



No Incinerator 4 Horsham Community Group

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RULE 6 PARTY STATEMENT OF CASE

IN AN APPEAL UNDER S. 78 TOWN AND COUNTRY PLANNING ACT 1990

Appeal by: Britaniacrest Recycling Ltd

Site: Former Wealden Brickworks, Langhurst Wood Road, Horsham,
RH12 4QD

Proposal: Recycling, Recovery and Renewable Energy Facility and Ancillary Infrastructure

PINS Ref: APP/P3800/W/18/3218965

WSCC Ref: WSCC/015/18/NH

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Introduction

1. This is No Incinerator for Horsham Community Group's ("NI4H") Statement of Case, resisting Britaniacrest Recycling Ltd's ("The Appellant") Appeal against refusal of planning permission for a Recycling, Recovery and Renewable Energy Facility and Ancillary Infrastructure at the Former Wealden Brickworks, Langhurstwood Road, Horsham, RH12 4QD.
2. The Appellant sought planning permission to construct and operate a facility to sort, separate, and process up to 230,000 tonnes per annum of inert and non-inert waste, of which circa 50,000 tonnes would be diverted for recycling, with the remainder being thermally treated.
3. The application was submitted to West Sussex County Council ("WSCC") on 9th March 2018. During and after the consultation, WSCC received 1,189 representations from local residents and interested parties, including NI4H. Of these, 1,167 objected to the proposal or raised concerns. It also received representations from 30 consultees. Of these, there were seven objections, and a number of further concerns and considerations raised.
4. In its meeting of 19 June 2018, WSCC resolved to refuse the planning application, for the following six reasons:
 1. *It has not been demonstrated that the facility is needed to maintain net self-sufficiency to manage the transfer, recycling and treatment of waste generated within West Sussex. Therefore, the development is contrary to strategic objective 3 of the West Sussex Waste Local Plan 2014.*
 2. *The development would have an unacceptable impact on landscape and the visual amenity of the area, contrary to policies W12 and W13 of the West Sussex Waste Local Plan 2014*
 3. *The development would have an unacceptable impact on highway capacity, contrary to Policies W10 and W18 of the West Sussex Waste Local Plan 2014.*
 4. *The development would have an unacceptable impact on residential amenity, contrary to Policies W10 and W19 of the West Sussex Waste Local Plan 2014.*
 5. *The development would have an unacceptable impact on public health, contrary to Policy W19 of the West Sussex Waste Local Plan 2014.*

6. *The development, along with other existing, allocated and permitted development, including the North of Horsham development, would result in adverse cumulative impacts, contrary to W10 and W21 of the West Sussex Waste Local Plan 2014.*
5. The Appellant submitted its appeal on 19 December 2018. The Appeal process formally started on 14 January 2019. WSCC has opted only to defend Reason 2, above.
6. NI4H objects to the Appeal proposal on the basis that:
 - a. The facility will have a negative landscape and visual impact (Reason for Refusal 2).
 - b. There is a public perception that the facility will harm public health (part of Reason for Refusal 5)
 - c. The thermal treatment plant is expected to have an adverse climate change impact and is expected to hamper efforts to decarbonise the electricity supply, contrary to local and national policies and objectives.
 - d. When all these things are considered in the planning balance, the Appeal should be dismissed.

[The Appeal Site](#)

7. The appeal site is a 3.1ha site in North Horsham Parish, the Parish ward of Horsham Rural. In terms of Horsham District Council it is situated in Holbrook West. The site is currently an operational waste transfer station for inert and non-inert waste, with associated inert waste recycling operations.
8. The Site is located within Brookhurst Wood, a large area containing some large-scale uses. It is c. 900m to the north-west of the edge of the Horsham settlement boundary. To the west of the Site lies the London-Horsham railway line, beyond which there is heavily wooded and open countryside. To the south of the Site lies the Wienerberger brickworks factory ("Warnham Brickworks"). To the east of the Site lies Brookhurst Wood Mechanical and Biological Treatment Facility, to the south of which lies an Ecological Habitat Area. To the immediate north of the Site is an area of dense scrub, two ponds

and some abandoned brickwork buildings. Further north lies an Aggregate Treatment and Recycling Facility, beyond which is the Brookhurst Wood Landfill Site.

