The Planning Inspectorate

Appeal Decision

Inquiry held on 22-25, 29-31 January, 1, 5 and 6 February 2019
Site visits made on 4 and 5 February 2019

by Melvyn Middleton BA(Econ), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th June 2019

Appeal Ref: APP/U3935/W/18/3197964
Land at Thornhill Road, Keypoint Industrial Estate, South Marston, Swindon, SN3 4RY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Rolton Kilbride Ltd against the decision of Swindon Borough Council.
- The application Ref S/16/1055/RM, dated 1 June 2016, was refused by notice dated 15 September 2017.
- The development proposed is the construction and operation of a renewable energy centre (use class sui generis) for the recovery of energy (heat and electricity) from non-hazardous residual waste, using an Advanced Conversion Technology (gasification), with associated plant and infrastructure; an industrial warehouse (Use Class B8) with associated plant and infrastructure; the formation of a new vehicular access and landscaping.

Decision

1. The appeal is allowed and planning permission is granted for the construction and operation of a renewable energy centre (use class sui generis) for the recovery of energy (heat and electricity) from non-hazardous residual waste, using an Advanced Conversion Technology (gasification), with associated plant and infrastructure; an industrial warehouse (Use Class B8) with associated plant and infrastructure; the formation of a new vehicular access and landscaping on land at Thornhill Road, Keypoint Industrial Estate, South Marston, Swindon, SN3 4RY in accordance with the terms of the application, Ref S/16/1055/RM, dated 1 June 2016, and the plans submitted with it, subject to the conditions in the attached appendix.

Procedural matters

2. The application was accompanied by a Planning Statement, a Design and Access Statement, an Environmental Statement, an Arboricultural Survey and a Statement of Community Consultation. It was also accompanied by a site location plan, a site layout plan and a series of plans, elevations and sections of the proposed buildings. Subsequently and before the application was determined, the Appellant submitted Supplementary Environmental Information to the Environmental Statement and an Air Quality Review. In March 2018 an Alternative Site Assessment was also submitted. I have taken these documents into account, along with all the other evidence submitted to the Inquiry, when reaching my decision.

3. The site's access proposals are shown on drawing ref: K.0170_01 J[1] and involve the construction of a conventional junction with Thornhill Road. The Council, acting as Highway Authority, supports this aspect of the proposal and in the absence of objections, I do not discuss this matter any further.

4. The appeal is accompanied by a Statement of Common Ground. Among other matters, it sets out where the Appellant and the Council agree or disagree on the matters that are relevant to the appeal. In addition to alleged non-conformity with thirteen Development Plan (DP[2]) policies and including the principle of the proposed development on the appeal site, the main matters that now remain in dispute between the main parties concern the landscape and visual impact of the proposed flue stack, the need for a strategic waste management facility in this location, availability of alternative potentially suitable sites, the proximity principle, the status of the proposal in the waste hierarchy and the impact of the proposal on Swindon's development strategy.

5. Stop Keypoint Incinerator Project Residents Group (SKIP) and United Kingdom Without Incineration Network (UKWIN), whilst supporting the Council's case, made extensive submissions on Greenhouse Gas Emissions and the likely position of the plant in the waste hierarchy. SKIP appeared at the Inquiry and participated on matters relevant to its case throughout the proceedings. UKWIN did not.

6. In addition to the numerous written representations, largely objecting to the proposal, that were submitted both at the time of the application and following the appeal, nineteen individuals or persons representing the local community, organisations or the development industry attended the Inquiry and presented evidence against the proposal. In particular, but far from exclusively, the emissions from the flue-stack and their potential harm to human health within the locality were referred to.

7. After the end of the Inquiry, the Appellant submitted a signed Deed of Undertaking made pursuant to Section 106 of the Town and Country Planning Act 1990. In the undertaking the land owner covenants with the Council to pay into an account, prior to the commencement of development, a sum of money to enable the University of Oxford to upgrade its air filtration system in the Bodleian Libraries Storage Facility (BLSF). The objective is to upgrade the existing air filtration system to an extent that maintains internal air quality, with respect to the levels of acid gases in the BLSF's atmosphere, below levels experienced in or before 2016.

8. In background paragraph (F) of the document, the owner points out that it does not intend the deed or any of its planning obligations to take effect unless I determine that each obligation is necessary to overcome any relevant objection to the grant of planning permission and that without it, planning permission would be refused.

9. The University of Oxford is not a party to the Undertaking so there can be no guarantee that it would participate in its implementation. However, in correspondence dated 15 March 2019[3], the University indicated that it

[1] CD 2.2
[2] Abbreviations are listed in Appendix 1
[3] Inquiry Document (ID) 40 (see Appendix 3)

"accepted the deed of undertaking". I discuss the potential harm to this non-designated heritage asset in more detail later (paras. 51-53).

10. I am satisfied that in addition to the reduction of atmospheric pollutants through a Selective Catalytic Reduction facility (SCRF), there is also a requirement for additional protection at the BLSF, beyond that which would be secured through the condition (see paras. 97, 203 & 207). This is in order to maintain the heritage asset and to make this proposal acceptable in planning terms in that context. I am also satisfied that the undertaking and its ramifications comply with the requirements of paragraphs 54 and 56 of the National Planning Policy Framework (Framework) and meet the other statutory tests.

11. As well as on accompanied site visits on 4 and 5 February, I visited the appeal site and its locality, as well as some of the surrounding area and locations outside of Swindon, unaccompanied, on 21 and 28 January and 4 and 6 February 2019. In particular, I took the opportunity to view the Javelin Park Energy from Waste (EfW) site south of Gloucester[4] and the nearby residential development at Hunt's Grove as well as Great Western Park, a housing estate south of Didcot power station. Both were referred to in evidence.

Main Issues

12. From all that I have read, seen and heard I consider the main issues to be whether the proposal is sustainable development that is in accordance with the Development Plan, with particular reference to:

    a) The appropriateness and suitability of the appeal site for the proposed development,

    b) The impact of the proposal on the setting and condition of nearby heritage assets,

    c) The landscape and visual impact of the proposal,

    d) The impact of the proposal on environmental (air) quality and the promotion of healthy and safe communities,

    e) The sustainability of the proposal in the context of waste management and energy production,

    f) The carbon output of the proposal and its contribution to climate change,

    and

    g) The implementation of the New Eastern Villages neighbourhood and associated developments;

    and

    whether there are any material considerations of sufficient weight to outweigh the presumption in favour of determining planning applications in accordance with the Development Plan with particular reference to:

[4] Appeal ref: APP/T1600/A/13/2200210, Land at Javelin Park, near Haresfield, Gloucestershire (CD 17.9)

a) National Energy policy,

b) The overall need for the proposal.

Reasons

Development Plan

13. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the DP unless material considerations indicate otherwise. At paragraph 11, the Framework says that proposals that accord with an up-to-date development plan should be approved without delay.

14. The statutory DP for the area, in which the appeal site lies, comprises the Wiltshire and Swindon Waste Core Strategy (WCS) 2009, the Wiltshire and Swindon Waste Development Control Policies (WDCP) Development Plan Document (DPD) 2009, the Wiltshire and Swindon Waste Site Allocations (WSA) Local Plan (LP) 2013 and the Swindon Borough Local Plan (SBLP) 2015. The Council alleges that the proposal is contrary to Policies WSC1, 2, 3 and 5 of the WCS and Policies WDC1, 2 and 11 of the WDCP DPD. This is in connection with reason for refusal No.2 where the Council also says that the Appellant has failed to demonstrate a need for a strategic waste facility in the proposed location. Furthermore, it considers that a robust assessment of potentially suitable sites closer to the source of waste has not been undertaken. As a result, waste would need to be transported from beyond the local area, contrary to the proximity principle and the principles of sustainable development.

15. Policy TR2 of the SLP is also used to justify reason for refusal No.2. Policies SD1, SD2, DE1, NC3, and RA3 of that plan are used to justify reason for refusal No.1, which alleges that the proposal, in the context of the height and nature of its chimney stack, would harm the visual setting of Swindon and could prejudice the delivery of its development Strategy.

Policy WCS1: *The need for additional Waste Management Capacity and Self Sufficiency*

16. Policy WCS1 says that over the period to 2026, the Councils will address the issue of delivering sufficient sites to meet the needs of the municipal waste strategies and sub-regional apportionments, by providing and safeguarding a network of Site Allocations to manage the planned growth in waste arisings associated with the planned growth in the strategically significant towns (SSTs), of which Swindon is one. Need is to be met locally, whilst balancing the importation of waste within the principles of sustainable development and in accordance with the principles of sustainable transport.

17. This policy's primary role is to set a requirement for the Councils to prepare a plan that provides and safeguards a network of Site Allocations to meet the identified needs for waste disposal. The allocations were provided in the WSALP. A site at Chapel Farm Blunsdon, close to the northern edge of Swindon, was allocated for strategic scale energy from waste (EfW) treatment.

18. For reasons that were not adequately explained to the Inquiry and in contravention of Policy WCS4: *Safeguarding Waste Management Sites*, this site has not been safeguarded for that purpose. That Policy specifically says that

the Councils will oppose proposals for development within or adjacent to these sites, where it is demonstrated that they would prevent or unreasonably restrict the use of that site for waste management purposes. Notwithstanding this, planning permission has recently been granted for the site's use for a school (CD 7.11). There is consequently no longer an available allocated strategic waste site upon which an energy from waste facility could be located at Swindon or in the adjacent parts of north Wiltshire. The Policy is silent about judging proposals on unallocated sites, such as the appeal site. In these circumstances, I do not consider the proposal to offend Policy WCS1.

Policy WCS2: *Future Waste Site Locations*

19. Policy WCS2 sets the framework for the location of new strategic waste site allocations, requiring them to be located as close as practicable to the four principle settlements, Swindon being one of them and by far the largest. As close as practicable is defined as within a distance of 16Km. The policy also says that priority will be given to proposals that demonstrate a commitment to utilising the most appropriate haulage routes and implement sustainable modes and methods for transporting waste materials.

20. Ms Darrie in her evidence, submitted on behalf of the Council, considered the intention of this policy to be to provide strategic direction for the site assessment and allocation process. She agreed that the proposal is strategic but as the proposal is not on a site allocation, in her view, it should not be considered so for the purposes of this policy. Despite this the Council still continued to argue that the proposal offended Policy WCS2 at the Inquiry.

21. Ms Darrie also referred to the criticism made by the Regional Spatial Strategy Panel in its report about the prescriptive nature of the 16Km radius of search. Nevertheless, the WCS Examining Inspector subsequently retained the reference when endorsing the policy, whilst pointing out that because of the locations of the North Wessex Area of Outstanding Natural beauty and the county boundary, in reality the area of search would be much narrower and more closely focussed upon the SST (Swindon).

22. As the Appellant points out, the policy only specifically refers to strategic waste site allocations. Consequently, its relevance to the appeal proposal is doubtful. However, even if its parameters are meant to be applicable to proposals on unallocated sites that may come forward, the appeal site meets the criteria. It is within the Swindon urban area and well within the 16Km limit. It has good accessibility to the large population living within Swindon itself. The site is close to the junction of the A419 and A420, both parts of the strategic road network and it has good access via the former to south-eastern Gloucestershire, the M4 and the A346.

23. The latter provides good access to south Wiltshire and the A420 to parts of the catchment within the adjacent part of Oxfordshire. Being close to a primary highway network that links the site to all parts of a Swindon catchment area, based upon a one-hour drive time, waste destined for the appeal facility would be able to utilise the most appropriate haulage routes within and around the plan area and within that part of Swindon's sub-regional catchment area that is without Wiltshire. It would not be easy to identify a site better located to minimise transportation distances and none were put forward to the Inquiry. The Chapel Farm site, which was chosen as

the preferred location in the WSALP was similarly located, close to the A419, after a rigorous assessment of alternatives.

24. The site is close to a rail siding that now has spare capacity to receive rail transported waste. Whilst there are no specific proposals to transport waste to the site by rail, the potential is clearly there, and no one referred me to other sites with this potential advantage. The policy says that priority should be given to such sites. I consider the proposal to meet the requirements of Policy WCS2.

25. ***Policy WCS3:*** *Preferred Locations of Waste Management Facilities by Type and the Provision of Flexibility*

26. Policy WCS3 requires treatment capacity to be provided for the processing of 54,000 tonnes of municipal solid waste (MSW) and 250,000 tonnes of commercial and industrial (C&I) waste each year in Swindon and Wiltshire. These figures were revised in 2013 when the WSALP was adopted, taking into account the permitted additional capacity between 2006 and 2010. That analysis suggested that about 360,000 $m^3$of void space would be required, primarily to manage C&I waste, with 130,000 tonnes of treatment capacity being required in addition. The amount of void space required had reduced from 916,000 m^3 in 2006. The appeal proposal could treat up to 150,000 tonnes p.a. i.e. less than the out-of-date 2006 assessment but more than the now somewhat dated 2013 estimates. However, the estimates relate to Wiltshire and not to a Swindon catchment area. Given the geographic circumstances of Swindon, close to the north-eastern corner of Wiltshire, I consider the latter is to be preferred.

27. The text to WCS3 says that the Councils will seek to allocate the 2006 provision but recognises that alternative unallocated sites could come forward. Although the capacity of the appeal proposal is greater than the revised treatment capacity, that capacity did not take into account the subsequent change in policy emphasis against landfill, especially for organic waste. Swindon Borough and Wiltshire Councils' exportation of residual waste from the area was also argued to be a permanent fixture.

28. The policy says that in addition to allocated sites, the preferred location for energy from waste facilities is industrial estates. The appeal proposal is located on the Keypoint Industrial Estate, a large area of industrial/warehousing development and containing a variety of employment uses, including the Honda car plant, many of them located in large buildings, on the eastern edge of Swindon.

29. The policy also says that sites not contained in the WSALP will also be considered, in order to provide flexibility, if they can be demonstrated by the applicant to be in accordance with all the relevant provisions of the strategy, objectives and policies of the Waste DPD documents.

30. Strategic sites must be supported by an independent Sustainability Appraisal/Strategic Environmental Assessment (SA/SEA) and all other relevant assessments and including a full consideration of suitable alternative sites, especially those contained in the WSALP.

31. There was much discussion about the meanings of this policy, which in some respects is at least ambiguous if not incorrect. SA/SEAs are techniques to be used in plan making when the advantages and disadvantages of a number of different sites are comparably assessed to ascertain which should be allocated. They are not a vehicle for assessing the comparative worth of a specific proposal. That should be done through an Environmental Statement (ES) undertaken as a part of an Environmental Impact Assessment (EIA). Ms Darrie accepted this in paragraph 3,2.40 of her proof but the Council nevertheless then went on to argue that the policy requires a rigorous SA/SEA type alternative site assessment for non-allocated sites.

32. Both parties to a greater or lesser extent argued that the policy has two distinct parts but that is not strictly correct. There is certainly no deliberate separation. The policy begins by pointing out that the Councils will seek to allocate sites for waste management facilities, in line with Policies WCS1 and WCS2, to provide for tonnages of waste that are then set out. There is then a list of preferred locations for different types of waste and waste treatment.

33. The Policy then goes on to point out that non allocated sites will be considered to provide flexibility. Following that it refers to strategic sites being supported by an independent SA/SEA report and all other relevant assessments. The only logical interpretation of this is that when proposals are being assessed in the site allocations process, if they are of a strategic nature then they should be done via a SA/SEA and that other strategic sites must be supported by all other relevant assessments.

34. The supporting text in paragraph 5.17 refers to sites that do not fall within preferred locations being considered on their merits and meeting all of the relevant provisions of the Strategy as well as the provisions of the other waste DPD's. It then goes on to refer to the need for such sites to be supported by an independent SA/SEA assessment and other relevant assessments. EIA is another relevant assessment.

35. However, the circumstances for this are said to relate to proposals put forward outside of preferred locations. Industrial land/employment allocations, of which the appeal site is one, are one of the preferred locations. It seems to me that in such circumstances the proposal, being strategic, needs to comply with all relevant provisions of the strategy, objectives and policies of the waste DPDs. As the site is in a preferred location, whether it needs to be supported by an EIA or ES, which among other things has looked at the alternative site scenario seems doubtful to me, but I reiterate that the policy itself, as worded, is far from clear on this matter.

The appropriateness and suitability of the appeal site for the proposed development

36. In the circumstances the Appellant's decision not to undertake a rigorous assessment of alternative sites, before making the application, is understandable. Nevertheless, an Alternative Site Assessment (ASA) was eventually submitted by the Appellant. Its purpose was not to demonstrate which site is the very best for the development proposed but that the appeal site was acceptable for such a use in planning terms, having taken account of

a range of relevant policy, environmental and technical criteria, including at other potential sites.

37. The use of a process to choose the best site(s), if that is what the Council required and given all of the circumstances, is one for the DP system. That is one of the reasons why DP's are prepared. However, in this instance, having abandoned its allocation, at Chapel Farm Blunsdon, the Council has presumably chosen not to repeat the exercise to find out what, in its view, would be the most appropriate alternative substitute site for an EfW facility within the Swindon area or alternatively conclusively demonstrate why there is no longer a need for one.

