



Arundel Castle Trustees Ltd

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Consultation Response to the Ford Energy from Waste Application

Ford Circular Technology Park

WSCC/011/21

On behalf of The Arundel Castle Trustees

May 2021

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Planning Application WSCC/011/21 • WSCC/011/21

Application Pending a Decision

Ford Energy Recovery Facility, Waste Sorting and Transfer Facility



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1. Executive Summary

- 1.1. This consultation response has been prepared by The Arundel Castle Trustees (the Trustees) in response to the application at Ford Circular Technology Park for a new energy from waste facility (reference WSCC/011/21, following the withdrawal of the previous application in 2020, reference WSCC/036/20). While we note that the consultation period inviting comments from interested parties ran until the 14 May 2021, we would be grateful to have the views expressed in this response taken into account by WSCC.
- 1.2. Arundel Castle Trustees Ltd is a registered charity, founded in 1975 solely to own and manage Arundel Castle and its grounds for the public benefit. Arundel Castle has been the seat of the Dukes of Norfolk and their ancestors for over 850 years. With a history dating back to 1067, the Castle is a pre-eminent heritage site and one of the largest and oldest inhabited castles in the UK. Under normal circumstances, the castle welcomes c.200,000 visitors each year for leisure and educational purposes. It is an important economic and cultural asset to the town and the region.
- 1.3. The current proposal for a new energy from waste facility follows approval of an earlier scheme for an energy from waste facility at the site in January 2015 (reference: WSCC/096/13/F) (the fall-back position). The Trustees did not object to the earlier scheme, whose buildings related well to the scale of the existing hangar buildings on site, which are well concealed by existing tree planting from nearly all local views.
- 1.4. While we note that the revised proposal reduces the height of the tallest part of the building from that withdrawn in 2020, from 51.2m to 38.5m, this remains the equivalent of a 13 storey building. This is more than double the height of the existing buildings; the height of the stacks remains at 85m and the number of stacks has been doubled. While the application suggests that parts of the structure have been sunk into the ground, with the exception of the bunker, which is only 3m below ground level, the rest of the structure is no more than 1.5m below the ground, including the tallest internal element, the boiler hall.
- 1.5. Given the local topography of the lower Arun valley, the reduction in height of the building appears to have had very little effect on the zone of theoretical visibility (ZTV). The scheme proposed remains very significantly different in scale from anything else within this zone, cannot be reasonably argued to sit well within the context, or to have any particular architectural merit. It is difficult to understand how the application reaches the conclusion that the concerns of consultees have been successfully addressed, or how the scale of visual and cultural impact is materially different from the scheme that was withdrawn, based on the assessment that accompanies the application.



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- 1.6. The landscape and visual impact assessment (LVIA) that forms part of the application acknowledges that the scheme causes a series of substantial adverse impacts upon the landscape and character of the local and wider area, as well as having significant adverse effects on the setting of a number of heritage assets, which cannot be mitigated. We are concerned that the LVIA downplays the effects, by failing to distinguish between moderate and substantial adverse effects and downplaying the sensitivity of receptors.
- 1.7. The proposed structure would become the dominant feature in the landscape to the south of Arundel, of a different scale from anything else in this landscape and would be likely to detract from the setting of the town for visitors and residents. Therefore this application, if approved by WSCC, will have a significant detrimental effect upon the interests of the Trustees, namely Arundel Castle.
- 1.8. As a consequence the Trustees have deemed it necessary to respond to the current consultation to raise their concerns with the proposals so that these may be properly considered by officers when determining the application.
- 1.9. In order to inform this report we have reviewed both the current and previously approved proposals.
- 1.10. The current proposal is for an energy from waste facility of a significantly larger scale and capacity than the previously approved facility. **Table 2.1** below provides a broad comparison of the scale and capacity of the two schemes and, for completeness, also the withdrawn scheme.

Table 2.1: Comparison between scale and capacity of previously approved facility (WSCC/096/13F) and current proposal (WSCC/036/20)

	WSC/096/13/F	WSCC/036/20	WSCC/011/21
Capacity (energy from waste)	140,000 Tonnes	275,000 Tonnes	275,000 Tonnes
Capacity (transfer stations)	60,000 Tonnes	20,000 Tonnes	
Proposed Employees	60	80	
Total Floorspace	9,645 sqm	27,457.6 sqm	
Maximum Height to eaves	18m	n/a	n/a
Maximum height to ridge	22m	51.2m	38.5m
Maximum Height (Stack)	50 m x 2	85 m x 1	85m x 2



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- 1.11. The justification put forward for the larger facility at the site is to maximise the development potential of the site. The Planning Statement advises that there is no requirement to demonstrate need as the site has been allocated through the WSCC Waste Local Plan (para A2.1) but then goes on to assess the need for this facility, part of which is that the applicant no longer intends to develop the previously consented facility.
- 1.12. The site is allocated for a treatment facility with a capacity for up to¹ c.250,000 tonnes per annum (tpa), which is considered sufficient, when combined with other allocated sites, to meet the shortfall in need across the County over the plan period. Therefore the additional capacity proposed on site would constitute an overprovision against an identified need. It should also be noted that the allocation does not assume any particular technology – it includes waste transfer, recycling and/or recovery. In this case the proposal is subject to the assessment of effects through environmental impact assessment, which must be balanced against the benefits of the proposal.
- 1.13. In addition to reviewing the proposed scheme, we had previously instructed landscape and heritage consultants to undertake a review of the relevant impacts of the now withdrawn proposal, based on the information contained within the original Environmental Statement (ES). We have not reproduced this exercise but have taken the advice previously provided into account in preparing our response, bearing in mind that the ZTV is materially unaltered and the stack heights are unaltered.

Structure of this Consultation Response

- 1.14. The consultation response comprises the following sections:
- **Section 1: Executive Summary.** This section provides a summary of the consultation response and the position of the Trustees;
 - **Section 2: Policy Context.** This section provides the policy context against which the application will be determined;
 - **Section 3: Planning Considerations.** This section explores the planning considerations related to the proposed application, notably, landscape and visual impact, heritage and need. It also provides an assessment of the proposals on balance.
 - **Section 4: Conclusions.** This section draws the findings of the preceding sections together into a summary.

¹ From Table 5, Review of West Sussex Waste Local Plan 2019.



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2. Policy Context

- 2.1. The planning application has been made to West Sussex County Council (WSSCC) under the Town and Country Planning Act 1990 (as amended) because the proposed development is of a type prescribed in The Town and Country Planning (Prescription of County Matters) (England) Regulations 2003. The proposed development will be considered in the context of national and local planning policy.

National Planning Policy

- 2.2. The key national planning policy documents against which a planning application such as this will be considered are the National Planning Policy for Waste (NPPW) (October 2014) and the National Planning Policy Framework (NPPF) (2019).

National Planning Policy for Waste (NPPW)

- 2.3. The NPPW sets out detailed waste policies in England which all local authorities are required to consider when preparing Local Plans and making decisions on planning applications. When preparing Local Plans the NPPW establishes that authorities should use a proportionate evidence base, identify the need for waste management facilities and identify suitable sites and areas.
- 2.4. The NPPW also sets out a number of criteria that waste planning authorities should consider when determining planning applications. This includes considering the likely impact on the local environment and amenity against the criteria set out in Appendix B of the NPPW; and ensuring that waste management facilities are well designed so that they contribute positively to the character and quality of the area in which they are located.
- 2.5. Appendix B of the NPPW sets out 12 criteria against which the impact of facilities on the local environment must be considered, these are as follows:
- a. Protection of water quality and resources and flood risk management;
 - b. Land instability;
 - c. Landscape and visual impacts;
 - d. Nature conservation;
 - e. Conserving the historic environment;
 - f. Traffic and access;
 - g. Air emissions, including dust;
 - h. Odours;
 - i. Vermin and birds;
 - j. Noise, light and vibration;



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- k. Litter; and
- l. Potential land use conflict

National Planning Policy Framework (NPPF)

- 2.6. The NPPF (2019) is a material consideration in the determination of planning applications. It sets out the overarching policies against which development proposals will be judged and Local Plan policies should accord. It contains 17 chapters covering various different policy considerations.

Local Planning Policy

- 2.7. Local Planning policy is set out in the Development Plan. The Development Plan against which the planning application will be considered consist of the following:
- West Sussex Waste Local Plan (2014)
 - West Sussex Joint Minerals Local Plan (2018)
 - Arun District Local Plan 2011 – 2031 (2018)
 - Ford Neighbourhood Development Plan (2019)

West Sussex Waste Local Plan (2014)

- 2.8. The West Sussex Waste Local Plan (WSWLP) is the most relevant local development plan document against which the proposals will be considered. It was adopted in 2014 and was reviewed in 2019. The 2019 review found that the WSWLP remains in conformity with national planning policy. As such the WSWLP is considered up to date for the purposes of determining planning applications.
- 2.9. The strategic objective of the WSWLP is to work towards zero net waste to landfill by 2031. The WSWLP identifies a shortfall in waste capacity of 680,000 tonnes per annum and allocates waste sites to meet this shortfall over the plan period. Site allocations are provided through Policy W10: Strategic Waste Allocations. The Ford Circular Technology Park is allocated through policy WS10. It is referred to in the WSWLP as *Site North of Wastewater Treatment Works, Ford*.
- 2.10. Policy W10 identifies that the allocated sites are:
- “to meet identified shortfalls in transfer, recycling and recovery capacity. Accordingly they are acceptable, in principle, for the development of waste management facilities for the transfer, recycling, and / or recovery of waste (including the recycling of inert waste)” (our emphasis).*



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2.11. Policy W10 continues:

“The development of a site allocated under (a)-(b) must take place in accordance with the policies of this Plan and satisfactorily address the ‘development principles’ for that site identified in the supporting text to this policy”.

2.12. The supporting text to policy W10 sets out the expectations for the allocation at the Ford Circular Technology Park. It establishes that the site has capacity to deliver a single built facility (up to c.250,000 tonnes per annum) or a number of smaller facilities.

2.13. It continues to set out development principles for the site, which are:

- Development of the site to be comprehensive;
- Comprehensive landscaping required;
- Assessment of impacts on the listed buildings to the north and possible mitigation required;
- Low level archaeological mitigation may be required;
- The impact on water environment may need to be mitigated;
- The impact on the amenity of users of local public rights of way may need to be mitigated;
- Traffic impact mitigation may be required;
- Cumulative impacts of traffic, noise and odour will need to be addressed or mitigated;
- The potential closure of the existing access from the north should be explored;
- Assessment and mitigation of HGV movements on the local highway capacity will be required; and
- A routing agreement will be required to ensure vehicles enter and exit via Ford road to the south.

