, granted pursuant to the Electricity Act 1989 Section 36, including all documents approved in accordance with this planning permission shall be available for inspection on the site during working hours.

Reason: To provide an opportunity for interested parties to inspect the planning conditions.

- (4) The commencement of the Development shall not be later than the expiry of three years from the date of permission.

Reason: To comply with the requirements of section 91 of the Planning and Compulsory Purchase Act 2004.

New Access Road

- (5) The Permitted Preliminary Works shall not take place until there has been submitted to, approved in writing by, and deposited with the Council a scheme for the construction of the New Access Road. The scheme shall indicate the layout, design and a programme of works for the construction of the New Access Road. The New Access Road shall be constructed in accordance with the approved scheme unless otherwise approved in writing by the Council.

Reason: To reduce the impact of construction traffic on the local population.

Demolition Method Statement

- (6) Prior to commencement of the Permitted Preliminary Works demolition and site enabling (including pipeline re-routing) works, a scheme detailing a demolition method statement shall be submitted to, approved in writing by, and deposited with the Council. The scheme shall include measures proposed to protect controlled water and its surrounding ecology from environmental impacts caused by demolition debris and/ or solids capable of migration by water.

Reason: To enable the Council to exercise reasonable and proper control over the demolition of existing buildings and structures.

Environmental and Waste Management

- (7) The Permitted Preliminary Works shall not commence until a scheme for the environmental management of the site has been submitted to, approved in writing by, and deposited with the Council. The scheme shall detail the measures proposed to manage and mitigate the main environmental effects of development. The scheme shall relate to demolition and construction waste management, pollution prevention measures, soil resource management, noise, vibration, air quality, prevention of nuisance, and ecological protection/ mitigation measures.

- (8) Prior to commencement of the Permitted Preliminary Works a scheme for waste management shall be submitted to, approved in writing by, and deposited with the Council. The scheme shall detail a sustainable waste management strategy designed to identify the volume and type of material likely to arise from demolition and site clearance operations, opportunities for the reuse and recovery of materials and demonstrate how volumes of waste will be minimised and managed.

Reason: To ensure environmental and waste management prior to commencement of the Development.

Suppression of Dust and Dirt during Construction

- (9) The Permitted Preliminary Works shall not take place until there has been submitted to, approved in writing by, and deposited with the Council a scheme for the provision of wheel cleansing facilities for heavy commercial vehicles and any other vehicle leaving the Site which has an operating weight exceeding three tonnes. Such approved facilities shall be installed in accordance with a timescale to be approved in writing by the Council and shall be maintained throughout the period of the construction of the Development unless any variation has been approved in writing by the Council.
- (10) All heavy commercial vehicles and any other vehicle which has an operating weight exceeding three tonnes associated with the construction of the Development leaving the Site, other than those vehicles exclusively using tarmacadam or concrete roads, shall on each occasion, prior to leaving, pass through the wheel cleansing facilities provided pursuant to Condition (9).
- (11) The commencement of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with the Council a scheme employing all practicable measures for the suppression of dust during the period of the construction of the Development. The measures approved in the scheme shall be employed throughout the period of construction of the Development unless any variation has been approved in writing by the Council.
- (12) All open bodied heavy commercial vehicles carrying dry loose aggregate, cement or soil into and out of the Site shall be sheeted.

Reason: To ensure that satisfactory measures are in force so as to alleviate any impact dust and dirt may have on the local environment during construction.

Layout and Design

- (13) The commencement of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with, the Council a scheme or schemes which shall include:
- (i) details of the siting, design, external appearance and dimensions of all new or modified buildings and structures which are to be retained following the commissioning of the Development;

- (ii) details of the colour, materials and surface finishes in respect of those buildings and structures referred to in (i) above;
 - (iii) details of vehicular circulation roads, parking, hardstandings, turning facilities and loading and unloading facilities on the Site;
 - (iv) details of temporary and permanent artificial lighting required during the construction and operation of the Development;
 - (v) details of all new or modified permanent fencing and gates required on the Site; and
 - (vi) phasing of works included in the scheme.
- (14) The Development shall proceed only in accordance with the scheme referred to in Condition (13) subject to any variation as may be approved in writing by the Council.
- (15) The commissioning of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with the Council a scheme for the removal of all temporary buildings, structures and ancillary works connected with the construction of the Development. Such scheme shall include the timing and phasing of the removal and details for the reinstatement of the land. The measures approved in the scheme shall be employed throughout the period of removal unless any variation has been approved in writing by the Council.