38. Although not to the Council's liking, the ASA did test 62 sites in total. The Council's criticism that the Appellant already knew what its preferred site was, before undertaking the exercise, is unfounded. The Appellant owned the land and wished to develop it for an EfW facility so, in a planning application and EIA context, that was the obvious starting point. The Appellant was not seeking to find the "best" location for such a facility in this part of Wiltshire, only seeking to demonstrate through comparison with other available sites that the appeal site is acceptable for an EfW facility.

39. The Council went on to criticise the Appellant for restricting the area of search to within 16km of Swindon, rather than the one-hour drive time. However, a large proportion of the population that the facility is intended to serve live in Swindon itself so that a location within it or close to it would be likely to be far more sustainable in transportation terms, than a site more than 16km away. In any event Policy WCS2 requires new strategic waste site allocations to be located as close as practicable to the SSTs and within 16km of them. The appeal site is within Swindon itself.

40. The Council also argued that as the proposed development could accept waste from other local authority areas, the ASA should have considered sites outside of the county. However, it is clear that the target market for the proposal is waste arising from Swindon and north Wiltshire. That is where there was a demonstrable need for new energy recovery capacity as set out in the SALP. On that basis, whilst the facility might have the capacity to take waste from elsewhere, that does not, to my mind, imply that sites out-with the 16Km should also have been assessed.

41. In discussing the site assessment process undertaken when preparing the WSALP, the examining Inspector referred to sites being considered against a range of qualitative and quantitative criteria and the need for a methodology that allowed for a site to be excluded on the basis of significant adverse impact in relation to identified criteria. Although perhaps not undertaken in the way that the Council would have approached the exercise, this is effectively what the Appellant has done. None of the sites that were rejected appear to perform better than the appeal site and no one suggested alternative available sites within 16km of Swindon and then went on to demonstrate how they were more suitable than the appeal site.

42. Whether or not an SA/SEA type assessment of alternative sites should have been a component of the exercise, given the Council's actions re Chapel Farm Blunsdon, it would not have been unreasonable to expect it to carry out its

own assessment to establish a more appropriate alternative if it was really concerned about the waste planning credentials of the appeal or any other potential alternative site in a locational context. However, the Council has done no such thing. I consider the proposal to be in accordance with Policy WCS3.

43. In the interest of sustainable waste management, Policy WCS5: *The Wiltshire and Swindon Waste Hierarchy and Sustainable Waste Management* seeks to drive waste up the hierarchy by ensuring that developers demonstrate that the most suitable option for waste management has been promoted. An accompanying diagram sets out the waste hierarchy. Energy from waste (thermal treatment) is a component of Recovery and is ranked above Safe Disposal, which includes landfill and land-raise. The supporting text emphasises that the disposal of waste to landfill is a final option. Providing the appeal proposal is not diverting waste that could be otherwise treated higher up the hierarchy then it is not contrary to this policy.

44. If the Renewable Energy Centre (REC) achieves R1 status and is consequently classified as a recovery facility (see paras. 99-108), then as I have found that it would be unlikely to divert waste which would otherwise be treated higher up the waste hierarchy (see paras. 191-197), the proposal would be in accordance with Policy WCS5. I return to the consideration of R1 status later (Paras. 101-108).

Policy WDC1: *Key criteria for ensuring sustainable waste management development*

45. Policy WDC1 requires proposals for waste management development to contribute to the delivery of sustainable development. The social, economic and environmental benefits of waste management are to be maximised and adverse impacts kept to a minimum. Proposals are to be assessed against six criteria. The Council did not specify any adverse impacts. Its criticisms of the appeal proposal, in the context of this policy, revolve around the imprecise nature of the information provided by the Appellant on feedstock and the extent of the road miles involved in transporting it. It also refers to cross boundary impacts as being potentially adverse. Whilst the feedstock criticisms are understandable, it is common at this stage in the development of an EfW project for there not to be contracts in place to demonstrate the source and nature of the feedstock.

46. Criterion 1 requires a consideration of the avoidance of cumulative environmental impacts and the adequacy of any mitigation. Ms Darrie confirmed to the Inquiry that the Council as Planning Authority was not objecting to the proposal on transportation grounds and there was no objection from it as Highway Authority. I do not consider the likely increase in vehicular traffic along Thornhill Road and at its junction with the A420 at Gablecross would result in residual cumulative impacts on the road network that would be severe. I refer to the matter of the feedstock later (paras. 109-113, 120, 121 & 128), but I am satisfied that in the context of this policy it is unlikely that there would be any unavoidable adverse environmental impacts.

47. The site is strategically located in the context of the local road network and the distribution of population, being within the Swindon urban area and close to the junction of the A419 and A420. It is in a similar location, close to the A419, to the Council's preferred site at Chapel Farm that is no longer available. There can be no suggestion that the impact of transporting waste to and from the site would hypothetically not be minimised any more than the same suggestion could be levelled against Chapel Farm.

48. The site is located within Flood Zone 1 and neither the Environment Agency (EA) nor the statutory water consultees have made representations against the principle of the proposal.

49. The site is an unused area of land with no identified ecological assets of significance. There would nevertheless be landscape and ecological improvements through the landscaping proposals, the details of which could be made the subject of a condition, leading to an enhancement of local biodiversity. This weighs in favour of the proposal to a minor extent.

The impact of the proposal on the setting and condition of nearby heritage assets

50. The parties agreed that there were no designated heritage assets or conservation areas within or immediately adjacent to the appeal site, the nearest being 330m and 450m away respectively. The Council concluded that the harm to the settings of the listed buildings and the ancient monument within the area would be less than substantial and at the lower end of the scale. I do not disagree.

51. The appeal site is close to the Bodleian Libraries' storage facility (BLSF), which houses books, manuscripts and other archival material to be retained permanently as a part of the nation's heritage. This facility should be considered to be a non-designated heritage asset. The Library is concerned about the impact that emissions from the EfW plant could have on the building's atmospheric environment and a consequent risk of deterioration in the condition of its books and manuscripts.

52. In consequence it appeared at the Inquiry to object to the appeal proposal. Following discussions during the course of the Inquiry, it was agreed that these concerns, in as much as they related to nitrogen and related gases, could be overcome by a condition requiring the installation of a SCRF to intercept the harmful gases. Subsequently the Appellant offered, by way of a Unilateral Undertaking, to fund improvements to the BLSF air intake system in order to maintain levels of other gases, potentially harmful to the collections, to below levels observed in 2016.

53. The installation of a SCRF and the improved air filtration system at the BLSF should ensure that there was a very low risk of material stored within the building being harmed by the Renewable Energy Centre (REC) operations. In consequence, the risk of harm to the non-designated heritage asset would also be at the low end of the scale. I return to this matter when discussing atmospheric pollution more generally (paras. 95-98).

54. On my site visits I took the opportunity to assess the impact of the proposed buildings and the flue-stack on the settings of the listed churches at South Marston (SM) and Stratton St Margaret (SStM). The principle aspect of St

Mary Magdalene church at SM is from the west and the appeal proposal would be behind receptors experiencing this view. The existing large warehouses between SM and the appeal site already provide a significant industrial context for the setting of St Mary Magdalene church, when seen from the east. Whilst the chimney would be visible in views from this direction, it would be seen in the context of the industrial backdrop. Although the industrial/warehousing buildings, west of SM, have been limited to a height of no more than 15m, it is doubtful whether the appeal buildings would be noticeable in views of the church from the north-east and the flue-stack would not be a dominant feature in the views because of the distances involved. With the development of the New Eastern Villages (NEV), views of the chimney in the same vista as the church, from the south-east, would not be commonplace.

55. St Margaret's church at SStM is for the most part surrounded by mature trees. Because of these and the surrounding urban development, any views of the church from the surrounding area that included the chimney, would be the exception and unlikely to substantially harm the setting. Whilst the chimney would be visible from some vantage points, within the eastern part of the church yard, the church itself is not contained within these views and there are already views from this location of the smaller chimneys at the Honda works. I conclude that any harm to heritage assets would be significantly less than substantial and that the proposal would protect the local cultural heritage.

Landscape impact

56. The Council does not consider the impact of the buildings on the local landscape to be adverse, only the flue-stack. Although 52m high, the proposed chimney height has been minimised in the context of the proposed use. There are numerous EfW plants with higher and/or bulkier flues (see ID 33).

57. The policy requires this criterion to be informed by the Wiltshire Landscape Character Assessment. However, neither party referred to this in their assessment of harm to the landscape, although the Council did point out that the chimney would be seen from three nearby landscape character areas (see also para. 62). The Council considers that the chimney's appearance could be improved by a colour gradation and some streamlining of the structure. These could be secured by a condition to which the Appellant agrees. In the context of the policy requirement, I am satisfied that the height of the chimney has been minimised in terms of the requirements of the proposed use.

58. The proposal would be the subject of a condition requiring the decommissioning of the plant, were the importation of waste to cease, and the submission and implementation of a scheme of restoration.

59. I conclude that the proposal is in accordance with Policy WDC1 and that the weight attributable to the harm to the heritage assets should be minimal.

Policy WDC2: *Managing the Impact of Waste Management*

60. Policy WDC2 requires proposals for waste management development to demonstrate that they avoid, adequately mitigate against or compensate for significant adverse impacts relating to nine considerations. Ms Darrie confirmed in evidence that the Council did not consider the policy to offend this policy in the context of the transportation of waste. No issues were raised in the context of amenity, noise and light emissions, vibration, the water environment, contaminated land and agricultural land that could not be overcome by appropriate conditions. The Council and others were concerned about the visual aspects of the flue-stack, air emissions and climate change.

The landscape and visual impact of the proposal

61. The site lies within an industrial area, characterised by large buildings with ridge lines up to about 20m high. The Council agrees that the buildings themselves would not be out of character with their surroundings. Its concern is the height of the chimney and its impact on the urban views within the area. Tall structures are not common in Swindon, although they do exist. The David Murray John Tower, which is 84m tall, the flue stack at the Waterside waste recovery centre and the Chimney at Great Western Hospital are among them.

62. The appeal site and its surroundings do not fall within any statutory or non-statutory landscape designation. In clear weather the stack would be visible from the North Wessex Downs AONB but in the context of urban Swindon as a whole. There were no objections raised in this respect, from the AONB Authority or from the Council's landscape officer.

63. The appeal chimney would be visible in some views from the surrounding area, the most notable being from the Watermead open space and along Park Street, which are both immediately to the west of the A419 from the appeal site. However even from here the vistas would be limited because of the extensive tree planting either side of the A419 and around the park itself, especially in summer.

64. It is surprising, when driving and walking around Swindon how limited clear, standalone views of the tall structures actually are. Even the David Murray John Tower which is much bulkier and higher than the appeal stack would be, does not dominate many views in and around the town centre and in most instances, it is not visible at all. This is because vistas in urban areas are much more likely to be affected by buildings and other elements of the landscape than they are in the open countryside.

65. The Council submitted a series of drone images taken from the notional top of the stack. The Appellant submitted a Light Detection and Ranging (LiDAR) assessment which shows comparative building heights in the area, a series of photo views and photomontages, some aerial photographs and a plan showing Screened Zones (SZs) of theoretical visibility.

66. Whilst an assessment of the drone images, in the vicinity of the appeal site and where there is visible open land, does enable an interpreter to deduce the locations from where the flue would be visible, further afield and particularly

within built up areas, other than allowing one to deduce which roof tops the chimney would be seen from that assessment is of little help.

67. The SZs plan indicates the theoretical locations, within the adjacent parts of the industrial estate and SStM, from where the chimney would be seen. However, the computerised model does not include the influence of all vegetation, which in summer would have a notable screening effect, particularly in views from the eastern parts of SStM.

68. Using this plan and the photomontages, I assessed the extent to which the chimney would be seen from many locations within 1Km of the appeal site. I concluded that in most views, in the direction of the stack and within the urban area, it would not be visible. In others it would be seen in association with other buildings and vegetation and in a limited number of instances it would be framed by buildings or vegetation and be the dominant feature in the view.

69. Whilst the Council is correct to allege that there are already potentially thousands of existing receptors within 1Km of the stack and that there will be potentially thousands more when the NEV is completed, it is misleading to say that the chimney would be visible from extensive parts of the residential area. The views would actually be limited in these areas rather than commonplace as the Council implies. The structure would be highly visible as alleged by the Council but to that extent, only from a few locations within the developed areas.

70. Whilst the chimney, if constructed today, would be visible across a wide area, to the south and east of the appeal site, once the NEV was developed, views of the flue-stack would be no more visible from within these areas than it would be from much of SStM today. If an absence of views of the chimney are as desirable as the Council implies, then the avoidance of views of the flue stack could be a consideration when assessing proposed development layouts and building heights within the NEV.

71. The Council agreed in cross-examination that occasional framed views of tall structures, such as church spires, were a component of urban landscapes and not harmful. Its concerns primarily relate to the material that would be dispelled from the stack and people's association with this and the EfW plant rather than the actual physical appearance of the stack. In the Council's opinion, every time someone saw the stack, they would be reminded of the gases that it was discharging. This would have an effect on their psychological wellbeing.

72. In that context, the Council considers that the associations that receptors would hold with the flue stack are relevant to the landscape and visual impact analysis and should inform it. I agree that people's fear of harm is a genuine negative perception of the proposal and that it should be assessed and weighed in the planning balance. However, I do not consider its use as information in a Guidelines for Landscape and Visual Impact Assessment (GLVIA) to be appropriate. Whilst the GLVIA does say that character can "*also embrace the aesthetic, perceptual and experimental aspects of the landscape that make different places distinctive"* that is said in the context of defining the existing character of an area. I return to people's perceptions

about the flue stack and the weight to be given to them below (paras. 84-98 and 146-151).

73. There is no argument that the introduction of a 54m high chimney into this area would not be out of character. As there are currently no structures remotely near this height in the eastern part of Swindon it couldn't be anything else.

74. Policy WCS3 identifies industrial land/employment allocations as preferred locations for EfW facilities. All EfW plants have flue stacks, many of them higher than the one proposed at Keypoint. If there was a genuine concern on the part of the Council as to the impact of chimneys at EfW plants that are within close proximity of residential areas, then Policy WCS3 should have been qualified to that effect. However, it was not. Not only did the Council not seek to introduce parameters into Policy WCS3, to further restrict the location of EfW plants within designated industrial/employment areas, it then went on, in the site allocations plan, to propose a site at Chapel Farm, Blunsdon specifically for that purpose. The supporting text notes that *"a large mixed development area is located to the immediate south of the site"*. That site is the Tadpole Farm housing area where the 1695 dwellings proposed in Policy NC5 of the SBLP are now largely complete and occupied.

75. Both parties undertook GLVIA assessments in order to assess the character and visual effects of the proposal on the landscape. They agreed that the visual effect of the flue stack when seen from outside of its industrial environment would be adverse and that it could not be mitigated. The Council has also concluded that in landscape and visual terms the impact of the flue stack would be highly adverse.

76. Mr Potterton, for the council, considered the effect on landscape character to be major adverse within 1Km. This is the highest level of impact. However, in the methodology that he describes[5], major adverse is meant to represent an impact that results in a "*dominant or total change to baseline character or condition"* of the landscape. In significance terms "*the proposals would be at considerable variance with the local landscape. They would degrade, diminish or destroy a highly valued landscape or its characteristics, features or elements"* in order to result in an impact of major adverse.

77. In the first instance this is not a landscape that in assessment terms is considered to be highly valued. Whilst the flue stack would be a new feature, such a feature is not unusual in an urban context, particularly on an industrial estate and it would not significantly degrade, diminish or destroy the landscape, nor would it change its baseline character or condition. In many views, within the surrounding area the proposal would not be visible. In such circumstances, the notion that the proposal would change the baseline character or condition is not plausible.

78. Mr Potterton's assessment of the landscape impacts from between 1 and 3 Km (moderate adverse) is similarly an exaggeration. To achieve this level of harm *"the proposals would leave an adverse impact on a landscape of recognised quality or on vulnerable and important characteristics, features or*

[5] PoE para. 4.85 & 4.86

elements." I was not referred to a document where the local landscape has been assessed to be of recognised quality.

79. I spent some time assessing the character and appearance of the area, surrounding the appeal site, on my accompanied and unaccompanied site visits. I have also assessed the extent to which the proposal would be visible both now and when the proposed developments in the wider area are complete. I consider the magnitude of change resulting from the proposal could be no higher than minor:- "*a perceptible change to baseline character or condition*". The impact would be no higher than minor adverse: - "*not quite fit into the scale, landform and pattern of the landscape".* However, it is far from clear what area or elements of recognised quality and importance the proposal would actually harm.

80. To suggest that visual harm within 2Km, as Mr Potterton does, would be major adverse is again an over-statement. His assessment criteria[6] suggests that in this situation, *"the proposal would cause total or permanent loss or major alteration to key elements and features of the landscape, including the introduction of elements that are wholly uncharacteristic in the surrounding landscape. The proposal should also be visually intrusive and would disrupt fine and valued views both into and across the area".*

81. I was not referred to any fine and valued views that it would disrupt. The views from the AONB are fine and valued but these views already contain tall structures and the responsible body does not object to the appeal scheme. It would introduce a new element into the landscape in the context of the chimney's height but there are already chimneys, albeit of a lower height so to suggest that a new flue-stack in an industrial area that already has flue stacks is wholly uncharacteristic is again an exaggeration.