2.14. Paragraph 7.4.5 establishes that the sites allocated through policy W10 have the capacity to meet the capacity shortfall of 680,000 tpa over the plan period, with an estimated capacity of between 700,000 and 850,000 tpa.

2.15. In addition to allocations, the WSWLP sets out a number of development management policies, those relevant to the proposal are:

- Policy W11: Character
- Policy W12: High Quality Developments
- Policy W13: Protected Landscapes
- Policy W14: Biodiversity and Geodiversity
- Policy W15: Historic Environment
- Policy W16: Air, Soil and Water



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- Policy W17: Flooding
- Policy W18: Transport
- Policy W19: Public Health and Amenity
- Policy W21: Cumulative Impact

West Sussex Joint Minerals Local Plan (2018)

- 2.16. The West Sussex Joint Minerals Local Plan is not relevant to the proposed development.

Arun District Local Plan

- 2.17. The Arun Local Plan was adopted in 2018. It sets out the vision for the District, allocates non-minerals and waste development sites and sets out detailed policies to guide development over the plan period. The relevant policies of the Arun Local Plan are:

- Policy SD SP2 – Built up Area Boundary
- Policy C SP1 – Countryside
- Policy LAN DM1 - Protection of Landscape Character
- Policy LAN DM2 – The Setting of Arundel
- Policy EMP SP1 – Strategic Employment Growth
- Policy EMP DM1 – Employment Land: Development Management
- Policy SO DM1 – Soils
- Policy HOR DM1 – Horticulture
- Policy D SP1 – Design
- Policy ECC SP2 – Energy and Climate Change Mitigation
- Policy ECC DM1 - Renewable Energy
- Policy T SP1 Transport
- Policy T DM1 – Sustainable Travel and Public Rights of Way
- Policy HER SP1 – The Historic Environment
- Policy HER DM1 – Listed Buildings
- Policy ENV SP1 – Natural Environment
- Policy ENV DM4 – Protection of Trees
- Policy ENV DM5 – Development and Biodiversity
- Policy W DM2 – Flood Risk
- Policy WM DM1 – Waste Management
- Policy QE SP1 – Quality of the Environment



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- Policy QE DM1 – Noise Pollution
- Policy QE DM2 – Light Pollution
- Policy QE DM3 – Air Pollution

Ford Neighbourhood Development Plan

2.18. The Ford Neighbourhood Development Plan was made in 2019. It contains local policies applicable within the Neighbourhood Plan Area that expand upon policies contained within the Arun Local Plan. The relevant policies to the proposed development are as follows:

- Policy SP1 – Spatial Plan for the Parish
- Policy BUA1 – Built up Area Boundary
- Policy EH1 – Protection of Trees and Hedgerows
- Policy EH3 – Buildings and Structures of Character
- Policy EH4 – Surface Water Management
- Policy EH7 – Local Gap
- Policy EH8 - Light Pollution



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3. Planning Considerations

- 3.1. The site for the proposed Energy from Waste (EFW) facility benefits from planning permission for a smaller facility (under ref: WSCC/096/13/F). It is also allocated through policy W10 of the WSWLP for waste development. As such, the principle of the development of waste facilities at the site has been established and is acceptable.
- 3.2. The Trustees do not object to the principle of creating an EFW facility at the site, as demonstrated by their lack of objection to the initial planning application for a smaller facility at the site. However, the facility now proposed remains of a significantly greater scale in terms of both the built form proposed, and the capacity of the facility. The Trustees are concerned that the substantial increase in scale of the proposed facility will have a significant detrimental impact upon their interests.
- 3.3. It is not clear why a larger facility than that allocated through policy W10 of the WSWLP is proposed, the Planning Statement advises that the site is allocated and therefore there is no requirement to demonstrate need. However, the site is allocated for a facility with a capacity of up to c. 250,000 tpa. The WSWLP makes provision across 5 sites to meet the identified shortfall in the District with sufficient headroom to allow for a high growth scenario, which WSCC acknowledge is unlikely to occur within the plan period (paragraph 2.11.1 of the WSWLP). The argument advanced by the applicant to provide waste capacity over and above the upper end of the identified potential need over the plan period essentially puts aside the limitation which is strongly implied by the WSWLP. Should this over-provision of waste capacity on site lead to harm then the need for the larger facility should be robustly demonstrated and it should be proven sufficient to outweigh any identified harm.
- 3.4. Primarily the Trustees are concerned with the impact of the proposal upon the wider landscape and the impact upon heritage assets in the local area, which includes the Grade I Listed Arundel Castle. The landscape and heritage impacts of the proposal are explored below.

Landscape and Visual Impact

- 3.5. The NPFW sets out that landscape and visual impacts are a key element against which planning authorities should consider waste development proposals. Annex 2 of the NPFW establishes that landscape and visual impact considerations will include:



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- (i) *The potential for design-led solutions to produce acceptable development which respects landscape character;*
- (ii) *The need to protect landscapes or designated areas of national importance (national Parks, the Broads, Areas of Outstanding Natural Beauty and Heritage Coasts); and*
- (iii) *Localise Height restrictions.*

- 3.6. The current proposals remain substantially larger than those previously approved. The main building is 38.5m high, which is more than double the height of the existing buildings on site and approximately double the height of the previously approved development (which was 18m to eaves and 22m to ridge). In addition, the stacks will be increased from 50m to 85m and will be fitted with aviation warning lights at the top and possibly also the ridge.
- 3.7. This increase in height makes the proposals significantly more visible. This increase in height has resulted in the study area for landscape impacts being expanded from a 2.5 km radius to at least 4.5 km. Both Arundel and Arundel Castle now fall within the study area, whereas they were previously considered to be sufficiently far away so as not to be significantly impacted. The proposals will be clearly visible from the South Downs National Park (SDNP), as well as some locations over 10km away from the site. As such the scope for effects of the proposal has risen from 2.5km through the previously approved scheme to 10km through the current proposals, an increase in area from c. 20km² to over 300km².
- 3.8. In terms of landscape impacts, the proposals have no less than a moderate significant effect on the 11 Landscape Character Areas (LCAs) assessed. Where the effect is less than moderate, it is still termed slight to moderate. The assessment contains a range for both the receptor sensitivity and the impact magnitude making it difficult to follow the logic of the assessment and it is unclear whether the worst case has been reported. The outcome appears to be the same as the withdrawn application.
- 3.9. A substantial effect is the highest degree of effect possible. If we take moderate to substantial effects to mean these include substantial effects then the assessment concludes that there are substantial adverse effects on no less than 4 landscape character areas, which cannot be mitigated.



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- 3.10. In terms of visual amenity impacts, the increase in distance for potential visual effects from 2.5km to 10km is due to the scale of the built form proposed which will be easily distinguishable at these distances, forming a new large industrial feature out of scale with the surrounding context, which would be clearly visible above the skyline. The submitted ES concludes that the effects of the proposal upon visual amenity are considered to be no less than **moderate adverse** and **substantial adverse**.
- 3.11. We understand that the assessment of visual impact is a matter of professional judgement, but we are concerned that the ES adopts no more than medium sensitivity for most receptors, including all of the existing residents living within 1.5km of the site and all of the local heritage area visitors. Only at greater distances do any receptors of high sensitivity appear in the assessment. The outcome of the assessment of visual impact is highly sensitive to this judgement. We do not find the explanation given particularly reassuring, as it relies on residents' awareness of the existing use of the site, which cannot be seen in many views, and future housing development degrading their views (see eg VR1). When reading the assessment of sensitivity, we consider that it would be at least equally justified in inserting the word 'high', where the word 'medium' appears and we note that this is at odds with the assessment accompanying a similar application at Wealden Brickworks north of Horsham.
- 3.12. We are also quite surprised that the visual impact assessment assesses the magnitude of visual effect during construction as less than after completion. We note some passing references to cranes but anticipate that there will be some very large cranes present that may well be equipped with aviation lighting. This does not appear to have been considered adequately.
- 3.13. Furthermore, while the presence of a plume is mentioned several times, no attempt seems to have been made to assess the effect of this.
- 3.14. In addition we note that the construction phase is considered temporary and reversible. It will of course leave a permanent structure, so is arguably not fully reversible. We understand site clearance and construction will last approximately three years, with cranes present for much of this time (and then the structure will remain). For these reasons we consider that the construction phase effects have been underestimated and we believe these effects will be more significant than stated.
- 3.15. Finally we note that there has been no consideration of decommissioning, either of existing facilities or of the proposed facility. This appears to be a failure of the due EIA process.



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- 3.16. The ES identifies that there is potential for the proposals to impact upon the thousands of visitors each year to Arundel Castle and the historic town. With no change in the height of the stacks (now two, not one) we are concerned to ensure that the ES considers the significance of effect accurately. We are particularly concerned that construction phase effects are considered to be mostly imperceptible as we believe there is a strong likelihood that flood lighting and crane lighting will make the site very visible during the construction phase. We would like these matters to be very carefully controlled if planning approval is granted. We are unconvinced that lighting during both construction and operation has been given sufficiently careful consideration in the ES assessment. These matters should be assessed having proper regard to residents as well as visitors.
- 3.17. Policy *W11*: Character of the WSWLP supports proposals for waste development provided that they would not have an unacceptable impact upon the character, distinctiveness, and sense of place of the different areas of the County.
- 3.18. Policy *W13: Protected Landscapes* of the WSWLP identifies that proposals for waste development located outside protected landscapes will be permitted provided that they do not undermine the objectives of the designation.
- 3.19. Policy *LAN DM1: Protection of Landscape Character* of the Arun Local Plan sets out that development within the setting of the SDNP must have special regard to the conservation of that setting, including views into and out of the Park, and will *not* be permitted where there would be harmful effects on these considerations.
- 3.20. Policy *QE SP1: Quality of the Environment* of the Arun Local Plan states that the Council requires that all development *contributes* positively to the quality of the environment and will ensure that development does not have a significant negative impact upon the residential amenity, the natural environment or upon leisure and recreational activities enjoyed by residents and visitors to the District.
- 3.21. Given the significant *adverse* effects upon large areas of the surrounding landscape as well as the visual amenity of receptors within a 10km radius of the site, which include key visitor destinations and protected areas in the form of the SDNP, it is clear that in order to satisfy policies W11, W13, LAN DM1 and QE SP1 significant landscape and visual impact mitigation will be required.