9. The closest residential properties are on Langhurstwood Road and Station Road, less than 300m from the Site. On 1st March 2018, outline planning permission was granted for a mixed-use development including up to 2,750 dwellings, a business park, public open space, and education facilities (one new all-through school and one primary school) on land to the east of Langhurstwood Road (App no. DC/16/1677).
10. The Appeal Site is 3.3km north-west of the High Weald Area of Outstanding Natural Beauty (“AONB”), 6.4km south-east of the Surrey Hills AONB, and 15km north-east of the South Downs National Park.
11. Access to the Site is via a shared access road connecting to the public highway at Langhurst Wood Road, which is a narrow country lane.

The Appeal Proposal

12. The Appeal Proposal comprises the redevelopment of the Appeal Site to provide a built waste treatment facility comprising a materials recovery facility (“MRF”) for the reception and pre-treatment of waste (and which would divert material for recycling), and an energy from waste (“EfW”) facility which would incinerate the residual waste. It is proposed that the facility would process up to 230,000 tonnes per annum of residual commercial and industrial (“C&I”) and Municipal Solid Waste (“MSW”). The Waste types to be collected are set out in Appendix E to the Appellant’s Planning Statement, although NI4H is unclear as to the precise ratio of C&I Waste : MSW.
13. The facility would comprise a main building containing the MRF and EfW plant, with smaller buildings and ancillary development alongside. The main building (the footprint of which is 170m by 107m and 35.9m in height) would include a flue stack which is 95m in height and 2.5m in diameter, and which, under certain conditions, would give off a visible plume. Other ancillary structures and measurements are laid out in paragraph 3.4 of the Appellant’s Statement of Case. Some parts of the lighting of the building would be on 24 hours a day. The documents and drawings comprising the application are laid out

in Part 5 of the Draft Statement of Common Ground between the Appellant and WSCC (update 3 Jan 19).

Planning History

14. A summary of the relevant planning history for the Site is laid out in paragraph 3.1 of the Council's Planning Committee Report, dated 19 June 2018. In brief, the Site had been used for brickmaking from 1914 until the 1990s, when it became vacant. Waste uses on the appeal site began in 2015.
15. The Waste Transfer Facility which currently occupies the Site was granted pursuant to planning permission WSCC/018/14/NH on 1st July 2014. On 3 June 2015 the conditions of that permission were amended to increase site throughput from 200,000 tonnes of waste per annum to 230,000 tonnes per annum with an increase in associated HGV movements (Planning Permission Ref: WSCC/021/15/NH).
16. In July 2017 an application for a similar Recycling, Recovery and Renewable Energy facility was submitted and withdrawn after the officers of West Sussex Council recommended refusal on landscape/visual amenity and noise grounds (Planning Reference: WSCC/062/16/NH).

Policy

17. The Development Plan and other relevant National Planning Policy and other documents are laid out in Part 4 of the Draft Statement of Common Ground between the Appellant and WSCC (update 3 Jan 19).

Horsham District Planning Framework (November 2015)

18. This Plan is currently under review, but it is not considered that there are any matters under review that impact on the outcome of the Appeal. NI4H submits the most relevant, adopted policies are:

- a. Policy 1: Sustainable Development
- b. Policy 24: Environmental Protection
- c. Policy 25: District Character and the Natural Environment
- d. Policy 30: Protected Landscapes
- e. Policy 35: Climate Change
- f. Policy 36: Appropriate Energy Use

West Sussex Waste Local Plan (April 2014)

19. This plan was adopted in 2014. WSCC states that it was reviewed in early 2019, and that the outcomes of that review “have shown that the WLP is considered to be relevant and effective” and that “a formal review of the Plan will not be undertaken.”¹ NI4H submits the most relevant adopted waste policies are:

- a. Policy W10: Strategy Waste Allocations.
- b. Policy W11: Character
- c. Policy W12: High Quality Developments
- d. Policy W13: Protected Landscapes
- e. Policy W19: Public Health and Amenity
- f. Policy W21 Cumulative Impact.

¹ West Sussex Minerals and Waste Development Scheme 2019-2022 (May 2019) para. 2.3.4

National Policy & Guidance

20. NI4H intends to refer to:

- a. The National Planning Policy Framework (NPPF) (Feb 2019)
- b. Waste Management Plan for England (Dec 2013)
- c. Our Waste, Our Resources: A strategy for England (Dec 2018)
- d. National Planning Practice Guidance
- e. National Planning Policy for Waste (Oct 2014).
- f. Overarching National Policy Statement for Energy (EN-1)
- g. National Policy Statement for Renewable Energy Infrastructure (EN-3)

Statement of Case

21. NI4H objects to the Appeal proposal on the basis that:

- a. The facility will have a negative landscape and visual impact (Reason for Refusal 2).
- b. There is a public perception that the facility will harm public health (part of Reason for Refusal 5)
- c. The thermal treatment plant is expected to have an adverse climate change impact and is expected to hamper efforts to decarbonise the electricity supply, contrary to local and national policies and objectives.
- d. When all these things are considered in the planning balance, the Appeal should be dismissed.

