



Department for
Communities and
Local Government

Martin Pollard
Axis Planning
Camellia House
76 Water Lane
Wilmslow
Cheshire
SK9 5BB

Our Ref: APP/L3055/V/14/3001886

14 June 2016

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY PEEL ENVIRONMENTAL MANAGEMENT LTD AND BILSTHORPE WASTE
LTD AT BILSTHORPE BUSINESS PARK, OFF EAKRING ROAD, BILSTHORPE
APPLICATION REFERENCE: 3/13/01767/CMW**

1. I refer to your e-mail of 9 June 2016 requesting a correction to the numbering of conditions, specifically that the condition relating to 'litter' should be numbered as 31 and amendments made to the numbering of subsequent conditions, in the Secretary of State's decision letter on the above case dated 1 June 2016.
2. As this request was made before the end of the relevant period for making such corrections under section 56 of the Planning and Compulsory Purchase Act 2004 (the Act), a decision has been made by the Secretary of State to correct the error. Accordingly, he has amended the numbering of conditions in the attached decision letter. The Secretary of State has no powers to make such amendments to the Inspector's report.
3. Under the provisions of section 58(1) of the Act, the effect of the correction referred to above is that the original decision is taken not to have been made and an application may be made to the High Court within six weeks from the date of this notice for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

Yours faithfully

Jean Nowak

JEAN NOWAK



Department for
Communities and
Local Government

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Your Ref:

14 June 2016

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77
APPLICATION BY PEEL ENVIRONMENTAL MANAGEMENT LTD AND BILSTHORPE
WASTE LTD:
BILSTHORPE BUSINESS PARK, OFF EAKRING ROAD, BILSTHORPE
APPLICATION REF: 3/13/01767/CMW**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Mrs J A Vyse DipTP DipPBM MRTPI, who held a public local inquiry on 3–6 and 10-12 November 2015 into your client's application for the development of Bilsthorpe Energy Centre comprising a plasma gasification facility, materials recovery facility (MRF) and energy generation infrastructure together with associated infrastructure including weighbridge and offices, office, control room, effluent tanks, oxygen production unit, cooling tower, flare stack, pump house, water tank, car parking, surface water management system (including attenuation lagoon), hardstanding and roads, landscaping, fencing and gates and lighting in accordance with application reference 3/13/01767/CMW, dated 29 November 2013.
2. On 19 December 2014 the Secretary of State directed, in pursuance of section 77 of the Town and Country Planning Act 1990, that the application be referred to him instead of being dealt with by the relevant planning authority, Nottinghamshire County Council, to consider its consistency with the development plan for the area and with policies contained in the National Planning Policy for Waste, the National Waste Management Plan for England and the National Planning Policy Framework, together with any other matters the Inspector considered relevant.

Inspector's recommendation and summary of the decision

3. The Inspector recommends that planning permission be granted. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and with her recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

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Matters arising after the inquiry

4. Correspondence from the United Kingdom Without Incineration Network dated 7 April 2016, and from Mark Spencer MP dated 12 April 2016, drew the Secretary of State's attention to the fact that Air Products had announced on 4 April 2016 that it was exiting from its Energy-from-Waste (EfW) business as it had failed to overcome the technological difficulties and had abandoned its Tees Valley plasma and gasification plants due to "design and operational challenges". Given that it had been agreed at the inquiry that the Bilsthorpe Energy Centre would use the same technology as Tees Valley, the Secretary of State considered it appropriate to give the parties to the Bilsthorpe case an opportunity to comment on any implications which the reasons leading to this announcement might have for the Bilsthorpe scheme as considered at the inquiry. The correspondence received is listed at the end of this letter and copies may be obtained on request from the address at the foot of the first page of this letter.
5. For the reasons which are explained in more detail in the relevant sections of this letter below, the Secretary of State has concluded that the responses to his letter of 12 April have provided him with sufficient information to proceed to a decision without needing to commission any further work or reopen the inquiry. He has however decided to include an additional condition as explained in paragraph 24 below.

Procedural matters

6. In coming to his decision, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) (England) Regulations 2011. The Secretary of State agrees with the Inspector (IR5.1-5.6) that the Environmental Statement complies with the above regulations and that sufficient information has been provided for him to assess the environmental impact of the application. As a result of the referral exercise described above, Nottinghamshire County Council suggested that the Secretary of State should issue a formal Regulation 22 request for additional environmental information in relation to the issues raised. The Secretary of State has given careful consideration to this suggestion. However, as you have pointed out on behalf of the applicant, the nature of any design and operational challenges at the Air Products' Tees Valley Plants have not been made public whilst the technology proposed to be used at Bilsthorpe is demonstrably proven and in operation elsewhere. The Secretary of State has therefore concluded that he does not have sufficient information on which to base a Regulation 22 request which, in any case, in view of his conclusion at paragraphs 12-13 below, is not necessary.

Policy and Statutory considerations

7. In deciding the application, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case the development plan comprises the 2013 Nottinghamshire and Nottingham Replacement Waste Local Plan Waste Core Strategy adopted in December 2013 (WCS); the saved policies of the 2002 Nottinghamshire and Nottingham Waste Local Plan (WLP); the 2011 Newark and Sherwood Core Strategy (N&SCS) and the 2013 Newark and Sherwood Allocations and Development Management DPD (DPD). The Secretary of State agrees with the Inspector that the most relevant policies of these documents are those identified at IR3.1-3.12.

8. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework, March 2012 (the Framework); the accompanying planning practice guidance (the guidance); the National Planning Policy for Waste (October 2014); the associated planning practice guidance to waste policy (October 2014); the Community Infrastructure Levy (CIL) Regulations 2010 (as amended); and the other relevant factors and documents referred to in the Statement of Common Ground 1 (IR3.13).
9. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the scheme or their settings or any features of special architectural or historic interest which they may possess.

Main issue

10. The Secretary of State agrees with the Inspector that the main issues are those set out at IR1.1.

Planning status of the site

11. For the reasons given in IR14.3–14.10, the Secretary of State agrees with the Inspector that, contrary to the view of local residents, the site of the proposed energy centre can be classified as previously developed land in accordance with the definition set out in the Glossary to the Framework.

Waste Disposal or Recovery?

12. For the reasons given at IR14.11-14.19, the Secretary of State agrees with the Inspector's conclusion at IR14.20 that it is appropriate to consider the scheme as a recovery facility as opposed to a waste disposal operation and that there is therefore no conflict with the waste hierarchy or with the ambitions of the WCS in this regard. In coming to this conclusion the Secretary of State has taken into consideration that the Environment Agency (EA), as the competent authority for determining whether a plant meets the definition of R1 Recovery Status (IR14.13), issued formal confirmation in October 2015 that, based on design data, the proposed facility was capable of having an R1 energy efficiency factor equal to or above 0.65 - which is the highest level of certification achievable prior to the actual construction and operation of a facility.
13. The Secretary of State has given further consideration to this matter following receipt of the submissions from the parties referred to at paragraphs 4-5 above - in which the initial concern was whether, in the light of the experiences elsewhere, the proposed scheme would still be capable of having an R1 energy efficiency factor equal to or above 0.65. However, no evidence has been put forward by the parties to those submissions to substantiate any claim that the Bilsthorpe scheme would not be capable of meeting that requirement; whilst the Secretary of State is satisfied that, in any case, this is a matter for the EA as part of their overall regulation of the scheme through the Environmental Permit arrangements (IR1.9). Furthermore, the Secretary of State is satisfied that the Inspector had already provided an extra safeguard by recommending the imposition of Condition 16 – which the Secretary of State endorses (see paragraph 24 below) - to ensure that the scheme will not be able to be brought into use and to continue to operate without achieving and continuing to comply with the required R1 status.

Need/Alternatives

14. For the reasons given at IR14.21-14.29, the Secretary of State agrees with the Inspector regarding the current shortfall in energy recovery capacity for residual C&I waste and that a more realistic figure would be more likely to be in the region of 294,000 tpa, as opposed to 194,000 tpa in the WCS. He further agrees that the gasification element of the facility proposed at Bilsthorpe has the capacity to make a significant contribution to addressing the shortfall of residual C&I waste management facilities within Nottinghamshire and Nottingham; and its ability to recycle up to 22,300 tpa of C&I would also contribute towards the shortfall in recycling capacity identified in the WCS.
15. For the reasons given at IR14.30-14.34, the Secretary of State also agrees with the Inspector that a clear 'local' need for the facility has been demonstrated in terms of the joint authority area and that the gasification facility proposed would make a significant contribution to diverting local C&I waste from landfill. Like the Inspector, he has seen no substantiated evidence either to demonstrate that some other site is more appropriate for the facility proposed or that some other technology is to be preferred. He therefore also agrees with the Inspector that there is no conflict with policies WCS3, WCS4 or WCS9 of the WCS or with policy CP6 of the N&SCS.

Air Quality, Water Quality and Health

16. The Secretary of State has given careful consideration to the Inspector's assessment at IR14.35–14.49, and he agrees with the Inspector's conclusion at IR14.50 that, subject to the operational controls on the process that would be provided by the Environmental Permit and other legislation, the development proposed would not necessarily have an adverse impact on air or water quality or an adverse effect on the health of those living and working in the area. He therefore also agrees with the Inspector at IR14.50 that there would be no conflict with policy WCS13 of the WCS, policies W3.5 and W3.6 of the WLP or policy DM10 of the DPD.

Highway Matters

17. For the reasons given at IR14.51-14.63, the Secretary of State agrees with the Inspector's conclusion at IR14.63 that the local highway network could accommodate the associated traffic movements safely and efficiently with no significant operational or environmental impacts, so that there would be no conflict with the development plan policies to which she refers. The Secretary of State further agrees with the Inspector that, for the reasons given at IR14.64-14.65, the arrangements secured by the Travel Plan meet the statutory tests for planning obligations and would comply with Regulation 122(2) of the Community Infrastructure Levy (CIL) Regulations (see paragraph 22 below).

Heritage Assets

18. The Secretary of State has also given careful consideration to the Inspector's reasoning and conclusions at IR14.66-14.81 concerning the range of heritage assets, including listed buildings, a Scheduled Ancient Monument (SAM), a Registered Park and Garden, two Conservation Areas and non-designated heritage assets which lie within the vicinity of the application site; and he agrees with her conclusion at IR14.82 that the development proposed would not have any adverse impact on the special interest or significance of the identified heritage assets. He therefore also agrees with her that there would be no conflict with national policy.

Landscape and Visual Impact

19. For the reasons given at IR14.84-14.97, the Secretary of State agrees with the Inspector's conclusion at IR14.98 that from most vantage points the development proposed would not have a significant adverse landscape or visual impact although, like the Inspector, he considers that in some views from the west the visual impact would be significant and adverse, giving rise to conflict with the relevant development plan policies. However, like the Inspector, the Secretary of State recognises the applicants' attempts to minimise the visual effects through careful design (IR14.99) mean that there is no conflict with policies W3.3 and W3.4 of the WLP.

Noise, vibration and odour

20. For the reasons given at IR14.100-14.105, the Secretary of State agrees with the Inspector's conclusion at IR14.106 that there is no reason to suppose that the development proposed would be likely to result in material harm to the living conditions of local residents in relation to noise, vibration or odour and that there is therefore no conflict with the development plan policies to which the Inspector refers.

Ecology and Wildlife

21. Like the Inspector, the Secretary of State recognises that there is considerable local concern about the impact of the proposed development on ecology (IR14.107); and that the former colliery site, including the application site, has been given the non-statutory designation of being a Local Wildlife Site (IR14.109). The Secretary of State has therefore given careful consideration to the Inspector's analysis at IR14.109-14.117, and agrees with her conclusions at IR14.118. He is satisfied that the development proposed would not have a significant adverse effect on currently or potentially designated European conservation sites, with no significant impact on any of the articles of the Waste Framework Directive (2008/98EC) listed at Annex 1 to the Planning Practice Guidance or on regularly occurring migratory birds outside of the designated sites. The Secretary of State further agrees with the Inspector that, while habitat creation within the application site would still leave residual effects in terms of the displacement of a small number of breeding waders and lapwing foraging habitat, that would be addressed by the Wader Mitigation Plan (see paragraph 25 below). He is satisfied that this would result in a net gain in terms of Biodiversity Offsetting Units and would provide a realistic prospect of a net positive residual ecological impact. He also agrees with the Inspector that there would be no conflict with the development plan policies to which she refers at IR14.118 with regard to protecting and enhancing the natural environment.

Tourism and socio-economic development in the area

22. For the reasons given at IR14.119-14.123, the Secretary of State agrees with the Inspector's conclusion at IR14.123 that there would be no harm in terms of traffic impact, ecology and wildlife, heritage or health, which may all relate in one way or another to tourism in the area. Furthermore, while he also agrees that there would be some harm in terms of visual impact in views from the west he is also satisfied that, in the absence of any substantiated evidence to the contrary, there would be no material harm in terms of any effect on tourism or socio-economic development in the area.

Other matters

23. For the reasons given at IR14.124-14.129, the Secretary of State agrees with the Inspector's analysis of the benefits of the scheme and, like the Inspector, he gives substantial weight in the overall planning balance to the consequences of not

proceeding. The Secretary of State also agrees with the Inspector that, with the exception of the harm identified in some views from the west in terms of visual impact, the proposal would accord with the development plan for the area when read as a whole (IR14.130-14.136) and that, for the reasons given at IR14.137-14.138, the development plan as a whole should not be regarded as being out-of-date and provides a relevant framework for determining the application (IR14.137).

Conditions and planning obligation

24. Having considered the Inspector's conclusions on conditions as set out at IR12.1-12.4 and the conditions at Annex D to the IR, the Secretary of State is satisfied that they are reasonable and necessary and would meet the tests of paragraph 206 of the Framework and the guidance. He has therefore incorporated them in his decision as set out at Annex A to this letter. Furthermore, as part of the exchange of correspondence referred to in paragraphs 4-5 above, you – as the applicants' agent – have suggested the imposition of an additional condition to ensure the restoration of the site within a period of 24 months should operations cease and none of the other parties has raised any concerns. The Secretary of State considers that this provides a further safeguard against the fears of the County Council and other local interests that the site could, at any time, be left abandoned and unrestored. Accordingly, the Secretary of State has inserted new Condition 38 at Annex A and renumbered the Inspector's proposed Condition 38 as Condition 39. Subsequent to this amendment a further amendment has been made to the numbering of the conditions in the original decision letter of 1 June 2016, by the request of the appellant, such that the condition relating to "litter" has been numbered as "31" and all subsequent conditions have been renumbered. The Secretary of State has no power to amend the Inspector's report in the same way.
25. The Secretary of State has also considered the Section 106 Agreement submitted to the Inquiry and referred to by the Inspector at IR 13.1-13.4. For the reasons given in IR14.115, the Secretary of State is satisfied that the Wader Mitigation Plan which secures off-site mitigation measures as part of the planning obligation meets the statutory tests and would comply with Regulation 122(2) of the CIL Regulations. He also agrees with the Inspector that the arrangements secured by the Travel Plan meet the statutory tests for planning obligations and would comply with Regulation 122(2) (see paragraph 14 above) but, like the Inspector (IR14.83), he does not consider that the provision in the planning obligation for the payment of £16,000 towards a heritage interpretation centre would meet the statutory tests for obligations and he therefore gives this no weight. The Secretary of State also notes (IR14.139) that no support has been shown for a bond to secure funding for decommissioning.

Planning balance and overall conclusion

26. The Secretary of State gives substantial weight to the fact that there is a demonstrable need for the facility proposed and that it can be treated as a recovery facility, thereby moving waste disposal up the hierarchy by diverting it from landfill and also helping to meet the aspirations of the WCS in terms of the need for renewable low carbon energy. The facility proposed would also be on previously developed land within an existing Business Park and, notwithstanding that there is no extant permission for development on the part of the Business Park site on which the facility is proposed, he also attaches substantial positive weight to this consideration. He also attaches some positive weight to the jobs that would be created during both the construction and operational phases of the scheme and to the financial benefits to the local and wider economy that would accrue, as well as to the potential to export heat.

27. Against the scheme, the Secretary of State gives significant weight to the material harm which the scheme would cause in terms of its visual impact on the character and appearance of the area in terms of some views from the west, along with some limited weight to the perception of harm, particularly in relation to health matters, given the fears expressed by local people. However, he considers that all other issues are neutral in the planning balance.
28. Overall, therefore, the Secretary of State concludes that scheme would constitute sustainable development under the terms of the Framework and that it is in accordance with the development plan for the area when read as a whole. He is also satisfied that, in terms of the planning balance, the adverse impacts of the development proposed would be significantly and demonstrably outweighed by the benefits.

Formal Decision

29. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby grants planning permission for the development of Bilsthorpe Energy Centre comprising a plasma gasification facility, materials recovery facility (MRF) and energy generation infrastructure together with associated infrastructure including weighbridge and offices, office, control room, effluent tanks, oxygen production unit, cooling tower, flare stack, pump house, water tank, car parking, surface water management system (including attenuation lagoon), hardstanding and roads, landscaping, fencing and gates and lighting at Bilsthorpe Business Park, off Eakring Road, Bilsthorpe, Nottinghamshire in accordance with application ref 3/13/01767/CMW dated 29 November 2013, subject to the conditions listed at Annex A to this letter.
30. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
31. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

32. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within six weeks from the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
33. A copy of this letter has been sent to Nottinghamshire County Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Jean Nowak

Authorised by the Secretary of State to sign in that behalf

Correspondence received following Secretary of State's letter of 12 April 2016

Correspondence received from	Date
Eakring Parish Council	18 April 2016
Rufford Parish Council	20 April 2016
Bilsthorpe Parish Council	20 April 2016
Kirklington Parish Council	20 April 2016
Residents Against Gasification Experiment	20 April 2016
Newark and Sherwood District Council	25 April 2016 (2 letters)
Nottinghamshire County Council	26 and 29 April 2016
United Kingdom Without Incineration Network	26 April 2016 and 5 May 2016
Axis Planning (on behalf of applicants)	26 April 2016 and 5 May 2016

Conditions

Commencement

- 1) The development hereby permitted shall begin within five years from the date of this permission.
- 2) The operator shall notify the Waste Planning Authority of the date of the material start of each phase of development in writing at least 7 days, but not more than 14 days, prior to each phase. The phases of development shall comprise:
 - the commencement of construction;
 - the commencement of commissioning trials (“commissioning trials” are defined as operations in which waste is processed under specified trials to demonstrate that the facility complies with its specified performance); and
 - the date when the development will become fully operational (“fully operational” is defined as the point from which it has been demonstrated that the facility operates in accordance with its specified performance once the commissioning trials have been successfully completed).

Approved Plans

- 3) The development hereby permitted shall only be carried out in accordance with the following documents, or where amendments are made pursuant to the other conditions below:
 - a. Bilsthorpe Energy Centre Planning Application comprising:
 - i. Planning Application Document received by the Waste Planning Authority on 29 November 2013
 - ii. Environment Statement Volume 1 Main Report received by the Waste Planning Authority on 29 November 2013.
 - iii. Environment Statement Volume 2 Technical Appendices received by the Waste Planning Authority on 29 November 2013.
 - iv. Environment Statement Transport Assessment received by the Waste Planning Authority on 29 November 2013.
 - v. Environment Statement Non-Technical Summary received by the Waste Planning Authority on 29 November 2013.
 - vi. Environment Statement Regulation 22 Submission including Non-Technical summary received by the Waste Planning Authority on 15 July 2014.
 - vii. Environment Statement Second Regulation 22 Submission including Non-Technical summary received by the Waste Planning Authority on 26 August 2014.
 - b. Plans and Drawings identifying the proposed development received by the Waste Planning Authority on 29 November 2013 comprising:

- Drawing No. 13001 P001 Rev. A: Red Line Plan
- Drawing No. 13001 P002 Rev. C: Site Layout Plan
- Drawing No. 13001 P003 Rev. A: Gasification Building Floor Plan
- Drawing No. 13001 P004 Rev. A: MRF Building Floor Plan
- Drawing No. 13001 P005 Rev. A: Elevations
- Drawing No. 13001 P006 Rev. A: Elevations on A and B
- Drawing No. 13001 P007 Rev. A: Site Sections
- Drawing No. 13001 P008 Rev. A: Roof Layouts
- Drawing No. 1301 P009 Rev. A: Fencing Layout
- Drawing No. 1301 P010 Rev. A: Ancillary Buildings
- Drawing No. 13001 P011 Rev. A: ASU Compound
- Drawing No. 13001 P012: Effluent Treatment Areas
- Drawing No. 1301 P013: Vehicles Crew Building
- Drawing No. 1391-01-01: Indicative Landscape Design
- Drawing No. CL(19)01 Rev. P4: Indicative Site Drainage Strategic Layout (1 of 2)
- Drawing No. CL(19)02 Rev. P4: Indicative Site Drainage Strategic Layout (2 of 2)

Construction Materials

- 4) Notwithstanding the details shown on the approved plans, no finish to any external elevation shall be applied unless it has previously been agreed in writing with the Waste Planning Authority.
- 5) Notwithstanding the details shown on the approved plans, details of the external appearance of all plant within the effluent treatment area shall be submitted to and approved in writing by the Waste Planning Authority prior to its siting within that area. Development shall be carried out in accordance with the approved details.

Ground Investigation

- 6) Development, other than that required to be carried out as part of an approved scheme of remediation, must not commence until Parts A to D of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Waste Planning Authority in writing, until Part D has been complied with in relation to that contamination.

Part A: Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Waste Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Waste Planning Authority. The report of the findings must include:

- i) a survey of the extent, scale and nature of contamination;

- ii) an assessment of the potential risks to:
 - a. human health;
 - b. property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - c. adjoining land;
 - d. ground and surface waters;
 - e. ecological systems; and
 - f. archaeological sites and ancient monuments.

- iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Part B: Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Waste Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Part C: Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Waste Planning Authority. The Waste Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Waste Planning Authority.

Part D: Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Waste Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Part A, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part B, which is subject to the approval in writing of the Waste Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Waste Planning Authority in accordance with Part C.

Controls Relating to Construction

- 7) Prior to the commencement of the development hereby permitted, a Construction Management Plan shall have been submitted to and approved in writing by the

Waste Planning Authority. The Construction Management Plan should include, but not be limited to:

- i. Contractors' access arrangements for vehicles, plant and personnel; contractor's site storage area/compound;
- ii. The number, size (including height) and location of all contractors' temporary buildings;
- iii. Temporary means of enclosure and demarcation of the site operational boundaries, to be erected prior to the commencement of construction operations in any part of the site and maintained for the duration of construction operations;
- iv. The means of moving, storing and stacking all building materials, plant and equipment around the site;
- v. The arrangements for parking of contractors' vehicles and contractors' personal vehicles;
- vi. Measures to ensure that dust emissions are minimised;
- vii. Details of external floodlighting installed during the construction period including hours of operation;
- viii. A construction noise mitigation scheme to ensure that noise emissions at adjoining sites (including residential and ecological receptors) are minimised. The scheme should identify those activities that can be considered noisiest, where and when these activities are likely to occur, a threshold level that would trigger a response and what such a response will be in terms of reducing noise for each noise generating activity;
- ix. The method of controlling and discharging groundwater during construction to avoid pollution of surface water and the underlying groundwater.
- x. Details of any wheel wash facility, use of water bowsers and any other measures necessary to ensure that vehicles do not leave the site in a condition whereby mud, clay or other deleterious materials are carried onto the public highway.

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

- 8) With the exception of survey works, no excavations shall commence on site until a detailed strategy and method statement for minimising the amount of construction waste resulting from the development has been submitted to and approved in writing by the Waste Planning Authority. The statement shall include details of the extent to which waste materials arising from the demolition and construction activities will be reused on site, and demonstrating that as far as reasonably practicable, maximum use is being made of these materials. If such reuse on site is not practicable, then details shall be given of the extent to which the waste material will be removed from the site for reuse, recycling, composting or disposal. All waste materials shall thereafter be reused, recycled or dealt with in accordance with the approved strategy and method statement.
- 9) No site clearance/preparation operations that involve the felling, clearing or removal of vegetation, or disturbance of bare ground shall take place between 1 March and 31 August in any year unless previously agreed in writing by the Waste Planning Authority following the submission of a report detailing survey work for nesting birds

that has been carried out by a suitably qualified ecologist at an agreed time. If nesting birds are found during the survey, the report shall include measures for their protection which may include, but are not confined to, the timing of work, pre-work checks, avoidance of nesting areas, and protection zones around nesting areas. Development shall proceed only in accordance with any necessary protection measures.

- 10) Construction works which are audible at the site boundary shall only take place between 07.00 – 18.00 Monday to Friday, and 07.00 – 13.00 on Saturdays, and not at any time on Sundays, Public or Bank Holidays, except in cases when life, limb or property are in danger. In such instances, these shall be notified in writing to the Waste Planning Authority within 48 hours of their occurrence. Construction activities which are assessed as being inaudible at the site boundary (such as internal electrical work and other quiet internal fitment work) may be undertaken outside of these times. Furthermore, construction works which cannot be halted once they are commenced (such as concrete pouring etc.) may be undertaken outside these specified hours, with the prior written permission of the Waste Planning Authority.
- 11) Noise levels during the construction phase of the development hereby permitted shall not exceed 65dB LAeq, 1 hour at any residential property and 75dB LAeq, 1 hour at the nearest façade of the main office building of the Highways Depot. The developers shall allow access to Nottinghamshire County Council staff, or representatives working on their behalf, to the application site at any time and, upon their verbal request, cease all construction operations and switch off any machinery for a period up to 15 minutes to enable measurements of ambient background noise to be taken. In the event that noise levels are measured which exceed these limits then, upon the written request of the Waste Planning Authority, the applicant shall submit a scheme within 28 days of that written request to mitigate the noise impact of the construction operations and to ensure the noise limits are complied with. The noise mitigation scheme shall thereafter be implemented in full within 7 days of the written approval of the Waste Planning Authority.

Infrastructure Connections

- 12) The route of the electrical cable connection between the development hereby permitted and the local electricity transmission system, and the drainage connection to the mains water and sewage system, shall be by underground connection only. Prior to its installation, the route and methodology for excavation shall be agreed in writing with the Waste Planning Authority. The connections shall thereafter be installed in accordance with the approved details.
- 13) Prior to the commencement of development, a scheme shall be submitted to and approved in writing by the Waste Planning Authority demonstrating that it is feasible to supply heat to the boundary of the site (being the red line shown on Drawing Number 11034_PL02 of the planning application) should viable opportunities be identified to supply heat to offsite heat users. The route of the heat connection shall thereafter be safeguarded throughout the operational life of the development.
- 14) Prior to the commencement of the commissioning of the development hereby permitted, a review of the potential to utilise the residual heat from the process shall

be carried out. The review shall incorporate further evaluation of the options to export recoverable heat from the process, developing the options identified within Chapter 16 of the Environment Statement, specifically incorporating feasibility/market analysis/market testing. The conclusions/findings of this appraisal shall be submitted to the Waste Planning Authority for its written approval, including a programme for the implementation of any potentially viable options. The developer shall thereafter undertake all reasonable endeavours to commission all viable options following their approval in writing by the Waste Planning Authority. In the event that the Waste Planning Authority conclude that that viable heat recovery options are not currently available in the local area at the time of this review, the developer shall repeat the heat investigation process every three years during the operational life of the plant.

Capacity of Site

- 15) The maximum combined total tonnage of residual waste and solid recovered fuel imported on to the site in any calendar year (i.e. 1 January -31 December) shall not exceed 117,310 tonnes. The site operator shall maintain a record of the tonnage of residual waste and solid recovered fuel delivered to the site per day, the numbers of HGVs delivering waste and the number of HGVs exporting residues and their destinations. The record shall be made available to the Waste Planning Authority upon prior written request. A report of the total tonnage of waste imported to the site in each successive calendar year shall also be provided in writing to the Waste Planning Authority within one month of the year end.

Recovery Status of the Plant

- 16) Prior to the development hereby permitted being brought into use, the operator shall submit to the Waste Planning Authority for approval in writing, verification that the facility has achieved Stage R1 Status through Design Stage Certification from the Environment Agency. The facility shall thereafter be configured in accordance with these approved details. Once operational, alterations to the processing plant may be undertaken to satisfy Best Available Technique or continued compliance with R1.

Highways

- 17) Prior to commencement of commissioning trials, the access scheme shown on the approved site layout plan (Drawing No. 13001 P002 Rev. C) shall have been implemented in full. Thereafter, access provisions within the site shall comply with the details identified on the drawing.
- 18) There shall be a maximum of 616 two way HGV movements each week (308 HGV's into the site and 308 HGVs out of the site) in any one week (Monday to Friday and half day Saturday). Written records shall be maintained of all HGV movements, including the time of day such movements take place. Copies of the HGV vehicle movement records shall be made available to the Waste Planning Authority within 7 days of a written request being made by the Waste Planning Authority.
- 19) Prior to the development first being brought into operational use, 8 covered and secure bicycle stands, and staff shower/changing/locker facilities, shall have been

provided and made available for use at all times for staff members, in accordance with details that shall previously have been submitted to and agreed in writing by the Waste Planning Authority. Once installed, the said facilities shall be retained for use by staff members thereafter.

- 20) At all times, measures shall be employed to ensure that detritus material from the development hereby permitted is not deposited on the public highway. Such measures shall include, but are not confined to, the regular sweeping and cleaning of on-site vehicle circulation and manoeuvring areas during the operational phase. In the event that these measures prove inadequate then, within one month of a written request from the Waste Planning Authority, additional steps or measures shall be taken in order to prevent the deposit of materials upon the public highway, the details of which shall have previously been submitted to and agreed in writing by the Waste Planning Authority.

Drainage

- 21) The development hereby permitted shall not be brought into use unless and until surface water drainage works have been implemented in accordance with details that have previously been submitted to and approved in writing by the Waste Planning Authority. Before these details are submitted, an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in the Government's Planning Practice Guidance, and the results of the assessment provided to the Waste Planning Authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site, the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - b) include a timetable for its implementation and provide a management and maintenance plan for the lifetime of the development, which shall include the arrangements for adoption by any public authority or statutory undertaker, and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 22) Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.
- 23) Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The size of the bunded compound shall be at least equivalent to the capacity of the tank plus 10% or, if there is more than one container within the system, of not less than 110% of the largest container's

storage capacity or 25% of their aggregate storage capacity, whichever is the greater. All filling points, vents, and sight glasses must be located within the bund. There must be no drain through the bund floor or walls.

Noise

- 24) Except in emergencies when life, limb or property is in danger, which occasions are to be notified to the Waste Planning Authority in writing within 48 hours of their occurrence, the following shall not take place except within the hours specified:

	Mondays to Fridays	Saturdays	Sundays, Bank and Public Holidays
Import and export of materials to the site.	07:00 – 19:00	07:00 – 13:00	Not at all
Movement of mobile plant and machinery outside of the buildings	07:00 – 23:00	07:00 – 17:00	09:00 – 16:00
Operation of Materials Recovery Facility	07:00 – 23:00	07:00 – 16:00	Not at all
Operation of Gasification Facility	24 hours	24 hours	24 hours

- 25) The loading doors to the gasification and MRF buildings hereby permitted shall be fitted with a fast acting closing system that ensure they are closed immediately following the passage of a vehicle into/out of the building. During daytime hours (07:00 – 19:00hrs inclusive) loading doors may only be opened when required for HGV movement into/out of buildings. Outside these hours, the loading doors shall not be opened. Doors which allow the movement of personnel into and out of the buildings shall be fitted with self-closing mechanisms that ensure closure when people are not passing through.
- 26) Prior to commencement of construction, details of noise mitigation measures to be incorporated into the final design shall be submitted to the Waste Planning Authority and approved in writing. The submitted details shall incorporate:
- Details of the Weighted Sound Reduction Index of cladding to the gasification/plant buildings and enclosures to gas engines/ASU plant, including any doors.
 - Noise data, stated as the 'A weighted' Sound Pressure Level at 1 metre from plant which may include, but is not limited to:
 - i) End of exhaust stacks

- ii) Ventilation louvres/openings
- iii) Gas Engines
- iv) ASU Plant
- v) Blower Room and pumps associated with the Tank Farm and Waste Water
- vi) Flaring

The submitted information shall be accompanied by a 'Noise Statement' from a suitably qualified noise consultant, detailing how the proposed scheme of noise mitigation measures will ensure compliance with the conditioned noise limits. Development shall be carried out in accordance with the approved details.

- 27) Reversing alarms on all mobile plant machinery used on the site shall be of the white noise (broadband) type.
- 28) With the exception of emergency situations, any steam vent safety valve checks and other checks/routine maintenance likely to give rise to noise levels exceeding 70dB(A) at 1metre, shall be carried out during non-sensitive times of the day, i.e. 08:00-17:00hrs Monday - Friday.
- 29) Site contributory noise levels throughout the operational life of the development shall not exceed an LAeq,1hr free-field level of LA90 +5 dB or 35dB (whichever is higher) during the daytime hours of 07:00-23:00 including a 5dB penalty for tonal/impulsive noise if applicable; and an LAeq,15min free-field level of LA90 +0dB or 35 dB (whichever is higher) during the night-time hours of 23:00- 07:00 including a 5 dB penalty if applicable, at any residential property. Furthermore, fixed plant site contributory noise levels, measured 3.5 metres from the nearest façade of the main office building of the Highways Depot, shall not exceed 55 dB LAeq,1hr. The rating level and background level shall be determined in accordance with the guidance and methodology set out in BS4142:2014. In the first year following the plant becoming operational, the operator shall undertake a three monthly noise survey to verify compliance with the approved noise limits. A noise compliance monitoring scheme should be agreed in writing with the Waste Planning Authority prior to commencement of the noise survey, to enable site contributory noise to be determined. This may involve monitoring at a near field position, and agreed calculation method, to show compliance. Measurements taken to verify compliance shall have regard to the effects of extraneous noise and shall be corrected for any such effects. The results of the noise survey shall be submitted to the Waste Planning Authority within a written report for approval in writing. In the event that compliance with noise criteria is not achieved, the report shall identify further noise attenuation measures to mitigate noise emissions. These additional noise mitigation measures shall be implemented following their written approval by the Waste Planning Authority.
- 30) In the event of a justifiable noise complaint being received by the Waste Planning Authority, the operator shall, within a period of 30 days of a written request from the Waste Planning Authority, submit a noise assessment report to the Authority to demonstrate compliance, or otherwise, with the noise limits that have been imposed. If the noise levels prescribed by conditions 28 and 29 above are found to have been exceeded, then the operator must incorporate, as part of the noise assessment

report, a scheme of noise mitigation for approval in writing. The noise mitigation scheme shall thereafter be undertaken in accordance with the details approved by the Waste Planning Authority.

Litter

- 31) Prior to development hereby permitted first being brought into operational use, details of scheme to prevent litter arising from construction works, and that arising throughout the operational life of the development hereby permitted, escaping from the site shall be submitted to and approved in writing by the Waste Planning Authority. The scheme to be submitted shall include provisions for regular updating in order to reflect best practice. Development shall be carried out in accordance with approved scheme. All measures integrated shall be in operation for as long as the development is operational.

Dust

- 32) Prior to development hereby permitted first being brought into operational use, details of a scheme to ensure that fugitive dust emissions are minimised as far as practicably possible. The scheme to be submitted shall be submitted to and approved in writing by the Waste Planning Authority. The scheme to be submitted shall include provisions for regular updating in order to reflect best practice. The measures to be provided shall include, but are not necessarily limited to, the following:

- The use (as appropriate) of a dust suppression system within areas likely to give rise to fugitive dust emissions;
- All vehicles transporting waste materials either to or from the site shall be fully enclosed or sheeted.

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

Odour

- 33) Prior to development hereby permitted first being brought into operational use, details of measures to ensure that operations do not give rise to any malodours shall be submitted to and approved in writing by the Waste Planning Authority. The scheme to be submitted shall include provisions for regular updating in order to reflect best practice. The measures to be provided shall include, but are not necessarily limited to, the following:

- Regular movement of waste within the refuse bunker to ensure that material is circulated on a regular basis, ensuring that the waste is not allowed to decompose;
- The operation of negative air pressure within the tipping hall area and an odour management system, which would draw air from the reception building (and the MRF), through a series of carbon filters (or similar); and

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

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

- 34) At no time shall any storage container, skip, sorted or unsorted waste material, or residue of recycled materials, or any other waste related items or material be stored outside the buildings or on operational vehicles.

External Lighting

- 35) All external lighting, including floodlighting and cowling enclosures for the completed buildings and site, shall be developed and operated in accordance with a detailed scheme that has previously been submitted to and approved in writing by the Waste Planning Authority. The scheme shall incorporate a lighting contour map to identify levels of lighting within the application site and any light spillage onto adjacent land, and shall ensure that the external faces of the completed buildings and chimneys are not illuminated.

Landscaping

- 36) No later than one year after the date of commencement of construction, as notified under condition 2 above, a landscape scheme for the site shall be submitted to and approved in writing by the Waste Planning Authority and these works shall be carried out as approved. The landscaping scheme shall include:

Hard Landscaping

- a. Proposed finished levels or contours;
- b. Means of enclosure;
- c. Car parking surfacing;
- d. Other vehicle and pedestrian access and circulation areas surfacing;

Soft Landscaping

- a. Planting proposals which are sensitive to the habitat of adjoining sites and which do not offer predator perches in relation to the wader mitigation area.
- b. Written specifications (including cultivation and other operations associated with plant and grass establishment);
- c. Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate;
- d. Habitat suitable for dingy skipper butterflies;
- e. An implementation programme, to include timetable of landscaping/planting and arrangements for a minimum of 5 years aftercare/post planting management.

- 37) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with the timetable approved pursuant to condition 36 above, and shall be maintained thereafter in accordance with the approved

management plan. Any trees, shrubs or planting that, within a period of five years after planting, die, are removed or, in the opinion of the Waste Planning Authority, become seriously damaged or diseased, shall be replaced in the following planting season with others of similar size and species, unless the Waste Planning Authority gives written approval to any variation.

Closure of Site

- 38) In the event that use of the site for the importation of waste should cease for a period in excess of one month then, within one month of a written request from the Waste Planning Authority, the site shall be cleared of all stored waste and processed materials.
- 39) The operator shall inform the Waste Planning Authority in writing within 30 days of final cessation of operation by the development hereby permitted that all operations have ceased. Thereafter, the site shall be restored within a period of 24 months in accordance with a scheme to be submitted for the written approval of the Waste Planning Authority not less than 6 months prior to the final cessation of operation of the development hereby permitted. The scheme shall include the removal of all buildings, chimney stack, associated plant, machinery, waste and processed materials from the site.

Local Employment/Economic Opportunities

- 40) Prior to commencement of the development hereby permitted, a scheme of measures to promote and encourage local employment and economic opportunities through the construction and operational phases of the development shall be submitted to and approved in writing by the Waste Planning Authority. The scheme shall include, but is not limited to, the measures set out in Table 14.17 of the submitted Environmental Statement Main Report (November 2013). Development shall be carried out in accordance with the approved scheme.

Report to the Secretary of State for Communities and Local Government

by Mrs J A Vyse DipTP DipPBM MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 22 January 2016

TOWN AND COUNTRY PLANNING ACT 1990
PLANNING APPLICATION MADE BY
PEEL ENVIRONMENTAL MANAGEMENT UK LIMITED
AND
BILSTHORPE WASTE LIMITED
TO
NOTTINGHAMSHIRE COUNTY COUNCIL

Inquiry opened on 3 November 2015

Bilsthorpe Business Park, off Eakring Road, Bilsthorpe, Nottinghamshire NG22 8ST

File Ref: APP/L3055/V/14/3001886

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APPENDICES

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File Ref: APP/L3055/V/14/3001886

Bilsthorpe Business Park, off Eakring Road, Bilsthorpe, Nottinghamshire NG22 8ST

- The application was called in for decision by the Secretary of State by a Direction, made under section 77 of the Town and Country Planning Act 1990, on 19 December 2014.
- The application is made by Peel Environmental Management UK Limited and Bilsthorpe Waste Limited to Nottinghamshire County Council
- The application, No 3/13/01767/CMW, is dated 29 November 2013.
- The proposal is described as 'Development of the Bilsthorpe Energy Centre (BEC) comprising a plasma gasification facility, materials recovery facility (MRF) and energy generation infrastructure together with associated infrastructure including weighbridge and offices, office, control room, effluent tanks, oxygen production unit, cooling tower, flare stack, pump house, water tank, car parking, surface water management system (including attenuation lagoon), hardstanding and roads, landscaping, fencing and gates and lighting.'
- On the information available at the time of making the Direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application: its consistency with the development plan for the area and with policies contained in the National Planning Policy for Waste, the National Waste Management Plan for England and in the National Planning Policy Framework, together with any other matters the Inspector considers relevant.

Summary of Recommendation: That the application be approved.

1. PROCEDURAL AND BACKGROUND MATTERS

1.1 I held a pre-Inquiry meeting on 24 June 2015 to consider administrative and other arrangements for the event¹. From my initial look at the application documents, and having regard to the Secretary of State's Direction letter, I indicated that the Secretary of State would need to come to a view as to whether the proposal comprises sustainable development within the context of the National Planning Policy Framework. Considerations that may be encompassed by that would be likely to include, but would not be confined to, the following:

- whether the facility comprises a waste disposal or recovery operation;
- whether the scheme would accord with the development plan for the area;
- whether relevant development plan policies are up to date and consistent with the National Planning Policy Framework;
- the extent to which the scheme would be consistent with the National Planning Policy for Waste and the National Waste Management Plan for England;
- the historic environment;
- landscape and visual impact;
- source emissions;
- odour, noise and vibration;

¹ CD69

- ecology and agriculture;
 - surface water quality and sewage disposal;
 - tourism and socio-economic development in the area;
 - traffic and access arrangements;
 - the adequacy of the environmental statement; and,
 - any benefits to be weighed in the planning balance, including any implications of not proceeding with the scheme.
- 1.2 The Inquiry itself opened on 3 November 2015 and sat for a total of seven days (3-6 and 10-12 November 2015). Members of the public presented evidence during the Inquiry, including at an evening session held on 4 November.
- 1.3 I carried out an accompanied site visit on the afternoon of 4 November 2015, prior to the evening session referred to above. However, due to adverse weather conditions, we could not see all that was required. A second accompanied visit was carried out on the afternoon of 9 November, but we ran out of daylight. The final part of the accompanied site visit was carried out on 12 November, following the close of the Inquiry.
- 1.4 The Waste Planning Authority (Nottinghamshire County Council) to whom the application was made, supported the development at the Inquiry. Newark & Sherwood District Council (the local planning authority) objected to the proposal and, initially, intended appearing at the Inquiry, seeking Rule 6(6) status. In the event however, they did not appear or present any written evidence, relying instead on their committee report and consultation response².
- 1.5 Dr K Chow sought, and was afforded, Rule 6(6) status for the Inquiry. In addition, two action groups presented evidence – Residents Against Gasification Experiment (RAGE) and United Kingdom Without Incineration (UKWIN).
- 1.6 There is reference in many of the written representations, and those representations made orally during the Inquiry, to concerns about the way in which the decision not to oppose the application was taken at the County Council's committee meeting on 18 November 2014³. In particular, concern was raised about Members taking part in a private session during the committee meeting, before voting on the application. However, that is not a matter for me as part of the Inquiry proceedings.
- 1.7 Dr Chow and local residents, including the two action groups, none of whom were legally represented, also mentioned concern at times about 'equality of arms'. I am mindful, in this regard, of Article 6 of the European Convention on Human Rights, which seeks to ensure that people have an equal opportunity to put their case. However, it is not uncommon for parties to come to an Inquiry with varying levels of representation and individuals often

² CD45

³ CD9

appear unrepresented. Being very aware of the duties imposed on me as the appointed Inspector, in particular the duty to ensure that the Inquiry was conducted fairly and that all participants were afforded the opportunity to present their cases whilst observing the rules that govern the conduct of such events, I assisted those opposing the development to present their cases, so far as I was able within the scope of the powers afforded to me and within the constraints of my own impartiality, having regard to the need to run proceedings as efficiently and effectively as possible. I am satisfied that the conditions under which objectors were able to present their respective cases was fair to all parties in the circumstances. Their European Convention rights in this regard have not been offended.