Reason: To enable the Council to exercise reasonable and proper control over the design and appearance of the Development.

Traffic Movements

- (16) The commencement of the Development shall not take place until the Company has submitted to the Council the main findings and conclusions of an investigation as to whether waterways could be utilised to provide a practical, economical and environmentally advantageous (when compared and contrasted with road transportation) means of transportation to the Site of construction materials associated with the Development. The results of the investigation shall be submitted to, agreed in writing by, and deposited with the Council.
- (17) In the event that the investigation referred to in Condition (16) identifies that an existing waterway could be utilised to provide a practical, economical and environmentally advantageous (when compared and contrasted with road transportation) means of transportation, the Development shall not commence until there has been submitted to, approved in writing by, and deposited with the Council a scheme for the transportation by waterways of construction materials.
- (18) The commencement of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with the Council, a scheme for the transport of construction staff to and from the Site. The approved scheme shall remain in operation throughout the period of the construction of the Development.

- (19) Except in an emergency or with the prior written approval of the Council, during the construction of the Development there shall be no more than 400 Heavy Commercial Vehicle movements entering or leaving the Site on any day during concrete pouring and 150 Heavy Commercial Vehicle movements entering or leaving the Site at all other times during construction works. For the avoidance of doubt each inward traffic movement shall constitute one movement and each outward traffic movement shall constitute one movement.
- (20) All traffic associated with the construction of the Development shall enter and leave the Site using road networks routes submitted to, approved in writing by, and deposited with the Council.
- (21) No Heavy Commercial Vehicle or any other vehicle which has an operating weight greater than 3 tonnes associated with the construction of the Development shall enter or leave the Site at any time on any Sunday or Bank Holiday nor on any other day except between the following hours:
- | | |
|------------------|-------------|
| Monday to Friday | 0700 – 1900 |
| Saturday | 0800 – 1700 |
- unless such movement –
- (a) is an abnormal load;
 - (b) is associated with an emergency; or
 - (c) is carried out with the written approval of the Council.
- (22) In any instance where the traffic limitation referred to in Conditions (19) and/or (20) or a time limitation referred to in Condition (21) is exceeded because of an emergency the Company shall as soon as possible provide the Council with a written statement, as soon as is reasonably possible and, in any event, within 2 working days, detailing the nature of the emergency and why the traffic limitation and/or the time limitation could not be observed.

Reason: To reduce the impact of traffic on the local population.

Construction and Construction Noise

- (23) All activities associated with the construction of the Development shall be carried out in accordance with British Standard 5228, Parts 1 and 2: 1997 and Part 4: 1992; Noise and Vibration Control on Construction and Open Sites.
- (24) No construction work associated with the Development shall take place on the Site at any time on any Sunday or Bank Holiday nor on any other day except between the following hours:
- | | |
|------------------|-------------|
| Monday to Friday | 0700 - 1900 |
| Saturday | 0700 - 1400 |
- unless such work -

- (a) is associated with an emergency;
 - (b) is carried out with the prior written approval of the Council; or
 - (c) does not cause existing ambient noise levels to be exceeded.
- (25) The commencement of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with the Council a programme for the monitoring of noise generated during the construction of the Development. The programme shall specify the locations from which noise will be monitored, the method of noise measurement (which shall be in accordance with BS 4142 1997) and the maximum permissible levels of noise at each such monitoring location. The programme shall make provision for such noise measurements to be taken by the Company as soon as possible following receipt by the Company of a written request by the Council and such measurements shall be given to the Council as soon as is reasonably possible. At such locations, noise levels during construction operations shall not exceed the levels specified in the approved programme, except in an emergency or otherwise approved in writing by the Council.
- (26) The commencement of the Development shall not take place until there has been submitted to and approved in writing by the Council a scheme for piling which shall include the methods and duration. The approved scheme shall be adhered to during the period of the construction of the development.
- (27) No impact piling approved under the scheme referred to in Condition (26) shall take place on the Site on any Sunday or Bank Holiday or any other day except between the following hours;

Monday to Friday	0800 - 1800
Saturday	0900 - 1300

Unless such work –

- (a) is associated with an emergency; or
 - (b) is carried out with the prior written approval of the Council.
- (28) In any instance where a time limit referred to in Conditions (24) or (27) or a noise level approved pursuant to Condition (25) is exceeded because of an emergency the Company shall as soon as possible notify the Council and follow up the notification with a written statement detailing the nature of the emergency and the reasons why the time limitation could not be observed.