82. Mr Potterton explained in cross-examination that his conclusions had been influenced by his opinion that the proposal was *"a nasty thing"*. However, such an approach does not seem to me to be supported in GLVIA. The structure would look the same whatever it was associated with so that additional weight against this chimney as opposed to others where there was no public anxiety is not appropriate. In these circumstances the Council's landscape evidence is not credible. I consider both the visual and landscape impact of the proposal would be minor adverse.

83. The Policy test is that the proposal avoids, adequately mitigates against or compensates for significant adverse effects relating to visual aspects. I have found the impact of this proposal on both the landscape and the visual experience to be minor adverse and not significant. Nevertheless, the Appellant offered further mitigation during the course of the Inquiry through amendments to the proposed inspection gantry and a colour scheme that would help blend the flue stack into its surroundings. In the circumstances I consider the proposal does not offend Policy WDC2.

[6] PoE para 4.45

The impact of the proposal on environmental (air) quality and the promotion of healthy and safe communities

84. There is much local concern about the local air quality and the ramifications of the proposal's emissions on this. There appears to have been an orchestrated distribution of misinformation in the residential areas close to the appeal site in order to galvanise overall opposition against the proposal. As a consequence, many local residents are genuinely concerned about the potential impact of harmful gases being added to the local atmosphere, through the chimney, on their and their children's health. There are numerous letters of objection that have been submitted on this basis and a number of local residents took the trouble to appear at the Inquiry to express their concerns.

85. The Council made no reference to this matter in the officer's report on the application, the reasons for refusal or its Statement of Case but it did in its evidence to the Inquiry. To do so it focussed on this through opposition to the chimney on landscape character and visual harm, based upon the psychological effect of fears about some of the chimney's outputs on people's perception of the visual aspect of the local landscape. I discussed this above (paras. 72 & 82) and concluded that whilst fear of harm is a material consideration, it is not helpful to cloud a methodological assessment of the impact the proposal would have on landscape concerns by introducing fear into the equation.

86. The position that is now well established through decisions made by both the Secretary of State and judicial considerations, is that the matter of air quality, if raised, will always be a material consideration with the weight attributed to it determined by the particular facts. Weight will be affected by the existence or otherwise of objective justification for the concern and the degree to which land use consequences flow from the perception of harm. In that context, it is a factor to be weighed in the planning balance.

87. The notion that among other matters, EfW plants are a cause of birth defects and deaths and are a known cause of cancer was clearly prevalent in the local population. Although the Appellant responded to these concerns, to which it attached the terminology "*Project Fear*", in the circumstances and particularly the absence of any reassurance from the Council, I do not find it at all surprising that there is a perception in the local community that the appeal proposal would pose a risk to their health.

88. It is national waste planning policy that the determination of this appeal must proceed on the basis that the Environment Agency (EA) will carry out its functions competently and in accordance with its various statutory and regulatory duties. The objective evidence is that an Environmental Permit (EP) will have to be issued for the facility and that it will therefore operate in compliance with the emission limits specified by the Industrial Emissions Directive.

89. The EP will be monitored in accordance with the conditions set out within it. If the EA considers that the proposal could not operate within the emissions limits, then it would not issue a permit and the plant would be unable to operate. If the EA granted a permit and subsequently found out through its monitoring process that the plant was operating with emissions above the

prescribed limit, then it would revoke the permit and the plant's operation would cease until the matter had been resolved.

90. The summary to the Health Protection Agency's (HPA) 2009 position statement says:

"The Health Protection Agency has reviewed research undertaken to examine the suggested links between emissions from municipal waste incinerators and effects on health. While it is not possible to rule out adverse health effects from modern, well-regulated municipal waste incinerators with complete certainty, any potential damage to the health of those living close-by is likely to be very small, if detectable. This view is based on detailed assessments of the effects of air pollutants on health and on the fact that modern and well managed municipal waste incinerators make only a very small contribution to local concentrations of air pollutants. The Committee on Carcinogenicity of Chemicals in Food, Consumer Products and the Environment has reviewed recent data and has concluded that there is no need to change its previous advice, namely that any potential risk of cancer due to residency near to municipal waste incinerators is exceedingly low and probably not measurable by the most modern techniques. Since any possible health effects are likely to be very small, if detectable, studies of public health around modern, well managed municipal waste incinerators are not recommended."[7]

91. I consider that statement to be an acknowledgment that an EP is actually a permit to allow emissions to the atmosphere of various substances including pollutants within what are judged, on currently available evidence, to be levels within which harm is not likely to be caused. That older generation incinerators operating prior to the introduction of current strict emission controls were more polluting than modern EfW plants is acknowledged.

92. HPA continues to gather evidence to extend the evidence base and provide further information to the public. Within a 2012 press release it says:

"It is important to stress that our current position on the potential health effects of well run and regulated modern Municipal Waste Incinerators remains valid. This is that while it is not possible to rule out adverse health effects from modern well-regulated municipal waste incinerators with complete certainty, any potential damage to the health of those living close-by is likely to be very small, if detectable. This view is based on detailed assessments of the effects of air pollutants on health and on the fact that modern incinerators make only a very small contribution to local concentrations of air pollutants."[8]

Essentially the HPA's position is that on the basis of what is known it considers the risk of harm to health to be very small. Nevertheless, in the circumstances of this appeal, I do not consider the fears within the local community are either irrational or unfounded.

[7] HPA Statement "The Impact on Health of Emissions to Air from Municipal Waste Incinerators" (Health Protection Agency, September 2009). Appeal ref APP/T1600/A/13/2200210, Land at Javelin Park, near Haresfield, Gloucestershire, para 1238 (CD17.9)
[8] HPA statement on the new study of health impacts around incinerators (HPA, January 2012). Appeal ref: APP/T1600/A/13/2200210, Land at Javelin Park, near Haresfield, Gloucestershire, para 1241 (CD 17.9)

93. Whether or not the position of the HPA is reassuring will depend on an individual's attitude to risk and confidence in the ability of the EA to manage it. In this case, whatever the level of risk is perceived to be, it is an involuntary risk and one for which no mitigation or avoidance measures short of moving away from the area are available to the individual.

94. Breaches of emissions limits at EfW plants are very rare. However, they have been known to occur and whilst the circumstances of the operation and fire, as well as the resultant pollution, at Averies Recycling centre in Marshgate, Swindon are very different to a modern EfW operation, that site was nevertheless the subject of an EP. It is for these reasons that I consider the concern arising from a perception of harm to be rational even though there is no objective evidence that actual harm would occur. The weight that should be attributed to this perception of harm in a planning context, however, is influenced by the extent to which there would be a land use consequence. I refer to this later (paras. 163-174).

95. As referred to above (paras. 51-53) the University of Oxford raised concerns about the impact of potential increases in harmful gases in the local atmosphere on the long-term preservation of the books and manuscripts stored in its BLSF. In the context of the SOCOTEC UK Ltd Air Quality Assessment, which was first presented with Mr Ford's proof of evidence, on behalf of the Appellant, it is suggested that concentrations of pollutants in the vicinity of the appeal site have decreased since the storage facility was built.

96. However, the concentrations presented to support this claim were estimated and were not based on measured evidence. The Bodleian Library made the point that measured concentrations of the oxides of nitrogen have not decreased as estimated by Defra due to the impact of diesel emissions. The appeal site and the BLSF are both close to the A419 and A420 where vehicular traffic is likely to have increased in recent years and along with it, emissions of NO^2 from that source. The Bodleian also submitted other evidence that suggested that NO^2 emissions in the vicinity of the sites had increased and not decreased, as alleged by the Appellant, since the Library facility had been built.

97. Whilst the Inquiry progressed, discussions took place between the Appellant and the Bodleian to reconcile their differences. The result was a proposal from the Appellant to install a SCRF in the emissions filtration system. The Appellant was of the opinion that such a system would typically reduce nitrogen dioxide emissions by in excess of 90% of what they could otherwise have been and would mean that the levels of pollutant emissions would be at least 50% less than the maximum likely to be allowed under a permit. Both the Bodleian and the Council welcomed the revised emissions proposals and agreed that the installation of a SCRF and the accompanying emissions levels were capable of being made the subject of a condition.

98. This further reduction in emissions from the REC may help to overcome the concerns of the wider public as well as those advanced by the Bodleian. The Appellant also agreed to the establishment of a Community Liaison Group (CLG) to enable matters of public concern to be discussed with the REC's management team. Such an organisation could facilitate the distribution of agreed information on the likely revised emissions, including their level when

compared to other modern plants. Such an exercise would also be an opportunity to explain the actual composition of the material that would be being disposed of through the stack. There was a clear public perception at the Inquiry that the chimney was there to exhale only pollutant material into the atmosphere. That is far from the case, a significant proportion of the effluent being composed of harmless gases and water vapour. The cooling of the latter is the main dictator of the chimney's height, rather than the residual amounts of pollutant gases. The establishment of a CLG could be made the subject of a condition.

The sustainability of the proposal in the contexts of waste management and energy production

99. SKIP and UKWIN both raised concerns about the proposal in the context of its energy efficiency. The National Planning Policy for Waste (NPPW) seeks to deliver sustainable development by, among other things, driving waste management up the waste hierarchy. The proposed facility is intended to treat, by gasification, residual non-hazardous C&I waste sourced from within a catchment area based upon Swindon. Much of this is currently sent to landfill. The facility would also be capable of accepting MSW. That from Swindon is currently exported for treatment (currently to Southern Europe), whilst much of that from Wiltshire is transported for treatment at an EfW plant near Heathrow airport and just west of London.

100. The process would have an installed electricity generating capacity of around 14.5 megawatts and the potential to capture some 1.5 megawatts of heat, in the form of hot water recovered from the cooling systems associated with the combustion process. No end user has, as yet, been identified for either energy source although the electricity not used on-site could be exported to the national grid. Nevertheless, it is not unusual at this stage in an EfW proposal's development for there to be no committed consumers.

101. UKWIN, supported by local residents, argued initially that the facility would comprise a disposal operation, as opposed to recovery. Much was made in this regard of the fact that the facility did not have R1 status[9]. An associated footnote in the Annex referred to confirms that recovery includes incineration facilities dedicated to the processing of waste where (as anticipated in this case) energy efficiency would be 0.65 or above, calculated using a specific formula (the R1 formula). Without this the proposal would be classed as disposal and at the bottom of the waste hierarchy, along with landfill.

102. Policy WCS5 says that in the interests of sustainable waste management, the Councils will seek to drive waste up the waste hierarchy by ensuring that developers demonstrate that the most sustainable option for waste management has been promoted. In the circumstances of this appeal a REC that generates electricity and provides heat to an extent that R1 status is achieved would be classified as recovery. I consider that the proposal needs to at least achieve this in order to meet the requirements of Policy WCS5.

103. The EA is the competent authority for determining whether a plant meets the definition of R1 Recovery. R1 is assessed at three stages: plant design;

[9] A recovery operation as defined by Annex II of the revised EU Waste Framework Directive (2008/98/EC)

commissioning; and then during normal operation. It is not necessary for a developer to obtain R1 status before applying for planning permission. However, the EA has assessed the R1 energy efficiency factor of EfW gasification proposals at the plant design stage before and found some of them to meet the criteria. I was referred to such a plant at Bilsthorpe in Nottinghamshire (CD 17.1)[10].

104. As well as the actual gasification process used, the R1 value is also affected by the nature of the feedstock used. The gasification process proposed to be used at the application stage is no longer available and a replacement has yet to be chosen. The precise nature of the feedstock was also uncertain at the time of the Inquiry.

105. In the Bilsthorpe case, the Inspector recommended to the Secretary of State (SoS) that were permission to be granted, an appropriately worded planning condition could ensure that the plant could not operate other than as an R1 facility when assessed over a year. The SoS accepted that recommendation and imposed the condition when granting planning permission.

106. The appeal site is located within the Swindon urban area and within a large industrial warehousing area with a number of potential existing local customers for any power or heat that it could provide. The development of the nearby NEV would also provide further employment as well as residential customers for this energy. Whilst the precise nature of the gasification technology to be used has still to be confirmed, as has the feedstock, the proposal is nevertheless comparable to the Bilsthorpe case. A condition would ensure that the Appellant sourced appropriate technology and feedstock to convince the Environment Agency that the proposal could receive R1 status before any site works could commence and operate to that standard thereafter.

107. Our Waste, our Resources: A Strategy for England[11] says at para. 3.2.1 that the Government will seek greater efficiency from EfW plants and will ensure that all future EfW plants achieve recovery status. In such circumstances and given the favourable circumstances for commercially producing and disposing of heat and power from this site, there is no reason to suppose that this facility, given the correct technology and feedstock, could not be an addition to the eight plants that already successfully operate nationally in a combined heat and power mode.

108. To conclude on this issue, I have no good reason to suppose, based on the evidence before the Inquiry, that the proposed facility would not be other than R1 compliant in all reasonable operational conditions, notwithstanding the possible experimental nature of the technology to be used. I am satisfied, therefore, contrary to the views of UKWIN and others, that it is appropriate to consider the scheme as a recovery facility, as opposed to a waste disposal operation. I find no conflict therefore, with the waste hierarchy, which places energy recovery above disposal, and the ambitions of the WCS in this regard. I conclude that the proposal accords with Policy WCS5

[10] Appeal ref: APP/L3055/V/14/3001886, Bilsthorpe Business Park, Eakring Road, Bilsthorpe, Nottinghamshire, NG22 8ST
[11] Defra December 2018

in this respect. Nevertheless, as the proposal's recovery status has still to be proven I give no weight to it in the planning balance.

The carbon output of the proposal and its contribution to climate change

109. Energy from Waste: A Guide to the Debate (GtD)[12] provides factual information on the development of facilities to efficiently recover energy from residual waste. This document is one which should be afforded considerable weight as it is a part of Government policy. Renewable energy is that which comes from renewable non-fossil sources. In the application, the proposal is indicated to be using a feed-stock of residual waste as the fuel source. Typically, such wastes contain a significant proportion of materials like food and wood (the 'biogenic' materials) and energy produced from this material is considered to be renewable. However, residual waste also contains wastes, such as plastics, manufactured from 'fossil' fuels. Energy from this fraction of the waste stream is not renewable and, for a mixed waste stream such as that in the appeal proposal, the energy recovered is considered to be only a partially renewable energy source.

110. Residual waste typically contains many items that will have come from biological sources and the carbon stored within them is known as biogenic carbon. Other items that will be present such as plastics are manufactured using fossil fuels such as oil and the carbon embedded in them is known as fossil carbon. Biogenic carbon is also termed short cycle carbon because it was only recently absorbed in growing matter. On the other hand, fossil carbon was absorbed millions of years ago and would be newly released to the atmosphere if combusted. Such waste if landfilled releases carbon at a much slower rate than if it is disposed of by incineration.

111. The extent to which the energy produced by the appeal proposal can be classed as renewable therefore turns on the proportion of biogenic material in the residual waste stream that would be treated.

112. GtD compares EfW with landfill. The waste sent to these facilities is meant to be the waste that remains after the prevention, preparing for reuse and recycling initiatives and activities have been brought to bear. Currently, this waste is largely landfilled by the private sector and exported for treatment elsewhere in the UK or EU by Swindon and Wiltshire Councils.

113. Managing untreated mixed waste by either combustion in an EfW plant or deposit in a landfill will release gases that contribute to global warming. However, whereas landfill will release both carbon dioxide ($CO^{2)}$ and methane, an EfW process emits only CO^2. Methane is currently assessed as being 25 times more damaging to the atmosphere than CO^2. Whether EfW produces a lower volume of greenhouse gases than landfill is a complex assessment that needs to be undertaken on a case-by-case basis. Nevertheless, there are two general rules that apply. These are:

- The proportion and type of biogenic waste is key with high biogenic content making EfW inherently better and landfill inherently worse.

[12] Energy from Waste, A guide to the debate, Defra July 2013 (CD 11.1)

- The more efficient the EfW plant is at turning waste into energy, the greater the carbon offset from conventional power generation and the lower the net emissions from EfW.

114. There is an urgent need to divert more of the area's waste from landfill. Much needed renewable energy with a potential to exploit combined heat and power (CHP) could be provided by the proposal, thus increasing energy security and assisting the achievement of renewable energy targets. CO^2, otherwise emitted in the generation of energy, would be reduced and harmful methane emissions from landfilling would be displaced.

115. The contribution, if any, the appeal proposal would make towards cutting greenhouse gas emissions and the weight that should be attributed, in any planning balance, to any benefit from this source needs to be assessed. Both SKIP and UKWIN, accept that renewable energy would be generated from the proposal and that this electricity would be classed as low carbon. They nevertheless challenged the assumptions that the Appellant made in its original assessment and concluded that the alleged carbon output benefits of the proposal had been overstated.