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- 3.22. The landscape in the vicinity of the site is low lying with limited woodland cover, which generally does not exceed 15 – 20m in height. The increase in height of the proposal means that it would substantially exceed the height of the vegetation and existing built form in the area that may act as a screen, therefore there is limited mitigation of views of the proposed incinerator. It is important to note that the visual amenity impacts will affect locations in the SDNP, Arundel (including the castle) and the Arun Valley, all of which are sensitive receptors and major tourist destinations.
- 3.23. The mitigation strategy, which is to provide a design of a high architectural quality that will have an association with Ford Airfield, is an entirely subjective approach. Receptors within the wider context will include a large number of visitors to the SDNP and tourists to Arundel and the Castle, who are highly unlikely to appreciate this local context. They will simply see a very large scale built form at odds with the wider landscape. There is no obvious reason why visitors to Arundel would be able to see the design as either high quality or beautiful. We think the opposite is much more likely.
- 3.24. Overall, it is clear that the proposals will have a substantial impact upon both visual amenity and landscape within a 10km radius of the site, which cannot be mitigated. The approach to the proposals taken, to increase scale and height, with mitigation through a tenuous architectural link to the airfield is insufficient to mitigate the scale of impact. This is particularly true for the visitors to the Castle who will be unlikely to have an appreciation of this architectural link. As such the proposals are in clear conflict with policies W11, W13, LAN DM1 and QE SP1 of the WSWLP and the Arun Local Plan. In light of this clear policy conflict and the inability to sufficiently mitigate the impacts of the proposed development, it should not be permitted.
- 3.25. Although the Trustees have no objection in principle to the provision of a greater capacity waste development on site, this should not be at the expense of visual amenity of local residents and visitors, or the natural beauty of the surrounding landscape, which are important to the ongoing success of the Castle and the town as key visitor destinations.
- 3.26. While the scheme now proposed is in part an improvement over the scheme that has been withdrawn it has the drawback of doubling the number of stacks (and presumably stack lighting, which may be needed at both the ridge and the top of the stack), it is still very substantially larger than the permitted fall back, which has been implemented. Clearly the permitted fall back, which we did not object to, is the better alternative. It is also clear that transfer and recycling can be successfully carried out with limited impact (as is currently the case).



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Heritage

- 3.27. The second key concern of the Trustees with the current proposals is the heritage impact, particularly the impact upon Arundel *Castle* and the town, although we note that there are several listed churches and farm buildings close to the site that are adversely affected.
- 3.28. Given that the height of the stack is unaltered but there are now two stacks rather than one and also that the significance of *effect* is otherwise materially the same as the withdrawn scheme, we invite WSCC to inform itself in the light of this information and through its own site visits, as to whether the proposed scheme can be accommodated in the landscape without detracting from the setting of Arundel, the Castle and other designated sites in the area.
- 3.29. The NPFW sets out that heritage impacts are a key element against which planning authorities should consider waste *development* proposals. Annex 2 of the NPFW establishes that heritage considerations will include “*The potential effects on the significance of heritage assets, whether designated or not, including any contribution made by their setting*”.
- 3.30. As highlighted previously in this response, the increased height and scale of the proposal generate a potentially greater *impact* upon heritage assets within the vicinity of the site which needs to be assessed, this includes the Grade I Listed Arundel Castle (NHLE number 1027926), the Grade I Listed Roman Catholic Cathedral of St Philip Neri (NHLE 1248090) and Arundel Conservation Area.
- 3.31. There is a **strong presumption against** causing any harm to the significance of designated heritage assets. In this case, *the* heritage assets involved are some of the most important and significant in the country and therefore, in line with the proportional approach to conservation as set out in the NPPF, extra care and consideration must be given to them.
- 3.32. Considerable weight must be given to the desirability of preserving the setting of listed buildings. The importance of many of the listed buildings in Arundel, including Arundel Castle and the Cathedral of St Philip Neri is gained, in part from their elevated position and prominence in views from the surrounding area, and their dominating views of the surrounding area, particularly the Arun valley to the south where the proposal is located. As such, any development at the site has potential to cause significant harm to the setting of these, and other nearby listed buildings.



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- 3.33. The ES identifies that there will be a permanent slight adverse effect upon the setting of Arundel Castle arising from the proposed development. We note that the views from the Castle now included within the heritage assessment are partly concealed behind the battlements. We are concerned that the application underplays the significance of this effect and do not agree that this view shows that *'The proposals will be seen partially against the backdrop of the sea, and the building will appear integrated into the layers of vegetation towards the horizon'* (para 10.125). In this view, the building and the stacks clearly breach the skyline, forming an alien intrusion in the landscape, and bearing no relationship with its surroundings. We request a more thorough consideration by WSCC in balancing the need for the facility, bearing in mind the alternative fall back against these significant adverse effects, in the light of the NPPF. The 85m high stacks impact upon these views and we are concerned that the view referred to in the ES heritage assessment does not consider the effect of aviation lighting or the night-time view with site illumination, which could also be significant. Given the particular importance of views from the Castle and the Keep in providing early warning of invaders and opposing forces, and the importance of the listed building in a national context, it is essential that these views are properly taken into consideration in the assessment and the balancing exercise.
- 3.34. The NPPF and case law² establish that there remains a strong presumption against harm, regardless of the level of harm. Policy HER DM1: Listed Buildings of the Arun Local Plan states that proposals affecting listed buildings will be required to protect, and where possible enhance the setting of the building. Harm to the setting of Arundel Castle has been identified and therefore these proposals conflict with policy HER DM1 of the Arun Local Plan.
- 3.35. Assuming that the level of harm identified is correct, the harm to the listed buildings around the site, including, but not limited to Arundel Castle, a Grade I listed building of the highest order, and the conflict with policy HER DM1 of the Arun Local Plan, must be given significant weight in the planning balance. This has not been done in the application.

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The Court of Appeal decision in *Barnwell vs East Northamptonshire DC* made it clear that in enacting Section 66(1) Parliament's intention was that *'decision makers should give "considerable importance and weight" to the desirability of preserving the setting of listed buildings when carrying out the balancing exercise, as contained in the NPPF. Barnwell Manor v East Northants DC [2014] EWCA Civ 137 and Paragraph 193 of the NPPF 2019.*



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Planning Balance

- 3.36. As has been demonstrated above, the proposed development would have significant adverse landscape, visual amenity and heritage impacts. This is acknowledged in paragraph 5.82 of the Planning Statement which accompanies the application which identifies that there will be significant effects remaining after mitigation. It states: *“These comprise mainly landscape and visual effects, along with associated effects on the setting of heritage assets”*.
- 3.37. The Planning Statement concludes at paragraph 5.83 that *“whilst there would be some adverse impacts that do not lend themselves to further mitigation beyond that already provided, this would not be unacceptable. Some impact could reasonably be expected to be associated with the allocation of the site in the WLP for a large waste management facility.”*
- 3.38. It continues at paragraph 5.84 *“Overall and considering the development plan as a whole, the effect on the character and appearance of the area arising from the residual effects would be acceptable and would not conflict with adopted and up to date development plan policies”*.
- 3.39. This conclusion is strongly disputed. It is accepted that the site is allocated for waste development through policy WS10 of the WSWLP and there are likely to be some adverse impacts arising from the development of the site that may be outweighed by the public benefits of the proposal. However, the current proposal is for a facility with capacity to manage 295,000 tonnes of waste per annum (tpa) (275,000 EFW and 20,000 waste transfer).
- 3.40. Policy W10 of the WSLP makes provision across 5 allocated sites to process between 700,000 and 850,000 tpa, against a predicted capacity shortfall, under a worst case, higher growth scenario of 680,000 tpa over the plan period. As such, sufficient sites are clearly allocated to meet, and somewhat exceed the upper end of any waste processing shortfall in the County over the plan period. This is assuming a capacity at the site of 250,000 tpa, as set out in the supporting text to policy W10 of the WSWLP.
- 3.41. As such, there is not an identified need for a facility the size of that proposed which would exceed the anticipated capacity of the site by 45,000 tpa. The established need for the County over the plan period, in an unlikely higher growth scenario would be met through the provision of a waste facility on a site just 84% of the size of that proposed (when combined with 4 other sites allocated through policy W10 of the WSWLP). This is far more akin to the proposal previously approved at the site (see need established through Table 3 of the WSWLP).



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- 3.42. The adverse impacts arising from the proposal upon nearby heritage assets, landscape and visual amenity all largely arise from the height of the proposal, which is out of scale and context with any other structures in the area. This is underplayed in the application, largely by making all visual receptors close to the site of only medium, rather than high sensitivity. A large number of people, who may not be members of the Landscape Institute, would disagree with this categorisation.
- 3.43. The affected assets are some of the most highly protected and sensitive assets in the country, comprising the SDNP and a number of Grade I and Grade II listed buildings, including Place Farm, St Andrew's Church and the nationally significant Arundel Castle. Given that the impacts of the current proposals upon these assets cannot be mitigated, and the fact that there is not a need for a facility of the scale proposed in this location, it is considered that the current proposal should not be permitted.
- 3.44. In addition, the landscape, visual and heritage impacts of the proposed development have not been sufficiently assessed to allow WSCC to make an informed decision regarding the application. As such, any decision made without further assessment may be subject to legal challenge.
- 3.45. The Trustees would not object to the provision on site of a smaller facility which would provide the waste capacity for which there is an identified need, as this could be accommodated on site with significantly less harm to nearby heritage assets, the landscape or visual amenity, as demonstrated by the previous approval on site for a significantly smaller scheme to which the Trustees did not object and which forms an acceptable fall back.



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4. Conclusions

- 4.1. This report has been prepared by the Arundel Castle Trustees in response to the application at Ford Circular Technology Park for a new energy from waste facility (reference WSCC/011/21).
- 4.2. The site benefits from approval for an energy from waste facility at the site in January 2015 (reference: WSCC/096/13/F), which has been implemented. The Trustees did not object to the original application for an energy from waste facility to be constructed at the site which they considered to be of an appropriate scale for the location. However, the current proposal is for an energy from waste facility of a significantly larger scale and capacity than the previously approved facility which the Trustees consider would adversely affect their interests as well as the sensitive landscape and heritage assets in the area surrounding the site.
- 4.3. The Landscape and Visual Impact Chapter of the ES, found there to be a combination of moderate and substantial adverse effects on both the majority of the landscape character areas surrounding the site and a number of visual receptors in the area around the site. We consider the assessment underplays the significance of these effects in a number of important areas. In light of these adverse effects the proposals are in direct conflict with policies W11, W13, LAN DM1 and QE SP1 of the WSWLP and the Arun Local Plan. The harm identified is attributed largely to the height of the proposals. Subsequently the building height has been reduced from 51m to 38.5m but the number of stacks fitted with aviation warning lights has been doubled.
- 4.4. The impact of the proposals upon Arundel Castle, a nationally significant Grade I listed building have not been considered sufficiently for WSCC to form a view on the application. We consider the effects are more significant than those assessed in the ES, with limited consideration of construction and no consideration to the effect of lighting on views from within the castle and the keep above ground level for residents or visitors. There is potential for the proposals to cause significant harm to these views and therefore the historic setting of the castle. If the application is permitted without due consideration of the potential effects on Arundel Castle then the decision would be open to legal challenge.
- 4.5. Furthermore, despite these omissions, the Heritage Chapter of the ES concluded that the proposals would cause permanent, slight adverse harm to the significance of Arundel Castle, in clear conflict with policy HER DM1 of the Arun Local Plan.