Reason: To ensure reasonable and proper control to be exercised over the methods of construction of the Development.

Operational Noise

- (29) The commissioning of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with the Council a programme

for the monitoring of noise generated by the normal commercial operation of the Development. The programme shall specify the locations from which noise will be monitored, the method of noise measurement (which shall be in accordance with BS 4142 1997) and the maximum permissible levels of noise at each such monitoring location. The programme shall make provision for such noise measurements to be taken by the Company as soon as possible following requests by the Council and such measurements shall be given to the Council as soon as they are available and at least within two days. At such measurement locations noise levels permitted under Condition (25) shall not exceed the levels specified in the approved programme, except in an emergency or with the prior written approval of the Council.

- (30) Notwithstanding any noise measurement and noise measurement location approved by the Council pursuant to Condition (29) the specific noise generated by the normal commercial operation of the Development shall not exceed the levels provided in the table below, when measured generally in accordance with BS4142 1997, as calculated at a height of 1.5 metres and at a distance of 1 metre from the façade of the residential premises below.

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

Such noise shall exhibit no tonal or impulse content at those properties in all weather conditions. These limitations as to noise level shall be adhered to at all times except in an emergency or in accordance with any lower noise level which may be approved by the Council pursuant to Condition (29).

- (31) In any instance where a noise level approved pursuant to Condition (29) or a noise limitation referred to in Condition (30) is exceeded because of an emergency the Company shall as soon as possible, and at least within two working days, provide the Council with a written statement detailing the nature of the emergency and the reason why the noise level and/or limitation could not be observed. If the emergency period is expected to be for more than twenty-four hours then the Company shall inform those residents affected by the emergency of the reasons for the emergency and the expected duration.

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

So far as is reasonably practicable, any such operation shall not take place on any Saturday, Sunday or Bank Holiday or any other day except the between the following hours;

Monday to Friday

0900 - 1700

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

Noise Complaints Procedure

- (33) In any instance where a local resident has cause to make a complaint about noise generated by the construction and/or operation of the Development, the Company shall carry out investigations to establish the justification, or otherwise, of the complaint, the likely cause and possible remedial measures. A written report to the complainant shall be made as soon as reasonably practicable following the investigation and/or remedial work. The Company shall keep all such reports in an appropriate file and such file shall be made available to the Council on written request.

Reason: To ensure that any complaints on the grounds of noise are properly dealt with so as to reduce the impact of the Development on local residents.

Prevention of Contamination of Watercourses

- (34) The commencement of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with the Council, in consultation with the Environment Agency, a scheme showing the method and working of drainage facilities on the Site. Such facilities shall be put in place in accordance with the approved scheme.
- (35) The scheme referred to in Condition (34) shall include:
- (i) measures to ensure that no leachate or any contaminated surface water from the Site shall be allowed at any time to enter directly or indirectly into any watercourse or underground strata or onto adjoining land;
 - (ii) provision so as to ensure that all existing drainage systems continue to operate and that riparian owners upstream and downstream of the Site are not adversely affected;
 - (iii) provision for trapped gullies in car parks, hardstandings and roadways;
 - (iv) measures to ensure that all foul sewage must drain to an approved foul sewerage and/or sewage disposal system;

- (v) provisions to distinguish between temporary and permanent parts of the works; and
 - (vi) phasing of works.
- (36) Any surface water contaminated by hydrocarbons which are used during the construction of the Development shall be passed through oil/grit interceptor(s) prior to being discharged to any public sewer or watercourse or to any other surface water disposal system approved by the Environment Agency.
- (37) All facilities required for the storage of hydrocarbons, process chemicals or similar liquids which are used during the construction of the Development must be sited on impervious bases and surrounded by impervious bund walls. The size of the bunded compound(s) shall be at least equivalent to the capacity of the largest tank plus 10%. All filling points, vents and sight glasses must be located within the bund and there must be no drain through the bund floor or walls.
- (38) All bunded compound(s) referred to in Condition (37) in which acids, alkalis or sulphides in addition to being contained in suitable facilities shall have appropriate protective lining applied to the inner walls of the bunds.
- (39) Any storage facility to which Conditions (36) or (37) refer shall be completed in accordance with the requirements of those Conditions before being brought into use.