- 1.8 The application is accompanied by a planning obligation⁴. The arrangements secured are a material consideration and are addressed in more detail later in this Report.
- 1.9 Operation of the proposed facility, and all emissions, would be regulated by an Environmental Permit which would be issued by the Environment Agency. No application for a Permit had been made in advance of the planning application or the Inquiry.
- 1.10 Last, but by no means least, my sincere thanks go to Mrs Tracy Barnes, the Programme Officer for the Inquiry, for her help in dealing with a variety of programming and related matters, and her liaison with the parties and the public. Her assistance in this respect was much appreciated by all those involved in the Inquiry, not least myself, and helped with its smooth running.

2. THE SITE AND ITS SURROUNDINGS

- 2.1 The site and its surroundings are described in detail in various places, including the Planning Statement that accompanied the application⁵, section 7.3 of the Environmental Statement⁶, the officer's report to committee⁷, the Statement of Common Ground between the Council and the applicants dated March 2015 (SoCG1)⁸, and at Appendix K to the proof of Mr Roberts⁹.
- 2.2 The 4.35 hectare application site is located within Bilsthorpe Business Park, which extends to around 24 hectares and occupies land that historically accommodated the operational pit head area of the former Bilsthorpe Colliery. It lies to the north-east of the village of Bilsthorpe. In terms of its wider context, the site lies some 24 kilometres to the north of Nottingham, 19 kilometres west of Newark and 11 kilometres east from the centre of Mansfield.
- 2.3 The pit-head area has largely been cleared of its buildings and, in part, has been redeveloped through the erection of a number of business units, together with a mine gas utilisation plant and the County Council's Northern Area Highways Depot, which lies adjacent to the application site. The site is generally level and was cleared of vegetation in 2013. It comprises entirely

⁴ ID28

⁵ CD1 Part 3

⁶ CD2

⁷ CD9

⁸ CD65

⁹ APP/NR/2

made ground and is underlain by former mine shafts which have been backfilled and capped.

- 2.4 The Business Park is set within a bowl-shaped landform, bounded to the north, east and south by restored colliery spoil tips. A disused railway line runs along the southern boundary of the Business Park, running along the northern edge of Bilsthorpe out into Sherwood Pines Forest Park to the west. It has recently been converted into a multi-user route, allowing access for pedestrians, riders and non-motorised vehicles. An earth mound planted with trees, created as part of the colliery restoration scheme, forms a woodland belt along the western boundary. A surface water lagoon, used as a fishing lake, lies some 80 metres to the north-east of the application site and five wind turbines (known as the Stonish Hill turbines, with a blade tip height of some 100 metres, which were allowed on appeal¹⁰) are located on elevated land to the north, north-east and east of the Business Park.
- 2.5 Further to the north-east is the village of Eakring, separated from the Business Park by Stonish Hill/Mill Hill. To the south-east is the site of a restored landfill, beyond which the land is predominantly in agricultural use. Eakring Brail Wood also lies to the south-east of the Business Park. To the south is an undeveloped area of the former colliery, beyond which is the boundary of the village of Bilsthorpe. Part of the land to the south has recently been developed as a solar farm. To the west is Eakring Road, beyond which is a series of agricultural fields, punctuated by a row of residential properties, and the A614. The main part of Bilsthorpe lies to the south-west. Several small clusters of industrial/commercial units are located towards the eastern and south-eastern edges of the village. The nearest residential properties to the application site are located some 400 metres to the west, on Eakring Road. The main body of residential properties, within the village of Bilsthorpe, is some 420 metres from the site boundary at its closest.
- 2.6 To the north, is Deerdale Lane, which runs from the A614 to Eakring, beyond which the land is predominantly in agricultural use, although Cutts Wood lies opposite the junction of Eakring Road with Deerdale Lane. The Business Park is accessed by a private road off Eakring Road which, in turn connects to Deerdale Lane. The route from the Business Park to the main road is signposted as a HGV advisory route.
- 2.7 The site lies within a designated Local Wildlife Site¹¹. Bilaugh Special Area of Conservation lies some 6.3 kilometres to the north. The site also lies within the 5 kilometre buffer zone of the Sherwood Important Bird Area and is within 2 kilometres of an Indicative Core Area identified by Natural England for a potential prospective Special Protection Area.

3. PLANNING POLICY

- 3.1 At the time of the Inquiry, the development plan for the area included the Nottinghamshire and Nottingham Replacement Waste Local Plan Waste Core Strategy (adopted in December 2013)¹², the saved policies of the

¹⁰ APP/B3030/A/08/2072487 An subsequent application to amend three of the turbines was approved in 2010

¹¹ Previously identified and referred to by local residents as a Site of Importance for Nature Conservation (SINC)

¹² CD62

Nottinghamshire and Nottingham Waste Local Plan of January 2002¹³ that have not been replaced by the Waste Core Strategy, the Newark and Sherwood Core Strategy (adopted in March 2011)¹⁴ and the Newark and Sherwood Allocations and Development Management DPD (adopted in July 2013)¹⁵.

Nottinghamshire and Nottingham Replacement Waste Local Plan Waste Core Strategy (WCS)

- 3.2 The WCS replaced many of the policies in the Waste Local Plan. It sets out the overall approach for future waste management in the area, including estimates of how much waste capacity needs to be provided over the next 20 years, what types of sites are suitable and where, in broad terms, new or extended waste management facilities should be located.
- 3.3 WCS1 provides that planning applications that accord with the policies in the WCS and with policies in other plans which form part of the Development Plan, will be approved without delay. Where no policies are relevant, or relevant policies are out-of-date, permission will be granted unless material considerations indicate otherwise.
- 3.4 Policy WCS3 aims to provide sufficient waste management capacity for the needs of the area, and confirms that development should accord with the aim to achieve 70% recycling or composting of waste by 2025. WCS3b) indicates that new energy recovery facilities will be permitted, where it can be shown that this would divert waste that would otherwise be sent for disposal, and the heat and/or power generated can be used locally or fed into the national grid.
- 3.5 WCS4 supports large scale waste treatment facilities in, or close to the built up areas of Nottingham and Mansfield/Ashfield. Such development in the open countryside will only be supported where there is a clear local need, particularly where this would provide enhanced employment opportunities. WCS7 is supportive of waste management facilities in specified general locations, subject to no unacceptable environmental impacts. For gasification facilities, those locations include areas already used for employment uses, such as business parks, and derelict or previously-developed land, including former un-restored colliery land in need of restoration. WCS9 supports new or emerging technologies where it would lead to more efficient and sustainable management of waste.
- 3.6 Policy WCS11 provides that all waste management proposals should seek to make the best use of the existing transport network and minimise the distances travelled in undertaking waste management.
- 3.7 WCS13 makes clear that new facilities will be supported only where it can be demonstrated that there would be no unacceptable impact on any element of environmental quality, or the quality of life of those living or working nearby, and where this would not result in an unacceptable cumulative impact. Proposals should maximise opportunities to enhance the local environment through the provision of landscape, habitat or community facilities.

¹³ CD61

¹⁴ CD63

¹⁵ CD64

Nottinghamshire and Nottingham Waste Local Plan (WLP)

- 3.8 In terms of the saved policies of the WLP, policies W3.3 and W3.4 confirm that, where permission is granted for a waste management facility, conditions will be imposed to mitigate visual impact by means of siting, height, external materials and landscaping. Policies W3.5 and W3.6 resist waste management facilities where there would be an unacceptable risk of pollution to ground or surface water and require the use of conditions to protect such resources. Policies W3.7, W3.8, W3.9, W3.10 and W3.11 seek, respectively, to reduce the impact of unpleasant odours, litter nuisance, noise, dust and deleterious material on the highway. Policies W3.14 and W3.15 aim to limit the effect of associated traffic movements. Policies W3.22 and W3.23 are aimed at protecting priority species and habitats and providing opportunities for habitat creation and enhancement. Policy W3.28 seeks to protect the character, appearance, condition and setting of heritage assets and W3.29 resists waste management development where it would result cumulatively in a significant adverse effect on the character of the existing landscapes and/or the amenity of nearby settlements.

Newark & Sherwood Core Strategy (N&SCS)

- 3.9 The N&SCS sets out key issues alongside a vision and objectives for the District to 2026. It does not contain any policies specifically relating to waste management. Spatial Policy (SP) 1 identifies Bilsthorpe as a Principal Village. SP2 confirms that the strategy for Bilsthorpe is regeneration, being a location where the Council seeks, among other things, to provide new employment opportunities and the regeneration of vacant land. The same policy identifies that 29 hectares of employment land will be provided in the Sherwood area. Those 29 hectares encompass all of the Bilsthorpe Business Park, including the application site¹⁶. SP3 confirms that development away from the main built up areas of villages, in the open countryside, will be strictly controlled and restricted to uses that require a rural setting, or comprise re-use of rural buildings. In essence, SP7 promotes sustainable transport, including the use of travel plans. Among other things, it also seeks to reduce the impact of traffic movement and to ensure that the safety, convenience and free flow of traffic using the highway is not adversely affected.
- 3.10 Core Policy (CP) 6 seeks to retain and safeguard employment land and sites. It confirms that existing industrial estates and employment areas, such as the application site, together with those allocated for employment development, will continue to be developed for business purposes. CP9 requires that all development proposals demonstrate a high standard of sustainable design that both protects and enhances the natural environment and contributes to and sustains the rich local distinctiveness of the District. CP10 confirms that the District is committed to tackling the causes and effects of climate change and to delivering a reduction in the District's overall CO₂ emissions. To that end, it encourages the provision of renewable and low carbon energy generation within new development. CP12 seeks to preserve and enhance biodiversity

¹⁶ As confirmed by Table 5 (page 113) of the NandSCS and page 194 of the Allocations and Development Management DPD. See also paragraphs 7.40, 7.55, 7.56, 7.598.18.

and CP13 confirms that the LDF will introduce a comprehensive landscape character assessment. Development proposals are expected to positively address the implications of the policy zones identified therein and to demonstrate that they would contribute towards meeting the identified Landscape Conservation and Enhancement Aims for the particular area within which they would be located. CP14 seeks to secure the continued preservation and enhancement of the character, appearance and setting of heritage assets and the historic environment.

- 3.11 Policy ShaP1 seeks to maintain and enhance the ecological, heritage and landscape value of the Sherwood Area, whilst promoting sustainable and appropriate leisure, tourism and economic regeneration. This is to be achieved by, among other things, ensuring that development does not impact adversely upon the Birklands and Bilhaugh Special Area of Conservation or national, regional, county and locally designated sites, and by supporting development of a Sherwood Forest Regional Park.

Newark and Sherwood Allocations and Development Management DPD (DPD)

- 3.12 In order to achieve the commitment to carbon reduction set out in policy CP10 of the N&SCS, policy DM4 is permissive of renewable and low carbon energy generation development where its benefits are not outweighed by detrimental impact on, among other things, landscape character, defined views, heritage assets and/or their settings, amenity, including noise pollution, highway safety and ecology. DM5 sets out a list of criteria against which the design of new proposals will be assessed including access, amenity, local distinctiveness and character, biodiversity, ecology and water management. In line with the requirements of CP12, policy DM7 seeks, among other things, to ensure that new development contributes to the ecological network. Policy DM8 limits development in the open countryside to particular categories, including small scale employment development and the expansion of existing businesses. DM9 seeks to protect and enhance the historic environment and DM10 requires that potentially polluting development should take account of, and address such impacts in terms of health, the natural environment and general amenity.
- 3.13 Section 5.9 of Statement of Common Ground 1 (SoCG1)¹⁷ sets out an extensive list of other material considerations including European Directives; National planning policy documents; National (renewable) energy strategy, guidance and legislation; and other relevant factors and documents.

4. THE PROPOSAL

- 4.1 Detailed descriptions of what the proposed scheme entails are set out in various places, including Section 4 of the Environmental Statement¹⁸ and SoCG1¹⁹.
- 4.2 The proposed Energy Centre would be located within Bilsthorpe Business Park. It would be based around two main buildings, an integrated materials recovery facility (MRF) and a gasification facility employing plasma gasification

¹⁷ CD65

¹⁸ CD2

¹⁹ CD65

technology which would recover energy, a proportion of which would be renewable, together with associated infrastructure and landscaping.

- 4.3 The waste material that would be processed at the site would mainly comprise residual non-hazardous commercial and industrial (C&I) waste sourced from within Nottinghamshire and Nottingham (and possibly surrounding authority areas) much of which waste is currently sent to landfill²⁰. The facility would also be capable of accepting municipal solid waste. Waste would arrive either pre-treated as a solid recovered fuel (SRF) ready for gasification, or requiring pre-treatment within the MRF to recover recyclables and produce SRF for gasification. The MRF would be designed to manage around 117,310 tonnes of waste per annum (recycling up to 22,300tpa of C&I waste²¹). That is greater than the capacity of the gasification facility (95,000 tonnes per annum) since it takes account the proportion of material that would be recovered for recycling.
- 4.4 The two main buildings would be oriented north/south on the site and the main access to the site would be taken from the existing estate road. The development would include some 14,956 square metres of waste management floor space and 412 square metres of related B1 (office) floor space. The MRF/reception building would have a maximum length of around 97 metres through the main body of the building, and a maximum width of some 81.8 metres. Height would be in the region of 14.8 metres.
- 4.5 The SRF would be blended with limestone and metallurgical coke to form a feedstock, which would then be transferred from the MRF/reception building to the gasification facility via three enclosed high level conveyors to the gasification facility. The gasification facility would be divided into various process areas. It would vary in length between 75 - 99.4 metres, with a width of between 70.6 - 93.6 metres. The various parts of the building would be of different heights, depending on the process. The tallest part of the building, housing the vertical gasifier units, would have a height of some 31.8 metres. The two exhaust stacks, associated with the gas engines, would have a height of some 60 metres.
- 4.6 The gasifiers would be equipped with a plasma torch system which generates high internal temperatures in an oxygen deprived environment, sufficient to convert organic material contained in the feedstock into a synthesis gas (syngas) and to melt all the inorganic material to form a non-toxic molten slag. The slag would ultimately be exported off-site. It is anticipated that up to 23,000 tonnes of slag per annum would be produced, which would be suitable for re-use as a secondary aggregate in the construction industry. After cleaning, the syngas would be fed into the power generation area, comprising up to eight internal combustion engines. Following combustion, exhaust emissions would be cleaned prior to release to the atmosphere via the exhaust stacks.
- 4.7 Domestic foul sewage from the development would be conveyed by sewer to the nearby Bilsthorpe Waste Water Treatment Works (WWTW). Trade effluent

²⁰ Paragraph 4.5 of the Waste Core Strategy (CD62) estimates that around 900,000 tonnes of C&I waste is produced in Nottinghamshire and Nottingham each year and that in 2009, approximately 52% was recycled. Approximately 300,000 tonnes of C&I waste was landfilled within Nottinghamshire in 2010, although it is not clear where that waste originated from, or how much 'local' waste is landfilled outside the county.

²¹ APP/NR/1 paragraph 4.2.28

would be treated in a dedicated on-site effluent treatment area to the requisite discharge parameters and then would be conveyed, via sewer, to the WWTW.

- 4.8 A number of other ancillary structures are also proposed, including an external slag container storage area; a Wet Electrostatic Precipitator; a cooling tower (with a height of 10.7 metres) which would be located within a louvred shroud; a flare stack (30 metres high); a pump house and firewater tank; an electrical sub-station and switchgear; engine oil tanks; external storage tanks for the storage of oxygen and nitrogen; a gatehouse and associated pit-mounted weighbridges; a vehicle crew building to provide a welfare facility for visiting drivers; and surface water drainage and attenuation features.
- 4.9 The main buildings would be externally steel clad and finished in a predominantly silver colour, but with sections of grey and terracotta to break up the building profile. The exhaust stacks would be of powder coated steel finished in white, the flare stack having a steel finish. The site would be secured by 2.4 metre high weld mesh fencing with lockable steel gates.
- 4.10 It is intended that the Energy Centre would be open for the import/export of materials Monday-Friday (07.00-19.00 hours) and Saturday (07.00-13.00 hours) with no HGV deliveries or collections on Sundays or Bank Holidays. The MRF would operate over two shifts between 07.00-23.00 hours on weekdays, with an additional Saturday shift between 07.00-16.00 hours. It would not operate on Sundays or Bank Holidays. The gasification facility would operate 24 hours a day, seven days a week.
- 4.11 As set out in the Third Regulation 22 submission²², the facility is calculated as having an installed electricity generating capacity of around 13.77 megawatts (the electricity being generated through the gasification of the feedstock and the combustion of the resulting syngas in a series of internal combustion engines). It is assumed that up to 46.2% would be classed as renewable energy, equating to 6.36MW of the electricity generated by the facility, increasing the current installed capacity in the region by around 1.98%. The Environmental Statement confirms that some 4 megawatts of the electricity generated would be used within the plant itself²³, the remainder being available for export to the local grid. The facility would also have the potential to capture some 5.5 megawatts of heat in the form of hot water recovered from the cooling systems associated with the combustion process although, at the present time, no user has been identified for such.

5. ENVIRONMENTAL ASSESSMENT

- 5.1 The proposed development has been subject to the formal process of Environmental Impact Assessment under the Town and Country Planning (Environmental Impact Assessment) (England) Regulations 2011 (EIA Regulations). The scope of the subsequent Environmental Statement of November 2013 (ES)²⁴, which accompanied the planning application and which examines and evaluates the likely environmental effects of the development, was agreed with the County Council and was informed by a formal Scoping Opinion from the Council and an informal scoping exercise that included

²² CD75 paragraph 5.2.10 as amended by APP/SMO/6 paragraph 3.2

²³ CD2 paragraph 4.1.5

²⁴ CDs 2, 3 and 4

Newark and Sherwood District Council, Natural England, the Environment Agency and English Heritage (now Historic England).

- 5.2 The ES was updated by way of further and other information through separate Regulation 22 submissions in July and August 2014 and another in September 2015²⁵. That information did not identify any additional environmental impacts and did not change significantly the conclusions presented within the original ES. All of this information was duly publicised, in accordance with the Regulatory requirements, in advance of the Inquiry.
- 5.3 The ES deals with the likely significant impact of the development proposed in terms of need and the alternatives considered, traffic and transportation, landscape and visual effects, ecology and nature conservation, geology, hydrology and ground conditions, surface waters and flood risk, noise and vibration, air quality and human health, cultural heritage, socio-economic effects, cumulative effects and energy export connections.
- 5.4 The Regulation 22 submissions included further assessment on: cultural heritage; waste related matters including R1 recovery status, operation of the MRF, the waste hierarchy and local waste policy; climate change and low carbon energy; alternative technologies; and potential impact in relation to species including woodlark, nightjar, bats, great crested newts, breeding birds and waders, dingy skipper butterflies, a nearby SSSI (Redgate Woods and Mansey Common) and a Special Area of Conservation (Birklands and Bilhaugh) that lies some 7.21 kilometres from the application site.
- 5.5 The ES confirms that the application site lies within the 5 kilometre buffer zone of the Sherwood Important Bird Area (IBA) and is just within 2 kilometres of an Indicative Core Area (ICA) identified by Natural England for a potential prospective Special Protection Area (ppSPA). The boundary of the ppSPA is contained within that of the IBA. In accordance with established practice, and for the purposes of environmental impact assessment, the ES treats the ppSPA, in terms of considering the potential for the development to impact upon qualifying species of the ppSPA and the habitats which support them, as if it were a designated European conservation site²⁶.
- 5.6 I am satisfied that the information contained in the ES and the subsequent submissions, together with the further evidence I heard at the Inquiry on environmental matters, represents the necessary environmental information required for the purposes of the EIA Regulations and I have taken this information into account in considering the development proposed. In coming to that view, I am mindful that UKWIN continues to be concerned with regard to the waste data used and the R1 status of the facility, together with ecological survey and mitigation issues. In addition, the main thrust of the evidence presented by Dr Chow was that there was insufficient information to be able to assess the impact of emissions from the facility. Such differences of opinion are to be expected in cases such as this and were the subject of evidence at the Inquiry. However, those differences do not alter my view as to the adequacy of the Environmental Statements. I deal with the concerns raised in the conclusions section of this Report.

²⁵ Regulation 22 of the EIA Regulations. CDs 6, 7, 74, 75, 80 and 81

²⁶ APP/KH/1 paragraph 3.3

6. AGREED MATTERS

- 6.1 Three separate Statements of Common Ground (SoCG) have been submitted. SoCG1²⁷, dated March 2015, is made between the applicants and Nottinghamshire County Council. It includes an agreed description of the application site and its surroundings and the development proposal, the planning history and application process, the planning policy context, the need for the scheme, an agreed assessment of the scheme against national and local policy relating to waste management, renewable energy and climate change, an agreed assessment of the scheme against national and local environmental and development management policy, and other benefits arising from the development, together with suggested conditions and matters to be covered in a planning obligation.
- 6.2 A second SoCG²⁸, dated April 2015, between the applicants, the County Council and Dr Chow, sets out that Dr Chow does not wish to offer evidence on matters outside those covered in his statement of case. It is agreed that the facility would require an Environmental Permit, regulated by the Environment Agency, and that chapter 12 of the ES provides an assessment of the proposed development in relation to air emissions and human health, although the adequacy of the ES is not agreed in this regard.
- 6.3 There is also a supplement to SoCG1, dated September 2015, signed by the applicants and the County Council²⁹. It sets out their agreed position on certain matters, including whether the appeal site can be categorised as previously-developed land and the impact of the scheme proposed on the significance of heritage assets. It also incorporates a travel plan into the planning obligation. Correspondence from Newark and Sherwood District Council³⁰ confirms the factual accuracy of paragraphs 2.19-2.21 of the supplement, which set out a brief summary of the planning history relating to the Business Park and the restoration schemes for this former colliery site.

7. THE CASE FOR THE APPLICANTS

- 7.1 The applicants called four witnesses: Mr Othen (air quality and R1 recovery status and carbon assessment)³¹, Mr Bell (traffic and transport matters)³², Mr Honour (ecology and nature conservation)³³ and Mr Roberts (planning policy and related planning matters)³⁴. The evidence of Mr Roberts also included written proofs from Mr R Sutton (heritage), Mr J Mason (landscape and visual effects) and Mr D Kettlewell (noise)³⁵. The authors of those proofs did not appear at the Inquiry and their evidence was taken as read, with Mr Roberts

²⁷ CD65 as amended by APP/NR/1 paragraphs 2.2.3, 2.3.6 and 5.6.8

²⁸ CD66

²⁹ CD70

³⁰ CD71

³¹ APP/SMO/1-/7 (ID9)

³² APP/APB/1 - /4

³³ APP/KH/1 - /16

³⁴ APP/NR/1 - /4

³⁵ APP/NR/2 Appendices J, K and L respectively

fielding questions on them. The material points of the applicants' case were covered in closing submissions, as set out below³⁶.

INTRODUCTION

- 7.2 These closing submissions are structured around the issues identified by the Inspector at the opening of the Inquiry. However, before turning to those issues, it is important to note that there are Statements of Common Ground and related documents³⁷. They are extensive and cover a wide range of issues. The High Court has repeatedly emphasised the importance of SoCGs in modern Inquiry processes. The applicants rely on them and the absence of dispute about very large sections of them from any parties at the Inquiry.
- 7.3 As set out by the Inspector at the pre-Inquiry meeting, and in opening the Inquiry, the Secretary of State will need to come to a view as to whether the proposal would be sustainable development in the terms of the National Planning Policy Framework (the Framework). To that end, the Inspector set out numerous considerations which would inform that consideration.

WASTE DISPOSAL OR RECOVERY OPERATION?

- 7.4 On the 14 October 2015 the Environment Agency (EA) wrote with its determination of the R1 Design Stage Application submitted by the applicants. The EA has determined that, based on the design data submitted, the plant is capable of having an R1 energy efficiency factor equal to, or above, 0.65³⁸. The consequence of that is that the Agency's letter certifies, on a preliminary basis, that the proposal is an R1 recovery operation under Annex II of the Directive. Accordingly, a predicted R1 factor of in excess of 0.65 has now been independently verified by the EA. This is the highest level of certification that is available at the planning application stage. To deny the Energy Centre proposal, with an R1 Design Stage Certificate, recovery status, is to effectively deny any Energy from Waste proposal recovery status at the planning application stage.
- 7.5 In the light of that certification, the applicants submit that there ought not, now, to be any issue at all with regard to the recovery status of the application proposals. In due course, and assuming that consent is granted, the design stage certification would need to be validated when plant acceptance data is available and it will be necessary for the operational plant to submit an updated R1 application by the end of January each year covering the performance of the plant over the previous calendar year, so that the R1 certification can be revalidated. In these circumstances, we submit that ongoing objection to the recovery status of the plant is unreasonable. The EA's independent verification of the applicants' position ought to, we respectfully submit, give the Secretary of State confidence in their approach to the design of the facility and its ability to function in a way which is entirely consistent with Government objectives for the management of waste.

³⁶ ID41 with oral additions included

³⁷ CD65 as amended by APP/NR/1 paragraphs 2.2.3, 2.3.6 and 5.6.8; CD66, CD70 and CD71

³⁸ APP/SMO/6A

- 7.6 UKWIN have continued to address this issue in their latest submission³⁹, the response to which is contained in Mr Othen's Counter-Rebuttal⁴⁰. We rely in particular on Section 2, paragraphs 2.1 – 2.14.
- 7.7 It is important to see, in relation to this issue, just how UKWIN's position has evolved. In their earlier submissions⁴¹, they were drawing attention to the opportunity to obtain design stage certification from the EA. Likewise, in Part 2 of their initial objection at paragraphs 21 to 31, the same point was being made, with explicit reference at paragraph 21 to the weight that should be accorded to the absence of any such certificate. Faced with the fact that the applicants have now obtained such a certificate, UKWIN's position becomes that the certification process, and the obtaining of a certificate, should carry no, or very limited weight, for a variety of contrived reasons. This is a frankly unreasonable position to be taking and not one which is consistent with the earlier approach of Inspectors at the Inquiries referenced in Mr Othen's Counter-Rebuttal Proof⁴².
- 7.8 In essence, UKWIN's position effectively invites the Secretary of State to do exactly what he should not do, that is to step into the shoes of the EA and effectively re-do their job for them. Such an approach is entirely inconsistent with the Secretary of State's guidance elsewhere, that matters of that kind should be dealt with by specialist agencies, equipped to perform the task, whose work should then not be subject to review in the course of the Inquiry process. Any other approach effectively turns the Inquiry process into an examination of the EA's performance of its role, something which should be heavily leant against. UKWIN's position is made the more unreasonable by the fact that, as emerged during the Inquiry, they have sent to the EA the information they seek to use in this Inquiry, to persuade the Secretary of State that the facility would not operate as a recovery facility. That information has been expressly considered by the Agency and they remain of the view expressed in the letter of the 15 October⁴³, where the Agency expressly confirmed that it had considered UKWIN's evidence⁴⁴.
- 7.9 For all these reasons, we submit that the Secretary of State should proceed on the basis that the process is a recovery operation and that it is entitled, therefore, to be treated as such for the purpose of applying relevant planning policies.

EFFECT ON CHARACTER AND APPEARANCE, INCLUDING THE EFFECT ON THE SIGNIFICANCE OF HERITAGE ASSETS

- 7.10 Landscape and visual impact are addressed in the evidence of Mr Roberts⁴⁵ and in his Appendix K, which is the statement of Mr Jon Mason. Mr Mason's evidence is the only evidence from a professionally qualified landscape

³⁹ IP26

⁴⁰ APP/SMO/7 at ID9

⁴¹ CD40 (Part 1 at paragraph 62, 63, 68 and 71)

⁴² APP/SMO/7 at ID9 (APP/L3245/A/11/2146219 Battlefield; APP/T1600/A/13/2200210 Javelin Park;

APP/M1900/V/13/2192045 Hatfield – extracts of which are at APP/SMO/6 Appendices C, D and E and APP/SMO/7 Appendix 4)

⁴³ ID22

⁴⁴ ID36

⁴⁵ APP/NR/1 Section 5.3

consultant and should accordingly be given significant weight. There has been no substantial dispute as to the general character of the wider area, or the description of the appeal site contained in SoCG1.

- 7.11 The starting point for a consideration of the impact of the proposals ought to be the Newark and Sherwood Landscape Character Assessment, published in 2010. There is no suggestion that this is not up to date. As Mr Roberts points out⁴⁶, the development proposed is within a landscape type to which policy zone MN PZ24 applies (Rufford Park Estate Farmlands with Plantations). The overall action for that policy zone is to "Create", defined as actions that create new features or areas where existing elements are lost or are in poor condition. It specifically includes the creation of a "new industrial economy within the area, such as creation of a wind farm (already proposed)"⁴⁷.
- 7.12 In terms, therefore, of the impact on the character of the area, there can be no doubt at all that the proposal is entirely in character, both in terms of what currently exists on the site of the Bilsthorpe Business Park, and in terms of what the landscape policy seeks for the area. So far as the appearance of the area is concerned, although there is much hyperbole about the effect of the proposals, the reality is that the landscape and visual assessment included within the environmental assessment, and addressed by Mr Mason, demonstrates beyond any doubt that there would be very limited opportunity to gain any view of any element of the application proposals at all. Where any view is obtained, its context is set by other features which have been specifically identified as being part of what is sought for the character of the area.
- 7.13 The existing landscaping and topography of the site, the tree planting and the earth bunds, are already significant features to be reinforced by the application proposal in a way which would be entirely appropriate and effective. It is noteworthy that Mr Roberts, a very experienced planning consultant in dealing with proposals of this kind, notes that he cannot recall a better site than this in terms of the landscape and visual aspect⁴⁸. The reality, with regard to objections to the proposal on this ground is, of course, that they are not related to the impact on the character or appearance of the area, but related to the nature of the proposal and to the view that people have about its acceptability.
- 7.14 With regard to heritage assets, the applicants rely on the evidence from Mr Roberts⁴⁹ and the statement of Mr Robert Sutton at Appendix J of that proof. We note that no one has contended that the proposals would have any physical effect on any heritage asset, so that the only potential for any adverse impact is in terms of an impact on setting. As Mr Sutton points out, setting is not a heritage asset. In order to demonstrate that there is some harm, it is necessary to show that the development would have an impact on setting which would, in turn, adversely affect the heritage interest of the asset.
- 7.15 For the reasons identified by Mr Sutton in his evidence, in respect of which no evidence from any appropriately qualified person has been called before the

⁴⁶ Ibid paragraph 5.3.3

⁴⁷ CD77 pages 68 and 69

⁴⁸ APP/NR/1 paragraph 5.3.6

⁴⁹ Ibid Section 5.2

Inquiry to dispute it, we submit that there is no basis for concluding that there would be any harm to the heritage interest of any heritage asset by reason of an impact on setting. This conclusion holds good for both listed buildings and the conservation areas in the wider area, the existence of which have been taken into account in the preparation of the Development Plan, the designation of Bilsthorpe Business Park for employment use and the grants of planning permission for the various developments that have been referred to.

- 7.16 We are conscious of the fact that the County Council has adopted a slightly different view, in terms of a less than substantial impact on the setting of Rufford Park. We do not, for the reasons set out by Mr Sutton, agree with that view, but note that so insubstantial is the harm which the County Council refers, that it is capable of being overcome by a contribution to an interpretation board scheme. If the Secretary of State agrees with the County Council's view, then the applicants would make the necessary contribution in accordance with the Section 106 Agreement⁵⁰.
- 7.17 Finally, we note the duty upon the Secretary of State⁵¹ in considering whether to grant planning permission which affects the setting of a listed building, to have special regard to the desirability of preserving the setting. We submit that this is a case where, having had such special regard, it is entirely safe and appropriate that planning permission is granted.

IMPLICATIONS FOR, OR ACTUAL EFFECTS ON, HEALTH, LIVING CONDITIONS, ECOLOGY, AGRICULTURE AND WATER QUALITY

- 7.18 Dealing first of all with the implications for health. As a consequence of some ill-informed comments about the proposal, some public concern has been expressed about the health effects of the proposal. The background for consideration of those matters is, however, set by the guidance in the National Planning Policy for Waste (NPPW)⁵². The explicit invitation of Dr Chow and others is that the Secretary of State should disregard his own advice at paragraph 7 of the NPPW, with regard to avoiding carrying out a detailed assessment of epidemiological and other health studies and, in the course of this Inquiry and the determination of this application, explicitly engage in such an exercise. The Secretary of State has made it clear⁵³ that, where a proposed waste combustion generating station meets the requirements of the Waste Incineration Directive (WID) and would not exceed the local air quality standards, the determining authority should not regard the proposed waste generating station as having adverse impacts on health.
- 7.19 In the instant case, the scheme proposed would be subject to the Environmental Permit process, operated by the EA in accordance with the Industrial Emissions Directive (IED). It is common ground that the IED adopts an integrated approach with regard to all possible impacts of proposals on, among other things, health and the environment. It is likewise common ground that it adopts an approach, which is to set high standards for such matters in order to avoid harm. In such circumstances it is not, we

⁵⁰ ID28

⁵¹ Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990

⁵² CD53 paragraph 7

⁵³ NPS-EN-3 [APP/NR/2-D]

respectfully submit, rational or appropriate for the Secretary of State to reach any other view but that this proposal would not have any harm on health in the area in which it is located. There is no issue with regard to air quality locally, and no concerns have been expressed by any regulatory body concerned with health or air quality.

- 7.20 With regard to living conditions, whilst some concern has been raised with regard to noise, this has been comprehensively addressed by Mr Kettlewell in his evidence⁵⁴. The absence of any impacts on the local environment ought, we submit, rationally to lead to the conclusion that there would not be any adverse effect on living conditions.
- 7.21 In relation to ecological considerations, we rely upon the evidence of Mr Honour⁵⁵. Although much has been said about ecology, with RAGE producing a report from an ecologist, no witness was called who could be subject to cross examination in order to test the robustness of what was being asserted. As Mr Honour has explained in significant detail, notwithstanding all of the assertions, there simply is no evidence which would support the view that this site should be regarded as significant for either Nightjar or Woodlark, and no evidence in respect of wader species or dingy skipper butterfly, indicating that it should currently be regarded as of any importance. One of the ironies of the position taken by objectors at this Inquiry is that, absent implementation of the appeal proposals, including the Wader Mitigation Plan, the site seems destined, by the fairly rapid natural succession which is already taking place, to become ecologically even less interesting than it is currently.
- 7.22 We suspect that the desire of objectors to focus on the Nightjar and Woodlark, notwithstanding the absence of any evidence to support that position, has arisen from the decision of the Secretary of State in relation to the Rufford Incinerator proposal⁵⁶. For the reasons identified so clearly by Mr Honour in his evidence, that site, and its credentials with regard to Nightjar and Woodlark, was fundamentally different from and simply not capable of being compared to the application site. We do not repeat Mr Honour's evidence, but rely upon it as demonstrating that it is not credible to suggest that the application site has any similarities to Rufford in these respects. By way of summary Mr Honour demonstrated the differences thus:

Rufford	Bilsthorpe
Supported part of a breeding woodlark territory and regularly used by foraging nightjar.	No evidence of use by woodlark or nightjar, nearest site with any recent nightjar records is Cutts Wood, minimum 0.6km to north, and woodlark 2.1km from site.
Suitable habitat for woodlark and nightjar present on site.	No suitable habitat for woodlark or nightjar on site.
Within RSPB / Bird Life International Sherwood Important	Minimum 1.9km from IBA / ICA boundary at Clipstone Forest, west of

⁵⁴ APP/NR/2-L and ID35

⁵⁵ APP/KH/1 to 5

⁵⁶ CD91, CD92, CD93

Bird Area (IBA); close to Natural England's Indicative Core Area (ICA).	A614.
Situated on sandstone geology, resulting in sandy soils supporting heathland and commercial forestry, with clear-fells suitable for nightjar and woodlark. Site conditions suitable for restoration to heathland.	Situated on mudstone geology, producing heavier soils not capable of supporting heathland habitat; restored colliery tip and Business Park area on made ground does not contain sandy or other acid soils capable of supporting heathland.

- 7.23 There is, accordingly, no robust evidence to support the view that there would be any material adverse impact on any species of conservation interest as a consequence of the proposals and we rely upon the fact that the independent assessment of the County Ecologist, responding to the Third Regulation 22 submission, is entirely supportive of the Applicants' position⁵⁷.
- 7.24 With regard to agriculture, the only impact which has been suggested is as a consequence of potential deposition of air emissions on surrounding agricultural land. This is addressed by Mr Othen in his main proof of evidence⁵⁸, where he refers to a recent Dutch study in relation to modern incineration plants and the complete absence of any evidence of harmful deposition on crops or cattle grazing areas. It is also addressed in his rebuttal proof of evidence⁵⁹, where he addressed references to an Icelandic plant, which was clearly in a completely different category to the application proposals, being a plant which was not operating to modern standards (and indeed never had) and where the topography would not have promoted good dispersion of such emissions as there were. The contrast with the BEC plant proposed here could not be more stark, with the BEC plant being a modern well regulated facility, in a topography which is not an obstacle to good dispersion.
- 7.25 Water quality is addressed in the evidence of both Mr Roberts and Mr Othen. Mr Roberts' evidence in his main proof⁶⁰, presents the overall position with regard to the proposals for surface water and sewage disposal. From that, it is clear that:
- i) There is no basis for any concern with regard to surface water quality, given that it would be subject to regulation under the plant's Environmental Permit;
 - ii) With regard to concerns about sewage compromising domestic foul sewage and trade effluent, the domestic foul sewage would go to the Bilsthorpe Waste Water Treatment Works (WWTW). The trade effluent would be first of all treated in the onsite effluent treatment system, to achieve a requisite quality in accordance with discharge parameters that would be set in the permit, and would then be conveyed to the WWTW. Since the effluent treatment plant is a part of the BEC installation, it

⁵⁷ NCC6

⁵⁸ APP/SMO/1 (at paragraph 3.4.7)

⁵⁹ APP/SMO/4 (at paragraphs 5.3 to 5.7)

⁶⁰ APP/NR/1 (at section 5.6 pp.72-75)

would be regulated as such, ensuring the maintenance of appropriate water quality standards.

- 7.26 Mr Roberts' evidence demonstrates that there are appropriate sewer connections available to the WWTW and there is capacity at the works to accommodate the additional flows.
- 7.27 Concerns expressed by Dr Chow with regard to water emissions, are addressed in Mr Othen's main proof⁶¹, which evidence demonstrates beyond any doubt whatsoever that Dr Chow's concerns are groundless and that there would be no prospect of any polluted effluent having the opportunity to cause harm, having regard to the design of the system and the regulatory regime which would apply to it.

TOURISM AND SOCIO-ECONOMIC DEVELOPMENT IN THE AREA

- 7.28 The ES⁶² contains an assessment of the socio-economic effects of the BEC development and concludes that the proposal would have a moderately beneficial effect upon the local economy, a conclusion which, in SoCG1, NCC agrees with⁶³. The ES work in this regard was undertaken by Regeneris, who also prepared the Economic Benefits Statement⁶⁴. Regeneris' expertise in this area is beyond question and, in the absence of any assessment from some other suitably qualified professional, ought to be accepted.
- 7.29 The context for the consideration of the economic benefits of the proposal, in terms of the substantial construction and related activities and the longer term employment that the site would offer, is as follows:
- i) The site is at Bilsthorpe, an identified location for regeneration activity in the Development Plan: NSDC Core Strategy⁶⁵, the Key Diagram and Policy SP2;
 - ii) The site is part of a designated employment area, promoted as such by NSDC in furtherance of the regeneration objective⁶⁶;
 - iii) The site has had the benefit of very substantial public investment, in excess of £2m, in order to encourage economic activity⁶⁷;
 - iv) The site is in an area where N&SDC's policy is to create new industry⁶⁸;
 - v) The existence of on-site and available CHP facilities would be highly beneficial to the promotion of the site and additional economic activity⁶⁹;
 - vi) Bilsthorpe needs more employment opportunities⁷⁰ and the BEC proposal can deliver such opportunities. Furthermore, the planning

⁶¹ APP/SMO/1 (at section 4 pp19-21)

⁶² CD2 Section 14

⁶³ CD65 paragraph 8.71

⁶⁴ CD1 part 6

⁶⁵ CD63

⁶⁶ see NSDC Core Strategy Policy SP2 pp24/25 and p113 Table 5 and the allocations DPD [CD64] p.194

⁶⁷ ID17

⁶⁸ see Mr Roberts' Proof, paragraph 5.3.3 p.69

⁶⁹ Mr Roberts' evidence in chief

⁷⁰ Councillor Peck's evidence to the inquiry

condition now added to those in SoCG1⁷¹ would ensure that the prospect of the new employment being secured by local people is maximised.

- 7.30 With regard to tourism development and any impact, NPS EN-1 advises⁷² that *"The IPC (the decision maker) may conclude that limited weight is to be given to assertions of socio-economic impacts that are not supported by evidence (particularly in view of the need for energy infrastructure as set out in this NPS)"*.
- 7.31 The assertions of impacts on tourism in this case are unsupported by any substantive evidence. Mr Roberts has comprehensively reviewed each of the assertions made⁷³, in respect of which there has been no substantial rebuttal and nor was his evidence challenged in cross-examination. In addition, although there are attempts by objectors to align the position in this case with the position at the Rufford Inquiry⁷⁴, there is simply no basis for so doing. As Mr Roberts points out⁷⁵, Rufford was described as being prominent in residents' views, detracting from their enjoyment of the area, and also undermining efforts being made to develop Sherwood Forest as a tourist destination because of the harm that would be caused to the rural landscape. Those comments were made in the context of the Rufford site being within the then identified Sherwood Forest Special Landscape Area, and with the site being immediately surrounded on three sides by a part of Sherwood Forest. In addition, as Mr Roberts points out⁷⁶, NSDC made clear at the Rufford Inquiry that there were significant differences between the Bilsthorpe site and the Rufford site in evidence, which is summarised at paragraph 443 of the Inspector's reports⁷⁷.
- 7.32 In relation to other Inquiries where the issue of tourism impacts has arisen, Mr Roberts has comprehensively reviewed each of the relevant decision letters/Inspector's reports⁷⁸, thus enabling him to reach the conclusion that there is no substantiating evidence to support the claimed adverse effects on tourism. By contrast there is clear objective evidence of the socio-economic benefits of the BEC proposal, to be set in a context which gives particular value to those benefits based on the approach in the Development Plan.