116. SKIP asserted that the proposal would have a more adverse impact, in terms of greenhouse gas emissions, than sending the same waste to landfill. It calculated the margin of difference to be about 35,000 tonnes of CO^2 pa. UKWIN calculated that it could be as high as 80,000 tonnes of CO^2 worse than landfill. The Appellant calculated that the proposed carbon output would be about 23,000 tonnes of CO^2 less than if the waste were to be sent to landfill in the text to the ES but in the appendix, a figure of 15,000 tonnes was referred to. SKIP and UKWIN also point out that the claimed carbon savings are overstated because there was no assessment of indirect emissions, e.g. from vehicles importing materials to the site to be used in the operation. In addition, there was no comparison of the emissions involved transporting waste to the appeal site rather than to landfill sites.

117. There was also criticism by UKWIN about the potential use of waste that could otherwise be compostable or recyclable, resulting in less emissions than if the same waste was treated by being fuel at the REC. In addition, it pointed out that the feedstock assumptions used by the Appellant's consultants in its Waste and Resources Assessment Tool for the Environment (WRATE) analysis were different to the assumptions used previously by the Appellant.

118. Since the application was considered by the Council, the gasification technology proposed to be used in the REC has become unavailable. The Appellant subsequently indicated that it was considering the use of one of three similar Japanese technologies but at the Inquiry it was confirmed that there was no final decision on the use of any of these. The Appellant pointed out that 95% of the Greenhouse Gas emissions would be accounted for by the composition of the waste itself so that a change in technology would only have a marginal impact on the CO^2 equation.

119. Nevertheless, as SKIP pointed out, some gasification technologies, to a greater or lesser extent, require the importation of fuel to be used in start-ups and this would have a carbon footprint. Different technologies could require a variation in the waste composition and as of now the precise mix and location of any of the sources of waste that would be used in the REC is not known.

SKIP suggested that the carbon deficit produced by using the Japanese technologies could be as high as 65,000 tonnes of CO^2 pa.

120. The answers to questions during the presentation of evidence confirmed to me that the eventual nature and location of feedstocks and the technology being used to treat them, could result in significant variations in the actual carbon footprint of the REC. Indeed, in his proof of evidence (para 5.25) Mr Parkes, whilst answering SKIP and UKWIN's criticisms of his use of the WRATE analysis to assess the REC's carbon footprint on behalf of the Appellant, nevertheless accepted that "*The actual waste composition cannot be known at this stage as by its very nature it is variable and subject to change"*.

121. That being so and as with the energy recovery calculation, any assessment of the carbon footprint of the operation is premature until the gasification technology which is to be used is confirmed and the details of the waste streams (feed-stock) that would serve the REC are known.

122. The Appellant has used WRATE to assess the CO^2 equivalent savings that would be achieved by the appeal proposal. SKIP and UKWIN were heavily critical of this and in its own assessment SKIP used a procedure set out in a report from a Defra study to suggest that the carbon impact of the proposal would be negative. Nevertheless, WRATE is the UK's principal tool for modelling the carbon and environmental impact of waste.

123. The criticisms revolve around the unknowns and in particular the extent to which different technologies would require different inputs and result in different outputs in a carbon footprint context.

124. WRATE is clearly very sensitive to the default assumptions embedded in the model and those fed into it. Whilst the model used in the ES accompanying the submitted planning application assessed the carbon benefit as about 23,000 tonnes CO^2 equivalent, that undertaken subsequently by Mr Parkes estimated the saving to be about 33,000 tonnes CO^2 equivalent.

125. GtD confirms that generating heat and electricity together through CHP typically produces much greater efficiencies (in excess of 40%)[13]. As set out above from the same source, the more efficient the EfW plant is, the greater the carbon offset.

126. From this it seems to me that the carbon offset that would be achieved, the extent to which the appeal proposal can be considered low carbon and therefore the contribution to reducing greenhouse gas emissions that would be made by the appeal proposal, will also be influenced by the potential for CHP to be realised.

127. No contracts exist between the Appellant and potential users of any heat. However, that is not unusual and is to be expected at this stage of the process towards a planning permission. It has been accepted in other appeal decisions of this nature, including ones decided by the Secretary of State. Nevertheless, the observation in GtD that while many EfW plants are built 'CHP ready' a lack of heat customers, due either to location or the relative cost of alternatives, means that they operate in the less efficient electricity-only mode gives cause

[13] CD11.1 para 121

for concern. Evidence presented to the Javelin Park appeal[14] suggests that only three out of 25 EfW plants actually export heat.

128. Whether the appeal proposal would be inherently better than landfill with regard to greenhouse gas emissions would largely depend on the biogenic composition of the wastes. Whatever the biogenic content of the residual waste was, at any point in time, the EfW facility proposed would be a better treatment option than landfill for its treatment, in terms of greenhouse gas emissions, since there can be no methane released to the atmosphere as a result of the process. The issue therefore is what proportion of the waste stream needs to be organic to offset the carbon that will be released from the burning of plastics etc manufactured from fossil carbon and also any use of fossil fuels themselves in the processes. Additionally, will there be sufficient available organic waste that would otherwise be disposed of to landfill throughout the life cycle of the proposed EfW plant?

129. The government's objectives set out in Our Waste, Our Resources[15] are to reduce overall food waste, separate food waste from other waste at collection and to continue to promote the use of anaerobic digestion as the best outcome for food waste that cannot be prevented. If successful, this clearly has a bearing on the ability of the REC to attract a waste stream whose treatment by EfW would result in a positive carbon footprint. In the overall circumstances, whether the proposal can be classified as low carbon seems to me to be uncertain at the present time.

130. GtD refers to energy from waste as a partially renewable energy source, '*sometimes referred to as a low carbon source*' and, in the context of financing, says that resources will be put to '…*optimising the role of energy from waste in the hierarchy and as a source of low carbon energy*'.

131. The National Policy Statement for Renewable Energy Infrastructure (EN-3) 2012[16] nevertheless recognises that CO^2 emissions may be a significant adverse impact of waste combustion plants. This seems to me to be inconsistent with an assertion that EfW technology is automatically low carbon and that is confirmed in GtD at para. 44. Nevertheless, GtD at para. 45 also says that in carbon terms EfW is generally a better management route than landfill for residual waste.

132. Government energy policy also confirms that CO^2 emissions are not reasons to prohibit the consenting of projects which use these technologies. EN-3 sets out that recognition within the context of section 2.2 of the Overarching National Policy Statement for Energy EN-1[17]. This is generally about the road to 2050, i.e. the transition to a low carbon economy and the decarbonisation of the power generation sector by moving away from fossil fuels. Therefore overall, CO^2 emissions from schemes like the appeal proposal should not be a barrier to planning consent.

133. At the same time Policy WDC2 requires waste management development to demonstrate that the proposal avoids, adequately mitigates against or compensates for significant adverse impacts relating to climate change. As

[14] Appeal ref: APP/T1600/A/13/2200210, Land at Javelin Park, near Haresfield, Gloucestershire, para 1029 (CD 17.9)
[15] Our Waste, Our Resources: A Strategy for England, Defra, December 2018
[16] CD 7.10
[17] CD 7.9

discussed above there is no way of knowing how this proposal would comply with the requirements of this policy at this point in time because of the unknowns. Ideally it should avoid adding to overall CO^2 emissions and make a positive contribution to the reduction in the UK's carbon footprint. Such an outcome has been achieved elsewhere, particularly where CHP is produced.

134. Given the proposal's location and the area's potential for sales of heat and power, both to existing businesses at the Keypoint Industrial estate, the retail parks to the south of the appeal site and to emerging customers in the NEV, such an outcome seems to me to have a good chance of achievement.

135. As with the proposal's energy efficiency, it seems to me that the logical way forward is to condition any grant of planning permission to require the submission of a report to the Council before any works commence. Before the condition is discharged, such a report should clearly demonstrate that the facility's operation would result in an overall reduction in carbon emissions. The information necessary to clearly demonstrate that the proposal would be carbon positive will only become available when the gasification technology is confirmed and there is much greater certainty as to the nature and availability of the waste stream to be used and the availability of customers for the heat and power being produced.

136. Both the Council and SKIP are opposed to this course of action. Whilst I agree with the Council that "*sufficient detail has not been provided to enable an assessment of whether the proposal is acceptable in planning terms*" in that context, as discussed above and in the circumstances of this appeal that is not surprising. However, a refusal of planning permission on the basis of anticipated CO^2 emissions would be contrary to government policy.

137. I nevertheless consider that the requirements of Policy WDC2 should be met and that can only be achieved by the imposition of an appropriate condition. As the Appellant sought to remind me in another context, *"a negatively worded (Grampian) condition would be lawful and would satisfy the requirements of national policy so long as there is something more than no prospect at all of the actions being performed within the time-limit imposed by the permission."* I consider it very likely that the required actions could be performed at the appropriate time.

138. I agree with SKIP that the report should be in a form which is transparent and open to independent scrutiny. As SKIP points out, the outcomes are dependent upon the accuracy of the inputs and I agree that the results presented to the Inquiry are not fit for purpose because of the numerous uncertainties. Nevertheless, that does not mean that at a future date, when there is more certain information relating to the variables involved in the calculation, that a WRATE, or another appropriate analysis, would not be a satisfactory vehicle through which to calculate the carbon footprint of this proposal. The WRATE model has been widely used with success in similar circumstances elsewhere when there have been more accurate data streams.

139. The appeal proposal could contribute to the Government's overall policy for energy production over the period to 2050 and at the same time need do nothing to hinder its climate change programme.

140. With the appropriate waste stream and gasification technology, my judgement suggests that the proposal should make a positive contribution to

climate change. I therefore conclude that the management of the impacts of this waste management facility could, subject to a condition, meet the requirements of policy WDC2. As this has still to be proven I give no weight to it in the planning balance.

Policy WDC11: *Sustainable transport of waste*

141. Policy WDC11 permits waste management development where it is demonstrated that the proposals facilitate sustainable transport by meeting six criteria, where relevant. Where appropriate planning applications should be accompanied by a Transport Assessment.

142. The application was accompanied by an assessment of the proposal's impact on the highway network and the Highway Authority does not object to the proposal. The Planning Authority only raises concerns about the first criteria, minimising transportation distances. I discuss this in paras 19, 22 and 23 above. The bulk of the population and waste generating uses that this facility is intended to serve, are located within the Swindon urban area, which is where the proposal is located. Transportation distances are unlikely to be minimised by a location outside of Swindon, indeed in this context Policy WCS2 says that strategic waste sites should be located within 16Km of the SSTs. The appeal site, like Chapel Farm, is located close to the A419 on the north-eastern side of Swindon. Chapel Farm was chosen as the preferred site, in the Swindon area, for an EfW plant following a rigorous SA/SEA analysis undertaken during the preparation of the WSALP. I conclude that the proposal complies with WDC11.

Policy TR2: *Transport and Development*

143. Policy TR2 of the SLP seeks to reduce the need to travel and encourages the use of sustainable transport alternatives. Seven criteria are set out. Three of them relate to the protection/improvement of the cycling/walking network. The proposal would protect and improve the public right of way that crosses a part of the site. The site is also conveniently located, close to a large and growing population, such that walking and cycling to work, as well as the use of public transport by potential employees, could be successfully encouraged.

144. No issues have been raised concerning highway safety or local amenity and the highway authority has not requested appropriate mitigating measures to offset adverse impacts on the transport network. The parking plan is acceptable and there is nothing to suggest that the Transport Assessment or Transport Statements are in any way inadequate. The Council has not asked for a travel plan. I conclude that the proposal meets the criteria in Policy TR2 of the SLP.

Policy SD1: *Sustainable Development Principles*

145. Policy SD1 of the SBLP sets out eight sustainable development principles that development proposals are required to meet. There is no allegation that the proposal would not be of a high-quality design. Conditions are suggested to "*streamline*" the stack's appearance if the Council so desires and to create a "*natural*" appearance to the structure's colour scheme.

Promoting healthy and safe communities

146. The Council considers that the psychological well-being of the members of the communities close to the appeal site would be harmed. The widespread public perception of harm to health from the emissions from the stack consequently could amount to a public health issue. In consequence bullet 2 of Policy SD1 should be engaged.

147. The Council agreed that the design of the buildings is acceptable and confirmed that it has no concerns about tall structures in locations such as the appeal site. There was nevertheless a considerable amount of evidence presented by both sides, as well as debate at the Inquiry, about the landscape implications of the chimney. The Council argued that the chimney's association with an EfW plant could affect the psychological well-being of some members of the community, not because of its design or appearance but because of the perceived health connotations associated with it.

148. I discuss the impact of the emissions on health in paras. 84-94 & 98 above. I agree that it is a material consideration that should weigh in the balance against the proposal. However, the introduction of an SCRF would substantially reduce emissions and to levels significantly below the ceiling required to satisfy the EP regime. The Appellant's agreement to the establishment of a CLG would also provide a vehicle through which accurate information about emissions from the proposal, together with the risk of potential harm, could be disseminated to the local population. Together these should be able to allay the health fears of most people living in the area. I can therefore give only minor weight to the perceived public health issue.

149. In addressing Policy WDC1 I have already discussed the proposal's effect on the conservation of the natural and built environment (paras. 50-55) and found that overall the proposal would not be materially harmful to heritage assets and that there would be minor benefits to ecology. The climate change implications of the proposal are discussed above in paras. 109-140. The Council has not asked for the provision or a contribution towards any assessed need for local or borough wide infrastructure or service requirements that would be necessary, in the context of the CIL regulations, if the proposal was to be implemented.

150. The proposal would create an estimated 50fte additional jobs at the REC and the warehouse, with another 10 specialist jobs required in the area. Multiplier effects would further assist the growth of the local economy. However, as the Council demonstrated, the job density would be lower than even a comprehensive scheme for warehouses on the site. In such circumstances the jobs provided can attract no more than minor weight in the planning balance.

151. As discussed in paragraph 143 above, the site is easily accessible by walking, cycling and/or public transport to a large residential area to the west of the site and following the completion of the proposed NEV development, it would be equally accessible to similar areas to the east. No one has suggested that the proposal would not use land and resources in an efficient and effective way. I conclude that the proposal is in accordance with SLP Policy SD1.

Policy SD2: *The sustainable development strategy*

152. SBLP Policy SD2 sets out the Sustainable Development Strategy for Swindon, recognising its role and function in the wider area. It identifies the locations for the plan's proposed development. Among other considerations, it expects proposals to realise the development opportunities within Swindon's urban area. The appeal proposal would occupy an employment site that has remained undeveloped for a considerable period of time, within an industrial area that is located within Swindon's urban area. I consider the proposal to be fully in accordance with the strategy set out in this policy.

Policy DE1: *High Quality Design*

153. SLP Policy DE1 requires high standards of design for all types of development that address the objectives of sustainable development. It sets out a set of design principles against which proposals will be assessed. They include the context, character, layout, form and function of the development as well as amenity and the quality of the public realm. In its evidence the Council does not take exception specifically to any of them apart from the proposal's impact on the public realm in the context of the Keypoint roundabout junction. This is discussed in paras. 157-161 below. The Council also confirmed that it has no aesthetic concerns about tall structures in locations such as the appeal site. The Appellant has agreed to a condition requiring revisions to the design of the flue stack to streamline its appearance and to finish it in a setting appropriate colour scheme. I consider the proposal would meet the requirements of SLP Policy DE1.

Policy NC3: *New Eastern Villages and* ***Policy RA3:*** *South Marston*

154. Policies NC3: New Eastern Villages (NEV) and RA3 South Marston (SM) allocate land to the east of the A419 for a mixed-use development in the form of a series of new, inter-connected, distinct villages and an extended SM village, both defined by a network of green infrastructure corridors. SM is to have a distinct rural and separate identity from Swindon and other settlements.

155. The appeal site is approximately 350m to the north-east of the NEV boundary, separated by the London to South Wales Railway line and a retail park to the north of the A420. The village of SM is about 700m to the east. The Council alleges that the appeal proposal, primarily its flue-stack, would *"fail to contribute to that village's distinct rural and separate identity*." However, given the separation distance, being surrounded to the east and north by large industrial/ warehousing sheds and although currently open and undeveloped, the appeal site does not make any contribution whatsoever to the separate or rural identity of SM. There is continuous development along Thornhill Road between the Bodleian Library and the village itself so that the notion that SM is not already joined on to Swindon is somewhat fanciful. Development proposals include an area of residential development to the east of Thornhill Road and to the south of the industrial/ warehouse buildings along its south side further east. There is other proposed development to the north of Thornhill Road. These development proposals, whatever the Council may allege, will further compound the linking of SM with the rest of urban Swindon.

156. Because of the intervening high warehouses (up to 15m ridge height), it is doubtful whether the buildings proposed on the appeal site would themselves be visible from SM. However, the chimney would be visible in certain vistas. Nevertheless, these would be views of a large industrial estate that already contains some, albeit lower, chimneys and the appeal chimney would be nearly 1Km away from the old village of SM. The proposal does not offend Policy RA3 or part f. of Policy NC3.

157. Part b. of policy NC3 says that the development shall provide a number of improvements and new facilities. Among these is the provision of an improved gateway junction at White Hart, including the delivery of high-quality public realm. White Hart is the junction between the A419 and A420. A literal interpretation of this part of the policy is that it contains a listing of the things that the NEV development needs to provide and has nothing to do with development outside and away from the NEV. The Council is nevertheless concerned that the chimney will be seen from the roundabout by pedestrians and motorists, in the context of the new public realm, and the chimney associations will give a negative impression at a strategic entrance into Swindon from the primary highway network.

