

# **PROOF OF EVIDENCE PLANNING MR CHRISTOPHER LECOINTE**

## **On behalf of Britaniacrest Recycling Limited**

In relation to an appeal against the decision of West Sussex County Council to refuse planning permission for a proposed Recycling, Recovery and Renewable Energy Facility and Ancillary Infrastructure at Wealden Brickworks, Horsham

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# 1 INTRODUCTION

## **Christopher LeCointe will say:**

I hold a Bachelor of Arts Degree in Town and Country Planning and am a Chartered Member of the Royal Town Planning Institute. I have 33 years continuous post qualification planning experience gained in both the public and private sectors. I am an Operational Director for RPS heading a multidisciplinary planning and environmental impact assessment (EIA) team that was responsible for the preparation of the planning application and accompanying Environmental Statement (ES) for the proposed recycling, recovery and renewable energy facility (“the Proposed Development”) at the Wealden Brickworks, Horsham (“the Appeal Site”). I represent the Appellant, Britaniacrest Recycling Limited, at this inquiry (reference APP/P3800/W/18/3218965) and was instructed on this case in May 2019.

My experience is wide ranging. I have worked on many waste and energy projects including MBT plant, Materials Recycling Facilities, Energy from Waste schemes, a Biomass Generation Station, and specialist waste recycling centres. In addition to my consenting experience under the Town and Country Planning 1990, I also have experience with energy and waste schemes delivered under The Electricity Act 1989 and the Planning Act 2008. I have acted as expert planning and waste witness at Public Inquiry and for the High Court.



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## 2 SCOPE OF EVIDENCE

- 2.1 My evidence considers the planning case for the Proposed Development. I examine compliance with adopted planning policy, and I balance that with other material considerations. My evidence relies in part on the expert evidence given by Corinna Demmar, the landscape and visual impact witness, who has produced a separate proof of evidence for the inquiry to deal with the landscape and visual concerns raised by the planning authority and Ni4H, the Rule 6 party.
- 2.2 Other evidence addressing the design issues raised by the authority, and other matters raised by third party objections, is contained in evidence presented on behalf of the Appellant including:
- Design – Mark Hilton, RPS (Appendix 1 to Planning Proof)
  - Carbon Note – Dan Smyth, RPS (Appendix 2 to Planning Proof)
  - Noise Note – Susan Hirst, RPS (Appendix 3 to Planning Proof)
  - Transport Note – David Archibald, RPS (Appendix 4 to Planning Proof)
  - Air Quality Note – Fiona Prismall, RPS (Appendix 5 to Planning Proof)
- 2.3 Dr Andrew Buroni has also provided a separate proof of evidence dealing with public health issues, particularly to deal with the perception of harm as is claimed by Ni4H.
- 2.4 My evidence is structured as follows:
- A description of the appeal site and the Proposed Development (Section 3).
  - An overview of relevant planning history of the site (Section 4)
  - Scheme Evolution (Section 5)
  - Planning Policy and other material considerations (Section 6)
  - Need (Section 7)
  - The case for the Appellant and overall planning balance (Section 8).





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## 3 APPEAL SITE & PROPOSED DEVELOPMENT

### Site Location and Description

- 3.1 The Appeal Site is located at the former Wealden Brickworks site off Langhurstwood Road, approximately 900 metres to the north-west of Horsham and 1.3 kilometres to the north-east of the centre of Warnham (Appendix 6 and CD 004).
- 3.2 The Appeal Site extends to approximately 3.8 hectares and is currently used as a Waste Transfer Station, handling inert and non-inert waste with associated open-air inert waste recycling operations. The site includes a large former brickworks building that has been converted for waste sorting and processing use. It also contains a single-storey brick building and other infrastructure including a weighbridge and office.
- 3.3 Access to the Appeal Site is via a private shared estate road, which connects to the public highway at Langhurstwood Road. Langhurstwood Road links directly to the A264 Horsham bypass some 750 metres to the south.

### Surrounding Land Uses

- 3.4 The Appeal Site forms part of the larger Brookhurst Wood complex, a 24.4-hectare site containing various existing large-scale waste and industrial uses. These include a material biological treatment (MBT) facility to the east, Warnham Brickworks to the south, and to the north an Aggregate Treatment and Recycling Facility (ATRF), former brickworks buildings and vacant land. Further beyond to the north-east lies the Brookhurst Wood Landfill site, which had permission to receive waste until the end of 2018 and for completion of the restoration of the landfill by 2023.
- 3.5 Brookhurst Wood lies beyond the settlement boundary of Horsham, which is located approximately 900 metres to the south-east of the site beyond the A264. The village of Warnham lies approximately 1.3 kilometres to the south-west.
- 3.6 To the west, south, and east of the Brookhurst Wood site are isolated or small groups of dwellings and open countryside. To the north are large industrial and commercial developments including Fisher Scientific Services and Broadlands Business Park. To the north-east is the active Graylands Clay Pit. A cluster of

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commercial and industrial properties are located around Warnham Station, approximately 310 metres to the south-west of the Appeal Site.

3.7 The nearest residential properties are at Graylands Lodge on Langhurstwood Road (approximately 250 metres to the north-east of the Appeal Site), along Station Road (approximately 290 metres to the south-west of the Appeal Site), and on Langhurstwood Road, (approximately 290 metres to the south-east of the Appeal Site).

3.8 In addition to the existing settlements and residential properties identified above, outline planning permission (ref DC/16/1677) was granted in March 2018 by Horsham District Council for a mixed-use strategic development to include up to 2,750 houses, a business park, retail, community centre, leisure facilities, education facilities, public open space, landscaping and related infrastructure. If the North Horsham development comes forward in accordance with the approved masterplan, the closest residential properties would be approximately 630 metres to the south-east of the Appeal Site and the school approximately 850 metres to the south-east of the Appeal Site.

## **Proposed Development**

3.9 The proposed development comprises a Recycling, Recovery and Renewable Energy (3Rs) Facility to sort, separate and process up to 230,000 tonnes per annum of residual commercial and industrial (“C&I”) waste and/or residual municipal solid waste (“MSW”).

3.10 The processing of waste by the proposed development would generate an estimated 21 megawatts (MW) of electricity per annum. Of this, approximately 18 MW would be available for export to the national grid, with the remainder used by the facility itself. An electricity grid connection offer has recently been renewed by the District Network Operator in favour of the Appellant and so the grid connection status of the Facility is set out in Appendix 7. The proposed development would also be capable of supplying heat to suitable external users, subject to a heating network becoming available. The quantity of heat available would depend on the network configuration and the demand.

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- 3.11 The design of the facility has been undertaken by architects (RPS) experienced in EfW design and responds to the technical requirements that such a plant demands in terms of internal space and layout requirements, external layout and design aesthetics, consideration of BREEAM objectives, and the design guides and input from consultation with the public and officers of the local council.

## Facility Process and Operations

### Overview

- 3.12 The Facility is designed as a merchant facility to accept residual waste streams arising locally and from the surrounding region, which, in the absence of the Facility, are likely to be disposed of to landfill, or exported for treatment in similar facilities elsewhere. The facility would comprise a mechanical sorting facility in which inert materials and potentially recyclable materials are extracted, followed by energy recovery of the residual stream where the energy content of the remaining waste stream would be recovered.
- 3.13 The latest iteration of plans and drawings (CD 004 – CD 027) that were in front of the planning authority when they came to make a decision on the application were:
- Proposed Site Plan (Fig. No. 2.1, March 2018);
  - Ground Floor Plan (Ref. NK018074-RPS-MB-GF-A-DR-0104, Rev P02; 14 March 2018);
  - Roof Plan (ref. NK018074-RPS-MB-GF-A-DR-0106, Rev P02; 14 March 2018);
  - Proposed Sections AA-BB (ref. NK018074-RPS-MB-ZZ-A-DR-0105, Rev P04; 14 March 2018)
  - Illustrative Landscape Proposals (Figure 5.38, Ref. NK018074-RPS-ST-XX-A-DR0188);
  - Proposed Elevations (ref. NK018074-RPS-MB-ZZ-A-DR-0111, Rev P02; 14 March 2018);
  - Storage and Recycling Area Plan and Elevations (ref. NK018074-RPS-XX-ZZ-A-DR0112, Rev P02; 14 March 2018);

- Air Cooling Condenser Plan and Elevations (ref. NK018074-RPS-XX-ZZ-A-DR-0113, Rev P02; 14 March 2018);
- Cycle Shelter, Sprinkler Tanks and Pump House Layout and Elevations (ref. NK018074-RPS-XX-ZZ-A-DR-0114, Rev P02; 14 March 2018);
- Gatehouse (ref. NK018074-RPS-XX-ZZ-A-DR-0116, Rev P02; 14 March 2018);
- Transformer Building (ref. NK018074-RPS-U01-A-DR-0117, Rev P02; 14 March 2018);
- Lighting Strategy (ref. RPS-ST-XX-A-DR-6302 Rev. D5, 12 March 2018); and
- Drainage Strategy (ref. NK018074-RPS-EFW-XX-RP-D-DS001, 13 March 2018), including maintenance provisions in Section 6;

3.14 The facility would be licensed to accept non-hazardous commercial and industrial wastes, but also municipal solid waste should it become available.

3.15 A small amount of the electricity would be used to drive the plant itself and the balance would be exported from the facility to the local distribution network in the form of electricity. The turbine would be configured to be able to export heat as well, but until a distributed energy network is available, it would operate in electricity generation mode.

### **Waste Acceptance and Handling**

3.16 Acceptable waste would arrive at the facility and be delivered to the reception hall and materials pre-treatment area for sorting and recovery of the fractions that can be recovered and recycled. These would be inert materials, wood, selected plastics, ferrous metals and non-ferrous metals.

3.17 Acceptable waste would be delivered to the facility in covered vehicles or containers. A vehicle entering the site would be received at the weighbridge, where it would be checked to ensure that it holds a Waste Carriers Licence and that the (electronic) Transfer Note is in order. It would then be weighed to Trading Standards requirements, following which it would be allowed to proceed to the reception hall under the control of a traffic light system to maintain safety of the operation. The traffic light system would direct the vehicle into the enclosed hall where it would be

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directed to a designated unloading bay and its load discharged into the waste processing hall. Loads that are not carrying recyclable material may unload directly into the bunker.

- 3.18 Waste deliveries would only be accepted from authorised carriers and all heavy goods vehicles entering the site would report to the weighbridge gatehouse before being allowed to enter the site. Details of all waste entering the facility would be recorded in a tracking system. In addition, frequent inspections of waste would be undertaken in the reception hall and any non-compliant waste would be quarantined in a contained service area where it would remain until alternative disposal arrangements are in place.
- 3.19 Having been processed by the mechanical pre-treatment plant in the waste processing hall, the feedstock would be deposited in the bunker. Within the bunker, the feedstock would be mixed using a crane grab to create a homogenous waste profile. Mixing would be part of the bunker management to achieve, as far as possible, uniformity in the waste calorific value to aid the combustion process. The waste bunker would have enough capacity to store up to five days of feedstock in order to take into account potential interruptions in waste deliveries.
- 3.20 In order to limit environmental nuisances such as vermin, dust, litter and odour all deliveries, handling and storage would be undertaken in a fully closed environment. Access to and from the reception hall and bunker for waste delivery would be via an entrance fitted with a fast-acting door which would remain closed during non-delivery periods.
- 3.21 Periodic washing would also be carried out to maintain a clean tipping area.
- 3.22 The reception area and handling equipment would also be designed to allow the facility to operate as a Waste Transfer Station in the event of extended maintenance periods or shutdowns. This would be achieved by enabling the bunker waste to be back-loaded into articulated vehicles.

### **Waste Processing and Feedstock Preparation**

- 3.23 Acceptable waste would be loaded from the storage area in the waste processing hall into a receiving hopper in the waste processing hall by crane for subsequent

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processing by the mechanical pre-treatment equipment. The following typical process would then take place:

- The waste would be fed from the receiving hopper into a coarse shredder;
- The shredded material would be passed through a trommel or screen to remove fines;
- The oversize material would pass under over-band magnets to recover ferrous metals and an eddy-current separator to remove non-ferrous metals;
- An air separator would segregate heavy and light fractions;
- Near-infrared detection and sorting units would remove PVC and other plastics as required.

3.24 The residual waste, known as feedstock, would then be moved to the bunker awaiting thermal treatment.

### **Thermal Treatment**

3.25 The feedstock would be lifted by crane grab from the bunker into a feed hopper and fed onto a moving grate. The furnace in which the grate is located would be at a temperature in excess of 850 °C. Air would be fed through the grate from the underside to maintain the combustion process. The grate would be inclined, and the grate-bars would move relative to one another. The movement of the grate would cause the feedstock to tumble slowly down the grate, exposing the feedstock to the air and ensuring almost complete burnout of the carbon in the feedstock. The process would be continuous.

3.26 Ash (known as Incinerator Bottom Ash or IBA) would fall through the grate and would contain less than 3% carbon. The ash would be recovered through a water bath (for cooling) and removed to a storage area. The ash would then be moved off-site for conversion into an aggregate substitute and recycled.

3.27 The hot gases (known as flue gas) from the combustion of the feedstock would pass through a water-tube boiler. The water in the boiler tubes would turn to steam and the steam would be superheated to approximately 430 °C at a pressure of between 60 – 72 bar (depending on the final design). The superheated steam would then be passed into a steam turbine that expands the steam, causing it to rotate

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and drive an electrical generator. Tappings would be included in the turbine casing to allow steam extraction in the event a distributed energy network is fitted. Initially, however, these tappings would be blanked off.

### **Electricity Generation and Parasitic Load**

- 3.28 The superheated steam would pass through the turbine and pass under vacuum to an air-cooled condenser (ACC). The ACC would comprise fans blowing air across a radiator-like tube surface with the low-pressure steam passing into the tubes. The cooling of the air would condense the steam back to water, following which it would flow to the feedwater tank and be pumped around the boiler circuit again. There would be no discharge of process water into local watercourses.
- 3.29 The turbine-generator would produce approximately 21 MW of electricity. A proportion of this electricity generated would be used by the facility itself to power the on-site consumers, such as electric motors, fans, lighting, HVAC etc. This is known as the parasitic load.
- 3.30 The efficiency of the facility determines the remaining energy available for export. It is not possible at this stage to state what the exact efficiency would be, but it would be more than enough to meet the energy efficiency requirement for a recovery facility of 0.65 set out in the Waste Framework Directive (2008/98/EC). In consequence the facility would qualify as “recovery” under Article 3 of the Directive.
- 3.31 The operator would be required by the Environment Agency under the permitting process to minimise the electricity required to operate the facility to optimise the amount of energy that is available for export outside of the operation of the plant itself.

### **Flue Gas Treatment**

- 3.32 The flue gas produced by the combustion process would contain mostly carbon dioxide and water but would produce some oxides of nitrogen and trace quantities of pollutants, depending on the composition of the feedstock being combusted.
- 3.33 NO<sub>x</sub> is a naturally occurring product of any combustion process. The means of treating it would have to be approved by the Environment Agency, but it is anticipated that selective non-catalytic reduction would be used. This would be achieved by the injection of ammonia or urea into the raw gas stream. In the case



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of urea, it would convert to ammonia and in both cases the ammonia would react with the flue gas stream at a location where the temperature is around 850-900 °C.

- 3.34 Lime and powdered activated carbon would be injected into the gas stream in the flue gas treatment system, which would be deposited on the filters in the downstream bag filter system. The lime would neutralise any acid gases in the flue gas and the powdered activated carbon would attach to organic compounds (including dioxins) and be removed by the filters. The use of dry lime would enable greater energy efficiency to be achieved and reduces the incidence of plumes at the stack exit.
- 3.35 A baghouse filter would be included as the last process prior to the stack. The baghouse filter would consist of hundreds of individual filter bags and would capture particulate in the gas stream, including dust, lime powder and powdered activated carbon. The filters would be vibrated periodically by “rappers”, causing the dust to fall off and be captured and placed in a silo. This material is known as air pollution control residue, and is categorised as hazardous due to its alkalinity, but represents only about 3% by weight of the original raw waste input. The air pollution control residue would be emptied from the storage silo by vacuum tanker and removed off-site for further processing. Processes are available that allows the air pollution control residue to be recycled.

### **Flue Stack**

- 3.36 The facility would have a single flue stack with a proposed height of 95 metres located to the east of the main buildings. The height has been determined through computer dispersion modelling of emissions and evaluation of the resulting dispersion plumes so that ground level concentrations of key pollutants are kept well within acceptable levels under all operating conditions (See Appendix 7.2 of the Environmental Statement (ES) (CD 031).
- 3.37 Dispersion of pollutants is dependent on several factors including local land topography, emission rates and pollutant concentrations and the height of the facility buildings. The air quality and plume dispersion modelling used to identify the stack height necessary for optimum dispersion is described in detail in the ES, Chapter 7: Air Quality and Odour.



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- 3.38 The stack has been designed to meet all predicted climatic conditions. A separate windshield has been avoided, thereby minimising visual impact. Continuous emissions monitoring would be included in the stack with redundancy so that in the event of a breakdown the standby equipment would continue to monitor the emissions. The sampling would be brought down to a low level, hence avoiding the necessity for galleries around the stack at height and enabling it to have a smooth profile. The outer surfaces of the stack are intended to be grey-coloured and non-reflective, further minimising visual effects.
- 3.39 The applicant consulted with the Aerodrome Safeguarding representatives for Gatwick Airport. This consultation confirmed that, as the building and stack height proposed are under the Outer Horizontal Surface level, which lies at 204.35 metres AOD, there would be no infringement of this surface and no impact regarding radar or navigational aids. It was, however recommended that medium intensity red steady obstacle lights be placed around 1.5 metres from the top of the stack to ensure that the stack is always clearly visible to helicopters and other aviation traffic. The recommended obstacle lighting is therefore included within the design.