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- 4.6. In light of the adverse landscape and visual impacts, which include harm to the setting of the SDNP and adverse effect on heritage assets, which includes harm to the nationally significant, Grade I Listed Arundel Castle, there must be overriding public benefits to justify the proposal. The applicants put forward the argument that the overriding public benefit is the need for the facility but fail to balance the adverse effects, which are underestimated, against this need.
- 4.7. Given the uncertainty and omissions associated with the assessment of effects within the ES, we request that WSCC carefully examine this application. In the event that WSCC decide following thorough consideration of the points we raise to approve the application, we request conditions to approve the lighting scheme during both construction and operation and the detailed finishes from the perspective of both the visitors to and residents of Arundel Castle. We would also invite a binding commitment towards implementing a CHP and carbon capture scheme that secures the climate change benefits required by the sixth carbon budget and anticipated in the application.



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Consultation Response to the Ford Energy From Waste Application

Ford Circular Technology Park

WSSC/011/21

The Norfolk Estate

May 2021

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Planning Application WSCC/011/21

Application Pending a Decision

Ford Energy Recovery Facility, Waste Sorting and Transfer Facility



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1. Executive Summary

- 1.1. This consultation response has been prepared by The Norfolk Estate (the Estate) in response to the application at Ford Circular Technology Park for a new energy from waste facility (reference WSCC/011/21, following the withdrawal of the previous application in 2020, reference WSCC/036/20). While we note that the consultation period inviting comments from interested parties ran until the 14 May 2021, we would be grateful to have the views expressed in this response taken into account by WSCC.
- 1.2. Arundel Castle has been the seat of the Dukes of Norfolk and their ancestors for over 850 years. With a history dating back to 1067, the Castle is a pre-eminent heritage site and one of the largest and oldest inhabited castles in the UK. Under normal circumstances, the castle welcomes c.200,000 visitors each year for leisure and educational purposes. It is an important economic and cultural asset to the town and the region.
- 1.3. The current proposal for a new energy from waste facility follows approval of an earlier scheme for an energy from waste facility at the site in January 2015 (reference: WSCC/096/13/F) (the fall-back position). The Estate did not object to the earlier scheme, whose buildings related well to the scale of the existing hangar buildings on site, which are well concealed by existing tree planting from nearly all local views.
- 1.4. While we note that the revised proposal reduces the height of the tallest part of the building from that withdrawn in 2020, from 51.2m to 38.5m, this remains the equivalent of a 13 storey building. This is more than double the height of the existing buildings; the height of the stacks remains at 85m and the number of stacks has been doubled. While the application suggests that parts of the structure have been sunk into the ground, with the exception of the bunker, which is only 3m below ground level, the rest of the structure is no more than 1.5m below the ground, including the tallest internal element, the boiler hall.
- 1.5. Given the local topography of the lower Arun valley, the reduction in height of the building appears to have had very little effect on the zone of theoretical visibility (ZTV). The scheme proposed remains very significantly different in scale from anything else within this zone, cannot be reasonably argued to sit well within the context, or to have any particular architectural merit. It is difficult to understand how the application reaches the conclusion that the concerns of consultees have been successfully addressed, or how the scale of visual and cultural impact is materially different from the scheme that was withdrawn, based on the assessment that accompanies the application.
- 1.6. The landscape and visual impact assessment (LVIA) that forms part of the application acknowledges that the scheme causes a series of substantial adverse impacts upon the landscape and character of the local and wider area, as well as having significant adverse effects on the setting of a number of heritage assets, which cannot be mitigated. We are concerned that the LVIA downplays the effects, by failing to distinguish between moderate and substantial adverse effects and downplaying the sensitivity of receptors.



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- 1.7. The proposed structure would become the dominant feature in the landscape to the south of Arundel, of a different scale from anything else in this landscape and would be likely to detract from the setting of the town for visitors and residents. Therefore this application, if approved by WSCC, will have a significant detrimental effect upon the interests of the Estate, namely Arundel Castle.
- 1.8. As a consequence the Estate have deemed it necessary to respond to the current consultation to raise their concerns with the proposals so that these may be properly considered by officers when determining the application.
- 1.9. In order to inform this report we have reviewed both the current and previously approved proposals.
- 1.10. The current proposal is for an energy from waste facility of a significantly larger scale and capacity than the previously approved facility. **Table 2.1** below provides a broad comparison of the scale and capacity of the two schemes and, for completeness, also the withdrawn scheme.

Table 2.1: Comparison between scale and capacity of previously approved facility (WSCC/096/13F) and current proposal (WSCC/036/20)

	WSC/096/13/F	WSCC/036/20	WSCC/011/21
Capacity (energy from waste)	140,000 Tonnes	275,000 Tonnes	275,000 Tonnes
Capacity (transfer stations)	60,000 Tonnes	20,000 Tonnes	
Proposed Employees	60	80	
Total Floorspace	9,645 sqm	27,457.6 sqm	
Maximum Height to eaves	18m	n/a	n/a
Maximum height to ridge	22m	51.2m	38.5m
Maximum Height (Stack)	50 m x 2	85 m x 1	85m x 2



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- 1.11. The justification put forward for the larger facility at the site is to maximise the development potential of the site. The Planning Statement advises that there is no requirement to demonstrate need as the site has been allocated through the WSCC Waste Local Plan (para A2.1) but then goes on to assess the need for this facility, part of which is that the applicant no longer intends to develop the previously consented facility.
- 1.12. The site is allocated for a treatment facility with a capacity for up to¹ c.250,000 tonnes per annum (tpa), which is considered sufficient, when combined with other allocated sites, to meet the shortfall in need across the County over the plan period. Therefore the additional capacity proposed on site would constitute an overprovision against an identified need. It should also be noted that the allocation does not assume any particular technology – it includes waste transfer, recycling and/or recovery. In this case the proposal is subject to the assessment of effects through environmental impact assessment, which must be balanced against the benefits of the proposal.
- 1.13. In addition to reviewing the proposed scheme, we had previously instructed landscape and heritage consultants to undertake a review of the relevant impacts of the now withdrawn proposal, based on the information contained within the original Environmental Statement (ES). We have not reproduced this exercise but have taken the advice previously provided into account in preparing our response, bearing in mind that the ZTV is materially unaltered and the stack heights are unaltered.

Structure of this Consultation Response

- 1.14. The consultation response comprises the following sections:
- **Section 1: Executive Summary.** This section provides a summary of the consultation response and the position of the Estate;
 - **Section 2: Policy Context.** This section provides the policy context against which the application will be determined;
 - **Section 3: Planning Considerations.** This section explores the planning considerations related to the proposed application, notably, landscape and visual impact, heritage and need. It also provides an assessment of the proposals on balance.
 - **Section 4: Conclusions.** This section draws the findings of the preceding sections together into a summary.

¹ From Table 5, Review of West Sussex Waste Local Plan 2019.



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2. Policy Context

- 2.1. The planning application has been made to West Sussex County Council (WSSCC) under the Town and Country Planning Act 1990 (as amended) because the proposed development is of a type prescribed in The Town and Country Planning (Prescription of County Matters) (England) Regulations 2003. The proposed development will be considered in the context of national and local planning policy.

National Planning Policy

- 2.2. The key national planning policy documents against which a planning application such as this will be considered are the National Planning Policy for Waste (NPPW) (October 2014) and the National Planning Policy Framework (NPPF) (2019).

National Planning Policy for Waste (NPPW)

- 2.3. The NPPW sets out detailed waste policies in England which all local authorities are required to consider when preparing Local Plans and making decisions on planning applications. When preparing Local Plans the NPPW establishes that authorities should use a proportionate evidence base, identify the need for waste management facilities and identify suitable sites and areas.
- 2.4. The NPPW also sets out a number of criteria that waste planning authorities should consider when determining planning applications. This includes considering the likely impact on the local environment and amenity against the criteria set out in Appendix B of the NPPW; and ensuring that waste management facilities are well designed so that they contribute positively to the character and quality of the area in which they are located.
- 2.5. Appendix B of the NPPW sets out 12 criteria against which the impact of facilities on the local environment must be considered, these are as follows:
- a. Protection of water quality and resources and flood risk management;
 - b. Land instability;
 - c. Landscape and visual impacts;
 - d. Nature conservation;
 - e. Conserving the historic environment;
 - f. Traffic and access;
 - g. Air emissions, including dust;
 - h. Odours;
 - i. Vermin and birds;
 - j. Noise, light and vibration;
 - k. Litter; and
 - l. Potential land use conflict



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National Planning Policy Framework (NPPF)

- 2.6. The NPPF (2019) is a material consideration in the determination of planning applications. It sets out the overarching policies against which development proposals will be judged and Local Plan policies should accord. It contains 17 chapters covering various different policy considerations.