The effect of allocation

22. It is not in dispute that the Appeal Site is allocated in Policy W10 of the WLP for a facility for the “transfer, recycling, and/or recovery of waste”. Nor that the purpose of the site allocations is to fill a waste management capacity need identified in the WLP. However, for the avoidance of doubt (and NI4H does not understand the Appellant to be arguing this based on its Planning Statement and Statement of Case), “need” cannot trump all other considerations in circumstances where:

a. The Site is not solely allocated for an EfW plant. There are a range of options that would be acceptable in policy terms to fill the identified need.

b. The Application must still be considered on its own merits: para. 7.1.3 of the WLP states

*Allocation of a site gives certainty to the waste industry and local communities about the acceptability “**in principle**” of the use of an identified site for a future waste land-use. However, all planning applications must be judged on their merits and the allocation of a site in the Plan does not mean that a proposal for the allocated use will automatically be granted planning permission; the proposal must be acceptable in its own right taking into account all the relevant material considerations. This includes the application to the proposed development of the relevant use-specific and general development management and policies of this Plan. (Emphasis added).*

c. The Appellant must still demonstrate need if weight is to be attached to the consideration. See Appeal Decision in Land at Thornhill Road, Keypoint Industrial Estate, South Marston, Swindon, SN3 5RY (APP/U3935/W/18/3197964) para. 181 and following (the “**Swindon Appeal**”)

23. As a further point, to be classed as a recovery facility, the proposal must achieve R1 status as certified by the Environment Agency. If it does not achieve this status, it will not be a recovery facility, but a disposal facility, and so will fall outside of the allocation in Policy W10, as well as contradicting the imperative to move waste up the waste hierarchy (repeatedly discussed in the WLP, and a consideration contained in para. 7 of the National Planning Policy for Waste).

24. Against that background, NI4H contends that in this case, the planning balance favours dismissing the appeal, for the reasons outlined below.

Landscape and Visual Amenity Impact (Reason for Refusal 2).

25. NI4H intends to support the case of WSCC, outlined at paras. 6.1-6.7 of the WSCC Statement of Case. This will demonstrate that:

- a. The development would result in an unacceptable impact upon the landscape character, distinctiveness, and sense of place of the locality, including the High Weald and Surrey Hills AONBs; and
- b. The development would not be of high quality, particularly in terms of scale, and would not integrate with adjoining land uses or the local context.

26. NI4H does not intend to call its own expert landscape witness, but instead offer local insight (bearing in mind it is the locals who would live with this facility) relating to the visual and amenity impact of the EfW plant. The case presented will contend that:

- a. Certain vantage points, not included in BRC's Landscape and Visual Impact Assessment, should be taken into consideration when determining the extent to which the Appeal Proposal gives rise to negative impacts. NI4H would, in particular, like to see the following views taken into account:
 - i. The view from Pondtail Drive at the junction with Chaffinch Close,
 - ii. The view from the footpath and bridleway sitting either side of the junction of Tower Hill and Parthlings Lane,
 - iii. The view from Denne Hill

In accordance with the Inspector's direction, at paras. 8.10 and 8.11 of the minutes of the pre-inquiry meeting, NI4H will endeavour to agree these with the Appellant in a Statement of Common Ground.

- b. The photomontages included in BRC's Landscape and Visual Impact assessment should include photomontages showing the effect of the plume in different wind and weather conditions, supporting the WSCC Landscape Adviser's request for the plume to be assessed as a visible feature;
- c. Various photomontages should have been included in the LVIA but were not. These include:
 - i. A photomontage showing the effect on the transient receptors and users of Warnham station,
 - ii. The view from Old Manor Farm,
 - iii. The gate opposite Fern Cottage, Kingsfold, north of the Site,
 - iv. The view from the lower part of public right of way 1489-2,
 - v. The view from Rookwood Golf Course's 7th Fairway,
 - vi. A montage from the perspective of a passenger in a car, bus or coach travelling North on the A24,

Again, NI4H will attempt to seek common ground with the Appellant and WSCC on this point.