Reason: To ensure proper drainage of the Site and that proper containment facilities are built.

Contaminated Waste

- (40) The commencement of the Development shall not take place until the Company has carried out an investigation to assess the degree of ground contamination of the Site and submitted a written report of the findings to the Council and the Environment Agency. The investigation shall include testing for hydrocarbons and other contaminants, together with leachability testing. The survey shall include the leachability test results along with the locations at which they were sampled. Any groundwater encountered during the survey shall also be tested for contaminants, in order to assess the mobility of any contaminants encountered.
- (41) No work associated with the construction of the Development shall take place until the Council, in consultation with the Environment Agency, has approved in writing the report produced pursuant to Condition (40).
- (42) The commencement of the Development shall not take place until a scheme of any necessary remedial measures and monitoring has been submitted to, approved in writing by, and deposited with the Council, in consultation with the Environment Agency.
- (43) The scheme approved pursuant to Condition (42) shall be adhered to during the construction of the Development, unless any variation has been approved in writing by the Council, in consultation with the Environment Agency.

- (44) Should contaminated materials be found on any area of the Site which had been identified as being free of contaminants pursuant to Condition (40) then such area shall be subject to the remedial and monitoring scheme approved pursuant to Condition (42).
- (45) Contaminated material arising from the construction of the Development shall be treated on the Site in accordance with a scheme to be submitted to, approved in writing by, and deposited with the Council, in consultation with the Environment Agency, or shall be disposed of to licensed disposal facilities.

Reason: To ensure that contaminated waste found on the Site is disposed of properly.

Invasive Species

- (46) The Permitted Preliminary Works shall not take place until a plan has been prepared for the appropriate control and management of invasive plants, such as Japanese Knotweed. The plan shall be deposited with the Council for written approval and be adhered to throughout the period of construction in consultation with the Environment Agency.

Reason: For the control and management of invasive plants.

Protection and Mitigation For Birds

- (47) No tree, hedges, scrub or dense vegetation shall be cleared from the Site during the bird breeding season of 1 March to 30 September inclusive, except where a suitably qualified ecological consultant, appointed by the Company, has confirmed that such clearance works should not affect nesting birds, unless otherwise approved in writing by the Council.

Reason: For the protection of birds which are protected under the Wildlife and Countryside Act 1981 (as amended).

Protection of Great Crested Newts

- (48) The Permitted Preliminary Works shall not take place until a scheme to ensure great crested newts and their habitats are protected or are not infringed without full and proper mitigation has been submitted to, approved in writing by, and deposited with the Council, in consultation with Natural England and the Environment Agency.

Reason: For the protection of great crested newts which are protected under the Wildlife and Countryside Act 1981 (as amended).

Landscaping and creative conservation

- (49) The Permitted Preliminary Works shall not take place until a scheme of landscaping and creative conservation has been submitted to, approved in writing by, and deposited with the Council, in consultation with Natural England and the Environment Agency.

(50) The scheme referred to in Condition (49) shall deal with the treatment of any environmentally sensitive areas as well as the general provision of screening, shrub and tree planting and grassed areas and means of integrating the Development with the surrounding landscape and shall include details of the following matters:

- (i) earthworks including the proposed grading and mounding of land areas and the levels and contours to be formed and the relationship of proposed mounding to existing vegetation and surrounding landform;
- (ii) planting;
- (iii) management of existing and new planted areas including protection of existing planting during construction;
- (iv) restoration of areas affected by construction works;
- (v) details of grass seed mix for areas of the Site to be restored to grassland;
- (vi) details of the height, type, size and species of the shrubs and trees to be planted;
- (vii) details of the measures to be taken to create new flora and fauna habitats and of the management of such new habitats; and
- (viii) phasing of works included in the scheme.

(51) The landscaping and planting, including grass sowing, shall take place in accordance with the phasing of works specified in Condition (50)(viii) and no later than the appropriate planting or sowing season following the completion of the construction of the Development and shall be carried out in accordance with the scheme approved under Condition (49). Any trees or shrubs, including hedges, which die, become seriously damaged or diseased or are removed within five years from the date of planting shall be replaced in the next planting season with others of a similar size and species, unless otherwise approved in writing by the Council.