## **Residues Management**

### **Incinerator Bottom Ash (IBA)**

- 3.40 The primary residual material from the combustion process is IBA, which consists of the non-combustible fractions of the feedstock. IBA is continually discharged from the combustion chamber. The volume of IBA generated would be dependent on the composition of the feedstock processed. However, it is estimated that the yearly quantity of IBA generated at the proposed facility would be approximately 40,000 tonnes.
- 3.41 IBA from the furnace would be quenched with water prior to transfer to the bottom ash area bunker. This process would involve the use of a drag conveyor to recover the IBA to a water bath before final transfer to the ash bunker. Storage for approximately four days of IBA has been provided. The Environmental Services Association (ESA) protocol for IBA agreed with the Environment Agency would be followed. This would lead to the IBA being categorised as non-hazardous and capable of being recycled into an aggregate substitute.

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3.42 Due to the mechanical pre-treatment plant in the waste processing hall, the incidence of metals in the feedstock would be small. Any metals finding their way into the feedstock, however, may be recovered from the ash during its subsequent processing. It is also possible that a metal separator (over-band rotating magnet), located on the last conveyor before the bottom ash bunker, would remove ferrous metal and transfer it to a separate compartment of the ash bunker for storage pending off site transport.

3.43 Transfer of IBA from the bunker to collection trucks would be either by crane and hydraulic grab or by front-end loader. The transfer would take place in an enclosed loading bay in order to limit fugitive emissions. All trucks leaving the facility would be securely covered.

#### **Boiler Ash**

3.44 Boiler ash residues would be removed from the tube surfaces of the boiler by an enclosed conveyor system and transferred to a silo located within the facility. The silo would have the capacity to store approximately ten days of boiler ash residue and would be transported off site but may be mixed with IBA prior to transport off site, depending on its composition.

#### **Flue Gas Cleaning Residues**

3.45 Flue gas cleaning residues would be removed from the baghouse filter by an enclosed conveyor system and transferred to two dedicated storage silos located within the facility. The storage silos have the capacity to store approximately seven days of flue gas cleaning residues. The residues would be transported off-site either for recycling or to landfill.

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## 4 PLANNING HISTORY

### Introduction

- 4.1 Relevant planning application history in relation to the appeal site and the wider Warnham and Wealden Brickworks site is set out below. Copies of the consents in relation to appeal site can be found at CD 041.
- 4.2 This planning history has been undertaken via a search of both Horsham District Council's and West Sussex County Council's planning portal and as well as liaising with the client. It excludes minor developments and further applications not considered to be of relevance to be to the proposed 3R's facility.

### Planning History

#### Appeal Site

#### Waste Transfer Facility

- 4.3 In 2014, planning permission **WSCC/018/14/NH** was granted for a waste transfer facility to handle inert and non-inert waste with associated open-air inert waste recycling operations, landscape improvements and vehicle parking. Under this permission, throughput of waste was restricted to 200,000 tonnes per annum.



**Figure 1 – Planning Permission Boundary WSCC/018/14/NH – Waste Transfer Facility**

- 4.4 Various amendments to planning permission WSCC/018/14/NH relating to the site throughput, HGV movements and the site layout have subsequently been

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approved. The variations are covered through the planning permissions WSCC/021/15/NH, WSCC/077/15/NH and WSCC/028/16/NH.

- 4.5 Notably **WSCC/021/15/NH** secured amendment of conditions 22 and 29 of the planning permission to increase site throughput from 200,000 tonnes per annum to 230,000 tonnes per annum, and an associated increase in HGV movements. This permission was granted on 3 June 2015 and replaced the original consent. In total 29 conditions were imposed.
- 4.6 Seven months later, on 3 February 2016, consent was granted via **WSCC/077/15/NH** to remove condition 28 of the above permission. This removed the requirement to restrict the site as “...the operating base or storage area for vehicles, plant, machinery or equipment not required for the operations approved...” (extract from condition 28). A copy of this consent is not available on the Councils website.
- 4.7 On 2 November 2016 permission was then granted (**WSCC/028/16/NH**) to vary condition 1 and 25 of the above February 2016 consent (WSCC/077/15/NH). Permission was granted on a temporary basis to amend the previously approved site layout (condition 1) and the external storage areas (condition 25). In granting temporary use for these, they required the layout to revert to that previously approved (under WSCC/021/15/NH), by 3 February 2018, and the temporary storage areas to be removed by 2 May 2018. In approving these variations, the authority then issued a decision notice with a total of 17 conditions with condition 3 dictating the temporary nature of the layout and storage areas.
- 4.8 On 1 May 2018, permission was then granted (**WSCC/006/18/NH**) to remove condition 3 of the November 2016 consent (WSCC/028/16/NH), and to amend the parking layout as previously approved under condition 6. This permission was granted and a total of 12 conditions imposed (see CD 041). As all the above consents are variations of the original, it is my view that this latest permission is the operative permission and the one that is now implemented. The operative permission therefore allows continued operation of a waste management facility and to accept waste throughputs of up to 230,000 tpa subject to conditions.



- 4.9 In 2016 an application was submitted for a Recycling, Recovery and Renewable Energy Facility and Ancillary Infrastructure (ref. WSCC/062/16/NH) but in July 2017 was withdrawn by the applicant following publication of the committee report in which officers recommended refusal on two grounds: namely, unacceptable impact on landscape and visual amenity, and failure to demonstrate noise impact would be acceptable. Following withdrawal of the previous application, the applicant sought to address the matters identified through the revised proposal subject of this appeal.
- 4.10 The application the subject of this appeal, the Recycling, Recovery and Renewable Energy Facility and Ancillary Infrastructure ref **WSCC/015/18/NH**, was refused on 11 July 2018, contrary to the planning officer's recommendation for approval.

### **Class B2 and B8 Units**

#### Two Class B8 units

- 4.11 In October 2006 a planning application (**DC/06/2443**) to provide 46,300sqm comprising two class B8 units was submitted by Gazeley Ltd and Wealdland Ltd. This application was subsequently withdrawn in December 2008 due to insufficient detail.

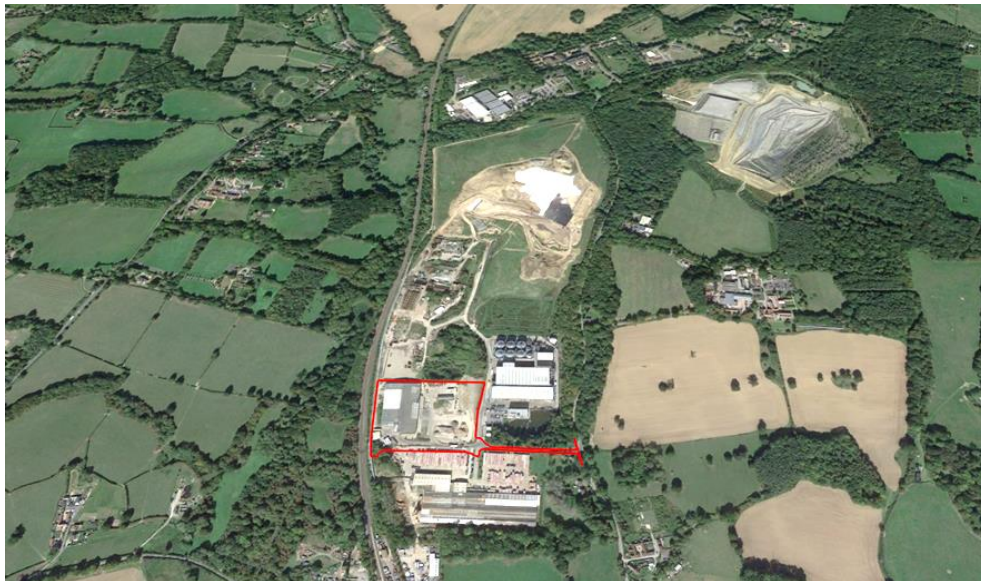


**Figure 2 – Planning Permission Boundary DC/06/2443 – Two Class B8 units**

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### Class B2 and B8 Units

- 4.12 In March 2011 Biffa secured outline permission (**DC/09/2355**) on appeal for the erection of units comprising B2 (6695sqm) and B8 (8185sqm) employment uses together with associated parking, service/goods yard, landscaping and an altered vehicular access to the site from the public highway.



**Figure 3 – Planning Permission Boundary DC/09/2355 – Class B2 and B8 units**

- 4.13 This permission was never implemented.

### **Land adjoining Appeal Site**

#### **Brookhurst Landfill Site**

- 4.14 Brookhurst Wood Landfill was granted planning permission in 1992. Under planning permission **NH/62/91**, consent was granted subject to conditions including completion of landfill operations by the end of 2006 with restoration by the end of 2007, or within 12 months of the completion of the delivery of waste materials to the site, whichever was the earlier. Planning permission **DC/1147/06 (NH)** was subsequently granted in May 2007 to vary planning permission NH/62/91, allowing the deposit of waste to landfill until 31st December 2009 with restoration to be completed within 12 months of cessation of waste being delivered to the site.



**Figure 4 – Planning Permission Boundary NH/62/91 – Brookhurst Landfill**

- 4.15 Planning permission **DC/2919/06 (NH)** was then granted to Biffa Waste Management in March 2009 for an extension to the landfill. This extension covered both the physical extent of the landfill, extending it both vertically and laterally southward, as well as the timescale for completion of the landfill operations. The land included within the lateral landfill extension was a former landfill site (Cleanaway) that was closed in 1994. The extension permitted raising the pre-settlement contour of the remaining void of the consented landfill to 100m AOD at its highest elevation and partly within the lateral southerly extension to 100m OD at its highest elevation. The previously consented post settlement contour of 85m AOD at its highest elevation remained unchanged. The extension also permitted an additional 7 years waste disposal to that already permitted under planning permission DC/1147/06 (NH).





**Figure 5 – Planning Permission Boundary DC/2919/06 – Brookhurst Landfill Extension**

- 4.16 In December 2017 planning permission **WSCC/005/16/NH** was granted to extend the date for landfilling (condition 47) by two years to 31 December 2018, with restoration to be completed by 31 December 2023 or within 12 months of waste ceasing to be delivered to the site whichever is the earlier. This permission also amended the approved restoration working plan (condition 49). In accordance with the conditions attached to this permission:
- The landfill requires to be filled to the levels shown on the plan ‘Pre-Settlement Contours’ 0007961/PA/10 (dated June 2006)
  - The landscape restoration requires to be delivered in phases as shown on the Interim Restoration Plans (Figures R1, R2, R3, R4, and R5 Rev 01) and the Final Restoration Plan 2023 (Figure R6 Rev 01) dated 15.12.2015.
  - The restoration of the site, in accordance with Figure WSCC 005 16 NH NMA - Restoration Date Jan18 R6 Rev 01, dated 15.12.2015 and the Updated Landscape Information dated January 2016, including grading with inert material and enhanced restoration works
- 4.17 In 2016 planning permission **WSCC/036/16/NH** was granted for the erection of 2 carbon vessels to be sited adjacent the existing gas management compound at the landfill site.



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### **Materials Recycling Facility**

- 4.18 In addition to the landfill extension, planning permission **DC/2919/06 (NH)** granted in March 2009 also granted approval to Biffa for the erection of a Materials Recycling Facility (MRF) including offices and visitor centre within the southern section of the application site. Consent was granted for the MRF to process up to 120,000 tonnes of biodegradable, non-hazardous waste per annum. It is understood that this development was not taken forward. The MRF is within the site identified at Figure 5.

### **Anaerobic Digestion Plant**

- 4.19 In addition to the landfill extension and the MRF, planning permission **DC/2919/06 (NH)** granted in March 2009 also granted Biffa approval for the erection of an anaerobic digestion (AD) plant within the western section of the application site. This development was not subsequently taken forward. The location of the AD Plant is shown on Figure 5.

### **Mechanical and Biological Treatment Facility**

- 4.20 In 2010, planning permission **WSCC/055/09/NH** was granted to Biffa for the construction and operation of a mechanical and biological treatment (MBT) facility to replace the MRF and AD approved under DC/2919/06. It was this facility (rather than the MRF and AD Plant) which was ultimately brought forward.



**Figure 6 – Planning Permission Boundary WSCC/055/09/NH – MBT Facility**

### **Aggregate Treatment and Recycling Facility**

- 4.21 In 2013, planning permission **WSCC/003/14/NH** was granted for the erection of an aggregate treatment and recycling facility for the processing of street cleaning residues to recover material for use as a secondary aggregate and landfill restoration material. Consent was granted for the facility to process up to 25,000 tonnes of material per annum, this material previously being disposed of at the adjacent Brookhurst Wood Landfill.



**Figure 7 – Planning Permission Boundary WSCC/003/14/NH – Aggregate Treatment and Recycling Facility**

- 4.22 The site of the Aggregate Treatment and Recycling Facility was on land allocated in the West Sussex Waste Local Plan (2014) for the extension of the landfill. At the time Biffa advised that should the landfill extension be required in the future, the Aggregate Treatment and Recycling Facility could be removed as none of the physical development is permanent. On this basis WSCC determined that the development would not compromise this allocation or conflict with Policy W10(b) of the WSWLP.

#### **Refuse Derived Fuel Compacting and Baling Facility**

- 4.23 In 2013, a planning application (**WSCC/080/13/NH**) was submitted by West Sussex County Council for the construction of a new facility for the compaction and baling of Refuse Derived Fuel (RDF) produced at the adjacent MBT facility. The application was withdrawn in March 2018 prior to being determined.



**Figure 8 – Planning Permission Boundary WSCC/080/13/NH – RDF Compacting and Baling Facility**

### **Soil Heat Treatment Facility**

- 4.24 I am also aware that last month (2/8/19) two applications were made to WSCC by Biffa Waste Services Ltd, for a Soil Heat Treatment Facility (WSCC/050/19) and a Soil Washing facility (WSCC/051/19) on land immediately to the north of the Appellant's facility and within the red line area of Figure 8 above. At the time of writing this proof no decision had been made on this application.
- 4.25 In planning terms therefore, the appeal site forms part of a wider, established, industrial/waste site and since 2014 has benefitted from a waste management use, currently for a waste transfer facility which manages inert and non-inert waste. The original consent granted in 2014 was subsequently varied several times and, in 2015, to allow an increase in throughput from 200,000 tpa to 230,000 tpa and an associated increase in HGV movements. The current operative permission is **WSCC/006/18/NH** granted on 1 May 2018 (CD 041).



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## 5 SCHEME EVOLUTION

### Allocation Process

- 5.1 The allocation of the Warnham and Wealden Brickworks site for a new waste management facility was based upon the original identification of the site in the West Sussex Waste Local Plan: Revised Deposit Draft (WLPRDD) (2004)(CD 131). It notes in its introduction the small capacity at existing waste management facilities *“to secure the recovery of waste through recycling, composting or energy generation”* and that a *“substantial number of new facilities will be needed...”*.
- 5.2 In this draft plan Energy from Waste is discussed on pages 56 to 58. The WLPRDD recognised that it was an emerging technology (in 2004) and explained that the document is not prescriptive regarding preferred technical approaches. Paragraph 248 recognises that some energy from waste plants are substantial in size and have key locational requirements. It notes that *“as the buildings required are large and may need a chimney stack, regard will be had to the impact on sensitive landscapes and townscape.”* Site W: Warnham Brickworks is the only site named as suitable for a major built waste facility in WLPRDD Policy A1 and safeguarded under Policy A1A.
- 5.3 The SSAL, which remains part of the Development Plan until an updated version has been adopted, was prepared in 2004 at the same time as the Council’s now revoked Core Strategy. It builds upon the Horsham District Core Strategy by setting out more detailed proposals for allocated land uses and sites within the District. The SSAL was submitted for examination in November 2005, found sound in the Inspector’s Examination report of 28 September 2007, and formally adopted by West Sussex County Council on 2 November 2007.
- 5.4 Policy AL14 of the SSAL identifies 24.4ha of land at ‘Warnham and Wealden Brickworks’ as a site that would support a mixed-use redevelopment scheme (see CD 101) to include:
- a. *the retention and rationalisation of the Warnham brick making factory;*
  - b. *consider the provision of a new waste management facility;*

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- c. *the provision of employment floorspace for B8 (Storage) and B2 (Industrial) uses;*
  - d. *the extension of the existing power generation plant served by the adjacent landfill; and*
  - e. *the preservation (either in situ, by conversion, or by comprehensive record) of structures of industrial archaeological interest on the site.*

5.5 According to paragraph 3.46 of the SSAL " *The extensive area of 'brownfield' land currently lies outside any built-up area as defined in the adopted Core Strategy (2007). It is proposed, however, that despite this policy framework, because of the largely industrial nature of the site, which has existed in this location for many years, and the fact that the site is relatively contained in the landscape, an exception could be made if the site is redeveloped for employment use on a comprehensive basis, including the retention of the remaining brickworks on site as an important local employer.*"

5.6 At paragraph 3.48 of the SSAL, the WLPRDD identified part of the Warnham and Wealden Brickworks site "*as being suitable for the potential location of permanent built waste management facilities, for the collection, sorting, transfer, treatment or recovery of waste, thereby reducing reliance on future landfill.*"

5.7 Whilst identifying a range of land uses (including a new waste management facility) that would be suitable for the Warnham and Wealden Brickworks, SSAL Policy AL14 also indicated that in anticipation of the whole site being the subject of an application that " *....Development proposals to be set out in a development brief...and...also be accompanied by an Environmental Impact Assessment...*".