158. The appeal chimney would be about 350m from the nearest point on the White Hart roundabout, its north-eastern side. Although the roundabout itself is recessed there would be some views of the chimney from certain points, despite the intervening trees to the north-east and the pedestrian and vehicular structures, as well as the trees on the roundabout itself. Nevertheless, these views would be sporadic and not continuous.

159. There would also be some views of it from the A419 as one approaches or leaves the northern side of the fly-over, again despite the intervening trees. However, at the moment, the north-eastern quadrant of the roundabout is fronted by a cleared site, a hotel having recently been demolished. No indication of the building that would replace it was before the Inquiry. However, it seems to me that an imposing building of height located on this site, if appropriately sited, could screen the chimney from views on this part of the roundabout if the Council so desired.

160. If it is the Council's intention to make this junction into a show-piece entrance into Swindon then it should be looking for an imposing landmark building to be constructed on this site. Such a structure, given the levels, should be more than capable of screening the chimney from most views on this part of the roundabout.

161. In any event, motorists are more likely to have their eyes on other traffic rather than focusing their attention on the features of the wider landscape. Nevertheless, I accept that passengers would be at liberty to view it and so would pedestrians as they negotiated their way across the junction. However, because of vegetation and the movement structures, as well as a new landmark building in the north-eastern quadrant, the views of the chimney would not be continuous, and it would not dominate the urban landscape at this point. I conclude that the proposal is not contrary to Policy DE1 or to part b. of Policy NC3 of the SLP and that any harm to the image of Swindon or the perception of its public realm from observations of the chimney at the White Hart Gateway should carry minimal weight.

162. A strict interpretation of Policy NC3 suggests that this is an allocation policy referring to a specific area of land that is defined on the Policies map. The appeal site is not even adjacent to this area of land, let alone within it. Nevertheless, the policy does say that "development shall provide" and the Council interprets this to mean that anything that risks undermining the delivery of the NEV's provision would not be in accordance with this policy. Whether that is so or not, is open to debate but the Council's fears on this point are nevertheless genuine and a material consideration that needs to be examined. For convenience I have set out my reasons here.

163. The Council believes that there would be an impact on the rate of delivery, because of views of the chimney from parts of the NEV and potential residents' health fears about the emissions from the stack. In its opinion, the perceived harm from pollutants being emitted from the stack could deter some potential purchasers and this could retard the rate of development or even result in some parts of the NEV being abandoned. The worst-case scenario is that the appeal proposal would totally undermine the viability of the NEV, which already has high, complicated infrastructure costs affecting its progress, so that it would not happen.

164. The Council's concerns are shared by the NEV's commercial promotors and developers, some of whom have objected in writing and even appeared at the Inquiry. The Appellant points to the absence of substantive evidence to support the concerns and claims that the scenarios are no more than assertion.

165. Swindon's housing target is ambitious. 22,000 new homes are planned (2011-2026), of which only about one third are required to meet local needs. The rest would be occupied by migrants moving to the new jobs that the Council's ambitious economic strategy seeks to achieve. It seems to me that this has to be the driving force for the success or otherwise of the NEV and much of the other proposed new housing development in Swindon. Over one third of the proposed new dwellings would be located east of the A419 but there is also a complementary expectation of high job growth in this area, if the Local Plan's employment proposals are implemented.

166. Swindon is relatively isolated and so commuting from elsewhere is unlikely in large numbers. There is good rail access to London and the Thames Valley towns, but house prices and other economic circumstances would suggest that more people would move to Swindon and commute out rather than the reverse. If there is economic growth that is accompanied by sufficient job growth, then migrants will continue to move to Swindon and require accommodation in which to live. If jobs do not grow at the rates anticipated, then housing growth will be similarly retarded.

167. There was no concrete evidence presented to demonstrate that other EfW developments within or adjacent to developing urban areas had affected the rates of housing growth. Indeed, the more comprehensive evidence discussed at the Javelin Park appeal suggests that there is no evidence that any of the 25 EfW plant operating in the UK had had an effect on house prices or the pace of sales[18].

[18] Appeal ref: APP/T1600/A/13/2200210, Land at Javelin Park, near Haresfield, Gloucestershire, paras 364, 366 & 1248 (CD 17.9)

168. The Appellant referred to the recent granting of planning permission for an EfW facility at Westbury, Wiltshire within 375 metres of housing and to the Javelin Park plant south of Gloucester[14], which is now under construction. In the case of the latter, at application and appeal stage, the developer of the nearby Hunt's Grove residential scheme, rather than being opposed to the proposal, had engaged with the EfW plant promotors in heat demand/supply discussions. At the same time as Javelin Park is being built, a 500-dwelling extension to Hunt's Grove is being prepared.

169. As well as Javelin Park I visited the Great Western Park site at Didcot, where one of the NEV developers is also building houses overlooking Didcot power station, with its 200m high chimney and 130m high cooling towers. I also visited the Commonhead development in south Swindon where about 900 new homes are being built. At the time of my site visit, new homes were being completed and occupied off Homington Avenue and adjacent to the site's boundary with the Great Western Hospital. There is a large chimney within 30-40 metres of these residential properties where potentially clinical waste could be being burned. This potential perception did not appear to be preventing people from buying the houses.

170. The appeal chimney would be at least 350 metres from the edge of the NEV. The nearest part of that development would be the district centre, where further business and retail uses are proposed in addition to the Sainsbury supermarket and other existing retail outlets. Family housing would be further away, much of it in excess of 1Km from the appeal site. Nevertheless, I was told that a significant residential component was expected to be provided within the district centre, presumably in flats etc, so that people could be living not much more than 350m from the chimney. However, this is not dissimilar to Westbury.

171. Furthermore, once building works are completed and landscaping established, there would no longer be continuous views of the chimney from this emerging residential area. As in SStM now there would be intermittent views and reminders but the chimney need not dominate the urban landscape of this new residential area.

172. Despite the evidence or lack thereof, to demonstrate that there would be a definite knock-on effect on the NEV development, if the appeal scheme is built, I nevertheless consider there to be some merit to the Council's case. A number of existing residents are clearly concerned, however rational that may be and their perception is likely to be repeated among some potential new occupants of properties within the NEV. This could clearly be dissipated, in part, if an educational exercise was undertaken, in the wider area, setting out the correct facts and alerting the public to the additional measures that the Appellant proposes to undertake at this site to reduce further the emissions of concern. The decision to establish a PLC should also help in disseminating accurate information. Nevertheless, such an exercise would be unlikely to convince everyone and there could therefore be land use implications.

173. The Council also reiterated the points made by some third parties about Swindon's poor image when seen in a national context. It considers that the EfW development would add to the negativity and further deter people from moving to Swindon. Despite the alleged musical hall jokes, I saw little in reality to suggest that Swindon was not a nice place to live and, in my

experience, its living environments are on the whole superior to those in many other parts of urban Britain. The fact that the town has seen substantial growth in recent decades as a result of in-migration, fuelled no doubt by the implementation of a successful economic growth strategy to create places for them to work at, suggests that whatever Swindon's historic image may have been, it has played little part in deterring people from moving to live and work in Swindon in recent decades.

174. Taking the evidence in the round it seems to me that some people would inevitably be put-off from purchasing a dwelling within the NEV if the appeal scheme went ahead. However, in my view, these would not be very numerous and a far more significant contributor to house sales at the NEV would be the economic fortunes of Swindon. If economic development takes place, at the rates forecasted by the Council, then the new dwellings that it has forecasted would be needed, built and occupied. In such a scenario there is no reason to suppose that the NEV would be unviable and at worst the rate of development here could slow because some potential customers prefer to live in a location away from an EfW plant. However, this assumes that sufficient dwellings to meet overall market demand are being provided in Swindon as a whole and this is no more a certainty than is the fruition of the Council's economic growth forecasts. I therefore find that the proposal is not contrary to SBLP Policy NC3 and that any impact that the proposal could have on the implementation of the NEV should attract no more than minor weight.

Development Plan Conclusion

175. I have found the proposal to be in accordance with Policies WCS1, WCS2, WCS3 and WCS5. I also consider it to comply with the requirements of the criteria as set out in Policy WDC1 and with the imposition of conditions it does not offend any of those set out in Policy WDC2 to an extent that the proposal is contrary to that policy. The proposal complies with the requirements of Policies WDC11 and TR2. Following my assessment of the fourth criteria of Policy SD1, I have found it necessary to impose a condition requiring the Appellant to demonstrate that the proposal would make a positive contribution to the climate change agenda. Nevertheless, if that is satisfied then the proposal would comply with that policy. The proposal also meets the requirements of Policy SD2, DE1 and RA3. Whilst there could be minor harm in the context of retarding the rate of development at the NEV, I do not consider the land use implications of the flue stack's association with an EfW plant to be such that it would undermine its implementation. The proposal does not conflict with Policy NC3. I conclude that the proposal accords with the DP when read as a whole.

Other material considerations.

National Energy Policy

176. Energy policy is an important component of the Government's climate change programme. There is a legally binding commitment to cut greenhouse gas emissions by at least 80% by 2050 compared to 1990 levels[19]. EN-1 points out at para. 2.26 that in achieving the transition to a low carbon economy, the UK needs to wean itself off the current high carbon energy mix to reduce greenhouse gas emissions and to improve the security, availability and

[19] EN-1 para 2.21, (CD 7.9)

affordability of energy through diversification. EN-3 at para 1.8.1 says that renewable energy infrastructure includes EfW[20].

177. Support for the transition to a low carbon future in a changing climate and encouraging the use of renewable resources by, for example, the development of renewable energy is also one of the 12 core principles set out in the Framework at para 17.

178. National energy policy confirms that there is an urgent and continuing need for new renewable electricity generating projects. There is no limit to the provision that can come forward and no threshold below which the renewable energy contribution from a mixed scheme should be disregarded in some way. EfW is recognised as a potential source of such energy, which unlike weather dependent sources, can provide dependable peak and base load power on demand.

179. The appeal proposal would have the capacity to produce some 14.5MW of electricity in addition to up to 1.5MW of heat. The appeal scheme would therefore accord with national energy policy in this regard. I discussed some sustainability aspects of the proposal in paras. 99-108 and its carbon footprint in paras 109-140 above. If the proposal is able to meet R1 status and demonstrate that its carbon footprint would be positive, then the proposal's contribution to renewable energy should be given significant weight.

180. There is no requirement in planning law or policy to demonstrate that a particular technology is the most suitable, or whether there are other preferable options. Indeed, National Policy Statement EN-1 (Overarching National Policy Statement for Energy) confirms that the Government does not consider it appropriate for planning policy to set targets for, or limits on, different technologies. EN-3 (Renewable Energy Infrastructure) confirms that waste combustion plants covered by EN-3 may include a range of different combustion technologies, including gasification.

The overall need for the proposal

181. A part of the Council's case is that the Appellant has failed to demonstrate a need for the proposal. The NPPW advises that, in determining waste planning applications, applicants are only expected to demonstrate a quantitative or market need for new facilities where they are not consistent with an up-to-date local plan. I have concluded that the proposal would be consistent with an up-to-date local plan.

182. I am also aware that the Framework indicates that it is not necessary for an applicant to demonstrate an overall need for renewable energy schemes such as that proposed. It recognises that even small-scale projects can make a valuable contribution to cutting greenhouse gas emissions.

183. However, the Council's case also centres upon the premise that even if I find that the proposal is consistent with an up-to-date DP, the Appellant still needs to demonstrate a need if weight is to be attached to that consideration.

184. The Appellant has undertaken a need assessment. The intended waste stream, for the proposed facility, is expected to be mainly but not exclusively C&I waste. The Appellants have looked only at the quantitative need for the

[20] CD 7.10

capacity within a one-hour drive time of the facility, i.e. within Swindon and northern Wiltshire together with adjacent parts of Gloucestershire and Oxfordshire (the catchment area). This would be the target market for the scheme, although wastes could be accepted from outside of the area.

185. The WSALP revised the forecasted waste capacity to be delivered in Swindon and Wiltshire from that contained in the WLP, using a base date of 2010. It suggested a need for 123,000 tonnes pa of treatment capacity for C&I waste and the need for about 363,000cm of void space. There is no indication of the annual tonnage that this space is expected to accommodate although the WCS itself forecasted a requirement for over 250,000tpa of recovery facilities for C&I waste. It also suggested that by 2019/20 about 158,000 tonnes of MSW would still be being sent to landfill, despite Wiltshire's contract to send 50,000 tonnes to the Lakeside EfW facility in West London.

186. Since then most of the 51,000 tonnes of MSW that Swindon was forecasted to be sending to landfill in 2019/20 have been diverted from that destination by being partially treated locally and sent abroad for final treatment. Nevertheless, in addition to the above, some Construction and Demolition waste streams contain material that would be suitable for thermal treatment. There is however no estimate of the quantities involved but at the same time there is an element of residual waste that is unsuitable for use in EfW plants and for which landfill is the only current option. This is also not quantified.

187. It is more than six years since these assessments were made and nearly ten since the base date of the data used. Given the changes to the waste market during that period, their accuracy must be in doubt. Government actions to divert waste away from landfill have met with some success and some additional treatment facilities have been built. However, the Council made no attempt to take these matters on board and to update the figures. Instead it initially relied on criticising the work undertaken by the Appellant. Shortly before the Inquiry ended it supplied some information to update the DP assessments. However, there was no opportunity to question or examine this further information. In response the Appellant pointed out that most of the additional facilities listed by the Council could not treat residual waste and that the capacity of the facilities listed was 183,500tpa and not 369,000tpa as alleged by the Council.

188. The Appellant's assessment is catchment rather than County based. In the circumstances I consider this to be a far more appropriate area of analysis in any event. The forecast period is to 2035 and on its high recycling (65%) scenario, by then it would be intercepting all of the non-recycled combustible waste that is not treated elsewhere. However, the Appellant suggests that a hybrid scenario between this and a central scenario (65%) is more realistic. In such a scenario, the equivalent of more than half of the current amount being exported would still be being disposed of by that route. Ms Darrie, in her proof of evidence, advanced the same hypothesis but at the Inquiry preferred the high scenario. I favour her original assessment.

189. The Appellant's calculations include proposals with planning permission that have yet to be built, as well as that under construction and non-operational. However not all consented capacity is ever built, and the inclusion of consented facilities does not accord with Government policy and previous Secretary of State decisions. Additionally, there is no allowance in the assessment for non-

recyclable combustible waste, such as timber and other organic material, from the C&D sector.

190. At the present time a considerable amount of the residual waste from Swindon's catchment is being sent to landfill or exported from the catchment. Without a facility to intercept or treat that waste in the local area, these comparatively unsustainable treatment methods are likely to continue to a much greater extent than is desirable. Whilst I note the national forecasts re future exports, as it is more sustainable to treat waste as close to its source as possible, this should not be used as an argument to prevent the provision of new facilities that could intercept it. In 2013 the WSALP concluded that there was a requirement for a strategic energy from waste facility at Swindon. I have seen no evidence that convinces me that this is no longer the case.

191. The Council also alleges that over-capacity would risk diverting waste from higher up the hierarchy, contrary to the NPPW and the CS. Additionally, that the spirit of the WCS requires the Appellant to prove need. In that context it relied on the WCS purpose "*to ensure that there is a sufficient and flexible network of safeguarded waste management facilities*" and the purposes of WCS1 to set the overall framework.

192. The problem with the latter argument is that even if the DP is the appropriate vehicle through which to bring forward new waste facilities, the removal of Chapel Farm, Blunsden from the equation, without replacement or a proper justification that there was no longer a need for such a facility, creates a vacuum and in any event Policy WCS3 envisages other sites coming forward "*in order to provide flexibility*".

193. The capacity criticisms centre firstly around the amount of waste that could be recycled but will not be since there will be a requirement to supply material that could otherwise be recycled to the facility. Second, waste will need to be drawn into the catchment from elsewhere and this would not represent sustainable development and be contrary to the proximity principle.

194. The choice between being paid to have waste recycled and paying to have it managed is a fairly straightforward one in a commercial market. It seems to me that C&I waste and any other waste, now going to landfill from the catchment, is largely that which needs to go there because it cannot readily be recycled or composted. As recycling technologies develop and the processes improve and become more efficient, the operators of such plants should be able to pay more for increased quantities of such waste. The chance of recyclable waste being diverted from recycling to EfW in a commercial market seems to me to be remote.

195. The amount of non-recyclable waste that the EfW facility would intercept will be a commercial decision for the Appellant. While that decision might affect the extent to which MSW might need to be attracted to the REC to fill any gap left by a residual C&I shortfall, in my judgement it would not lead to a reduction in the recycling of C&I waste.

196. I note the references to the outcomes of over-capacity in EfW in Denmark and elsewhere in northern Europe. However, the outcomes experienced there seem to have been caused by an over-capacity in EfW facilities being owned by the public sector and the consequent absence of a truly competitive market. That is not the position at Swindon.