SAFETY AND FREE FLOW OF TRAFFIC

- 7.33 There is a good deal of evidence from local residents with regard to the traffic on local roads and, in particular, the A614. The evidence is, perhaps, best drawn together in the submissions made on behalf of Rufford Parish Council⁷⁹ and spoken to by Mr Pearce. From the evidence presented, the following can be gleaned:

⁷¹ ID34 (condition See also suggested condition 39 at Appendix D to this Report

⁷² CD55 paragraph 5.12.7

⁷³ APP/NR/1 paragraph 5.7.11 (p.77)

⁷⁴ CD91, CD92 and CD93

⁷⁵ APP/NR/1 p.80, paragraph 5.7.11 (vii)

⁷⁶ Ibid page 81 last bullet point

⁷⁷ CD92

⁷⁸ APP/NR/1 pages 82-87

⁷⁹ IP16

- i) Although surveys were undertaken in September 2015 by local residents, they were simply of the total number of vehicles, with no HGV split and no commentary in the surveys on the performance of any of the junctions;
- ii) The surveys demonstrate that the flows are very much peak hour influenced⁸⁰;
- iii) There is no evidence of any significant change in flows from when the Transport Assessment⁸¹ in support of the application was prepared⁸²;
- iv) There is no evidence to support the view that the A614 is at saturation point for seven days in the week, because the surveys were only on limited parts of weekdays;
- v) The peak hour contribution of the application scheme would be very limited⁸³;
- vi) There is no evidence of any safety problem with the junction of the A614/Deerdale Lane. Indeed, to the contrary, there have been no injury accidents since 2009 and no injury accidents involving HGVs for 25 years⁸⁴. Evidence about the safety record of the A614 generally, is of no assistance in considering the effects of additional traffic on Deerdale Lane.

7.34 Residents were concerned that the development proposed should have triggered improvements to the junction as a consequence of the Section 106 Agreement completed in connection with the grant of planning permission for the Bilsthorpe Business Park. The position with regard to the trigger is set out in SoCG1⁸⁵, and the relevant comparison of the traffic from the 10,000 square metres of B2/B8 referred to in the amended S106, and the traffic from the application scheme, is set out in Mr Bell's proof of evidence⁸⁶. In summary, the scheme proposed would generate 135 fewer movements per day than the quantum of development which would give rise to the revised trigger. There is, accordingly, no basis for suggesting that any works are necessary. The Highway Authority does not suggest that any works are required to support the development.

7.35 Other issues with regard to transportation and highways relate to the use of the highways by pedestrians, cyclists and horse riders. Having regard to the availability of off-road routes in the locations identified in Mr Bell's evidence, and the apparent acceptability of the location for the Business Park development, this is a groundless complaint. It amounts, in effect, to saying that there simply should not be any more traffic than is currently on the roads. Such an approach would, necessarily, impact adversely on regeneration initiatives and would, in all probability, have brought to a halt the very

⁸⁰ APP/APB/4 Table A of page 3

⁸¹ CD5

⁸² APP/APB/4 paragraph 2.8

⁸³ APP/APB/4 paragraph 2.11

⁸⁴ Ibid paragraph 2.13

⁸⁵ CD65 paragraph 4.6

⁸⁶ APP/APB/1 at section 4.2

substantial development recently permitted at Belle Eau Business Park on the other side of Bilsthorpe.

- 7.36 In essence, it is difficult to imagine a better site for a development of this kind, connected as it is by way of a good quality connection to the main road network and free from the need to pass through any sizeable sensitive areas, such as residential locations. In addition, although objectors are wont to suggest that the location is remote from areas where waste might be generated, a simple examination of any relevant map base indicates that far from being remote, the location is strategically positioned, convenient for access from all the major likely sources of waste⁸⁷. It is noteworthy that the Sherwood part of the District, within which the site falls, is described as being "*closely related to Mansfield and Worksop*" in the NSDC Core Strategy⁸⁸.
- 7.37 There is, we submit, no basis on the evidence for rejecting these proposals in relation to any aspect of the highways and transportation evidence.

BENEFITS TO BE WEIGHED IN THE BALANCE

- 7.38 The benefits to be weighed in the balance are very substantial in this case. They are set out in Mr Roberts Proof of Evidence⁸⁹. We do not repeat that evidence, but note that the renewable energy and greenhouse gas benefits arising from the scheme would be both positive and significant in scale. In this context, Mr Roberts identified⁹⁰ that paragraph 98 of the Framework clearly states that, in determining planning applications for renewable energy projects, the decision maker must recognise that even small scale projects provide a valuable contribution to cutting greenhouse gas emissions. We submit that, on this basis, the scheme's contribution is very large and should properly be afforded very significant weight. Accordingly, the benefits range over all three dimensions as to what is sustainable development as set out in paragraph 7 of the Framework. Those benefits, and the performance of the application proposals relative to the dimensions referred to, weigh substantially in its favour in terms of its sustainability overall.

IS THE DEVELOPMENT SUSTAINABLE DEVELOPMENT IN ACCORDANCE WITH THE FRAMEWORK?

- 7.39 The context for a consideration of this issue, and the issue which the Secretary of State will need to reach a conclusion on, is whether this development is in accordance with the Development Plan for the area.
- 7.40 A number of objectors draw attention to policies contained in other parts of the Development Plan, among them the N&SCS⁹¹ and the DPD⁹². Much is made by objectors of the fact that the Development Plan elements they rely on identify the application site as being part of an area which is outside the settlement boundary and, therefore, in terms of the Development Plan, apparently in open countryside. However as NSDC acknowledge, it is quite clear that:

⁸⁷ Mr Bell's evidence in chief

⁸⁸ CD63 page 11

⁸⁹ APP/NR/1 paragraphs 7.3.5 to 7.3.10 (pp107-109)

⁹⁰ Examination in chief

⁹¹ CD63

⁹² CD64

- i) The District Council's objectives for Bilsthorpe include regeneration of vacant land and the securing of new employment opportunities;
- ii) When the Development Plan was prepared and consideration was given as to the amount of employment land required in the Sherwood area, which includes Bilsthorpe, account was specifically taken of the availability of the designated employment area at Bilsthorpe Colliery extending to some 9.74 hectares⁹³;
- iii) The land at Bilsthorpe Colliery forms part of the District Council's available stock of employment land, used to promote regeneration in the area;
- iv) In the context of addressing landscape considerations, the District Council is explicit in looking for the creation of a new industrial economy within the area⁹⁴;
- v) If the application site is not regarded as a designated employment site, the N&SCS and the DPD would be unsound, because they would have explicitly not made provision for the required amount of employment land to meet the needs of the District. A finding now, that the application site was not part of the designated employment land of the District, would undermine the soundness of the Development Plan and be in conflict with it⁹⁵.

7.41 SoCG1 sets out the Development Plan for the area⁹⁶. In considering the Development Plan, it is necessary to have in mind both the relevant statutory provisions and relevant court decisions. At this stage, we make the following points:

- i) Determination should be made in accordance with the Development Plan unless material considerations indicate otherwise (section 38(6) of the 2004 Act);
- ii) If, to any extent a policy contained in a Development Plan for an area conflicts with any other policy in the Development Plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted (Section 38(5) of the 2004 Act);
- iii) Accordance with the Development Plan does not mean accordance with each relevant policy of the plan. It is, accordingly, an untenable proposition to suggest that breach of any one policy in a Development Plan means that a proposal cannot be said to be in accordance with the Plan⁹⁷;
- iv) In circumstances where policies pull in different directions, it may be necessary to decide which the dominant policy is: whether one policy compared to another is directly as opposed to tangentially relevant or

⁹³ see CD64 Appendix C page 194 and CD45 - the NSDC committee report and explanation of how employment sites like Bilsthorpe were treated

⁹⁴ APP/NR/1 paragraph 5.3.3 p.69

⁹⁵ Mr Roberts' evidence in chief

⁹⁶ CD65 Section 5

⁹⁷ R v Rochdale MBC ex parte Milne paragraphs 48 and 49

should be seen as the one to which greater weight is required to be given⁹⁸.

- 7.42 In this case the most up to date part of the Development Plan is the WCS of December 2013⁹⁹. Happily, that is clearly the most directly relevant part of the Development Plan in relation to a proposal which is concerned with the management of waste. The Applicants' position with regard to conformity with the Development Plan is set out in SoCG1¹⁰⁰ and the evidence of Mr Roberts¹⁰¹. Mr Roberts' evidence in chief on conformity was not subject to any challenge in cross-examination. Read as a whole, and having regard to the matters we have referred to, it is quite clear that the proposal should be regarded as being in accordance with the Development Plan when taken as a whole and approached correctly.
- 7.43 As UKWIN confirmed in cross examination, they had a full opportunity to make representations to the examining Inspector with regard to all relevant aspects of the plan. UKWIN confirmed that the Plan should be regarded as having been "*sound*" as at the date of adoption and that the adoption of the plan had not been subject to any legal challenge.
- 7.44 The only element of the Plan which was not in accordance with more up to date national planning policy contained in the NPPW¹⁰², was that identified by Mr Roberts relating to the treatment of waste management facilities, which were consented but not operational, at paragraph 4.2.33 of his evidence, a position agreed with the County Council in the SoCG1¹⁰³.
- 7.45 Essentially, UKWIN wants to re-run all of the arguments which it advanced before the Inspector with regard to the position on waste arisings and the capacity of waste facilities at the examination of the Plan. That is a thoroughly inappropriate approach to the Development Plan. It is, of course, correct that the Plan makes clear that the "*exact*" amount of additional capacity required may vary depending on actual circumstances and would need to be kept under review through regular monitoring, but that regular monitoring is regular monitoring by the County Council and not regular monitoring through every application/appeal where one party happens to disagree with what the plan contains. It is also relevant to note that paragraph 4.30 of the WCS is clearly dealing with what should be described as the finer detail of the requirement for additional capacity, hence the reference to "*exact*".
- 7.46 In this instance, and having regard to the up to date guidance in the NPPW, we clearly do not need to be troubled by the exact amount of additional capacity required because, on the basis agreed with the County Council, the requirement is in the order of capacity to address some 294,000 tonnes per annum of commercial and industrial waste by way of energy recovery¹⁰⁴. Mr Roberts has, in addition, examined a range of other matters raised by

⁹⁸ CD89 R (Cummins) v. London Borough of Camden (2001) EWHC 1116 paragraph 162

⁹⁹ CD62

¹⁰⁰ CD65

¹⁰¹ APP/NR/1

¹⁰² CD53

¹⁰³ CD 62 paragraphs 6.10 and 6.14

¹⁰⁴ WCS Table 4a and Table 4b p.32

objectors in relation to the need case and has concluded that none of them has any material impact on the need for the facility¹⁰⁵.

7.47 Objectors then argue that policy WCS3 assesses proposals for new or extended energy recovery facilities, on the basis that they would be permitted only where it can be shown that this would divert waste that would otherwise need to be disposed of, and the heat and/or power generated can be used locally or fed into the national grid. The evidence with regard to the diversion of waste from landfill is set out comprehensively in the proof of Mr Roberts¹⁰⁶.

7.48 In addition the WCS points out that:

- i) Among the most significant waste streams in the County is C&I waste from businesses and manufacturing¹⁰⁷;
- ii) Whilst it is not clear how much, if any, of this waste is used for energy recovery, there are no significant energy recovery facilities for this waste within Nottinghamshire or Nottingham and approximately 300,000 tonnes was land filled within Nottinghamshire during 2010¹⁰⁸;
- iii) Nottinghamshire and Nottingham's C&I waste that is not recycled or sent elsewhere for energy recovery is landfilled, C&I waste accounting for around two thirds of the waste that is disposed of in the County's remaining non-hazardous landfill sites¹⁰⁹.

7.49 The need for additional capacity to address commercial and industrial waste arisings, and achieve energy recovery, is clear from the WCS and from the circumstances in Nottingham and Nottinghamshire. With regard to policy WCS3, as Mr Roberts demonstrates¹¹⁰, this proposal would comply with WCS3 because it would divert waste that is otherwise going to landfill and the heat and/or power generated can be used locally, or fed into the national grid. Against the background of the up to date figures in the WCS, and Mr Roberts' unchallenged evidence, the proposal accords with the policy.

7.50 Policy WCS4 is explicit in dealing with "*broad locations*" for waste treatment facilities. It looks for large scale waste treatment facilities being in, or close to, the built up areas of Nottingham and Mansfield/Ashfield. As Mr Roberts explains, the interpretation of this policy needs to have regard to the area which the policy is intended to cover, which is clearly the County area, and to consider on a practical basis what "in or close to" is intended to achieve. It is, we respectfully submit, intended to achieve a location which is sufficiently close to the centres identified as to represent a sustainable response in terms of the proximity of the facility to where the waste is arising. It is noteworthy in that regard, that the N&SCS of March 2011¹¹¹ says in terms, in relation to the Sherwood Area, that this area is closely related to Mansfield and Worksop among other places.

¹⁰⁵ e.g. APP/NR/1 paragraphs 4.2.41-4.2.52

¹⁰⁶ APP/NR/1 Section 4

¹⁰⁷ CD62 paragraph 4.3

¹⁰⁸ Ibid paragraph 4.5

¹⁰⁹ Ibid paragraph 4.21

¹¹⁰ APP/NR/1 Sections 4 and 7

¹¹¹ CD63 page 11

- 7.51 There is, accordingly, Development Plan support for the view which Mr Roberts offered. The policy does not say that facilities within the open countryside should be refused planning permission, but clearly looks for a justification for them. For reasons which will be apparent from these submissions, we do not accept that the application site should be regarded as open countryside in the terms of this policy, having regard to the fact that the approach of the policy is supported by the more detailed set of criteria set out in WCS7 which explicitly encourage the location of facilities of this kind on employment land¹¹². Accordingly, unless the conclusion is reached that the site is not to be regarded as employment land (as to which see our earlier submissions) and policy WCS4 is effectively rewritten as a prohibition on developments and facilities of this kind in this sort of location, there is no conflict with the policy.
- 7.52 The interaction between WCS4 and WCS7 requires that the policies should be considered together, in order to determine whether there is a conflict with the Development Plan overall. The WCS points out¹¹³ that energy recovery plants are best located near other industrial uses, with good road and/or rail or water access for transport. In addition, it says that such facilities should be close to other uses that can make use of the heat and electricity generated, or close to a suitable connection to the national grid. That combination of requirements, coupled with the requirements of policies such as WCS13, that look to protect and enhance the environment, means that suitable sites for energy recovery facilities are going to be relatively difficult to find. That is best illustrated in this case by the fact that objectors have not, in their evidence, been able to identify an alternative site which would perform better overall with regard to the Development Plan criteria than the application site. We submit that the view should be taken that, taking WCS4 and WCS7 together, read in the context of the overall objectives of the WCS, the proposal is in conformity with the Development Plan.
- 7.53 Policy WCS9 looks to encourage new and emerging technologies where they would lead to more efficient and sustainable management of waste. For the reasons identified by Mr Othen and Mr Roberts, there can be no doubt at all that the proposed facility would indeed lead to more efficient and sustainable management of waste, entirely in accordance with the national policy and the aspirations of the WCS. At present, large quantities of C&I waste are going to landfill. The application proposals would divert that waste to a facility that has achieved a certification of compliance with the R1 formula, a formula that is explicitly about efficiency. In addition, the innovative nature of the technology proposed to be used leads to the three advantages identified by Mr Othen, that is the potential to take the gas direct to the national grid making it highly efficient, the ability to develop fuel cells, and the ability to provide heat without diminishing the electricity output.
- 7.54 We have referred earlier to policy WCS13, which addresses the protection and enhancement of the environment. There is, we submit, no basis whatsoever for supposing that the application proposal would materially harm the environment in any way. To the contrary, the proposals offer the opportunity

¹¹² CD63 paragraph 7.18

¹¹³ Ibid paragraph 7.39

for material benefits in terms of the enhancement of the ecological interest in the area, for the reasons set out by Mr Honour.

7.55 In relation to the Development Plan, there has been some discussion around the status of the site relative to the provisions of the N&SCS¹¹⁴ and the DPD¹¹⁵. We have referred to this matter earlier. We respectfully submit it is clear that the application site is a site which is designated for employment purposes in the N&SCS and the DPD, and that any other approach would undermine not only the strategy and objectives of these parts of the Development Plan, but also the soundness specifically of the DPD. The following matters should be noted:

- i) In the N&SCS, Bilsthorpe is identified on the Key Diagram as being within the Sherwood area and a focus for regeneration under Policy SP2;
- ii) In SP2, it is clear that within the Sherwood area there was a requirement for overall employment land of some 29 hectares, with no new allocations required in order to meet that 29 hectare requirement;
- iii) The N&SCS explains why no further land is required - that is because of the land developed between 2006 and 2009, and the land with planning permission as at the 31 March 2009, comprising some 23.87 hectares¹¹⁶.
- iv) Within the DPD, Bilsthorpe is identified¹¹⁷ as a Principal Village within the Sherwood area, identified in the Core Strategy as a location where the Council will seek new employment opportunities, the regeneration of vacant land and the provisions of new housing in order to support the regeneration of the village.
- v) In explaining the methodology adopted with regard to meeting development needs, the DPD¹¹⁸ sets out the distribution of employment land requirements in a way that reflects the approach in the Core Strategy that is with an overall requirement for employment land of 29 hectares and no new allocations being identified.
- vi) The DPD¹¹⁹ provides a Sherwood area employment land summary, which is explicit in identifying the land at Bilsthorpe Colliery as being available employment land in a designated employment area, extending to some 9.74 hectares.

7.56 It is important to note that, by the date of adoption of the DPD (July 2013) the planning permission on the colliery site would have lapsed, but the DPD identifies it as a designated employment area. Without the designation of the site as an employment area, the DPD would have been unsound: it would not have made provision for employment land required in the area in accordance with the assessments set out in both the Core Strategy and the DPD. It was, accordingly, fundamental to the soundness of the plan that Bilsthorpe Colliery

¹¹⁴ CD63

¹¹⁵ CD64

¹¹⁶ CD63 Table 5 (p.113)

¹¹⁷ CD64 paragraph 5.20 (p.86)

¹¹⁸ Ibid Appendix B (p.145)

¹¹⁹ Ibid Appendix C (p.194)

should be identified as a designated employment area for the plan to be sound and therefore lawfully adopted. It is correct, of course, that Map 11 of the DPD identifies the area of Bilsthorpe Colliery as a site of interest for nature conservation, overlain by the highways depot planning permission. The explanation as to why the District Council proceeded in the way they did is provided in the SoCG1¹²⁰, adopting the explanation offered by NSDC as to how the N&SCS and the DPD proceeded with regard to sites which had planning permission at the base date¹²¹. What is clear, however, is the Plan's reliance on the designation of the Bilsthorpe Colliery as employment land.

- 7.57 To the extent that it is suggested that there is a conflict between the Plan's reference to the site being designated as employment land and Map 11, there is no doubt at all that the text of the plan should prevail, even if we assume that Map 11 is to be treated as part of the proposal map¹²².
- 7.58 In terms, therefore, of compliance with Development Plan policies, in particular the policies of the N&SCS and the DPD, to treat the application site as being part of an area which is designated for employment use supports the regeneration strategy for Bilsthorpe, the employment objectives of these parts of the Development Plan, and the Plan's soundness overall. The contrary view, of treating the site as being in the open countryside, not designated and therefore any development for employment purposes would be in conflict with the Plan, produces a perverse result which would undermine the soundness of both Plans and should be leant against in the light of the review of the Plan referred to above.
- 7.59 It is evident, from the NSDC employment land availability study, that the District Council is relying positively on the availability of the land in order to support its economic regeneration activities. So much is evident also, from their employment land availability schedule¹²³. Contrary to UKWIN's assertion, the Council has consistently identified the application site as being previously developed land, unlike the site that UKWIN referred to which is not the application site¹²⁴. The fact is, in any event, that the site has been identified and relied on in Development Plan preparation, and subsequently in the economic regenerative strategy, in order to support the plan's objectives. The previously-developed status of the site is, in WCS site criteria terms, irrelevant. If the conclusion is reached that the site is previously-developed land, that becomes simply another advantage of the application proposal, rather than being a requirement of the most directly relevant part of the Development Plan.
- 7.60 In support of the previously-developed status of the site, we point to the fact that it is land which was subject to mineral activities and where, although there might historically have been conditions which provided for its reclamation, those have long since become unenforceable, such that there is no means by which the reclamation and restoration of the site can now be enforced. Looking at the Framework's definition of previously-developed land, it is clear that the intention is to include within it sites which, for whatever

¹²⁰ CD65 paragraph 4.7(4)

¹²¹ CD 45 page 100.

¹²² Section 17(5) of the Planning and Compensation Act 2004

¹²³ CD87

¹²⁴ IP22 paragraph 16 and Appendix 6

reason, are free from a requirement for restoration. The application site is such a site, as the Council has confirmed year after year, and consistently in its Employment Land Study¹²⁵.

- 7.61 Looked at in the context of the review of the Development Plan, and the status of the site, we submit that:
- i) The site should be regarded as a designated employment site in an up to date Development Plan;
 - ii) In any event, the site has been identified as an employment site required for regeneration and is suitably located to provide it, in accordance with the objectives and policies of both the N&SCS and the DPD;
 - iii) Whether the site is regarded as being within the "*open countryside*" for the purposes of the Development Plan is irrelevant to (i) and (ii) above. The fact is, that the Development Plan is relying on it in order to provide employment land to deliver regeneration objectives;
 - iv) The previously-developed land status of the land simply adds the appropriateness of its re-use for employment purposes, supporting the regenerative objectives of the area.
- 7.62 Against the background set out above, answering the question as to whether or not the development is sustainable is, we submit, relatively straightforward. The development is in accordance with the Development Plan when read as a whole and supported by important policy objectives related to waste management, electricity generation and climate change factors, which are set out in policy at the national level as identified by Mr Roberts¹²⁶. Mr Roberts has, with regard to the Framework's characterisation of sustainable development, set out each of the headings related to economic social and environmental benefits¹²⁷, upon which we rely. In addition the development would support local regeneration initiatives in a focused and relevant way and make good use of public investment in the site, which was designed to encourage its re-development.
- 7.63 Some of the points made by UKWIN in closing¹²⁸ necessitate further comment. Their reliance on the Skrytek case is misplaced. Mr Othen deals with this in his evidence but, in any event, an R1 certificate has now been issued which leaves that point behind. With regard to the ability of the facility to meet the 0.65 R1 threshold in practice, and the evidence relied on by UKWIN, that evidence has already been considered by the Environment Agency before issuing the design stage R1 certificate.
- 7.64 It is of course necessary to look at the development plan as a whole, in coming to a view on the appeal scheme. It is not appropriate to take particular points in closing on matters that have not thus far been challenged. UKWIN had the opportunity to put any relevant questions on the development plan policies to the witnesses fielded by the applicants, but did not. Moreover, reliance is

¹²⁵ ID33

¹²⁶ APP/NR/1 Section 4

¹²⁷ Ibid paragraphs 7.35 – 7.39

¹²⁸ ID38

placed on the Report of the Waste Core Strategy Inspector. That is wrong in law as is made clear in the Crown TW Logistics v Tendring DC judgement¹²⁹. That judgement is not grappled with by UKWIN.

- 7.65 In stating in closing that it has not been shown that the facility proposed would divert waste that would otherwise need to be disposed of (and thus would be contrary to policy WCS3(b)) UKWIN does not grapple with the evidence of Mr Roberts, which was not challenged by them through cross-examination, or that the most up to date development plan, the Waste Core Strategy, explicitly sets out that waste is going to landfill in large and unsustainable quantities. In referring to policy WCS4, and saying that the site lies in open countryside, UKWIN have not grappled with the District Council's stated position that this is a designated employment site that is relied on for regeneration purposes.
- 7.66 With regard to policy WCS9, UKWIN has not grappled with the evidence before the Inquiry, particularly that of Mr Othen, in relation to the advantages of the technology that would be employed. Their approach prefers that residual waste should go to landfill. If taken to its logical conclusion, that would mean that landfill was preferable to recovery in a facility such as that proposed which would be contrary to the waste hierarchy. That point has not been addressed by UKWIN at all.
- 7.67 In relation to policy WCS11, UKWIN demonstrates its unrealistic position in suggesting that this is an unsustainable location. No attempt is made to actually deal with or respond to the evidence of Mr Bell on this matter and their assertions are unsupported by any substantiated evidence.
- 7.68 UKWIN assert that the applicants are mistaken in claiming that the NPPW requirement to consider operational capacity precludes any consideration of emerging capacity and that Mr Roberts confirmed that nowhere in the document is it explicitly or unequivocally stated that one cannot take into consideration capacity that is consented and/or under construction when determining a planning application. That is a perversity of approach to a straightforward policy that discredits UKWIN's approach. The document is clear on its face, whereas the UKWIN approach is contrived and flies in the face of the clear language of the NPPW.
- 7.69 UKWIN seeks to re-write part of an up to date local plan by, for example, suggesting that the local plan Inspector's finding that the historic 0.5% growth assumption figure for MSW arisings is no longer sound. There was an opportunity to present evidence to the local plan Inquiry on that. The Plan has now been adopted and it would be wrong in law to go behind it again via this Inquiry.
- 7.70 UKWIN's position in closing on wildlife, shows the danger of their adopted 'Is it correct, yes or no...' approach to submissions. They recite the answer given to the question put, but that is only part of it, resulting in a mis-statement of the position of Mr Honour at the Inquiry. He adopted a risk based approach and treated the ppSPA as if it were a designated European conservation site, undertaking his own rigorous analysis. The outcome of that was that an

¹²⁹ CD 90

environmental objection could not be sustained. UKWIN fails to deal with the substance of that assessment.

- 7.71 In arguing that incorrect figures were used in the applicants' calculations in relation to the net renewable energy that would be generated by the facility, UKWIN demonstrates again a failure to grapple with the evidence before the Inquiry and national policy, in particular, paragraph 98 of the National Planning Policy Framework, which recognises that even small-scale projects provide a valuable contribution to cutting green-house emissions.
- 7.72 UKWIN place much reliance on the Lock Street appeal decision¹³⁰. Again, though, they fail to grapple with the evidence of Mr Roberts, particularly his Appendix X which sets out an appraisal of UKWIN's supplementary representations. The cases are readily distinguishable, especially since the Inspector found, in that case, that there was insufficient evidence to be able to conclude that the facility could be classed as an energy recovery facility, whereas here, there is an R1 design stage certificate issued by the Environment Agency confirming that what is proposed would be a recovery facility.
- 7.73 The reference in closings by UKWIN to answers given by Mr Othen in relation to the correct Marginal Emissions Factor (MEF) to be used, again represent only a partial quote of the answer actually and is taken out of context.
- 7.74 UKWIN's position is that the scheme proposed would be worse for climate change than landfill. UKWIN prefers landfill to recovery because they have an 'in principle' objection to incineration that is unreasoned and irrational.

CONCLUSION

- 7.75 Paragraph 14 of the Framework requires the implementation of a presumption in favour of sustainable development which, in the context of decision taking, means approving development proposals that accord with the Development Plan without delay. These proposals not only accord with the Development Plan when read as a whole, but are positively and clearly supported by national policy at every point with regard to energy generation, waste management, climate change issues, effective use of resources and protection of the environment. There is, we respectfully submit, not only no sound basis for the refusal of planning permission, but every reason that planning permission should be granted subject to the imposition of appropriate conditions and the section 106 Agreement which has now been completed.

8. THE CASE FOR THE NOTTINGHAM COUNTY COUNCIL

- 8.1 The County Council, as Waste Planning Authority, called one witness, Mr M Hankin¹³¹. The material points of the Council's case were covered in closing submissions, as set out below¹³².

INTRODUCTION

¹³⁰ APP/H4315/A/14/2224529 appended to IP12

¹³¹ NCC/1 - /13

¹³² ID40

- 8.2 The applicants have applied to construct a plant, which is to be known as the Bilsthorpe Energy Centre ('BEC'), to manage unprocessed and pre-treated waste materials through the construction and operation of a Materials Recovery Facility, Plasma Gasification Facility and Energy Generation Plant, together with supporting infrastructure on land previously used as the Bilsthorpe Colliery at the Bilsthorpe Business Park, off Eakring Road, Bilsthorpe. The application site is the former colliery pithead.
- 8.3 The application, and its proposed method of operation, is more fully described in Nottinghamshire County Council's ('NCC') Report to Planning Committee dated 18 November 2014¹³³. On that date, NCC resolved to grant planning permission for the development. However, the National Planning Casework Unit exercised powers under Article 25 of the Town and Country Planning (Development Management Procedure) Order 2010 directing the Council not to grant planning permission for the development. Subsequently, on 19 December 2014, the Secretary of State decided to call in the planning application under powers referred to him in Section 77 of the Town and Country Planning Act 1990 (as amended) for him to determine following a public local inquiry.
- 8.4 Applications such as this are nearly always controversial as recognised, in a rather understated way, by the National Planning Policy for Waste ('NPPW').¹³⁴ This has been evident during the course of this Inquiry as demonstrated by the vigour and passion with which Dr Chow, RAGE, the Parish Councils and the other local people, who have spoken, have put their cases.
- 8.5 The BEC would manage a maximum of 117,310 tpa of waste, which would arrive either as a pre-treated Solid Recovered Fuel ('SRF') ready for gasification or as untreated residual waste to be processed via the Materials Recovery Facility ('MRF'). The MRF would screen the residual waste to pick out recyclable materials with the remainder being converted into SRF for energy recovery. The plant would produce about 13.77 Megawatts of electricity, of which some 9.77 MW would be available for export to the National Grid providing base load energy capacity, which may also be classed as a low carbon energy source.¹³⁵ Given recent weather conditions, including the first of the site visit days when, for example, Nottinghamshire was befogged and still, to the detriment of the nearby solar and wind farms, and the National Grid was obliged to issue a Notification of Inadequate System Margin, this might be considered to be a "good thing".
- 8.6 Employment would be provided for some 46 people. During the construction phase it is expected that some 300 people would be employed. The plant represents a sizeable capital investment in the infrastructure of Nottinghamshire.¹³⁶

THE DEVELOPMENT PLAN

¹³³ CD9 paragraphs 18-48. See too Section 3 of CD65

¹³⁴ CD 53 NPPW paragraph 7 2nd bullet point

¹³⁵ CD 60 DEFRA Energy from Waste A Guide to the Debate (February 2014) at page 2 and paragraphs 214 and 216 page 54. See too CD 62 paragraph 7.13 page 49

¹³⁶ CD 62 Nottinghamshire and Nottingham Waste Core Strategy paragraph 5.16 *"The Waste Core Strategy can therefore play a positive role in encouraging innovative new waste management technologies and investment in employment sites to support wider employment and regeneration goals."*

- 8.7 There is in place an up to date local development plan, with which this application accords. That Development Plan is made up of a number of elements. Firstly, and, it is submitted, most importantly, there is the WCS¹³⁷, together with the saved policies of the WLP¹³⁸. Secondly, there is the N&SCS¹³⁹ and the DPD¹⁴⁰.
- 8.8 Whilst this Closing Statement does not purport to identify all of the relevant planning policies¹⁴¹, it is submitted that the following are the key planning policies applicable to a consideration of this application.

Newark & Sherwood Policies

N&SCS

- 8.9 The N&SCS was adopted in March 2011, a year before the publication of the National Planning Policy Framework (the Framework) 2 years prior to the WCS and 2½ years prior to the NPPW. In the context of Nottinghamshire and Nottingham waste planning policy it is therefore a dated document. The DPD is more recent. It was adopted in July 2013.
- 8.10 Bilsthorpe is in the Sherwood area of Newark and Sherwood. The N&SCS tells us that it is a Focus for Regeneration¹⁴² as a Principal Village¹⁴³. Policy SP2 tells us, *“Within Service Centres and Principal Villages identified for regeneration, the District Council will seek to secure new employment opportunities, the regeneration of vacant land and the provision of new housing.”* Regeneration is expected to deliver 25% of growth in the village. Within the Sherwood Area as a whole 29 hectares of employment land is to be provided and no new allocations are made within the Core Strategy; in other words, the land is already identified¹⁴⁴.
- 8.11 Policy SP9 tells us that *“Sites allocated for housing, employment and community facilities as part of the Allocations & Development Management DPD will:*
- 1) Be in, or adjacent to, the existing settlement;*
 - 2) Be accessible and well related to existing facilities;*
 - 3) Be accessible by public transport, or demonstrate that the provision of such services could be viably provided;*
 - 4) Be the most sustainable in terms of impact on existing infrastructure, or demonstrate that infrastructure can be provided to address sustainability issues;*
 - 5) Not impact adversely on the special character of the area, including not impacting on important open spaces and views, all designated heritage*

¹³⁷ CD 62

¹³⁸ CD 61 See Appendix 2 to NCC4 for further detail

¹³⁹ CD 63

¹⁴⁰ CD 64

¹⁴¹ For a full consideration of the applicable planning policies see CD9 and CD 65

¹⁴² CD 63 Newark and Sherwood Key Diagram

¹⁴³ Ibid Spatial Policy 1 pages 21-22

¹⁴⁴ Ibid Table 5 at page 113

assets including listed buildings or locally important buildings, especially those identified in Conservation Area Character Appraisals;

- 6) Appropriately address the findings of the Landscape Character Assessment and the conservation and enhancement actions of the particular landscape policy zone/zones affected;*
- 7) Not lead to the loss, or adversely impact on, important nature conservation or biodiversity sites;*
- 8) Not lead to the loss of locally important open space or, in the case of housing and employment, other locally important community facilities (unless adequately replaced); and*
- 9) Not be located in areas of flood risk or contribute to floor risk on neighbouring areas."*

8.12 Policy CP6 is entitled "Shaping our Employment Profile". It aims to strengthen and broaden the economy of the Newark and Sherwood District to provide a diverse range of employment opportunities by, amongst other things, directing growth, including new employment development, to the Principal Villages and providing a range of suitable sites in these locations that would enable employment levels to be maintained and increased, by meeting the modern requirements of different business sectors and types¹⁴⁵. In addition CP6 provides that, *"Land and premises in the existing industrial estates and employment areas, and those allocated for employment development, will normally be safeguarded and continue to be developed for business purposes."*¹⁴⁶. Sustainable energy and environmental technologies are to be encouraged¹⁴⁷.

8.13 The N&SCS states¹⁴⁸ that the District Council has adopted the approach of *"Promotion of development that maximises resource efficiency and the use of more sustainable forms of energy."* Therefore, amongst other things, CP9 tells us that new development should achieve a high standard of sustainable design of an appropriate form and scale to its context, make use of Sustainable Drainage Systems, minimise the production of waste and maximise its re-use and recycling; demonstrate an effective and efficient use of land and promote the use of previously developed land providing for development that proves to be resilient in the long-term.

8.14 Under the heading *"Climate Change"*¹⁴⁹ the N&SCS advocates supporting the move to a low-carbon economy¹⁵⁰ and supports, as key to meeting the challenge of climate change renewable and low carbon energy developments, increasing the potential local opportunities for district heating systems and decentralised energy generation (energy generated from local renewable or low carbon sources)¹⁵¹. Therefore CP10 positively encourages the provision of renewable and low-carbon energy generation within new development.

¹⁴⁵ Ibid Core Policy 6 2nd bullet point.

¹⁴⁶ Ibid Core Policy 6 4th bullet point.

¹⁴⁷ Ibid Core Policy 6 5th bullet point.

¹⁴⁸ Ibid paragraph 5.40

¹⁴⁹ Ibid page 54.

¹⁵⁰ Ibid paragraph 5.44 page 54.

¹⁵¹ Ibid paragraph 5.45 page 54.

The DPD

- 8.15 This was adopted in July 2013 some five months prior to the adoption of the WCS. Not surprisingly, therefore, it makes no provision for waste management within the District. Waste management is a county planning issue.
- 8.16 Bilsthorpe, however, is specifically considered in the DPD¹⁵². At paragraph 5.20 it is stated:

“Bilsthorpe is a Principal Village within the Sherwood Area. It is identified in the Core Strategy as a location where the Council will seek to secure new employment opportunities, the regeneration of vacant land and the provision of new housing in order to support the regeneration of the village.”

- 8.17 It has to be accepted that the application site is not identified in any of the specific policies applicable to the village. The existing Industrial Estate is shown on the Proposals Map¹⁵³ as is the site for the then proposed and now extant NCC Highways Depot. The application site is shown as a Site of Importance for Nature Conservation, now a Local Wildlife Site ('LWS').
- 8.18 Nevertheless, the Sherwood Area Employment Land Summary includes 9.74 hectares of land at Bilsthorpe Colliery as *“Available employment land in a designated employment area.”*¹⁵⁴ Indeed, without this land, the 29 hectares identified as being required for employment use¹⁵⁵ cannot be delivered. It would appear that Mr Hankin was correct when, in answer to a question put by the Inspector, he said that this site had been forgotten about when the DPD was drawn up. If one looks at page 193 of the DPD¹⁵⁶, one can see a table entitled “Sherwood Area Employment Trajectory 2012-2026”. The overall requirement of 29 hectares is identified; new allocations are stated to be nil. Specific policies account only for some 6.52 hectares of land. This includes the two Bilsthorpe sites identified within the village envelope in the DPD. The table at page 194 identifies *“Available employment land in a designated employment area”* being 9.74 hectares *“Land at Bilsthorpe Colliery”*. Turning to NSDC’s Employment Land Review 2014 for the period 1 April 2013 – 31 March 2014 in Fig 12¹⁵⁷, *“Available Employment Land in a Designated Employment Area”* in the Sherwood Area, Bilsthorpe Colliery is identified as having the same site area of 9.74 hectares. The Planning Reference is 02/01392/OUTM for B2 and B8 use, i.e. it is the application site. That this is so is made abundantly clear by Bilsthorpe Plan 2, attached to the 2014 Employment Land Review¹⁵⁸. It is shown as Serviced Employment Land, which is consistent with the evidence of the £2.243 million of Government funding provided to UK Coal to undertake remediation works, to install the access road and service infrastructure and to facilitate the industrial/commercial redevelopment of the former colliery pit head area¹⁵⁹.

¹⁵² CD 64 pages 86-90.

¹⁵³ CD 64 page 90.

¹⁵⁴ CD 64 page 194.

¹⁵⁵ CD 63 pages 24-25 Policy SP2.

¹⁵⁶ CD 64.

¹⁵⁷ CD 87 page 11.

¹⁵⁸ CD 87 page 36.

¹⁵⁹ ID 17.

The WCS

- 8.19 The WCS was adopted in December 2013. It is an up to date Strategy. It is consistent with the NPPW, which was promulgated in October 2014. The WCS forms the basis for determining planning applications for all future waste management development and gives guidance on the broad location and type of waste management facilities that Nottinghamshire and Nottingham want to encourage¹⁶⁰. The plan period is 20 years and the plan covers all types of waste¹⁶¹. We are therefore still very early in the plan period. The plan does not identify specific sites; it is a guide to future development¹⁶². Therefore, there are as yet no adopted plan policies identifying specific sites for waste management facilities.
- 8.20 The WCS takes on board the principles of both European law¹⁶³, whilst recognising that there are advantages and disadvantages with all of the options in the waste hierarchy and that the best solution may vary according to the type of waste, and national Government guidance¹⁶⁴, including the Framework.
- 8.21 The sole energy recovery facility in the plan area is the Eastcroft incinerator in Nottingham, which is licensed to take up to 200,000 tonnes of municipal waste a year but has permission for a third line to take an additional 100,000 tonnes of either MSW or C&I¹⁶⁵. There are no energy recovery facilities dedicated to processing mixed C&I waste within the plan area¹⁶⁶. There is a need for some 294,000 tonnes each year of additional energy recovery capacity from C&I waste to that available at the Eastcroft facility¹⁶⁷. Making appropriate use of energy from waste, including modern energy recovery facilities (incineration, gasification or pyrolysis) for residual waste can provide ways of providing local sources of energy and contributing to the wider, low carbon agenda¹⁶⁸. The WCS can play a positive role in encouraging innovative new waste management technologies and investment in employment sites to support wider employment and regeneration goals¹⁶⁹.
- 8.22 Whilst paragraph 4.17 of the WCS identifies that there are four disposal sites within the area, that number has now reduced to two¹⁷⁰. This uncertainty over future landfill provision emphasises the need to develop alternative new waste infrastructure¹⁷¹. Even allowing for UKWIN's evidence, there is still a demonstrable need for additional capacity.
- 8.23 Sustainable growth requires making the most use of existing buildings, land and transport infrastructure. Facilities should be located close to existing

¹⁶⁰ Ibid paragraph 1.1 page 8.

¹⁶¹ Ibid paragraph 1.2 page 8.

¹⁶² Ibid paragraph 1.3 page 8.

¹⁶³ Ibid paragraphs 2.2-2.4 page 11-12.

¹⁶⁴ Ibid paragraph 2.5-2.9 pages 12-13.

¹⁶⁵ Ibid paragraph 4.16 page 28.

¹⁶⁶ Ibid paragraph 4.20 page 29.

¹⁶⁷ NCC 4 paragraph 3.28(a). See too CD 62 – paragraphs 4.38-4.39 page 34.

¹⁶⁸ CD 62 paragraph 5.14 page 40.

¹⁶⁹ Ibid paragraph 5.16 page 40.

¹⁷⁰ NCC4 Proof of Mike Hankin, App. 4 paragraph 6.15 b. 5th bullet point. See too CD 72 – Nottinghamshire Annual Monitoring Report April 2015 paragraph 4.24 page 23-24

¹⁷¹ CD 72 Nottinghamshire Annual Monitoring Report April 2015 paragraph 6.4 page 27.

transport networks, reusing land wherever possible and ensuring that facilities are close to the main sources of waste¹⁷².

8.24 The Vision underlying the WCS, is that the area should be self sufficient in its ability to deal with as much waste as it creates, looking to recover the maximum value from such waste that cannot be re-used or recycled¹⁷³. To deliver this Vision there are a number strategic objectives, which seek (amongst other things):

(i) To maximise the recycling and recovery of waste and use waste as a resource and to encourage investment in new and innovative waste management technologies;¹⁷⁴

(ii) To encourage the use of combined heat and power;¹⁷⁵

(iii) To make use of existing transport links to minimise the impact of new development;¹⁷⁶ and,

(iv) To aim for self-sufficiency in waste management making sure that there is a mix of site types, sizes and locations to help manage waste locally wherever possible and to manage waste sustainably by meeting, and where possible exceeding, current and future targets for recycling and recovering waste and moving away from landfill of untreated waste.¹⁷⁷

8.25 These objectives are to be achieved by the policies adopted in the WCS¹⁷⁸.

8.26 Therefore, WCS1 provides that planning applications that accord with the policies in the Core Strategy and with policies in other plans which form part of the Development Plan will be approved without delay.