5.8 The SSAL and its policies were subjected to a Sustainability Appraisal (SA) and Strategic Environmental Assessment (SEA) which was published in November 2007 (CD 102). The SA/SEA considered two potential options for the Warnham and Wealden Brick Works site. Option A was to have a policy to control the future of the site, and option B was not to have a policy. Paragraph 8.14 reports the findings of this assessment, and states that:

*"Assessment of whether or not to have a policy controlling the future of the Warnham brickworks site found that redevelopment of the site (option a) could*

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***harm the landscape environment but could also potentially help clean up areas of contamination. The site would also have a waste recycling use which could be beneficial in management of waste in the County. Redevelopment of the site would help provide employment which would enhance the economy, although it is uncertain as to whether it would enhance the rural economy given that most workers on the site would come from an urban area such as Horsham rather than Warnham. It is considered that having a policy would have more positive benefits than not and is the more sustainable option selected for inclusion in the Site Specific Allocations of Land document.” (my emphasis).***

- 5.9 The SA therefore supports the redevelopment of the Warnham and Wealden Brickworks site for mixed use development including waste management in sustainability terms.
- 5.10 Sometime later, the County began to prepare a waste local plan. The West Sussex Waste Local Plan (WSWLP) was prepared jointly by West Sussex County Council and the South Downs National Park Authority (SDNPA). Initially, the WSWLP was found not to be sound by the Inspector’s Examination Report of 17 February 2014. However, the Inspector recommended main modifications that would make the WSWLP sound and capable of adoption. The SDNPA adopted the WLP incorporating the Inspector’s main modifications on 25 March 2014. West Sussex County Council adopted the WSWLP incorporating the Inspector’s main modifications on 11 April 2014 and the plan period runs to 2031.
- 5.11 The WSWLP sets out a vision and a number of strategic objectives. Chapter 6 of the WSWLP then sets out the strategy for achieving one or more of the strategic objectives followed by the policy (policies W1 to W9 inclusive) for achieving them. Chapter 7 sets out the spatial strategy and strategic site allocations to deliver the required waste management capacity. Within this chapter, Policy W10 allocates land for strategic purposes, one of which is the appeal site (referred to in the plan as ‘Brookhurst Wood’). Finally, chapter 8 set out the general development management policies (policies W11 to W24) to ensure that there would be no unacceptable harm to amenity, character, and the environment or to other material considerations from waste development proposals.

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- 5.12 Notwithstanding the site's earlier allocation in the SSAL in 2007, the WSWLP also went through a comprehensive exercise to identify or confirm strategic site allocations in Chapter 7 of the WSWLP. A 'long list' of 37 potential strategic waste sites was published in December 2009 for consultation. Following a comprehensive assessment (including sustainability appraisal) of the 'long list' of 37 sites, a 'shortlist' of 10 sites were then produced which were subject to consultation between May and November 2011. The draft WSWLP (June 2012) included seven strategic site allocations which were then subject to further consultation, of which one (Decoy Farm) was removed from the WSWLP as a strategic allocation due to uncertainty over its delivery. The final six strategic site allocations are identified under Policy W10 of the adopted WSWLP.
- 5.13 The sustainability appraisal (SA) was required to inform the preparation of the WSWLP. The SA published in 2013 carried out an assessment of the sites under WSWLP Policy W10 against the appraisal objectives (A – P) which assessed aspects such as the protection and enhancement of health and wellbeing and amenity of residents and neighbouring land uses; reducing the impact of transporting waste by roads by promoting use of the Lorry Route Network; to protect and where possible enhance landscape character; to make the best use of previously developed land and to reduce air pollution.
- 5.14 A full appraisal of the Brookhurst Wood site against each of the appraisal objectives in contained in Appendix J of the SA (see CD 094). The summary of this appraisal for Brookhurst Wood, paragraph 6.5.6, states that:

*“The site is well-located to manage waste due to its proximity to waste arisings in the north of the county, close to the Lorry Route Network and it has potential to move waste by rail (subject to viability assessment). Although there would be some negative impacts in the short term during the construction period, development of the site is considered to bring overall benefits in the medium to long term as it would benefit from co-location of other waste facilities and replace existing derelict buildings. A transport assessment at application stage should assess impacts on the residents of Langhurstwood Road, particularly due to potential cumulative impacts from other waste uses. Routing should also be via the south and impacts on the A264 and junction 11 of M23 need to be considered. The site is adjacent to*



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*a SSSI, Ancient Woodland and there may be protected species (Great Crested Newts) which would require survey and mitigation. There are also industrial buildings on the site therefore an industrial archaeological impact assessment would be required at application stage.”*

5.15 The WSWLP establishes that the focus for the strategic site allocations was based on the land-use implications of potential waste management facilities rather than on a particular facility or technology. It does not rule out any particular type of technology. Paragraph 7.2.2 of the WSWLP identifies that the three key elements of the spatial strategy that were used to guide the identification of the strategic site allocations were, in summary:

- firstly, that new sites should be well related to where the waste arises;
- secondly, that sites should not be located in major landscape designations unless there are exceptional circumstances; and
- thirdly, that where transportation by rail or water is not practicable or viable, that new sites should have good access to the Lorry Route Network.

5.16 However, paragraph 7.3.1 of the WSWLP also explains that “*a detailed technical assessment of each site has been undertaken. **No overriding constraints have been identified affecting the proposed forms of development on the allocated sites.** This includes, for example, the potential impact of the development on amenity and character, and risk to the natural and historic environment. It is considered, therefore, that **any potential adverse impacts can be prevented, minimised, mitigated, or compensated to an acceptable standard.** Accordingly, **the sites allocated are acceptable ‘in principle’ for the allocated use(s).**” (my emphasis).*

5.17 As such, the comprehensive assessment during 2013, then allocation, of the site under Policy W10 in 2014, emerges from the work undertaken previously in the 2004 revised deposit draft local plan, endorsed in the Sustainability appraisal of the SSAL in 2006/7, then confirmed in the SSAL document in November 2007.

5.18 W10 states that “*The following sites are allocated 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,*

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**recycling, and/or recovery of waste** (including the recycling of inert waste):  
....Brookhurst Wood, near Horsham (Policy Map 4)...”The development of a site allocated....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 of this policy...” (my emphasis). Recovery capacity and recovery of waste refers to the recovery of energy from waste, so it is quite clear that a facility of the type that is subject to this appeal was considered in allocating this site.

5.19 Paragraph 7.3.3 of the WSWLP notes that “*technologies will change over time and it is important that flexibility is built into the plan.*” The suitability of the Strategic Waste Allocation Site for a range of uses and therefore building types was considered at the time of allocation. At paragraph 7.3.14 it also states that “*In theory, the allocated site has the physical capacity to deliver a single built facility (up to c.300,000 tpa)...*”.

5.20 The development principles for Brookhurst Wood, near Horsham (Policy Map 4) (AL14 southern part) are set out in paragraph 7.3.15 of the WSWLP. These are:

- development of the site to be comprehensive;
- assessment of protected species and possible mitigation required;
- industrial archaeological impact assessment and possible mitigation required;
- assessment of impacts on the water environment and possible mitigation required;
- assessment of impact (e.g. traffic, noise, odour) on the amenity of nearby dwellings and businesses and possible mitigation required;
- the cumulative impacts of traffic, noise, and odour on the environment and local communities to be satisfactorily addressed and mitigated as required, taking into account all existing, permitted, allocated, or proposed development within the wider area;
- development to comply with Aerodrome Safeguarding requirements to ensure that the operational integrity and safety of the airport are not compromised. This may result in restrictions on height, on the detailed design of buildings or on

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development which might create a bird hazard. A bird hazard management plan may be required;

- assessment of the possible use of rail for the movement of waste; and
- assessment of impact of additional HGV movements on highway capacity and road safety, including at the Langhurstwood Road/A264 junction and on the A264, A24, A23/M23, and possible mitigation required.

- 5.21 It is noteworthy that the development principles for the allocated appeal site do not include a requirement for an assessment of landscape or visual impacts (required on two of the other four allocated inert waste sites). There is no requirement for landscape mitigation (required on all four of the other allocated inert waste sites). No height restriction has been applied (required on one other allocated inert waste site). The development principles for allocation AL14 do not include an assessment of the effects on nationally designated landscapes (required on one other allocated inert waste site). There is no requirement for the assessment of cumulative impacts on other strategic allocations (required on one other allocated inert waste site).
- 5.22 When read objectively, therefore, the WSWLP did not consider that landscape and visual effects would be problematic and would or could be made acceptable in principle in respect of this allocation. The planning authority had identified, and therefore can be assumed to have accepted, what the built form might look like, including, as necessary, a stack of an appropriate height in the case of an EfW facility of up to 300,000 tpa, such as the appeal proposal.
- 5.23 As in the Horsham SSAL in 2007, the first criterion associated with the Brookhurst Wood allocation also requires the development of the site to be comprehensive. The boundary of this allocation, however, unlike in AL14, is much tighter to the appeal site boundary and to that extent the appeal proposals are therefore comprehensive. However, unlike in AL14, the requirement for a development brief to accompany any development proposal was not carried across to W10, the latest expression of policy for waste management uses in this location.
- 5.24 All the remaining criteria have been addressed in the ES and/or Planning Supporting Statement that accompanied the application. The references for these are set out below:

- Archaeological impact – see ES Chapter 9
- Water environment impacts – see ES Chapter 10 and 11
- Impact on amenity on residential and business receptors – see Planning Statement
- Cumulative impacts and effects – see ES
- Aerodrome safeguarding – see Appendix C of Planning Statement
- Rail use – see ES Chapter 6
- Impact of HGV movements – see ES Chapter 6

### **Scheme 1 (December 2016, the Withdrawn Scheme - WSCC/062/16/NH)**

- 5.25 RPS was instructed on the project in mid 2015. We were instructed to design, environmentally assess and submit for planning and manage the planning process.
- 5.26 We first engaged with the planning authority in July 2015, first to discuss the Scoping of the ES. The project documentation evolved from that point.
- 5.27 From a design perspective six initial design options were produced prior to reaching the final proposed scheme in April 2017. I am calling this Scheme 1, the application that was ultimately withdrawn prior to decision. The options had varying site configurations and three dimensional forms. Key options for the initial planning proposal are set out in the Design and Access Statement (dated Feb 2018 CD 033). The options responded to a number of factors including the technology process solutions within the building, the site topography, the entrance route in, and separation of the offices, workshop and waste transfer facility.
- 5.28 One option sought to include sustainable characteristics such as maximising natural lighting in order to reduce the use of artificial lighting. This was to be achieved through the use of large areas of translucent cladding. However, when the potential landscape and visual impacts of this option were appraised it was considered that, taking into account the 24 hour nature of the operations, the resulting night time light would lead to an increase in potential impacts and, as a result, the amount of translucent cladding was reduced to a simple band that breaks up the vertical form of the boiler hall.

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- 5.29 The discovery of great crested newts within the ponds to the north of the site and the subsequent need to provide appropriate stand-offs between those ponds and the built development (in order to minimise the potential for impacts and provide for sufficient space for ecological enhancement), caused the building to be moved further south than originally intended and resulted in a small decrease in the site area available for development
- 5.30 The final design for Scheme 1 was derived following a further refinement to the layout which provided for visitor and staff parking closer to the offices, especially for cyclists and disabled bay users and a more detailed analysis of the process equipment.
- 5.31 The plans submitted for this scheme can be found at CD 004 – CD 027.

## **Design Development**

- 5.32 Whilst design was a matter given careful thought by the Appellant from the outset it became clear that the overall height and bulk of the proposed building was still an issue for the planning authority. As such, and in advance of a possible refusal of the first scheme in July 2017 (on noise and landscape and visual grounds (WSCC/062/16/NH)), it was decided to withdraw the application and try to reach an agreement on this in particular and on the overall design generally.
- 5.33 During the autumn/winter of 2018 the Appellant decided to review the design with their consultants, RPS. As a result, a number of design options evolved, two of which were then presented to the planning authority for discussion to seek a preference and to move forward with a revised application if an acceptable design solution could be achieved. In parallel with this, talks were ongoing with the Council's landscape architect to discuss assessment of the development from additional viewpoints.
- 5.34 On 10<sup>th</sup> January 2018 a meeting was held between Jane Moseley (JM)(WSCC Planning Officer), Tim Dyer (TD)(WSCC Landscape Architect), Keith Riley (KR)(Agent to Appellant), Chris Foss (CF)(Director, Britaniacrest), Richard Foss (RF)(Director, Britaniacrest), Dan Smyth (DS)(representing RPS), Mark Hilton (MH)(RPS Architect) and Corinna Demmar (CD)(RPS Landscape Architect). This

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was the first key meeting following the withdrawal of the first application to establish whether agreement could be reached on design and visual impact.

- 5.35 The meeting was called to update WSCC on the new design of the building and the design process leading up to it. The meeting was also called to explain the further work being undertaken on the LVIA. The following are extracts from the meeting notes recorded by RPS and set out within the ES dated March 2018, section 5 page 5-22.

*“ DS noted that the site is allocated site for waste. JM agreed, noting that the building form was WSCC concern. DS noted that the EfW would be a valid way of managing waste at an allocated site and that the purpose of the meeting was to explain the design evolution.*

*KR explained that the roof height of the proposed building has been reduced through working with different suppliers and going sub ground level.*

*Two options, a curvilinear form and rectilinear form, were presented by MH, both of which are designed to break up the building mass. Both options are the same height, which has been reduced to 35.92 m above AOD, at the highest point of the roof. DS noted the input of the whole team in the evolution of the design, including technical advisers and specialists, the architectural team and the landscape team to achieve this outcome. It was acknowledged that both designs were valid approaches. TD expressed a preference for the curvilinear option.*

*A new ZTV has been generated using the reduced building height.*

*MH and CD explained the approach to the façade treatment/materials. TD and JM recommended that the colour palette of the High Weald AONB was adopted for the building.*

*The design of the facility has used the ‘Western High Weald Woodland and Heath Sub Palette’, set out in the High Weald AONB Guidance on the selection and use of colour in development (High Weald AONB, 2017) document.*

*DS noted that the facility was one of the most visually contained he knew. TD agreed and noted that there was a good tree screen around the site, that designated landscapes were a reasonable distance from the site and that not many public rights of way were affected close to the site.*



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*TD also recognised that the height of the stack was dictated by air quality considerations, but the height of the stack was of concern. DS explained that the stack was a slender feature, unlike other stacks associated with energy plants. TD asked whether the material of the stack could be given more consideration.*

*CD presented the new and revised photomontages. The viewpoints were discussed, including those located within the Land North of Horsham site. TD explained which of the remaining viewpoints should be included in the revised LVIA as photomontages and which would be sufficient as annotated photographs. TD requested that the plume be assessed as a visible feature. DS noted that the plume (water vapour) would not be visible all of the time.*

*TD welcomed the fact that the redesign led to a reduction in height of the building below the tree lines from the photomontages presented.*

*JM advised that the evolution/process of the design of the building should be set out within the ES/Application documents, including the façade treatment (materials and colour).*

*JM confirmed the final restoration of the landfill site would be 85 m AOD and the current height was approximately 97 m AOD...”*

- 5.36 So, this first meeting began the journey towards settling on an acceptable design on this allocated site. Tim Dyer (WSCC Landscape architect) acknowledged the site was very well screened, one of the most visually contained sites he knew, and he noted that there was a good tree screen around the site, that designated landscapes were a reasonable distance from the site and that not many public rights of way were affected close to the site. He welcomed the reduction in height of the scheme below the tree line and asked for the stack colour to be considered to reduce its impact.
- 5.37 Following this meeting it was decided to go out to public consultation on the design options. The results of that consultation are described below, again taken from the ES (CD 029).
- 5.38 On 26<sup>th</sup> and 27<sup>th</sup> January 2018 a public consultation event was held at Roffey Millennium Hall, Horsham. The following are recorded representations and outcomes as set out in the ES March 2018 (Section 5, from page 5-23).