197. In any event the processing of residual MSW within the catchment is a much more sustainable outcome than taking that waste to West London or Southern Europe. Although currently the subject of contracts, those contracts will not last indefinitely and public procurement rules would allow the operator of the REC to tender for the treatment of such waste. Given its locational advantages, there is no reason why it should not succeed in winning such contracts in a competitive market, if it requires such waste to operate at an optimum level. I therefore consider the first consequence feared by the Council is unlikely to arise.

198. The appellant acknowledges the Council's second concern but appears to be confident that there is more than sufficient residual waste now being disposed of to landfill in the catchment or exported, to more than supply the facility. That being so the need for 'top-up' residual waste material sourced from outside of the catchment seems to be unlikely in any significant quantity. The analysis certainly suggests that that would be the case, at least in the first part of the assessment period.

199. However, imports into the catchment area would certainly not be contrary to national policy as expressed in GtD and should not be a factor that weighs against the appeal proposal. GtD envisages some benefits in cross boundary waste movements in response to the proximity principle requirement of the Waste Framework Directive. Although primarily discussed in a local authority context, that debate can equally be applied to the private sector. It notes that sourcing waste from a variety of locations can avoid local overcapacity and maintain local flexibility to increase recycling (GtD para 155).

200. Irrespective of distance travelled, a facility may still be the nearest suitable plant with capacity to manage the waste. There is no evidence that the available facilities actually have spare capacity or whether or not they are subject to conditions restricting the sources of waste. Furthermore, there is a certain inconsistency in the Council promoting the movement of waste out of the catchment and even the country to be managed, while seeking to object to movements into the catchment.

201. To conclude on this issue I am satisfied, based on the WCS and the Appellants assessment, that there is a local need for more recovery capacity, local being the Swindon catchment area in terms of waste. No alternative more robust and up-to-date means of assessing the residual waste arising in the catchment area was put forward to counter the Appellant's assessment. With a residual waste treatment capacity of 150,000tpa, the appeal proposal would make a very significant contribution towards meeting this need and to diverting local C&I waste away from landfill. That is a consideration to which significant weight should be afforded in terms of sustainable waste benefits. There is no substantiated evidence before me to demonstrate that some other site is more appropriate for the facility proposed. I also consider the proposal to be consistent with the proximity principle.

CONDITIONS AND OBLIGATION

202. The twenty-eight conditions agreed by the parties and set out in the SoCG were considered and some amended in the context of the discussions at the Inquiry, the Framework and the advice in the NPPG. They were discussed in detail during an open session at the Inquiry on a without prejudice basis and in a formal session prior to hearing closing submissions.

203. During the course of the Inquiry the Appellant offered to amend the design and colour of the flue-stack in an effort to overcome some of the Council's reservations about it. A condition to enable this to happen was submitted and is discussed in para. 57 above. Towards the end of the Inquiry proceedings, the Appellant agreed to and submitted a condition requiring the installation of an SCRF to reduce the amount of NO^2 and other pollutant gases being delivered into the atmosphere via the flue-stack. I discuss the appropriateness of this condition in para. 97 above. A condition requiring the establishment of a CLG was also agreed. I discuss this condition in para. 98 above. Subsequently I wrote to the parties about the imposition of a condition requiring the submission of a scheme to demonstrate that the proposal would operate in a carbon positive way. Whilst the Appellant supported this course of action, the Council and SKIP did not[21]. This is further discussed in paras. 135-138 above.

204. It was agreed that the aquifer and sewage infrastructure could both be protected from potential damage as a result of piling operations by one condition rather than the two originally proposed conditions. Original condition (OC) 5 was therefore removed. The site is within an industrial estate with modern highway infrastructure linking it to the primary highway network, which is a short distance away. There would be a small number of employees working on each shift. In the circumstances, conditions restricting the hours when deliveries or shift changes could take place were not justified. I have therefore removed OCs 9 and 10.

205. In correspondence between the Council and Thames Water, the Water Authority confirmed that *"there is no right to connect trade flows to the public sewer network and a Trade Effluent Consent will be required"*. A condition would duplicate other legislation and is not therefore required. I have removed OC 20.

206. The conditions are set out in Appendix 2 at the end of the decision. I have considered the need for these conditions in the context of the three tests contained in paragraph 56, of the Framework and the advice contained in paras. 54, 55 and 57 of the Framework as well as the guidance in the NPPG. They are necessary in order to ensure that the development is of a high standard, creates an acceptable environment for existing and future residents and workers within the area as a whole, is safe and sustainable, minimises the impact on the environment and complies with the relevant DP Policies.

207. The Undertaking concerning improvements to the atmosphere at the BLSF is also related to the requirements of the relevant DP policies and is necessary to make the development acceptable in planning terms. It is directly related to the development and fairly and reasonably related in scale and kind to it, mitigating potential harmful effects of the development at the BLSF. It therefore also complies with the tests set out in the Framework, the advice in the *National Planning Practice Guidance* (NPPG) and with Regulation 122 of the *Community Infrastructure Levy Regulations* (CIL) 2010. Additionally, there is no conflict with CIL Regulation 123(3).

THE PLANNING BALANCE AND OVERALL CONCLUSION

208. The Appellant has demonstrated that there is a need for the proposed facility. Moreover, a condition requires the scheme to demonstrate that it will

[21] IDs 44-49

achieve and operate above R1 status. It could therefore be treated as a recovery facility. I am consequently satisfied that the proposal would move waste up the hierarchy, diverting a significant amount of residual C&I waste from landfill, without preventing increased recycling. It is anticipated that much of the electricity and heat that would be generated by the development would be classed as renewable, increasing the current installed capacity in the region. A condition should ensure that the operation is at least carbon neutral. In essence, the development would primarily meet a pressing need for infrastructure to sustainably manage C&I waste arising from Swindon, northern Wiltshire and adjacent parts of Gloucestershire and Oxfordshire. These considerations carry significant weight.

209. Whilst the proposed facility does not, currently, have an Environmental Permit, such is not required as a pre-requisite to approving an application for a scheme such as this. I understand the concerns raised by objectors in terms of source emissions, it is nevertheless well established that it is for the Environment Agency to regulate the incineration process and emissions arising from that process in the interests of preventing pollution and protecting public health. In determining waste planning applications, decision makers are required to work on the assumption that the relevant pollution control regime will be properly applied and enforced. Nevertheless, in this case and to reduce the risk of harm to the material stored at the Bodleian Library's book storage facility, an SCRF is to be installed so that polluting emissions from the REC are likely to be at least 50% lower than those required to satisfy the EP regulations. Nevertheless, I give some, albeit limited weight, to the perception of harm, particularly in relation to health matters, given the fears expressed by local people.

210. Before the appeal proposal can be implemented it needs to demonstrate that it is able to operate above R1 status and demonstrate that its carbon footprint would be positive. In such circumstances it would have the capacity to produce some 14.5MW of electricity in addition to up to 1.5MW of heat. The appeal scheme would therefore accord with national energy policy in this regard and should be given significant weight in that context.

211. Some minor positive weight should be attached to the jobs that would be created, during both the construction and operational phases of the scheme, and the financial benefits to the local, and wider, economy that would accrue. I have also attributed minor weight to the proposal's positive impact on biodiversity

212. I have found that, despite the mitigation proposed for the flue stack there would by minor harm to the local landscape and visual impact on the character and appearance of the area. In addition, there would be minor harm to the settings of the two listed churches located in the wider area, as well as to the White Hart Gateway. I have also found that there could be minor harm to the rate of implementation of development at the nearby NEV.

213. All other issues are neutral in the planning balance.

214. In conclusion, I consider that, on balance, the adverse impacts of the development proposed would be significantly and demonstrably outweighed by the benefits. The proposal is in accordance with the DP when read as a whole. The scheme would, therefore, constitute sustainable development, having regard to all three aspects set out at paragraph 8 of the Framework and the

presumption in favour of such development, as set out in paragraph 11 of that document should be applied. In such circumstances, planning permission should be granted.

215. I recognise that this finding will be disappointing for those who oppose the development scheme and am mindful, in this regard, of the Government's 'localism' agenda. However, even under 'localism', the views of local people, very important though they are, must be balanced against other considerations, including national and local planning policy. In coming to my conclusions on the various issues that have been raised, I have taken full and careful account of all the representations that have been made, which I have balanced against the provisions of the DP, the Framework, NPPW and other material considerations. On balance though, the evidence in this case leads me to the conclusion that the appeal should succeed.

M Middleton

INSPECTOR

APPENDIX 1

Abbreviation	Reference
ASA	Alternative Site Assessment
BLSF	Bodleian Library Storage Facility
CD	Core Document
C&I	Commercial and Industrial
CLG	Community Liaison Group
DP	Development Plan
DPD	Development Plan Document
EA	Environment Agency
EfW	Energy from Waste
EIA	Environmental Impact Assessment
ES	Environmental Statement
GLVIA	Guidelines for Landscape and Visual Impact Assessment
ID	Inquiry Document
LiDAR	Light Detection and Ranging
LP	Local Plan
MSW	Municipal Solid Waste
NPPW	National Planning Policy for Waste
NEV	New Eastern Villages
NO^2	Nitrogen Dioxide
OC	Original Condition
REC	Renewable Energy Centre
SA	Sustainability Appraisal
SBLP	Swindon Borough Local Plan
SCRF	Selective Catalytic Reduction Facility
SEA	Strategic Environmental Assessment
SKIP	Stop Keypoint Incinerator Project Residents Group
SM	South Marston
SoS	Secretary of State
SStM	Stratton St Margaret
SST	Strategically Significant Town
SZ	Screened Zones
UKWIN	United Kingdom Without Incineration Network
WCS	Waste Core Strategy
WDCP	Waste Development Control Policies
WRATE	Waste and Resources Assessment Tool for the Environment
WSA	Waste Site Allocations

APPENDIX 2

Conditions

Time limit

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Phasing

2. Prior to the commencement of development a phasing plan for the approved development shall be submitted to and approved in writing by the Local Planning Authority. Once approved the development shall be carried out in accordance with the approved details or any subsequent amendments so approved.

Parking

3. No part of the development hereby permitted in each phase shall be occupied until the parking spaces shown on drawing ref: K0170_01-02 Rev J have been surfaced, marked out and made available for use. Thereafter the area shall be kept clear of obstruction and shall not be used for any purpose other than the parking of vehicles in connection with the use of the premises as permitted in that phase.

External Facing materials

4. No buildings or structures shall be constructed in each phase until details of all external facing materials, including the colour to be used in the construction of the building in that phase, have first been submitted to and approved in writing by the Local Planning Authority.

The development hereby permitted shall be carried out in accordance with these approved details.

Stack appearance

5. Prior to the commencement of development of the Renewable Energy Centre hereby permitted, details of the design of the chimney stack and the external facing materials, including colour, to be used in its construction shall have first been submitted to and approved in writing by the Local Planning Authority. The chimney stack shall be built in accordance with these approved details.

Piling

6. Piling or any foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Chimney Height

7. The chimney shall be constructed to a height of no more than 52 metres above internal finished floor level, as described in the approved details submitted in accordance with Condition Number 5.

Noise Assessment

8. Noise emissions from the Renewable Energy Centre shall not exceed those predicted in the submitted noise assessment, dated 10th December 2016, during the hours of:

- Daytime 0600 - 1800;
- Evening 1800 - 2200;
- Night time 2200 - 0600;

The operator(s) of the Renewable Energy Centre and/or the B8 warehouse shall, if requested by the Local Planning Authority within 1 year of bringing the Renewable Energy Centre or the B8 warehouse into use, carry out noise monitoring at agreed points to verify that the predicted levels are being adhered to. In the event that the levels are found to exceed the predicted details the operator shall, within 3 months, submit for approval to the Local Planning Authority a scheme which introduces measures to remedy this. The Renewable Energy Centre and/or the B8 warehouse shall be operated in accordance with the approved scheme.

Construction Management

9. Prior to the commencement of development in each phase hereby permitted, a Construction Management Plan for that phase shall have been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan should include, but not be limited to:

i. Contractors' access arrangements for vehicles, plant and personnel;

ii. Contractor's site storage area/compound;

iii. The number, size (including height) and location of all of the contractors' temporary buildings;

iv. Temporary means of enclosure and demarcation of the site operational boundaries, to be erected prior to the commencement of construction operations in any part of the site and maintained for the duration of construction operations;

v. The means of moving, storing and stacking all building materials, plant and equipment around the site;

vi. The arrangements for the parking of contractors' vehicles, contractors' personnel vehicles and vehicles of visitors to the site;

vii. Measures to ensure that dust emissions are minimised;

viii. Details of any external floodlighting to be installed during the construction period including the hours of operation;

ix. A construction noise mitigation scheme to ensure that noise emissions at adjoining sites (including residential and ecological receptors) are minimised. The scheme should identify those activities that can be considered noisiest, where and when these activities are likely to occur, a threshold level that would trigger a response and what such a response will be in terms of reducing noise for each noise generating activity;

x. The method of controlling and discharging groundwater during construction to avoid pollution of surface water and the underlying groundwater.

xi. Details of any wheel wash facility, use of water bowsers and any other measures necessary to ensure that vehicles do not leave the site in a condition whereby mud, clay or other deleterious materials are carried onto the public highway.

The Construction Management Plan shall be implemented as approved throughout the construction and commissioning of the development.

Managing Construction Waste

10. With the exception of survey works, no excavations shall commence on site in each phase until a detailed strategy and method statement for minimising the amount of construction waste resulting from the development in that phase has been submitted to and approved in writing by the Local Planning Authority. The statement shall include details of the extent to which waste materials arising from the construction activities will be reused on site, and demonstrating that as far as is reasonably practicable, maximum use is being made of these materials. If such reuse on site is not practicable, then details shall be given of the extent to which the waste material will be removed from the site for reuse, recycling, composting or disposal. All waste materials shall thereafter be reused, recycled or dealt with in accordance with the approved strategy and method statement.

Construction Hours of Operation

11. Construction works which are audible at the site boundary shall only take place between 07.00 – 18.00 Monday to Friday, and 07.00 – 13.00 on Saturdays, and not at any time on Sundays, Public or Bank Holidays, except in cases when life, limb or property are in danger. In such instances, these shall be notified in writing to the Local Planning Authority within 48 hours of their occurrence. Construction activities which are assessed as being inaudible at the site boundary (such as internal electrical work and other quiet internal fitment work) may be undertaken outside of these times. Furthermore, construction

works which cannot be halted once they are commenced (such as concrete pouring etc.) may be undertaken outside these specified hours, with the prior written permission of the Local Planning Authority.

R1 Categorisation

12. Prior to the commencement of the development of the Renewable Energy Centre development hereby permitted, the operator shall submit to the Local Planning Authority for approval in writing, verification that the facility has achieved Stage R1 Status through Design Stage Certification from the Environment Agency.

The facility shall thereafter be configured and operated in accordance with these approved details.

Feedstock

13. Only feedstock which is non-hazardous residual waste that arises following recycling shall be used as fuel for the Renewable Energy Centre.

Landscaping scheme

14. Prior to the commencement of works on site in each phase in connection with the development hereby permitted, a scheme of landscaping to include a planting schedule and time table of works for that phase, shall have first been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the positions, species and crown spread of all existing trees and hedgerows on the land, detailing those to be retained, together with measures for their protection during development. The approved scheme shall be implemented as per the approved timetable.

Any tree or shrub planted in accordance with the scheme which is removed, dies or becomes diseased within a period of ten years from first being planted, shall be replaced by one of a similar size and the same species unless otherwise agreed in writing by the Local Planning Authority.

Contamination

15. Each phase of the development hereby permitted shall be carried out in accordance with the recommended Site investigations set out in Section 6.3 of the approved Phase 1 Geo-Environmental Desk study and Site Walkover Inspection report (prepared by Rolton Group Ltd, Rev 1.0, dated 12th January 2016). Details of the investigations implemented shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development in each phase of the development. Any remediation works required shall be submitted to and approved in writing by the Local Planning Authority and carried out thereafter in accordance with approved details.

16. No occupation of each phase of development shall take place until a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation for that phase has been submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

17. If, during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out in that phase until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Drainage

18. Development shall not be commenced in each phase until: impact studies of the existing water supply infrastructure for that phase have been submitted to and approved in writing by, the Local Planning Authority (in consultation with Thames Water). The studies should determine the magnitude of any new additional capacity required in the system and a suitable connection point.

Tonnage Throughput

19. The maximum combined total tonnage of residual waste and refuse derived fuel (RDF) imported to the site in any calendar year (i.e. 1st January – 31st December) shall not exceed 150,000 tonnes. The site operator shall maintain a record of the tonnage of residual waste and RDF delivered to site per day, the number of HGVs delivering waste and the number of HGVs exporting residues and their destinations. The record shall be made available to the Local Planning Authority upon written request. A report of the total tonnage of waste imported to the site in each successive calendar year shall also be provided to the Local Planning Authority within one month of year end.

Control of Litter

20. Prior to development hereby permitted in each phase first being brought into operational use, details of a scheme for that phase to prevent litter arising from construction works, and that arising throughout the operational life of the development hereby permitted, escaping from the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme to be submitted shall include provisions for reviewing and updating if appropriate, every 24 months.

