

**Notes from Pre-Inquiry Meeting**  
**26 July 2011**  
**Appeal Ref: DPI/A0665/11/10**  
**Consent to construct and operate a 60MW energy from waste  
generating station at Lostock, Northwich, Cheshire**

## **INTRODUCTION**

### **Inspector**

1. The Inspector, Elizabeth Hill BSc(Hons), BPhil, MRTPI introduced herself. She explained that she had been appointed by the Secretary of State for Energy and Climate Change to hold an Inquiry and make recommendations to him on this application, under S36 of the Electricity Act 1989 and S90 of the Town and Country Planning Act 1990 by Tata Chemicals Europe Limited, formerly known as Brunner Mond UK, and EON Energy From Waste UK Limited, for consent to construct and operate a 60MW energy from waste generating station at Lostock, Northwich, Cheshire.

### **Programme Officer**

2. The Inspector also introduced the Programme Officer, Helen Wilson, who will be the main point of contact for the Inquiry. Her contact details are attached at Annex 1.

### **Other participants**

3. Mr Scott Lyness of Counsel, instructed by Addleshaw Goddard LLP, represented Tata Chemicals Europe Limited and EON Energy From Waste UK Limited, who are the applicant in this case.
4. Mr Ian Ponter of Counsel, instructed by the Solicitor of Cheshire West and Chester Borough Council, represented the Council.
5. Other participants included: Mr Brian Cartwright and Mr Liam Byrne from CHAIN (Cheshire against incineration), Emma Guy from Lostock Gralam Parish Council, Mrs Tracy Manfredi, resident from Ruheath and Ms Dorothy Gamble, resident from Lostock Gralam.

### **Purpose of the Pre-Inquiry meeting**

6. The purpose of the Pre-Inquiry Meeting was to help everyone prepare for the Inquiry and to enable the proceedings to be conducted as smoothly and as efficiently as possible. The Inspector emphasised that there was to be no discussion of the merits of the application, or the giving of evidence during the meeting.

7. The Inquiry will be held under the Electricity Generating Stations and Overhead Lines (Inquiries Procedure) (England and Wales) Rules 2007, referred to as Inquiry Rules hereafter. The attention of participants was drawn to the Electricity Generating Stations and Overhead Lines (Inquiries Procedure) (England and Wales) Rules 2007 – Guidance for Participants URN 07/782, which explains the procedures in more detail. A copy of the Guidance will be placed on the Inquiry website.

## **MAIN ISSUES**

### **The application**

8. The application is for Consent to construct and operate a 60MW energy from waste generating station at Lostock, Northwich, Cheshire.

### **Matters to be addressed**

9. The Secretary of State has asked to be informed on the following issues:
  - i) the extent to which the proposed development would be in accordance with the relevant development plan(s) for the area, and in particular policies 1, 2, 3 & 34A of the Cheshire Replacement Waste Local Plan (2007);
  - ii) the extent to which the proposed development will maximise the opportunities for waste to be managed in accordance with the waste hierarchy, minimise avoidable carriage of waste over long distances, and take advantage, where practicable, of opportunities to transport waste by rail and water;
  - iii) the extent to which a need for the proposed development as a means of managing waste has been demonstrated, in particular by reference to the capacity of existing waste management facilities in the sub-region;
  - iv) the extent to which the proposed development is consistent with the objectives of the Government's policy on the energy mix and maintaining a secure and reliable supply of electricity, as the UK makes the transition to a low carbon economy, and achieving climate change goals;
  - v) concerns about perceived health impacts of the proposed development;
  - vi) the impact of construction and operational traffic associated with the proposed development on the local highways, including users and safety;
  - vii) the visual impact of the proposed development;
  - viii) the cumulative impact of the proposed development with other proposed and operational developments of a similar nature within the region;