5.39 Various topics were discussed at the public consultation, including the need for the facility, the technology, emissions/health, traffic, access, safety of pedestrians and cyclists, origin of waste and enquiries about community benefits. Those relevant to landscape and visual resources included:

Representations from consultation:	Subsequent RPS Response (recorded in the ES):
<p>Location of the site:</p> <ul style="list-style-type: none"> <li>• In the countryside</li> <li>• Proximity to existing housing</li> <li>• Proximity to new housing and schools (Land North of Horsham).</li> </ul>	<p>The site is a brownfield site that was allocated for waste management in 2014 Waste Local Plan.</p> <p>The Landscape and Visual chapter of the Land North of Horsham ES Addendum considered the proposed 3Rs Facility. The Land North of Horsham assessment is considered in the future baseline section of chapter 5 of the ES (Section 5.5) and the impact of the facility on the Land North of Horsham development is assessed in sections 5.7 and 5.8.</p>
<p>Scale of the building and stack:</p> <ul style="list-style-type: none"> <li>• Height of building</li> </ul>	<p>The height of the building has been reduced from approximately 48.75 to 35.9 metres by burying as much of the building as possible and still allow vehicular access and by using a different supplier. This aspect of the re-designed building as well as the other built-in mitigation measures is explained in The Design and Access Statement accompanying the application, in Chapter 2: Site Description and Description of Development and Section 5.6 of the ES chapter.</p>
<ul style="list-style-type: none"> <li>• Height of stack.</li> </ul>	<p>The height of the stack is dictated by the requirements of the air quality regulations.</p>



<p>Design of the building:</p> <ul style="list-style-type: none"> <li>• A majority favoured the curvilinear option</li> <li>• Brighter colours were suggested by some, more muted colours by others - the light grey bunker should be darker, as it will appear white in some weather conditions or at different times of day.</li> <li>• Green roof suggested</li> <li>• Break in the curvilinear roof where there were lower elements suggested.</li> </ul> <p>Impact Assessment:</p> <ul style="list-style-type: none"> <li>• ZTV on the website suggested</li> <li>• Impact from Mercer Road, Station Cottages, Station Road and A24 (to the west and the south) raised and alternative/additional viewpoints suggested.</li> </ul>	<p>The curvilinear option was taken forward and assessed in this ES.</p> <p>A decision was subsequently made with WSCC that the colour palette of the High Weald AONB should be used to minimise the visual impact. This is described in in the Design and Access Statement accompanying this ES and summarised in Section 5.6 of the ES chapter. The light grey of the bunker was darkened.</p> <p>Green roofs are usually used to replace lost biodiversity, increase it where there is a lack of biodiversity and to ameliorate increased rainwater run-off. None of these matters are necessary in this location.</p> <p>Putting the ZTV on the website was considered, but as the ZTV is a part of a process, it was felt that an explanation as to how it is used is required. This is fully explained in this chapter and the ZTV is included in the chapter as Figure 5.7 and Figure 5.8 of the ES</p> <p>Photographs from these locations were taken/retaken, following the public consultation. Video clips from the A24 (both sections) were taken and the distance and time that the facility would be visible for was calculated.</p>
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5.40 On 9<sup>th</sup> February 2018 a meeting was held between Jane Moseley, Tim Dyer, Keith Riley, Dan Smyth and Corinna Demmar. It was called to update WSCC on the public

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consultation held on the 23<sup>rd</sup> and 24<sup>th</sup> January 2018 as well as an update on the progress of the ES and likely submission date (Taken from ES March 2018, page 5-25).

*“ KR reported that the consultation had been discursive, and questions were well-informed. The majority of the questions were on location, emissions, noise, visual impacts and traffic. KR noted the amount of positive comments made. Note: The responses from the Britaniacrest website had not been collated by the time of this meeting.*

*CD provided an update on the visual impacts, including the new photography from Mercer Road, Station Cottages, Station Road, the A24 to the south (dual carriageway) and the A24 to the west (single carriageway). CD explained that this further work confirmed that the most open views would be from the west. The view from the A24 to the south of the site is direct and channelled, appreciated by drivers approaching the Great Daux roundabout from the south only.*

*Photographs from these locations were taken/retaken, following the public consultation. These have been included in the figures to this chapter. Video clips from the A24 (both sections) were taken and the distance and time that the facility would be visible for was calculated.*

*With regards to height of stack, both TD and JM accepted that it had to be that height for air quality reasons.*

*DS asked for clarification on the applicable planning documents, which JM provided. CD asked specifically about the High Quality Waste Facilities, Supplementary Planning Document (2006). JM explained that this was not generally available. However, the changes to the design and the reasons for those changes should be explained within the Landscape and Visual Resources chapter.*

*Changes to the design and the reasons for those changes are given in the Design and Access Statement accompanying the ES, as well as in Chapter 3: Need and Alternatives Considered. The changes relevant to landscape and visual resources are described in Section 5.6 of this chapter.*

*DS outlined the progress on the various elements of the application and confirmed the submission date of the week commencing the 5<sup>th</sup> March 2018.”*

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- 5.41 Following the above discussions and consultation exercise the Appellant decided to adopt a curvilinear approach to the design, to drop the whole building into the site by up to 7.8m and consider colour options. The planning officer accepted that the height of the stack would be dictated by air quality factors.

## **Scheme 2 (Appealed scheme – supported by the Planning Officer)**

- 5.42 The design solutions generated as a result of the above meetings consisted of two new distinct options. These were a curved roof solution, known as the ‘Curvilinear’ option, and a rectangular solution, known as the ‘Rectilinear’ option.
- 5.43 Both the Curvilinear and Rectilinear options had the benefit over previous proposed design schemes of significant reduced external height. The main driver for this reduction in height was the improvement in the internal height requirements of the technology within. The building was also sunk further into the ground.
- 5.44 The curvilinear solution incorporated a large sweeping curve across the facility. The curve starts at the bunker hall, crosses the bunker and boiler halls and then covers the ACC’s and flue gas treatment area. The purpose of the curve was to visually bring all the separate elements of the facility together as one harmonious structure and to visually reduce the building’s height. The reduction in building height was also helped by allowing the higher elements of the facility to protrude through the curve rather than taking the roof across all elements. This would have generated additional excess volume within and accentuating external visual mass. The external colours also aided the visual reduction in height by having the higher elements in lighter greys with a darker grey plinth at a lower level.
- 5.45 The new design was therefore significantly lower in height than previous design options considered. The main reason for this was improvements in the space efficiency of the internal process technology.
- 5.46 In terms of building footprint, the Scheme 2 provided the most operationally efficient design for the site and also the most beneficial in environmental terms. Grouping the buildings together and lowering the development into the ground has assisted in reducing the visual impact of the development, making the most efficient use of the land and allowing greater scope for peripheral landscaping.

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- 5.47 Scheme 2, its evolution and the reasons for selecting it were also presented to Horsham District Council (HDC) on 10 April 2018 to inform HDC's response to WSCC. I consider this to be relevant, given the context and significance placed in some consultation responses to the potential impact on the Land North of Horsham development.

## **Consideration by Planning Authority of Scheme 2**

- 5.48 At the Planning Committee on 19<sup>th</sup> June 2018, the Planning Offer reported on the now appealed planning submission (WSCC/015/18/NH) (Officer report at CD 071). The officer report extended to 44 pages; it is comprehensive. It recommended approval subject to conditions (see end of officer report).
- 5.49 The officer addressed all pertinent issues including those now raised by Ni4H (see next section). While there appeared to be some confusion about the reasons for refusal during the committee debate and there is now only one reason for refusal that WSCC is defending, in connection with landscape and visual matters (on which the planning authority, not their planning officers, took issue), the report sets out the issues between paragraphs 9.22 and 9.47. In respect of this matter, the report concludes that:

*"Overall, the development is considered to be acceptable in terms of its impact on landscape and visual amenity, and to accord with Policies W12 and W13 of the West Sussex Waste Local Plan (2014), and Policies 25 and 26 of the Horsham District Planning Framework (2015).*

- 5.50 With respect to the stack, paragraph 9.47 concludes that:

*"...The impact of the stack is not considered to be significant, given its narrow width, grey colouring, and because it would, in the main, not be seen in combination with the building. It is anticipated that there would be a visible plume on only 23 days per year and so although this would add to the impact, it would be relatively rare. There would be no detriment to designated areas including the High Weald or Surrey Hills AONB, or to any nearby historic features. Therefore, the development is considered to be acceptable in terms of its impact on landscape and visual amenity".*

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5.51 The appeal scheme is agreed as being acceptable by the Planning Officer having taken into consideration compliance with planning policy and all other material considerations including all representations made to the Council. In particular, none of the statutory consultees wished to oppose the development, nor any of the technical officers (Landscape architect, highways, tree, drainage, archaeology). Objections were sustained by the Parish Councils (North Horsham, Rusper, Colgate and Warnham) and the Neighbourhood Councils of Forest and Horsham Dene. Also, of the 1,189 representations received from local residents (including Ni4H), 1,167 either objected or raised concerns (see paragraph 8.3 of Officer Report). In addition, a petition organised by Ni4H was signed by 4,532 people stating that they ‘oppose plans to build a 3R facility’ at the site. 12 responses were received in support of the proposal. In the full knowledge of the public interest expressed, on balance, the officer considered that the scheme complied with policy, that there were no other material considerations that would offset that policy support, and that it should be approved.

### **Ni4H position and withdrawal of Issues by Planning Authority**

5.52 According to the WSCC planning portal, Ni4H submitted representations dated or received on 17/4/18 and 1/5/18 (CD 124 and CD 125). The first representation was in the form of an email from Ni4H to members of some local councils including Crawley and Horley. It seems to reference comments from a member of CPRE (a Dr Roger Smith is mentioned), and essentially it refers to visual impact of the stack and air quality concerns and impacts on sensitive receptors. The second representation is in letter form from Ni4H (no individual author named). It is 45 pages long and in summary addresses planning policy at all levels and analyses how, they say, the scheme is not policy compliant.

5.53 At the front of the representation is a detailed summary of their case and I reproduce that below:

*“ Ni4H argues that this development continues to not meet the following objectives, policy, and guidance:*

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### **West Sussex Waste Local Plan (2014)**

- *Strategic Objectives 5,7,8,9,10,13 and 14.*
- *Policy W11 Character*
- *Policy W12 High Quality Developments*
- *Policy W13 Protected Landscapes*
- *Policy W15 Historic Environment*
- *Policy W19 Public Health and Amenity and*
- *Policy W21 Cumulative Impact Horsham District Planning Framework (2015)*
- *Strategic Policy 1 &2*
- *Policy 24 (Environmental Protection)*
- *Policy 25 (Natural Environment and landscape character)*
- *Policy 26 (Countryside protection)*
- *Policy 30 (Protected landscapes)*
- *Policy 32 (Quality of New Development)*
- *Policy 33 (Development Principles)*
- *Policy 34 (Cultural and Heritage Assets)*
- *Policy 40 (Sustainable Transport)*
- *Policy 41 (Parking)*

### **National Planning Policy Framework (2012)**

*Paras. 17, 56, 57, 66-67, 115, 125, 129, 134 and 135*

### **National Planning Policy for Waste (2014), Paragraph 7**

### **Planning Practice Guidance Paragraph 47**

*Ni4H's objects to the development on the following grounds:*

- *The applicant has failed to evidence it can meet the EU Directive definition of a 3Rs development; Ni4H consider this to be a disposal rather than recovery plant and therefore the proximity principle needs to be applied.*
- *The site is too small for the development proposed. The proposed buildings are*



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*significantly sized in terms of height and bulk making them not only visible from outside the site itself but also a considerable distance away.*

*· The building design, size and location will create a view of intense industrialisation overshadowing and causing long-term damage to the character of Horsham and Warnham and the local environment. Harmonisation has not been achieved within the area.*

*· The visual impact is understated by the applicant's papers. It is not a high-quality development and will not protect or enhance the landscape and townscape character of West Sussex.*

*· The waste source extends significantly beyond West Sussex's waste needs and so is contrary to the West Sussex Waste plan. (Also relevant for point 1 above)*

*· West Sussex's Waste plan aims to protect, and where possible, enhance the health and amenity of residents, businesses and visitors. This cannot be guaranteed if the proposal goes ahead with resultant and cumulative pollution, land contamination, and reduction of air quality. The applicant has not provided adequate evidence to support no impact to human health. We are also of a view that the Carbon Assessment is flawed.*

*· Potential impacts of incinerator traffic, sought in advance under planning applications WSCC/018/14/NH and WSCC/021/15/NH- this level of traffic has not yet been achieved so any data used in the application is not accurate. The changes now approved as part of North Horsham has not been taken into account- of most note the changes to access to Langhurst Wood Road. Sustainable methods of transport are not being used. Waste will be travelling greater distances and therefore not sustainable over the 25-30-year period.*

*· Cumulative effects of waste processing have not been assessed on the local area and how this is at odds with the need to expand the residential footprint in very close proximity.*

*· Loss of amenity for residents, including: noise, odour, traffic, light pollution.*

*· Inadequate public consultation of Horsham District residents, including input into the design and sharing of the Environmental Statement. For such a large impactful development such as this, greater promotion/ exhibition space and timing of such should have been reflective of the population affected. The 2 exhibitions were poorly promoted with insufficient notice and only commensurate to a very small localised*

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*area affected.*

*· Limited benefit of the energy (heat and electricity) developed as a by-product of the incineration process.*

*· Increased risk of fire and resultant health risks. “*

5.54 Towards the end of the document are photomontages illustrating how they believe the building would look in the landscape.

5.55 All of these matters were considered by the planning officer, and she was neither sufficiently swayed by their case nor by the weight of the number objections to cause her to change her planning assessment that the scheme should be approved.

5.56 Subsequently, following the refusal of planning permission by the Planning authority on 11 July 2018, using six reasons for refusal, Britaniacrest and RPS reviewed whether to appeal. It was decided to approach the Council to enquire how they might justify refusal on the six grounds they rejected the scheme. RPS wrote a letter to the authority on 29 August 2019 (CD 034) requesting clarification and the authority responded by email on 21 September 2019 (CD 035).

5.57 RPS lodged an appeal against the refusal on 19 December 2018 (CD 126).

5.58 At a Council planning Committee on 5 February 2019 the Council took legal advice where it was agreed that they would not defend five of the six reasons for refusal leaving only reason 2. In the Council's Statement of Case they state at paragraph 6.3 that the County Council will demonstrate that:

*“ (i) 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 Area of Outstanding Natural Beauty;*

*(ii) 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.”*

5.59 Both parties commenced preparing a Statement of Common Ground. This was agreed in draft form on 13<sup>th</sup> September 2013.

5.60 A Statement of Case by Ni4H was lodged on 19 July 2018. Despite their extensive list of objections/concerns expressed during the planning considerations stage of



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the application, Ni4H's current position as expressed in its Statement of Case is now considerably narrower in that they object on the following grounds:

1. The facility will have a negative landscape and visual impact (Reason for Refusal 2);
2. There is a public perception that the facility will harm public health (part of Reason for Refusal 5), and that
3. 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 policy and objectives.

5.61 RPS has sought to agree a Statement of Common Ground with Ni4H and at the time of writing this proof agreement had yet to be reached.

5.62 Both the planning authority (and I understand Ni4H – subject to resolution of a SoCG), after due consideration, have chosen **not** to take issue with the following matters that previously were thought worthy of rejecting the scheme. These are:

- Need (and therefore it is no longer said to be contrary to strategic objective 3 of the West Sussex Waste Local Plan 2014 (WSWLP))
- Traffic and highways (and therefore are no longer said to be contrary to Policies W10 and W18 of the WSWLP)
- Residential amenity (and therefore is no longer said to be contrary to Policies W10 and W19 of the WSWLP)
- Actual health impacts (perceived only according to only Ni4H) and therefore no longer said to be contrary to W19 of the WSWLP)
- Adverse cumulative effects (and therefore is no longer said to be contrary to W10 and W21 of the WSWLP).

5.63 RPS therefore seek to address the remaining issues only for the purposes of this appeal as well as the issues raised by the Inspector following the Pre-Inquiry meeting.



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## 6 DEVELOPMENT PLAN POLICY & OTHER POLICY CONSIDERATIONS

### Introduction

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “*If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless other material considerations indicate otherwise.*” The Act confirms that the development plan is “*the development plan documents (taken as a whole) which have been adopted or approved in relation to that area and the neighbourhood plans which have been made in relation to that area*” (s38(3)).
- 6.2 For the purposes of this appeal, the following approved or adopted planning policy documents form the statutory Development Plan:
- The Horsham District Planning Framework (HDPF) (2015); and
  - The West Sussex Waste Local Plan (WSWLP) (2014).
- 6.3 In addition to the HDPF, some older adopted planning documents were not replaced when the HDPF was adopted, and of relevance to this appeal is the Site Specific Allocations of Land Document (SSAL) (2007). The SSAL therefore remains part of the Development Plan until such time as an updated version has been adopted.
- 6.4 At County level, the West Sussex Minerals and Waste Development Scheme 2019-2022 confirms that The High Quality Waste Facilities Supplementary Planning Document (HQWF SPD), adopted in December 2006, also forms part of the Development Plan.
- 6.5 In national planning policy terms, relevant material considerations include the National Planning Policy Framework (2018), the Planning Practice Guidance on Waste (2015), the National Planning Policy for Waste (2014), the Waste Management Plan for England (2013), the Revised Overarching National Policy Statement for Energy (EN-1) (2011) and the National Policy Statement on Renewable Energy Infrastructure (EN-3) (2011).

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- 6.6 In the following section I identify in more detail the Development Plan policies and other material considerations relevant to this appeal.

## **The Development Plan**

### **Horsham District Council**

#### **The Horsham District Planning Framework 2015**

- 6.7 The HDPF is the overarching planning document for Horsham district outside the South Downs National Park. The HDPF was found sound by the Inspector's Examination Report of 8 October 2014 and formally adopted by the Council on 27 November 2015 and sets out the Council's planning strategy to 2031. The HDPF supersedes the Core Strategy (2007) and the General Development Control Policies Development Plan Document (2007), both of which are now revoked. In addition to the HDPF, some older adopted planning documents were not replaced when the HDPF was adopted, and of relevance to this appeal is the Site Specific Allocations of Land Document (SSAL) (2007). The SSAL therefore remains part of the Development Plan until such time as an updated version has been adopted.
- 6.8 The following policies of the HDPF were considered relevant to the Proposed Development: Policies 1 (Sustainable Development); 2 (Strategic Development); 7 (Economic Growth); 9 (Employment Development); 24 (Environmental Protection); 25 (Natural Environment and Landscape Character); Policy 31 deals with biodiversity net gain; 32 (Quality of New Development), 33 (Development Principles), 35 (Climate Change), and Policy 36 (Appropriate Energy Use).
- 6.9 It is noted that none of these policies were cited in WSCC's reasons for refusal of the application nor did Horsham District Council formally object to the scheme on these grounds. The district council concluded in their consultation response to the County that while they "*retain some reservations over the impact of the proposed facility in terms of air quality, landscape impact and the potential impact on the North Horsham development....the Council does not believe that these are sufficient enough to formally object to the application on material planning grounds..*".
- 6.10 The full text of these policies can be found in Core Document 092.