Development shall be carried out in accordance with the approved scheme. All measures integrated shall be in operation for as long as the development is operational.

Dust Management

21. Prior to the development hereby permitted in each phase first being brought into operational use, details of a scheme for that phase to ensure that fugitive dust emissions are minimised as far as practicably possible shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include provisions for monitoring, reviewing and updating if appropriate, every 24 months following the first approval of the scheme. The measures to be provided shall include, but not necessarily be limited to, the following:

i. The use (as appropriate) of a dust suppression system within areas likely to give rise to fugitive dust emissions;

ii. All vehicles transporting waste materials either to or from the site shall be fully enclosed or sheeted.

Development shall be carried out in accordance with the approved scheme.

Odour Management

22. Prior to the Renewable Energy Centre hereby permitted first being brought into operational use, details of measures to ensure that operations do not give rise to any malodours shall be submitted to and approved in writing by the Local Planning Authority. The scheme to be submitted shall include provisions for reviewing and updating, if appropriate, every 24 months following the first approval of the scheme. The measures to be provided shall include, but are not necessarily limited to, the following:

i. Regular movement of waste within the refuse bunker to ensure that material is circulated on a regular basis, ensuring that the waste is not allowed to decompose;

ii. The operation of negative air pressure within the tipping hall area and an odour management system;

iii. The application of masking agents, where necessary, to neutralise any malodours.

Development shall be carried out in accordance with approved scheme. All measures as approved shall be in operation for as long as the development is operational.

External Lighting

23. All external lighting, including floodlighting and cowling enclosures for the completed buildings and site, in each phase shall be implemented and operated in accordance with a detailed scheme for that phase that has previously been submitted to and approved in writing by the Local Planning Authority. The scheme shall incorporate a lighting contour map to identify levels of lighting within the application site and any light spillage onto adjacent land and shall ensure that the external faces of the completed buildings and chimneys are not illuminated. The 52m high chimney stack shall only be illuminated by the use of infra-red lighting.

Decommissioning

24. In the event that use of the site for the importation of waste should cease for a period in excess of one month then, within one month of a written request from the Local Planning Authority, the site shall be cleared of all stored waste and processed materials.

25. Within 30 days of final cessation of the operation of the facility hereby permitted, the operator of the Renewable Energy Centre shall inform the Local Planning Authority in writing that all operations have ceased. Within 6 months of the final cessation of the operation of the development hereby permitted a scheme of restoration for the site shall be submitted for the written approval of the Local Planning Authority. The scheme shall include the removal of all buildings, chimney stack, associated plant, machinery, waste and processed materials from the site. The site shall thereafter be restored within a period of 24 months of the details being approved by the Local Planning Authority.

Selective Catalytic Reduction

26. The facility shall not become operational until a scheme to provide for selective catalytic reduction ("SCR") within the Renewable Energy Centre has been submitted to and approved in writing by the Local Planning Authority. Thereafter the plant shall be operated in accordance with the approved SCR scheme.

Community Liaison Group

27. Prior to commencement of development of the Renewable Energy Centre, the developer shall submit to the Local Planning Authority a proposal for a Community Liaison Scheme which shall include proposed outline Terms of Reference for a Community Liaison Group which is to include details on the formation of the group, recruitment, how the group will operate, an outline remit, a main contact number, and an indication of how complaints will be managed. Following approval of the Community Liaison Scheme by the Local Planning Authority, this Scheme shall then be implemented as approved.

Carbon Emissions

28. Prior to the commencement of the development of the Renewable Energy Centre hereby permitted, the operator shall submit to the Local Planning Authority for approval in writing, a report based on the gasification technology that is to be used, that clearly demonstrates that the facility's operation will result in an overall reduction in carbon emissions. The facility shall thereafter, be implemented and operated using the gasification technology and waste streams used in the assessment and continue to achieve a reduction in carbon emissions. The facility shall thereafter be implemented and operated in accordance with the approved details.

Approved Plans

29. The development should be constructed in accordance with the following submitted plans and documents:

Drawing Number

- Site Location Plan - K.0170_20 C
- Site Layout - K.0170_01 J
- REC and Warehouse Roof Plan - K.0170_33 B
- REC Elevations - K.0170_30 C
- REC Floor Plans (0m) - K.0170_43-1
- REC Floor Plans (5m) - K.0170_43-2
- REC Floor Plans (10m) - K.0170_43-3
- REC Building Section - K.0170_43-4
- Warehouse Elevations and Floor Plan - K.0170_42 B
- Gatehouse Plans and Elevations - K.0170_02

Documents

- Planning Statement
- Statement of community Involvement
- Design and access statement

- Arboriculture Survey and impact statement
- Environmental Statement, covering
  - Air Quality
  - Landscape and visual assessment
  - Traffic and transport (with Transport Assessment)
  - Hydrology and Flood Risk (with flood risk assessment)
  - Hydrogeology and ground conditions
  - Noise
  - Ecology and nature conservation
  - Archaeology and cultural heritage (with archaeological assessment)
  - Socio-economics
- Arboriculture Survey and impact statement - received 8 June 2016
- Supplementary Environmental Information (SEI) to the Environment Statement
- Environmental Statement/update non-technical summary received November 2018.

APPENDIX 3

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

James Maurici Q.C
Assisted by Admas Habteslasie

They called

Charles Potterton BA, DipLA, CMLA	Potterton Associates Ltd
Maureen Darrie BSc, MRTPI	GP Planning Ltd
David Dewart BSc, DIPT&CP, MRTPI	Swindon Borough Council

FOR THE APPELLANT:

Christopher Katkowski Q.C.
Assisted by Zack Simons

They called

Ian Crummack BSc,	Cobalt Energy
Peter Barefoot FRICS, IAS	Alder King LLP
Mike Brown BSc, MSc, FCIWM	Eunomia research and Consulting Ltd
Andrew Cook BA, MLD, CMLI, MIEMA	Pegasus Group
Daniel Parkes BSc, MCIWM	Cobalt Energy
Nicholas Ford BSc, PhD, MIChemE	SOCOTEC
Graham Eves BSC, MICE, MCIHT	PFA Consulting
Paul Burrell NSc, Dip UP, MRTPI	Pegasus Group

INTERESTED PERSONS:

Robert Ayres	Stop Keypoint Incinerator Project Residents' Group
Anthony Leathart	South Marston Parish Council
Toby Kirtley	Bodleian Libraries, University of Oxford
Des Moffatt	Swindon Borough Council, Labour Group
Maureen Dilley	Stratham St Margaret resident
Paddy Hayes	Stratham St Margaret resident
Barry Jennings	Stratham St Margaret Parish Council
John Bridgman	Stratham St Margaret resident
Anne Bridgeman	Stratham St Margaret resident
Cllr Roger Smith	Stratham St Margaret and South Marston
Ken Yeo	Stratham St Margaret resident
Nick Freer	David Lock Associates

William Young-Powell	Stratham St Margaret resident
Stephen Bayliss	Stratham St Margaret resident
Mike and Charlie Carter	Stratham St Margaret residents
Andrew Martin	Stratham St Margaret resident
Stanislav Bangeov	Stratham St Margaret resident
Jean Mackeddie	Upper Stratton resident
Jenny Poole	Stratham St Margaret resident
John Radford	extinction rebellion Swindon

DOCUMENTS

Statements

1 Statement by Robert Ayres on behalf of Stop Keypoint Incnerator Project Residents'Group (SKIP)

2 Statement by Anthony Leathart on behalf of South Marston Parish Council
3 Response to South Marston Parish Council's representations from the Appellant
4 Statement by Richard Ovenden on behalf of Bodleian Libraries, University of Oxford, presented by Toby Kirtley
5 Statement by Des Moffatt on behalf of Swindon Borough Council, Labour Group
6 Statement from Maureen Dilley
7 Statement from Paddy Hayes
8 Statement by Barrie Jennings on behalf of Stratham St Margaret Parish Council
9 Statement from John Bridgman
10 Statement from Anne Bridgeman
11 Statement from Roger Smith
12 Statement by Nick Freer of David Lock Associates on behalf of Hallam Land Management and Taylor Wimpey UK
13 Statement from William Young-Powell
14 Statement from Stephen Bayliss
15 Statement from Mike, Bobbie and Charlie Carter
16 Statement from Andrew Martin
17 Statement from Stanislav Bangeov
18 Statement from Jean Mackeddie
19 Statement from Jenny Poole
20 Statement by John Ranford on behalf of extinction Rebellion Swindon
21 Statement from Karen Weaver
22 Letter of objection from Oxfordshire County Council
23 Response to Oxfordshire county council's representations from PFA consulting on behalf of the Appellant
24 Letter of objection from Ridge on behalf of Capital Land and property Group Ltd referring to residential development at the New Eastern Villages
25 Note from SKIP clarifying its concerns about the validity of the Appellant's EIA
26 Note from the Council clarifying points raised by the Inspector during the cross examination of David Dewart

Policy

27 Draft Wiltshire and Swindon Waste Local Plan 2005, submitted by the Appellant

Alternative site considerations

28 The Environmental Assessment of Plans and Programmes Regulations 2004, submitted by the Council
29 Sites dismissed through Stage Two of the Assesment, submitted by the Appellant
30 Letter from Swindon Borough Council responding to some of the inspector's questions about Waterside Park, Swindon

Impact upon environmental quality

31 Estimating Local Mortality Burdens associated with Particulate Air Pollution, submitted by John Romford
32 Press release about the fire at Averies Recycling Centre, Swindon, submitted by the Council
33 Table of stack heights and amounts of managed waste tonnes pa at EfW plants in England
34 Assessment of Air Quality Impacts on the BLSF as a result of the appeal proposal, submitted by the University of Oxford
35 Letters and Emails between Nick Ford and Toby Kirtley about the design performance of the filtration system at the Bodleian library
36 Selective Catalytic Reduction – an overview, submitted by Nick Ford on behalf of the Appellant
37 Renewable Energy Centre, Keypoint – Abnormal operation, report into the proposed safety devices and measures to prevent accidents and manage incidents, submitted by Nick Ford on behalf of the Appellant
38 Email correspondence between the Appellant and the Bodliean Library, culminating with a Letter from Toby Kirtley (28/02/19) welcoming the Appellant's proposal to upgrade the air filtration system at the BLSF
39 Letter from the Appellant (01/03/19) responding to points made in Toby Kirtley's letter (28/02/19)
40 Further email communications between the Appellant and the Bodliean library culminating in an acceptance of the Appellant's Deed of Undertaking by the BLSF (15/03/19)

Sustainability (R1 status)

41 The R1 status of EfW facilities in the UK as stated by the Environment Agency (2019), submitted by the Appellant
42 Critique of the rebuttal statement from UKWIN about technology and operational matters, submitted by Ian Crummack on behalf of the Appellant

Carbon emissions

43 Statement from SKIP (05/02/19) concerning the assessment of he Greenhouse Gas impacts of the proposal as a result in changes to the proposed technology
44 Letter (23/04/19) from the Inspector to the main parties about a carbon emissions condition
45 Observations from SKIP (26/04/19) about a carbon emissions condition

46 Observations from the Appellant (29/04/19) about a carbon emissions condition
47 Observations from the Council (29/04/19) about a carbon emissions condition
48 Further observations from the Council (02/05/19) in response to the Appellant's response of 29/04/19 about a carbon emissions condition
49 Further observations from the SKIP (02/05/19) in response to the Appellant's response of 29/04/19 about a carbon emissions condition

Viability of proposed New Eastern Villages and South Marston developments

50 Neighbourhood Plan for South Marston (2017), submitted by the Council
51 Paramics traffic modelling 2016-26 by JMP for the New Eastern Villages development proposals, submitted by the Appellant
52 Press report about asbestos related cancer in 2004 at Swindon, submitted by the Council

Need

53 The Reality Gap, UK residual waste management infrastructure, Biffa 2017, submitted by the Appellant
54 Residual Waste Infrastructure Review, Eunomia 2012, submitted by the Appellant
55 Further supplementary information to Mike Brown's need assessment, submitted by the Appellant
56 Need Assessment, Schedule of matters agreed and in dispute between the main parties
57 Planning application ref: F/17/81397, Chickenhall Lane Eastleigh. Recommendation to approve a proposal for open storage with ancillary offices, storage buildings and a vehicle wash facility
58 Note from the Council in response of questions asked of Mike Brown by the Inspector about need
59 Response from the Appellant's, following receipt of the Council's note about need in response to the Inspector's questions to Mike Brown
60 Note from the Council in response of questions asked of Paul Burrell by the Inspector about need
61 Response from the Appellant's following receipt of the Council's note about need in response to the Inspector's questions to Paul Burrell.

Conditions

62 Correspondence between Swindon Borough Council and Thames Water about the legitimacy of a condition that restricts the use of piling at the site.
63 Correspondence between Swindon Borough Council and Thames Water about the need for conditions about drainage and water supply

Legal

64 Cherkley Campaign Ltd v Mole Valley District Council and Longshot Cherkley Court Ltd, Court of Appeal ref:C1/2013/2619
65 Ten Court decisions submitted in support of the Appellant's Closing Submissions
66 Deed of Undertaking concerning improvements to the BLSF's air filtration system

PLANS

A Plan showing the extent of Swindon's 1 hour and 2 hour drive time catchments with a 54 mile radius and competing facilities, submitted by the Appellant

B Plan showing the relationship between Javelin Park EfW plant and Hunts Grove housing development at Gloucester, submitted by the Appellant

C Wiltshire core Strategy 2015. Plan showing allocations in the Westbury Communty Area, submitted by the Appellant

D Plan showing the relationship between Northacre REC and proposed new housing at Westbury, submitted by the Appellant

E Swindon Borough Local Plan, Policy SD2, Rural settlement Boundary at South Marston, submitted by the Appellant

CORE DOCUMENTS

CD1 – Application Documents	
1.1	Application Forms, dated 1st June 2016
1.2	CIL Information Form, dated 1st June 2016
1.3	Covering Letter with the application, dated 1st June 2016
1.4	Arboricultural Survey, Impact Assessment and Protection Plan, prepared by Pegasus Group, dated 11th March 2016
1.5	Design and Access Statement, prepared by Pegasus Design, dated May 2016
1.6	Environmental Statement Volume 1 – Main Text and Figures, prepared by Pegasus Group, dated May 2016
1.7	Environmental Statement Volume 2 – Appendices, prepared by Pegasus Group, dated May 2016
1.8	Environmental Statement Non-Technical Summary, prepared by Pegasus Group, dated May 2016
1.9	Planning Statement, prepared by Pegasus Group, dated 25th May 2016
1.10	Statement of Community Consultation, prepared by Pegasus Group, dated June 2016
1.11	Supplementary Environmental Information (SEI) to the Environmental Statement, prepared by Pegasus Group, dated October 2016
1.12	Environmental Statement Updated Non-Technical Summary, prepared by Pegasus Group, dated October 2016
1.13	Air Quality Review, prepared on behalf of the Applicant by Create Consulting Engineers Ltd, dated December 2016
1.14	Air Quality Review, prepared on behalf of the LPA by Buro Happold Engineering, dated 4th August 2016

CD2 – Application Drawings	
2.1	Site Location Plan – Ref: K.0170_20 C
2.2	Site Layout – Ref: K.0170_01 J
2.3	REC and Warehouse Roof Plan – Ref: K.0170_33 B
2.4	REC Elevations – Ref: K.0170_30 C
2.5	REC Floor Plans (0m) – Ref: K.0170_43-1
2.6	REC Floor Plans (5m) – Ref: K.0170_43-2
2.7	REC Floor Plan (10m) – Ref: K.0170_43-3
2.8	REC Building Section – Ref: K.0170_43-4
2.9	Warehouse Elevations and Floor Plan – Ref: K.0170_42 B
2.10	Gatehouse Plans and Elevations – Ref: K.0170_02

CD3 – Application Correspondence with LPA	
3.1	Pegasus Group letter to the LPA, 30th August 2016
3.2	Pegasus Group letter to the LPA regarding Bodleian Library representations, 17th October 2016
3.3	Pegasus Group letter to the LPA regarding Hallam Land management, Hannick Homes and Taylor Wimpey Limited representations, 17th October 2016
3.4	Pegasus Group letter to the LPA regarding Network Rail representation, 26th October 2016
3.5	Pegasus Group letter to the LPA, 24th November 2016
3.6	Pegasus Group letter to the LPA regarding Bodleian Library further representations, 5th January 2017
3.7	Pegasus Group letter to the LPA regarding Hallam Land management, Hannick Homes and Taylor Wimpey Limited further representations, 5th January 2017
3.8	Pegasus Group letter to the LPA regarding SKIP representations, 5th January 2017
3.9	Pegasus Group letter to the LPA regarding BuroHappold Engineering technical review of air quality information, 12th January 2017
3.10	Pegasus Group email to Rhian Morris at the LPA providing requested information and clarification, 9th February 2017
3.11	Pegasus Group email to Rhian Morris at the LPA providing requested information and clarification on various matters, 23rd February 2017
3.12	Pegasus Group email to Rhian Morris at the LPA addressing question regarding Rivenhall Airfield site, 13th April 2017
3.13	Pegasus Group email to David Dewart at the LPA submitting WRATE Report, 15th May 2016
3.14	Pegasus Group email to Rhian Morris at the LPA regarding submitted WRATE Report, 5th June 2016
3.15	PFA Consulting email to Rob Rossiter at the LPA regarding transport and highways matters, 18th August 2017
3.16	Pegasus Group email to Rhian Morris at the LPA responding to South Marston Parish Council questions, 23rd August 2017