8.27 The WCS should support the development of appropriate energy recovery facilities where these help to reduce the amount of residual waste going for disposal¹⁷⁹. Landfill still plays a prominent role for the management of waste in Nottinghamshire with 387,000 tonnes of waste disposed of in landfill sites in Nottinghamshire in 2013¹⁸⁰.

8.28 Accordingly, Policy WCS3 provides that the WCS will aim to provide sufficient waste capacity for its needs; to manage a broadly equivalent amount of waste to that produced within Nottinghamshire and Nottingham. After development of new or extended waste recycling, composting and anaerobic digestion facilities, priority will be given to new or extended energy recovery facilities where it can be shown that this would divert waste that would otherwise need to be disposed of and the heat and/or power generated can be used locally or fed into the national grid¹⁸¹.

¹⁷² CD 62 paragraph 5.17 page 40.

¹⁷³ Ibid "Vision" page 42.

¹⁷⁴ Ibid SO1 Strengthen our economy page 43.

¹⁷⁵ Ibid SO4 Energy and climate page 43.

¹⁷⁶ Ibid SO5 Sustainable transport page 43.

¹⁷⁷ Ibid SO6 Meet our future needs page 43.

¹⁷⁸ Ibid paragraph 6.4 page 44.

¹⁷⁹ Ibid paragraph 7.14 page 49.

¹⁸⁰ NCC 4 paragraph 6.14 page e 2 and ra. 7.13 page 49. S 7e proposal.ithout r this application on any other basis than that the application site is pre

¹⁸¹ CD 62 Policy WCS3 page 51.

- 8.29 Policy WCS4 seeks to guide large-scale waste treatment facilities in or close to the built up areas of Nottingham and Mansfield/Ashfield. This is also recognised at paragraph 7.39 of the WCS.
- 8.30 Otherwise, policy WCS7 identifies the general locations where the development of waste management facilities will be supported. In the case of energy recovery facilities such as the BEC these are on employment land, i.e. areas which are already used for, or allocated for, employment uses such as industrial estates, and/or derelict land/other previously developed land, i.e. land that is no longer needed or has been abandoned. *"This could include former un-restored or poorly restored colliery land in need of restoration ..."*
- 8.31 Policy WCS9 actively supports new and emerging technologies where this will lead to the more efficient and sustainable management of waste.
- 8.32 Policy WCS11 provides that all waste management proposals should seek to make the best use of the existing transport network and minimise the distances travelled in undertaking waste management.
- 8.33 Policy WCS13 makes it clear that new facilities will be supported only where it can be demonstrated that there would be no unacceptable impact on any element of environmental quality or the quality of life of those living or working nearby where this would not result in an unacceptable cumulative impact.
- 8.34 The role of the EA in the detailed regulation and monitoring of waste facilities and in setting specific limits in terms of emissions to air, soil and water on a site specific basis and in line with national and international guidelines is expressly recognised at paragraphs 7.63-7.64 of the WCS. This is the primary control mechanism. Paragraph 7.64 identifies that when determining planning applications expert advice will be sought from the EA and the relevant health protection bodies and acknowledges that the primary controls over pollution are implemented through the separate environmental permitting regime¹⁸².
- 8.35 Finally, Policy WCS15 requires a high standard of design and landscaping, including sustainable construction measures.

MATERIAL CONSIDERATIONS

- 8.36 Material considerations are the NPPW and the Framework, together with a number of Government Policy Statements, which, it is submitted, are material considerations to be weighed in the planning balance, the most important of which are the Waste Policy Review 2011¹⁸³, the National Policy Statement for Energy MPS EN-1¹⁸⁴, the Waste Management Plan for England 2013¹⁸⁵ and the DEFRA publication Energy from Waste A Guide to the Debate February 2014¹⁸⁶.

National Policy Statement for Energy NPS EN-1 – July 2011

¹⁸² Ibid page 67.

¹⁸³ CD 57

¹⁸⁴ CD 55

¹⁸⁵ CD 58

¹⁸⁶ CD 60

8.37 This document is a material consideration in decision making on applications that fall under the Town and Country Planning Act 1990¹⁸⁷. It makes clear the criticality of ensuring a secure and reliable supply of electricity. The UK needs sufficient electricity capacity to meet demand at all times; a safety margin of spare capacity is required with reliable associated supply chains and a diverse mix of technologies and fuels¹⁸⁸. The two main security of supply challenges facing the UK are an increasing reliance on imported fuel in a world where demand for that fuel is rising, and the requirement for substantial and timely private sector investment in power stations¹⁸⁹. The need for new generating capacity is urgent.¹⁹⁰ The substantial renewable energy resource available to the UK is recognised; this includes Energy from Waste ('EfW') – including pyrolysis or gasification¹⁹¹. If the UK is to meet its commitment to sourcing 15% of energy from renewable sources by 2020 it is necessary to bring forward renewable electricity generating projects as soon as possible; the need for such projects is urgent¹⁹². Section 4.6¹⁹³ of the NPS for Energy recognises the contribution that CHP can make.

National Planning Policy Framework – March 2012

8.38 The Framework requires that proposed development which is in accordance with an up-to-date Local Plan should be approved without delay¹⁹⁴. It is expressly stated that when determining planning applications, local planning authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions and should approve the application if its impacts are or can be made acceptable¹⁹⁵.

Waste Management Plan for England – December 2013

8.39 The Waste Management Plan for England ('WMPfE') makes clear the importance of applying the Waste Hierarchy¹⁹⁶. Energy recovery sits ahead of disposal in the hierarchy and gasification and pyrolysis is expressly recognised as a recovery method. The aim is to get the most energy out of waste, not to get the most waste into energy recovery; inert waste can and should be recovered or recycled whenever possible¹⁹⁷. The proximity principle in the revised Waste Framework Directive and the need for self-sufficiency is expressly recognised¹⁹⁸. The Government's support for efficient energy recovery from residual waste is made clear¹⁹⁹.

Energy from waste – A guide to the debate – February 2014

¹⁸⁷ CD 5 paragraph 1.2.1 page 1

¹⁸⁸ CD 55 paragraph 2.2.20 pages 12-13. See too paragraphs 3.3.2-3.3.4 pages 17-18

¹⁸⁹ CD 5 paragraph 2.2.25 page 14

¹⁹⁰ CD 55 paragraph 3.3.15 page 20

¹⁹¹ Ibid paragraph 3.4.3 4th bullet point pages 25-26

¹⁹² Ibid paragraph 3.4.5 page 27

¹⁹³ Ibid pages 51-53

¹⁹⁴ CD 52 paragraphs 12 and 14 pages 3 and 4

¹⁹⁵ Ibid paragraph 98 page 23

¹⁹⁶ CD 58 page 11

¹⁹⁷ Ibid page 13

¹⁹⁸ Ibid pages 29-30

¹⁹⁹ Ibid page 32

- 8.40 This recognises that, in the UK, there is a predominantly market-led approach to infrastructure which should help avoid the development of too much, or too little, EfW capacity²⁰⁰. There is a substantial capacity gap²⁰¹.
- 8.41 Whilst the arguments require a balance to be made, in general terms energy recovery from residual waste has a lower greenhouse gas impact than landfill and is to be preferred in the waste hierarchy²⁰².
- 8.42 Plants that achieve R1 status may be classed as recovery operations as opposed to disposal operations²⁰³. This distinction is important for planning purposes; interested operators should contact the EA, which is the competent authority, which will assess whether or not a solid waste combustion facility meets or exceeds the threshold and can be considered a recovery operation²⁰⁴.
- 8.43 The potential for energy from waste to consume materials that could otherwise be managed higher up the Waste Hierarchy is recognised, but this is a risk that can be effectively addressed provided that the right action is taken to ensure separation and pre-treatment options are optimised²⁰⁵.
- 8.44 The ability for EfW plants to generate base load electricity is expressly recognised²⁰⁶ as are the processes of gasification and pyrolysis to generate syngas²⁰⁷. Further, syngas has the potential to be used for a variety of purposes such as a substitute for natural gas²⁰⁸ or as a transport fuel²⁰⁹ with potential for much greater efficiencies to be achieved from the process.
- 8.45 The concern about emissions is likewise recognised, but it is noted that these are tightly controlled under the Waste Incineration Directive ('WID') now recast as the Industrial Emissions Directive ('IED')²¹⁰. In order to meet the strict controls, the gases would go through a number of clean-up steps before being released into the atmosphere and the result of these systems is that EfW plants are a low source of environmental pollutants and contribute only a small fraction of both local and national total emissions of particles²¹¹. Public Health England ('PHE') has reviewed the impact on health of emissions to air from EfW plants and notes that modern, well managed incinerators make only a small contribution to local concentrations of air pollutants; any effect on health, if at all, is likely to be very small and not detectable²¹².

National Planning Policy for Waste – October 2014²¹³

- 8.46 This is the most recent statement of Government Policy for waste management. Section 1 sets out the Government's ambition to work towards a more sustainable and efficient approach to resource use and management,

²⁰⁰ CD 60 paragraph 27 page 17

²⁰¹ Ibid paragraph 8 page 18

²⁰² Ibid paragraph 23 page 22

²⁰³ Ibid paragraph 48 page 23

²⁰⁴ Ibid paragraph 54 page 24

²⁰⁵ Ibid paragraph 59 page 25

²⁰⁶ Ibid paragraph 71 page 28

²⁰⁷ Ibid paragraph 75 page 29

²⁰⁸ Ibid paragraph 79 page 30

²⁰⁹ Ibid paragraph 85 pages 30-31

²¹⁰ Ibid paragraph 125 page 38

²¹¹ CD 60 paragraphs 126-129 page 39.

²¹² Ibid paragraph 131 page 39.

²¹³ CD53.

identifying the importance that positive planning has in delivering new, modern waste infrastructure, local employment opportunities and wider climate change benefits by driving waste management up the waste hierarchy.

- 8.47 Sections 2 and 3 deal with the preparation of Local Plans, requiring waste plans to ensure sufficient new capacity is available and identifying spatial distribution using a robust analysis of available data but avoiding spurious precision. In particular waste plans should identify the tonnages and percentages of MSW and C&I waste requiring different types of management in their area over the period of the plan, having regard to the extent to which the capacity of existing operational facilities would satisfy any identified need.
- 8.48 Sections 4 and 5 deal with identifying suitable sites and areas, giving priority to the re-use of previously developed land and sites identified for employment uses whilst seeking to avoid stifling innovation.
- 8.49 Section 7 deals with determining planning applications, stating that developers are not required to identify a quantitative or market need for new facilities when the proposals are consistent with an up-to-date local plan. It is recognised that incinerators can give rise to justifiable frustration in local communities. It requires consideration of the likely impact on the local environment and amenity against the locational criteria listed in Appendix B to the NPPW. Waste Planning Authorities should take advice on health from the relevant health bodies; they are not required to carry out their own detailed assessment of epidemiological and other health studies. They should concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes, which are a matter for the pollution control authorities. Waste Planning Authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced.

DISCUSSION

The status of the site

- 8.50 The planning history of the site is recorded in the Statement of Common Ground²¹⁴, as supplemented by the Supplemental Statement of Common Ground²¹⁵. NSDC has confirmed that paragraphs 2.19-2.21 of the Supplemental Statement of Common Ground include an accurate account of the planning history and status of the land in terms of the matters considered by the District Council²¹⁶.
- 8.51 The situation, therefore, is that the application site is an unrestored pit head. As matters presently stand there is no provision for restoration through development control procedures. NCC took a deliberate decision not to enforce the execution of the Pit Head Restoration Scheme, which had been approved on 12 September 1996, given the planning permission for the construction of the Bilsthorpe Business Park approved on 24 March 2004. It is now too late to enforce that scheme. Meanwhile, as already demonstrated and as is clear from the District Council's annual Employment Land Availability Studies since 2008-

²¹⁴ CD65 paragraphs 4.1-4.9

²¹⁵ CD70

²¹⁶ CD 71

2009, the application site is included within the employment land supply for the District and is recorded as *“available employment land in a designated area”*. Indeed the soundness of the DPD depends on this²¹⁷.

- 8.52 Against this background, it is submitted that the site is properly to be regarded in planning terms as previously developed land within the definition of that term in the NPPF.²¹⁸ This is because at present no *“provision for restoration has been made through development control procedures.”* Such provision as was made has not been undertaken and has lapsed due to a conscious decision to that effect taken by the relevant planning authority. There can be no argument that the land was occupied by a permanent structure. Notably the site is classed as previously developed (or brownfield) land within NSDC’s Employment Land Availability studies²¹⁹.
- 8.53 It is submitted that it would be unreasonable to consider this application on any other basis than that the application site is previously developed land.

R1 Status

- 8.54 The BEC has been accredited with Design Stage R1 status by the licensing authority, the Environment Agency. This accreditation is based solely upon the facility’s electrical energy generating capacity. In addition, the plant has the potential to produce some 5.5 MW of heat in the form of hot water. It is a Combined Heat and Power (‘CHP’) ready plant. At this stage, nothing further can be provided by the applicant to demonstrate that the plant would satisfy the R1 efficiency level set out within Annex II of the WFD. The Applicants are happy to accept a planning condition that the BEC operates to R1 status²²⁰.
- 8.55 Given that an R1 Design Stage Certificate has been issued by the EA, it is submitted that it would be perverse to consider this application on any basis other than that the BEC is a recovery facility, as opposed to a disposal facility. The test relates to the balance of probabilities, not a ‘beyond all reasonable doubt’ test as asserted by UKWIN.

Application of planning policy

- 8.56 It is submitted that when the planning policies identified above are considered, the planning balance tips very firmly in favour of granting planning permission for the reasons discussed in detail in the Committee Report²²¹. NCC relies on the discussion of all the applicable planning policies there set out. These are not repeated in these Closing Submissions. It is true that there are policy tensions; that is not uncommon but there is no departure from policy. When the matter is considered fully, there can be no serious argument other than that the application is compliant with the provisions of an up-to-date Development Plan when that plan is read as a whole. Indeed, it is to be noted that no one challenged NCC’s witness, Mr Hankin, when he gave evidence, or sought to show that a different planning balance should be struck.

²¹⁷ Mr Roberts’s oral evidence

²¹⁸ CD 52 page 55

²¹⁹ E.g. ID 33 ELAS 2008-2009 and ELAS 2009-2010

²²⁰ ID34 Draft Planning Condition 16

²²¹ CD9 paragraphs 129-423

- 8.57 Further, it is plain that UKWIN do not seek to argue such a case. Their entire case is predicated on the basis that this is a disposal facility, not a recovery facility, which fox has been shot by the Environment Agency upon the grant of the Design Stage R1 Certificate. None of the cases cited by UKWIN is applicable to this. All were decided against very different planning backgrounds and/or in respect of applications where the R1 design status could not be achieved. UKWIN do not anywhere argue coherently that even if the plant has R1 status, this application should be refused. It is true that their numerous submissions are bespattered with assertions to that effect, but that is not a coherent argument.
- 8.58 Insofar as Dr Chow's evidence is concerned, the inescapable fact is that there is not a single shred of evidence to support any concern that this facility might pose to human health. The evidence of Mr Othen was clear and compelling on this issue. It is submitted that his evidence is entirely consistent with Government Policy and the advice from Public Health England that '*modern, well managed incinerators make only a small contribution to local concentrations of air pollutants*' and '*while it is possible that such small additions could have an impact on health, such effects, if they exist, are likely to be very small and not detectable*²²². None of the public health bodies consulted about this application have expressed any concern²²³ – even when provided with Dr Chow's evidence²²⁴.
- 8.59 Likewise, the concerns raised on behalf of RAGE are not supported by any objective evidence. They are understandable and legitimate concerns raised by local people. However, there is no objective evidence to support them. NCC submits that the evidence presented by the Applicants to this Inquiry clearly shows this to be the case.
- 8.60 It is noteworthy that, when NSDC first considered the matter²²⁵, the Officer's Report did not identify any matter of real concern. The Report recommended that NCC pay serious regard to particular matters without raising a formal objection. The issues upon which the Report focused were: Need and Alternatives, Geology, Hydrogeology and Ground Conditions, Noise and Vibration and Air Quality and Human Health. It had no objection based on land contamination. It considered that the effects on air quality, human health and emissions of dust and odour would be negligible and therefore had no objection based upon these issues. The harm caused by the chimneys upon the views was less than substantial. So far as the DPD was concerned, the approach taken had not been specifically to identify every employment site in the District, but only those which required allocation or further policy direction. "*For those sites which require neither, or in this instance had the benefit of planning permission when the plan was prepared, Core Policy 6 – Shaping our Employment Profile provides the context for consideration of employment land and sites.*" The conclusion was that the proposal did not offend against that Policy. The quoted comment is consistent with the analysis at paragraph 8.18 above.

²²² CD 60 paragraph 131 page 39

²²³ See e.g. CD 30 and 31

²²⁴ See NCC8

²²⁵ CD 45

- 8.61 The potentially affected landscape was described as *"being of poor landscape condition and the landscape sensitivity is described as very low"*²²⁶ and overall *"a significantly interrupted area ... having a poor landscape condition with landscape sensitivity being defined as moderate."*²²⁷ The conclusion was that the proposed development would therefore comply with policy CP9 of the N&SCS and policy DM5 of the DPD *"which require proposals to be of an appropriate form and scale to their context complementing the existing built landscape environments."* There was no evidence to warrant an objection²²⁸.
- 8.62 Members did not accept the Officer's recommendation and objected to the proposal²²⁹. It is submitted that little weight should be given to that objection in circumstances where NSDC withdrew from the Inquiry process and did not seek to maintain it²³⁰. The District Council has not attended the Inquiry in any capacity at all.
- 8.63 The application complies with policy SP2, providing new employment opportunities in a Principal Village and by regenerating vacant land.
- 8.64 The application complies with the policies in policy SP9 as set out above:
- a) It is adjacent to an existing settlement;
 - b) It is accessible and well related to existing facilities;
 - c) It is accessible by public transport;
 - d) It is sustainable in terms of impact on existing infrastructure;
 - e) It has little impact on the character of the area or heritage assets;
 - f) It does not lead to the loss of important nature conservation or biodiversity sites.
- 8.65 The application complies with policy CP6 by meeting the need to direct growth and providing new employment development to a Principal Village using land in an existing industrial estate or employment area. It is a sustainable energy project.
- 8.66 The application meets the objectives of policy CP9 by achieving a high standard of sustainable design of an appropriate form and scale to its context, making use of Sustainable Drainage Systems; demonstrating an effective and efficient use of land and promoting the use of previously developed land and by providing for development that proves to be resilient in the long-term.
- 8.67 The application complies with CP10; it provides renewable and low-carbon energy generation.
- 8.68 The application would assist delivery of the Vision underpinning the WCS by using waste as a resource and enabling investment in new and innovative waste management technologies; it is CHP ready; it uses existing transport

²²⁶ Ibid page 24 in respect of MN Policy Zone 24: Rufford Park Estate Farmlands with Plantations

²²⁷ Ibid page 24 in respect of MN Policy Zone 27: Kirklington Village Farmlands

²²⁸ Ibid page 24

²²⁹ CD 45

²³⁰ CD 67

links – the A614 is one of the key arterial roads in the county and it would contribute to the mix of waste management facilities in the plan area moving waste away from landfill.

- 8.69 The application would assist the achievement of WCS3 of the WCS in enabling Nottinghamshire and Nottingham to become waste self-sufficient and by diverting residual waste that would otherwise need to be disposed of into heat and power, which can be fed into the national grid.
- 8.70 Whilst not wholly compliant with WCS4 the application is, nonetheless, located centrally in the county between the major population centres.
- 8.71 It is unarguable that the location of the application site is compliant with WCS7 on previously developed land, being available employment land in a designated employment area on an un-restored colliery site.
- 8.72 The application complies with WCS9 in that it supports new and emerging technologies. It also complies with WCS11 in that it makes good use of the existing transport network and reduces the distance waste has to travel.
- 8.73 Finally, the application complies with WCS13; there are no impacts, let alone unacceptable impacts, on any element of environmental quality or the quality of life of those living or working nearby.
- 8.74 Accordingly, it is submitted that NCC's evidence to the Inquiry, and that of the Applicants, has shown conclusively that the development proposed is in accordance with the provisions of the local development plan when read as a whole. This is not a marginal case; even having regard to the acknowledged policy tensions the balance tips firmly down in favour of the application.

THE DIRECTION LETTER

- 8.75 In his Direction Letter the Secretary of State has identified five matters he particularly wishes to be informed about. Mr Hankin's evidence responded to these.
- 8.76 Firstly, the consistency of the proposal with the development plan for the area:
- The scale of the proposals means that there are a large number of development plan policies relevant to the proposal. These matters were fully considered within the committee report.²³¹ The evidence demonstrates that the development plan when read as a whole is supportive of the development and there is no departure from any individual policy.
 - Notably the development plan identifies a shortfall of waste recovery capacity²³², which the facility would assist in addressing, thereby delivering waste management at a higher level in the waste hierarchy by diverting waste that would otherwise be disposed of within landfill disposal. The facility would generate low carbon electrical energy and therefore benefits from the positive planning policy support given to

²³¹ CD 9 paragraphs 129-408

²³² CD 62 Nottinghamshire and Nottingham Waste Core Strategy paragraph 4.16

such developments.²³³ Furthermore, the siting of the development on previously developed (brownfield) land which is 'available industrial land' is an appropriate location in the context of development plan policy.²³⁴

- Notwithstanding the above, NCC acknowledges that the development presents some areas of policy tension. These policy tensions are clearly identified within the NCC Committee Report²³⁵ which considers their implications as part of an overall balanced assessment of the planning merits of the scheme. That assessment concluded that the Development Plan is supportive of the proposal and that any policy tensions are not sufficient to warrant refusal of the application.

8.77 Secondly, conformity with the policies contained in the National Planning Policy for Waste (NPPW):

- The policy implications of the NPPW were considered within Paragraphs 132-134 of the committee report.²³⁶
- The development is compliant with the policy objectives of the NPPW.²³⁷ There is an up to date development plan²³⁸; the decision should be taken in accordance with the policies contained therein²³⁹; the development would achieve compliance with the Waste Hierarchy²⁴⁰; there is a need for the development, which has been informed from a reliable evidence base²⁴¹ (albeit that there is no need for the Applicants to demonstrate that there is a need for the proposal²⁴²); the planning system should play a pivotal role in bringing forward new waste management facilities²⁴³ and therefore a positive approach should be taken in the assessment of this planning application; the potential for heat and energy recovery from the process has been investigated and maximised as far as practicable; the facility would contribute to reliable, renewable and low carbon energy; its siting on previously developed land identified for employment redevelopment is appropriate²⁴⁴; the Council has not sought to stifle innovation; and the environmental safeguards listed in Appendix B to the NPPW have been appropriately applied and pollution control matters have been appropriately dealt with, including emissions and health.

8.78 Thirdly, conformity with the National Waste Management Plan for England (WMPfE).²⁴⁵

²³³ CD 58 Waste Management Plan for England (December 2013) page 13; CD 60 - DEFRA Energy from Waste A Guide to the Debate (February 2014) paragraphs 35-46

²³⁴ CD 62 Nottinghamshire and Nottingham Waste Core Strategy Policy WCS7

²³⁵ CD 9 – e.g. paragraphs 256 and 415

²³⁶ CD 9

²³⁷ CD 53

²³⁸ CD 61, CD 63 and CD 64

²³⁹ CD52 NPPF paragraph 14

²⁴⁰ CD 53 NPPW App. A

²⁴¹ CD 62 Nottinghamshire and Nottingham Waste Core Strategy Chapter 4

²⁴² CD 53 NPPW paragraph 7 1st bullet point

²⁴³ CD 53 NPPW paragraph 1

²⁴⁴ CD 62 Nottinghamshire and Nottingham Waste Core Strategy Policy WCS7

²⁴⁵ CD 58

- The implications of the WMPfE and its supporting DEFRA publication Energy from Waste – A guide to the debate (February 2014)²⁴⁶ were extensively considered within the committee report.²⁴⁷
- The development is consistent with the objectives of the WMPfE insofar that the development complies with the waste hierarchy by managing waste within an efficient energy recovery facility and the recovered energy would contribute to the country's wider energy policy which incentivises renewable and low carbon energy generation.

8.79 Fourthly, conformity with the National Planning Policy Framework (the Framework):

- The policy implications of the Framework were considered throughout the committee report. The development accords with the up to date development plan and therefore should be approved (paragraphs 12 and 14); the development contributes towards reducing impacts of climate change and maximising the use of renewable/low carbon energy (paragraph 93) and therefore should be assessed against the presumption in favour of sustainable development (paragraph 14). Appropriate environmental protection measures have been considered in accordance with Framework policy.

CONCLUSION

- 8.80 This proposal would move waste up the Waste Hierarchy in accordance with the NPPW²⁴⁸. The Government supports energy from waste as a waste recovery method; it believes that there is potential for this sector to grow further.²⁴⁹
- 8.81 It would divert waste from landfill and the recovered heat and/or electricity can be used locally or fed into the National Grid.²⁵⁰ Nottinghamshire is losing landfill capacity and needs other means of dealing with its waste. Merely because this proposal does not result in waste being dealt with at the highest level in the hierarchy does not warrant refusal of the application. The incoming waste would be residual in character (i.e. waste that cannot economically or practically be reused or recycled).²⁵¹ Nevertheless the MRF part of the plant would provide a further level of treatment to this waste, recovering additional recyclable materials and ensuring that the gasification process would only be applied to waste that cannot readily be recycled, thus ensuring this waste is treated higher up the waste hierarchy. The reality is that not all waste can sensibly or economically be treated at the highest level in the waste hierarchy. A range of solutions is required and this plant would make its contribution. The facility therefore would manage residual waste at the highest practical level in the waste hierarchy, moving the treatment of this waste up the hierarchy and out of landfill, or away from more distant waste treatment facilities. As a by-product, the plant would produce aggregate that can be

²⁴⁶ CD 60

²⁴⁷ CD 9 - see, e.g., paragraphs 132-166

²⁴⁸ CD 53

²⁴⁹ CD 60 DEFRA Energy from Waste A Guide to the Debate (February 2014) – Chapters 4 and 5

²⁵⁰ CD 62 Policy WCS3(b) of the Waste Core Strategy for Nottinghamshire and Nottingham

²⁵¹ CD 60 paragraph 2 page 12

used and which would otherwise have gone to landfill, thereby reducing the need to quarry further aggregates.

- 8.82 As is noted in the WCS, apart from the Eastcroft Facility in Nottingham, there are no other energy recovery facilities for MSW within the area²⁵² and there are none for C&I waste, although Eastcroft could fulfil that function in future²⁵³. There is an identified shortfall of energy recovery facilities – a need for an additional 294,000 tonnes per year of energy recovery capacity²⁵⁴. This facility would therefore contribute to the mix of waste management options within the Plan area.
- 8.83 The proposal would provide local, low carbon, renewable energy to offset fossil fuel use and increase overall energy security. Unlike solar or wind it has the added advantage that it will also produce “base load” energy thereby contributing to the UK’s energy security²⁵⁵. The need for renewable energy has been identified as an urgent problem by the Government²⁵⁶; it would provide dependable, diversified, distributed and despatchable energy meeting the objectives of the Overarching National Policy Statement for Energy (EN-1), which is a matter to which significant weight should be given in the overall assessment of this application.
- 8.84 Need is not an issue because there is an up-to-date local plan.²⁵⁷ The WCS was adopted in December 2013. It identifies shortfalls in C&I waste recovery capacity within the joint authority area and, as a merchant facility, the BEC would be ideally placed to address this shortfall²⁵⁸.
- 8.85 The site is previously developed land and is identified as available industrial land within an existing industrial estate where new industrial development is positively supported by CP6 of the N&SCS. WCS7 of the WCS, and the NPPW, provide strong support for the development of Energy from Waste facilities in such locations. Whilst the site is not within the broad areas identified by WCS4, it is central to the likely sources of waste, which should assist in minimising the distance waste is transported. IT also meets the general site criteria of WCS7, which identifies existing or proposed employment sites and previously developed land as the most appropriate for large scale energy from waste facilities.
- 8.86 Overall and whilst there are policy tensions, the proposal is in conformity with the policies contained within the WCS and the Local Development Plan and it should therefore be approved without delay.

9. THE CASE FOR Dr CHOW (Rule 6(6) PARTY)

- 9.1 Dr Chow represented himself at the Inquiry. His evidence can be found at Docs KC1-KC18, ID1 and ID10. The material points of his case, which are taken from his closing submissions (ID37) are summarised below.

INTRODUCTION

²⁵² CD 62 Nottinghamshire and Nottingham Waste Core Strategy paragraph 4.16

²⁵³ CD 62 Nottinghamshire and Nottingham Waste Core Strategy paragraph 4.20

²⁵⁴ NCC 4 paragraph 3.28(a). See too CD 62 - Nottinghamshire and Nottingham Waste Core Strategy paragraph 4.39

²⁵⁵ CD 60 DEFRA Energy from Waste A Guide to the Debate (February 2014) paragraphs 69-70

²⁵⁶ CD 55 Overarching National Policy Statement for Energy (EN-1)

²⁵⁷ CD 53 NPPW paragraph 7 1st bullet point

²⁵⁸ CD 62 Nottinghamshire and Nottingham Waste Core Strategy Chapter 4

- 9.2 I am a local consultant radiologist providing professional radiology services to the local NHS hospitals of Chesterfield Royal Hospital and Sherwood Forest Hospital. My area of imaging interest is in head and neck imaging and I provide imaging lead for head and neck and also skin cancers. I provide secondary support for lung cancers.
- 9.3 I live near to the proposed development site of Bilsthorpe and became interested in the health issue of this development after being consulted by representatives and residents during the consultation process. My motive to participate in this Inquiry is to fulfil my Hippocratic oath; *"I will prevent disease whenever I can, for prevention is preferable to cure"*.
- 9.4 Two respectable hospital consultants have reviewed this planning application and both parties found that there has been inadequacy in the original health assessment of this project by Public Health England. The applicant's failure to provide adequate health risk information in their Environment Statement (ES)²⁵⁹ and the planning authority's failure to ask for relevant health information both contributed to the inadequacy of the health assessment.
- 9.5 The outcome is that the three major health risks of this project (water emissions from the cleaning of syngas, the particles/micro-particles from syngas cleaning processing and solid aggregates) have not been assessed.
- 9.6 The cleaning of syngas produced by incineration of biomass or coal is not new, but the cleaning of this type of syngas produced from waste incineration has never been done on a commercial scale. This process therefore would benefit from further detailed study in order to provide the information required for adequate regulation by the Environment Agency²⁶⁰. The potential contamination of drinking water aquifer by wastewater effluent of micro/submicron particles and also the soluble organic and non-organic chemicals would also need further study.
- 9.7 I have prepared this closing submission for the Inquiry, in the absence of support by counsel; the purpose of my evidence is to assist the Inspector and the Secretary of State by providing relevant health information to this Inquiry. I do not intend to take sides on this debate and concentrate only on the health impact of this development.
- 9.8 I attempted to raise health concerns that arose from this development during the planning meeting organised by Nottinghamshire County Council, but this was not given the appropriate attention.²⁶¹ An allowance of three minutes to verbally present was given for that presentation.
- 9.9 I am pleased to be given the opportunity now to review the further relevant information prior and during this public inquiry, in order to ensure a successful and fair conclusion to the public inquiry to this important application. This Inquiry would set a precedent for future planning applications of this type of plasma pyrolysis incinerator.

²⁵⁹ CD2

²⁶⁰ KC2

²⁶¹ CD10 page 8

- 9.10 The health issues and risks from this development have not been adequately assessed and therefore the proposal does not conform to policies contained in the WCS, the NPPW, the National Waste Management Plan for England and the National Planning Policy Framework.

BACKGROUND

- 9.11 The BEC development is a complex industrial design, combining established and innovative experimental technology to process 117,000 tonnes of waste per annum²⁶² and it would recover a proportion of its potential energy as electricity.
- 9.12 In simple terms, it is a combination of “incineration” and “power generation”. This merger unfortunately has resulted in some confusion in planning issues. This combination has been encountered on previous developments but has involved immediate burning of generated syngas to provide steam. This application is different and the new process of washing of un-burnt syngas raises the new hazards. In the worst case scenario, where all post-processing waste streams are found to be toxic, the performance of this system would reduce the capacity of the BEC processing capacity to 90k tpa (net capacity).
- 9.13 The identified health hazards are:
- 1) Wastewater from washing of syngas, disposed of sub-micro particles from the Wet Electrostatic Precipitator process and micro-particles from the scrubber.²⁶³ Without knowing the chemical content of the wastewater stream, it cannot be considered properly handled and disposed of appropriately.²⁶⁴
 - 2) The applicant estimates that there would be approximately 4,000 tpa of toxic Syngas Processing Residues. This contains unknown chemical composition including various compounds of heavy metal. The ES²⁶⁵ assumed that these would be properly handled and managed by using licensed landfill site. Unfortunately this is assumption and is not evidence based.
 - 3) The aggregates are likely to be contaminated by heavy metals both as impregnated particles and dissolved substrate within the vitrified glass. The ES assumed that these slag aggregates are safe to be used as aggregates²⁶⁶.
 - 4) The steam produced within the process is a health risk. The process would create 5.5 MW of thermal waste. With a cooling tower only 11 metres high, that is likely to generate vast amounts of steam emission²⁶⁷.
- 9.14 All these four post-processing waste residue streams are different from usual conventional incineration using the conventional method of burning waste.

²⁶² CD2 paragraph 3.1.2

²⁶³ CD 2 paragraph 4.3.33

²⁶⁴ KC2 paragraph 5

²⁶⁵ CD2 paragraph 4.3.58

²⁶⁶ CD2 paragraphs 4.3.27, 4.3.57, 14.4.35

²⁶⁷ CD2 paragraph 4.2.12

These streams of generated residue wastes require further assessment to ensure safety to human health. This information would be a useful guide for future planning for similar plasma pyrolysis of Municipal Waste schemes.

- 9.15 The WCS²⁶⁸ says that "The factors that are likely to affect health such as air, water and soil quality can only be assessed properly at the application stage."
- 9.16 The Framework²⁶⁹ states "*Local planning authorities should focus 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.*"
- 9.17 I confirm that this, and my previous and present submissions, comply with both these policies.

HEALTH RISK ASSESSMENT

- 9.18 This application should be seen within the context of the waste hierarchy.²⁷⁰ Any produced waste that is below the top level of 'Prevention' would have a degree of adverse effect on health. In health terms, any level of waste management below the level of prevention is equivalent to treating the side effect of an illness, rather than treating the root cause of the disease whenever possible.
- 9.19 The impact on health emissions to air from municipal waste incinerators²⁷¹ states, "The incineration process can result in three potential sources of exposure:
- i) emissions to the atmosphere
 - ii) solid ash residues
 - iii) cooling water.

Provided that solid ash residues and cooling water are handled and disposed of appropriately, atmospheric emissions remain the only significant route of exposure to people."

- 9.20 This above statement illustrates the difficulty Public Health England (PHE) faced in assessing this application. This is not a conventional incinerator but it uses a plasma torch to convert waste to atomic ions, which then become free radicals and then unknown chemicals.
- 9.21 Due to lack of information or research data, Mr Othen and myself could not agree about the possible outcome of the chemical compounds that would be produced. This is the root cause of our disagreement of the toxicity of the chemical element or compound produced in the 4,000 tpa of particles (similar to fly ash in conventional incinerator but in the ES²⁷² are referred to as particles and sub-micron particles) or the chemical content of the wastewater.

²⁶⁸ CD62 paragraph 7.64

²⁶⁹ CD52 paragraph 122

²⁷⁰ CD62 paragraph 7.7

²⁷¹ KC2 paragraph 5

²⁷² CD2

This wastewater effluent is not cooling water²⁷³ or water resulting from the process of control of air emissions.

- 9.22 The wastewater stream from washing of 'dirty' syngas would contain unknown chemicals, including some chemicals which are normally neutralized by burning, would be within this wastewater content. The 23,000 tpa of slag aggregates cannot be assumed to be inert in nature. There would be 5.5 MW (equal to 2,200 of 2.5kw of boiling kettles) of thermal waste to disperse and I suspect most of this energy would convert to steam within the cooling tower. No evidence has been provided by PHE²⁷⁴ regarding assessment of these four streams of post-processing waste residue from the BEC scheme. These four streams of emissions are a potential risk to agricultural land in the Humber Basin and are also a significant risk of pollution contaminating the underlying primary and secondary aquifers used to supply drinking water.

WASTEWATER EFFLUENT FROM BEC

- 9.23 This residual waste stream is a combination of wastewater from the washing of 'dirty filtered syngas' prior to being suitable for the internal combustion engines, combined with micro-particles from the scrubber and sub-micron particles from Wet Electrostatic Precipitator process.²⁷⁵
- 9.24 This wastewater stream is filtered, but filtration is only relative and there would be particles left within this wastewater stream. By the nature of plasma pyrolysis, these particles are likely to include toxic compounds, including heavy metals. The wastewater is likely to contain some soluble toxic chemicals resulting from plasma pyrolysis. The applicant, represented by Mr Othen during cross-examination, is unable to provide any information or research data on this wastewater. This is unsurprising because the washing of 'dirty' syngas from municipal waste prior to combustion has not been previously attempted.
- 9.25 Mr Othen's opinion, on cross-examination, is that these toxic captured particles by filtration can be safely handled by sending them to licensed landfill and the sewage works. Without evidence to support this assumption, Mr Othen and myself agree to disagree with this aspect of health risk.
- 9.26 It is an assumption by Mr Othen that the discharge of this wastewater into the sewage system would be controlled by appropriate regulations and that human health risk would be appropriately managed by the EA. I continue to disagree with this assumption. Any proposal to discharge any unknown chemical particles and fugitive soluble unknown chemicals generated by the combination of free radicals within the gasification chambers, would benefit from a more thorough health risk assessment by PHE. This wastewater would be discharged to the sewage works and, after the usual sewage works processing, are subsequently discharged onto the wider landmass locally to flow down the watercourse of the Humber Basin. The dispersion of pollution, including the heavy metal chemicals, are 1000 times less effective by water compared with air, indicating a much higher risk to local aquifer and agriculture land.²⁷⁶

²⁷³ KC2

²⁷⁴ CD30 and NCC8

²⁷⁵ CD2 paragraph 4.3.33

²⁷⁶ KC9, KC5, KC17

- 9.27 The Framework²⁷⁷ explains that the "right information is crucial..."²⁷⁸ explaining that the reason for this is to "prevent unacceptable risk from pollution", including "the cumulative effect of pollution on health". In addition, it states that: "Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner".
- 9.28 The developer has not provided any data to enable assessment of health risk from water pollution or dust particles pollution from this process.
- 9.29 The effect of water pollution is difficult to detect and is best illustrated by a case study in Japan of Cadmium pollution of its river system.²⁷⁹ It took 30 years (1905-1935) for the Japanese population to discover that they had been poisoned by Cadmium, causing a new disease called Itai-itai disease. It took 67 years (1905-1972) for the affected community to obtain legal recognition and financial compensation (400 known cases). Even today, the daily Cadmium food intake in some areas of Japan remains at 2-3 times higher compared to Europe and the US.
- 9.30 The financial consequences of that are overwhelming. It took 33 years to clean up the Cadmium pollution. Soil on 863 hectares of land in the Jinzu River basin has been replaced under the ¥40.7 billion (£224 million) project, which began in 1979. I note that both the applicants and landowners are limited companies and it would be justified that they provide public liability insurance, or a bond of similar size, to cover for similar potential environmental disaster, which otherwise would have to be borne by public funds.
- 9.31 Sandstone aquifers are sensitive constraints to waste development in this area, NWCS²⁸⁰. This was also identified in the ES²⁸¹. The site is identified by the document to be within a ground source protection zone 3 (Total Catchment). It is therefore surprising that the applicant and the local planning group authority did not look into the health effect of potential water contamination by the BEC development. There is no mention of this health risk in the committee report²⁸² and there is no documentary evidence that this risk has been assessed and acknowledged. Groundwater pollution risk is made worse by previous mining and oil extraction activity.

PARTICLES FROM SYNGAS CLEANING

- 9.32 These are mainly non-organic chemicals, but would contain compounds of heavy metal organic chemicals. These particles would include the larger captured particles and smaller particles trapped by scrubbers, and sub-micron particles captured by Wet Electrostatic Precipitator.²⁸³
- 9.33 The solid particles, estimated at 4,000 tpa, would contain the majority of the heavy metals including heavy metal organic compound and water-soluble

²⁷⁷ CD52 paragraph 192

²⁷⁸ Ibid paragraph 120

²⁷⁹ KC4

²⁸⁰ CD62 para5.10

²⁸¹ CD2 paragraph 10.3.9

²⁸² CD9

²⁸³ CD2 paragraph 4.3.33

solids. Some of these smaller particles, especially the sub-micron particles, would escape the filtration processing of wastewater effluent and then be dispersed into the wider environment. This unplanned pollution would be bio-concentrated and would appear in our future food chain.²⁸⁴

- 9.34 The potentially uncontrolled type of subtracts introduced into the gasification chamber, processed by a 'violent' physical process of plasma pyrolysis, would result in the production of unknown chemical composition including various compounds of heavy metal. The cleaning of this 'dirty' syngas requires removal of these particles and is equivalent to the removal of fly ash from a conventional incinerator.²⁸⁵ However we cannot assume that these particles are similar in chemical composition to fly ash (which has its own sub-classification). Without this information, it cannot fulfil the definition that this stream of waste is properly handled and disposed of appropriately²⁸⁶ and therefore it does not comply with adequate assessment of human health risk - WCS,²⁸⁷ NPPW,²⁸⁸ NWMP,²⁸⁹ and the Framework.²⁹⁰ The assumption by Mr Othen during cross-examination, that it is safe to dispose of this fairly large amount of toxic waste into licensed landfill without any further documented health risk assessment, is not acceptable.²⁹¹
- 9.35 This part of the process is not new and the applicant should have provided information from other similar plants for additional information, research data, and examination how other similar plants manage this waste stream.