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- 6.11 Policy 1 deals with Sustainable Development and it makes clear that “...when considering development proposals the Council will take a positive approach that reflects the presumption in favour of development contained in the National Planning Policy Framework. It will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible....Planning applications that accord with the policies in the Local plan...will be approved without delay, unless material considerations indicate otherwise...”.
- 6.12 Policy 2 on Strategic Development defines the Council's spatial strategy and underpins the sites allocation in AL14 when it states at point 8 that it will “...Encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value.”
- 6.13 Policy 7 dealing with economic growth sites and how at a strategic level how sustainable economic growth will be achieved. At part 2 it states it will be achieved by “ Redevelopment, regeneration, intensification and smart growth of existing employment sites”.
- 6.14 Policy 24 addresses Environmental Protection matters. Taking into account relevant Planning Guidance Documents it states that “...development will be expected to minimise exposure to the emission of pollutants including noise, odour, air and light pollution and ensure that they....4. minimise the air pollution and greenhouse gas emissions in order to protect human health and the environment; 5. Contribute to the implementation of local Air Quality Action Plans and do not conflict with its objectives; 6. Maintain or reduce the number of people exposed to poor air quality...and...7. Ensure that the cumulative impact of all relevant committed developments is appropriately assessed.”.
- 6.15 Policy 25 addresses The Natural Environment and Landscape Character. It states that the landscape character (including landscape, landform and development pattern) will be protected against inappropriate development.
- 6.16 Quality of new development is addressed in Policy 32 requiring “ High quality and inclusive design for all development...”. Policy 33 supports and develops that with ‘Development Principles’ which includes encouragement for the efficient use of land, previously developed land, avoiding unacceptable harm to amenity of occupiers users of nearby property and land and ensuring that the scale, massing

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and appearance of the development is of a high standard of design and layout, and where relevant relates sympathetically to its surroundings.

- 6.17 In the chapter on Climate Change, paragraph 10.3 states that “...*Positive weight will be given to low carbon and renewable energy schemes that have clear evidence of local community involvement. However, such schemes will also need to ensure that they do not have significant adverse effect on landscape character, biodiversity, heritage or cultural assets or amenity value*”.
- 6.18 Policy 35 on Climate Change will support development which mitigates the effects of climate change and includes “3. *The use of decentralised, renewable and low carbon energy supply systems...*”, and developments which include “5. *Measures which reduce the amount of biodegradable waste sent to landfill...*”.
- 6.19 In the narrative accompanying Policy 36 on Appropriate Energy Use, it states at paragraph 10.6 that “*The development of renewable and low carbon energy is a key means of reducing the district’s contribution to climate change...*” At 10.7 it goes on to state that “*Renewable and low carbon energy can encompass a wide range of technologies including combined heat and power (CHP); .....energy from waste...*”.
- 6.20 Policy 36 identifies an ‘energy hierarchy’ requiring all development to contribute to “...*clean, efficient energy...based on the following hierarchy: 1. Lean - use less energy e.g. through demand reduction, 2. Clean – supply energy efficiently – e.g. through heat networks, 3. Green – use renewable energy sources....*”. Towards the end of the policy it states that “*The Council will permit schemes for renewable energy (e.g. solar) where they do not have a significant adverse effect on landscape and townscape character, biodiversity, heritage or cultural assets or amenity value...*”.
- 6.21 Finally, on Inset Map 21 (Warnham and Wealden Brickworks) of the HDPF Policies Map, Warnham and Wealden Brickworks (including the Appeal Site) is allocated in light blue as a “site for employment use”. Warnham and Wealden Brickworks is also allocated as site AL14, which is a cross reference to this site’s allocation under Policy AL14 of the Site Specific Allocations of Land Document SSAL for a mixed-use redevelopment scheme. It is also noted that the HDPF Policies Map Key includes reference to the “Brookhurst Waste Site” as an allocated waste site from



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the 2014 WSWLP, although the spatial element of this allocation is not shown on Inset Map 21.

### **Horsham Site Specific Allocations of Land Document (2007)(SSAL)**

- 6.22 The SSAL, which as identified above, remains part of the Development Plan until an updated version has been adopted, was prepared in 2004 at the same time as the Council's now revoked Core Strategy. It builds upon the Horsham District Core Strategy by setting out more detailed proposals for allocated land uses and sites within the District. The SSAL was submitted for examination in November 2005, found sound in the Inspector's Examination report of 28 September 2007, and formally adopted by West Sussex County Council on 2 November 2007.
- 6.23 Policy AL14 of the SSAL identifies 24.4ha of land at 'Warnham and Wealden Brickworks' as a site that would support a mixed-use redevelopment scheme (see CD 101) to include:
- f. the retention and rationalisation of the Warnham brick making factory;*
  - g. consider the provision of a new waste management facility;*
  - h. the provision of employment floorspace for B8 (Storage) and B2 (Industrial) uses;*
  - i. the extension of the existing power generation plant served by the adjacent landfill; and*
  - j. the preservation (either in situ, by conversion, or by comprehensive record) of structures of industrial archaeological interest on the site.*
- 6.24 The allocation of the Warnham and Wealden Brickworks site for a new waste management facility was based upon the original identification of the site in the West Sussex Waste Local Plan: Revised Deposit Draft (WLPRDD) (2004).
- 6.25 According to paragraph 3.46 of the SSAL " *The extensive area of 'brownfield' land currently lies outside any built-up area as defined in the adopted Core Strategy (2007). It is proposed, however, that despite this policy framework, because of the largely industrial nature of the site, which has existed in this location for many years, and the fact that the site is relatively contained in the landscape, an exception could*

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*be made if the site is redeveloped for employment use on a comprehensive basis, including the retention of the remaining brickworks on site as an important local employer.”*

- 6.26 At paragraph 3.48 of the SSAL, the WLP RDD identified part of the Warnham and Wealden Brickworks site “*as being suitable for the potential location of permanent built waste management facilities, for the collection, sorting, transfer, treatment or recovery of waste, thereby reducing reliance on future landfill.*”
- 6.27 Whilst identifying a range of land uses (including a new waste management facility) that would be suitable for the Warnham and Wealden Brickworks, SSAL Policy AL14 also indicated that in anticipation of the whole site being the subject of an application that “*....Development proposals to be set out in a development brief...and...also be accompanied by an Environmental Impact Assessment...*”.

## **West Sussex County**

### **The West Sussex Waste Local Plan 2014 - 2031**

- 6.28 The WSWLP was prepared jointly by West Sussex County Council and the South Downs National Park Authority (SDNPA). The WSWLP was found not to be sound by the Inspector’s Examination Report of 17 February 2014. However, the Inspector recommended main modifications that would make the WSWLP sound and capable of adoption. The SDNPA adopted the WLP incorporating the Inspector’s main modifications on 25 March 2014. West Sussex County Council adopted the WSWLP incorporating the Inspector’s main modifications on 11 April 2014 and the plan period runs to 2031.
- 6.29 In the County’s Joint Minerals Local Plan and Waste Local Plan Monitoring Report 2017/18, it stated at paragraph 2.2.2 that in relation to the WSWLP, a review in ‘early 2019’ will examine whether the Plan remains relevant and effective, and that if it is determined that a formal review of the plan is required, the Development Scheme (2018-21) will be updated in the Spring 2019 to set out a timetable for that work.
- 6.30 The West Sussex Minerals and Waste Development Scheme 2019-2022 now confirms at paragraph 2.3.4 that:

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*“Accordingly, a review was undertaken in early 2019 to examine whether the Plan remains relevant and effective. The outcomes of the review have shown that the WLP is considered to be relevant and effective; therefore a formal review of the Plan will not be undertaken. A further review, in line with the regulations will be undertaken in five years, or earlier if monitoring of the plan, or significant changes to national policy, trigger a review in advance of the five year period”.*

- 6.31 An examination of the Councils website in relation to the WSWLP, last updated 17 April 2019, confirms that the WSWLP is the most up-to-date statement of West Sussex County Council’s land use planning policy for waste. No review is currently planned. Accordingly, full weight can be given to policies in this plan.
- 6.32 The WSWLP sets out a vision and a number of strategic objectives. Chapter 6 of the WSWLP then sets out the strategy for achieving one or more of the strategic objectives followed by the policy (policies W1 to W9 inclusive) for achieving them. Chapter 7 sets out the spatial strategy and strategic site allocations (policy W10, of which the appeal site is one of the allocations) to deliver the required waste management capacity. Finally, chapter 8 sets out the general development management policies (policies W11 to W24) to ensure that there would be no unacceptable harm to amenity, character, and the environment or to other materials considerations from waste development proposals.
- 6.33 Policy W10 states that *“The following sites are allocated 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): ....Brookhurst Wood, near Horsham (Policy Map 4)...”*The development of a site allocated....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 of this policy...” (my emphasis).
- 6.34 Paragraph 7.3.3 of the WSWLP notes that *“technologies will change over time and it is important that flexibility is built into the plan.”* The suitability of the Strategic Waste Allocation Site for a range of uses and therefore building types was considered at the time of allocation. At paragraph 7.3.14 it also states that *“In*

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*theory, the allocated site has the physical capacity to deliver a single built facility (up to c.300,000 tpa)...*

6.35 The development principles for Brookhurst Wood, near Horsham (Policy Map 4) (AL14 southern part) are set out in paragraph 7.3.15 of the WSWLP. These are:

- development of the site to be comprehensive;
- assessment of protected species and possible mitigation required;
- industrial archaeological impact assessment and possible mitigation required;
- assessment of impacts on the water environment and possible mitigation required;
- assessment of impact (e.g. traffic, noise, odour) on the amenity of nearby dwellings and businesses and possible mitigation required;
- the cumulative impacts of traffic, noise, and odour on the environment and local communities to be satisfactorily addressed and mitigated as required, taking into account all existing, permitted, allocated, or proposed development within the wider area;
- development to comply with Aerodrome Safeguarding requirements to ensure that the operational integrity and safety of the airport are not compromised. This may result in restrictions on height, on the detailed design of buildings or on development which might create a bird hazard. A bird hazard management plan may be required;
- assessment of the possible use of rail for the movement of waste; and
- assessment of impact of additional HGV movements on highway capacity and road safety, including at the Langhurstwood Road/A264 junction and on the A264, A24, A23/M23, and possible mitigation required.

6.36 It is noteworthy that the development principles for the allocated appeal site do not include a requirement for an assessment of landscape or visual impacts (required on two of the other four allocated inert waste sites). There is no requirement for landscape mitigation (required on all four of the other allocated inert waste sites). No height restriction has been applied (required on one other allocated inert waste

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site). The development principles for allocation AL14 do not include an assessment of the effects on nationally designated landscapes (required on one other allocated inert waste site). There is no requirement for the assessment of cumulative impacts on other strategic allocations (required on one other allocated inert waste site). When read objectively, therefore, the WSWLP implies that landscape and visual impact issues in respect of the Brookhurst Wood allocation, are not a matter on which the authority were likely to have concerns.

- 6.37 As in the Horsham SSAL in 2007, the first criterion associated with the Brookhurst Wood allocation also requires the development of the site to be comprehensive. The boundary of this allocation, however, unlike in AL14, is much tighter to the appeal site boundary and to that extent the appeal proposals are therefore comprehensive. However, unlike in AL14, the requirement for a development brief to accompany any development proposal was not carried across to W10, the latest expression of policy for waste management uses in this location.
- 6.38 All of the remaining criteria have been addressed in the ES and/or Planning Supporting Statement that accompanied the application and also addressed in detail by the planning officer in her June 2018 Committee report at paragraphs 9.4 to 9.20 (CD 071).
- 6.39 For the 2018 (refused) application there now remains only two WSWLP policies listed in the second Reason for Refusal (Policy W12 and 13). This is still despite wide acceptance by WSCC officers and consultees (statutory and non-statutory) of the suitability of Strategic Waste Allocation Site AL14 Brookhurst Wood, near Horsham, for an unspecified type of built waste management facility, of up to c.300,000 tonnes per annum (tpa) without leading to objectionable impacts on landscape and visual matters (WSWLP paragraph 7.3.1).
- 6.40 The policies in question are Policy W12: High Quality Developments and Policy W13: Protected Landscapes. No HDC policies were referred to in the second Reason for Refusal. The landscape elements of these policies are dealt with in detail by the landscape witness but summarised by me in the section 8 of my proof.
- 6.41 In addition to addressing the development principles for the site, Policy W10 also requires that proposals must also comply with the general development

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management policies of the WSWLP. Other general development management policies of the WSWLP that are considered relevant to this appeal are:

- W14 (Biodiversity and Geodiversity)
- W15 (Historic Environment)
- W16 (Air, Soil and Water);
- W17 (Flooding);
- W18 (Transport) requires, amongst other criteria, that vehicle movements associated with proposals will not have an unacceptable impact on the capacity of the highway network.
- W19 (Public Health) requires that lighting, noise, dust, odours and other emissions are controlled to the extent that there will be no unacceptable impact on public health and amenity.
- W21 (Cumulative Impact) seeks to ensure that an unreasonable level of disturbance to the environment and/or local communities will not result from waste management and other sites operating simultaneously and/or successively.
- W22 (Aviation);
- W23 (Waste Management with Development).

6.42 In all cases these matters have been addressed by the Appellant within the application documents and none are held as being in dispute between any of the appeal parties, including Ni4H

6.43 Consequently, for this site we have a robust, up to date and adopted local plan that builds upon earlier adopted plans, has been the subject of public consultation, recently reviewed to test its relevance and not found wanting, and in itself also the subject of a thorough sustainability appraisal, as was the SSAL produced by Horsham. The plan makes it clear that the appeal proposal is acceptable in principle and that principle has been tested in detail in terms of its likely effect on Policy matters W14 to W23 above.



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## **The High Quality Waste Facilities Supplementary Planning Guidance (December 2006)**

- 6.44 This document is important in that it was produced by the County during 2006, after the site was conceived as being suitable for one to accommodate a waste management facility in 2004 but before the land at Brookhurst Wood was evaluated as being suitable for an allocation in subsequent adopted plans. In other words, it must have been in the minds of the planning authority when developing and confirming the allocation of the site in the HDPF 2007 and the WSWLP 2014.
- 6.45 The document provides detailed guidance on how new waste facilities can be integrated with other land-uses with minimum conflict and how high-quality design can minimise the environmental and visual impact of such facilities. The SPG states that it forms part of the Minerals and Waste Core Strategy DPD, the Strategic Waste Site Allocations DPD and the Mineral Site Allocations DPD. According to the Mineral and Waste Development Plan Scheme 2019-2022, the HQWF SPD supplemented Policy DEV1 (High Quality Development) in the adopted Structure Plan (no longer part of the Development Plan) and is linked to Policy W12 in the Waste Local Plan. It states that it is consistent with current Government guidance.
- 6.46 This document explains at length the types of waste facility that might be developed within the County, including describing likely environmental effects as well the typical massing and scale of different forms of waste management facility, including EfW. In respect of EfW facilities it recognises that it is impossible to hide the emission stack associated with such facilities given their height – it describes this as sometimes being between 30-70m in height with but final height being determined by emissions modelling.

## **Other Policy Considerations**

- 6.47 In addition to a very positive adopted planning policy background, there is a raft of national policy and guidance that also supports the appeal scheme and reinforces the presumption in favour of the development proposed.

## **National Planning Policy and Guidance**

- 6.48 The **National Planning Policy Framework** (NPPF) was published in July 2018 and sets out the national policy approach towards development. Whilst it does not

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contain specific reference to waste, which is covered by National Planning Policy for Waste (see below), it does provide that local authorities when preparing waste plans and taking decisions on waste applications should have regard to policies in the framework so far as relevant.

- 6.49 The NPPF with its presumption in favour of sustainable development (paragraph 11-14) directs that development proposals which accord with the development plan should be approved without delay, unless specific policies in the NPPF and other material considerations indicate otherwise.
- 6.50 In terms of design, Paragraph 130 of the NPPF requires developments to take the opportunity for improving character and quality of the area and the way it functions, taking into account any supplementary planning documents. It states that *“where the design of a development accords with the clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to the development.”*
- 6.51 In seeking to achieve sustainable development, paragraph 148 of the NPPF provides that the planning system should support the transition to a low carbon future. To support this transition, it states that the planning system should support renewable and low carbon energy and associated infrastructure.
- 6.52 When determining planning applications, paragraph 154 of NPPF states that local planning authorities should not require applicants to demonstrate the overall need for renewable and low carbon energy and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. It goes on that local planning authorities should approve such application if its impacts are (or can be made) acceptable.
- 6.53 Paragraph 183 confirms that in determining applications that the focus should be on whether the development itself is an acceptable use of the land and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Planning decisions should assume that these regimes will operate effectively.
- 6.54 NPPF also sets out guidance as to the degree of weight that should be afforded local plans since its publication. Paragraph 213 states that *“due weight should be*

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*given to relevant policies in existing plans according to their degree of consistency with this Framework (the closer the policies are to the Framework, the greater the weight that may be given)”.*

6.55 National waste policy reflects European legislation on waste management, enshrined in the revised EU Waste Framework Directive (2008/98/EC), which establishes a legislative framework for the collection, transport, recovery and disposal of waste. Under this directive there is a requirement to ensure that waste is recovered or disposed of without endangering human health or causing harm to the environment.