CD4 – Decision Notice and Committee Report	
4.1	Decision Notice, dated 15th September 2017
4.2	Planning Committee Report, dated 14th September 2017

CD5 – Consultation Responses	
5.1	County Archaeologist 23.6.16
5.2	County Archaeologist 19.9.16
5.3	Defence Infrastructure Organisation 9.1.17
5.4	Environment Agency 28.11.16
5.5	Environment Agency 27.1.17
5.6	Environment Agency 6.3.17
5.7	Environment Agency 21.6.17
5.8	Environment Agency 7.7.17
5.9	Highways England 16.7.16
5.10	Highways England 12.12.16
5.11	Historic England 15.9.16
5.12	Historic England 7.12.16
5.13	Historic England 7.3.17
5.14	Network Rail 15.11.16
5.15	Network Rail 7.3.17

5.16	North Wessex Downs Area of Outstanding Natural Beauty 14.10.16
5.17	North Wessex Downs Area of Outstanding Natural Beauty 20.2.17
5.18	Swindon Borough Council – Conservation Officer 16.11.16
5.19	Swindon Borough Council – Environmental Health Officer 27.7.16
5.20	Swindon Borough Council – Highways 15.8.16
5.21	Swindon Borough Council – Landscape Officer, undated
5.22	Swindon Borough Council – Planning Policy 2.9.16
5.23	Swindon Borough Council – Tree Officer 1.12.16
5.24	South Marston Parish Council 20.7.16
5.25	South Marston Parish Council 25.7.16
5.26	South Marston Parish Council 9.12.16
5.27	South Marston Parish Council 16.8.17
5.28	Stratton St Margaret Parish Council 6.7.16
5.29	Stratton St Margaret Parish Council 5.12.16
5.30	Stratton St Margaret Parish Council 6.1.17
5.31	Stratton St Margaret Parish Council 28.3.17
5.32	Thames Water 11.7.16

CD6 – Parties Statement of Case and Statement of Common Ground	
6.1	Appellant Statement of Case, dated 14th March 2018
6.2	LPA Statement of Case, undated
6.3	Statement of Common Ground, agreed 30th November 2018

CD7 – Planning Documents	
7.1	Wiltshire and Swindon Waste Core Strategy 2006-2026 (adopted July 2009)
7.2	Wiltshire and Swindon Waste Development Control Policies Development Plan Document (adopted September 2009)
7.3	Wiltshire and Swindon Waste Site Allocations Local Plan (adopted February 2013)
7.4	Swindon Borough Local Plan 2026 (adopted March 2015)
7.5	National Planning Policy Framework (July 2018)
7.6	National Planning Practice Guidance (March 2018, as amended)
7.7	Waste Management Plan for England (December 2013)
7.8	National Planning Policy for Waste (October 2014)
7.9	Overarching National Policy Statement for Energy (EN-1) (July 2011)
7.10	National Policy Statement for Renewable Energy Infrastructure (EN-3) (July 2011)
7.11	Keypoint Local Development Order (adopted January 2014)
7.12	SBC Cabinet Report – Refresh of the Council's Vision, Priorities and Pledges (5th September 2018)
7.13	SBC Draft Waste Strategy Consultation (September 2018)
7.14	Swindon Borough Local Plan Inspectors Report (5 February 2015)
7.15	Wilshire and Swindon Core Strategy Inspectors Report (14th April 2009)
7.16	Wilshire and Swindon Site Allocations Local Plan Inspectors Report (6th November 2012)
7.17	Wilshire and Swindon Site Allocations Local Plan Sustainability Appraisal Report Adoption Statement (December 2012)
7.18	Statement by Swindon Borough Council: Theme 1 – Overall strategy, housing provision and distribution, and sustainability
7.19	The HCA Employment Density Guide (3rd edition) (November 2015)
7.20	Swindon Borough Council Report to Planning Committee in relation to the Revised National Planning Policy Framework and compliance of Swindon Borough Development Plan Documents (November 2018)

7.21	SBC Cabinet Report – Draft Waste Strategy 2019-2029 (5th December 2018) including: • Appendix A (Draft Waste Strategy 2019-2029); and • Appendix B (Waste Strategy Engagement Summary and Feedback)
7.22	The Clean Growth Strategy: Leading the way to a low carbon future (October 2017)
7.23	Applying the Waste Hierarchy: Evidence Summary (June 2011)
7.24	Guidance on Applying the Waste Hierarchy (June 2011)
7.25	Wiltshire and Swindon Waste Site Allocations DPD: Waste Capacity Gap Report (October 2011)
7.26	Bizcat District Energy Pre-Feasibility Study (Swindon Borough Council – 5th March 2011)
7.27	Wiltshire and Swindon Waste Site Allocations DPD Sustainability Appraisal Report Adoption Statement (December 2012)
7.28	Wiltshire and Swindon Waste Site Allocations DPD Pre-submission Sustainability Appraisal Report (April 2011)
7.29	Wiltshire and Swindon Waste Site Allocations DPD Pre-submission Sustainability Appraisal Report (Non-Technical Summary) (April 2011)
7.30	Wiltshire and Swindon Waste Site Allocations Local Plan Pre-submission Sustainability Appraisal Report Addendum (August 2012)
7.31	Wiltshire and Swindon Waste Site Allocations DPD – Evidence Base Part A: Spatial Context (January 2012)
7.32	Wiltshire and Swindon Waste Site Allocations DPD – Evidence Base Part B: Waste (January 2012)

CD8 – Landscape Documents	(NB. no CD8.2)
8.1	Guidelines for Landscape and Visual Impact Assessment 3rd Edition (April 2013)
8.3	National Character Areas profiles (Natural England)
8.4	Swindon Borough Council Landscape Character Areas Supplementary Planning Guidance (December 2004)
8.5	North Wessex Downs AONB Landscape Character Assessment (March 2002)
8.6	North Wessex Downs AONB Management Plan 2014-2019
8.7	North Wessex Downs AONB Position Statement on Setting (October 2012)
8.8	Best practice of taking photographs - LI Advice Note 1/11 (March 2011) – Advice on photography and photomontage
8.9	Technical Information Note 5th December 2017 Townscape Character Assessment
8.10	An approach to Landscape Character Assessment (Natural England, October 2014)
8.11	Landscape Character Assessment TIN 08 2015 (Landscape Institute, 2016)
8.12	Wiltshire Council LCA (December 2005)
8.13	National Landscape Character Assessment (Natural England) (2014)
8.14	Burnthouse Farm & Staffurth's Bridge Farm Appeal Decisions – APP/D0515/A/10/2123739 & APP/D0515/A/10/2131194 – dated 26th April 2011 – Inspector Report to the SoS for DCLG
8.15	Burnthouse Farm & Staffurth's Bridge Farm Appeal Decisions – APP/D0515/A/10/2123739 & APP/D0515/A/10/2131194 – dated 6th July 2011 – SoS Decision Letter
8.16	Carland Cross Wind Farm Appeal Decision – APP/D0840/A/09/2103026 – dated 19th January 2010

CD9 – Need Documents	(NB. no CD9.7)
9.1	Circular Economy: New rules will make EU the global front-runner in waste

	management and recycling (European Commission – Press Release, May 2018)
9.2	Residual Waste Infrastructure Review, Issue 12 (Eunomia, July 2017)
9.3	UK Residual Waste: 2030 Market Review (Tolvik, November 2017)
9.4	National Infrastructure Assessment (National Infrastructure Commission, July 2018)
9.5	Residual Waste in London and the South East – Where is it going to go….? (Tolvik, October 2018)
9.6	UK Energy from Waste Statistics – 2017 (Tolvik, June 2018)
9.8	Swindon BC letter to Pegasus (1st November 2018)
9.9	Pegasus letter to Swindon BC (7th November 2018)
9.10	Swindon BC letter to Pegasus (9th November 2018)
9.11	BEIS-Data "Data tables 1 to 19: supporting the toolkit and the guidance", Department for Business, Energy & Industrial Strategy, Last revised December 2017

CD10 – Technology Documents	
10.1	Directive 2010/75/EU of the European Parliament and of the Council of 24th November 2010 on industrial emissions (integrated pollution prevention and control)

CD11 – Waste Management Documents	
11.1	Energy from Waste: A Guide to the debate, Department for Environment Food and Rural Affairs (February 2014)
11.2	Town and Country (Environmental Impact Assessment) Regulations 2011
11.3	Directive 2008/98/EC of the European Parliament and of the Council of 19th November 2008 on waste and repealing certain directives
11.4	The Waste (England and Wales) Regulations 2011
11.5	Renewable Energy Association, Energy from Waste, A Guide for Decision-Makers (September 2011)
11.6	COM (2017) 34 final, European Commission, The role of waste-to-energy in the circular economy
11.7	IPCC, 2014: Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change
11.8	Keypoint Swindon WRATE Analysis (Cobalt, 9th March 2017, Rev B)
11.9	European Court of Justice in C-461/17 – Holohan and Others (9 November 2018).
11.10	EIA Directive (85/337/EEC) (as amended)
11.11	Defra-CarbMod Energy recovery for residual waste: A carbon based modelling approach, Department for Environment Food & Rural Affairs (February 2014)
11.12	Defra-WR2011 Government review of waste policy in England 2011, Department for Environment Food & Rural Affairs
11.13	Environment Agency EA-R1-Plants R1 Status of Incinerators (9 January 2018)
11.14	The Environmental Permitting (England and Wales) Regulations 2010.
11.15	The Environmental Permitting (England and Wales) (Amendment) Regulations 2013
11.16	EU Rev-WFD Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2008/98/EC on waste, (2018 Circular Economy Package)
11.17	Our Waste, Our Resources: A Strategy for England (Defra – December 2018)

CD12 – NEV Documents	
12.1	New Eastern Villages Planning Obligations Supplementary Planning Document (adopted October 2016)
12.2	New Eastern Villages Green Infrastructure Supplementary Planning Document (adopted July 2017)
12.3	Swindon Employment Land Review Final Report (Nathaniel Lichfield & Partners, March 2017)
12.4	Reading Employment Land Review (Roger Tym & Partners, October 2006)
12.5	Employment Land Review and Economic Growth Study Phase 1 (GVA, November 2015)

CD13 – Air Quality Documents	
13.1	Air emissions risk assessment for your environmental permit, (Environment Agency and Department for Environment Food and Rural Affairs, published 1st February 2016, last updated 2nd August 2016) www.gov.uk/guidance/air-emissions-risk-assessment-for-your-environmental-permit#environmental-standards-for-air
13.2	Directive 2008/50/EC of the European Parliament and of the Council of 21st May 2008 on ambient air quality and cleaner air for Europe.
13.3	Directive 2004/107/EC of the European Parliament and of the Council of 15th December 2004 relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air.
13.4	SI 2010:1001, Environmental Protection, The Air Quality Standards Regulations 2010.
13.5	Modelled background data (Department for Food, Environment and Rural Affairs) https://uk-air.defra.gov.uk/data/pcm-data
13.6	Monitoring of ambient air quality in the vicinity of Honda of the UK Manufacturing Limited, Swindon (Environmental Scientifics Group; Report 131115/2013-AQ; 25th November 2013)
13.7	Monitoring in the vicinity of the K145, Keypoint site, (Environmental Scientifics Group Limited; Report No. 160123-A; 17th August 2016)
13.8	Air quality impact assessment of a proposed energy from waste plant (Environmental Scientifics Group Limited; Report No. LSO160321,1; 20th April 2016)
13.9	AQTAG06 Technical guidance on detailed modelling approach for an appropriate assessment for emissions to air (Environment Agency, October 2011)
13.10	An assessment of air quality impacts on the Bodleian Libraries Book Storage Facility (Gair Consulting Limited; Report C90-P01-R01; November 2016)
13.11	Planning Statement on behalf of The Oxford University and The Bodleian Libraries in respect of Planning Application S/16/1055 (JPPC, December 2016).
13.12	EA-Guidance Assess the impact of air emissions on global warming, Environment Agency Guidance (Published 1 February 2016)

CD14 – Highways Documents	
14.1	DfT Circular 02/2013
14.2	Swindon Local Transport Plan 3: 2011-2026 (adopted April 2011)

CD15 – Noise Documents	
15.1	215.1.1 NOISE POLICY STATEMENT FOR ENGLAND (PUBLISHED MARCH 2010)

15.2	215.1.2 BS 4142:2014 - METHODS FOR RATING AND ASSESSING INDUSTRIAL AND COMMERCIAL SOUND (PUBLISHED OCTOBER 2014)
15.3	215.1.3 BS 5228-1:2009 - CODE OF PRACTICE FOR NOISE AND VIBRATION CONTROL ON CONSTRUCTION AND OPEN SITES – PART 1: NOISE (PUBLISHED DECEMBER 2008)
15.4	Guidelines for Community Noise (World Health Organisation, published 1999)

CD16 – Heritage Documents	
16.1	Historic Environment Good Practice Advice in Planning Note 1: The Historic Environment in Local Plans (Historic England, March 2015)
16.2	Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision-Taking in the Historic Environment (Historic England, March 2015)
16.3	Historic Environment Good Practice Advice in Planning Note 3 (Second Edition): The Setting of Heritage Assets (Historic England, December 2017)

CD17 – Relevant Appeal Decisions, Planning Applications and Legal Judgements	
Appeal decisions	
17.1	Bilsthorpe SoS Appeal Decision – APP/L3055/V/14/3001886 – dated 1st June 2016
17.2	Green Lane Appeal Decisions – APP/U4230/A/11/2162115 and APP/U4230/A/11/2162103; Green Lane, Eccles, Salford M30 8AD – dated 21st August 2012
17.3	Lock Street Appeal Decision – APP/H4315/A/14/2224529; Former Ravenhead Glass Warehouse and other land, Lock Street, St Helens, WA9 1HS – dated 3rd August 2015
17.9	Land at Javelin Park SoS Appeal Decision – APP/T1600/A/13/2200210 – dated 6th January 2015
Keypoint Planning Permissions	
17.4	T94/1452 – Outline planning application for the wider Keypoint industrial area including 88,325m^2 of warehousing (use class B8), road/rail intermodal rail terminal, lorry park, open container storage, siding and link to mainline and ancillary works – Granted December 1997
17.5	S/00/2573 – Application to extend the period for submission of reserved matters pursuant to outline permission T94/1452 – Granted on January 2001
17.6	S/01/0789 – Application for an industrial and distribution unit to be built in two phases to serve Honda – Granted on 19th March 2001
17.7	S/10/1780 – Erection of a distribution building with associated works – Granted on 6th April 2011
Other Planning Permissions	
17.8	S/13/1860 – Erection of an Energy Centre to generate electricity and hot water through gasification of pre-chipped recovered wood – Granted on 19th March 2014
17.9	See 'Appeal Decisions' above
17.10	Lafarge Cement Works, Westbury: 17/10578/OUT - Development of a rail-served slab track manufacturing facility – Granted on 28th March 2018
17.11	Chapel Farm, Blunsdon: S/18/1080/NISM – Erection of a primary school with associated grounds, parking and vehicular, cycling and pedestrian access – Granted on 23rd October 2018
17.12	Land at Tadpole Garden Village, Blunsdon: S/16/1353/NISM – New educational development consisting of a secondary school and a sports hall,

	soft and hard surface play areas, car parking and utilities provisions including associated roadworks – Granted 23rd November 2016
17.13	Crown Timber, South Marston: S/OUT/14/2058/EDSN – Outline application for the erection of up to 47no. dwellings and associated works with access from Thornhill Road – Granted on 15th May 2018

CD18 – Other Documents	
18.1	Bodleian Letter from Laura How, Head of Administration and Finance, Bodleian Libraries, 2 August 2016
18.2	Bodleian Letter from Richard Ovenden, Bodley's Librarian, to Swindon Borough Council Planning Committee, 8 September 2017
18.3	SKIP (Stop Keypoint Incinerator Project) Interested Party Representation (May 2018)
18.4	UKWIN Interested Party Submission (May 2018)
18.5	Third Party Representations Interested Party Submissions (May 2018)
18.6	Councillor Des Moffatt Interested Party Submission (7th May 2018)
18.7	South Marston Parish Council Interest Party Submission (8th May 2018)
18.8	Swindon BC letter to Pegasus (5th October 2018)
18.9	Pegasus letter to Swindon BC (17th October 2018)
18.10	UKWIN – Page 8 of the Leivers Consultancy March 2018 Feedstock Supply Report (submitted as Appendix 1 to the Planning Statement Addendum to Sunderland City Council)
18.11	UKWIN – Page 12 of the October 2017 Planning Statement (submitted to Sunderland City Council)
18.12	UKWIN – Extract from Section 3 of the March 2018 Environmental Statement Addendum (submitted to Sunderland City Council)