AGGREGATES

- 9.36 The 23,000 tpa of aggregates, a by-product of the process proposed which would be exported for use in construction, are likely to be contaminated by heavy metals both as impregnated particles and also as dissolved substrate within the vitrified glass. The ES assumed that these slag aggregates are safe to be used as aggregates.²⁹² I am of the opinion that this claim has no scientific basis.
- 9.37 It is difficult to believe that flowing cold water would be sufficient to suppress steam formation. Rapid quenching of slag of molten vitrified solids at 5000 degrees would produce contaminated aggregates, steam, and particles due to violent rapid local change in temperature at the aggregate surface. Both aggregates and particles may have a long-term cumulative polluting effect.
- 9.38 Again, this part of the process is not completely new and the applicant should have provided information regarding this stream of possible pollution, rather than making unjustified assumptions, which has significant effect on the merit of this waste processing capacity. Instead of processing 117,000 tpa of waste, there would only be a net capacity of 90,000 tpa. In addition, it leaves the

²⁸⁴ KC8 paragraph 8; KC7

²⁸⁵ CD2 paragraph 4.3.57

²⁸⁶ KC2 paragraph 5

²⁸⁷ CD62

²⁸⁸ CD53

²⁸⁹ CD58

²⁹⁰ CD52

²⁹¹ CD2 paragraph 4.3.58

²⁹² Ibid paragraphs 4.3.27, 4.3.57, 14.4.35

waste authority with an additional problem of dealing with 4,000 tpa of toxic particles and 23,000 tpa of toxic aggregates.

STEAM PRODUCTION

- 9.39 The process created by 5.5 MW of thermal waste and the cooling tower only 11 metres high, is likely to generate vast amounts of steam emissions.²⁹³ During cross-examination of Mr Othen, he assured me that there would be no fugitive particles escaping the process. I reluctantly accept his argument due to my lack of engineering expertise, but this issue may require EA supervision. He assures me the rest of the steam from the cooling tower contains 'clean steam'. The air current generated by steam would carry dust particles into the air and deposit them onto the surrounding vicinity by condensation.
- 9.40 Another health hazard is loss of driver visibility on the adjacent roads during foggy days, especially in the evenings.

EVIDENCE OF PUBLIC HEALTH ENGLAND (PHE)

- 9.41 PHE in their initial assessment of this application failed to identify all relevant health risks. Ms. Joanna Wilding, Environmental Public Health Scientist, in a health risk assessment report on 3 April 2014, identified air pollution as the only potential health risk.²⁹⁴
- 9.42 PHE replied to the second consultation by Mr Hankin, regarding health risk, on the 20 May 2015.²⁹⁵ The second assessment was by Ms. Sarah Deck, as Specialist Environmental Health Scientist. The significance of 2nd PHE report is that PHE has recognised and acknowledged the validity of my initial concerns but has incorrectly dismissed the all the health risks that I identified²⁹⁶ without justifications. PHE did not provide any formal evidence to support their assessment.
- 9.43 I will provide explanations for my response to the second PHE report, which was made available to me in October 2015 and provide reasons why I found their recommendations could not be justified:
- a) Under heading Syngas in its second response²⁹⁷, it wrongly states, "**any particulates that are removed during cleaning will be fed back into the gasification chamber.**" This is not an accurate representation. In the applicant's ES²⁹⁸ only the carbon and biological sludge are fed back into the gasification chamber. There are nearly 4,000 tpa of toxic material that would probably benefit from further health risk assessment.
 - b) In my opinion of the emission of the gas internal combustion engines (ICE) are probably regulated by ICE regulation rather than the Incinerator regulation.

²⁹³ CD2 paragraph 4.2.12

²⁹⁴ CD30

²⁹⁵ NCC8

²⁹⁶ NCC8; NCC 4

²⁹⁷ NCC8 pages 2-3

²⁹⁸ CD2 paragraph 4.3.58

- c) Under heading of Quenching of slag²⁹⁹, PHE decided that due to high gasification temperature, the molten slag would not be inherently toxic. This conclusion was not supported by additional evidence. High temperature would not destroy heavy metals, which would be either soluble in glass or mixed within its structure as individual deposits, small particles of metal. The vitrified slag, rapidly cooled in water is likely to be porous and would continue to leach out heavy metal over a long period of time. I would suggest this material is subjected to further research to determine its toxicity. The applicant claimed that this process of the plant has been well established and hence this material would be available for further research.
- d) To the credit of PHE, it now recognises that the slag aggregate is potentially toxic and requires environmental permitting prior to being used as aggregate³⁰⁰. It is a pity this was not identified in its first formal assessment, which would have helped Mr Hankin to provide a more accurate and informed recommendation to the Planning and Licensing Committee³⁰¹. This not only affects the level of risk assessment to human health, but it would also affect the net capacity of the scheme to process waste. In a worst-case scenario, if all the solid residues are toxic, the net capacity of waste processing would be reduced to 90,000 tpa³⁰².
- e) PHE assumed that steam generated from the quenching of slag would contain an insignificant amount of pollutant. This is not an evidence-based conclusion of possible health risk.³⁰³
- f) PHE assumed that the wastewater from the washing of syngas and quenching of slag is not a health risk provided it is regulated by usual control methods. This is not evidence based and it quotes a Waste Incinerator Directive which set control of emission limits for releases to water arising from air pollution devices.³⁰⁴
- I have no concern with regards to wastewater from air control devices, which would be similar in composition to the content of air pollution from any conventional Incinerator plant. My concerns deal with washing of the un-burnt fuel of syngas which has unknown molecules resulting from the chemistry process of plasma pyrolysis which produced very reactive atomic free radicals. These unknown molecules would also be within the molten glass, which would pollute the water, used for quenching. Mr Othen, during cross-examination, maintained that these aggregates would remain inert but confirmed that this would require confirmation of an environment permit prior to it being use as aggregates.
- g) PHE statement that the applicant has no plans to discharge water to ground or surface water shows a lack of understanding of the sewage works process.³⁰⁵ In most cases, solids from sewage works are spread onto farmland as fertiliser and processed water is sent either into local

²⁹⁹ NCC8 page 3

³⁰⁰ Ibid

³⁰¹ CD9

³⁰² CD2 paragraph 4.3.58; CD9 paragraph 9

³⁰³ KC08; NCC 8 page 3

³⁰⁴ NCC8 paragraph 5, page 4

³⁰⁵ NCC8 paragraph 5, page 4

watercourses or sent to sewage farms to be attenuated. Hence any pollution in wastewater, which is not identified and not regulated are a significant threat to agriculture in the Humber Basin and also to the adjacent aquifers used to supply drinking water³⁰⁶. I am surprised that this remains unidentified as a significant health risk.

- h) The absence of a technical guide for steam emissions from slag quenching should have raised a warning to PHE that additional caution is required in the assessment of this new technology.³⁰⁷ This is similar to the absence of a technical guide for the wastewater from the washing of syngas. The absence of official guidance of these two processes are only surprising because PHE did not understand that this is not a conventional incinerator, but that it is using a novel technology.
- i) PHE, under applicable standards, stated that they assumed current regulatory standards are sufficient assessment for risk to public health. This is not a safe assumption. In hospitals, we self regulate in not draining pharmaceutical chemicals into our wastewater. Not all these substances are regulated and similar substances could be present within the wastewater from the washing processing of unburned syngas fuel produced from atomic free radicals within a gasification chambers with numerous type of unspecified atoms, creating unknown chemicals.³⁰⁸ The dispersion of these unknown pollutants, some normally neutralised by burning, is at least 1000 times less effective with water method compared to dispersion by air.³⁰⁹
- j) In the article, *The impact on health emissions to air from municipal waste incinerators*,³¹⁰ it states "Provided that solid ash residues and cooling water are handled and disposed of appropriately, atmospheric emissions remain the only significant route of exposure to people".³¹¹ Without study data, or any information on the possible chemical composition of the three streams of wastes (liquid – of unknown quality, solid particles 4,000 tonnes per annum and aggregates 23,000 tonnes per annum) the applicant cannot claim that these would be properly handled and disposed of appropriately.
- k) In the early 20th century, cadmium was not considered toxic and this chemical was not regulated, resulting in a pollution disaster in Japan³¹². Failure to learn lessons from this has resulted in significant land and agriculture contamination³¹³.
- l) PHE relied on the applicants' ES which concludes "*that the impact of emissions will be insignificant to negligible, based on assessment of*

³⁰⁶ KC 10 -15

³⁰⁷ NCC8 paragraph 6, page 4

³⁰⁸ KC6

³⁰⁹ KC 7; KC 9

³¹⁰ KC 2

³¹¹ KC2 paragraph 5

³¹² KC4

³¹³ KC17

worse-case emission to air, land and water."³¹⁴ This statement is of no scientific value and is not backed by evidence. I have shown the inadequate nature of the ES.

DISCUSSION

- 9.44 There has been an inadequate health risk assessment of the development proposed for the Bilsthorpe Energy Centre. The content of the ES³¹⁵ has not provided sufficient detail of possible health risks apart from air emissions, giving an impression that the rest of the stream waste residue are appropriately handled and disposed. It is my opinion that the post-process residue waste stream of wastewater, 4,000 tpa of solid particles and 23,000 tpa of aggregates has not passed the test of being appropriately handled and disposed of. Proper handling and disposal of these waste residue streams requires some knowledge of the likely chemical component in the waste residue stream.
- 9.45 In the entire planning documentation, there is insufficient information to demonstrate that health assessment has been fulfilled. All responsible parties to this duty of care seem to delegate this responsibility of health safety to the Environment Agency. I remain unclear after this Inquiry which individual holds ultimate responsibility for human health within the planning system.

10. THE CASE FOR OTHER PERSONS APPEARING AT THE INQUIRY

- 10.1 Oral representations made in addition to the written submissions of the respective parties:

RAGE, a local action group (Residents Against Gasification Experiment) represented themselves at the Inquiry.³¹⁶ The material points of their case, which are taken from the closing submissions (ID39) are summarised below.

INTRODUCTION

- 10.2 We would like to start by saying that for those of us acting on behalf of RAGE, it has been a privilege to make representations on behalf of the residents of the villages of Bilsthorpe, Eakring, Rufford and Kirklington who have supported us wholeheartedly, along with their Parish Councils. It has certainly been a new experience for us and we wish to thank the Inspector for her assistance and forbearance throughout the Inquiry process.
- 10.3 RAGE stated in opening that we would concentrate on the issues of most concern. These are: traffic and access arrangements, landscape and visual impact and the historic environment, the effect on ecology, agriculture, and surface water, tourism and socio-economic development in the area. We stand by our submissions in documents IP1 and IP21.
- 10.4 Peel's application relies on a deeply flawed site-selection that failed to take account of either the site's greenfield status and also its ecological value with already having the classification as a local SINC and the Mitigation Plan for this

³¹⁴NCC8 paragraph 6, page 5

³¹⁵ CD2

³¹⁶ CD21, CD33, CD36, IP1, IP10, IP15, IP21, ID3, ID14 and ID16/1-16/4.

development would in no way compensate for the harm caused to this important area for nature conservation. RAGE's case is that the proposed development would further exacerbate an already increasing problem of traffic related issues and highway safety.

- 10.5 RAGE still holds the view that no evidence has been presented that supports the applicants' argument that Bilsthorpe is the right location for this development as the location is away from an urban area: the scale of the development is too large for the open countryside location.

TRAFFIC AND ACCESS ARRANGEMENTS

- 10.6 Throughout this Inquiry it is obvious the overriding concern of local residents and Parish Councils is road safety and the impact on the local highway network, in particular the safety of the junction of the A614/Deerdale Lane and the suitability of the Application Site to accommodate the Proposed Development in this respect. Also, there are no planned improvements to be made to this junction.
- 10.7 Policy WCS11 of the Waste Core Strategy³¹⁷ states that all waste management proposals should seek to maximise the use of alternatives to road transport such as rail, water pipeline or conveyor. Proposals should also seek to make the best use of existing transport network and minimize distances travelled in undertaking waste management.
- 10.8 Spatial Policy 7 of the Newark and Sherwood Core Strategy³¹⁸ states that the Council would support development proposals that promote an improved and integrated transport network, with emphasis on non-car modes as a means of access to services and facilities. Development proposals should, amongst other things, minimise the need to travel.
- 10.9 The proposed development fails to support these important objectives for achieving sustainable development.
- 10.10 RAGE states that the impacts of the Proposed Development on sustainable transport objectives and highway safety have been seriously understated by the main parties and that insufficient weight has been attached to this element of the proposals.
- 10.11 In response to questions, Mr Hankin from the Waste Panning Authority confirmed that there was no evidence before the Inquiry that the Highways Department had consulted local people regarding traffic before making their consultation.³¹⁹
- 10.12 Mr Hankin also confirmed, based on his local knowledge that when there was bad weather/problems affecting the major A1/M1 routes the stress levels on the A614 become increased and that the Deerdale Lane is a busy junction.³²⁰
- 10.13 Mr Hankin confirmed in his Proof of Evidence that there would be a predicted change in HGVs on Deerdale Lane of an increase of 33%.³²¹

³¹⁷ CD62 Nottingham and Nottingham Waste Core Strategy

³¹⁸ CD63 Newark and Sherwood Core Strategy

³¹⁹ Mr Hankin response to questions from RAGE

³²⁰ Mr Hankin in response to question from Mr John Pearce from Rufford Parish Council

10.14 The County Council highlights “notable impacts” to pedestrian safety arising from the Proposed Development as follows: -

“the most notable impact of using the Eakring Road/Deerdale Lane route arises from the fact that neither of these roads incorporates dedicated footway provision and therefore pedestrians are required to walk within the carriageway or utilise vyse_j1 adjacent grass verges. Although pedestrian numbers on these roads are extremely low, the increase in vehicle movements as a result of the development would have noticeable impacts on their enjoyment of the route.”

10.15 Mr Bell in response to questions from RAGE accepted that he would call the A614 a rural road, acknowledged that records were not maintained for all minor road traffic accidents, and he was only able to take account of incidents reported to the Police.

10.16 Mr Bell also confirmed that his view was that Kelham Bridge was a bottleneck.

10.17 Mr Bell conceded that the Application Site was not well served for shift-workers.

10.18 Mr Bell in response to question from Dr. Chow acknowledged that his traffic assessment model did not take account of the gradient at the junction.

SURFACE WATER QUALITY AND SEWAGE DISPOSAL

10.19 The Application Site lies on the Aquifer Zone SPZ3. The Proposed Development is bordered by the boreholes of Rufford and Ompton to the north-east of the development site and the proximity is of serious concern to RAGE.

10.20 Mr Kingston QC dismissed the likelihood of damage to the pipe work between the Incinerator and sewage works, he did not make any considerations for frost damage, ground movements and cracked pipes that do occur in the UK.³²²

HISTORIC ENVIRONMENT

10.21 The County Council now admit there are heritage assets affected by the proposed development and a matter to which particular weight must be given pursuant to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.³²³

10.22 The Proposed Development conflicts with Policy W3.28 of the WLP, policy CP14 of the N&SCS and Policy DM9 of the DPD which seek to preserve and enhance the conservation areas and historic environment.³²⁴

10.23 During this Inquiry, RAGE’s view has not changed regarding the detriment this development would have on the conservation areas of Bilsthorpe and Eakring and also the impact this would have on Rufford Country Park and stand by our statements in IP1 and IP21 on the historic environment.³²⁵

³²¹ IP21 para.70

³²² Mr Kingston response to Dr Chow’s questions

³²³ ID4 NCC-Opening Statement paragraph 7 Bullet point 6

³²⁴ IP1 Para 136

³²⁵ IP1 Para 136-142 and IP21 paragraph 44-53

10.24 RAGE consider the provision of an interpretation scheme would in no way compensate for the impact this development will have on the setting of these assets.³²⁶

ECOLOGY AND AGRICULTURE

10.25 The Development Site is a Site for Nature Conservation. The proposal raises serious questions over the impact this proposal would have on the last remaining section of the SINC.

10.26 The Applicants' Ecologist, Mr Honour, accepted criticism that previous works were carried out during the bird breeding season and that he and the County Council Conservation Officer considered that an illegal act may have been performed but chose not to pursue it.³²⁷ This leads RAGE to have no confidence that the Mitigation Plan and its management would be fulfilled.

10.27 The compensatory habitat proposed is unsatisfactory, due to its location within the zone of a wind turbine and closeness to an existing rookery. This is in direct conflict with policy CP12 of the N&SS which seeks to conserve and enhance the biodiversity of the area.³²⁸

LANDSCAPE AND VISUAL IMPACT

10.28 The Application is in open countryside, outside of the built up area of Bilsthorpe. The cumulative impacts of the large scale building, chimneys along with the existing five wind turbines and solar farms would dominate both the immediate and wider landscape of this area and are of genuine concern to residents. For these reasons, the Proposed Development also fails to satisfy Policy W3.29.³²⁹ Mr Bell in his presentation to the Inquiry himself stated that the development was large in scale.³³⁰

TOURISM AND SOCIO - ECONOMICS

10.29 RAGE fully endorses the views expressed by Centre Parcs in relation to the impact of the Proposed Development on tourism of the area. The Application Site falls within Sherwood Forest, it lies close to Rufford Country Park, Sherwood Pines³³¹ and many other holiday villages and cottages and this development runs counter to the aims and objectives for promoting an increase in tourism and the development of Sherwood Forest Regional Park.

SUMMARY AND CONCLUSION

10.30 For all of the reasons mentioned above, along with those presented in evidence, the Secretary of State for the Department for Communities and Local Government (through the Planning Inspectorate) is respectfully invited to have regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004 and to refuse to grant planning permission in light of the Development Plan and other material considerations.

³²⁶ NCC13 Supplementary Heritage Statement

³²⁷ Question raised by Mr Henniger of RAGE to Kevin Honour

³²⁸ CD63

³²⁹ CD62

³³⁰ Statement made by Mr Bell in cross-examination

³³¹ IP21 Para 85

UKWIN (United Kingdom Without Incineration) represented themselves at the Inquiry.³³² The material points of their case, which are taken from their closing submissions (ID38) are summarised below.

Whether the facility would comprise a waste disposal or recovery operation

- 10.31 For the purposes of this inquiry, the BEC gasification facility should be considered as disposal.³³³
- 10.32 The application merits refusal whether the proposed gasification facility is considered 'recovery' or 'disposal'. That said, the fact that the gasification facility should be considered 'disposal' weighs heavily against the application.³³⁴
- 10.33 A Design-stage R1 Certificate is no guarantee the facility would operate as R1. A conclusion that the proposed Bilsthorpe gasification facility could theoretically meet R1 based on "design data" is not the same as a guarantee that the facility would operate as R1 in practice.³³⁵
- 10.34 The *Skrytek* case established the principle that a facility can be treated as Recovery for the purposes of interpreting planning policy only if there are "clear findings" that the facility would be "more likely than not" to "achieve the R1 threshold" during its operation, and the Court of Appeal did not dispute this.³³⁶
- 10.35 Even without the *Skrytek* case, it would remain true that it would not be reasonable for the Secretary of State to treat a proposed facility as recovery without such a finding. To allow facilities that could be likely to operate as disposal to benefit from planning policies that promote recovery would undermine the waste hierarchy.³³⁷
- 10.36 A reasonable approach would be to expect the applicant to demonstrate that the facility, as proposed, would be very likely to be R1-compliant under all reasonable operational conditions, i.e. that operating consistently at R1 over the lifetime of the facility is beyond reasonable doubt.³³⁸
- 10.37 The BEC Applicant has failed to demonstrate that the facility as proposed would be likely to operate as R1 in practice. Their evidence does not adequately address the experimental nature of their proposed technology configuration.³³⁹
- 10.38 According to the Environment Agency, their design stage certificate for the BEC is not any form of authorisation or guarantee, and the EA did not carry out any independent validation of the design data provided by the Applicant.³⁴⁰

³³² CD40, IP2, IP8, IP9, IP12, IP18, IP22, IP23-27, IP30-31, ID2, ID12, ID22 and ID36.

³³³ ID12, Pages 2-12 and CD40 UKWIN Part 1 Objection, Paragraphs 60-80 and CD40 UKWIN Part 2 Objection, Paragraphs 1-46 and CD40 UKWIN Part 3 Objection, Paragraphs 4-6 and IP2, Paragraphs 5-87 and IP12, Paragraphs 17-39 and IP22, Paragraphs 120-122, 136-139 and IP23 and IP26 Paragraphs 3-34

³³⁴ CD40, UKWIN Part 1 Objection, Pg. 11, Paragraphs 60 and 61

³³⁵ CD40, UKWIN Part 1 Objection, Paragraphs 71-73 and 75

³³⁶ ID12, Pages 4-5 and IP2 Paragraphs 17 and 27 and IP2 Appendix B, Paragraphs 8, 12, 13, 18, 20 and 22

³³⁷ ID12, Pages 4-5 and IP2 Appendix B (e.g. Paragraph 22) and IP2 Page 7, Paragraph 17

³³⁸ IP2, Page 12, Paragraphs 38 and 39

³³⁹ ID12, Page 6

³⁴⁰ IP26, Paragraphs 3-34 and IP31 and APP-SMO-6A and ID12, Pages 7 and 9

- 10.39 Mr Othen confirmed that the Environment Agency had not assessed whether the proposal was more likely than not to actually operate as recovery in real world operations, and stated that this is not the Environment Agency's role.³⁴¹
- 10.40 Mr Othen also confirmed his view that, in general terms, the Inspector or Secretary of State would need to be satisfied that a facility can be treated as a recovery facility for planning purposes based on the evidence provided, and that it would be open to the Inspector and/or Secretary of State, based on the circumstances of a case, to determine that the circumstances meant they believed the facility was more likely than not to operate as disposal.³⁴²
- 10.41 Outside of this Inquiry, the Applicant's consultants have stated that: "*...the use of...[plasma arc gasification] syngas to generate electricity in a gas engine has not been demonstrated at commercial scale*".³⁴³
- 10.42 UKWIN has provided evidence that specifically calls into question the ability of the BEC proposal to meet the 0.65 R1 threshold in practice.³⁴⁴
- 10.43 Given the experimental nature of the proposed technology and the poor track record of other Advanced Thermal Treatment plants, it seems likely that the number of flares and start-ups would be higher than is assumed by the applicants, and that this would bring the R1 Factor below 0.65.³⁴⁵
- 10.44 Mr Othen accepted that by modelling 97% power generation he had in effect calculated the impact of a 3% flare rate. He acknowledged that had he used a 3.4% flare rate then this would have brought the R1 value below 0.65.³⁴⁶
- 10.45 Mr Othen also confirmed that the R1 value is sensitive to the level of optimisation of the output from the generator sets, and that there was no evidence before the inquiry which explains a means to optimise the output from the generator sets in the event of short-term variations in the flow and/or calorific value of the syngas.³⁴⁷
- 10.46 Additionally, Mr Othen confirmed that there was no evidence before this inquiry which explains how it is proposed to start up the generator sets and bring them onto load during the Plasma Gasifier start-up process and as syngas production commences after the installation has been shut down for maintenance or for any other reason.³⁴⁸

Whether the scheme would accord with the development plan for the area

- 10.47 The proposal fails to accord with an objective reading of the development plan when taken as a whole.³⁴⁹

Policy WCS3 of the Nottinghamshire Waste Core Strategy (Future waste management provision)

³⁴¹ Mr Othen response to questions put by UKWIN at the inquiry

³⁴² Mr Othen response to questions put by UKWIN at the inquiry

³⁴³ IP2, Page 42, Paragraph 178 and ID12, Pages 9-10 and CD40, UKWIN Part 4 Objection, Pages 2-3

³⁴⁴ ID12, Page 10 and IP22, Paragraph 136-169 and IP23

³⁴⁵ IP22, Paragraph 167-169

³⁴⁶ ID9 Paragraph 2.16(a) and APP-SMO-2A, Page 3 and Mr Othen response to question put by UKWIN at the inquiry

³⁴⁷ Mr Othen response to questions put by UKWIN at the inquiry

³⁴⁸ Mr Othen response to questions put by UKWIN at the inquiry

³⁴⁹ ID12, Page 13 and ID2, Paragraph 16

- 10.48 The proposed development conflicts with Policy WCS3, including WCS3(b) and/or WCS3(c).³⁵⁰
- 10.49 The Nottinghamshire WCS Examination Report notes: "The overall target... adopted by the WCS for the recycling or composting of 70% of MSW, C&I and construction & demolition waste by 2025 is balanced and realistic".³⁵¹
- 10.50 The Applicant's planning witness has acknowledged that: "...WCS3 requires new recovery facilities to show they would divert waste that would otherwise be disposed of..."³⁵²
- 10.51 If the proposal is treated as disposal then the proposal would conflict with WCS3(c), as the Applicant has not demonstrated that the BEC is necessary to manage residual waste that cannot economically be recycled or recovered.³⁵³
- 10.52 If the proposal is treated as an energy recovery facility then the proposal would go against WCS3(b) because the Applicant has not shown that this facility would divert waste that would otherwise need to be disposed of.³⁵⁴
- 10.53 The WCS specifically warns of the potential for energy recovery facilities to harm recycling, and the Applicant has not demonstrated that the proposed Bilsthorpe gasification facility would not be a brake on future increases in recycling.³⁵⁵
- 10.54 The presence of the BEC (and associated waste management contracts) could make source segregation and/or processing of C&I waste in accordance with the waste hierarchy less practicable, i.e. no longer TEEP (Technically, Environmentally and Economically Practicable).³⁵⁶
- 10.55 In relation to food waste collection, the presence of the proposed Bilsthorpe facility could make source segregation less attractive to businesses, especially if the fact that the BEC would take food waste discourages investment in new local AD capacity.³⁵⁷
- 10.56 The current municipal incineration rate of around 29% - 34% for Nottingham and Nottinghamshire is up to nearly three times the national average, and up to 14 percentage points higher than the 20% rate of incineration assumed in the Waste Core Strategy for this waste stream. It is therefore a reasonable concern that any further incineration capacity could act as a brake on recycling.³⁵⁸
- 10.57 For unitary and disposal authorities with more than 30% incineration of Local Authority Collected Waste (LACW) there is a clear inverse correlation between the percentage of LACW incinerated and the proportion of LACW recycled.

³⁵⁰ IP2, Paragraph 105 and CD62 and IP2, Paragraphs 57-61 and 64-87 and IP2 Appendix I and IP18 and IP22, Paragraphs 29-89

³⁵¹ CD40, UKWIN Part 4 Objection, Section 6

³⁵² APP-NR-1, Paragraph 4.1.5

³⁵³ IP2, Paragraph 59 and CD40, UKWIN Part 1 Objection, Paragraph 125

³⁵⁴ CD40, UKWIN Part 1 Objection, Paragraphs 124 and 167-169 and APP-NR-1, Paragraph 4.2.2 and APP-NR-1, Paragraph 4.6.6 and APP-NR-4, Paragraph 5(a)

³⁵⁵ CD62, Paragraph 7.14 and CD40, UKWIN Part 4 Objection, Section 16 and CD60, Paragraphs 227-228 and 233-235, 250 and 263 and CD40, UKWIN Part 2 Objection, Paragraphs 2,9-10, 82, and 97-98

³⁵⁶ CD40, UKWIN Part 2 Objection, Paragraph 106 and IP2, Paragraph 72

³⁵⁷ CD40, UKWIN Part 2 Objection, Paragraph 107 and IP2, Paragraph 73

³⁵⁸ IP22, paragraphs 49-50 and IP2, Paragraph 67 and IP2, Appendix F, Table 2

According to Defra data, those Local Authorities in England that incinerate the most are also amongst those that recycled the least.³⁵⁹

Policy WCS4 (Broad locations for waste treatment facilities)

10.58 The proposal conflicts with Policy WCS4.³⁶⁰ The proposed facility is within the open countryside and outside the broad locations identified within WCS4. The policy states that: "...development of facilities within the open countryside will be supported only where such locations are justified by a clear local need..." (emphasis added).³⁶¹

Policy WCS7 (General site criteria)

10.59 The proposal conflicts with Policy WCS7.³⁶² The site should be treated as a greenfield site in the open countryside.³⁶³

Policy WCS9 (New and emerging technologies)

10.60 The proposal does not benefit from Policy WCS9.³⁶⁴ As is obvious from an objective reading of the text of the policy itself, WCS9 does not provide blanket support for any scheme that might describe itself as 'innovative', but rather supports new and emerging technologies only where these would lead to "*the more efficient and sustainable management of waste*".³⁶⁵

10.61 The Applicant has stated that the net efficiency of the BEC is expected to be 20.44%.³⁶⁶ It has not been demonstrated that the Bilsthorpe facility would in fact achieve and maintain 20.44% net efficiency in practice. Nevertheless, it should be noted that 20.44% would be less efficient than the similarly-sized Battlefield (conventional) incineration plant's net efficiency of 22.3%.³⁶⁷

Policy WCS11 (Sustainable transport)

10.62 The proposals go against Policy WCS11 as the Applicant has not ruled out using non-local waste but has not considered the potential for locating the facility outside of the County at a site that could take advantage of sustainable (non-road) transport.³⁶⁸

10.63 The Applicant has stated that they would seek to treat waste from "*...Nottinghamshire and surrounding areas...*".³⁶⁹ As the Applicant intends to process non-local waste, it makes sense that they should evaluate the potential use of non-local sites, and the Applicant's failure to do so should weight against their application.³⁷⁰

³⁵⁹ IP2, Appendix G, Paragraph 6.39 and Figure 1 and IP2, Paragraph 155 and UKWIN Response to Questions from Applicant at Inquiry and IP2, Appendix 2, Paragraph 6.40 and Table 4

³⁶⁰ IP2, Paragraph 105-106 and 147 and IP1 and IP21

³⁶¹ IP2, Paragraph 147 and CD62 and CD26 and CD40, UKWIN Part 4 Objection, Sections 18 and 19 and APP-NR-1, Para 7.2.8

³⁶² IP2, Paragraph 105 and CD40, UKWIN Part 4 Objection, Section 19

³⁶³ CD40, UKWIN Part 4 Objection, Pg. 12, Section 19 and IP1 and IP21 and CD21

³⁶⁴ IP2, Paragraph 94

³⁶⁵ IP2, Paragraph 95 and UKWIN Response to Question from the Applicant at the inquiry hearings

³⁶⁶ IP22, Paragraph 109 and APP-SMO-1 Paragraphs 2.4.4 and 5.2.5

³⁶⁷ IP22, Paragraph 110 and IP2 Appendix D (Veolia, September 2011) and IP2, Paragraphs 101-102 and IP23

³⁶⁸ CD40, Part 3 Objection, Paragraph 14(c) and IP2, Paragraph 112 and APP-NR-1 Paragraph 4.2.14 and CD40, UKWIN Part 2 Objection, paragraphs 132-138

³⁶⁹ CD40, UKWIN Part 2 Objection, Para 134 and CD3 Appendix 6-1 Para 1.2.3

³⁷⁰ CD40, UKWIN Part 2 Objection, Para 138

Policy WCS12 (Managing non-local waste)

- 10.64 The proposals go against Policy WCS12(b) as the Applicant intends to treat waste from areas outside Nottinghamshire and Nottingham but has not demonstrated that there are no facilities or potential sites in more sustainable locations in relation to the anticipated source of the identified waste stream.³⁷¹
- 10.65 If the proposal is to be treated as a disposal operation for planning purposes, then it would clearly fail to comply with WCS12(a) as it would be treating non-local waste but would not have demonstrated that it would make "*a significant contribution to the movement of waste up the waste hierarchy*".³⁷²

Policy WCS13 (Protecting and enhancing the environment)

- 10.66 The proposal would go against WCS13 with respect to protecting the countryside, wildlife and heritage.³⁷³ There is also conflict with respect to traffic impacts, as these would give rise to unacceptable quality of life impacts.³⁷⁴

Core Policy 6 of the Newark & Sherwood Core Strategy (Shaping our employment profile)

- 10.67 The Applicant has failed to demonstrate a local need for the proposal, as required by NSDC Core Policy 6.³⁷⁵

Core Policy 10 (Climate change)

- 10.68 The fact that the proposed Bilsthorpe gasification facility would not get the most energy out of the residual waste to be used as feedstock means that the proposal runs contrary to NSDC Core Policy 10 because the proposed gasification facility would not be "*efficient in the consumption of energy...and other resources*".³⁷⁶

Other Newark & Sherwood policies

- 10.69 The proposal also conflicts with other local NSDC policies, including Core Policies 9, 13 and 14; and Spatial Policy 3; and ShAP 1; and ADMDPD Policy DM5, including DM5(4), DM5(7); and DPD Policies DM8 and DM9.³⁷⁷

Whether relevant development plan policies are up to date and consistent with the National Planning Policy Framework

Batsworthy Judgement

- 10.70 The Development Plan, when read as a whole, provides for consideration of both beneficial and adverse impacts of development proposals, and so the Applicant is wrong to claim that the local policies restricting development with which the Bilsthorpe gasification application conflicts should be discounted.³⁷⁸

³⁷¹ CD40, Part 3 Objection, Para 14(d and e) and IP2, Para 112

³⁷² CD40, UKWIN Part 2 Objection, Para 59

³⁷³ IP2, Paragraph 110

³⁷⁴ IP2, Paragraphs 115-116

³⁷⁵ IP2, Paragraph 147 and IP1 and IP21 and CD63 and CD45, NSDC Objection Letter dated 14th October 2014

³⁷⁶ IP2, Paragraph 94 and CD63

³⁷⁷ IP1 and IP21 and IP2, Paragraphs 105, 109 and 111 and CD63 and CD64

³⁷⁸ IP22, Paragraphs 17-23 and APP-NR-1 Paragraph 3.2.3

Up to datedness of waste arisings and need predictions used for WCS3

- 10.71 The Applicant is mistaken to claim that the NPPW requirement to consider operational capacity precludes any consideration of emerging capacity. Mr Roberts has confirmed that nowhere in the NPPW is it explicitly or unequivocally stated that one cannot take into consideration capacity that is consented and/or under construction when determining a planning application³⁷⁹.
- 10.72 The Waste Core Strategy is not up to date with respect to waste arisings, as trends have overtaken it, rendering the indicative estimates for future waste management capacity out of date³⁸⁰.
- 10.73 The Applicant is wrong to apply a 0.5% growth rate to MSW arisings as this is out of step with the current relatively stable state of waste arisings in Nottingham and Nottinghamshire, and the Applicant is also wrong to suggest that the WCS Plan Inspector endorsed the 0.5% growth figure as one to be applied in the circumstance of this planning application³⁸¹.
- 10.74 The 2010 RPS Study formed the basis of Table 3 (Estimated Future Waste Arisings) of the Waste Core Strategy and was used as the basis for calculations in Tables 4a, 4b, 4c, and Tables 5 and 6³⁸².
- 10.75 The RPS Study relied on the 0.5% annual growth figure from the 2007 Waste Strategy for England. This growth rate was not retained in the 2007 Strategy's replacement, the Waste Management Plan for England, which was published two days after the adoption of the Nottinghamshire and Nottingham Waste Core Strategy³⁸³. As such, the Plan Inspector's basis for finding the historic 0.5% growth assumption figure to be sound no longer applies.³⁸⁴
- 10.76 The Plan Inspector acknowledged what is obvious from an objective reading of the term 'indicative' in the title of the indicative tables in the Waste Core Strategy, which is that arisings assumptions may need to be revisited in light of changing circumstances, stating that: *"...The qualification that the plan should be up-to-date is...significant where it can be shown that trends in, for example waste arisings, have overtaken the plan and rendered it out of date..."*³⁸⁵.
- 10.77 Waste arisings for Nottinghamshire and Nottingham in 2014/15 were significantly (nearly 90,000 tonnes) lower than the volume of waste anticipated in the WCS, rendering WCS Table 3 out of date in so far as the Table overstates the current need for waste treatment capacity³⁸⁶.

³⁷⁹ IP22, Paragraph 46 and APP-NR-1 Para 4.2.33 and Mr Othen response to question from UKWIN at the inquiry

³⁸⁰ IP2, Paragraph 125

³⁸¹ IP22, Paragraph 76 and APP-NR-1 Paragraph 4.2.97(i)

³⁸² CD40, UKWIN Part 5 Objection, Paragraph 19 and IP22, Para 77 and CD40, UKWIN Part 5 Objection, Paragraph 20 and CD62, Pg. 31, Table 3 stated source and CD62, Footnote 29

³⁸³ IP22, Paragraphs 77-78 and CD40, UKWIN Part 5 Objection, Paragraph 20 and CD58 and CD62

³⁸⁴ IP22, Paragraph 79

³⁸⁵ CD76, Paragraph 38 and IP22, Paragraph 80 and UKWIN Response to question from Applicant at inquiry

³⁸⁶ IP2, Paragraphs 14-16, 125 and 128-134 and IP2 Appendix F ('Extracts from Tables 1 and 2 of Local Authority Collected Waste Statistics') and IP2 Appendix H ('Estimates of Nottinghamshire Waste Arisings based on RPS Study for East Midlands Councils 2010')

10.78 The estimate for 2020, applying the national household trend from Forecasting 2020 to the latest waste arisings data, is 176,000 tonnes lower than the Municipal waste figure for 2020 contained within Table 3³⁸⁷.

10.79 The WCS Plan Inspector was aware of the changing waste context and the need to revisit arisings and treatment gap assumptions when considering a planning application such as this one³⁸⁸.

The extent to which the scheme would be consistent with the National Planning Policy for Waste and the National Waste Management Plan for England

10.80 The scheme is inconsistent with both the National Planning Policy for Waste and the National Waste Management Plan for England³⁸⁹.

Waste Hierarchy

10.81 If the facility is treated as a disposal facility then the scheme would conflict with the policies in the NPPW, the Waste Management Plan for England, and the Planning Practice Guidance on Waste, as set out in UKWIN's evidence.³⁹⁰

Failure to get the most energy out of waste

10.82 Because the proposal is for an inefficient process the scheme would conflict with Government's aim of getting the most energy out of that waste, as set out in the National Waste Management Plan for England.³⁹¹

Wildlife

10.83 Adverse impacts in relation to wildlife mean that the proposal goes against NPPW Locational Criterion D.³⁹²

10.84 Mr Honour stated that "*the Secretary of State would and should take a risk-based approach*", and treat this application as if a Sherwood SPA had been designated.³⁹³

10.85 Mr Honour agreed that following the risk-based approach would mean that the Secretary of State should not grant planning permission unless he is satisfied that it would still be appropriate to grant planning permission were the suggested Sherwood SPA to be declared.³⁹⁴

10.86 Mr Honour explained that the Secretary of State has to be clear that the Planning Application would not require a Regulation 63 review of an existing consent should a Sherwood SPA be declared.³⁹⁵

³⁸⁷ CD40, UKWIN Part 5 Objection, Paragraphs 3-32

³⁸⁸ IP2, Paragraph 136 and CD76, Paragraphs 37, 39 and 41 and CD40, UKWIN Part 1 Objection, Paragraphs 148-151

³⁸⁹ IP9, Paragraph 5.1

³⁹⁰ CD53 Paragraphs 1, 3 and 7 and CD58, Pages 1, 11 - 14 and 34 and CD54 Paragraphs 9 and 46 and Annex 1 and IP9, Paragraph 5.1(a) and IP2, Paragraphs 5-87 and IP12 and IP22 and IP23 and IP26

³⁹¹ IP9, Paragraph 5.1(b) and IP2, Paragraphs 5-87 and IP12 and IP22 and IP23 and IP26 and CD52 and CD58, Pg. 13

³⁹² IP9, Paragraph 5.2 and IP2 Paragraph 106 and CD52

³⁹³ Mr Honour response to question from UKWIN during the inquiry

³⁹⁴ Ibid

³⁹⁵ Ibid

10.87 Mr Honour stated that he had not carried out an in-combination assessment of the sort carried out for the Rufford inquiry because he did not consider the proposal to have a significant impact on its own and therefore he did not consider other plans and projects within the 5km buffer around the Important Bird Area and Indicative Core Area.³⁹⁶

10.88 Mr Honour accepted that Nottinghamshire Wildlife Trust maintained their objection to the Bilsthorpe proposal.³⁹⁷

Adverse impacts on heritage assets and local amenity

10.89 Adverse impacts in relation to heritage assets and local amenity mean the proposal goes against NPPW Locational Criteria C and E.³⁹⁸

Traffic

10.90 Adverse impacts in relation to traffic mean that the proposal goes against NPPW Locational Criteria F, G and J.³⁹⁹

Any benefits to be weighed in the planning balance, including any implications of not proceeding with the scheme

10.91 The proposed gasification facility is not needed, and the gasification facility could crowd out options that would treat the waste higher in the Waste Hierarchy, more efficiently and more reliably.⁴⁰⁰

Reliability of proposed technology configuration and weighting implications

10.92 Any weight to be given to claimed benefits should be reduced due to uncertainty that those benefits would be realised given that the technology is unproven.⁴⁰¹

10.93 Mr Othen confirmed that he did not know what the problems were at the Teesside plant, which he stated uses the same plasma gasification technology as Bilsthorpe with a different final power generation step.⁴⁰²

10.94 The technology configuration proposed for Bilsthorpe is more experimental than the technology configuration at Teesside.⁴⁰³

Claimed renewable energy generation

10.95 The Applicant overstated the amount of renewable energy that would be generated and the net increase in renewable energy generation, and using the correct figures reduces the weight of their renewable energy claims.⁴⁰⁴

10.96 Mr Othen acknowledged that his "net renewable" figure was a gross figure, and he accepted that it is open to Secretary of State to use the lower figure of

³⁹⁶ Ibid and CD92 Paragraph 1136

³⁹⁷ Ibid and IP20

³⁹⁸ IP9, Paragraph 5.3 and IP2 Paragraph 108 and CD53 and CD54

³⁹⁹ IP9, Paragraph 5.4 and IP2 Paragraph 116 and CD53

⁴⁰⁰ IP9, Paragraph 8.1 and IP2 Paragraphs 117 - 165 and CD40, UKWIN Part 1 Objection Paragraphs 118-174 and UKWIN Part 2 Objection Paragraphs 47-131 and UKWIN Part 4 Objection Sections 1-13 and Part 5 objection Paragraphs 3-32 and IP22.

⁴⁰¹ IP9, Paragraph 8.2 and IP2 Paragraphs 88-104, IP2 166-185 and IP2 Appendix E and CD40, UKWIN Part 1 Objection, Paragraph 1 and CD9, Paragraph 316 and ID12, Pages 9-10

⁴⁰² IP2, Paragraph 179 and CD40, UKWIN Part 4 Objection, Pgs 2-3 and ID21 and Othen response to questions from UKWIN at Inquiry

⁴⁰³ IP22 Paragraphs 99-101

⁴⁰⁴ IP26, Paragraphs 58-59 and APP-SMO-6 Paragraphs 3.1-3.2

4.5MW for renewable electricity generation net of the parasitic load. This equates to around 34,000 MWh/yr.⁴⁰⁵ Taking landfill gas displacement into account would further reduce the net figure to between 2.45MW and 2.78MW.⁴⁰⁶

Claims of climate change (GHG) benefits/low-carbon energy

10.97 The Applicant has overstated the BEC's climate change benefits.⁴⁰⁷

10.98 It is anticipated that more than half the energy the BEC would produce would be from fossil-based sources.⁴⁰⁸

10.99 Mr Othen agreed with Waste Review 2011 that: *"...while energy from waste has the potential to deliver carbon and other environmental benefits over sending waste to landfill, energy recovery also produces some greenhouse gas emissions. It is important to consider the relative net carbon impact of these processes, and this will depend on the composition of feedstocks and technologies used..."*⁴⁰⁹

10.100 The Lock Street decision noted: *"In certain circumstances generating electrical energy from waste can contribute to carbon emissions to a greater extent than depositing the same material as landfill. It is therefore not a simple exercise to demonstrate that an EfW will have a positive effect on overall carbon emissions..."*⁴¹⁰

10.101 UKWIN's sensitivity analysis points to the BEC potentially having a significant adverse CO₂ impact compared to sending waste to landfill.⁴¹¹

10.102 The correct Marginal Emissions Factor (MEF) to use to calculate GHG impacts of the BEC is DECC's generation-based long-run emissions factor for the year of operational commencement, which would result in net CO₂ harm of more than 5,000 tonnes of CO₂e per year⁴¹².