6.56 The **Waste (England and Wales) Regulations 2011** sets out the principles for the proximity principle and net self-sufficiency. These are:

*“(1) To establish an integrated and adequate network of waste disposal installations and of installations for the recovery of mixed municipal waste collected from private households, including, where such collection also covers such waste from other producers, taking into account best available techniques.*

*(2) The network must be designed to enable the European Union as a whole to become self-sufficient in waste disposal and in the recovery of mixed municipal waste collected from private households, and to enable the United Kingdom to move towards that aim taking into account geographical circumstances or the need for specialised installations for certain types of waste.*

*(3) The network must enable waste to be disposed of and mixed municipal waste collected from private households to be recovered in one of the nearest appropriate installations, by means of the most appropriate technologies, in order to ensure a high level of protection for the environment and human health.*

*(4) This paragraph does not require that the full range of final recovery facilities be located in England or in Wales or in England and Wales together.”*

6.57 West Sussex has followed these principles in their WSMWLP. At 2.9.1 it states that *“Self-sufficiency’ has been a feature of recent guidance, that is, that WPAs should plan for waste management sufficient capacity to deal with the waste arisings in their areas. There is, however, an increasing recognition of the fact that the*

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*movement of waste is based on commercial decisions that do not respect political boundaries. Private waste companies, especially the larger ones, are likely to take a national or a regional view on the location of their facilities and do not necessarily look at West Sussex as a discrete and self-contained market. Consequently, there is a need to look at the cross-boundary movement of some waste streams and to look at opportunities for the management of waste that may lie outside the WPA's area."*

- 6.58 The authority has taken a pragmatic approach to the application of the proximity and net self-sufficiency and their need assessment and sites allocated within Policy W10 mirror that pragmatism.
- 6.59 The **National Planning Policy for Waste** (NPPW) for England was published in October 2014 and sets out detailed planning policy for waste. It emphasises the pivotal role of positive planning in delivering the country's waste ambitions of working towards a more sustainable and efficient approach to resource use and management.
- 6.60 The NPPW supports the provision of a framework, in which waste is disposed of or, in the case of mixed municipal waste from households, recovered in line with the proximity principle; the securing of the re-use, recovery or disposal of waste without endangering human health and without harming the environment; and ensuring the design and layout of infrastructure that complements sustainable waste management.
- 6.61 Of relevance to this appeal, as with all sustainable waste management facilities, is the concept of the waste hierarchy, as set out in the NPPW and the Waste Management Plan for England. The waste hierarchy, which has come from Article 4 of the EU Waste Framework Directive, is both a guide to sustainable waste management and a legal requirement, enshrined in law through the Waste (England and Wales) Regulations 2011.
- 6.62 The hierarchy gives top priority to waste prevention, followed by preparing for re-use, then recycling, other types of recovery (including energy recovery) and finally disposal (for example, landfill). The waste hierarchy applies as a priority order in terms of waste prevention and management. Paragraph 8 of the Government's Planning Practice Guidance (PPG) on waste emphasises the movement of waste

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up the waste hierarchy and states that all local planning authorities should seek to support the drive for waste management up the hierarchy. NPPW paragraph 1 also seeks to deliver sustainable development and resource efficiency by driving waste management up the waste hierarchy.

- 6.63 The NPPW states that Waste Planning Authorities (WPA) should identify, in their local plans, sites and/or areas for new or enhanced waste management facilities in appropriate locations. Appendix B of the NPPW states that in determining planning applications for waste management facilities (as well as testing the suitability of sites and areas in the preparation of Local Plans) that WPAs should consider a variety of locational factors including: landscape and visual impacts; nature conservation; traffic and access; air emissions, including dust; odours; noise, light and vibration, and potential land use conflict.
- 6.64 In summary national waste policy makes clear that where development is in accordance with policies in an adopted local plan it benefits from a presumption in favour of development and that development should be approved without delay. It requires authorities in preparing local plans to design policies and allocate sites for waste management purposes that reflect the concepts of the proximity principle and net self-sufficiency and to deliver schemes then support the drive of waste up the waste hierarchy.

## Energy Policy

- 6.65 The appeal scheme not only performs a valuable waste management function but also recovers energy from the waste it manages to produce renewable energy (electricity and heat).
- 6.66 Although the proposed development will generate less than 50 megawatts of electricity and is therefore not a Nationally Significant Infrastructure Project (NSIP) for which the NPS are primarily intended, NPS EN-1 makes it clear that it is also relevant to planning applications below these thresholds. Section 1.2.1 of EN-1 states that *“In England and Wales this NPS is likely to be a material consideration in decision making on applications that fall under the Town and Country Planning Act 1990 (as amended)”*.

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- 6.67 The relevance of NPS in determining planning applications is similarly made clear in paragraph 5 of NPPF, which states that “*National policy statements form part of the overall framework of national planning policy, and may be a material consideration in preparing plans and making decisions on planning applications.*”
- 6.68 National Policy Statements (NPS) for energy were approved in July 2011. The two NPS that are relevant to this Inquiry are:
- Overarching National Policy Statement for Energy (NPS EN-1); and
  - National Policy Statement for Renewable Energy Infrastructure (NPS EN-3).
- 6.69 NPS EN-1 identifies that there is a significant UK need for new and major energy generating infrastructure in order to achieve energy security and carbon reduction objectives. Paragraph 3.1.3 of NPS EN-1 states that “*The Infrastructure Planning Commission (IPC) should therefore assess all applications for development consent for the types of infrastructure covered by the energy NPSs on the basis that the Government has demonstrated that there is a need for those types of infrastructure and that the scale and urgency of that need is as described for each of them in this Part.*” Likewise, paragraph 2.1.2 of NPS EN-3 states that “*the IPC should act on the basis that the need for infrastructure covered by this NPS has been demonstrated.*”
- 6.70 This approach is also reflected in paragraph 154 of NPPF, which states that local planning authorities should not require applicants to demonstrate the overall need for renewable and low carbon energy and should recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.
- 6.71 NPS-EN1 makes it clear that a broad and diverse range of technologies with differing renewable and low carbon characteristics are required, and that decision makers should not consider the relative advantages of one technology over another. Paragraph 3.3.5 of NPS EN-1 states that “*The UK is choosing to largely decarbonise its power sector by adopting low carbon sources quickly. There are likely to be advantages to the UK of maintaining a diverse range of energy sources so that we are not overly reliant on any one technology (avoiding dependency on a particular fuel or technology type). This is why Government would like industry to bring forward many new low carbon developments (renewables, nuclear and fossil fuel generation with CCS) within the next 10 to 15 years to meet the twin challenge of energy security and climate change as we move towards 2050.*”



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- 6.72 In describing the demonstrated need for new generation, paragraph 3.3.10 of NPS EN-1 refers inter alia to a commitment “...to increasing dramatically the amount of renewable energy generation” and identifies that this renewable generation capacity “may include plant powered by the combustion of biomass and waste.” Paragraph 3.4.1 of NPS EN-1 makes it clear that these new renewable energy projects “need to continue to come forward urgently”, and at 3.4.3 confirms that renewable energy generation are likely to come from a variety of sources including EfW.
- 6.73 NPS EN-3 supports that statement and demonstrates the role of EfW in meeting the urgent need for energy infrastructure. Paragraph 2.5.2 of NPS EN-3 states “*The recovery of energy from the combustion of waste, where in accordance with the waste hierarchy, will play an increasingly important role in meeting the UK’s energy needs. Where the waste burned is deemed renewable, this can also contribute to meeting the UK’s renewable energy targets. Further, the recovery of energy from the combustion of waste forms an important element of waste management strategies in both England and Wales.*”
- 6.74 In NPS EN-1, the Government’s established view is that the development of new energy infrastructure is market-based. Paragraph 2.2.19 of NPS EN-1 states that “*it remains a matter for the market to decide where and how to build, as market mechanisms will deliver the required infrastructure most efficiently.*” Paragraph 3.1.2 of NPS EN-1 therefore makes it clear that “*...it is for industry to propose new energy infrastructure projects within the framework set by Government. The Government does not consider it appropriate for planning policy to set targets or limits on different technologies.*”
- 6.75 The Energy Act 2013 and the Climate Change Act 2008, also have clear messages underpinning the need to secure further generation capacity in the UK.
- 6.76 At a local level too, there is clear policy intent to drive the renewable and low carbon energy agenda.
- 6.77 West Sussex County has recently published an Energy Strategy, 2016-2020. It recognises that the energy landscape is changing and that at a national level the Government has implemented a number of policies designed to transition to a low carbon economy against the backdrop of fossil fuels declining, energy costs

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increasing, energy supply becoming more vulnerable and growing concern about environmental sustainability (Paragraph 1.1). The County face major challenges in terms of cost of energy consumption in its own buildings (schools, offices, car homes and libraries) (Para 2.2), and their communities face major challenges and risks relating to both supply and demand for energy.

- 6.78 The purpose of the strategy is therefore a means of addressing these challenges and within its priorities and objectives section it states that one of its priorities is to “*Work in Partnership with our communities and stakeholders to tackle fuel poverty and identify affordable energy efficiency and low carbon energy opportunities.*” (Priority 3, page 8).
- 6.79 In their Energy Strategy Action Plan 2019/20 to 2021/22 it links strategy objections to actions. Whilst focusing on its own assets and how to improve these, it also supports the provision of other commercial low carbon energy generation projects and how working with National Grid and the District Network Operators they can facilitate new energy infrastructure by overcome grid connection challenges and securing infrastructure upgrades (Action 3).
- 6.80 For the reasons set out above, the need for the proposed development in terms of renewable energy generation and urgency of that need is already established by Government in NPS and should be given significant weight in the determination of this appeal.
- 6.81 Whilst emphasising the need and urgency for renewable energy, NPS EN-3 says that such projects should take into account the relevant waste plan, the extent to which it would contribute to recovery targets, taking into account existing capacity, and be of an appropriate type and scale so as not to prejudice the achievement of local or national waste management targets.

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## 7 NEED

### Introduction

- 7.1 In this case need for the facility does not need to be proven. It is an allocation in an up to date local plan for waste management purposes, including recovery (which the scheme is), is consistent with that allocation, meets the policy tests, so does not need to demonstrate any further justification to be approved. The planning authority have accepted the Appellant does not have to prove need and national waste policy makes clear that where development is in accordance with policies in an adopted local plan it benefits from a presumption in favour of development and that development should be approved without delay.

### Waste Need - Planning Authority and Appellant's position

- 7.2 For the avoidance of doubt, the authority in their own WSWLP 2014, Chapter 2, having examined waste arisings (including imports and exports) and applied assumptions to growth rates in recycling and population, examining how waste is currently managed, and in light of their objective of achieving zero waste to landfill by 2031, concluded that there was a waste management capacity shortfall that needed to be provided for. On that basis they calculated that they required a total increase in built waste management capacity of 0.68mtpa to 2031 to enable the objectives of 'net self-sufficiency' and 'zero waste to landfill' to be met (para. 2.11.2 WSWLP 2014, CD 093).
- 7.3 The WSWLP therefore makes provision for the predicted shortfalls in transfer, recycling and recovery capacity through the allocation of five strategic site allocations for new waste management under Policy W10(a), including my client's site. Table 4 of the WSLP identifies the theoretical minimum and maximum contribution that these allocated sites are predicted to make to meeting the capacity shortfall. This table shows that all of the sites within Policy W10(a) could potentially deliver between 0.70 and 0.85 mtpa of additional built waste management capacity in total.
- 7.4 With this position as a policy backdrop when the appeal scheme was heard at the planning committee in June 2018, the planning officer in her reports makes that clear at paragraph 9.2 that:

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*“ The application site falls within the site allocated in Policy 10 of the WLP for “the transfer, recycling, and/or recovery of waste (including the recycling of inert waste)”. In identifying sites, the WLP has examined the need for waste management facilities to maintain the County’s net self-sufficiency, and taken into account the location of facilities to manage waste as close as possible to source. Accordingly, the principle of the use of the site for waste management purposes has been established and there is no requirement for the applicant to demonstrate a quantitative or market need for their proposal.”*

- 7.5 Despite the planning authority refusing the scheme on the basis of a lack of need, they later changed their position finding no justifiable reason to maintain that stance, as the officer knew when recommending the scheme to the Committee.
- 7.6 During that time (2017/18), accepting that the WSWLP was adopted in 2014, some 5 years ago, the authority commenced an exercise to determine whether a review was required. As part of that they published The West Sussex Joint Minerals and Waste Local Plan Monitoring Report 2017/2018 (the “MR”)(This report is not dated but assumed to be published early 2019 as it uses some data in December 2018). This provides the most up to date assessment on progress towards achieving the objectives of the WSWLP. The MR relates to the period 1 April 2017 to 31 March 2018.
- 7.7 Again, after a further review of the most recent data on waste management need and capacity, the MR identifies in the summary on page 24 that:
- *“ total waste arisings in 2017/18 were 2.19 mt. This is a 12% increase over the estimated arisings in the adopted WSWLP (1.95mt) for 2017 based on the base growth rates, and a 0.5% increase from the previous year;*
  - *MSW arisings were 435,000 tonnes. This is an 8% increase over the estimated arisings in the WSWLP (403,000 tonnes) for 2017 based on the base growth rates;*
  - *C&I arisings were 456,000 tonnes. This is a 24% decrease than the estimated arisings in the adopted Waste Local Plan (600,000 tonnes) for 2017 based on the base growth rates;*

- *Recycling levels for MSW and C&I waste have slightly increased and the amount going to landfilling is falling;*
- *C&D arisings were 1,295,000 tonnes which is an increase from the previous year and is higher than the projected arisings in the Waste Local Plan for 2017 (949,000);*
- *Recycled aggregate production in 2017/18 was 391,000 tonnes and 682,618 tonnes of inert waste was estimated to be used for 'recovery' projects.*
- *The estimated remaining recovery capacity at permitted sites was 1,448,500 tonnes. If all remaining sites operate at 'full capacity' the remaining 'recovery' capacity would run out by 2019/2020.*
- *Additional waste management capacity has been added through new permissions during 2017/18 but further capacity is still needed to meet the shortfalls set out in Policy W1 of the WLP and the aspiration of achieving 'zero waste to landfill by 2031.'"*

7.8 In this context, it is pertinent to remember that my client's existing waste facility, permitted to treat up to 230,000 tpa of MSW and C&I, is already counted within the capacity figures within the MR so any additional capacity required is over and above that which is already provided at the Brookhurst Wood site.

7.9 The 2017/18 MR states therefore that the total MSW and C&I waste arisings during the period was 891,000 tonnes (adding the first two bullet points above). Although the MR states that waste management capacity has increased it still concludes that further capacity is needed- at least another 5,000 tpa (Non inert waste recovery capacity still required, Table 13).

7.10 It is worth noting too that the existing 'capacity' totals referred to in the MR includes waste transfer and the Biffa MBT, which is not a disposal option – it is merely a pre-processing facility for landfill or thermal treatment. It also includes inert waste facilities, which are not relevant to the case for the appeal facility.

7.11 Since the publication of the WSWLP, there have been no new thermal treatment facilities brought forward within the County and the landfill capacity for waste is now

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zero. It is known that other thermal treatment capacity within West Sussex is limited to 60,000 tpa (Rabbit Group, Lancing Business Park).

- 7.12 The MR at Table 9 states that during 2017/18, 201,000 tonnes of MSW and 204,000 tonnes of C&I waste were recycled (total 405,000 tonnes). It can be concluded, therefore, that 486,000 tonnes remained to be managed in 2017/18 (891k of MSW and C&I, minus 405k recycled, is 486k requiring management).
- 7.13 According to Table 9, this waste component (486,000 tonnes) is currently being managed through landfill (235,000 tonnes (taken from MSW and C&I parts of Table 9)), and through what the County refer to as 'other recovery' (251,000 tonnes). As there is no further landfill capacity within the County, 235ktpa is being sent out of County for disposal, and so too might a proportion of the other recovery component (allowing for the limited treatment capacity at Lancing Business Park of 60ktpa and possible other recovery operations).
- 7.14 Given the above, it is evident that if WSCC is to achieve its objective of self-sufficiency in waste management, with zero active waste to landfill by 2031, recycling and thermal treatment capacity must expand by a similar amount to that which will continue to be exported to landfill out of County (235,000 tpa in 2017/18), plus any of the 'other recovery' category that may be dealt with out of County, plus any growth in waste generation between 2018 and 2031.
- 7.15 In light of the above I see this ongoing need for capacity as further supporting the Appellant's case, not detracting from it – as does the planning authority.
- 7.16 So, in waste need terms both the Appellant and the planning authority are satisfied that there is a clear need for my client's facility by virtue of an allocation in the adopted SSAL 2007, and WSWLP 2014.
- 7.17 Not only that, but in the MR it stated at paragraph 2.2.2 that in relation to the WSWLP, a review in 'early 2019' will examine whether the Plan remains relevant and effective, and that if it is determined that a formal review of the plan is required, the Development Scheme (2018-21) will be updated in the Spring 2019 to set out a timetable for that work.
- 7.18 Subsequently, in the West Sussex Minerals and Waste Development Scheme 2019-2022 (CD 127) it confirms at paragraph 2.3.4 that:



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*“Accordingly, a review was undertaken in early 2019 to examine whether the Plan remains relevant and effective. The outcomes of the review have shown that the WLP is considered to be relevant and effective; therefore a formal review of the Plan will not be undertaken. A further review, in line with the regulations will be undertaken in five years, or earlier if monitoring of the plan, or significant changes to national policy, trigger a review in advance of the five year period”.*

7.19 An examination of the Council’s website in relation to the WSWLP, last updated 17 April 2019, confirms that the WSWLP is the most up-to-date statement of West Sussex County Council’s land use planning policy for waste. No review is currently planned. Accordingly, full weight can be given to policies in this plan including the continued justification of the appeal site allocation under policy W10.