Local Planning Policy

- 2.7. Local Planning policy is set out in the Development Plan. The Development Plan against which the planning application will be considered consist of the following:

- West Sussex Waste Local Plan (2014)
- West Sussex Joint Minerals Local Plan (2018)
- Arun District Local Plan 2011 – 2031 (2018)
- Ford Neighbourhood Development Plan (2019)

West Sussex Waste Local Plan (2014)

- 2.8. The West Sussex Waste Local Plan (WSWLP) is the most relevant local development plan document against which the proposals will be considered. It was adopted in 2014 and was reviewed in 2019. The 2019 review found that the WSWLP remains in conformity with national planning policy. As such the WSWLP is considered up to date for the purposes of determining planning applications.
- 2.9. The strategic objective of the WSWLP is to work towards zero net waste to landfill by 2031. The WSWLP identifies a shortfall in waste capacity of 680,000 tonnes per annum and allocates waste sites to meet this shortfall over the plan period. Site allocations are provided through Policy W10: Strategic Waste Allocations. The Ford Circular Technology Park is allocated through policy WS10. It is referred to in the WSWLP as *Site North of Wastewater Treatment Works, Ford*.
- 2.10. Policy W10 identifies that the allocated sites are:
- “to meet identified shortfalls in transfer, recycling and recovery capacity. Accordingly they are acceptable, in principle, for the development of waste management facilities for the transfer, recycling, and / or recovery of waste (including the recycling of inert waste)” (our emphasis).*
- 2.11. Policy W10 continues:
- “The development of a site allocated under (a)-(b) must take place in accordance with the policies of this Plan and satisfactorily address the ‘development principles’ for that site identified in the supporting text to this policy”.*



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- 2.12. The supporting text to policy W10 sets out the expectations for the allocation at the Ford Circular Technology Park. It establishes that the site has capacity to deliver a single built facility (up to c.250,000 tonnes per annum) or a number of smaller facilities.
- 2.13. It continues to set out development principles for the site, which are:
- Development of the site to be comprehensive;
 - Comprehensive landscaping required;
 - Assessment of impacts on the listed buildings to the north and possible mitigation required;
 - Low level archaeological mitigation may be required;
 - The impact on water environment may need to be mitigated;
 - The impact on the amenity of users of local public rights of way may need to be mitigated;
 - Traffic impact mitigation may be required;
 - Cumulative impacts of traffic, noise and odour will need to be addressed or mitigated;
 - The potential closure of the existing access from the north should be explored;
 - Assessment and mitigation of HGV movements on the local highway capacity will be required; and
 - A routing agreement will be required to ensure vehicles enter and exit via Ford road to the south.
- 2.14. Paragraph 7.4.5 establishes that the sites allocated through policy W10 have the capacity to meet the capacity shortfall of 680,000 tpa over the plan period, with an estimated capacity of between 700,000 and 850,000 tpa.
- 2.15. In addition to allocations, the WSWLP sets out a number of development management policies, those relevant to the proposal are:
- Policy W11: Character
 - Policy W12: High Quality Developments
 - Policy W13: Protected Landscapes
 - Policy W14: Biodiversity and Geodiversity
 - Policy W15: Historic Environment
 - Policy W16: Air, Soil and Water

 - Policy W17: Flooding
 - Policy W18: Transport
 - Policy W19: Public Health and Amenity
 - Policy W21: Cumulative Impact



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West Sussex Joint Minerals Local Plan (2018)

- 2.16. The West Sussex Joint Minerals Local Plan is not relevant to the proposed development.

Arun District Local Plan

- 2.17. The Arun Local Plan was adopted in 2018. It sets out the vision for the District, allocates non-minerals and waste development sites and sets out detailed policies to guide development over the plan period. The relevant policies of the Arun Local Plan are:

- Policy SD SP2 – Built up Area Boundary
- Policy C SP1 – Countryside
- Policy LAN DM1 - Protection of Landscape Character
- Policy LAN DM2 – The Setting of Arundel
- Policy EMP SP1 – Strategic Employment Growth
- Policy EMP DM1 – Employment Land: Development Management
- Policy SO DM1 – Soils
- Policy HOR DM1 – Horticulture
- Policy D SP1 – Design
- Policy ECC SP2 – Energy and Climate Change Mitigation
- Policy ECC DM1 - Renewable Energy
- Policy T SP1 Transport
- Policy T DM1 – Sustainable Travel and Public Rights of Way
- Policy HER SP1 – The Historic Environment
- Policy HER DM1 – Listed Buildings
- Policy ENV SP1 – Natural Environment
- Policy ENV DM4 – Protection of Trees
- Policy ENV DM5 – Development and Biodiversity
- Policy W DM2 – Flood Risk
- Policy WM DM1 – Waste Management
- Policy QE SP1 – Quality of the Environment

- Policy QE DM1 – Noise Pollution
- Policy QE DM2 – Light Pollution
- Policy QE DM3 – Air Pollution



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Ford Neighbourhood Development Plan

2.18. The Ford Neighbourhood Development Plan was made in 2019. It contains local policies applicable within the Neighbourhood Plan Area that expand upon policies contained within the Arun Local Plan. The relevant policies to the proposed development are as follows:

- Policy SP1 – Spatial Plan for the Parish
- Policy BUA1 – Built up Area Boundary
- Policy EH1 – Protection of Trees and Hedgerows
- Policy EH3 – Buildings and Structures of Character
- Policy EH4 – Surface Water Management
- Policy EH7 – Local Gap
- Policy EH8 - Light Pollution



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3. Planning Considerations

- 3.1. The site for the proposed Energy from Waste (EFW) facility benefits from planning permission for a smaller facility (under ref: WSCC/096/13/F). It is also allocated through policy W10 of the WSWLP for waste development. As such, the principle of the development of waste facilities at the site has been established and is acceptable.
- 3.2. The Estate do not object to the principle of creating an EFW facility at the site, as demonstrated by their lack of objection to the initial planning application for a smaller facility at the site. However, the facility now proposed remains of a significantly greater scale in terms of both the built form proposed, and the capacity of the facility. The Estate are concerned that the substantial increase in scale of the proposed facility will have a significant detrimental impact upon their interests.
- 3.3. It is not clear why a larger facility than that allocated through policy W10 of the WSWLP is proposed, the Planning Statement advises that the site is allocated and therefore there is no requirement to demonstrate need. However, the site is allocated for a facility with a capacity of up to c. 250,000 tpa. The WSWLP makes provision across 5 sites to meet the identified shortfall in the District with sufficient headroom to allow for a high growth scenario, which WSCC acknowledge is unlikely to occur within the plan period (paragraph 2.11.1 of the WSWLP). The argument advanced by the applicant to provide waste capacity over and above the upper end of the identified potential need over the plan period essentially puts aside the limitation which is strongly implied by the WSWLP. Should this over-provision of waste capacity on site lead to harm then the need for the larger facility should be robustly demonstrated and it should be proven sufficient to outweigh any identified harm.
- 3.4. Primarily the Estate are concerned with the impact of the proposal upon the wider landscape and the impact upon heritage assets in the local area, which includes the Grade I Listed Arundel Castle. The landscape and heritage impacts of the proposal are explored below.



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Landscape and Visual Impact

- 3.5. The NPFW sets out that landscape and visual impacts are a key element against which planning authorities should consider waste development proposals. Annex 2 of the NPFW establishes that landscape and visual impact considerations will include:
- (i) *The potential for design-led solutions to produce acceptable development which respects landscape character;*
 - (ii) *The need to protect landscapes or designated areas of national importance (national Parks, the Broads, Areas of Outstanding Natural Beauty and Heritage Coasts); and*
 - (iii) *Localise Height restrictions.*
- 3.6. The current proposals remain substantially larger than those previously approved. The main building is 38.5m high, which is more than double the height of the existing buildings on site and approximately double the height of the previously approved development (which was 18m to eaves and 22m to ridge). In addition, the stacks will be increased from 50m to 85m and will be fitted with aviation warning lights at the top and possibly also the ridge.
- 3.7. This increase in height makes the proposals significantly more visible. This increase in height has resulted in the study area for landscape impacts being expanded from a 2.5 km radius to at least 4.5 km. Both Arundel and Arundel Castle now fall within the study area, whereas they were previously considered to be sufficiently far away so as not to be significantly impacted. The proposals will be clearly visible from the South Downs National Park (SDNP), as well as some locations over 10km away from the site. As such the scope for effects of the proposal has risen from 2.5km through the previously approved scheme to 10km through the current proposals, an increase in area from c. 20km² to over 300km².
- 3.8. In terms of landscape impacts, the proposals have no less than a moderate significant effect on the 11 Landscape Character Areas (LCAs) assessed. Where the effect is less than moderate, it is still termed slight to moderate. The assessment contains a range for both the receptor sensitivity and the impact magnitude making it difficult to follow the logic of the assessment and it is unclear whether the worst case has been reported. The outcome appears to be the same as the withdrawn application.
- 3.9. A substantial effect is the highest degree of effect possible. If we take moderate to substantial effects to mean these include substantial effects then the assessment concludes that there are substantial adverse effects on no less than 4 landscape character areas, which cannot be mitigated.



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- 3.10. In terms of visual amenity impacts, the increase in distance for potential visual effects from 2.5km to 10km is due to the scale of the built form proposed which will be easily distinguishable at these distances, forming a new large industrial feature out of scale with the surrounding context, which would be clearly visible above the skyline. The submitted ES concludes that the effects of the proposal upon visual amenity are considered to be no less than **moderate adverse** and **substantial adverse**.
- 3.11. We understand that the assessment of visual impact is a matter of professional judgement, but we are concerned that the ES adopts no more than medium sensitivity for most receptors, including all of the existing residents living within 1.5km of the site and all of the local heritage area visitors. Only at greater distances do any receptors of high sensitivity appear in the assessment. The outcome of the assessment of visual impact is highly sensitive to this judgement. We do not find the explanation given particularly reassuring, as it relies on residents' awareness of the existing use of the site, which cannot be seen in many views, and future housing development degrading their views (see eg VR1). When reading the assessment of sensitivity, we consider that it would be at least equally justified in inserting the word 'high', where the word 'medium' appears and we note that this is at odds with the assessment accompanying a similar application at Wealden Brickworks north of Horsham.
- 3.12. We are also quite surprised that the visual impact assessment assesses the magnitude of visual effect during construction as less than after completion. We note some passing references to cranes but anticipate that there will be some very large cranes present that may well be equipped with aviation lighting. This does not appear to have been considered adequately.
- 3.13. Furthermore, while the presence of a plume is mentioned several times, no attempt seems to have been made to assess the effect of this.
- 3.14. In addition we note that the construction phase is considered temporary and reversible. It will of course leave a permanent structure, so is arguably not fully reversible. We understand site clearance and construction will last approximately three years, with cranes present for much of this time (and then the structure will remain). For these reasons we consider that the construction phase effects have been underestimated and we believe these effects will be more significant than stated.
- 3.15. Finally we note that there has been no consideration of decommissioning, either of existing facilities or of the proposed facility. This appears to be a failure of the due EIA process.



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- 3.16. The ES identifies that there is potential for the proposals to impact upon the thousands of visitors each year to Arundel Castle and the historic town. With no change in the height of the stacks (now two, not one) we are concerned to ensure that the ES considers the significance of effect accurately. We are particularly concerned that construction phase effects are considered to be mostly imperceptible as we believe there is a strong likelihood that flood lighting and crane lighting will make the site very visible during the construction phase. We would like these matters to be very carefully controlled if planning approval is granted. We are unconvinced that lighting during both construction and operation has been given sufficiently careful consideration in the ES assessment. These matters should be assessed having proper regard to residents as well as visitors.
- 3.17. Policy *W11: Character* of the WSWLP supports proposals for waste development provided that they would not have an unacceptable impact upon the character, distinctiveness, and sense of place of the different areas of the County.
- 3.18. Policy *W13: Protected Landscapes* of the WSWLP identifies that proposals for waste development located outside protected landscapes will be permitted provided that they do not undermine the objectives of the designation.
- 3.19. Policy *LAN DM1: Protection of Landscape Character* of the Arun Local Plan sets out that development within the setting of the SDNP must have special regard to the conservation of that setting, including views into and out of the Park, and will not be permitted where there would be harmful effects on these considerations.
- 3.20. Policy *QE SP1: Quality of the Environment* of the Arun Local Plan states that the Council requires that all development contributes positively to the quality of the environment and will ensure that development does not have a significant negative impact upon the residential amenity, the natural environment or upon leisure and recreational activities enjoyed by residents and visitors to the District.
- 3.21. Given the significant adverse effects upon large areas of the surrounding landscape as well as the visual amenity of receptors within a 10km radius of the site, which include key visitor destinations and protected areas in the form of the SDNP, it is clear that in order to satisfy policies W11, W13, LAN DM1 and QE SP1 significant landscape and visual impact mitigation will be required.