10.103 Mr Othen stated in general terms that: *"In terms of the actual MEF to be used, I accept that it could be appropriate to use a figure of 0.35..."*, and in response to a question from UKWIN accepted that it is open to the Inspector and Secretary of State to adopt this 0.35 MEF figure for the BEC.⁴¹³

10.104 Mr Othen went on to accept that, if one applied this 0.35 MEF to his first carbon impact scenario, this would result in a net disbenefit of 1,487 tonnes of CO₂ per year, and that this would be worse for climate change than sending the same waste directly to landfill.⁴¹⁴

⁴⁰⁵ IP26 Paragraphs 40-42 and APP-SMO-6 Para 3.2 and CD 65 and Mr Othen response to question from UKWIN during the inquiry

⁴⁰⁶ IP26, Paragraphs 35-60 and APP-SMO-6, Section 3 and APP-SMO-6B and CD60, Paragraph 66

⁴⁰⁷ ID12, Page. 19

⁴⁰⁸ ID12, Page 19 and APP-SMO-6, Paragraph 3.1

⁴⁰⁹ CD57, Paragraph 209 and Mr Othen responses to question from UKWIN at the inquiry

⁴¹⁰ ID12 Pg. 20 and IP12 Paragraphs 30-39 and CD60, Para 270 and ID12, Pg. 19 and IP12 Appendix

⁴¹¹ APP-SMO-6B and IP26 and ID12, Page 20

⁴¹² CD60 Footnote 29 and IP22, Paragraphs 174-178 and IP22 Appendix (DECC Table 1: Electricity Emissions Factors to 2100) and IP26 Paragraphs 63-96, including IP26 Table 3 and IP26 Appendix (DECC Valuation of energy use and greenhouse gas (GHG) emissions background documentation)

⁴¹³ APP-SMO-6B and APP-SMO-7, Page 10, Paragraph 4.8 and IP26 Paragraphs 63-67 and Supplementary Proof of Evidence and APP-SMO-6, Pg.7, Para 4.15 and Mr Othen response Mr Othen responses to question from UKWIN at the inquiry

⁴¹⁴ APP-SMO-6B and IP26 Page 12 Table 3 and Mr Othen responses to question from UKWIN at the inquiry

10.105 The Bilsthorpe gasification plant does not meet the definition of "Low Carbon" set out in the NPPF Glossary. Using the Applicant's estimates of direct GHG emissions, the Bilsthorpe gasification plant would emit more than twice the amount of CO₂e per unit of electricity exported than would CCGT.⁴¹⁵

Mr M Spencer MP⁴¹⁶

10.106 Mr Spencer spoke as MP for Sherwood and on behalf of his constituents. The scheme proposed raises issues related to environmental health, air quality, noise and traffic. Others, however, are better qualified to talk about that more scientifically to the Inquiry. In 2014, the MP sent a questionnaire to every household in Bilsthorpe and Eakring asking whether residents were for or against the plans, leaving room for comments. There was a 33% response rate (almost 700 out of 1700 homes). Of those who did respond, 82% were against, 11% were in favour and 7% were not sure/not sufficiently informed. That demonstrates a strong level of feeling and opposition, with the response rate being much higher than might typically be expected. It is a credible and representative result.

10.107 There are two significant road junctions in the vicinity of the proposed plant on to the A614 – Mickledale Lane and Deerdale Lane. Both junctions represent a real hazard for residents and there has been an ongoing fight to get funding for improvements. There have been a significant number of accidents, some involving HGVs, and countless near misses. We took part in a video highlighting the dangers, which clearly showed how difficult and dangerous it already is to pull out on to the A614. The video also shows some of the common incidents and near misses and the frustrations of drivers who often have to wait for long periods to pull out of the junction. The addition of HGVs and other traffic related to the proposed facility would further exacerbate this problem without being required to undertake major improvement works, which are currently not included in the plans.

10.108 The Deerdale Lane junction is as bad as Mickledale Lane. There is concern that the heavy traffic on Deerdale Lane would simply serve to push more local residents onto Mickledale Lane. In the absence of any clear plan for improvements, the development represents a danger to local people.

10.109 There seems to be a lack of clarity regarding the rules around building close to pit sites. In one submission (Terraconsult document page 22) the Coal Authority called this site 'high risk', yet in another, the Council said that the Coal Authority had 'no concerns'. Section 5.2.2 of the Terraconsult document, it is specified that no building should be put within two 'cap-diameters', but it goes on to say that, in this case, no buildings are proposed within one cap-diameter'.

10.110 It is Mr Spencer's understanding that the Coal Authority's own rules about building near pit shafts set a minimum distance for buildings, which is in excess even of the two pit shafts mentioned in the Terraconsult paper. Which is correct? There is a lack of clarity and a contradiction here. If the

⁴¹⁵ CD52, Page 55, Annex 2: Glossary and IP27 and CD40, UKWIN Part 2 Objection, Paragraphs 214-217

⁴¹⁶ CD22, ID20

information around the rules and conditions are not clear, or have not been met, then the scheme should not go ahead.

Councillor J Pearce (Rufford Parish Council)⁴¹⁷

- 10.111 Rufford is the largest Parish by area in the county and includes Centre Parcs Rufford Country Park, Clipstone Forest, Lockwell Hill and lots more areas of countryside, but not the appeal site itself.
- 10.112 The main concerns of the Parish Council relate to traffic. Our evidence includes photographs of the problem and a traffic survey. The junction of Eakring Road with the A614 is complex. It is very difficult to make a right turn on to the main road because of the vertical alignment of the carriageways. In particular, there are dips on the A614 that conceal oncoming vehicles. Whilst the introduction of a 50 mph speed limit along this stretch, which is enforced by cameras, controls the speed of traffic, it has not controlled the volume of traffic along the road.
- 10.113 On exiting Eakring Road, large HGVs waiting to turn left block views of oncoming traffic for car drivers waiting to turn right onto the A614. Similarly, HGVs waiting to turn right, block views of oncoming traffic for drivers waiting to turn left onto the main road.
- 10.114 Farming is important to the area and results in a lot of lorry/tractor movements on the local highway network throughout the year with queues of traffic behind. In addition, the 50mph limit has the effect of ironing out gaps in the traffic and results in convoys of vehicles travelling along the A614, all of which means that, at peak times, it can take a considerable time to turn on to the main road. Drivers tend to push out part way into the carriageway and hope that someone will let them in. All these problems are clearly demonstrated on the photographs at Appendix 1 of IP16.
- 10.115 The traffic counts undertaken show movements of 31 vehicles a minute and the junction has reached saturation point. It is recognised that there would have been traffic associated with the appeal site when it was used as a colliery. However, there is more traffic on the roads generally now than there was then. Moreover, whenever there is a problem on the surrounding highway network, including the motorway or the A1, or if there is fog, the A614 becomes the favoured route for drivers, further increasing the volume of traffic.
- 10.116 A trigger, based on floor space, for improvement of the junction was secured by earlier permissions for development of the colliery site. The previously approved highway depot on the colliery site breached that trigger but no improvements were carried out. The appeal scheme would further increase the floor space on the site, but still no improvements to the junction are proposed.
- 10.117 There is no indication as to where the waste for the proposed facility would be coming from and, in the opinion of the Parish Council, the scheme would not manage waste in accordance with the waste hierarchy. Moreover, the plant would have a low and uncertain efficiency.

⁴¹⁷ CD21, CD39, IP16

10.118 The Parish Council supports the positions of Dr Chow, RAGE and UKWIN. This is an unknown process. Like a steelworks, the process requires coke to achieve the temperatures required. There is no evidence that the arrangement proposed has been used elsewhere, or that it has been well tested. That raises questions in terms in people's minds about its safety, particularly in terms of emissions and waste products from the process. The appeal site lies within a large tourist area, with visitors from all over the world coming to Rufford Country Park, Clumber Park, Sherwood Forest Country Park, Thorsby Park and Centre Parcs. They provide significant employment and local income. Visitors could be put off from coming to the area with significant consequences for the local economy.

Councillor B Laughton⁴¹⁸

10.119 The Councillor runs a local business with some 40 full time equivalent employees. Traffic on the A461 is already beginning to impact on the ability of people to access his business premises (a golf and country club), the 50mph speed limit increasing the time it takes for members to get to his site. In the past, £3 million was allocated for the introduction of a roundabout at Ollerton to help with the grid lock on the A614 and A612, but financial constraints led to the withdrawal of those funds.

10.120 The increased traffic associated with the development proposed would exacerbate existing problems. An anaerobic digester on a local farm has increased traffic already, even though it is not operational at the moment (maize is being delivered to the site for it). In addition, large amounts of agricultural traffic use the local network. A trigger, based on floor space, for improvement of the junction with the A614 was secured by earlier permissions for development of the colliery site. Although exceeded, those improvements have never been carried out.

10.121 All those living downwind of the proposed experimental facility are worried about pollution and their health. The area already suffers from poor health, a legacy of the mining industry.

10.122 Those living in the locality have had a lot to put up with over the years: the colliery itself and then its closure; a waste tip located in the centre of the community for over 30 years which, although was not needed in the event, was also allocated as a site for burying foot and mouth infected carcasses. Although it has closed, it is now a waste recycling point; the now closed Rexco site contaminated great swathes of land in the area; a promised village hall to replace the old military building that is falling apart has never materialised; and wind turbines, which were twice refused by the local council but were allowed at appeal.

10.123 The old colliery site is now returned to natural habitat. Local residents have had enough now. Newark and Sherwood District Council object to the application. The community should be listened to - they deserve to be heard. People are fed up with the constant barrage of development being imposed on them, steam rolling over local views.

⁴¹⁸ ID11

- 10.124 The decision of the County Council not to oppose the facility was very disappointing, especially as the committee meeting involved a private session where the application was discussed behind closed doors.
- 10.125 Does the applicant have an agreement with Veolia (Nottingham's waste partner) to take waste from Nottingham? If not, what is the point of having an incinerator when there are already facilities at Easthorpe?

Councillor Mrs P Pestell (Bilstorpe Parish Council)⁴¹⁹

- 10.126 Bilstorpe Parish Council objects to the proposed experimental gasification plant. The applicant presented the scheme to the Parish Council in July 2013 and a public meeting was held subsequently. Local residents raised a petition, gathering over 1,200 signatures with another 400 on line. That reflects the depth of feeling. A poll conducted by our local MP, Mark Spencer, showed that 82% of local residents were against the incinerator. It was at that time that local residents set up its own action group, Residents Against Gasification Experiment (RAGE) to actively oppose the scheme.
- 10.127 Bilstorpe Parish Council, together with neighbouring parishes, including Eakring, Rufford, Kirklington, Kneesall, Farnsfield and Southwell all donated funds to support RAGE in its campaign. Given that Parish Councils only have limited funds, that reflects the strength of local feeling. Together with numerous fund raising events, sufficient funds were raised to be able to get input from a specialist planning consultant. During this time, Newark and Sherwood District Council voted unanimously to reject the application. It was very disappointing therefore, that when the application was considered by the County Council, Members voted for approval (the voting was 5-4 with two abstentions). It was even more disappointing that the District Council decided not to pursue Rule 6 status at the Inquiry, to explain its concerns, apparently because of potential financial implications if an award of costs against them was successful. In essence, the strongly held belief is that Bilstorpe gets the rubbish that others do not want.
- 10.128 It was a great achievement to have got this application called-in by the Secretary of State. That was testament to the efforts of many who have dedicated many hours of their own time in a voluntary capacity to prepare for the Inquiry. The Parish Council objects to the proposed plant on all 13 points⁴²⁰ set out by Mr Hughes, the planning consultant retained by RAGE. Moreover, in 2005, Paddy Tipping who was MP for Sherwood at the time, said in a letter⁴²¹ that Bilstorpe would not have to accommodate a waste facility. It is very disappointing now, ten years later, to be faced with this U-turn.
- 10.129 Feed back from local residents confirms that they are extremely concerned about the as yet unidentified health implications this experimental process could bring. The area already suffers significant health problems as a legacy of the mining industry, Bilstorpe having a prevalence of pneumonicosis, COPD, asthma, lung cancer and other cancers above the national average. There is no proof that the proposed facility and its unproven technology would not exacerbate that situation.

⁴¹⁹ CD17, CD21, IP5/14, ID6

⁴²⁰ IP15

⁴²¹ Letter attached to ID8

- 10.130 The safety of the plant is also a concern. What if there was an accident there, such as an underground methane explosion? What risk assessments have been undertaken? How long would it take for emergency services to get there?
- 10.131 We also have to contend with the traffic implications of more than 100 lorry movements six days a week in and out of the village. These roads were never intended for the volume of traffic that we have to endure now, let alone the additional traffic from the development proposed. There are no footways along the roads that the lorries would use, roads that have a 60mph speed limit. There would be implications therefore, for walkers, cyclists and horse riders who are increasingly using the local roads to access the countryside. It is perplexing that restrictions were placed on lorry movements in connection with the Shale Gas extraction, yet so many are being allowed for this.
- 10.132 The site lies at the heart of Sherwood Forest, a continually developing tourist area, including Rufford Park, Sherwood Forest, Southwell Minster, the Major Oak (linked to Robin Hood) the Holocaust Centre at Laxton, White Post Farm Park, Clumber Park and the Clumber Park Hotel, Thoresby Hall, and Wonderland Park to name but a few. We also attract holiday makers to Centre Parcs and, of late, new independent retreats springing up. The area is steeped in history and folklore, attracting people from all over the world.
- 10.133 The plant proposed would have a major negative impact on the landscape. Yes, there is some industry in the area but that doesn't mean that we wish to see stacks of 80 metres that topped with a plume are likely to reach 100 metres in height. Impact on tourism has to be a major consideration. Any adverse effect would impact on local people as many are employed by local tourist attractions. That possibility would pose a risk to the local economy and should be avoided at all costs.
- 10.134 The village was hit hard when the mine closed, but picked itself up. Now, people are moving back into the village, with small businesses setting up employing local people. It is unrealistic to accept that the proposal would add any value in terms of jobs, which are likely to be very specialist. The suggestion that there would be local jobs is nothing more than a sweetener.
- 10.135 Following closure of the pit in 1998, we were led to believe that the land was to be developed as a leisure area with funding of some £2.5 million provided to UK Coal by English Partnerships. Works were to include viewing points on hills, fenced walkways, wild flower and tree planting and a footpath linking to the village. That has not happened. Instead, industry is being reintroduced to the village, including extraction of waste from the slag heaps, now for the second time; methane extraction; business units; County Highways Depot; wind turbines and solar farms.
- 10.136 We are asked to have faith in this experimental facility, much as our predecessors did with the mining industry. However, as with mining, there is a danger that health implications may only become apparent years into the future when it is too late.
- 10.137 We have no hard evidence to back up our concerns. But, whatever the evidence presented by the applicant, we are only at this Inquiry because of the desire of that multi-national organisation to force upon us something that we
-

have clearly and consistently shown that we do not want and their wish to make money. Nothing more. Would they, or you, want this in your back yard? If not, what would you do? The proposed facility is not welcome in Bilsthorpe. As Paddy Tipping said, *'Over the years, Bilsthorpe has taken more than its fair share of to her people's rubbish. Local residents want better for their families and community.'* We have had enough.

Councillor A Twidale⁴²²

10.138 I am here representing the residents of Kirklington and Hockerton Parishes. The villages are separated by the A617 with houses close to the road on both sides and being in open countryside. A recent traffic survey carried out by the County Council in Kirklington recorded 13,872 vehicles a day, of which 730 were articulated lorries, 1,686 other large vehicles, the remainder being cars. In July 2014, the survey showed 12,597 vehicles a day. There has been an increase therefore, of some 10.1% over the year. This increase could be attributed to the 7.5 tonne weight limit on all the side roads off the A617 between Newark and the A614. All large vehicles now have to pass through Hockerton and Kirklington on an east/west route.

10.139 The WHO recommends maximum noise levels for outdoor living areas of 55dBA (max) during a 16 hour period. In June 2015, a noise survey undertaken in Hockerton over four days recorded measurements of 74.8, 78.8, 76.1 and 76.3dBA(max), all considerably higher than the recommended levels. Since the applicant does not know where the feedstock would come from, we have to consider that all lorries (116HGV movements per day) would come along the A617 if the feedstock were to arrive from an easterly direction. That road is already very heavily used and it would be worse when the cold store, presently under construction (Belle Eau Park) is finished. They have already said that an additional 50 lorries a day would travel east through Kirklington and Hockerton. The quality of life for residents is already being eroded by noise and pollution from lorries. We do not want more from the development proposed.

10.140 Other major concerns relate to smells and toxins that may be produced from the two very large stacks, the villages being very close by. Personally, as a farmer, I am greatly concerned for my crops. I do not want them contaminated. As we do not know what the feedstocks are, we will not know the full implications. Once built, it will be too late – our health is important.

10.141 This is the wrong site. It should only be considered once it is proven that it is required, on a site away from country villages with a rail link to serve its requirements.

Councillor Mrs M Curry (Eakring Parish Council)⁴²³

10.142 Eakring residents are proud of their rural setting, local wildlife, heritage, agriculture and tourism. Listed buildings in the village include St Andrew's church, Eakring Windmill, Walnut Tree Cottage, Hall Farm House and Pond Farm House. Eakring was the penultimate village (Laxton was the last) to operate the open field system. Evidence of this is still visible in the fields

⁴²² CD21, ID7

⁴²³ CD19, CD21, IP4, IP17, IP19 and ID8

around the village toady. The field to the west of Mompesson's Cross, between Eakring and Bilsthorpe Business Park, is one of them.

10.143 Eakring has been working with RAGE, and residents have concerns in relation to the following matters;

Air quality, noise, odour and human health

10.144 Eakring lies approximately 2 kilometres north-east of the application site. Given that prevailing winds come from the south-west, we would be directly downwind of the incinerator. This raises concerns in relation to odour, noise and emissions, especially since the composition of the waste is unknown. If you don't know what is going in, how do you know what is coming out?

10.145 There have been emission breaches at other installations in Dumfries and on the Isle of Wight. The applicant puts these down to bad management, but accidents can and do happen. Also, effects from emissions are often not evidence until many years down the line. We do not wish to be the guinea pigs in this experiment. As shown in Argus Ecology's Clarification of Air Quality Impacts (in the EIA) Eakring would be in direct line of emissions. We have been assured that regulations and conditions would protect us from harm. However, Eakring residents are somewhat sceptical about this as we were assured that regulations would protect us from intrusive noise and shadow flicker from the wind turbines – they have not. As revealed by a recent FoI request, the local prevalence for respiratory problems and cancer is higher here than the national average. We do not need any further deterioration in air quality.

10.146 With regard to noise, we know from experience during construction of the Highways Depot, how the wind carried noise into the village. We are concerned, therefore, that only one point in the village, on Bilsthorpe Road, has been measured. As well as emissions and noise, odour can be carried on the prevailing wind which is also a concern.

Landscape and visual impact

10.147 Our concerns in this regard relate to the cumulative impact on the landscapes with six wind turbines, two solar farms (with another approved), the Highways Depot and the T-pylons at the National Grid training centre already very visible in the landscape.

10.148 The LVIA (2008) for the Highways Depot suggested that, *'Due to the impacts on rights of way east of the site, and residential receptors to the west of the site, the overall visual impact is assessed as being moderate adverse impact – using the definitions outlined in appendix 1, the proposed scheme would cause a noticeable deterioration in the existing view.'* As the average height of the Highways Depot building is one third that of the proposed facility buildings, these surely would have a greater impact, particularly with the size and bulk of the facility and with the two 60 metre exhaust stacks.

Transport

10.149 The Waste Core Strategy (CD62) states that waste treatment facilities should be as close as possible to areas producing the waste. The built-up areas of Nottingham, Mansfield/Ashfield are some distance away.

10.150 The extra HGV movements would have an impact on local roads, many local people already drive through Eakring and Wellow to access the A614 or Ollerton, rather than face long waiting times and the dangerous junctions at Deerdale and Mickledale.

Wildlife

10.151 We are lucky to have several important sites of value to wildlife round the village, such as Mansey Common, Eakring Meadows, Mill Lane, Lound Wood, Eakring Pastures, Dukes Wood and the ancient woodland of Brail Wood, and residents are concerned about the impact of emissions on these areas.

Tourism and local employment

10.152 Much is made of providing local employment. However, the developer confirmed that specific skills would be required and so there would be few local jobs. Moreover, as with the wind turbines, their own specialist contractors would be used for construction. The Newark and Sherwood Core Strategy (CD63) adopted in March 2011, seeks to promote tourism and protect wildlife within the Sherwood area.

10.153 With attractions such as Centre Parcs (450,000 visitors a year and employing some 1,500 local people) Rufford Abbey and Park, described as one of Nottinghamshire's jewels in the crown (470,000 visitors) Sherwood Forest Country Park (370,000 visitors) as well as Sherwood Pines, Clumber park and Thoresby Hall, tourism is a large employer on the area. The area thrives on this tourism, with visitor numbers increasing each year. The proposed Sherwood Special Protection Area would boost this further. What impact would the proposed facility have on these visitors?

Councillor Mrs S Wilson (Eakring Parish Council)⁴²⁴

10.154 The overriding question in this case is would this facility be of benefit to the local and wider community, or would it just benefit the developer financially?

10.155 Historically, this is a rural agricultural area. Eakring was one of the last villages to lose its open field system. Laxton still has theirs and evidence of this can still be seen in the fields around Eakring.

10.156 When the colliery closed at Bilsthorpe, a restoration plan was put in place to restore the area back to its original rural state, with an area for some small industrial units to promote local employment. Since then, we have had five large wind turbines forced on us. Although not universally welcomed, they do not represent the size and bulk on the landscape that this application does.

10.157 As well as concerns about emissions, there are concerns regarding noise and odour, all carried on the prevailing wind. Have noise readings been taken in Eakring and has consideration been given regarding the escape of odours?

⁴²⁴ ID15/1

10.158 I was at the County Council meeting when the application was considered and was very concerned when the committee were taken out of the room for a private discussion prior to voting.

County Councillor J Peck JP⁴²⁵

10.159 My electoral division lies at the heart of tourism in Nottinghamshire, including the internationally renowned Sherwood Forest (Sherwood Forest Country Park has 370,000 visits each year) Rufford Abbey, now Rufford Country Park (400,000 visits) the Forestry Commission's Sherwood Pines (500,000 visits) and Centre Parcs (3000 visitors a week). That is not to mention numerous guesthouses, holiday cottages, caravan parks and small hotels. With the demise of coal mining as the major employer on the area, the County and District Councils are committed to growing the visitor economy based on the Sherwood Forest/Robin Hood brand to encourage further growth in tourism based business and jobs.

10.160 It is intended that the new Sherwood Forest Regional Park will officially be launched sometime next year. The boundary of the Park would be an area of Nottinghamshire stretching north/south from Retford to Nottingham, and east/west from Mansfield, almost to Newark, containing Sherwood Forest (a SSSI) and the numerous villages, market towns and associated visitor attractions in the area. The purpose of the Park is to preserve and enhance the landscapes and the environment, and also, very importantly, to be a vehicle for growing the visitor economy and associated businesses and jobs.

10.161 Should the Secretary of State approve this application, the Regional Park would have, almost at its geographical centre, and sitting on top of one of the highest points within the Park, a giant incinerator with 200 feet stacks, like a medieval castle on the hill overlooking the Royal Forest but with considerably less style and visual flair, visited by armies of HGVs on a daily basis.

10.162 The recently closed Thoresby Colliery, is already the subject of detailed discussions by Harworth Estates as to its development, which is in Sherwood Forest and is bounded by the Country Park. Harworth Estate's initial thoughts indicate that they would be seeking permission for a combination of houses and units to create jobs. The spoil heap would be restored with native species, public footpaths and at the top is likely to be a viewing point. This would be complementary to the Forest and would be part of the visitor experience. However, visitors would have an uninterrupted view of the proposed Energy Centre to the south-east were the Secretary of State to allow the application. In reality, it would not be necessary to clamber up a reclaimed spoil heap as the incinerator would be highly visible from many vantage points.

10.163 I have no hard evidence that visitor numbers to the Sherwood Forest region would be affected by the scheme. How could I, or any one else? But that is not what I am suggesting. I am suggesting that the Sherwood Forest landscape would be visually blighted by an enormous inappropriate building which, because of its height and elevation would be visually detrimental to the landscape. Whilst I cannot prove that it would affect visitor numbers, it would affect the visitor experience, which in no small part is based on the visual

⁴²⁵ CD29, ID15/2

beauty of the landscape. A landscape we wish to continue to restore, not industrialise. Just as the collieries are disappearing, there is the opportunity to restore and return as much of the Sherwood Forest area as possible to the natural environment. The area is important for growing the visitor economy and job creation.

10.164 I accept that the Bilsthorpe colliery site is suited to some job creation. In my view though, much lower in height, less obtrusive, industrial or business units within a landscaped environment would be less visually obtrusive and would probably create more jobs. In any case, I am uncertain about the claimed 46 jobs in the applicants' submissions. The original scoping document referred to 27 jobs; by the time of consultation, this had increased to 40 jobs; and now, at final submission, that has grown to 46. There is no doubt that Bilsthorpe needs jobs but in reality, how many Bilsthorpe residents would get jobs at a specialist development such as this?

10.165 One of the most common phrases I hear from local residents is that Bilsthorpe always gets dumped on. The feeling is that, as an ex-colliery village, it is an easy target for the sort of development that would not happen in other places. Bilsthorpe has an ex-landfill site. They do not go away once filled, it is still a landfill site. There are now five giant turbines which dominate the village and the surrounding landscape and a 50 acre solar farm has been given planning permission. In principle, I support alternative energy forms and even recognise that some incineration may be required until we can improve recycling rates. Just not on this site. I believe that a wind farm, a solar farm, a closed landfill site and an incinerator would constitute an unacceptable concentration of large scale energy production and waste disposal sites in the immediate vicinity of one small rural village.

10.166 Others have dealt with concerns about traffic generation. I am surprised about the absence of an objection by the Highway Authority, given that the most common complaints I receive from Bilsthorpe residents relate to the number and speed of HGVs on the narrow rural roads in the area. In my view, the narrow roads surrounding the site are not suitable to support the additional 100 plus HGV journeys per day estimated by the applicant.

10.167 In summary, this is a speculative application. There is no hard evidence as to how much waste would come from Nottinghamshire, if any. I remain unconvinced that an incinerator, particularly one of this sort, is required in Nottinghamshire, but certainly not at this site.

Councillor Mrs S Soar⁴²⁶

10.168 I am not a highway engineer and I am aware that a traffic impact assessment has been carried out. However, it does not take a computer generated study for a lay person to realise though, that Bilsthorpe is already a triangular HGV sandwich – the A614 lies to the north, the A617 to the west, and Kirklington Road to the south – all of which take large amounts of HGV traffic travelling north to the A1 or east to Lincoln and Norfolk. They also have the Yeasley and Fresh Grow groups on site, both of which have diesel HGV, all currently polluting the atmosphere. I understand that the plant proposed

⁴²⁶ ID15-3

would attract in excess of 70 HGVs a day, some of which, no doubt, would have their engines idling as they queue up to drop their load.

10.169 Bilsthorpe is a former mining community. The current generation already has to cope with the legacy of the pollution caused by that industry. Many also suffer from lung and breathing problems, asthma and COPD. They hoped the next generation would be more fortunate. What is proposed relies on unproven technology. There is also the issue of having plants like this too close to communities in the event of failure, Buncefield being an example. When things like this go wrong, they go wrong on a massive scale.

10.170 Bilsthorpe is already doing its bit for the planet. We have two sets of wind turbines to the east and west of us; two solar farms plus two currently under consideration; an application for a biomass boiler plant has been withdrawn but it is still not certain that it won't be going ahead. Former coalfield areas such as this seem to be seen as a soft target for schemes like that proposed, especially as local residents will not have the financial means at their disposal to mount an effective fight, although I am very impressed by the current community opposition to fight this scheme.

10.171 A community should have the right to determine its own future. This was the mantra of Eric Pickles when he was considering the involvement of communities in planning applications.

Councillor Mrs L Tift⁴²⁷

10.172 How are locals meant to know or understand the complex issues and machinations of business or the Council? They believe one thing only to find themselves presented with another. The letter from the District Council said this was a brownfield site, but it only became brownfield after the Council decided not to pursue enforcement of the approved restoration scheme.

10.173 Rufford turned down an incinerator proposal and the land is now being restored. Local residents object to the turbines, but they were allowed on appeal. We already have acres of solar panels with more to come. Although the old landfill site in the village is no longer used as such, the site is now a recycling centre. We also have the highways depot. All this is an unfair burden on the local community.

10.174 The heritage aspects of all the villages in the Sherwood area are being promoted to help replace lost jobs. The incinerator proposed would not gel with the proposed Regional Park. We are not NIMBYs but we do need to think about the next generation.

10.175 There is a great deal of concern that the Highway Authority did not oppose the application, given that the A614, A617 and the A616 all take the burden when there are problems when the M1 or A1 are closed or blocked. All this is an unfair burden on these agricultural villages.

Councillor R Eyley⁴²⁸

⁴²⁷ IS15-4

⁴²⁸ IP6 and ID15/5

- 10.176 The Parish Council endorses the submissions made by RAGE and the other Parish Councils, especially regarding their comments about the siting of the facility in relation to the District Council's spatial policy and the associated problems of access to the site and the spectre of contamination.
- 10.177 Living in Farnsfield, we are constantly aware of the increase in traffic on the A614 and A617. In the last few years, the volume of through traffic has increased, mainly due to the mounting problems of traffic flow at the White Post and Lockwell Hill roundabouts. This problem would be exacerbated if the application is approved, with an unknown increase of waste material vehicles carrying substantial loads to the incinerator, especially with the problem of having to cross the A614. Perhaps a disaster waiting to happen.
- 10.178 I am pleased and proud that the village has grown and developed its own identity successfully, following closure of the colliery. If this application is approved, there is a great danger of a retrograde step with an unsightly chimney and associated buildings, coupled with a real concern of pollutants and toxins contaminating the atmosphere in the surrounding district, including Farnsfield. Bilsthorpe's past will be its future.

Ms B Lange (Nottinghamshire CPRE)⁴²⁹

- 10.179 The National Planning Policy Framework sets out a plan-led approach to planning. The relevant plans here, are the N&SCS, the AMDPD, and the WCS.
- 10.180 The site is some distance away from built-up area and so there would be conflict with policies SP2 and SP3 of the N&SCS. Policy SP2 directs the creation of employment to service centres and principal villages, including Bilsthorpe. Policy SP3 directs development towards built up areas. In so doing, it requires that new development should be appropriate for its location and small scale in nature. It is permissive of development where it consists of employment and tourism which requires a village/rural location and/or new or replacement facilities that support the local community. New development should not have a detrimental impact on the character of the location, or its landscape setting and development away from the main built up areas of the villages, in the open countryside, is to be strictly controlled, restricted to uses that require a rural setting, such as agriculture and forestry.
- 10.181 The development proposed does not require a rural setting and would operate more efficiently if closer to built-up areas, where most of the waste arises, and main transport corridors. The development is not small scale and is not appropriate for this location. Its scale and operation would have a detrimental impact on the area and its landscape setting. The DPD does not allocate the site for employment or waste use. Rather it is classed as open countryside.
- 10.182 Section 5 of the WCS specifies that waste treatment facilities should be as close as possible to where the waste arises. This means close to the built up areas of Nottingham, Mansfield and Ashfield. See also policy 4. Section 5 also states that areas important for nature conservation, landscape, local amenity and quality of life should be protected. The colliery closed many years ago and a restoration scheme was agreed in 1996. Grassland and woodland

⁴²⁹ IP29 and ID15/6

restoration has since been carried out or is planned. The area is clearly highly valued and well used by those living in the area, by walkers and other tourists. There can be no doubt about its amenity value.

- 10.183 The Waste (England and Wales) Regulations 2011, the National Policy for Waste, and the waste sections of the Planning Practice Guidance are all committed to a waste hierarchy, preventing waste at the top above composting, recycling and reuse, to incineration and landfill at the bottom. Measures higher in the hierarchy should be prioritised. It is not clear where the scheme proposed would be – it could be a recovery facility or merely a disposal site. If the latter, permission should not be granted. If the former, why hasn't the applicant provided unambiguous plans to that effect?
- 10.184 The Framework expects local authorities to protect the countryside in their Local Plans and in determining planning applications. That applies to ordinary countryside, not just those parts benefitting from special designations. One of the core principles set out in the Framework requires that account be taken of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it. Paragraph 109 also states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. The emphasis is clearly on the intrinsic qualities of open countryside or, in other words, on qualities that do not need designations to be appreciated, and on the value landscapes have for people. There can be no doubt that the landscape of the area in question is valued by those living in or visiting the area.
- 10.185 The Government's Planning Practice Guidance (planning guidance) is also explicit regarding the value of 'ordinary' landscape⁴³⁰. It reiterates the core principle referred to above, adding that Local Plans should include strategic policies for the conservation and enhancement of the natural environment, including landscape.
- 10.186 It has been claimed that the site is previously-developed land and should, therefore, be prioritised for development over Greenfield sites. However, the relevant District and County planning policies treat the site as open countryside and a rural area. This classification is also in accordance with national planning policy. Paragraph 17 of the Framework states that planning should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value. Environmental value includes landscapes as well as the biodiversity value demonstrated in other representations. What is more, Annex 2 of the Framework specifically excludes the kind of land on which it is proposed to build. The definition of previously-developed land excludes land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures.
- 10.187 Local and national waste planning policies require that waste treatment facilities should be located as close to the source of waste as possible. This means that, in order to demonstrate the need for the proposed development,

⁴³⁰ Paragraph: 001 Ref ID: 8-001-20140306

it would have to be shown that the waste arisings in Nottinghamshire (or at most in adjacent counties) exceed existing waste treatment facilities. This has not been shown to our knowledge. In fact Nottingham City and Nottinghamshire County Council both have long-term arrangements with existing waste treatment and recovery facilities and are both actively seeking to increase recycling rates. The situation is similar in adjacent counties. If anything, waste arisings are likely to fall in future.

10.188 Much of the waste to be processed at the proposed development would have to be transported over long distances, even if the scheme is a recovery facility (the evidence of the applicant does not give confidence in this regard). Therefore, even the most optimistic scenario would increase traffic significantly and would require substantial amounts of additional energy to service a facility which then produces energy.

10.189 The Planning and Environmental Statements submitted by the applicant acknowledge that the landscape impact within the former colliery site would be significant, but claim that the impact would be minor, further afield. The artist's impression in the ES Non-Technical Summary (Fig. 4) shows clearly how intrusive the development would be in the landscape, and the height of the buildings (15-32 metres) and especially the 60 metre high chimneys would make the proposed development visible over long distances. It would not be possible to mitigate the impact due to the height – the buildings alone would be up to three times the height of the existing buildings at the Business Park (10-12 metres high). The applicant has also explained that the building heights are a functional aspect of the operational requirements and so cannot be altered. We also understand that the chimney heights are required for (relatively) safe operation of the facility.

Councillor R Howes⁴³¹

10.190 Eakring already has the Transco Training Centre which is bigger than the village. Experimental 700 metre towers have been erected on that site and are highly visible. We also have five large wind turbines which were allowed on appeal. In addition, there are two massive solar farms, although they are not that intrusive. Eakring was a big oil field in the war and then came the colliery.

10.191 The development proposed would result in more misery being heaped on local residents who are particularly worried about the experimental nature of the scheme. Eakring lies downwind of the application site. There would be emissions falling on Redgate Wood and Brail Wood, Bilsthorpe, Kirklington and Rufford. Eakring residents are concerned for their health, the village being at the epicentre of the fallout. The area has done its bit in terms of accommodating energy renewal schemes. No more.

Councillor R Brown⁴³²

10.192 Eakring lies a couple of miles over the hill east of the application site. There is considerable concern about the nitrogen oxides dispersion map in the air quality impacts document which shows the village as lying within the primary

⁴³¹ ID15/7

⁴³² ID15/8

fallout zone for what ever comes out of the proposed facility from the chimneys.

10.193 The developer says that the process would be totally enclosed, with scrubbers and filters to remove heavy metals and toxins that would occur with combustion of the waste, even though the origin and composition of the waste is, as yet, unknown. However, what happens when things go wrong, which they may? We would have a plant full of explosive biogas, with quantities of toxic chemicals of the worst kind, just waiting to be blown up all over us.

10.194 I am not only concerned about all the local communities having to breathe in these substances, but please also consider the effect on the local farms. Their crops and animals would be rendered worthless, unsuitable for sale and consumption. We have had problems in the past with local smokeless fuel plants, in particular the plant near Bolsover, around which the farmland was so contaminated with dioxins that the milk from the dairy herd had to be poured away.

10.195 Lastly, why build such a hazardous plant on top of mineshafts and underground workings which are full of explosive methane, with sufficient gas arising as to allow Alkane Energy to run a generating plant from it. Surely not a very suitable site. These developers are playing with our lives, the lives of our children, and our children's children.

Mr M Goodall⁴³³

10.196 Publicity for the scheme suggests that it would process household waste from Nottinghamshire and would be the best thing since sliced bread. I don't believe that. Nottingham and Nottinghamshire already have separate collections for recyclables and general waste. Various types of recyclables are sorted and sold on for re-use, for example the Veolia plant at Crown Farm in Mansfield. In addition, there are household waste disposal sites where various materials are accepted and sent for re-use. Recycling Ollerton and Boughton employs local people with learning difficulties to collect glass, textiles and other materials which they sell on for use. That is a considerable achievement and more could be done, but I don't see how the plant proposed would significantly improve it.

10.197 Much of the residual general household waste from Nottingham and Nottinghamshire is already incinerated at the Eastcroft plant in Nottingham. The rest goes to landfill. Presumably this is a cheaper option and authorities would continue to use it as they come under increasing financial pressure. New landfill sites, such as the new gypsum quarry near Balderton would become available in the future. In the unlikely event that authorities did stop using landfill, then they could use the spare capacity at Eastcroft (Nottingham) and Sheffield incinerator plants. If household waste does not come to Bilsthorpe, then the plant would be processing unspecified industrial waste from anywhere in the country, or possibly in the world, without restriction. That is very alarming. If we don't know what is to be processed there, how can we understand any possible dangers or pollution risk?

⁴³³ ID15/9

- 10.198 The impact of the extra HGV traffic generated by the development proposed would be unacceptable, contrary to locational criteria F, G and J of the National Planning Policy for Waste. The only access to the site for HGVs would be from the Eakring Road (aka Deerdale Lane) junction with the A614.
- 10.199 The A614 already carried high traffic volumes and has a bad accident record. I travel to work three days a week travelling along the A614, and other roads, to Hucknall. Turning out of the Eakring Road junction is becoming more and more difficult. If I leave at around 5.30 am, then I have a clear run. By 6.30, the traffic is already building up but it is still quite easy to join the main road. In contrast, a 7.30 am departure means a long wait at either this junction or the junction of Mickledale Lane with the A614, with a steady stream of traffic in both directions. There is space for two lanes of traffic at each junction. However, that doesn't help because vehicles waiting side by side block the views of each other. Those turning left have to wait until any large right-turning vehicle has exited in order to be able to see any gaps in oncoming traffic.
- 10.200 Drivers turning right out of Eakring Road are faced with a further difficulty. Oncoming traffic from the left is hidden in a dip. Traffic pulling out from the junction and turning right is in danger of being hit by traffic emerging from the nearby dip at 50mph. A double-decker school uses the junction which is a worry – a major accident waiting to happen. By 9.00am or so, the rush has abated somewhat.
- 10.201 Extra traffic from the development proposed would exacerbate the existing situation and increase the risk of accidents. The applicant, the planners and the highways officers might say that there is no problem, but they would say that. They don't have to use the main road at peak times and their children probably don't use the school bus referred to. No highways mitigation measures are proposed to deal with the increase in traffic.
- 10.202 There is no restriction on the type of waste that may be brought to the site. Consequently, it is difficult to predict what types and levels of dust and odours would be created during transport and during sorting and processing operations. It is also worrying that potentially toxic emissions could arise during these operations, especially as I live in the next village, Eakring, directly downwind. Emissions from the gas engine are a further cause of concern. Where would the processing residues be dumped? How would they be contained? If we don't know what they are, how can their safe disposal be ensured? I have no faith in bland assurances that pollution would be minimal and subject to strict monitoring and controls. All government departments are suffering from spending cuts, so where would the money come from? If a problem was to be identified, who would do anything about it? Ordinary people are generally ignored or treated with contempt. Ordinary people don't matter.
- 10.203 There are concerns too about possible groundwater pollution from the processes and waste production on site, particularly when the types of waste are unknown. Under the site is Bunter Sandstone, which is highly permeable to rainfall. The rainwater is naturally filtered as it passes through the rock. Happily, it is retained by a thin layer of sticky clay underneath, which makes the Bunter Sandstone a major aquifer which retains huge quantities of drinking
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water which reliably supports most of Nottingham and Nottinghamshire. Any leakage of toxins into the aquifer could have disastrous consequences for that water supply. I have no faith in assurances that all will be well. Industrial plants often have unintended seepages of oil, chemicals and other materials and fluids used or created on site. Sometimes these are obvious. Sometimes they are more pernicious because they are unnoticed. Sufficient effort has not been made to safeguard the water supply.

10.204 Finally, the number of 'For Sale' boards in Eakring, downwind of the facility, is increasing. I wonder why.

Mr S Pearson⁴³⁴

10.205 There is a lot of commercial activity in the area, including Strawsons; Noble Foods; B N Gibson ambulance services; Yearsleys; Oakwood; a salvage company; the highways depot; Inspired Scaffolding Services, all of which create jobs in the area. However, they all add to traffic movements on an already inadequate local highway network. There have been improvements on the A614 and A617 for getting into Bilsthorpe, but none for getting out. Any further increase in HGVs would, at some point, lead to an increase in accidents here.

10.206 The area has contributed enough in terms of energy related development: the oil field at Eakring; the mines at Bilsthorpe, Ollerton and Edmonton; new wind turbines and solar farms; not to mention the waste recycling and filled old quarry pits. Enough is enough. The proposed incinerator would pollute and reduce the nature in this area, both directly and indirectly. The Sheriff took land and taxes. Please don't take our nature and fresh air.

10.207 When you go anywhere, people ask where you are from. I say Nottinghamshire, to which the majority response is Robin Hood and Sherwood Forest. You laugh, and say that's right. We are indeed, Sherwood and, like those times, the County Council and the applicant are the land owners wanting more from the villages. Local people, organisations and companies are unwilling to speak out because they are afraid of what their landlord may do: increase taxes or move them on. SO nothing has really changed except we don't wear green as much and instead of black tie and swords, the sheriff's men have suits and lap tops.