7.20 I would therefore give significant positive weight to delivering, through the plan-led system, this important allocation for the County, particularly in the context of continuing ongoing need. Unless there is some powerful scheme specific objection, then Section 38(6) of the Act directs decision makers to deliver positive outcomes in these circumstances.

### **Waste Need - Ni4H position**

7.21 Ni4H appreciate too at paragraph 3 on the first page of their representation to the planning authority (CD

7.22 118) that *“...there is a pressing need to manage waste...”*. In their Statement of Case, however, there is a brief reference to need where at paragraph 22 they state that *“need” cannot trump all other considerations where....(a) the Site is not solely allocated for an EfW. There are a range of options that would be acceptable in policy terms to fill the identified need.”*.

7.23 They go onto state at paragraph 22 (c) that *“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”)*. Ni4H do not then further elaborate on need any further than these assertions.

7.24 Both the planning authority and Ni4H talk of need in the context of waste matters. That is normally a valid consideration although neither have commented on need

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from an energy generation perspective. I address that later below. But whereas the planning authority remain satisfied that need for the waste management facility on this site does not have to be proven in quantitative or market need purposes, Ni4H appears to assert that something more needs to be done by the Appellant.

- 7.25 In respect of their assertion that as the site is not only allocated for an EfW, need should be re-examined, I believe that is incorrect and implying more into the policy than it actually requires. The policy makes provision for different types of facility, including recovery facilities such as EfW, and it does not add any further caveat requiring need to be re-examined depending on the type of technology proposed. As such there is no policy imperative to do anything further on need in respect of W10 sites; by contrast need does have to be proven on *unallocated* sites (see for example Policy W1 and W3).
- 7.26 Indeed, criterion (d) in Policy W10 actually goes further and requires those strategic waste management sites to be *safeguarded* in order to prevent any other uses, on or adjoining the identified sites, from coming forward that may prejudice their delivery. That same protection is afforded for my client's existing waste management facility too, under Policy W2. That additional policy protection underscores how important the authority consider it necessary for these strategic sites to come forward to meet their waste management needs.
- 7.27 In my experience this in-built flexibility within the policy, both in terms of types of waste management facility and in terms of the range in amount of treatment they might deliver, allows the market to determine the most appropriate combination of facilities and technologies to come forward to meet need and is a sensible planning approach.
- 7.28 Paragraph 6.2.8. in the WSWLP, however, makes it clear that the planning authority themselves will keep the allocated sites in W10 under review to ensure that they continue to meet identified shortfalls and the mechanism for this is in the Annual Monitoring reports. As discussed above one such annual review was undertaken as recently as the beginning of this year and no change to policy was found to be necessary.
- 7.29 I have discussed this issue in detail with Ni4H but agreement has yet to be reached on their position on this matter. I have not seen, nor am I aware of any evidence to

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contradict the Appellant's nor planning authority's position in terms of need for the Appellant's waste management facility.

7.30 I have studied the 'Swindon' appeal decision to which the Ni4H refer, but I see nothing in that decision that causes me to be compelled to say anything further on the waste need case on behalf of my client.

7.31 I would, though, wish to draw the Inspector's attention to the fact that in the Swindon appeal case, where need was explored in some detail, this I believe was necessary principally, if not wholly, because the site was *not* an allocated waste management site and therefore lacked any in-principle support including any prima facie need case that would otherwise have existed. In my client's case, the appeal site is on an allocated site, together with the need case that is inherent with that. Thus, in the absence of clear policy support in the Swindon case, need had to be established in order to shift the planning balance in favour of the site.

### **Energy Need**

7.32 The appeal scheme not only performs a valuable waste management function but also recovers energy from the waste it manages, to produce renewable energy (electricity and heat).

7.33 As I state in section 6 of my evidence, NPS EN-1 makes it clear that it is relevant to planning applications below the NSIP thresholds.

7.34 The relevance of NPS in determining planning applications is similarly made clear in paragraph 5 of NPPF, which states that "*National policy statements form part of the overall framework of national planning policy, and may be a material consideration in preparing plans and making decisions on planning applications.*"

7.35 National Policy Statements (NPS) for energy were approved in July 2011. The two NPSs that are relevant to this Inquiry are:

- Overarching National Policy Statement for Energy (NPS EN-1); and
- National Policy Statement for Renewable Energy Infrastructure (NPS EN-3).

7.36 NPS EN-1 identifies that there is a significant UK need for new and major energy generating infrastructure in order to achieve energy security and carbon reduction objectives. Paragraph 3.1.3 of NPS EN-1 states that "*The Infrastructure Planning*

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*Commission (IPC) should therefore assess all applications for development consent for the types of infrastructure covered by the energy NPSs on the basis that the Government has demonstrated that there is a need for those types of infrastructure and that the scale and urgency of that need is as described for each of them in this Part.” Likewise, paragraph 2.1.2 of NPS EN-3 states that “the IPC should act on the basis that the need for infrastructure covered by this NPS has been demonstrated.”*

- 7.37 This approach is also reflected in paragraph 154 of NPPF, which states that local planning authorities should not require applicants to demonstrate the overall need for renewable and low carbon energy and should recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.
- 7.38 NPS-EN1 makes it clear that a broad and diverse range of technologies with differing renewable and low carbon characteristics are required, and that decision makers should not consider the relative advantages of one technology over another. Paragraph 3.3.5 of NPS EN-1 states that *“The UK is choosing to largely decarbonise its power sector by adopting low carbon sources quickly. There are likely to be advantages to the UK of maintaining a diverse range of energy sources so that we are not overly reliant on any one technology (avoiding dependency on a particular fuel or technology type). This is why Government would like industry to bring forward many new low carbon developments (renewables, nuclear and fossil fuel generation with CCS) within the next 10 to 15 years to meet the twin challenge of energy security and climate change as we move towards 2050.”*
- 7.39 In describing the demonstrated need for new generation, paragraph 3.3.10 of NPS EN-1 refers inter alia to a commitment *“...to increasing dramatically the amount of renewable energy generation”* and identifies that this renewable generation capacity *“may include plant powered by the combustion of biomass and waste.”* Paragraph 3.4.1 of NPS EN-1 makes it clear that these new renewable energy projects *“need to continue to come forward urgently”*.
- 7.40 NPS EN-3 supports that statement and demonstrates the role of EfW in meeting the urgent need for energy infrastructure. Paragraph 2.5.2 of NPS EN-3 states *“The recovery of energy from the combustion of waste, where in accordance with the waste hierarchy, will play an increasingly important role in meeting the UK’s energy*

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*needs. Where the waste burned is deemed renewable, this can also contribute to meeting the UK's renewable energy targets. Further, the recovery of energy from the combustion of waste forms an important element of waste management strategies in both England and Wales."*

- 7.41 In NPS EN-1, the Government's established view is that the development of new energy infrastructure is market-based. Paragraph 2.2.19 of NPS EN-1 states that *"it remains a matter for the market to decide where and how to build, as market mechanisms will deliver the required infrastructure most efficiently."* Paragraph 3.1.2 of NPS EN-1 therefore makes it clear that *"...it is for industry to propose new energy infrastructure projects within the framework set by Government. The Government does not consider it appropriate for planning policy to set targets or limits on different technologies."*
- 7.42 The Energy Act 2013 and the Climate Change Act 2008 also have clear messages underpinning the need to secure further generation capacity in the UK.
- 7.43 At a local level too there is clear policy intent to drive the renewable low carbon energy agenda.
- 7.44 West Sussex County has recently published an Energy Strategy, 2016-2020. It recognises that the energy landscape is changing and that at a national level the Government has implemented a number of policies designed to transition to a low carbon economy against the backdrop of fossil fuels declining, energy costs increasing, energy supply becoming more vulnerable and growing concern about environmental sustainability (Paragraph 1.1). The County face major challenges in terms of cost of energy consumption in its own buildings (schools, offices, care homes and libraries) (Para 2.2), and their communities face major challenges and risks relating to both supply and demand for energy.
- 7.45 The purpose of the strategy is therefore a means of addressing these challenges and within its priorities and objectives section it states that one of its priorities is to *"Work in Partnership with our communities and stakeholders to tackle fuel poverty and identify affordable energy efficiency and low carbon energy opportunities."* (Priority 3, page 8).

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- 7.46 In their Energy Strategy Action Plan 2019/20 to 2021/22 it links strategy objections to actions. Whilst focusing on its own assets and how to improve these, it also supports the provision of other commercial low carbon energy generation projects and how working with National Grid and the District Network Operators they can facilitate new energy infrastructure by overcoming grid connection challenges and securing infrastructure upgrades (Action 3).
- 7.47 For the reasons set out above, the need for the proposed development in terms of renewable energy generation and urgency of that need is already established by Government in NPS and should be given significant weight in the determination of this appeal.



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## 8 CASE FOR THE APPELLANT

### Identification of Issues

8.1 Section 11 of the Inspector's notes from the Pre-Inquiry meeting held on 6 June 2018, sets out the main issues on which he is seeking evidence. These are:

1. Whether the proposal would be consistent with the aims of local and national waste management policy (including with reference to: whether the local Policy is up to date; need; the proximity principle; and, moving the management of waste up the waste hierarchy);
2. The effect on the character and appearance of the area;
3. The effect on the convenience of highway users (with particular reference to traffic generation, highway capacity and any cumulative impacts);
4. The effect on the living conditions of occupants of the local area (with particular reference to air quality, odour, noise and any cumulative impacts); and,
5. The effect on public health (with particular reference to air quality).

8.2 I understand that point 1 above is not taken by the planning authority. I believe the planning authority's landscape witness may take issue with point 2. Points 3 to 5 are also not taken by the planning authority.

8.3 I understand Ni4H may intend to give evidence on points 1 and 2 (the parties still to resolve this matter through a SoCG), nothing on points 3 and 4, and in respect of point 5 I believe Ni4H only intend to take points on perception of harm to health rather than claiming any actual harm.

8.4 I address these in turn below.

#### 1. Compliance with local and national waste policy

8.5 I have described local and national waste policy in chapter 6 of my proof. I am of the view it complies with those policies.

8.6 Local policy largely reflects national waste policy. A review in January 2019 confirmed that the 2014 WSWLP is relevant and up to date and no review is required to the Plan or its policies for another 5 years. Substantial weight should

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therefore be attributed to proposals that accord with its policies. The appeal scheme thus benefits from this presumption.

- 8.7 The WSWLP 2014 built upon the site's designation as a waste management facility in the draft waste plan of 2004. The evolution of this designation is now confirmed in Policy W10 in the adopted 2014 WSWLP. To get to that point did not happen by chance. It was tested in a very large amount of detail; through a search for suitable sites, narrowing a long list down to the list of strategic sites now enshrined in Policy W10, as well as through various sustainability appraisals. It is clear that the authority knew what types of facility they wanted and needed, that it could include recovery including EfW facilities, they knew from the work they did in the HQWF SPG what the size and scale of the facility could be, and the applicant's proposal should have come as no surprise to them in terms of its likely land use and environmental impacts and effects. This was a very good site being outside any sensitive area and very well screened.
- 8.8 Compliance with Policy W10 and the criteria that go with that policy in effect means any development achieving such compliance also complies with related policies W14 to W22 in the WSWLP. These planning and environmental criteria have been examined at length between the Appellant and the professional planning officers and they have also been the subject of extensive consultation. The Environmental Statement and Design and Access Statement address these matters in detail.
- 8.9 Whilst determining Scheme 1 the officers' concerns and those of some of the public and other consultees, meant that the officers could not support that scheme. In particular they wanted further comfort on the overall height of the plant and stack in order to avoid or minimise landscape and visual effects, and they wanted to be assured that noise would not be an issue.
- 8.10 The Appellant withdrew the application in order to scrutinise whether anything further could reasonably be done to avoid or ameliorate those concerns.
- 8.11 Subsequently, after further detailed consideration and in the hope and expectation that permission should now be forthcoming, the Appellant both redesigned the plant with a curvilinear roof and other changes, as well as dropping the plant further into the ground, thus further reducing the overall height of the building compared to

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surrounding ground levels and previous viewpoints. Reassurance on noise was also given.

- 8.12 Following the Appellant's submission of Scheme 2, the officers, statutory consultees, including Horsham District Council, and a number of third parties, considered that the development was now acceptable and gave their support to the application. This was despite the type and number of objections.
- 8.13 The officer subsequently recommended the scheme for approval, subject to conditions. Despite this support and positive recommendation, the planning committee refused the application on 19 June 2018. I was surprised at this decision and to receive six reasons to reject the scheme. Following the Committee in June my client received the formal decision notice on 11 July 2018.
- 8.14 As explained above, subsequent discussion between the officers and Appellant, and following legal advice taken by the Council, the authority confirmed that they no longer wished to defend five out of the six reasons on which they rejected the Scheme, leaving only reason 2 relating to landscape and visual impact. Ni4H are also intending to give evidence on impacts resulting from landscape and visual effects of the scheme but also to present a case on public perception of harm and climate change matters.
- 8.15 Before moving onto these objections, the Inspector also raises the point about 'need'. I have addressed need in waste and energy terms in section 7 above. Suffice to say there is now no dispute on these grounds between the Appellant and planning authority (and possibly Ni4H – subject to agreeing a SoCG) and the plethora of supportive energy policy must carry substantial weight in its own right, sufficient on any reasonable planning balance exercise, to draw positive support for the development in my opinion.
- 8.16 In addition, with regards to the proximity principle and moving the management of waste up the waste hierarchy, again I am no longer aware of any dispute between the planning authority and Appellant (and subject to agreeing a SoCG) nor Ni4H, on these matters.
- 8.17 In respect to the proximity principle, I have drawn on the need case I make in section 6, using the planning authority's own 2017/18 MR, to demonstrate there is still a

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need for additional capacity for recycling and recovery facilities, which the appeal scheme will contribute towards. The MR already assumes the existing facility is contributing towards the assumed capacity available in the County, and I have further deduced that the appeal scheme is likely to be the nearest appropriate facility to deal with the waste that is currently being generated in the County, not least the landfill waste stream, that is now having to be exported out of the County and/or out of the UK, for management elsewhere.

- 8.18 In terms of the waste hierarchy, it is now accepted between the planning authority and Appellant that the appeal scheme should be regarded as a recovery operation thus moving waste up the waste hierarchy. The provision of an energy from waste facility does not inhibit the generators or managers of waste higher up the waste hierarchy from waste minimisation or recycling, for which they have a financial incentive. At the time of writing this proof I am unsure of Ni4H's position on this matter. The turbine-generator would produce approximately 21 MW of electricity. A proportion of this electricity generated would be used by the facility itself to power the on-site consumers, such as electric motors, fans, lighting, HVAC etc. The efficiency of the facility determines the remaining energy available for export. It is not possible at this stage to state what the exact efficiency would be, but it would be more than sufficient to meet the energy efficiency requirement for a recovery facility of 0.65 set out in the Waste Framework Directive (2008/98/EC). In consequence the facility would qualify as "recovery" under Article 3 of the Directive. An application has been made to the Environment Agency for R1 status, the result of which is likely to be known before this appeal is heard.

## **2. The effect on character and appearance of the area.**

- 8.19 Compliance with two policies in the WSWLP 2014 remain in dispute between the appeal parties: W12 and W13.
- 8.20 Policy W12: High Quality Developments, states that “ *Proposals for waste development will be permitted provided that they are of high quality and, where appropriate, the scale, form, and design (including landscaping) take into account the need to:*
- (a) Integrate with and, where possible, enhance adjoining land-uses and minimise potential conflicts between land-uses and activities;*

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*(b) Have regard to the local context including:*

- (i) The varied traditions and character of the different parts of West Sussex;*
- (ii) The characteristics of the site in terms of topography, and natural and man-made features;*
- (iii) The topography, landscape, townscape, streetscape and skyline of the surrounding area;*
- (iv) Views into and out of the site; and*
- (v) The use of materials and building styles;*

*(c) Includes measures to maximise water efficiency;*

*(d) Include measures to minimise greenhouse gas emissions, to minimise the use of non-renewable energy, and to maximise the use of lower-carbon energy generation (including heat recovery and the recovery of energy from gas); and*

*(e) Include measures to ensure resilience and enable adaptation to a changing climate.”*

8.21 The first planning point I wish to make is that the policy is actually worded in a relatively loose way; it uses phrases requiring applicants to only ‘*have regard to*’ and ‘*to take into account*’ and ‘*where possible*’. The only absolute compliance point is the need for development to be of ‘*high quality*’.

8.22 I would also add that Paragraph 130 of the NPPF requires developments to take the opportunity for improving character and quality of the area and the way it functions, taking into account any supplementary planning documents. It states that “*where the design of a development accords with the clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to the development.*”

8.23 I am of the firm view for reasons given in section 6 of my proof, that the appeal scheme does accord with the clear expectations in planning policy and so should not have been refused for any design reason.

8.24 Notwithstanding the above point, none of these matters have been taken lightly by the Appellant. To the extent that the policy relates to landscape and visual impact

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matters, Corinna Demmar deals in detail with these, particularly W12 (b) (ii), (iii) and (iv). I concur with her professional assessment and agree that the appeal scheme is not in conflict with this aspect of policy.