- d. NI4H intends to challenge the qualitative judgments made by the Appellant's Landscape expert.
- e. There are a number of issues surrounding the public consultation referred to in the Appellant's Environmental Statement.² First, at the Wealden Works Community Liaison Group meeting held on 15th January 2018, concern was expressed about both the dates and venue of the consultation – the Appellant said it would look into making adjustments to both but did not. Second, many of those in attendance were unaware they had an opportunity to suggest further views – they understood it to be an exhibition rather than consultation.

² Appellant's Environmental Statement, Chapter 5 (Landscape and Visual Resources) p. 5-23

27. When these matters are considered, it is submitted the proposal would have an unacceptable landscape and visual amenity impact, contrary to policies W12 and W13 of the Waste Local Plan.

Residential Amenity (Reason for Refusal 4)

28. A number of concerns have been expressed to NI4H about potential malodours, litter and noise arising from the Appeal proposals, and it is noted that this is a concern in other EfW appeals too. NI4H is of the view these concerns can be resolved by the imposition of appropriate planning conditions, and so does not resist the application on residential amenity grounds.

Public Health (Reason for Refusal 5)

29. NI4H intends to defend Reason for Refusal 5 set out in WSCC's refusal notice.

30. NI4H will present evidence to show that there is a real and tangible public perception of harm to human health, including asthma, early deaths, female fertility, its effect on the elderly and children. Of the 250 representations made to the Inspector, 69% of them mention public health concerns. NI4H intends to rely on an analysis of the objections already submitted to WSCC at the planning application stage, and to the Inspector at the appeal stage and on comments on both NI4H petitions.

31. NI4H also intends to produce evidence showing that these concerns are neither irrational nor unfounded. As the Inspector noted in the Swindon Appeal Decision at paras. 93-94 and following, although Public Health England suggests the harm from Incinerators may be minimal, it cannot be ruled out. Whether that is reassuring depends on an individual's attitude to risk and, as here, the risk is involuntary and one for which no mitigation or avoidance measures (short of moving) are available. Accidents, and any ensuing effects on public health, can happen: see the major fires at incinerators at Crymlyn Burrows, Bolton, Runcorn, and, most recently, Beddington Lane in Croydon. Moreover, breaches of emission limits have been known to occur.

32. Finally, NI4H intends to produce evidence that land use consequences may follow from these concerns. In particular, concerns have already been expressed to PINS by other members of the community, regarding the impact of the development on house prices.

33. For those reasons, the facility is contrary to Policy W19 in the WLP.

Greenhouse Gas Emissions

34. NI4H will further contend that the proposed EfW plant would emit significant quantities of fossil-based CO₂, be high-carbon (rather than falling into the definition of "low carbon" in NPPF terms), and would result in the emission of more CO_{2e} per year than sending the same waste to landfill. These conclusions are reached using Defra's *Energy Recovery for residual waste: a carbon based modelling approach* (Feb 2014).

35. Furthermore, NI4H will introduce evidence highlighting inconsistencies in the Appellant's 2016 Carbon Assessment, and showing errors in its methodology concerning, *inter alia*, its failure to take the carbon sequestration of landfill into account, an incorrect marginal emissions factor and conversion errors.

36. The negative climate change impact runs directly contrary to Policies 24 and 36 of the Local Plan, and Policy W12 of the Waste Local Plan, para 1 of the National Planning Policy for Waste, and the NPPF.

Planning Balance

37. When those considerations are taken into account, it is NI4H's case that the planning balance favours dismissal of the Appeal.

Conditions

38. If, contrary to NI4H's primary case, the appeal is allowed, NI4H will argue that certain additional/amended planning conditions should be included which mitigate some of the concerns raised by local residents. While it wishes to reserve the right to modify or add conditions as the evidence develops, at present suggested additional/amended conditions are outlined in Appendix 1 to this Statement of Case.

Documents that may be referred to at the inquiry, witnesses

39. The documents to be referred to are in Appendix 2.

40. NI4H intends to produce witness evidence on the following topics

- a. An expert planning witness will give evidence on:
 - i. The facility's CO₂ emissions and climate impact, drawing from a report prepared by a specialist environmental consultancy, and
 - ii. The general planning balance;
- b. Members of the community will provide evidence of:
 - i. Landscape and visual amenity impact of the facility, and
 - ii. The public perception of public health harms.