Mr P Smith⁴³⁵

10.208 I travel long distances everyday by road with my job, but the bit I fear most is the first mile after leaving my house in Bilsthorpe, rather than the motorways and dual carriageways. Every morning, I feel as though I am putting my life at risk just trying to leave the village. If I leave via the A614 or A617, it feels as though I am dicing with death trying to pull out.

10.209 The Highway Authority cannot see any issues in having additional lorries trying to enter/leave the village. It is utter madness. I can be sitting waiting for some 20 minutes at the junction, behind three Oakwood tankers waiting to turn right onto the A614, with another eight vehicles behind me. You have no

⁴³⁴ ID15/10

⁴³⁵ ID15/11

option but to gamble, putting yourself and other drivers at risk. The danger is exacerbated by a dip in the main road to the left of the Deerdale junction, and not being able to see right past right turning lorries waiting to exit.

10.210 Then there is the congestion. I recently put a video on Youtube showing the traffic on the A614 queuing from the Ollerton junction to Bilsthorpe on a Friday afternoon, to show how bad the A614 traffic is. How can adding more lorries onto a crippled single carriageway road like this be right? I have seen so many near misses where cars have pulled out of the junction causing traffic to brake hard, just because they were desperate to pull out into a gap they shouldn't have risked. My wife finds the junctions so daunting, intimidating and dangerous that she refuses to use them.

10.211 The applicant calls the scheme proposed an experiment. Does that make my daughter and all those living in the area guinea pigs? It may not be until years down the line when we realise the effects on residents' health, but by then it will be too late.

10.212 I moved here from the north-east for a better life. Living on the doorstep of Sherwood Forest is the perfect life style for my family. If the scheme goes ahead, we would need to move for the sake of my daughter's health. However, I won't be able to. Who will want to buy a house here any more. We will be trapped. And I would have to live with the guilt that I moved her here, next to a gasification experiment. The Experiment would also kill tourism in the area. Who wants to drive past a huge incinerator on their way to the Forest. It would destroy the County's jewel in the tourist crown.

Additional oral submissions

Councillor R Jackson

10.213 Local residents are concerned about being downwind of the proposed facility and about the visual impact of the development. He is not against incineration in the right place, using the right process. However, the emissions from the development proposed are an unknown, and it is not known, with any degree of certainty that they would be safe. The whole thing raises a lot of questions - how often will emissions be monitored by the Environment Agency? How would they know what filters will be required? What would be burned? Where would it come from – not Nottingham because the current Veolia contract runs until the 2030s? Would it be imported from abroad? What about the quality of the waste?

10.214 Roads in the locality are very busy with lots of congestion in the villages which are used as rat runs. Farm traffic causes hold ups too. It is very disappointing that the Highway Authority has not objected.

10.215 Is there any infrastructure in place to connect the proposed facility to the national grid, or have the exiting turbines and solar farm used up the connections? There is significant concern about impact on local tourism too. All these questions need answering if the scheme was to go ahead.

Mr Cadle

10.216 He moved here because it was a country area. However, since the closure of the colliery, there has been a significant increase in traffic on the local roads, including traffic associated with filling the colliery site, landfill traffic, and some

60 movements a day associated with Gibson's ambulances. The development proposed would result in an additional 90 journeys a day down Deerdale Lane between 08.00-17.00 equating to one every six minutes onto and off the A614.

Mrs Dixon

10.217 Mrs Dixon is a local resident. She has a grandchild with bad asthma and her husband has lung disease.

11. WRITTEN REPRESENTATIONS

- 11.1 As set out in the officer's report⁴³⁶, the application attracted a total of 174 individual letters of objection, a letter from Mark Spencer MP, two petitions objecting to the scheme containing some 481 signatories, and 17 signed 'pro-forma' objection letters from local businesses. Letters of objection were also received from Newark and Sherwood District Council, the Parish Councils of Bilsthorpe, Rufford, Edingley, Eakring, Kirklington and Farnsfield, Nottinghamshire Wildlife Trust, the County Council's Built Heritage officer, RAGE, UKWIN and Councillor Peck.
- 11.2 Letters confirming no objection were received from the Coal Authority, Environment Agency, Natural England, English Heritage, The County Council's Nature Conservation, Countryside Access, Planning Policy, Landscape, Reclamation and Highways officers, the County Council's Accident Investigation Unit and its Noise Engineer, Public Health Nottinghamshire County and Public Health England, and Derbyshire and Nottinghamshire Chamber of Commerce.
- 11.3 Following the calling-in of the application, further letters of objection were received from RAGE, UKWIN, Nottinghamshire Wildlife Trust, East Midlands Chamber of Commerce, Centre Parcs, CPRE, Southwell Town Council, Mark Spencer MP and Farnsfield, Eakring and Rufford, Parish Councils, together with 66 individual letters of objection and one letter of support.
- 11.4 The representations made at the time of the planning application are summarised in the officer's committee report. The responses submitted following the calling-in of the application, summarised below, cover much the same ground.

The main thrust of the objections can be summarised as relating to:

- Contrary to planning policy/waste policy
- Efficiency of the plant and whether it is a disposal or recovery operation
- Experimental nature of the process
- Air quality and health effects
- Other pollution, including surface water and ground water
- Noise and odour

⁴³⁶ CD9

- Traffic and highway safety
- Viability of the villages
- Need/alternative sites
- Visual impact/heritage impact/cumulative impact
- Tourism and the local economy
- Ecology and Biodiversity
- Climate change
- Not sustainable development
- Weight to be given to claimed benefits

11.5 The letter of support is from a local engineering business.

12. CONDITIONS

12.1 Should the application be successful, recommended conditions, and the reasons for them, are attached as Appendix D. They are based on the draft conditions agreed between the applicant and the Council⁴³⁷ and were discussed in detail during an open session at the Inquiry on a without prejudice basis. I have considered their content and detailed wording against the related advice in the Framework and the Planning Practice Guidance.

12.2 Agreed amendments to the draft wording are reflected in the conditions suggested at Appendix D, including moving draft condition 31 (which related to flaring) to form part of condition 26. In addition, it was agreed that draft condition 32 (relating to regular maintenance of plant and machinery to ensure that noise emissions would not exceed manufacturers' specifications) could be deleted, as it was, in essence, covered by other conditions.

12.3 Draft condition 29 appears to be based on a now superseded version of BS4142. I have, therefore, made minor revisions to the suggested wording to reflect the current (2014) version, which applies a 15 minute, not 5 minute, night-time measurement period. The way penalties are applied has also changed.

12.4 In answer to my questions, an additional condition relating to the use of local labour was mooted during the related discussion⁴³⁸.

13. PLANNING OBLIGATION

13.1 A Deed of Agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) was submitted to the Inquiry⁴³⁹. An agreed Statement of Compliance with the CIL Regulations was also provided⁴⁴⁰.

13.2 The Agreement secures the following:

⁴³⁷ ID34

⁴³⁸ Appended to the back of ID34

⁴³⁹ ID28

⁴⁴⁰ ID29

- implementation of a Wader Mitigation Plan;
- a contribution of £16,000 towards the provision of a heritage interpretation scheme;
- and implementation of an agreed Travel Plan, including a HGV Routing Strategy.

13.3 Consideration of the obligations must be undertaken in the light of the advice at paragraph 204 of the National Planning Policy Framework and the statutory requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). These require that planning obligations should only be accepted where they are necessary to make the development acceptable in planning terms; are directly related to the development; and are fairly and reasonably related in scale and kind to it. Should the Secretary of State conclude that any of the obligations secured are incompatible with any of the relevant tests, the Agreement provides that the particular obligation would cease to have effect.

13.4 I deal in detail with each of the obligations secured in the relevant sections of my conclusions below.

14. INSPECTOR'S CONCLUSIONS

14.1 The following conclusions are based on my report of the oral and written representations to the Inquiry set out above, the written evidence submitted and on my inspection of the site and its surroundings. The numbers in square brackets thus ^[1], refer to paragraphs in the preceding sections of this Report.

14.2 In determining this application, the Secretary of State will need to come to a view as to whether the proposal comprises sustainable development within the context of the National Planning Policy Framework (the Framework) as a whole. To that end, the main considerations include:

- the planning status of the status of the appeal site;
 - whether the facility would comprise a waste disposal or recovery operation;
 - need for the facility and alternatives;
 - effect on air quality, water quality and the health of those living and working in the area;
 - safety and free flow of traffic on the local highway network;
 - the setting, and thereby the significance of heritage assets;
 - landscape and visual impact;
 - living conditions of local residents and those working in the locality in relation to odour, noise and vibration;
 - ecology and wildlife interests;
 - tourism and socio-economic development in the area; and
-

- any benefits to be weighed in the planning balance, including any implications of not proceeding with the scheme.

Planning Status of the Application Site

- 14.3 The planning history of this former colliery site is set out in some detail in SoCG1⁴⁴¹ and the accompanying Supplement⁴⁴², including the Appendices thereto. Newark and Sherwood District Council (NSDC) have confirmed that paragraphs 2.19-2.21 of the Supplement include an accurate account of the planning history and status of the land⁴⁴³. Additional information can be found at CD68 and at ID18, ID24, ID25, ID26 and ID27.
- 14.4 In May 1991 the County Council granted permission to amend previously approved restoration contours relating to the disposal of colliery waste at Bilsthorpe. That 1991 permission included various conditions related to restoration and aftercare. Condition 27 required the submission of an updated restoration scheme were the colliery to be closed for more than six months prior to completion of the approved tipping scheme.
- 14.5 There are two separate restoration schemes for the former colliery site. The Spoil Heap Restoration Scheme relates to a larger area affected by the disposal of colliery waste. In addition, a separate restoration scheme was prepared for the pit head area. That Pit Head Restoration Scheme lies within the larger Spoil Heap Scheme area. The application site lies within the Pit Head Scheme area.
- 14.6 The Pit Head Restoration Scheme, approved in September 1996 pursuant to Class A of Part 20 of the Town and Country Planning (General Permitted Development Order) 1995 (as amended), included redevelopment of some 7 hectares for employment purposes (the development area). The Scheme was subject to a number of conditions including, among other things, a requirement to carry out the Restoration Scheme within twenty four months following permanent cessation of mining activities, with the exception of the development area where, in the event that the employment development was not agreed, provision was made for interim treatment of the underlying ground within the development area. Should no development take place on the development area within five years of the closure of the mine, then the final restoration proposals were to be implemented.
- 14.7 Bilsthorpe Colliery closed in 1997. By late 1999, whilst the Spoil Heap Restoration Scheme was well advanced, the Pit Head Scheme had not substantively progressed, the only restoration related activities carried out relating to the clearance of the pit head buildings. Moreover, the remaining parts of the Pit Head Scheme, outside of the development area, which should have been restored within 24 months from closure of the mine, had not been restored. However, the Council did not take any enforcement action in this regard, apparently on the basis that discussions were taking place to firm up development proposals for the Pit Head area as a whole.

⁴⁴¹ CD65

⁴⁴² CD70

⁴⁴³ CD 71

- 14.8 By March 2002 development had still not commenced in the pit head area and neither the development area, nor the surrounding parts of the pit head area had been restored. At that point, the five year restoration condition attached to the development area was triggered. Although the Council requested that the restoration works be carried out, UK Coal responded that it envisaged submitting a planning application for redevelopment of the site shortly, and that it did not intend to proceed with the Pit Head Restoration Scheme. Subsequently, in March 2004, an outline application was approved by the District Council (02/01392/OUTM) to develop the whole of the Pit Head area for Class B2 and B8 purposes (including the land the subject of the current application). The County Council took a deliberate decision not to enforce the execution of the Pit Head Restoration Scheme, given the planning permission for the construction of the Bilsthorpe Business Park, approved on 24 March 2004. The restoration scheme is now beyond the period for enforcement.^[7.60, 8.51, 10.173]
- 14.9 Two separate reserved matters applications, relating to phases 1 and 2 of the Business Park, were subsequently approved and implemented⁴⁴⁴. The period in which to bring forward other reserved matters applications expired in 2011. Consequently, subsequent proposals for phase 3 of the Business Park, and the County Council's Highways Depot, have been progressed by way of full permissions⁴⁴⁵.
- 14.10 At the present time therefore, and contrary to the view of local residents,^[10.187] the application site comprises an un-restored pit head with no provision for restoration through development control procedures. As such, the site of the proposed energy centre can be classified as previously-developed land in accordance with the definition set out in the Glossary to the Framework.^[6.3, 7.59-7.61, 8.52, 8.53, 8.71, 8.76, 8.77, 8.85] I am also mindful, in this regard, that the site is identified as previously developed (or brownfield) land within the District Council's Employment Land Availability studies.^{446 [7.60]}

Waste Disposal or Recovery?

- 14.11 The National Planning Policy for Waste (NPPW) seeks to deliver sustainable development by, among other things, driving waste management up the waste hierarchy. The proposed facility is intended to treat, by gasification, residual non-hazardous commercial and industrial (C&I) waste sourced from within Nottinghamshire and Nottingham (and possibly surrounding authority areas) much of which is currently sent to landfill. The facility would also be capable of accepting municipal solid waste (MSW). The process would have an installed electricity generating capacity of around 13.77 megawatts, some 4 megawatts of which would be used within the plant itself, the remainder being available for export to the local grid. The facility would also have the potential to capture some 5.5 megawatts of heat, in the form of hot water recovered from the cooling systems associated with the combustion process, although no end user has, as yet, been identified.^[4.3, 4.11, 8.54]

⁴⁴⁴ 04/02627/RMAM and 05/00860/RMAM

⁴⁴⁵ 06/00535/FULM and 3/08/00709/FULM respectively

⁴⁴⁶ eg ID33 ELAS 2008-2009 and ELAS 2009-2010

14.12 UKWIN, supported by local residents, argued that the facility would comprise a disposal operation, as opposed to recovery.^[7.5, 7.6-7.8, 8.57, 10.31-10.46, 10.166, 10.184, 11.1]

In early submissions, much was made in this regard of the fact that the facility did not have R1 status (i.e. a recovery operation as defined by Annex II of the revised EU Waste Framework Directive (2008/98/EC))⁴⁴⁷. An associated footnote in the Annex thereto confirms that recovery includes incineration facilities dedicated to the processing of waste where (as in this case) energy efficiency would be 0.65 or above, calculated using a specific formula (the R1 formula).

14.13 The Environment Agency (EA) is the competent authority for determining whether a plant meets the definition of R1 Recovery. R1 is assessed at three stages: plant design; commissioning; and then during normal operation. It is not necessary for a developer to obtain R1 status before applying for planning permission. However, subsequent to lodging the planning application, the applicants firmed up design/engineering details for the facility and an R1 application was submitted to the EA in August 2015⁴⁴⁸.^[7.4] The final R1 value in those submissions was 0.6756.⁴⁴⁹ That calculation was based on the generation of power only. If heat were to be exported, the R1 value would increase to 0.702.⁴⁵⁰ Whilst part of the case presented by UKWIN suggested that the R1 threshold was only just passed, I am not persuaded that any higher test needs to be set for planning purposes. It is sufficient that the threshold is passed.

14.14 In October 2015, shortly before the Inquiry, the EA issued formal confirmation that, based on design data, the proposed facility was capable of having an R1 energy efficiency factor equal to or above 0.65⁴⁵¹.^[7.4, 8.54, 8.55] As confirmed in the Inspector's Report in relation to an Energy from Waste facility at Javelin Park⁴⁵², this is the highest level of certification available prior to actual construction and operation of a facility. Whilst UKWIN challenged various of the calculations that informed the R1 submission at the Inquiry,^[10.36-10.46] it is clear that their concerns in this regard, together with a request that the EA give utmost scrutiny to the information provided by the applicants, given the experimental nature of the technology, had already been brought to the attention of the EA prior to issue of the preliminary certification. Notwithstanding those concerns, the Agency still issued the R1 certificate⁴⁵³.^[7.8]

14.15 In response to concerns raised by others, including UKWIN, two sensitivity tests were run, based on 97% and 80% of normal performance⁴⁵⁴. In those instances, the R1 value remained above the 0.65 threshold⁴⁵⁵. Other concerns raised related to variability in the feedstock and implications for the efficiency of the plant. As set out in the evidence of the applicants⁴⁵⁶, the design case

⁴⁴⁷ Ibid

⁴⁴⁸ Third Regulation 22 submission CD75

⁴⁴⁹ APP/SMO/2A Case 1

⁴⁵⁰ Ibid Case 2

⁴⁵¹ APP/SMO/6A

⁴⁵² APP/T1600/A/13/2200210 Extract at APP/SMO/6C (paragraph 1006)

⁴⁵³ Correspondence from the EA to UKWIN dated 9 October 2015 confirmed that the comments of UKWIN would be considered during assessment of the R1 application

⁴⁵⁴ Those were the levels referred to in the sensitivity analysis that informed the R1 certification in relation to the Battlefield facility.

⁴⁵⁵ APP/SMO/2A Cases 3, 4 and 5

⁴⁵⁶ APP/SMO/1 paragraphs 2.5.11 – 2.5.16

R1 calculation is based on waste with a net calorific value of 12.581 MJ/kg, lower than that envisaged in the Heat Plan of 14.46 MJ/kg. If the waste were to have a higher calorific value, less coke would be required in the gasification process and more syngas could be produced per tonne of waste⁴⁵⁷, giving an R1 value of 0.694. Waste with a lower calorific value of, for example, 10.5 MJ/kg, with waste throughput limited to 95,000 tonnes per annum, gives an R1 value of 0.661⁴⁵⁸. In any event, the efficiency of the facility would be assessed again on commissioning and would be subject to further continuous assessment once operational.^[7.5] I have no reason to suppose, in this regard, that, with appropriate management of the feedstock, maintaining energy efficiency would be likely to pose an insurmountable problem that would justify downgrading the proposed development to a disposal facility. The Inspector who dealt with an appeal in relation to an energy from waste plant at Battlefield Enterprise Park came to the same view⁴⁵⁹.

14.16 In the current case, it is also proposed that, were permission to be granted, an appropriately worded planning condition could ensure that the plant could not operate other than as an R1 facility when assessed over a year^[8.54]. I note, in this regard, that in relation to an appeal for the Javelin Park facility, the Inspector rejected a similar condition⁴⁶⁰ on the basis that it would duplicate the monitoring and reporting requirements set out by the EA in preliminarily certifying the proposed EfW facility as an R1 recovery operation. In that case, however, an Environmental Permit had already been issued, which addressed those matters that would determine the R1 calculation. That is not the case here. On that basis, I consider the draft condition to be relevant.

14.17 In the Battlefield case, although an R1 certificate had been issued by the EA, objectors took issue with details of the energy calculations on the basis of inconsistencies in the use of data and what could be counted towards energy production, without introducing an element of double counting, as do UKWIN.^[10.37-10.46, 10.61] However, the Inspector in that case gave more weight to the confidence of the EA in relation to technical matters concerning energy calculations. I find no good reason to take a different approach in relation to the scheme proposed at Bilsthorpe.

14.18 UKWIN also argued that a facility can be treated as recovery for the purposes of interpreting planning policy, only if there are clear findings that the facility would be 'more likely than not' to achieve the R1 threshold during its operation. They had doubts in this regard and, in support of their case, reliance was placed on the Skrytek judgement⁴⁶¹ ^[10.34-10.36].

14.19 On careful reading of the judgements and the Inspector's decision, I am not persuaded that the High Court judge was saying that that was what the Inspector had concluded, and neither was he agreeing that that would have been correct. Rather, it was a hypothetical statement that would not have been an error in law. It would seem that the Appeal Court did not address the hypothetical situation considered by the High Court judge. In any event, the

⁴⁵⁷ APP/SMO/2A Case 6

⁴⁵⁸ Ibid Case 7

⁴⁵⁹ APP/L3245/A/11/2146219 paragraph 105 (extract at APP/SMO/6 Appendix E)

⁴⁶⁰ APP/T1600/A/13/2200210 Extract at APP/SMO/6C (paragraph 1304)

⁴⁶¹ Dorothy Skrytek v SoSCLG, Derby City Council and Resource Recovery Solutions (Derbyshire Limited in the High Court and the Court of Appeal).

facility proposed is intended to take residual C&I waste, that is, waste remaining after materials are sorted for recycling.^[4.2, 4.3] The applicants have demonstrated, to the satisfaction of the EA that, based on the generation of power only, the efficiency of the plant meets the criteria for classification as a recovery facility (R1).^[7.4-7.8] Even if it did not, as clarified in the Inspector's Decision the subject of the Skrytek judgements, all energy recovery technologies, whether electricity only, heat only, or heat and power combined, come higher in the waste hierarchy than disposal to landfill.

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

Need/Alternatives

14.21 There is no Government policy that, as a matter of general principle, requires applicants to demonstrate that there is a need for a development proposed^[8.38, 8.49, 8.77]. Indeed, the NPPW advises that, in determining waste planning applications, applicants are only expected to demonstrate a quantitative or market need for new facilities where they are not consistent with an up-to-date local plan.^[8.52] In such cases, the extent to which the capacity of existing operational facilities would satisfy any need would also need to be considered⁴⁶². I am also aware that both the Government's Energy White Paper of 2007, and the National Planning Policy Framework indicate that it is not necessary for an applicant to demonstrate an overall need for renewable energy schemes such as that proposed⁴⁶³, recognising that even small scale projects provide a valuable contribution to cutting greenhouse gas emissions.^[7.38]

14.22 Policy CP6 of the N&SCS allows that existing employment sites, such as Bilsthorpe Business Park, will continue to be developed for business purposes and that where a proposal falls outside the B Use Class (as does this proposal) regard is to be had, among other things, to the extent to which the proposal responds to local needs for such development and to the lack of suitable alternative sites being available to meet an identified demand. Policy WCS4 of the WCS is only permissive of new waste facilities in the open countryside where there is a clear local need, particularly where it would provide enhanced employment opportunities. WCS3 requires that new recovery facilities should show how they would divert waste that would otherwise go for disposal (as opposed to recovery) although I recognise that that is not the same as requiring that a quantitative need for the facility be demonstrated.

14.23 The intended waste stream for the merchant facility proposed would mainly be C&I waste.^[4.3, 7.53, 8.84] The applicants have looked only at the quantitative need for the 'other recovery' capacity within Nottinghamshire and Nottingham, the

⁴⁶² CD53 paragraph 7

⁴⁶³ CD56 paragraph 5.3.67 and CD52 paragraph 98

target market for the scheme, although wastes could be accepted from outside the area.

- 14.24 The WCS indicates that Nottinghamshire and Nottingham produced more than 2.5 million tonnes of waste in 2009 (down from 4 million tonnes pre-recession). Of that, almost 1.5 million tonnes was MSW and C&I waste, the balance comprising construction and demolition waste (C&D). Around 160,000 tonnes per annum (tpa) of the MSW is identified as being landfilled, the landfill figure for C&I waste being in the region of 300,000 tpa. A proportion of the C&D waste is also landfilled. Whilst not a primary waste stream for the facility proposed, C&D waste does contain material that would be suitable for thermal treatment.⁴⁶⁴
- 14.25 Existing and permitted waste treatment capacity within Nottinghamshire and Nottingham is set out in Table 1 of the WCS⁴⁶⁵. The identified 200,000 tpa of general municipal recovery capacity relates to the existing Eastcroft EfW facility in Nottingham.^[8.21, 8.82] The 100,000 tpa of C&I waste recovery capacity identified, relates to a third line extension at the Eastcroft facility which has planning permission that has been implemented, but has not been built and is not operational.⁴⁶⁶ The WCS also confirms that currently, no energy recovery facilities have been developed that are dedicated to the processing of mixed C&I wastes within the plan area.
- 14.26 Based on the various assumptions set out therein, Table 4b of the WCS confirms that some 194,000 tpa additional capacity for energy recovery from C&I waste is required to meet the Plan targets. The gasification element of the facility proposed at Bilsthorpe has an anticipated waste throughput of around 95,000 tpa.^[4.3] As such, it clearly has the capacity to make a significant contribution to addressing the shortfall of residual C&I waste management facilities required within Nottinghamshire and Nottingham. Moreover, the proposed facility could recycle up to 22,300 tpa of C&I waste each year,^[4.3] which would also contribute towards the shortfall in recycling capacity identified in the WCS.
- 14.27 As confirmed in SoCG1⁴⁶⁷, the methodology used within the WCS for calculating the amount of additional alternative energy recovery capacity that is required in future years, includes capacity that is not yet built or operational (namely the third line at the Eastcroft facility with a capacity of some 100,000 tpa). That approach is not consistent with the NPPW which stresses that only existing operational facilities should be considered⁴⁶⁸. It seems to me, therefore, that a more realistic figure for the current shortfall in energy recovery capacity for residual C&I waste would be more likely to be in the region of 294,000 tpa (as opposed to 194,000 tonnes) based on the figures in the WCS.
- 14.28 UKWIN and RAGE argue that the 63,000 tpa surplus recovery capacity for municipal waste identified in the WCS (within Tables 1 and 4a) should be taken into consideration in the additional treatment capacity requirement for

⁴⁶⁴ CD62 Paragraphs 4.2-4.6

⁴⁶⁵ CD62

⁴⁶⁶ APP/NR/1 paragraph 4.2.18

⁴⁶⁷ CD65 paragraphs 6.10 and 6.14

⁴⁶⁸ CD53 paragraph 3 7th bullet

C&I waste and, on that basis, argue that the energy recovery figure for C&I waste (194,000 tpa) is overstated⁴⁶⁹. The evidence of Mr Roberts for the applicants⁴⁷⁰ however, demonstrates that there is no spare energy recovery capacity for C&I waste. In any event, even were the surplus taken into account, and the spare capacity used for C&I waste, it seems that there would still be a requirement for more than 200,000 tpa of energy recovery capacity for the residual C&I waste stream.

- 14.29 The targets set out in policy WCS3 are clearly ambitious, particularly that for recycling/composting of all waste (70%). Indeed, the latest monitoring data (Annual Monitoring Reports (AMRs))⁴⁷¹ indicates that the joint authorities are unlikely to achieve the 70% target for MSW and that they may not achieve the target for C&I waste. That would seem to suggest greater demand for energy recovery capacity (and, less preferably, landfill) than is stated in Tables 4a and 4b of the WCS.
- 14.30 A full Alternative Site Assessment (ASA) is included in the ES⁴⁷². Its purpose was not to demonstrate that any specific site is the very best for the development proposed but rather, that the site selected is acceptable for the proposed use, taking account a range of relevant policy, environmental and technical criteria and other potential sites.⁴⁷³ Although the initial site identification and short listing process identified 483 sites, only three made it through to the final short list. One of those identified was subsequently rejected on the basis that the commercial availability assessment showed that it was unviable. The application site was one of the two remaining sites, the other being a site in Kirkby-in-Ashfield. In the event, the assessment identified that, on balance, the Bilsthorpe site had fewer potentially significant environmental and technical constraints.⁴⁷⁴
- 14.31 There was some concern that, as the proposed development could accept waste from other authority areas, the ASA should have considered sites outside the county. However, it is clear that the target market for the proposal is waste arising from Nottinghamshire and Nottingham.^[4.3] That is where there is a demonstrable need for new energy recovery capacity as set out in the WCS. On that basis, whilst the facility might have the capacity to take waste from elsewhere, that does not, to my mind, imply that sites outwith the county should also have been assessed. Bilsthorpe is centrally located in the County, between the major population centres it would serve.^[8.74]
- 14.32 There is no requirement in planning law or policy to demonstrate that a particular technology is the most suitable, or whether there are other preferable options. Indeed, National Policy Statement EN-1 (Overarching National Policy Statement for Energy)⁴⁷⁵ confirms that the Government does not consider it appropriate for planning policy to set targets for, or limits on,

⁴⁶⁹ UKWIN Objection Part 1(Feb 2014), UKWIN Objection Part 4 (Sep 2014), IP2, Hughes Planning for RAGE (Jan 2014) and IP1

⁴⁷⁰ APP/NR/1 paragraphs 4.2.41 – 4.2.52

⁴⁷¹ CD72, CD73

⁴⁷² CD3 Appendix 3-1

⁴⁷³ Ibid paragraph 1.2

⁴⁷⁴ Ibid paragraph 6.8

⁴⁷⁵ CD55

different technologies, with EN-3 (Renewable Energy Infrastructure)⁴⁷⁶ confirming that waste combustion plant covered by EN-3 may include a range of different combustion technologies, including gasification and pyrolysis. Policy WCS9 of the WCS is supportive of new or emerging technologies where it would lead to more efficient and sustainable management of waste.

- 14.33 An assessment of alternative technologies is provided in the first of the Regulation 22 submissions⁴⁷⁷. All potential residual waste technologies have their benefits and disadvantages. The technology proposed here would ensure that the processing of waste follows the waste hierarchy, allowing for maximum recycling to occur at the front end of the process, before combustion for the recovery of energy. As an advanced thermal treatment facility, with R1 status, it would be a very efficient process, a process that would allow not only for the generation of electricity and (potentially) heat, but which also has the capacity, in the future, to be used for the formulation of biofuels or hydrogen for use in alkaline fuel cells, or in a liquid state.^{478[7.53]} Lastly, there is scope to put by-products of the process to more beneficial uses than some alternatives, reducing residues that must be sent to landfill.^[4.6] There is no evidence before me to suggest that conventional incinerators have that future flexibility and potential. In light of the R1 status and future flexibility and potential, I am satisfied that the facility proposed would offer significant efficiency and sustainability benefits in accordance with WCS9.
- 14.34 To conclude on this issue I am satisfied, based on the WCS, that a clear 'local' need for the facility proposed is demonstrated, local being the joint authority area in terms of waste⁴⁷⁹. It would also, as set out below, enhance employment opportunities. More detailed analysis of the existing situation, as set out in the AMRs among other places, demonstrates that, even were the planned waste treatment facilities/capacity within the joint authority area to be built and brought on-stream, there would still be a demonstrable need for the development proposed. With a residual waste treatment capacity of 95,000 tpa, the gasification facility proposed would make a significant contribution to diverting local C&I waste from landfill. That is a consideration to which significant weight should be afforded in terms of sustainable waste benefits. There is no substantiated evidence before me either, to demonstrate that some other site is more appropriate for the facility proposed or that some other technology is to be preferred. Accordingly, I find no conflict with policies WCS3, WCS4 or WCS9 of the WCS, or with policy CP6 of the N&SCS.

Air Quality, Water Quality and Health

- 14.35 Dr Chow was very concerned about air quality and health impacts, plus implications for agriculture and food production, and water pollution^[9.5-9.10, 9.13, 9.14, 9.20, 9.22, 9.23, 9.25-9.41] particularly since, to paraphrase, there would be 'unknown unknowns' in relation to source emissions.^[9.13, 9.21, 9.23, 9.27, 9.35, 9.45] He also had detailed concerns about the information provided to Public Health England and the adequacy of its responses.^[9.42-9.45] Dr Chow was supported in

⁴⁷⁶ APP/NR/2-D

⁴⁷⁷ CD6 Section 7

⁴⁷⁸ CD6 paragraph 7.2.12

⁴⁷⁹ The WCS contains a specific policy (WCS12) which relates to managing non-local waste, which refers to waste from outside the joint authority area as non-local. The corollary to that is that the WCS considers the joint authority area to be local.

all these regards, by those objecting to the proposed development.^[10.114, 10.126, 10.129, 10.137, 10.143, 10.147, 10.151-10.152, 10.158, 10.164, 10.198-10.202, 10.209, 10.210, 10.218, 10.220, 11.1]

- 14.36 As is expressly recognised at paragraphs 7.63-7.64 of the WCS, it is for the Environment Agency (EA) through the permitting regime and associated compliance assessment, monitoring and enforcement, to regulate the incineration process proposed, including emissions arising from that process, in the interests of preventing pollution and protecting human health. The Permit would be the primary control mechanism and would set specific limits in terms of emissions to air, soil and water in line with national and international guidelines, as recognised in the WCS. The WCS also confirms that, when determining planning applications, expert advice will be sought from the EA and the relevant health protection bodies, whilst acknowledging that the primary controls over pollution are implemented through the separate environmental permitting regime.
- 14.37 It is also made clear in the NPPW that, when determining waste planning applications, decision makers should concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. They should also work on the assumption that the relevant pollution control regime will be properly applied and enforced⁴⁸⁰.
- 14.38 Accordingly, whilst I fully appreciate the concerns of Dr Chow and others in this regard, most of their concerns would need to be addressed at the permitting stage, such matters falling outwith the planning regime. That said, the NPPW also advises that consideration should be given to the likely impact on the local environment and amenity, and the locational implications of any advice on health from the relevant health bodies⁴⁸¹. Waste planning authorities should also avoid carrying out their own detailed assessment of epidemiological and other health studies.^[7.18, 8.54]
- 14.39 The operational phase of the development would, among other things, give rise to emissions to air and the ES includes a section on air quality and human health, based on the findings of a detailed Air Quality Assessment (including Human Risk Assessment)⁴⁸². The potential environmental effects of those emissions were assessed using detailed dispersion modelling, based on a worst case scenario. The modelling shows that the proposed stacks would provide appropriate levels of dispersion to the atmosphere and it is not predicted that the facility would have a significant impact on local air quality or, either of itself or in combination, in relation to all the statutory ecological sites identified.
- 14.40 The failure of an incineration facility in Iceland (Engidalur) was drawn to my attention, where there were consequential health impacts. However, I am not persuaded that any reliable inference can be drawn from that incident. I understand the Icelandic plant to have been operating under conditions very different from those that would apply to the proposed facility at Bilsthorpe,

⁴⁸⁰ Paragraph 7 bullet 5

⁴⁸¹ Ibid bullet 2

⁴⁸² CD2 Section 12 and CD3 12-1

both in terms of local topography and the fact that it had never been required to meet the relevant emissions standards of the time^{483[7.24]}.

- 14.41 Attention was also drawn by objectors to a report from the British Society of Ecological Medicine (BSEM) entitled *The Health Effects of Waste Incinerators* first published in 2005, with a second edition in 2008⁴⁸⁴, to evidence produced by a Professor Howard in 2009 in relation to a proposed 'waste to energy' plant at Ringaskiddy in Ireland⁴⁸⁵, and to an article in a Dublin newspaper (NewsFour) about the Icelandic facility referred to above, the fining of Covanta in relation to excessive emissions at a number of facilities that it operated, and emission infringements at facilities in Dargavel (Scotland) and France.
- 14.42 The Health Protection Agency (HPA) has reviewed the BSEM report and criticised it severely⁴⁸⁶. In essence, it presents a selective and limited use of the scientific literature; there is no acknowledgement of the impact of the current legislative regime which minimises the potential for public exposure to emissions and it does not differentiate between hazard and risk. The BSEM report has also been referred to at other Inquiries into proposed energy from waste plants where successive Secretaries of State, and Inspectors, have not given it significant weight⁴⁸⁷.
- 14.43 I understand that Professor Howard's statement has also been referred to at other Inquiries⁴⁸⁸, although no specific examples of that have been provided. However, it relates to particulate matter, particularly ultrafine particles, and health, matters already considered in a 2009 statement of the HPA⁴⁸⁹. The HPA concluded that modern, well managed incinerators make only a small contribution to local concentrations of air pollutants and that any impacts on health, if they exist, are likely to be very small and not detectable. In essence, it found that emissions of particulate matter from energy from waste plants are not a cause for concern.
- 14.44 In relation to the other references in the news article, I understand the Dargavel gasification plant to have been based on a very different technology from that proposed at Bilsthorpe, and that the French incinerator was closed in 2001⁴⁹⁰. I have no further information in relation to the circumstances of the fines imposed on Covanta by the US but have no reason to suppose that they involved exactly the same arrangement that is proposed here.
- 14.45 On balance, therefore, I have no reason to come to a different conclusion from that of the HPA that, whilst it is not possible to rule out adverse health effects from modern, well regulated municipal waste incinerators with complete certainty, any potential damage to the health of those living close by is likely to be very small, if detectable at all⁴⁹¹. I find nothing in the evidence before the Inquiry, or any particular local considerations which apply here, that would

⁴⁸³ APP/SMO/4 paragraphs 5.3-5.7 and APP/SMO/5A

⁴⁸⁴ KC8

⁴⁸⁵ KC3

⁴⁸⁶ APP/SMO/5B

⁴⁸⁷ NCC2 (Shepshed) and NCC3 (Lostock)

⁴⁸⁸ APP/SMO/4 paragraph 5.11

⁴⁸⁹ KC2

⁴⁹⁰ APP/SMO/4 paragraph 5.13

⁴⁹¹ APP/SMO/2F

justify taking a different view from national policy about the likely health effects of the facility proposed.

- 14.46 Effect on water quality was also assessed in the ES⁴⁹² and is addressed in the evidence of the applicants.^[7.25-7.27] This was also a particular concern of Dr Chow^[9.24-9.32] Whilst the ES confirms that the application site lies above a secondary and principal aquifer, it is also confirmed that the creation of pathways to ground and surface water, would be mitigated through ground investigation and design, a matter that could be controlled by condition, and that the potential for leakage from the proposed plant or associated structures would be addressed through standard industry mitigation measures, again a matter that could be controlled by condition and adherence to the terms of the Environmental Permit.
- 14.47 The application site lies in Flood Zone 1 and there is no evidence of flooding on the site⁴⁹³. Surface water drainage would include a sustainable drainage scheme to attenuate surface water discharges, which would reduce pollutant concentrations in storm water, thus protecting the quality of the receiving water body. It would also act as a direct buffer for accidental spills⁴⁹⁴. A detailed scheme could be secured by condition.
- 14.48 The scheme includes an on-site effluent treatment plant, which would treat effluent from the gasification process, including the cleaning of the syngas, prior to its release to the nearby off-site treatment works.^[4.7, 7.25] As with air emissions, outflow from the on-site treatment facility would be the subject of the required Environmental Permit, the conditions of which would ensure that it was appropriate for release from the site. Again, the controls in this regard are a matter for the EA, not the planning regime.
- 14.49 Dr Chow also raised concerns in relation to the comments of PHE and the absence of any evidence to support their views.^[9.42-9.45] However, the processes with which he is particularly concerned, (including the cleaning of the syngas, emissions from the gas internal combustion engines, the quenching of slag and the slag aggregate) would, it seems to me, be regulated via the Environmental Permit (to which the process as a whole would be subject) in accordance with the Industrial Emissions Directive, which would provide sufficient protection for human health.^[7.19] That position is confirmed by PHE, in correspondence which specifically address the concerns raised by Dr Chow⁴⁹⁵. If the development did not conform to the terms of the permit, it could be revoked and the plant required to cease operation. The correspondence also confirms that, since the sector technical guidance and the WID consider the incineration of municipal waste and its use on gasification, all likely pollutants will have been considered by European and national legislation. Moreover, the facility would be required to maintain strict monitoring under both the terms of the Directive and the permit.
- 14.50 To conclude, I find no substantiated evidence to suggest, subject to the operational controls on the process proposed that would be provided by the Environmental Permit and other legislation, that the development proposed

⁴⁹² CD2 Sections 9 and 10 and CD3 10-1

⁴⁹³ CD2 paragraphs 10.3.14-10.3.21

⁴⁹⁴ CD2 paragraphs 10.5.10-10.5.21

⁴⁹⁵ NCC8

would necessarily have an adverse impact on air or water quality, or that it would have an adverse effect on the health of those living and working in the area. Accordingly, I find no conflict with policy WCS13 of the WCS, policies W3.5 and 3.6 of the WLP, and policy DM10 of the DPD, all of which seek to ensure that development such as that proposed would not have an unacceptable impact on the quality of life of those living and working nearby, or an unacceptable risk of pollution to ground and surface waters.

Highway Matters

- 14.51 Although the Highway Authority raised no objection to the proposal, subject to conditions, the local planning authority, the various parish councils, RAGE, UKWIN and local residents, supported by their MP, have significant concerns in terms of the safety and capacity of the local highway network.^[10.6, 10.8-10.20, 10.72, 10.97, 10.114-10.116, 10.120-10.124, 10.128, 10.139, 10.173, 10.175, 10.182, 10.184, 10.195, 10.205-10.208, 10.212, 10.217, 10.221, 10.223, 11.1] My attention was drawn, in this regard, to highway improvements that were to be triggered as part of previous planning permissions for development on the former colliery site.^[7.34, 10.124, 10.128]
- 14.52 The position in relation to the 'trigger' is set out in SoCG1⁴⁹⁶ and was the subject of detailed discussion during the Inquiry. The outline planning permission of March 2004 (02/01392/OUTM) was accompanied by a planning obligation⁴⁹⁷. Among other things, the obligation required that, within one month of a trigger date (being the first date on which 16,000 square metres gross floor area of buildings within the site had been let (or otherwise disposed of) and occupied) a further transport assessment was to be undertaken of the impact of traffic travelling to or from the application site on the road junction, with the results of that assessment to be considered, with a view to the need to implement identified Stage 2 improvement works. The trigger was based on detailed modelling work undertaken at that time. It is worth noting that the trigger did not, of itself, require that the additional works be undertaken. Rather, it simply required a re-assessment to see if additional works, envisaged at that time as a roundabout, were required.
- 14.53 Subsequently, two separate reserved matters applications, relating to phase 1 and phase 2 of the Business Park, were approved (04/02627/RMAM and 05/00860/RMAM). Phase 1 comprised three sub-phases. Sub-phases 1 and 2 have been built, but sub-phase 3, extending to some 2,880 square metres, has not yet been constructed. I was advised that the Phase 2 permission, which extended to around 2,100 square metres, was not implemented and is no longer extant. The period in which to bring forward other reserved matters applications expired in 2011. Consequently, applications for phase 3 of the Business Park, and the County Council's Highways Depot, were made by means of detailed planning applications (06/00535/FULM and 3/08/00709/FULM respectively).
- 14.54 The latter application included a deed varying the provisions of the earlier planning obligation⁴⁹⁸. Among other things, the definition of the trigger date was replaced, such that it now means the first date on which the UK Coal

⁴⁹⁶CD65 at paragraph 4.6

⁴⁹⁷ ID26

⁴⁹⁸ ID27

phase 1 units (agreed at the Inquiry as some 7,000 square metres comprising 4,000 square metres B2 and 3,000 square metres B8 floor space⁴⁹⁹) which are partially completed, plus the County Highways Depot (extending to some 6,751 square metres) which has been completed, plus additional development totalling 10,000 square metres of B2 and B8 floor space in any combination save that no more than 6,000 square metres shall be B2 (which has not been progressed to date), have been completed on the application site. The Stage 2 works were also re-defined as suitable improvements to the junction as agreed with the Council. Whilst no information was available as to what lay behind the significant increase in the floor space trigger for the Stage 2 highway improvements, or the removal of the reference to a roundabout as part of those works, I have no reason to suppose that the provisions of the obligation, as amended, are not lawful. Given the status of current development consents/ implementation at the Business Park, the revised obligation effectively identified a threshold of a further 10,000 square metres of B2/B8 floor space (or its equivalent in traffic generation terms) that could be constructed before junction improvement works might be triggered.