- ix) the proximity of the proposed development to residential dwellings and other non-industrial units; and,
  - x) any other matter that the Inspector considers relevant.
10. The Inspector's preliminary view was that these matters will form the main issues for the Inquiry. The other matters on which the Inspector required submissions from the parties were:
- the content of the draft National Planning Policy Framework, published on 25 July 2011, and the weight to be given to it, both in itself, and in comparison to, the extant PPSs/other Government guidance and advice;
  - the weight to be given to the North West Regional Spatial Strategy, in the light of its proposed abolition in the Localism Bill;
  - the effect of the Government Review of Waste Policy in England 2011 and its Action Plan, published in June 2011;
  - whether an Environmental Permit has been applied for by the applicant and the matters which should be addressed through the permit, rather than this Inquiry.

The Inspector also asked to be informed on the weight to be given to the National Policy Statements on Energy Infrastructure. These have been approved following the House of Commons Debate on 18 July 2011 and therefore have full weight.

11. The Inspector stressed that these were preliminary views and they might change when she reviews the evidence. It did not preclude other issues being raised. There was no objection to these matters being the main matters in the Inquiry.

## **VENUE AND ACCOMMODATION**

12. The venue for the Inquiry is to be the Northwich Victoria Football Club, However, CHAIN objected on the grounds that the venue is some distance from public transport links and that a venue in Northwich town centre would be preferable. The applicant had offered to provide transport for persons with registered disabilities from the town centre or the nearest bus stop and this offer stands, if necessary, for the Inquiry. The applicant's view was that no change of venue was required, as it represented the only place that would fulfil the requirements for such venues, locally. On the basis that there might be other more suitable facilities available in the town centre, the Inspector has allowed suggestions to be made about alternative accommodation, especially for sitting days which are likely to have more limited numbers. However, any other venue would need to conform to the Planning Inspectorate's requirements for Inquiry accommodation. If a different venue is chosen all parties will be notified. The Inspector also described the layout needed for the Inquiry room.

13. It was suggested by CHAIN that the proceedings should be filmed and streamed via a website, in a similar manner to a recent Inquiry in Middlewich. In that case the facility was organised and paid for by the Council and streamed via their website. In this case no-one wished to fund the filming. As such, no further action has been taken on this matter.

### **SITTING TIMES AND PROGRAMME**

14. Submissions were made about the timing of the start of the Inquiry by CHAIN and others, as they are also involved in an Inquiry in Middlewich. The final week of the Middlewich Inquiry is programmed for 4-7 October 2011. Although CHAIN have said that they might recall a witness, it is still expected that the Middlewich Inquiry will finish before the start of this Inquiry. The last week of the Middlewich Inquiry is expected to only deal with submissions on a protected species survey and closings submissions during sitting time, plus a site visit. The length of the adjournment of the Middlewich Inquiry has given sufficient preparation time for this Inquiry and the remaining part of the Middlewich Inquiry. The Inspector explained that delaying the Inquiry by the 4 weeks suggested by CHAIN would cause problems for others, including the Council, who have another major Inquiry at that time, and for Counsel for the applicant. Having taken into account all of the representations and taken advice on the remaining issues at the Middlewich Inquiry, the Inspector subsequently determined that the Inquiry should start on the original date of 11 October.
15. The Inquiry will open at 10:00 on Tuesday 11 October 2011. On subsequent days, normal sitting times will be 09:30 to 13:00 and 13:45 to 17:00, with short breaks in the morning and afternoon sessions. It is likely that the Inquiry will break early on Fridays. There was general support for an evening session of the Inquiry at the meeting. If there is anyone who would like to be heard during an evening session, could they let the Programme Officer know at least 4 weeks before the start of the Inquiry (ie **by 13 September 2011**) so that it can be ensured that evening accommodation is available.
16. The Inquiry was originally scheduled to last for 12 days. However, during the meeting, submissions were made on the possible length of time which would be needed to give evidence and for cross-examination, which resulted in the length of the Inquiry being revised to 5 weeks, with 20 sitting days:  
  
11-14 October, 18-21 October, 25-28 October 2011, 1-4 November and 8-11 November 2011.
17. There was discussion as to the sequence in which evidence should be given. The applicant wished to give evidence last. However, Rule 19 (4) of the Inquiry Rules say that the applicant shall go first unless the Inspector determines otherwise. In this case, and having regard to the objections made, the Inspector considered that the applicant should go first. There would be opportunity for other points made in evidence to be covered in their closing submissions.