8.25 In respect of the other parts of this policy (Part (a), Part (b)(i)(v) and Parts (c), (d) and (e), they mainly relate to design considerations. In terms of general design, I can confirm that the design of the scheme was undertaken by qualified architects within RPS. The approach to design is set out in detail in Appendix 1 by Mark James Hilton BA (Hons) Dip. Arch RIBA. I am satisfied that given our design experience, the brief, the consultation undertaken and our response to that, we have designed a building that complies with the terms of Policy W12 (b) (i) and (v).

8.26 In terms of criterion (c), (d) and (e), Mark Hilton in his design note at my appendix 1, paragraph 5.5, sets out how through subsequent design refinement prior to build, the facility can include measures that address waste efficiency, energy efficiency and climate change resilience measures.

8.27 In respect of WSWLP Policy W13: Protected Landscapes:

*“(a) Proposals for waste development within protected landscapes (the South Downs National Park, the Chichester Harbour Area of Outstanding Natural Beauty (AONB), and the High Weald AONB) will not be permitted unless:*

- (i) the site is allocated for that purpose in an adopted plan; or*
- (ii) the proposal is for a small-scale facility to meet local needs that can be accommodated without undermining the objectives of the designation; or*
- (iii) the proposal is for a major\* waste development that accords with part (c) of this policy.*

*(b) Proposals for waste development located outside protected landscapes will be permitted provided that they do not undermine the objectives of the designation.*

*(c) Proposals for major\* waste development within protected landscapes will not be permitted unless:*



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- (i) there is an overriding need for the development within the designated area;  
and*
  - (ii) the need cannot be met in some other way or met outside the designated  
area; and*
  - (iii) any adverse impacts on the environment, landscape, and recreational  
opportunities can be satisfactorily mitigated.*

*\*In the case of waste proposals, all applications are defined by the Town and Country Planning (Development Management Procedure) Order 2010 as ‘major’. However, for the purposes of this policy, major waste development is development that, by reason of its scale, character or nature, has the potential to have a serious adverse impact on the natural beauty, wildlife, cultural heritage and recreational opportunities provided by the South Downs National Park or the natural beauty, distinctive character, and remote and tranquil nature of the Areas of Outstanding Natural Beauty (AONB). The potential for significant impacts on the National Park or the AONB will be dependent on the individual characteristics of each case.”*

- 8.28 As the Appeal Site is not located within a ‘protected landscape’ referred to in Policy W13, i.e. the South Downs National Park, the Chichester Harbour AONB or the High Weald AONB, part (a) is not directly relevant. Corinna Demmar, the landscape witness deals with part (b) of the policy in detail in her proof of evidence. She concludes that the appeal proposal will not undermine the objectives of any protected landscape designation and I agree with her view.
- 8.29 In respect of part (c) whilst I will assume that the development is to be regarded as a ‘major’ development, it is clear that the site is not within a protected landscape and as such the criterion does not apply.

### **3. Highway impacts and effects**

- 8.30 The ‘Interested Party Submission’ contains a number of transport related matters which are summarised as follows:
- 1.** The highways baseline conditions have changed, most notably the access onto Langhurstwood Road;

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2. The traffic generated by WSCC/018/14/NH and WSCC/021/15/NH has not been achieved. Therefore, the data used in the application is not accurate;
  3. The changes now approved as part of LNoH have not been taken into account, particularly Langhurstwood Road;
  4. Sustainable methods of travel are not being proposed;
  5. Waste will travel greater distance, by virtue of the capacity;
  6. Some of the waste will now be toxic / hazardous;
  7. Alternative access routes should be considered to reduce the impact on existing and future residents; and
  8. Assumptions of non-car users along Langhurstwood Road should be revised (increased) to include users of the railway station and facilities in Warnham village.

8.31 The planning application was supported by an Environmental Statement (ES), Chapter 6 of which was titled Traffic and Transport and covered such effects.

8.32 In particular, the ES covered the effects of the 3Rs proposal on highway capacity and also the cumulative effects of 3Rs, including that on highway capacity.

8.33 The content and the scope of assessment within this chapter of the ES was agreed with Highway Officers of WSCC in advance of submission. This agreement covered the following:

1. The assessment of the construction effects of the facility;
2. That there was no requirement to undertake any assessments for the operational phase of the facility because it would not generate any additional traffic over and above its permitted level; and
3. The treatment and the inclusion of Land North of Horsham (LNoH) within the assessment.

8.34 The ES undertook assessments of the construction traffic flows generated and concluded that there would be no significant effects arising as a result.

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- 8.35 The ES explained that the proposals would involve the demolition of the existing WTF and the proposed 3Rs would incorporate an enhanced version of the existing WTF within it as well as a thermal treatment facility.
- 8.36 It went on to explain that all waste inputs to the proposed thermal treatment facility would be led from the updated WTF, which means that all waste inputs to the proposed Facility would already have permission to be imported to the site under its existing planning permission.
- 8.37 The total volume of waste imported to the site would be no more than is currently permitted for the existing WTF i.e. 230,000 tpa. As such, the proposals would not result in any increase in waste vehicles coming to the site above those already permitted.
- 8.38 There would therefore be no requirement for any additional waste related HGV movements to transport waste to the site over and above the site's extant consent. There will be a requirement to transport consumables via HGV.
- 8.39 The ES set out that total HGV movements at the site would be managed so as to not exceed the numbers permitted by the extant permission. It went to state that the applicant would accept a Condition to this effect to ensure that the proposals will not result in any increased HGV movement on site.
- 8.40 The ES concluded that there would be no change to traffic flows to the site during the operation of the facility and therefore no effects on traffic and transport by the operation of the facility. Therefore, there would be no significant effect upon highway users in EIA terms as a result of the traffic generated by the proposed Facility. Specifically, there would be no significant adverse effects in terms of visual effects; severance, driver or pedestrian delay, pedestrian amenity, accidents and safety, hazardous loads, nor arising from dust and dirt.
- 8.41 In terms of cumulative assessment, relevant emerging developments were identified and were all deemed not to require a separate cumulative assessment. In specific regard to the development known as Land North of Horsham (LNoH), the ES noted that it would be built out over a 15 year period with phasing from east to west, which meant that the areas in proximity to the application site would commence from the mid-2020s onwards. Thus, the ES set out that there would be

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no overlap with the construction phase of the proposals. Since the operational phase of the proposals would not increase traffic flows, there was no subsequent need for a cumulative assessment and the assessments contained within the LNoH would have taken account of the WTF, and thus the Recycling, Recovery and Renewable Energy Facility.

8.42 WSCC, as the Local Highway Authority, did not raise any transport related objections to the planning application.

8.43 None of the appeal parties, including Ni4H, are taking issue with impacts and effects arising from highway matters. My colleague, David Archibald, has also produced a further technical note on highway issues at Appendix 4 confirming that there is no continuing basis upon which to object on highway grounds. I agree with this assessment.

#### **4. Effect upon local living conditions (air quality, odour, noise, cumulative effects)**

8.44 None of the appeal parties take issue with any of the above matters. They have been adequately addressed in the planning application papers, including the Environmental Statement. I have not seen any new evidence or new concern (not previously raised) that has not already been adequately addressed or cannot be addressed by condition.

8.45 Notwithstanding, my colleagues have produced further technical notes on noise at Appendix 3 and on air quality at Appendix 5.

#### **5. The effect on public health**

8.46 Again, none of the appeal parties take issue with effects upon public health; none of these parties intend to bring evidence to support a proposition that air quality effects arising from emissions or other sources, will adversely affect public health.

8.47 I am aware that Ni4H intends to pursue an objection on public perception of risk arising out of air quality concerns. However, Dr Andrew Buroni has already addressed these concerns in part within the ES Chapter 13 on Population and Health. He has also prepared a separate proof which addresses this matter in detail. He concludes that there is no evidence to support the rational perception of risk to health, and reassurance can be provided to those that hold such a perception, that

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both risk and the perception of risk has been properly considered as part of the planning process. It is also reassuring that the ongoing regulatory process will provide a high degree of protection to people and the environment.

- 8.48 While it is generally accepted that the perception of potential risk is a factor that should be taken into account in the decision making process, it is not reasonable to place significant weight on such perceptions where they are unsupported by any technical evidence. I have not seen any technical or other evidence to underpin any reasonable case on perception.
- 8.49 In this case, the technical evidence has been provided in the form of a Population and Health chapter in the Environmental Statement. This means that evidence was provided as part of the independently prepared Environmental Statement to address potential health risks. That information was consulted upon alongside the planning application, during its determination and has not been contested.

### **Other Considerations**

- 8.50 In addition to the above matters, Ni4H has raised the issue of climate change within their Statement of Case (CD 128 paragraph 34 to 36). They intend to argue “....*that the appeal scheme will emit significant quantities of fossil-based CO<sub>2</sub>, and be high-carbon (rather than falling into the definition of ‘low carbon’ in NPPF terms), and would result in the emission of more CO<sub>2e</sub> per year than sending the same waste to landfill...*”.
- 8.51 In paragraph 35 they highlight inconsistencies and errors in the Appellant’s Carbon Assessment 2016.
- 8.52 I can confirm that the Appellant did make errors in the carbon calculation and a corrected calculation was issued to the appeal parties on 9 August. I reproduce this note as Appendix 2 to my proof. An update to Table 3 of that Carbon Assessment is provided which firstly corrects the transport emission factor and then updates the displaced electricity generation factor. The displaced electricity generation factor is changing as electricity generation is being progressively decarbonised, so this comparison is of more limited relevance for future years. Current government policy is to cease landfilling residual waste incorporating biodegradable material and to treat this in energy from waste facilities. It is not in dispute, however, that the

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combustion of waste produces carbon dioxide emissions. This is compared in Table 3 with the carbon dioxide equivalent emissions from the pool of electrical generation facilities but in practice it displaces electricity generated by the most expensive plant, which is currently coal, then gas fired CCGT. In the future as more wind power is brought on stream and coal is phased out, the carbon intensity of power generation will fall. There is likely to still be a need to treat residual waste in the future, however, and the role of energy from waste is likely to continue to play a part.

8.53 In section 6 of my proof I include Government policy on the low carbon agenda. There are numerous references encouraging the delivery of a low carbon economy. The general direction of travel in policy terms is not in dispute.

8.54 The issue therefore seems to me to be how renewable energy recoverable through EfW is treated in policy terms. The main reason for this in my opinion is that the energy recovered in the thermal treatment process is recovered together with energy from non-renewable sources (i.e. fossil fuel-based plastics in mixed wastes).

8.55 EU Directive 2009/28/EC on the promotion of the use of energy from renewable sources (the Renewable Energy Directive (RED)) defines ‘energy from renewable sources’ as meaning:

*“... energy from renewable non-fossil sources, namely wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower, **biomass**, landfill gas, sewage treatment plant gas and biogases”* (Article 2, page L140/27. CD 074) (my emphasis).

8.56 ‘Biomass’ is defined as meaning:

*“... the biodegradable fraction of products, waste and residues from biological origin from agriculture (including vegetal and animal substances), forestry and related industries including fisheries and aquaculture, as well as the **biodegradable fraction of industrial and municipal waste**”* (my emphasis).

8.57 Therefore, the biomass fraction of industrial and municipal wastes is a source of renewable energy. The NPPF then recognises biomass as a source of renewable and low carbon energy, stating (Page 55):



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*“Renewable and low carbon energy: Includes energy for heating and cooling as well as generating electricity. Renewable energy covers those energy flows that occur naturally and repeatedly in the environment – from the wind, the fall of water, the movement of the oceans, from the sun and also from **biomass** and deep geothermal heat. Low carbon technologies are those that can help reduce emissions (**compared to conventional use of fossil fuels** (my emphasis))”.*

- 8.58 The appeal scheme will provide a supply of renewable energy in that it will recover energy sourced from the biomass fraction of its waste fuel. The appeal scheme would treat up to 230,000 tonnes per annum (tpa) through energy recovery. Alongside inert and fossil-derived material, I would expect a substantial proportion of its feedstock to be classified as renewable, being of biomass origin. Whatever the proportion is though, even a small addition will contribute towards the overall renewable energy targets.
- 8.59 Policy states that the need for energy and renewable energy infrastructure has been demonstrated, and that in the case of the latter, that this need is urgent. On these grounds alone, the development should be supported.
- 8.60 There are no established and reliable alternative methods of treating residual waste to recover energy, other than that proposed, and the amount of carbon in waste is a function of waste composition. A residual waste treatment system has very limited control on the composition of the waste it is permitted to receive and treat. That is a function of the products people buy, the waste they generate and the waste collection and management systems designed by waste authorities, the public sector and commercial organisations,. Based on the currently best available technology, the CO<sub>2</sub> emissions from waste to energy facilities are unavoidable as carbon capture technology is not considered economic at this (small) scale. The best comparison for the treatment of residual waste of the type proposed is therefore treatment of the same waste in another energy from waste facility somewhere else, which is able to operate at the same theoretical efficiency. The main ways of improving the efficiency and increasing the valuable energy per unit of CO<sub>2</sub> emitted of an energy from waste facility is through combined heat and power (CHP) and reduced waste miles.

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8.61 In summary, there is no policy at local or national level that prevents EFW technology from coming forward. In waste hierarchy terms this is preferable to landfill. There is an urgent need for the renewable energy that is generated from these developments and the technology is one of a number which will support the transition to a low carbon economy in accordance with Government policy.

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## 9 OVERALL PLANNING BALANCE & CONCLUSION

- 9.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless other material considerations indicate otherwise.” The Act confirms that the development plan is “ the development plan documents (taken as a whole) which have been adopted or approved in relation to that area and the neighbourhood plans which have been made in relation to that area” (s38(3)).
- 9.2 In light of my evidence and that from others on behalf of the Appellant, there is only one substantive objection to the appeal scheme – that is on landscape and visual impact grounds. All other matters hold little if any weight having been adequately addressed and assessed through the normal planning process. I realise that such proposals can be emotive in the eyes of the public but in my experience that emotion and concern is in every case unjustified and normally fuelled by unsubstantiated information from pressure groups. I had the same experience in the appeal for an EfW at Lostock in Cheshire where some 4000 residents objected, very largely led by another pressure group known as CHAIN (Appeal decision at CD 129). It is vitally important to the whole process of course that these concerns are heard, but I have seen nothing in this case that substantively differs in other EfW cases I am aware of or have been involved in.
- 9.3 The policy position in my opinion is very clear and overwhelmingly in support of the appeal scheme, both at local and national level.
- 9.4 In waste policy terms the appeal scheme benefits from being on an allocated site, in two adopted local plans, both of which have been the subject of intense scrutiny and appraisal. The planning authority must have known that in allocating land for waste management facility, including EfW, with a potential capacity of up to 300,000 tpa, already permitted at 230,000 tpa, and knowing the likely scale, massing and bulk of such a facility and how stack heights are derived, that they were likely to attract an application of the type now the subject of this appeal. Any applicant looking objectively at such an allocation in two adopted local plans, knowing that the authority knew what the likely impacts and effects would be, would have a very

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reasonable expectation that if they sought approval for such a scheme it would be approved.

- 9.5 While design is a subjective matter, stack heights are commonly 60-120m in height for EfW in the UK as determined by emissions modelling. Most of the concern originally focused on mass, bulk and design. The officers have pressed hard to ensure that the massing and bulk of the facility can be as small as reasonably possible and that the building is of high quality. The Appellant has also worked hard at trying to reduce the overall mass and bulk of the building and, in consultation with officers and the public, to redesign the main building complex to produce a more acceptable solution. That leaves the stack, which is an essential component of a facility of this nature, which is subject to the final approval of the Environment Agency. Both the planning authority and the Appellant's consultants are very experienced in all these matters and have brought that experience to bear in delivering the solution before you. Nothing more, in my opinion, can reasonably be done to deliver this much needed waste management facility in accordance with the adopted local plan policies.
- 9.6 I would also add that Paragraph 130 of the NPPF requires developments to take the opportunity for improving character and quality of the area and the way it functions, taking into account any supplementary planning documents. It states that *"where the design of a development accords with the clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to the development."*
- 9.7 I am of the firm view for reasons given in section 6 of my proof, that the appeal scheme does accord with the clear expectations in planning policy and so should not have been refused for any design reason.
- 9.8 Need for a waste management facility of the type proposed, sits comfortably within the bounds of relevant planning policy at local and national level, is very compelling and substantial positive weight should be afforded to the scheme on this basis.
- 9.9 In energy policy terms too, the weight of policy in favour of the scheme is overwhelming. There is an urgent need to bring on line renewable energy projects such as this and I can see no evidence which undermines this policy support.

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- 9.10 Corinna Demmar has thoroughly assessed and drawn conclusions on the acceptability of the appeal scheme on landscape and visual grounds. Whilst the stack will be visible, as they are in all EfW cases I am aware of and have been involved in, the impacts have been reduced physically, colours carefully chosen to mitigate visual effects, but cannot reasonably be singled out in all of the circumstances of this case as causing the balance of any harm to offset the benefits that this scheme will deliver.
- 9.11 I am of the firm view that in accordance with s38(6) of the Act, the proposal meets all relevant policy criteria and therefore significant benefit should be afforded to the appeal scheme given this is a plan-led allocation. There are no other material considerations that in my opinion can reasonably be sustained that would cause anything other than a beneficial planning balance conclusion to be drawn.
- 9.12 In light of the above, I respectfully ask the Inspector to recommend approval for the scheme. If approved, the planning authority and Appellant have agreed a list of conditions that could be attached to the permission (to be submitted as part of the Statement of Common Ground).