Conclusion

41. NI4H will demonstrate that the Appeal Proposals will not constitute high quality development, will give rise to unacceptable landscape and visual amenity impacts, is not of a net carbon benefit, and will lead to an increase in the public perception of public health harms, leading in turn to wider detrimental land use impacts. This is contrary to the Development Plan, and there are no material considerations weighing in the planning balance which outweigh this. Accordingly, the Inspector is invited to dismiss the Appeal.

Appendix 1: Proposed Conditions and Amendments.

Prior to Commencement Conditions

1. A pre-commencement condition requiring the developer to publish a clear and transparent report clearly demonstrating that the facility's operation would result in an overall reduction in carbon emissions, as endorsed by Inspector Middleton in the *Land at Thornhill Road, Keypoint Industrial Estate, South Marston, Swindon, SN3 4RY* (Appeal Ref: APP/U3935/W/18/3197964 at para. 135).

Reason: To ensure the proposal does not have a negative climate impact, contrary to Policy 24 and Policy 36 of the Local Plan, and W12 of the Waste Local Plan.

2. Prior to the commencement of the development of the facility, the developer/operator to submit to the Local Planning Authority for approval in writing, verification that the facility has achieved Stage R1 Status through Design Stage R1 Status through certification from the Environment Agency. The facility to be configured and operated in accordance with these details (as per Condition 12 *Land at Thornhill Road, Keypoint Industrial Estate, South Marston, Swindon, SN3 4RY* (Appeal Ref: APP/U3935/W/18/3197964)).

Reason: To ensure that the facility constitutes a recovery facility and therefore accords with Policy W10 of the Local Plan.

3. A condition requiring the submission and approval in writing by the Local Planning Authority of a scheme for the maintenance of the waste hierarchy in priority order by minimising recyclable and reusable waste received as a non-hazardous fuel feedstock during the operational life of the development (as per Condition 31 *Land Formerly Occupied by The Lostock Power Station, Works Lane Northwich CW9 7NU Lostock, Northwich, Cheshire* (Planning Ref: 10/00691/DECC)).

Reason: To ensure that the waste is truly being moved up the waste hierarchy in accordance with the Strategic Objectives of the Waste Local Plan.

4. A pre-operation condition requiring a scheme to provide for selective catalytic reduction to be implemented within the facility to be submitted to, and approved in writing by, the Local Planning Authority. The plant thereafter to be operated in accordance with the SCR scheme (as per Condition 26 *Land at Thornhill Road, Keypoint Industrial Estate, South Marston, Swindon, SN3 4RY* (Appeal Ref: APP/U3935/W/18/3197964)).

Reason: To mitigate public health concerns over the impact of the facility, in accordance with Policy W19 of the Waste Local Plan.

5. A condition requiring a Red Kite Protection Plan to be submitted and approved in writing by the Local Planning Authority detailing measures to protect and/or mitigate damage to populations of Red Kites and their associated habitat during construction works and the operation of the facility.

Reason: Red Kites, a bird protected in accordance with Schedule 1 of the Wildlife and Countryside Act 1981, are in the area. Their protection must be ensured.

6. A condition stating that details of the design of the chimney stack and the external facing materials, including colour, to be used in its construction to be submitted to and approved in writing by the Local Planning Authority (per Condition 5 *Land at Thornhill Road, Keypoint Industrial Estate, South Marston, Swindon, SN3 4RY* (Appeal Ref: APP/U3935/W/18/3197964)).

Reason: To mitigate landscape and visual impact amenity concerns in accordance with W12 and W13 of the Waste Local Plan.

7. A condition requiring submission of a scheme for the monitoring of air pollution in the vicinity of the site and approval by the Local Planning Authority in consultation with the Environment Agency prior to commissioning of the facility (per Condition 33 *Land Formerly Occupied by The Lostock Power Station, Works Lane Northwich CW9 7NU Lostock, Northwich, Cheshire* (Planning Ref: 10/00691/DECC)).

Reason: To mitigate public health concerns over the impact of the facility, in accordance with Policy W19 of the Waste Local Plan.

8. Prior to the operation of the facility, submission of a scheme of measures and approval by the Local Planning Authority to ensure that operations do not give rise to any malodours (per Condition 22 *Land at Thornhill Road, Keypoint Industrial Estate, South Marston, Swindon, SN3 4RY* (Appeal Ref: APP/U3935/W/18/3197964)).