Reason: To ensure proper landscaping for the Development and creative conservation.

Reinstatement of Contractors' Laydown Area

(52) The contractors' laydown area hereby permitted shall be removed and the land reinstated to its former condition in accordance with a scheme to be submitted to, approved in writing by, and deposited with the Council.

Reason: Reinstatement of an area required during construction of the Development.

Parking

(53) No buildings shall be occupied until vehicle parking for 26 staff and visitors (including 2 disabled bays), 5 motor cycles and 10 cycles has been provided on the Site.

- (54) Fuel deliveries shall not commence until vehicle parking for 10 fuel delivery vehicles has been provided on the Site.

Reason: To ensure adequate on-site parking facilities are in place.

Storage

- (55) No waste, fuel materials and or containers stored, stacked externally on the Site shall exceed a height of 10 metres unless otherwise agreed with the Council.
- (56) Waste or fuel materials brought to the Site for use in the operation of the Development shall when handled externally be under cover at all times.

Reason: To ensure environmental protection and safe working.

Delivery of Refuse Derived Fuel

- (57) Unless agreed in writing with the Council, the quantity of refuse derived fuel imported for use in the operation of the Development by road shall not exceed 85,000 tonnes in any twelve month period and the Company shall record the date and volume of waste delivered to the Site and where requested by the Council shall copy records to the Council within five working days.
- (58) So far as reasonably practicable, the transportation of refuse derived fuel to the Site by rail shall not take place between 23.00 and 07.00 hours.
- (59) Where the transportation of refuse derived fuel to the Site by rail is not reasonably practicable between 23.00 and 07.00 hours, noise levels shall not exceed the levels provided below, when measured in accordance with BS 7445 2003 at the boundary of the residential properties below.

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

Reason: To minimise road traffic movements in the locality and ensure that the most sustainable modes of transportation are considered for the delivery of refuse derived fuel and there is proper control of noise for the delivery of refuse derived fuel by rail.

Materials, Waste and Residual Material following Incineration

- (60) Materials, waste and residual material following incineration shall be handled under cover at all times.
- (61) Ash and residual material shall be transported from the Site in sealed vessels.

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

Air Pollution Monitoring

- (62) The commissioning of the Development shall not take place until there has been submitted to and approved in writing by the Council, in consultation with the Environment Agency, a scheme for the monitoring of air pollution in their area. The scheme shall include the measurement location or locations within the relevant area from which air pollution will be monitored, the equipment and methods to be used and the frequency of measurement. The scheme shall provide for the first measurement to be taken not less than 12 months prior to the Commissioning of the Development and for the final measurement to be taken not more than 24 months after commissioning of the Development. The Company shall supply full details of the measurements obtained in accordance with the scheme to the Council as soon as possible after they become available.
- (63) Should the Council require continued monitoring of air pollution the Company shall extend the Scheme pursuant to Condition (62) for a period of up to 36 months from the date of the last measurement taken pursuant to Condition (62). The Company shall supply full details of the measurements obtained during the extended period to the Council as soon as possible after they become available.

Reason: To ensure that the Council are kept informed on a regular and programmed basis about the changes in the level of air pollution at locations within its area.

Cessation of works and restoration of the Site

- (64) Within 12 months of the Site ceasing to be used for the purposes of electricity generation, the Company shall submit to the Council, for approval in writing, a scheme for the demolition and removal of the Development from the Site.
- (65) The scheme referred to in Condition (64) shall include:
 - (i) details of all structures and buildings which are to be demolished;
 - (ii) details of the means of removal of materials resulting from the demolition;
 - (iii) the phasing of the demolition and removal;
 - (iv) details of the restoration works; and
 - (v) the phasing of the restoration works.

- (66) The demolition and removal of the Development (which shall include all buildings, structures, plant, equipment, areas of hardstanding and access roads) and subsequent restoration of the Site shall thereafter be implemented in accordance with the approved scheme, unless otherwise agreed in writing by the Council.

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

Default of Agreement

- (67) Where any matter is required to be agreed or approved by the Council under any of the foregoing Conditions that matter shall in default of agreement or approval be determined by the Secretary of State for Business, Enterprise and Regulatory Reform.