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- 3.22. The landscape in the vicinity of the site is low lying with limited woodland cover, which generally does not exceed 15 – 20m in height. The increase in height of the proposal means that it would substantially exceed the height of the vegetation and existing built form in the area that may act as a screen, therefore there is limited mitigation of views of the proposed incinerator. It is important to note that the visual amenity impacts will affect locations in the SDNP, Arundel (including the castle) and the Arun Valley, all of which are sensitive receptors and major tourist destinations.
- 3.23. The mitigation strategy, which is to provide a design of a high architectural quality that will have an association with Ford Airfield, is an entirely subjective approach. Receptors within the wider context will include a large number of visitors to the SDNP and tourists to Arundel and the Castle, who are highly unlikely to appreciate this local context. They will simply see a very large scale built form at odds with the wider landscape. There is no obvious reason why visitors to Arundel would be able to see the design as either high quality or beautiful. We think the opposite is much more likely.
- 3.24. Overall, it is clear that the proposals will have a substantial impact upon both visual amenity and landscape within a 10km radius of the site, which cannot be mitigated. The approach to the proposals taken, to increase scale and height, with mitigation through a tenuous architectural link to the airfield is insufficient to mitigate the scale of impact. This is particularly true for the visitors to the Castle who will be unlikely to have an appreciation of this architectural link. As such the proposals are in clear conflict with policies W11, W13, LAN DM1 and QE SP1 of the WSWLP and the Arun Local Plan. In light of this clear policy conflict and the inability to sufficiently mitigate the impacts of the proposed development, it should not be permitted.
- 3.25. Although the Estate have no objection in principle to the provision of a greater capacity waste development on site, this should not be at the expense of visual amenity of local residents and visitors, or the natural beauty of the surrounding landscape, which are important to the ongoing success of the Castle and the town as key visitor destinations.
- 3.26. While the scheme now proposed is in part an improvement over the scheme that has been withdrawn it has the drawback of doubling the number of stacks (and presumably stack lighting, which may be needed at both the ridge and the top of the stack), it is still very substantially larger than the permitted fall back, which has been implemented. Clearly the permitted fall back, which we did not object to, is the better alternative. It is also clear that transfer and recycling can be successfully carried out with limited impact (as is currently the case).

Heritage

- 3.27. The second key concern of the Estate with the current proposals is the heritage impact, particularly the impact upon Arundel Castle and the town, although we note that there are several listed churches and farm buildings close to the site that are adversely affected.



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- 3.28. Given that the height of the stack is unaltered but there are now two stacks rather than one and also that the significance of effect is otherwise materially the same as the withdrawn scheme, we invite WSCC to inform itself in the light of this information and through its own site visits, as to whether the proposed scheme can be accommodated in the landscape without detracting from the setting of Arundel, the Castle and other designated sites in the area.
- 3.29. The NPFW sets out that heritage impacts are a key element against which planning authorities should consider waste development proposals. Annex 2 of the NPFW establishes that heritage considerations will include *“The potential effects on the significance of heritage assets, whether designated or not, including any contribution made by their setting”*.
- 3.30. As highlighted previously in this response, the increased height and scale of the proposal generate a potentially greater impact upon heritage assets within the vicinity of the site which needs to be assessed, this includes the Grade I Listed Arundel Castle (NHLE number 1027926), the Grade I Listed Roman Catholic Cathedral of St Philip Neri (NHLE 1248090) and Arundel Conservation Area.
- 3.31. There is a **strong presumption against** causing any harm to the significance of designated heritage assets. In this case, the heritage assets involved are some of the most important and significant in the country and therefore, in line with the proportional approach to conservation as set out in the NPPF, extra care and consideration must be given to them.
- 3.32. Considerable weight must be given to the desirability of preserving the setting of listed buildings. The importance of many of the listed buildings in Arundel, including Arundel Castle and the Cathedral of St Philip Neri is gained, in part from their elevated position and prominence in views from the surrounding area, and their dominating views of the surrounding area, particularly the Arun valley to the south where the proposal is located. As such, any development at the site has potential to cause significant harm to the setting of these, and other nearby listed buildings.



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- 3.33. The ES identifies that there will be a permanent slight adverse effect upon the setting of Arundel Castle arising from the proposed development. We note that the views from the Castle now included within the heritage assessment are partly concealed behind the battlements. We are concerned that the application underplays the significance of this effect and do not agree that this view shows that *'The proposals will be seen partially against the backdrop of the sea, and the building will appear integrated into the layers of vegetation towards the horizon'* (para 10.125). In this view, the building and the stacks clearly breach the skyline, forming an alien intrusion in the landscape, and bearing no relationship with its surroundings. We request a more thorough consideration by WSCC in balancing the need for the facility, bearing in mind the alternative fall back against these significant adverse effects, in the light of the NPPF. The 85m high stacks impact upon these views and we are concerned that the view referred to in the ES heritage assessment does not consider the effect of aviation lighting or the night-time view with site illumination, which could also be significant. Given the particular importance of views from the Castle and the Keep in providing early warning of invaders and opposing forces, and the importance of the listed building in a national context, it is essential that these views are properly taken into consideration in the assessment and the balancing exercise.
- 3.34. The NPPF and case law² establish that there remains a strong presumption against harm, regardless of the level of harm. Policy HER DM1: Listed Buildings of the Arun Local Plan states that proposals affecting listed buildings will be required to protect, and where possible enhance the setting of the building. Harm to the setting of Arundel Castle has been identified and therefore these proposals conflict with policy HER DM1 of the Arun Local Plan.
- 3.35. Assuming that the level of harm identified is correct, the harm to the listed buildings around the site, including, but not limited to Arundel Castle, a Grade I listed building of the highest order, and the conflict with policy HER DM1 of the Arun Local Plan, must be given significant weight in the planning balance. This has not been done in the application.

Planning Balance

- 3.36. As has been demonstrated above, the proposed development would have significant adverse landscape, visual amenity and heritage impacts. This is acknowledged in paragraph 5.82 of the Planning Statement which accompanies the application which identifies that there will be significant effects remaining after mitigation. It states: *"These comprise mainly landscape and visual effects, along with associated effects on the setting of heritage assets"*.
- 3.37. The Planning Statement concludes at paragraph 5.83 that *"whilst there would be some adverse impacts that do not lend themselves to further mitigation beyond that already provided, this would not be unacceptable. Some impact could reasonably be expected to be associated with the allocation of the site in the WLP for a large waste management facility."*
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- 3.38. It continues at paragraph 5.84 *“Overall and considering the development plan as a whole, the effect on the character and appearance of the area arising from the residual effects would be acceptable and would not conflict with adopted and up to date development plan policies”*.
- 3.39. This conclusion is strongly disputed. It is accepted that the site is allocated for waste development through policy WS10 of the WSWLP and there are likely to be some adverse impacts arising from the development of the site that may be outweighed by the public benefits of the proposal. However, the current proposal is for a facility with capacity to manage 295,000 tonnes of waste per annum (tpa) (275,000 EFW and 20,000 waste transfer).
- 3.40. Policy W10 of the WSLP makes provision across 5 allocated sites to process between 700,000 and 850,000 tpa, against a predicted capacity shortfall, under a worst case, higher growth scenario of 680,000 tpa over the plan period. As such, sufficient sites are clearly allocated to meet, and somewhat exceed the upper end of any waste processing shortfall in the County over the plan period. This is assuming a capacity at the site of 250,000 tpa, as set out in the supporting text to policy W10 of the WSWLP.
- 3.41. As such, there is not an identified need for a facility the size of that proposed which would exceed the anticipated capacity of the site by 45,000 tpa. The established need for the County over the plan period, in an unlikely higher growth scenario would be met through the provision of a waste facility on a site just 84% of the size of that proposed (when combined with 4 other sites allocated through policy W10 of the WSWLP). This is far more akin to the proposal previously approved at the site (see need established through Table 3 of the WSWLP).
- 3.42. The adverse impacts arising from the proposal upon nearby heritage assets, landscape and visual amenity all largely arise from the height of the proposal, which is out of scale and context with any other structures in the area. This is underplayed in the application, largely by making all visual receptors close to the site of only medium, rather than high sensitivity. A large number of people, who may not be members of the Landscape Institute, would disagree with this categorisation.
- 3.43. The affected assets are some of the most highly protected and sensitive assets in the country, comprising the SDNP and a number of Grade I and Grade II listed buildings, including Place Farm, St Andrew’s Church and the nationally significant Arundel Castle. Given that the impacts of the current proposals upon these assets cannot be mitigated, and the fact that there is not a need for a facility of the scale proposed in this location, it is considered that the current proposal should not be permitted.
- 3.44. In addition, the landscape, visual and heritage impacts of the proposed development have not been sufficiently assessed to allow WSCC to make an informed decision regarding the application. As such, any decision made without further assessment may be subject to legal challenge.



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- 3.45. The Estate would not object to the provision on site of a smaller facility which would provide the waste capacity for which there is an identified need, as this could be accommodated on site with significantly less harm to nearby heritage assets, the landscape or visual amenity, as demonstrated by the previous approval on site for a significantly smaller scheme to which the Estate did not object and which forms an acceptable fall back.