Reason: To comply with Policies W10 and W19 of the Waste Local Plan.

9. Conditions requiring details of fire suppression measures and access of fire appliances to all major buildings, structures and storage areas, and measures to mitigate the effects of emergencies arising from loads carried by rail, to be submitted to and approved by the Local Planning Authority prior to commencement (per Conditions 17 and 20 *Land Formerly Occupied by The Lostock Power Station, Works Lane Northwich CW9 7NU Lostock, Northwich, Cheshire* (Planning Ref: 10/00691/DECC)).

Reason: To mitigate public health concerns over the impact of the facility, in accordance with Policy W19 of the Waste Local Plan.

10. A Pre-operation condition requiring a Travel Plan Statement including continuing and long-term measures to promote and encourage alternative modes of transport to the single-occupancy car to be submitted to and approved by the Local Planning Authority (per Condition 26 *Former Ravenhead Glass Warehouse, Lock Street, St Helens, Merseyside WA9 1HS* (Appeal ref: APP/H4315/A/14/2224529) and per Condition 16 *Land Formerly Occupied by The Lostock Power Station, Works Lane Northwich CW9 7NU Lostock, Northwich, Cheshire* (Planning Ref: 10/00691/DECC)).

Reason: To mitigate the climate change impact and landscape and visual impacts of multiple single use cars, in accordance with Policies 24, and 36 of the Local Plan, Policy W12 and W13 of the Waste Local Plan.

11. A condition providing for a scheme to prevent litter arising from construction works and HGVs at construction and operation stage, and arising throughout the operational life of the development escaping from the site to be submitted to, and approved in writing by, the Local Planning Authority (per Condition 20 *Land at Thornhill Road, Keypoint Industrial Estate, South Marston, Swindon, SN3 4RY* (Appeal Ref: APP/U3935/W/18/3197964)).

Reason: To avoid unacceptable impacts on residential amenity in accordance with Policies W10 and W19 of the Waste Local Plan.

12. An addition to the Community Liaison Group “CLG” condition (Condition 9 attached to the report of WSCC’s planning committee) to add “best practice” requirements, including:
 - i. Details of how the group will operate
 - ii. Provision for the appointment of an independent chairperson
 - iii. A process for the production and approval of comprehensive minutes of the meeting
 - iv. Provision of a named individual and contact number for the facility operator
 - v. The establishment of a community complaints procedure as an early action
 - vi. Development of a culture of proactive communication between all parties
 - vii. Discussion on communication with the wider community i.e. regular updates, briefings on construction/commissioning/operational issues, for the facility operator to implement
 - viii. Arrangements for the “CLG” to meet monthly before and during construction, and in the early operational phase to be agreed. Thereafter the frequency of meeting to be agreed by the “CLG”

Informed by Condition 27 *Land at Thornhill Road, Keypoint Industrial Estate, South Marston, Swindon, SN3 4RY* (Appeal Ref: APP/U3935/W/18/3197964) and Condition 20 *2 Ratty's Lane, Hoddesdon, Hertfordshire, EN11 0RF* (Appeal Ref: APP/M1900/V/18/3195373).

Reason: Local residents have had significant difficulties with the current Britaniacrest Recycling Ltd CLG on this site and wish to ensure better relations with the next CLG. This would help avoid public health concerns arising contrary to policy W19 of the Waste Local Plan.

13. A condition requiring the developer/operator to keep under review opportunities to use non-road modes of transport for the delivery of fuel to and from the site where such modes may reasonably be considered both commercially feasible and more sustainable than road transport. A pre-commissioning condition to require the developer/operator to submit to the Local Planning Authority and have approved in writing a scheme for

evaluating and responding to such opportunities, which shall be adhered to (per Condition 11 *Land Formerly Occupied by The Lostock Power Station, Works Lane Northwich CW9 7NU Lostock, Northwich, Cheshire (Planning Ref: 10/00691/DECC)*).

Reason: To mitigate the climate change impact and landscape and visual impacts of the facility, in accordance with Policies 24, and 36 of the Local Plan, Policy W12 and W13 of the Waste Local Plan, and accord with Policy W18 of the Waste Local Plan.

Construction controls

14. An amendment to Condition 14 attached to the report of WSCC's planning committee permitting construction works (including any demolition and site clearance) of the development involving the use of plant/machinery/equipment/vehicles and the deliveries of construction materials/plant/machinery/equipment being received by or despatched to only take place between the hours of:

- 07.30 and 18.00 on Monday to Friday inclusive;
- 07.30 and 13.00 on Saturdays; and not at any time on Sundays, Bank Holidays or Public Holidays

(per Condition 19 *Former Wealden Brickworks Langhurst Wood Road Horsham RH12 4QD (Planning Ref: WSCC/021/15/NH)*).