18. The order for evidence will be:

- Brief openings (no more than 10-15 minutes) – applicant, Council, Rule 6 parties
- Applicants' case
- Council's case
- Rule 6 parties' cases
- Any other interested persons' cases
- Session on conditions and planning obligations
- Closing submissions – Rule 6 parties; Council; applicants

Openings are not required by the Inquiry Rules and participants should consider whether they would be necessary in this case.

19. The applicant will be represented at the Inquiry by Mr Christopher Katkowski QC and Christopher Boyle, of Counsel who intend to call eleven witnesses covering the following topics: two covering technical matters and one each covering carbon, R1 and alternative technologies; energy and waste need; transport; air quality; health impact; noise; landscape and visual impact; ecology; and planning.
20. The Council will be represented by Mr Alan Evans, of Counsel, who will be calling one witness to cover all the Council's evidence.
21. Rule 6 parties should submit a list of the names of their witnesses and qualifications, where relevant, in writing at the opening of the Inquiry. If there are any changes to the time estimates for giving evidence and cross-examination to those set out at the meeting, they should be submitted 2 weeks before the start of the Inquiry ie by **27 September 2011**, to allow for updates to the Inquiry programme.

## **NATURE AND FORMAT OF EVIDENCE**

22. The Inspector explained that concise opening and closing statements should be produced in writing (double space to allow for annotation) and the closings should be on CD (MS Word). The duration of opening statements should not exceed 15 minutes.
23. The Statement of Common Ground (SoCG) between the applicant and the Council should be submitted to the Programme Officer no later than 4 weeks before the Inquiry opens, that is by:

**13 September 2011.**

The Statement should include, as well as more general matters, any technical evidence on which agreement has been reached. It should also include a list of agreed plans and, where possible, a list of agreed conditions.

24. The Inspector explained that all Proofs of Evidence and supporting documentation should be exchanged between the main parties and the Rule 6 parties and submitted to the Programme Officer no later than 4 weeks before the Inquiry opens, that is by:

**13 September 2011.**

25. Statements of Case are due by 23 August 2011 for the applicant and by 6 September 2011 for the Council and other objectors. As these dates are close to those for the submission of proofs, participants whilst needing to submit a Statement of Case, which should build on their Outline Statement, should concentrate their efforts on the evidence.
26. The deadline for proofs of evidence applies to all participants at the Inquiry, including Rule 6 Parties. The Inspector reminded everyone of the strict application of the Rules which relate to proofs. Proofs submitted out of time will be returned. Any proofs submitted late which cause an adjournment could result in an application for costs.
27. Where proofs of evidence are more than 1500 words long, summaries are required, and only the summary will be read at the Inquiry.
28. All documents should have page and paragraph numbers. Proofs and appendices should be bound separately. Appendices should be tabulated and separated by dividers with numbered thumb tags. They should be bound separately from the proofs.
29. The Inspector asked how many copies of documents will be required by each of the parties and arranged for their circulation. The applicant requested 6 hard copies and an electronic copy of the Council's and CHAIN's evidence and 1 hard copy and an electronic copy from the other parties. CHAIN requested 2 hard copies and the remaining Rule 6 parties were content with 1 hard copy. The Programme Officer will require 4 hard copies of all evidence and electronic copies. Further guidance on the submission of evidence, including numbering of proofs will be issued by the Programme Officer in due course.
30. The Inspector is not encouraging any rebuttal proofs, for which there is no provision in the Inquiry Rules, but where they might save Inquiry time she will accept their submission and circulation. Any rebuttal evidence should be submitted to the Programme Officer no later than **Tuesday 27 September**.
31. Any documents submitted during the Inquiry should be numbered and prefixed with an appropriate reference code identifiable to an individual party. The Programme Officer will circulate a note detailing the reference code to be used for each party. Copies of documents submitted during the Inquiry will also be required for each of the Rule 6 parties and a copy for reference by members of the public.
32. The Inspector explained that if the conditions are not agreed beforehand, then they should be jointly considered by the parties outside the Inquiry sessions, as early as possible in the proceedings. A list of conditions, with whether they are agreed or otherwise, should be submitted as early as possible during the course of the Inquiry. They should also be supplied on CD. The submission of such a list would not bind the parties to any particular position on conditions.
33. Any Section 106 agreements or unilateral undertakings will need to be completed before the close of the Inquiry, in order for them to be taken into account in the recommendation to the Secretary of State.