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4. Conclusions

- 4.1. This report has been prepared by the Norfolk Estate in response to the application at Ford Circular Technology Park for a new energy from waste facility (reference WSCC/011/21).
- 4.2. The site benefits from approval for an energy from waste facility at the site in January 2015 (reference: WSCC/096/13/F), which has been implemented. The Estate did not object to the original application for an energy from waste facility to be constructed at the site which they considered to be of an appropriate scale for the location. However, the current proposal is for an energy from waste facility of a significantly larger scale and capacity than the previously approved facility which the Estate consider would adversely affect their interests as well as the sensitive landscape and heritage assets in the area surrounding the site.
- 4.3. The Landscape and Visual Impact Chapter of the ES, found there to be a combination of moderate and substantial adverse effects on both the majority of the landscape character areas surrounding the site and a number of visual receptors in the area around the site. We consider the assessment underplays the significance of these effects in a number of important areas. In light of these adverse effects the proposals are in direct conflict with policies W11, W13, LAN DM1 and QE SP1 of the WSWLP and the Arun Local Plan. The harm identified is attributed largely to the height of the proposals. Subsequently the building height has been reduced from 51m to 38.5m but the number of stacks fitted with aviation warning lights has been doubled.
- 4.4. The impact of the proposals upon Arundel Castle, a nationally significant Grade I listed building have not been considered sufficiently for WSCC to form a view on the application. We consider the effects are more significant than those assessed in the ES, with limited consideration of construction and no consideration to the effect of lighting on views from within the castle and the keep above ground level for residents or visitors. There is potential for the proposals to cause significant harm to these views and therefore the historic setting of the castle. If the application is permitted without due consideration of the potential effects on Arundel Castle then the decision would be open to legal challenge.
- 4.5. Furthermore, despite these omissions, the Heritage Chapter of the ES concluded that the proposals would cause permanent, slight adverse harm to the significance of Arundel Castle, in clear conflict with policy HER DM1 of the Arun Local Plan.



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- 4.6. In light of the adverse landscape and visual impacts, which include harm to the setting of the SDNP and adverse effect on heritage assets, which includes harm to the nationally significant, Grade I Listed Arundel Castle, there must be overriding public benefits to justify the proposal. The applicants put forward the argument that the overriding public benefit is the need for the facility but fail to balance the adverse effects, which are underestimated, against this need.
- 4.7. Given the uncertainty and omissions associated with the assessment of effects within the ES, we request that WSCC carefully examine this application. In the event that WSCC decide following thorough consideration of the points we raise to approve the application, we request conditions to approve the lighting scheme during both construction and operation and the detailed finishes from the perspective of both the visitors to and residents of Arundel Castle. We would also invite a binding commitment towards implementing a CHP and carbon capture scheme that secures the climate change benefits required by the sixth carbon budget and anticipated in the application.

Davies Landscape Architects were instructed by the Norfolk Estate to peer review the Landscape and Visual chapter of the Environmental Statement (ES) submitted by Terrance O'Rourke. This review has been undertaken by chartered members of the Landscape Institute. The review has been based on a desktop study of the ES chapter and appendices. No site visits were undertaken. The review considers the assessment of magnitude and significance described within the ES assessment to provide an accurate representation of the potential landscape and visual effects.

Existing Application

The effects of the original application were restricted to a 2.5km study area with the built form similar in scale to the existing buildings at 22m in height with a dual 50m stack. This resulted in localised Slight Adverse Effects on landscape character and Moderate Adverse Effects to visual amenity within the study area.

Mitigation could be provided against some effects through tree planting which, as it matured, would provide an appropriately scaled setting.

Current Proposals

The revised proposals substantially increase the built form height, rising to a ridgeline at 51.22m high (circa 30m above the existing buildings and original proposals). The stack is extended to 85m high. This has resulted in views and experiences of the proposals being visible from the majority of unwooded land within a 4.5km radii (including Arundel) and several locations within (and just beyond) 10km (including the South Downs National Park – SDNP). This has significantly increased the range and number of receptors as well as the amount of visible built form. The stack forms a minor component of the new visible form.

The proposals are set within a wide reaching, low lying landscape with limited woodland cover. Vegetation is limited to hedged field boundaries and tree belts which generally do not exceed 15-20m in height and afford negligible screening opportunities beyond the immediate locality. Neither the topography, built context or mature vegetation framework provide any features of scale to assimilate or mitigate the effects. The building would remain approximately 30m above any surrounding vegetative network, even at maturity. The assessment identifies some development of larger scale within the views; however this building will form a standalone, prominent and easily identifiable new feature.

The mitigation strategy has been to provide a high architectural quality that will have an association with the airfield and create a 'sculptural landmark'. As described within the assessment, this is a very subjective approach and is based on the viewer understanding the background narrative. This would be unlikely for receptors within the wider context and particularly in the case of views from tourists and visitors to Arundel and the SDNP. From these distances and views, the 'architectural form' would likely not be appreciated and instead would be viewed as a substantial large-scale built form at odds with the wider landscape and horizon.

In terms of mitigating Landscape and Visual effects, a fundamental flaw appears to derive from the design decision to reduce the footprint of the proposals by increasing the height and scale in comparison to the surrounding landscape. This will be driven by the functionality but is not considered an appropriate landscape and visual mitigation measure when considered against the wide arc of predicted middle and long distance negative effects. In visual terms, a lower lying larger building within the context of a former airfield and potential new urban setting, may afford

opportunities to assimilate the built form into a landscaped framework with less intrusion into the skyline and horizon. The latter being the source of all of the adverse and significant effects.

Landscape Character

The proposals contribute to the visual experiences of 12 LCA's within the Arun Landscape Study (2006) and the South Downs Integrated Landscape Character Assessment (2011). Of these, 8 are considered to be of medium/medium high sensitivity with the proposals resulting in an adverse medium or medium/large magnitude of change. Using the criteria set out within the assessment this equates to Moderate and Moderate/Substantial Significance of effect, the Substantial effects arising from the medium/high sensitivity LCA's. Substantial being the highest degree of effect beyond a high sensitivity landscape character such as the SDNP.

The significance of effects on the SDNP LCA within the study area is also considered Medium, deriving from a lesser adverse magnitude (Small/Medium) but a higher sensitivity receptor due to its landscape designation status.

Of the remaining 4 LCA's only 2 (including the airfield) are considered to have a 'not significant' effect, with the remaining 2 being considered to having an adverse Slight/Moderate significance due to their reduced sensitivity.

Whilst the development will not impact upon the key physical features which contribute to the character the development will potentially alter the experiences and perception of the LCA's.

Overall, it is considered that the proposals have a potential to afford a **significant adverse Moderate or Moderate Substantial effect on the experiences of a wide swathe of the district's landscape character.**

Visual Amenity

The scope for potential visual effects has increased from 2.5km to 10km, and beyond in the case of Viewpoint Locations 1 & 2 within the SDNP (circa 11km). Due to the scale of the built form it is still distinguishable at this distance and forms a new large-scale industrial feature that is out of scale with the surrounding context and clearly visible above the existing skyline.

As previously outlined, it is not considered that the potential receptors within these radii will have an understanding of the relevance of the form or its association with the airfield, a justification given for a potential subjective rational to the effects.

The new heights afford opportunities for a substantial increase in the range and extent of visual receptors from residential properties, Public Rights of Way and transport routes. Opportunities for views beyond 4.5km to the south are truncated by the coastline, however the extension increases the potential for views to Arundel, Middleton on Sea, Shipney, Littlehampton, Barnham and Westergate as well as the small hamlets in between. Whilst the majority of views will be from upperstorey windows reducing the sensitivity, the assessment still considers the potential magnitude of change to be adverse Moderate to Moderate/substantial. These are considered permanent effects that cannot be mitigated.

The extended height will become an identifiable large-scale feature within views from areas that are frequented by visitors and where the main focus and attraction is likely to be the landscape and associated opportunities for views. These include areas of the SDNP, Arundel (including the castle)

and the River Arun Valley. The review considers the described adverse Medium and permanent changes to these views a fair representation. This will result in a **Moderate to Moderate Substantial Effect that cannot be mitigated.**

Of particular relevance to the Norfolk Estate is the potential to impact upon the experiences of the thousands of visitors each year to the town and castle. Representative views from the castle were agreed with the LPA prior to the assessment, however due to the Covid-19 restrictions these were unable to be taken within the submission timescales. The report does, however, give reference to a photograph^[1] taken from Arundel Castle undertaken as part of the Ford Airfield residential application (F/4/20/OUT). Due to the limitations at the time of the LVIA this is considered a good representation of the existing views from the castle. Again, the peer review concurs with the findings of the visual assessment in that the new development will form a new visible industrial feature, albeit within a wide panorama. The magnitude of change is assessed as permanent Medium Adverse resulting in the Moderate/Substantial Adverse significance.

Overall, it is considered that the extended building heights will have an unacceptable and significant irreversible adverse effect on the experiences of the landscape and visual amenity of a wide area of the district. This includes areas that contribute to the tourist industry along with high and moderate quality landscape experiences such as the SDNP, Arundel and the Arun valley plains.

[1] Representative Viewpoint 11 (Right) - Arundel Castle, Arundel (4km, north east)

Public consultation response – Heritage and Archaeology FORD CIRCULAR TECHNOLOGY PARK, FORD ROAD, FORD, ARUNDEL BN18 0XL - Application No. WSCC/036/20

INTRODUCTION

The application comprises the demolition of existing buildings and structures and construction and operation of an energy recovery facility and a waste sorting and transfer facility for treatment of municipal, commercial and industrial wastes, including ancillary buildings, structures, parking, hardstanding and landscape works. The proposed development site is at Ford Circular Technology Park, hereafter 'the site'.

Due to the scale of the proposed development, which sees the previously approved scheme for a waste treatment facility to include one building of 22m in height with an associated stack of 50m in height, (West Sussex County Council reference WSCC/096/13/F, approved January 2015), now proposed to include one building (Energy Recovery Facility) extending to a height of 51.22m and associated stack reaching 85m in height, **greater assessment of the impacts upon the historic environment, notably the many designated heritage assets within the vicinity of the site, is now required.** These include some of the most important heritage assets in the country, such as Arundel Castle.

A thorough and robust review and critique of the conclusions set out in the submitted documentation, notably the ES Chapter 10 Cultural Heritage and ES Chapter 12 Landscape and visual effects, is necessary to ensure all potentially sensitive heritage assets in the area around the site have been recognised and their significance and settings fully understood, and that any potential harm to these heritage assets resulting from the proposed development has been appropriately recognised and assessed, with reference of national planning legislation and policy applied as required.

It is important to remember that the courts have established that there is a strong presumption against causing any harm to the significance of designated heritage assets¹. In this particular case, the heritage assets involved are some of the most important and significant in the country. The proportional approach to conservation, as set out in the NPPF, requires extra care and consideration to be given to them.²

LEGISLATION AND PLANNING POLICY

The Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether the grant planning permission for development that affects a listed building or its setting, the LPA 'shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses' (Section 66 (1)). What is of particular importance in relation to the current application, is the consideration of how the development will impact upon the setting of the listed buildings.

The Court of Appeal decision in *Barnwell vs East Northamptonshire DC* made it clear that in enacting Section 66(1) Parliament's intention was that 'decision makers should give "considerable importance and weight" to the desirability of preserving the setting of listed buildings when carrying out the balancing exercise, as contained in the NPPF³.