Reason: To accord with paragraphs 170 and 180 of NPPF (2019) in the interests of the amenity of the locality and of local residents.

15. A condition requiring that no excavations to commence on site in each phase until a detailed strategy and method statement for minimising the amount of construction waste resulting from the development in that phase has been submitted to and approved in writing by the Local Planning Authority (per Condition 10 *Land at Thornhill Road, Keypoint Industrial Estate, South Marston, Swindon, SN3 4RY (Appeal Ref: APP/U3935/W/18/3197964)*).

Reason: To minimise waste impacts in accordance the Waste Local Plan.

Operational controls

16. Amendment to Condition 16 attached to the report of WSCC's planning committee, requiring no external operations involving plant, vehicles and machinery associated with the development including the movement of HGVs to/from the site, outside the hours of:

- 07.30 and 18.00 on Monday to Friday inclusive; and
- 07.30 and 13.30 on Saturdays.
- No external operations shall take place on Sundays, Bank Holidays or Public Holidays.

(per Condition 21 *Former Wealden Brickworks Langhurst Wood Road Horsham RH12 4QD* (Planning Ref: WSCC/021/15/NH)).

Reason: To accord with paragraphs 170 and 180 of the NPPF (2019) in the interests of the amenity of the locality and of local residents.

17. A condition requiring that HGVs are not to exceed 44000kg for 6 axle articulated lorries. For operation above 40000kg, the drive axle(s) must not exceed 10500kg and have road friendly suspension OR have a maximum axle weight not exceeding 8500kg. Each part of the combination must have 3 axles and the trailer must have road friendly suspension. Additionally, an engine complying with at least Euro 2 specification (or gas) is needed for operation over 41000kg (per GB maximum gross weights for goods vehicles set out in the Road Vehicles (Construction and Use) Regulations 1986 as amended (C&U), and the Road Vehicles (Authorised Weight) Regulations 1998 as amended (AWR).

Reason: To mitigate the climate change impact of the facility in accordance with Policies 24, and 36 of the Local Plan, Policy W12 of the Waste Local Plan.

18. A condition requiring all HGVs accessing the site during the operation of the facility to be Euro 5 or Euro 6 (or cleaner) in terms of their emissions (per Condition 19 2 *Ratty's Lane, Hoddesdon, Hertfordshire, EN11 0RF* (Appeal Ref: APP/M1900/V/18/3195373)).

Reason: To mitigate the climate change impact in accordance with Policies 24, and 36 of the Local Plan, Policy W12 of the Waste Local Plan.

19. Amendment to Condition 19 attached to the report of WSCC's planning committee, adding the term 'non-hazardous' to the maximum of 230,000 tonnes of waste to be managed at the site in any one year. An addition to Condition 19 requiring the operator to maintain a record of the tonnage of waste delivered to site per day, the number of HGVs delivering waste and the number of HGVs exporting residues and their destinations, to be made available to the "CLG" and the Local Planning Authority upon written request. (per Condition 29 *Former Wealden Brickworks Langhurst Wood Road Horsham RH12 4QD* (Planning Ref: WSCC/021/15/NH)).

Reason: To accord with paragraphs 170 and 180 of the NPPF (2019) to enable the Local Planning Authority to monitor the level of traffic generated by the permitted use and ensure adequate control of the development so as to protect both the local amenity and the local environment.

20. A condition requiring that no plant, equipment, machinery or vehicle to be used on the site unless fitted and operated at all times with silencing measures to a standard not less than the up to date manufacturer's UK standard specification (per Condition 23 *Former Wealden Brickworks Langhurst Wood Road Horsham RH12 4QD* (Planning Ref: WSCC/021/15/NH)).

Reason: To accord with paragraphs 170 and 180 of the NPPF (2019) in the interests of the amenities of the locality.

Pre-operation conditions

21. A condition requiring that no combustion of waste shall take place until a grid connection to a substation has been installed (subject to planning permission) and is capable of transmitting electricity generated by the facility (per condition 45 2 *Ratty's Lane, Hoddesdon, Hertfordshire, EN11 0RF* (Appeal Ref: APP/M1900/V/18/3195373)).