34. One set of core documents needs to be compiled for each party. The Programme Officer will require 3 copies of all Core Documents by **13 September 2011**, these should include planning policy extracts. This will avoid reproducing them in evidence. They should also be supplied on CD. It was agreed that the consolidated Environmental Statement would be posted on the applicant's website; and all the additional information submitted in July 2011 is now available at <http://sustainableenergy.brunnermond.com> In addition the information has been made available at three locations as set out in the notice in the Northwich Guardian in July 2011.

## **SITE VISITS**

35. The Inspector explained that she will look at the site and its surroundings informally before the Inquiry and carry out formal accompanied inspections, where needed during or after the Inquiry. If there are any other sites which any party considers that the Inspector needs to visit before the opening of the Inquiry, a list together with appropriate plans should be submitted to the Programme Officer at least 1 week before the opening of the Inquiry, that is by, **4 October 2011**.

## **ANY OTHER BUSINESS**

36. CHAIN, other Rule 6 parties and other interested persons raised concerns about the level of information that had been provided by the applicant, both about transport mode and about the source and composition of waste to be transported to the development and burnt. The applicant had produced a worst case scenario for transport by road and had produced a likely case scenario. There was also interest by third parties in any rail route to be used, since the routes are close to housing. Another area of information requested was the fixed asset, expenditure and forecasts for the plant. There was some debate as to whether some of this information should have been provided as part of the Environmental Statement. It was suggested by the Council that if the Environmental Statement was considered to be inadequate in any respect, those views should be made known in advance. The Inspector has set a date of **19 August 2011** for any such submissions.
37. Concern was also raised by objectors about the advertising and notification of the Pre-Inquiry Meeting and the minor changes to the application. CHAIN claimed that the statutory legal notices in the Northwich Guardian were to the back of the paper and the meeting time and date was shown in small print within the advertisement. In addition, there were complaints about the circulation of material to neighbouring residents and the provision of site notices. The applicant confirmed that it had complied with all statutory notice and publicity required and will provide a document demonstrating compliance with the Regulations on consultation, advertising and notification at the start of the Inquiry.
38. The Inspector drew attention to the fact that some objections were based on land ownership and rights of access to the site. These are not planning matters and need to be addressed elsewhere. However, the Inspector asked the applicant to confirm that the site boundaries had been accurately shown on the plans and the correct notices served, if necessary. The applicant should report back on this matter at the start of the Inquiry.

39. Finally, CHAIN has a scale model of the building which they asked to display at the Inquiry. The applicant had no objections to the model being displayed, but asked to view it prior to the start of the Inquiry.

The Pre-Inquiry meeting closed at 14:20pm.

*E A Hill*

**Inspector**

**27 July 2011**



## **Annex 1**

### Programme Officer Contact Details:

Helen Wilson  
32 Pennyford Close  
Brockhill  
Redditch  
Worcestershire  
B97 6TW

Tel: 01527 65741

Mobile: 07879 443035

Email [programme-officer@virginmedia.com](mailto:programme-officer@virginmedia.com)

Website [www.programmeofficers.co.uk](http://www.programmeofficers.co.uk) (will go live early September 2011)