¹ *Barnwell Manor v East Northants DC* [2014] EWCA Civ 137

² Paragraph 193 of the NPPF 2019

³ Historic England: Online – 02:Decisions: Legal Requirements for LB and other consents

Whilst that judgement is some 6 years old, the stance taken by the court has been upheld in a significant number of subsequent legal challenges that relate to the application of the statutory duty⁴.

NATIONAL PLANNING POLICY FRAMEWORK

National planning policies on the conservation and enhancement of the historic environment are set out in the National Planning Policy Framework (NPPF, February 2019). Section 16, 'Conserving and Enhancing the Historic Environment' specifically deals with historic environment policy, the points relevant in this case are summarised here.

Paragraph 189: In determining application, the local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the asset's importance.

Paragraph 190: Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of the heritage asset). Assessment should be taken into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

Paragraph 193: When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 194: Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

Paragraph 196: Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

The NPPF defines significance (for heritage policy) as 'The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting'.

The NPPF defines setting as 'the surroundings in which a heritage asset is experienced. Its extent is not fixed, can extend beyond the asset's curtilage and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral' (NPPF, Annex 2 Glossary). Further advice on understanding setting is included in Historic England's Historic Environment Good Practice Advice in Planning 3: The Setting of Heritage Assets (2nd Ed., December 2017). Historic England's Advice Note 12: Statements of Heritage Significance: Analysing Significance in Heritage Assets (October 2019) advises that an impartial analysis of significance and the contribution of setting is needed when defining significance.

⁴ Mordue v Sec of State [2015] EWCA Civ 1243, Blackpool BC v Sec of State [2016] EWHC 1059, Forest of Dean v Sec of State [2016] EWHC 2429, R v Richmond Upon Thames LBC [2016] Env.L.R.29

LOCAL PLANNING POLICY

Relevant local planning policies, with regard to the historic environment, are detailed here.

West Sussex Waste Local Plan, adopted April 2014

Policy W15: Historic Environment Proposals for waste development will be permitted provided that: (a) known features of historic or archaeological importance are conserved and, where possible, enhanced unless there are no alternative solutions and there are overriding reasons which outweigh the need to safeguard the value of sites or features; (b) it would not adversely affect currently unknown heritage assets with significant archaeological interest; and (c) where appropriate, the further investigation and recording of any heritage assets to be lost (in whole or in part) is undertaken and the results made publicly available.

The Arun Local Plan, adopted July 2018

Policy HER SP1 - The historic environment: The Local Planning Authority will grant planning permission or relevant consent for development proposals that conserve or enhance the historic environment of the District, based on the following approach: Designated heritage assets including listed buildings, structures and their settings; and Conservation Areas will be given the highest level of protection and should be conserved and enhanced in a manner appropriate to their significance. Non-designated heritage assets including locally listed heritage assets (Buildings or Structures of Character and Areas of Character) and their settings will also need to be conserved and enhanced in a manner appropriate to their significance and contribution to the historic environment; Development likely to prejudice any of the above, including their settings, will be refused.

Policy HER DM1 - Listed Buildings: Proposals affecting statutory Listed Buildings will be required to: a. Preserve or enhance the historic character, qualities and special interest of the buildings; b. Be necessary and not detrimental to the architectural and historical integrity and detailing of a Listed Building's exterior; c. Protect the architectural and historical integrity and detailing of a Listed Building's interior; d. Protect the special interest of buildings of architectural or historic interest; and e. Protect, and where possible enhance the setting of the building.

HERITAGE ASSETS

The many heritage assets located within the vicinity of the site include several located within Arundel itself. These include the Grade I listed Arundel Castle (NHLE number 1027926), the Grade I Listed Roman Catholic Cathedral of St Philip Neri, (NHLE number 1248090) and Arundel Conservation Area. Grade I listed buildings are recognised as nationally important heritage assets of exceptional interest. As such, regard to preserving and enhancing their significance (which includes their setting) is an important consideration for the proposed development. As set above, the legal framework and its interpretation in the courts requires considerable importance and weight to be attached to the impact of development on listed buildings and other designated heritage assets.

Arundel Castle and the Cathedral of St Philip Neri are located to the north of Arundel on elevated ground which rises steeply above the southern part of the town and the low lying ground along the River Arun, south-east and south-west of the town. This low lying land includes the site and Ford Circular Technology Park, south-west of Ford. The site is located at an elevation of c.7m aOD, the land south of Arundel, between the town and the site varies in elevation between c.3m aOD and c.10m aOD. Arundel Castle is located at an elevation of c.36m aOD and the Cathedral of St Philip Neri at an elevation of c.32m aOD. The former bailey at Arundel Castle, upon which the 12th century shell keep is located provides an even higher elevation

As such, these assets should be considered as potentially sensitive to the proposed development, with respect to their elevations and adjacent topography and intervisibility between the site and these heritage

assets. An understanding of the extent to which views and the setting of heritage assets contributes to their significance is required.⁵ Other heritage assets in the northern part of Arundel include The Grade I listed Church of St Nicholas, NHLE number 1027914, and the Grade I Listed FitzAlan Chapel, NHLE number 1263812

Arundel Castle is located c. 4.4km north-east of the site. The significance of Arundel Castle as a heritage asset is derived not only from its architectural or aesthetic, historic, and archaeological interest but also its setting; the views toward and from it, and the place it holds in and beyond the town today also make a great contribution to its heritage significance.

The topography of the town and the high ground upon which the Castle is located affords the Castle its imposing presence not only over the town but across the wider landscape, notably to the east and south over the low lying land and river valley. Originally designed within the context of the very early Norman occupation and to establish the presence of the new barons and landowners over the local area, the Castle retains this dominating character today, and the impression it makes upon the approach towards Arundel, is one of Sussex's most iconic images. Nikolaus Pevsner describes Arundel as possessing one of the 'great town views of England', and Arundel Castle and its relationship with the town and surrounding landscape justifies this. The understanding of, and ability to appreciate, Arundel Castle is arguably best done from afar, when the impact of the complex is first encountered and from which the Norman elite intended to make their statement of authority. The wide, low lying and open aspect of the landscape along the River Arun and wider Arun valley from the south and east towards Arundel remains today and provides the best views not only towards the town and Castle but also out from the Castle, towards the coast. The relationship the Castle has with the landscape in which it is located, always of importance when it was established in order to illustrate the power and control held by the new Norman elite, remains.

The Cathedral of St Philip Neri was equally designed to take advantage of the elevated ground along London Road, and long distance views northwards towards from the low lying land south of the town provide an important ability to appreciate the stature and impact of the building, in a similar way to that for Arundel Castle.

ASSESSMENT OF THE IMPACT OF THE PROPOSED DEVELOPMENT ON ARUNDEL CASTLE

The scope of heritage assets assessed within the submitted documentation extends to those located within a 5km and a 10km study area, which includes the town of Arundel. The submitted ES Chapter 10 Cultural Heritage identifies the zone of theoretical visibility from the site and the viewpoint locations of several of the heritage assets identified in the study area (Figure 10.8) as does the submitted ES Chapter 12 Landscape and visual effects (ZTV Figures 12.11 and 12.13-12.15). It is acknowledged that the methodology for ZTV assessments has limitations and it is not clear from the submitted ZTV assessment whether views from Arundel Castle have been sufficiently identified. Views towards the site from ground level at London Road/High Street, directly south of the grounds of Arundel Castle will be different to those from within the Castle and the Keep, which is located on higher ground within the Castle precinct and is a key element contributing to the high significance of this nationally important heritage asset.

Photographs from the selected viewpoints are included in the ES Chapter 12 Landscape and visual effects, however, viewpoint 31 does not appear to be included and it is not clear if this would have been assessed from ground level or from the Keep or elsewhere within the Castle. A clear existing view and proposed visualisation from within the Castle and from the Keep, would be beneficial to more accurately understand the impact of the proposed development, specifically the 85m high stack, would have upon the setting of Arundel Castle and hence its significance. Given the particular historical importance of views from the Castle and the Keep, in providing early warning of invaders and opposing forces, it is essential that these views are taken into consideration in the assessment.

⁵ Historic Environment Good Practice in Planning Note 3: Setting of Heritage Assets (2019)

The submitted ES Chapter 10 Cultural Heritage primarily assessed heritage assets in a 1km study area. It does acknowledge several heritage assets which are sensitive to the proposed development and beyond the 1km study area, including Arundel Castle. Paragraph 10.110 of the ES Chapter 10, effectively concludes that the effect of the proposed development on the setting of Arundel Castle would be a permanent slight adverse effect. In accordance with Paragraph 189 of the NPPF and in the application of case law, there remains a strong presumption of harm, even if it is slight.

It is necessary to have great consideration of the potential impact of the proposed scheme, notably the proposed 85m tall stack, upon Arundel Castle, as well as all other heritage assets within the study area. Grade I listed buildings are nationally important assets of the highest order. Assessment should include an understanding of the views south from Arundel Castle, including from the Keep (which is one of the highest points within the Castle) and from the south elevation of the Castle southwards over the town across to the low lying land towards the south coast.

Summary

The local planning authority must ensure that it has identified and understood the significance of all the heritage assets sensitive to the proposed development, and undertaken a robust assessment of the impacts of the proposals upon that significance. This must include the Grade I listed Arundel Castle, a nationally important heritage asset of the highest order, and the setting of which, extending southwards across the low lying land towards the coast, makes a considerable contribution to the Castle's significance. In assessing the impacts of the proposals, the more important the asset, the greater the weight should be given to its conservation. This should be irrespective of the level of harm. It has been assessed that the proposals would result in a slight adverse effect upon the significance of Arundel Castle, which is derived primarily from the proposed 85m high stack.

The local planning authority must be satisfied that the proposed development would conserve and enhance the Arundel Castle in a manner appropriate to its significance (in accordance with the Arun Local Plan Policy HER SP1 and West Sussex Waste Local Plan Policy W15), protect, and where possible, enhance the setting of the Castle (in accordance with the Arun Local Plan Policy HER DM1).

Legislation relating to listed buildings and conservation areas is contained within the Planning (Listed Buildings and Conservation Areas) Act 1990. The Planning (*Listed Buildings and Conservation Areas*) Act 1990 provides that with regard to applications for planning permission affecting listed buildings or their setting:

"s.66(1) In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

The courts have determined that in order to meet this statutory duty, the impact of proposals upon the significance of designated heritage assets must be given considerable importance and weight. The ES does not demonstrate that this has been fully taken into account, particularly in respect to how the site impacts upon the setting and significance of Arundel Castle.

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