Reason: To ensure that the necessary infrastructure is in place to facilitate export of electricity to the Grid when the plant is commissioned - keeping the "energy" in "energy from waste".

Decommissioning

22. A condition stating that in the event that use of the site for the importation of waste ceases for a period in excess of one month then, within one month of a written request from the Local Planning Authority, the site shall be cleared of all stored waste and processed materials. Within 30 days of final cessation of the operation of the facility, the operator to inform the Local Planning Authority in writing that all operations have ceased. Within 6 months of the final cessation of the operation of the development a scheme of restoration for the site to be submitted for the written approval of the Local Planning Authority. The site to be restored within a period of 24 months of the details being approved by the Local Planning Authority (per conditions 24 and 25 *Land at Thornhill Road, Keypoint Industrial Estate, South Marston, Swindon, SN3 4RY* (Appeal Ref: APP/U3935/W/18/3197964).

Reason: To ensure that the polluter pays.

Appendix 2: Documents that may be relied upon

1. The following are listed in addition to the evidence to be produced.
2. Reference will be made to the following National Guidance Documents:
 - a. NPPF (Feb 2019)
 - b. Waste Management Plan for England (Dec 2013)
 - c. Our Waste, Our Resources: a strategy for England (Dec 2018)
 - d. National Planning Practice Guidance
 - e. National Planning Policy for Waste (Oct 2014)
 - f. Energy Recovery for Residual Waste: A carbon-based modelling approach (Feb 2014)
 - g. Energy from Waste: A guide to the debate (Feb 2014)
 - h. Valuation of Energy Use and Greenhouse Gas Supplementary Guidance to the HM Treasury Green Book on Appraisal and Evaluation in Central Government (April 2019)
 - i. Valuation of Energy Use and Greenhouse Gas Background documentation (April 2019)
 - j. The Clean Growth Strategy: Leading the way to a low carbon future (October 2017)

3. Reference will be made to the following Development Plan Documents:

a. West Sussex Waste Local Plan (April 2014)

b. Horsham District Planning Framework (2015)

4. NI4H also intends to refer to the following European Materials:

a. EU Waste Framework Directive (2008/98/EC)

b. The Circular Economy Package

5. NI4H intends to refer to the documents comprising the Planning Application, currently set out in the Draft Statement of Common Ground between the Appellant and WSCC. (update 3 Jan 19).

6. NI4H also intends to refer to the following Planning and Appeal Decisions:

a. Green Lane - Appeal Ref: APP/U4230/A/11/2162115

Appellant/Applicant: Sky Properties Ltd

Site Address: Green Lane, Eccles, Salford M30 8AD

b. Green Lane - Appeal Ref: APP/U4230/A/11/2162103

Appellant/Applicant: Sky Properties Ltd

Site Address: Green Lane, Eccles, Salford M30 8AD

c. Hoddesdon - Appeal Ref: APP/M1900/V/18/3195373

Appellant/Applicant: Veolia Environmental Services (Hertfordshire) Limited

Site Address: 2 Ratty's Lane, Hoddesdon, Hertfordshire, EN11 0RF

d. Horsham - Planning Ref: WSCC/021/15/NH WSCC018/14/NH

Appellant/Applicant: Britaniacrest Recycling Ltd

Site address: Former Wealden Brickworks Langhurst Wood Road Horsham

RH12 4QD

e. Keypoint - Appeal Ref: APP/U3935/W/18/3197964

Appellant/Applicant: Rolton Kilbride Limited on behalf of Legal and General Assurance Society Limited

Site Address: Land at Keypoint Industrial Estate, Keypoint, Swindon, SN3 4TL

f. Lock Street - Appeal Ref: APP/H4315/A/14/2224529

Appellant/Applicant: Mr. Brian Moore

Site Address: Former Ravenhead Glass Warehouse, Lock Street, St Helens, Merseyside WA9 1HS

g. Northwich - Appeal Ref: 04/35C

Appellant/Applicant: Tata Chemicals Europe Ltd

Site Address: Land Formerly Occupied by The Lostock Power Station, Works Lane Northwich CW9 7NU Lostock, Northwich, Cheshire

7. NI4H also intends to refer to the following other material:

- a. Submissions of UKWIN and other members of the public to both WSCC and PINS during the application and appeal processes.

8. While every effort has been made to outline all materials to be relied on, NI4H reserves the right to refer to other documents if, during the course of the Appeal or preparation thereof, they become relevant.