14.55 In order to present a 'worst case scenario', the Transport Assessment⁵⁰⁰ and the applicants' evidence to the Inquiry⁵⁰¹ compared predicted traffic movements associated with the current application scheme, with estimates of total vehicle volumes associated with the 'trigger' scenario of 10,000 square metres of B8 development (B8 floor space giving rise to greater traffic movements per square metre of floor space than B2 uses)⁵⁰². It identified that the proposed facility could be expected to generate some 135 vehicle movements per day less than would the established 'trigger' threshold⁵⁰³ [7.34] HGV only movements for the development proposed are predicted as being of a similar magnitude to the 'trigger' development scenario, although during AM and PM peak times, operation of the development proposed is expected to result in a slightly lower level of HGV trips than the identified 'trigger' threshold⁵⁰⁴. In essence, therefore, the development proposed could be expected to result in an overall lower level of traffic generation when compared to that already considered acceptable in previous applications, as set out in the related planning obligations. Nonetheless, in order to make a robust assessment of the impact of the development proposed in terms of traffic generation, it is necessary to look at network operational effects.

14.56 It is proposed that the facility would operate as follows, all of which matters could be controlled by conditions and/or the submitted planning obligation. No HGV traffic associated with the development would utilise the local Bilsthorpe village routes of Kirklington Road or Mickledale Lane. That arrangement would be secured by a routing strategy encompassed within the planning obligation, requiring that all HGV traffic access the A614 via the signed HGV route to the north, via Eakring Road/Deerdale Lane. Moreover, routes to the south are already protected by existing formal HGV weight restrictions. In addition, as identified within the Interim Travel Plan encompassed in the planning

⁴⁹⁹ ID31

⁵⁰⁰ CD5

⁵⁰¹ APP/APB/1 Section 4.2

⁵⁰² Derived from the industry standard TRICS traffic generation database.

⁵⁰³ CD5 Table TA4.11 and APP/APB/1 paragraph 4.2.3

⁵⁰⁴ CD5 Table TA4.12 and APP/APB/1 paragraph 4.2.4

obligation⁵⁰⁵, support would be provided to set up and operate a local community 'lorry watch' scheme, in line with the County Council's Trading Standards initiatives⁵⁰⁶. Whilst some staff/visitor traffic could use those links, such traffic levels are predicted to be minimal (around 26 vehicle movements on Mickledale Lane, 10 on Kirklington Road between 07.00-19.00) and would not give rise to any measurable operational/traffic related environmental effects on those routes.

- 14.57 A particular concern of local people is the capacity of the Deerdale Lane junction with the A614, and its safety. One of the accompanied site visits included extended observation of traffic emerging via this junction onto the A614 in the early part of the evening peak on a weekday. I saw that traffic did result in queues at times, which clearly caused frustration for some. Queuing for left turning traffic was further exacerbated, because views to the right were often blocked by vehicles waiting to turn right.
- 14.58 However, junction operational capacity assessments, including predicted traffic movements associated with the scheme proposed, demonstrate that average day to day operation of the proposed development would not result in a material impact on the operation of the junction⁵⁰⁷. Whilst it might be approaching at-capacity conditions by the 2023 sensitivity test future year, such operating conditions would primarily occur as a result of underlying modelled background traffic growth, rather than the impact of the development proposed. Traffic movements associated with the development would only result in marginal changes to junction performance, with the junction predicted to operate with substantial spare capacity during those periods of maximum demand in relation to the development proposed. I am mindful, in this regard, that planning conditions are proposed to limit HGV delivery periods and to restrict HGV volumes to an agreed level. Moreover, the nature of the development means that maximum traffic levels associated with its operation would take place during off-peak network demand periods. So, whilst I recognise that there can be problems at times during the peak periods, overall, anticipated traffic effects of the proposal would be negligible, subject to the suggested conditions and the routing strategy secured by the planning obligation.
- 14.59 As to safety, there is no evidence of any historical HGV related safety issues at the junction, and no injury accidents have been recorded at the junction since 2009⁵⁰⁸. That may be due to the local junction improvements carried out on the Deerdale Lane approach (including widening of the approach, white lining and signage improvements) and the introduction of an average 50mph speed limit along this stretch of the A614. Hidden dips in the A614 which can obscure oncoming traffic were drawn to my attention. However, the safety record of the junction does not indicate that they are a particular cause for concern. Whilst there was a significant accident on the A614 a few years ago, with multiple fatalities, that was further along the road and does not appear to have been related to the operation of the Deerdale Lane junction.

⁵⁰⁵ ID28 paragraph 5.4.5 of the Interim Travel Plan

⁵⁰⁶ APP/APB/1 paragraph 7.3.2

⁵⁰⁷ CD5 Tables TA6.9 and TA6.10

⁵⁰⁸ CD5 Section 2.6 and APP/APB/1 paragraph 7.2.8

- 14.60 There was concern about the source of the waste that would be brought to the site for the proposed facility, in particular that it would not accord with sustainable transport policy for waste management as set out in WCS11⁵⁰⁹.^[10.66-10.68] That policy requires that all waste management proposals should seek to maximise the use of alternatives to road transport in order to minimise the impacts of the use of less sustainable forms of transport. Proposals should also make best use of the existing transport network and minimise distance in undertaking waste management.
- 14.61 The proposed facility would be developed as a non-municipal contracted (merchant) waste management facility to primarily serve a local Nottinghamshire and Nottingham based catchment area⁵¹⁰. Given the current nature of collections within the County, I am satisfied that any facility to serve that catchment is unlikely to be able to effectively utilise alternative transport options other than road haulage, at least in the short to medium term. Indeed, the supporting text to policy WCS11 recognises that making use of alternative, more sustainable forms of transport is likely to depend on the size and type of site, as well as the type of waste involved, and that it would not be practical to transport waste by rail or water over short distances.
- 14.62 The Alternative Site Assessment undertaken by the applicants, referred to earlier, included site accessibility as a key criterion. None of the other available sites was identified as being potentially suitable for waste treatment use or was able to deliver any meaningful opportunities for multi-modal waste transport. The application site is proximate to the major centres of waste arisings within the County, namely Nottingham and Mansfield, and provides good access to the strategic highway network, linking to other key settlements within the County, minimising vehicle mileage for the transport of waste arisings.
- 14.63 To conclude on this issue, I am satisfied that the local highway network could accommodate the associated traffic movements safely and efficiently with no significant operational or environment impacts. I find no conflict therefore, with policy WCS11 of the WCS, policies W3.14 and 3.15 of the WLP, policy SP7 of the N&SCS and policies DM4 and DM5 of the DPD, which together seek to make the best use of the existing transport network and minimise the distances travelled in undertaking waste management, and to ensure that the safety, convenience and free flow of traffic using the highway is not adversely affected.
- 14.64 In coming to this view, I have had regard to the Interim Travel Plan that forms part of the planning obligation, which sets out a framework for the development, implementation and operation of travel planning initiatives to encourage/maximise travel by means other than the private car and, where practical, minimise private car journeys in relation to the development proposed. Such is warranted in the interests of sustainable travel and accords with national and local planning policy. Were permission to be granted, and the scheme implemented, a final formal Travel Plan would be prepared following the undertaking of a detailed staff travel survey exercise which would inform the final selection of the package of travel initiatives to be included.

⁵⁰⁹ Eg various of the submissions of RAGE and UKWIN in relation to the application and the Inquiry

⁵¹⁰ APP/APB/1 paragraph 7.4.3

14.65 In addition, the Interim Travel Plan includes a local HGV Routing Strategy which would restrict delivery/export traffic to appropriate route corridors. The strategy has been developed through reference to existing local network HGV restrictions and in liaison with the Highway Authority. I understand that it also reflects existing routing agreements associated with other development within the Business Park. The arrangement is necessary to minimise the impact of HGV traffic on Bilsthorpe and other local villages and to avoid the potential for HGV traffic to access inappropriate local rural route corridors. As such, I consider that the arrangements secured by the Travel Plan meet the statutory tests for planning obligations and would comply with Regulation 122(2) of the Community Infrastructure Levy Regulations.

Heritage Assets

14.66 As set out in the ES⁵¹¹ and the second Regulation 22 submission⁵¹², together with local representations^[10.23, 10.71, 10.96, 10.149, 11.3] and responses from the County Council's Heritage officer⁵¹³, English Heritage (now Historic England)⁵¹⁴, and the District Council⁵¹⁵, a range of heritage assets lie in the vicinity of the application site. They include listed buildings, a Scheduled Ancient Monument (SAM), a Registered Park and Garden, two Conservation Areas and non-designated heritage assets.

14.67 The development proposed would not have any direct physical effect on any heritage asset.^[7.14] Neither would the development take place within either of the Conservation Areas (Eakring and Bilsthorpe). I am, however, required to consider the effect of the proposal on the setting of heritage assets. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be given to the desirability of preserving the setting of listed buildings. Whilst no statutory protection is afforded to the setting of other heritage assets, paragraphs 128 and 129 of the Framework require an assessment of the significance of heritage assets that might be affected by a development proposal, including any contribution to their significance made by the setting of those assets. Paragraph 132 of the Framework confirms that the significance of a heritage asset can be harmed or lost through development within its setting.

14.68 The Framework defines the setting of a heritage asset as the surroundings in which it is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance, or may be neutral. Setting embraces all of the surroundings from which an asset can be experienced, or that can be experienced from or within the asset. In essence, if the development proposed could be seen from, or in conjunction with, any of the heritage assets that surround the application site, then there would be an impact on their setting. An assessment is then required as to whether that impact would harm the significance of the asset.

⁵¹¹ CD2 Section 13

⁵¹² CD7 Section 3

⁵¹³ CD44

⁵¹⁴ CD20

⁵¹⁵ CD45

- 14.69 The closest listed buildings to the application site are at Bilsthorpe. Being grade I listed, the parish Church of St Margaret is of the highest order of significance. Other heritage assets in the village include the boundary walls and steps to the church (grade II), Manor Farmhouse (grade II) and No 56 Kirklington Road (grade II). All lie within the village⁵¹⁶. As such, and given the nature of those buildings, it seems to me that they derive significance from their immediate, rather than extended, setting. Moreover, intervening buildings and landform significantly restrict intervisibility with the development proposed. Therefore, whilst the exhaust stacks, the tallest element of the scheme proposed, might be visible from some of those listed buildings, including the Church of St Margaret (as evidenced by the photomontage in the second Regulation 22 submission⁵¹⁷) such views that there might be would be in the context of the taller Stonish Hill turbines, among other things, and would comprise very limited small-scale change in those views. Any effect on the setting of the listed buildings would therefore be very minor, relating entirely to the change in view that might occur. Overall, given the existing visual context, I am satisfied that there would be no harm to the heritage significance of the church, or the other listed buildings referred to. Neither would the development adversely affect the ability of the public to interpret the heritage significance of those buildings.
- 14.70 St Swithin's Church (grade II*) lies almost 5 kilometres away, to the south-east of the application site, within the village of Kirklington. Again, I am satisfied that it derives significance from its immediate, rather than extended, setting. There is no evidence before me, in this regard, to suggest that there would be any intervisibility with the development proposed. Accordingly, there would be no harm to the setting or significance of the listed church, and neither would the development scheme impact on the ability of the public to interpret its significance.
- 14.71 A number of listed buildings are located within the village of Eakring, which lies approximately 2 kilometres to the east of the application site. As with the listed buildings in Bilsthorpe, it seems to me that they derive significance from their immediate, rather than extended, setting. Moreover, the village lies within a fold in the landscape and is separated from the application site by Stonish Hill and Mill Hill.^[2.5] That elevated land means that there is no intervisibility between the listed buildings and the application site, as confirmed by the Zone of Theoretical Visibility (ZTV)⁵¹⁸. I am satisfied therefore, that there would be no consequential harm to their setting or heritage significance, or to the ability of the public to interpret their significance.
- 14.72 Montpesson Cross, located to the west/south-west of Eakring, is a stone cross within a small iron railing enclosure that lies adjacent to a public right of way (part of the long distance Robin Hood Way). Although not statutorily designated, it is noted on the Council's Sites and Monuments Record as a heritage asset. Its significance derives from its location and commemorative function, marking the spot where Montpesson preached on coming to Eakring after leaving Eyam (which had been decimated by the plague) in 1670. I have

⁵¹⁶ CD2 Figures 13.1b

⁵¹⁷ CD7 Figure 7

⁵¹⁸ CD2 Figure 7.2 See also Figure 13.1b which shows the location of the listed buildings

no reason to suppose, in this regard, that the surrounding landscape is integral to the heritage significance of the Cross, although it does contribute to the distinctiveness of the local area. I understand however, that there is evidence of the open field system that operated in the area in the field to the west of the Cross.

14.73 The Cross is located on Mill Hill and views are afforded to the west.⁵¹⁹ Whilst there is scope for views of the taller elements of the development proposed⁵²⁰, views in that direction are largely screened by dense vegetation. However, such views that there might be would be in the context of the existing Stonish Hill turbines, and the scheme would comprise very limited small-scale change in those views. Any effect on the setting of the Cross would therefore be very minor, relating entirely to the change in view that might occur as a consequence of the development proposed. Overall, given the existing visual context, I am satisfied that there would be no harm to the heritage significance of the Cross, and neither would the development adversely affect the ability of the public to interpret its heritage significance. There would be impact either, on the remnants of the open field system.

14.74 Both Bilsthorpe and Eakring are designated Conservation Areas. Eakring Conservation Area, which encompasses almost the whole village, is generally inward looking, focussed on the original village core, including its C15 church and medieval street pattern, steep banked sunken lanes, groups of red brick farmsteads and part of the landscape setting to the south. Significant views are identified in the Conservation Area Appraisal Document⁵²¹. However, the majority are internal to the Conservation Area and none of those that are external look towards the application site. In any event, as mentioned above, due to local topography, there is no intervisibility between the application site and Eakring and I have no reason to suppose that the site plays any part in the heritage significance of the Conservation Area. Accordingly, the application scheme would not impact upon the setting or heritage significance of the Conservation Area, and neither would it impact on the ability of the public to interpret its significance.

14.75 Bilsthorpe Conservation Area lies to the south of the application site. There is no formal Appraisal for this Conservation Area. It is quite small, its character and appearance deriving from the historic core of the village, including the Church of St Margaret and surrounding buildings, and the buildings around the junction of Church Hill with Kirklington Road. It also includes open fields to the north and south-east, which contribute to its setting. Although lying within the Zone of Theoretical Visibility (ZTV)⁵²², it is clear, as evidenced by viewpoints 3 and 4⁵²³, and the view from Church Hill⁵²⁴, that any views of the development proposed would just be of the stacks and even then, that would be in the context of the taller turbines, which are already a feature of the area. I am satisfied, therefore, that there would be no harm to the setting or heritage significance of Bilsthorpe Conservation Area.

⁵¹⁹ CD2 Table 13.7b

⁵²⁰ CD2 Figure 7.2

⁵²¹ ID32

⁵²² CD2 Figure 7.2

⁵²³ CD2 Figures 7.3b and 7.3c

⁵²⁴ CD7 Figure 7

- 14.76 A Scheduled Ancient Monument (SAM) lies roughly 3 kilometres to the north of the application site. It comprises the precinct and associated features of the C12 Cistercian abbey of St Mary the Virgin (Rufford Abbey), part of the ruins of a post-medieval manor house, built after dissolution of the monastery, a now dry watercourse, and a remnant of an open field system associated with the mediaeval villages of Rufford and Cratley. It is understood that the abbey was transformed into a country house between 1560-1590 and was demolished in 1956. However, the west range of the abbey remains extant and is grade I listed. The associated garden wall is listed grade II*. The associated parkland, which dates principally from the 18th, 19th and 20th centuries, is a grade II Registered Park and Garden and is reflective of the former heart of the monastic and manorial holdings of Rufford Abbey, as well as the wealth and status of the 'Dukery' estates during the C18. Much of the Park is managed as a country park, the remainder comprising a golf course and agricultural land. Park Lodge (grade II) lies towards the southern end of the Registered Park and Garden, which extends to within some 1.8 kilometres of the application site.
- 14.77 Whilst the application site lies within an area that formed part of the former estate of Rufford, it only possesses a character (former colliery) of relevance to the C20 history of the estate. It is also separated from the abbey now, by a 20-30 metre high restored landform. I am satisfied, in this regard, that the site is not an integral part of the heritage significance of the SAM, the registered Park and Garden, or the listed buildings within it.
- 14.78 Although the proposed stacks would, in theory be visible from the SAM and the listed remains of the abbey⁵²⁵, views southward towards the application site are entirely screened by landform and vegetation cover. There is no intervisibility between those assets and the application site. As a consequence, there would be no impact upon the setting or significance of the SAM or the listed abbey remains as a consequence of the development proposed. Neither would it impact on the ability of the public to interpret their heritage significance.
- 14.79 With regard to the Registered Park and Garden, views southward are largely screened by the perimeter planting in Long Belt which forms the southern boundary of the Park. Park Lodge lies within the Park, deriving significance not only from its architectural interest, but also its relationship with the Park and the abbey. None of the key views within, out towards the wider landscape, or towards the Park (and its associated buildings and structures) would be affected by the presence or visibility of the development proposed, particularly the exhaust stacks. Occasional views of the exhaust stacks would be glimpsed above the trees in other instances but, as with other views referred to above, that would be in the context of the taller, more eye catching turbines at Stonish Hill. The very limited change in those views would have no tangible influence on the setting or heritage significance of the Registered Park and Garden or the grade II listed Park Lodge, or on any interpretation of the significance of those assets.

⁵²⁵ CD2 Figure 7.2

- 14.80 Historically, a series of local high points and landmarks were identified and linked to produce 'vistoes' – vistas within which those landmarks feature prominently⁵²⁶. Together, those views represented lines of sight around and through the wider estate around Rufford in 1725. However, this is no longer the coherent single landscape it was. Modern development, including the wind turbines, intrudes into those vistas, and later screening tree belts, landscaping and planting have restricted and occasionally severed those views. In essence, those vistas no longer retain the same integrity as that retained within the Registered Park and Garden. The views depicted on the 1725 plan that do retain a degree of integrity, and thus heritage significance, are those with no, or limited, modern intrusions, namely those looking towards the Abbey, or northward or westward. The development proposed would not be visible in any of those views, as evidenced by the second Regulation 22 submission⁵²⁷. Views southwards are already influenced by the turbines. The development proposed, including the exhaust stacks, would not materially change the character of the landscape in those views. As noted in the submission⁵²⁸, although the addition of the stacks could be described as a cumulative/in combination change, the lack of integrity and heritage significance of this element of the landscape precludes any harm. I agree with that sentiment.
- 14.81 A number of non-designated heritage assets are identified as lying in the vicinity of the application site. Many relate to off-site archaeological finds, to crop marks, to possible further below-ground remains, to map records of features that are no longer present, and to potential/possible earthworks. With the exception of Montpesson Cross, referred to above, I have no reason to suppose that those assets have any relevant physical setting that might be affected by the development proposed.
- 14.82 To conclude on this issue, I am satisfied that the development proposed would not have any adverse impact on the special interest or significance of the identified heritage assets. There would be no conflict, therefore, with advice in the Framework, with policies CP14 and ShaP1 of the N&SCS, policies DM4 and DM9 of the DPD, or policy W3.28 of the WLP, which together seek the continued preservation and enhancement of the character, appearance and setting of the District's heritage assets and historic environment. There would be no conflict either with Appendix B to the NPPW which identifies protection of the historic environment as one of the criteria for testing the suitability of sites for new waste development.
- 14.83 The planning obligation provides for the payment of £16,000 towards a heritage interpretation scheme. The Council's concerns in this regard, relate to the cumulative effects of the development proposed in conjunction with the nearby wind turbines, specifically in terms of the vistoes across the C18 historic parkland setting of Rufford Abbey. However, I have found that the development proposed would not cause any material harm in this regard, either of itself, or in combination with the turbines. In any event, no information was available to indicate exactly what the money would be spent on, where any interpretation facilities might be sited, or how the sum provided

⁵²⁶ CD7 paragraph 5.14 See also Figures 3 and 4 and photographs 1- 6 of the same document

⁵²⁷ CD7

⁵²⁸ CD7 paragraph 5.30

for had been arrived at. The arrangement secured would not, therefore, meet the statutory tests for planning obligations and thus fails to comply with Regulation 122(2) of the Community Infrastructure Levy Regulations. Accordingly, I attach the arrangement secured in this regard no weight in the overall planning balance.

Landscape and Visual Impact

- 14.84 The application site is not located within any nationally designated landscape area. Neither are there any local, non-statutory landscape designations currently maintained by the County or District Councils.⁵²⁹
- 14.85 The public rights of way network in the vicinity of the application site includes several well-used strategic routes. The Robin Hood Way lies to the north-east of the site (some 2 kilometres away at its closest point), passing through Eakring and skirting the edge of Rufford Park. I saw this during the site visit. The Southwell Trail runs south from Bilsthorpe, along a former railway line. Again, I walked the first section of this route as part of the site visit. Another former railway line runs west from Bilsthorpe into Sherwood Pines Forest Park and has recently been converted into a multi-user route, allowing access for pedestrians, riders and non-motorised vehicles.^[2.4]
- 14.86 The landscape of the County has been assessed and categorised as part of the Newark and Sherwood Landscape Character Assessment (2010) (LCA)⁵³⁰. That Assessment identifies landscape character zones, setting out priorities for each relating to their condition and sensitivity to change. CP13 of the N&SCS makes reference to those landscape areas, requiring that development proposals positively address the implications of the respective policy zone and contribute to meeting the landscape conservation and enhancement aims for the area in which they are sited.
- 14.87 The application site lies within the Mid-Nottinghamshire Farmlands landscape character area, and in landscape type 3: Estate Farmlands and Plantations, as defined by the LCA. A very small part of the site, at the southern end, crosses the boundary with landscape type 4: Village Farmlands. Whilst the key characteristics of both landscape zones reference lakes, country houses and unenclosed heaths, those characteristics bear no relation to the despoiled landscape appearance of the former colliery and thus, do not provide a realistic reference point for detailed consideration of the development proposed in terms of its landscape context.
- 14.88 However, the landscape types are further subdivided into a series of landscape policy Zones (PZ) the application site lying within the Mid-Nottinghamshire Farmlands PZ24: Rufford Park Estate Farmlands (PZ24)⁵³¹. Key characteristics of PZ24 include a gently undulating rounded topography, connecting belts of mixed woodlands and plantations, highly intensive arable land, agricultural buildings and industrial units, sewage works and an electricity sub-station. Specific actions for PZ24 include the creation of a '*new industrial economy within the area, such as the creation of a wind farm*' (now developed). The southern part of the site crosses into PZ27. Specific actions for the area

⁵²⁹ CD2 paragraph 7.3.9

⁵³⁰ CD3 Appendix 7-2b

⁵³¹ CD3 Appendix 7-2a

include utilisation of the *'existing industrial nature of the site and create suitable agricultural/industrial developments'* and creation of *'an industrial economy within the area.'*

- 14.89 The development proposed would be located wholly within the existing Business Park, itself on the site of a former colliery. The scheme would introduce two large scale industrial buildings and chimneys into a landscape where, with the exception of five, much taller wind turbines (100 metres to blade tip) such features are currently absent. However, the presence of the now restored colliery tips, with a height of 20 metres or more, located to the north, east and south of the Business Park, mean that it lies within an almost 'bowl like' landform. As a consequence, the Business Park is largely screened by that existing landform and planting which, in combination with the landscaping proposed would also screen much of the application scheme from outside the site.
- 14.90 The development would result in a significant, but localised change in the landscape character of the former colliery pit head area, changing the immediate landscape from one of vacant, undeveloped land, to one where large scale built development set within the surrounding restored landform would be a prominent feature⁵³². However, that change would accord with the landscape actions identified for PZ24 and PZ27 in the LCA, namely the creation of an industrial economy. As such, at a local level, the change might be regarded as beneficial. There would be no conflict, in this regard, with policy CP13 of the N&SCS insofar as the proposal positively addresses the implications of the PZs within which it would be located. There would, however, be some negative impacts on the rural character of the wider landscape setting, although the applicants' LVIA does not assess the change in the underlying character of the landscape type as being significant, due in part to the presence of the existing turbines. I have no reason to disagree insofar as the landscape impact is concerned.
- 14.91 Moving on to visual impact, the overall objective of policy W3.3 of the WLP is to minimise the visual effects of new waste development through careful site design, especially through consideration of the effect of development on the skyline. The policy identifies a number of actions to reduce visual impacts from waste development, including appropriate siting, to avoid impacts on adjacent land, the grouping together of buildings on waste sites, keeping buildings as low as possible, and the use of appropriate external materials. Policy W3.4 seeks to ensure that waste developments are appropriately screened and landscaped so as to minimise visual impact.
- 14.92 Bilsthorpe and the Business Park, including the application site, are located in an area of transition between the more settled, well wooded and industrialised landscape of the Nottinghamshire coalfield and Sherwood Forest to the west, and the more typically rural landscape of eastern Nottinghamshire and the Trent Valley to the east. Large blocks of woodland are present to the north and west of the application site. The Sherwood Pines Forest Park is located approximately 2 kilometres to the west, adjacent to which is Centre Parcs Holiday Village. Rufford Country Park, referred to above, is located to the north of the site. The area also has a rich industrial heritage, this part of

⁵³² CD2 paragraph 7.4.14

Nottinghamshire once containing numerous coal mines and attendant soil heaps and railway lines.

- 14.93 With a maximum height of some 31.8 metres, the gasifier facility would be significantly taller than the tallest of the existing buildings within the Business Park, which are in the region of 13 metres in height, although I was advised that the sand barn at the Highways Depot is around 18 metres in height. At 60 metres in height, the exhaust stacks would be taller still. The assessment of the viewpoints in the LVIA⁵³³ recognises that the stacks would be seen in some views. However, as already noted, the existing landform and structural planting, enhanced by the additional planting proposed, together with the existing Stonish Hill turbines, already a distinctive feature of the area, would restrict the visual impact of the development proposed in the wider area, with little material impact on most of the views available.
- 14.94 The Zone of Theoretical Visibility appended to the LVIA⁵³⁴ suggests that views of the proposed facility would potentially be more widespread from the west. The photomontages within the LVIA⁵³⁵ confirm that to be the case, in particular views from The Limes Café on the A614⁵³⁶, and the cycleway that runs along a former railway line linking Bilsthorpe with Sherwood Pines Forest⁵³⁷. The development would also be seen from an elevated viewpoint to the east, on the Robin Hood Way near Eakring⁵³⁸.
- 14.95 In views from the A614 at The Limes, and from the cycleway, the LVIA considers that the development would not result in a substantive change in the balance of features within the existing view. It suggests that the development would be recognisable, but as a background feature that would be less eye catching than the taller moving turbines. Whilst there would be a localised intensification in the influence of built development upon the skyline, it indicates that the horizontal proportion of the view occupied by such development would not increase, concluding that visual effects would not be significant.
- 14.96 I do not agree. Whilst the exhaust stacks would be seen in the context of the existing turbines and would thus, not introduce new vertical features into those views, the substantial mass of the gasification building would, to my mind, be very dominant on the skyline, sitting right above views of the village of Bilsthorpe when seen from the west. Moreover, that would not be a view experienced just by passing drivers travelling along the A614 and users of the roadside café, as suggested by the LVIA. The building would be plain to see by those travelling by car or on foot along Mickledale Lane from the A614 heading in to the village and would be a constant visual reminder for local residents of the presence of the facility. Similarly, views from the cycleway would be more than just fleeting for those heading east along it, particularly for slower moving pedestrian traffic, although I recognise that, from the majority of the route there would be little or no intervisibility. The building would be a background feature, seen at a distance. Nevertheless, its sheer

⁵³³ CD3 Section 7-4

⁵³⁴ CD2 figure 7.2

⁵³⁵ CD2 Figures 7.3a- 7.3i

⁵³⁶ CD2 Figure 7.3e

⁵³⁷ CD2 Figure 7.3h

⁵³⁸ CD2 Figure 7.3a

scale and mass leads me to the view that, for local residents in particular, the change would be perceived as significant.

- 14.97 In terms of the view from the Robin Hood Way, the chimneys would again be seen in the context of the turbines and would not be especially intrusive. Moreover, whilst the upper part of the gasification would be seen, this part of the Robin Hood Way is on higher land than the Business Park. As a consequence, views that there are would be looking down and the building would be seen the context of other industrial development on the site. I am satisfied, in this regard, that though visible, the development would not comprise a visually intrusive feature or a distraction within the landscape from this viewpoint.
- 14.98 To conclude on this issue, I consider that, from most vantage points, the development proposed would not have a significant adverse landscape or visual impact. In some views from the west, however, I consider that the visual impact would be significant and adverse. There would be conflict in this regard, with policies WCS7 and WCS13 of the WCS, policy W3.29 of the WLP, policy CP9 of the N&SCS and policies DM4 and DM5 of the DPD, which together seek to protect the character of the existing landscape.
- 14.99 I find no conflict though, with policies W3.3 and W3.4 of the WLP, since the applicants have attempted to minimise the visual effects of the development through careful site design, including appropriate siting, the grouping together of buildings on the site, keeping the buildings as low as possible, the use of appropriate external materials and screening and landscaping.

Noise, Vibration and Odour

- 14.100 Local residents had concerns in these regards. [10.106, 10.144-10.146, 10.157, 10.202, 11.4] Matters of noise and vibration are dealt with in the ES⁵³⁹ and in the evidence of the applicants⁵⁴⁰.
- 14.101 General baseline sound levels were assessed at four different receptor locations around the application site, representative of residential properties⁵⁴¹. The locations were chosen in consultation with the District Council's Environmental Health Officer and the project officer/engineer from the County Council, as being representative of baseline sound levels⁵⁴². Monitoring was undertaken from a Sunday through to a Tuesday morning to establish the lowest likely and typical baseline sound levels. The surveys were undertaken deliberately during a period of low wind speed to ensure that the turbines were not operating, in order to eliminate any turbine noise from the baseline survey. Had they been operating, background levels may have been higher with the effect that impacts from the development proposed would have been shown to be lower⁵⁴³. I have no reason to suppose in these regards, that the baseline survey is not robust.

⁵³⁹ CD2 Section 11 and CD3 11-1 to 11-6,

⁵⁴⁰ APP/NR/2 Appendix L and ID35

⁵⁴¹ Confirmed at Table DRK4.1 of APP/NR/2 Appendix L as two receptors off Eakring Road, an allocated housing site off Eakring Road, and a receptor on Bilsthorpe Road in Eakring. These are shown on an aerial photograph on page 40 of that document.

⁵⁴² ID35

⁵⁴³ Ibid

- 14.102 There clearly would be significant potential for noise effects during construction and operation of the facility proposed, including traffic noise and operation of the flare. The cumulative impact with other developments was also considered. However, based on the data sets in the ES⁵⁴⁴, which relate to a worst case scenario⁵⁴⁵, I am satisfied that they could be largely mitigated through inherent design measures and standard site construction/operation practices secured by conditions⁵⁴⁶. Any residual effect from operation of the facility is assessed as being neutral to minor adverse and, in relation to traffic noise, is assessed as negligible to minor adverse.
- 14.103 Even when noise is considered on a cumulative basis with the solar farm and wind farm, the ES confirms that the effect of the development proposed would be slight adverse, which is not considered significant in Environmental Impact Assessment terms. In essence, the only evidence before the Inquiry on this matter demonstrates that the construction and operation of the proposed facility would be unlikely to result in any significant noise impacts.
- 14.104 The effects of vibration were also considered in the ES both during construction and operation of the plant. The ES confirms⁵⁴⁷ that there would be a neutral effect at the nearest receptor location which would be within guidance limits for nuisance and cosmetic damage. During operation of the plant, ground borne vibration from the development itself and/or HGVs, would be below the level of perceptibility and thus would have a neutral effect.
- 14.105 With regard to odours, I am mindful that the application site is comparatively remote from residential properties. In addition, the HGV routing, secured as part of the travel plan encompassed by the planning obligation, would ensure that HGVs transporting waste would not pass through the nearby villages. I have no reason to suppose in this regard that, subject to suitably worded conditions, fugitive emissions would be an issue⁵⁴⁸.
- 14.106 To conclude on this issue, based on the evidence that is before me, I have no reason to suppose that the development proposed would be likely to result in material harm to the living conditions of local residents in relation to noise, vibration or odour. I find no conflict, therefore, with policy WCS13 of the WCS, policies W3.7 and W3.9 of the WLP and policies DM4 and DM10 of the DPD, which together and among other things seek to protect such interests.

Ecology and Wildlife

- 14.107 There is much concern locally in relation to the impact of the development proposed on ecology, with RAGE commissioning its own ecological appraisal of the scheme⁵⁴⁹. Nottinghamshire Wildlife Trust also opposes the development⁵⁵⁰.
- 14.108 There are currently no statutory designated conservation sites within 2 kilometres of the proposed facility. However, the application site lies just

⁵⁴⁴ CD2 Section 11

⁵⁴⁵ With all plant operating during the daytime and night time

⁵⁴⁶ See conditions 7, 10, 11 and 24-30 within Appendix D to this Report

⁵⁴⁷ CD2 paragraphs 11.4.24- 11.4.30, 11.7.12 and 11.7.15

⁵⁴⁸ See suggested conditions 32-34 in Appendix D attached

⁵⁴⁹ IP15

⁵⁵⁰ CD14, CD38, IP3, IP20

within the 5 kilometre buffer zone of the Sherwood Important Bird Area (IBA). In addition, it is just within 2 kilometres of an Indicative Core Area (ICA) identified by Natural England for a potential prospective Special Protection Area (ppSPA). The IBA and ppSPA support important populations of nightjar and woodlark⁵⁵¹. The Redgate Woods and Mansey Common SSSI lies just over 2 kilometres away and the Birklands and Bilhaugh Special Area of Conservation (SAC) lies more than 7 kilometres away from the application site.^[2.7, 5.4, 5.5]

14.109 The former colliery site, including the application site, is designated as a Local Wildlife Site (LWS) non-statutory designation.^[8.17] The brief citation notes the site as being important for breeding waders. Some of the LWS has been lost through development of the Highways Depot, with the application site comprising the only remaining area within the LWS suitable for supporting breeding waders. Although not mentioned in the citation, Nottinghamshire Wildlife Trust also suggests that the dingy skipper butterfly⁵⁵² should be regarded as a feature of interest. It was treated as such in the ES.

14.110 Eakring Brail Wood LWS, an area of ancient replanted and ancient and semi-natural woodland lies approximately 0.8 kilometres to the south-east of the application site. Cutts Wood LWS lies further away to the north-west. Part of the wood is designated for semi-natural broadleaved woodland habitat, although the extent of broadleaved plantation woodland habitat is greater.^[2.5, 2.6, 10.151, 10.191]

14.111 Colliery operations ceased in 1997 and by 2002, the majority of the mine structures had been demolished and the shafts infilled, leaving an open brownfield site. The surrounding colliery heap was restored to grassland and plantation woodland, with a number of ponds.⁵⁵³ During the original ecological surveys undertaken for the ES in 2013, the site was largely bare. Whilst the northern part of the site is currently being used for the temporary stockpiling and screening of red shale, I saw that much of the remainder has started to vegetate by natural succession, just over half of the application site now supporting grassland habitat which I understand to be interspersed with seasonally wet hollows and areas of more sparse, ephemeral vegetation. The existing vegetation is classified as an Open Mosaic Habitat on previously-developed land, although the rapidity of natural succession means that this is unlikely to persist in the coming years.⁵⁵⁴

14.112 Local residents, supported by the Nottinghamshire Wildlife Trust raised concerns about the impact of the development proposed on the local nightjar population.^[5.4, 7.21, 7.22] However, surveys undertaken for the applicants showed the reported nightjar territory (Cutts Wood) to be unsuitable. No nightjars were recorded during those surveys. Even so, the assessment of potential effects of the development proposed on nightjar was undertaken on the premise that nightjar were potentially present in the southern part of Cutts Wood. No woodlark were recorded either at the application site or in Cutts

⁵⁵¹ As noted in paragraph 5.5 above, the ppSPA was treated, in terms of considering the potential for the development to impact upon qualifying species of the ppSPA and the habitats which support them, as if it were a designated European conservation site.

⁵⁵² CD14

⁵⁵³ APP/KH/1 paragraph 3.10

⁵⁵⁴ Ibid paragraphs 6.1- 6.3

Wood, with the habitat quality on the application site being very poor for woodlarks.

- 14.113 Other concerns related to the ecological impacts of nitrogen deposition on Eakring Brail Wood ancient woodland and LWS.^[7.4, 10.192] The evidence of the applicants in this regard⁵⁵⁵ confirms that whilst the process contribution to nitrogen deposition in the northern half of the woodland would increase slightly, a number of factors, including elevated background levels, woodland plant community and soil type, meant that was not considered likely to translate to a measurable or significant effect. Similarly no significant air quality effects are likely to occur on either of the component sites of the SSSI, the SAC or other nearby LWSs. No substantiated evidence was before me to contradict those findings.
- 14.114 Nottinghamshire County Council is leading one of six Biodiversity Offsetting pilot projects in England. Consequently, the Government's offsetting metric (a combination of measurements) was used to calculate the biodiversity value of habitats currently on the site and to determine the degree of compensatory works that may be required⁵⁵⁶. Following the various surveys set out in the Regulation 22 submissions, mitigation measures were agreed with the Council.
- 14.115 The application scheme includes landscaping within the curtilage of the site, including a drainage swale and associated grassland habitat which would be managed to provide suitable habitat for dingy skipper butterfly as part of a detailed landscape management plan. That could be secured by condition. Off-site mitigation measures are also included, some 100 metres to the north of the application site, comprising an area of some 8.35 hectares⁵⁵⁷, including wader scrapes, a shingle area for little ringed plover, habitat for dingy skipper butterfly and improved botanical diversity in grassland habitats. Those arrangements are secured by a Wader Mitigation Plan that forms part of the planning obligation. I am satisfied, in this regard, that the arrangement secured meets the statutory tests and would comply with Regulation 122(2) of the Community Infrastructure Levy Regulations.
- 14.116 The species rich grassland proposed for the mitigation area would not be the same as the Open Mosaic Habitat that currently prevails on the application site. However, as noted above, given the speed of natural succession, that habitat is unlikely to persist for long in the absence of further disturbance. In contrast, the Wader Mitigation Plan would provide for long-term management of grassland habitats for wildlife, which would retain many of the characteristics of Open Mosaic Habitat. The area would be large enough to provide suitable mitigation for waders and grassland habitat, whilst allowing for agricultural management in conjunction with other parts of the former colliery site.
- 14.117 There was local concern, in relation to lapwings, that part of the mitigation area extends to within 200 metres of existing wind turbines. However, I understand that a 2009 study of breeding bird displacement distances around turbines did not find a significant adverse effect for lapwing, although there

⁵⁵⁵ CD7 Section 2.3

⁵⁵⁶ CD15

⁵⁵⁷ APP/KH/6 Section 1 and CD75 paragraph 2.3.3

was a non-significant reduction in probability of occurrence within 200 metres of the turbine⁵⁵⁸. I find no material harm in this regard.

14.118 To conclude on this issue, I am satisfied that the development proposed would not have a significant adverse effect on currently or potentially designated European conservation sites, with no significant impact on Annex 1 or regularly occurring migratory birds outside of the designated sites. Application of the biodiversity offsetting metric⁵⁵⁹ also demonstrates that there would be no loss of ecological value as a consequence of the development proposed, as expressed in terms of biodiversity units. Habitat creation within the application site would still leave residual effects in terms of the displacement of a small number of breeding waders and lapwing foraging habitat. That would be addressed by the Wader Mitigation Plan which would result in a net gain in terms of Biodiversity Offsetting Units and would provide a realistic prospect of a net positive residual ecological impact. I find no conflict in this regard with policy WCS13 of the WCS, policies W3.22 and W3.23 of the WLP, policies CP9, CP12 and ShaP1 of the N&SCS and policies DM4, DM5, DM7 and DM12 of the DPD. Together and among other things, those policies seek to protect and enhance the natural environment

Tourism and socio-economic development in the area

14.119 The matter of negative tourism and socio-economic impacts has been raised by a number of interested parties⁵⁶⁰ although, other than a single trip advisor comment and reference to the decision in relation to a proposed energy recovery facility at Rufford⁵⁶¹, no substantiated evidence was produced to support those concerns. I am in no doubt that tourism is a growth industry in and around the Forest, including Centre Parcs, Rufford Abbey and Park, Sherwood Forest Country Park, Clumber Park and Sherwood Pines Forest Park. I was also advised that there are plans to designate the area as a Regional Park, although no formal arrangements in this regard were brought to my attention.

14.120 In relation to the Rufford proposal, the Inspector mentions tourism in his Report⁵⁶², commenting that the development would undermine efforts being made to develop Sherwood Forest as a tourist destination because of the harm that would be caused to the rural landscape. However, the development site in that case lay within the Sherwood Forest Special Landscape Area. That designation no longer exists but the current application site does not lie within that former area. The Rufford site was also immediately surrounded on three sides by Sherwood Forest itself, unlike the application site. The current application site lies within Bilsthorpe Business Park, an identified employment site, and is surrounded by existing and proposed development, including large wind turbines. Unlike the Rufford scheme, the site comprises previously-developed land that is not subject to any current restoration works. In essence, there are significant differences between the two schemes, including their proximity to settlements, topography and landscape protections, such

⁵⁵⁸ APP/KH/6 Section 3.2

⁵⁵⁹ APP/KH/6

⁵⁶⁰ CD40 and IP1

⁵⁶¹ CD91, CD92, CD93

⁵⁶² CD92 paragraph 1231

that the tourism effects associated with the Rufford scheme would have been materially different from the position in relation to the Bilsthorpe scheme.

14.121 The applicants also draw attention to the comments of Inspectors in dealing with other energy from waste facilities⁵⁶³. They found no substantiated evidence of harm to tourism from those facilities in general terms.

14.122 Whilst no empirical research into the effects of energy from waste development on tourism was drawn to my attention, there is contemporary research in respect of other socio-economic matters as referred to in a Cornwall decision⁵⁶⁴. The Inspector found that a study that had been commissioned by East Sussex County Council showed that the presence of an energy from waste plant did not discourage or deter nearby economic activity. In addition, more recent research by Cranfield University into the effect of energy from waste development on house prices⁵⁶⁵ found no significant negative effect on property prices at any distance within 5 kilometres of three different plants in the UK, indicating that the perceived negative impact on local property values was negligible.

14.123 I have found that there would be no harm in terms of traffic impact, ecology and wildlife, heritage or health, all of which matters may relate in one way or another to tourism in the area. Although I have found harm in terms of visual impact in some views from the west, I am satisfied that, in the absence of any substantiated evidence to the contrary, there would be no material harm in terms of any effect on tourism and socio-economic development in the area. On the contrary, as detailed below, there would be some benefits. I find no conflict therefore, with policy ShaP1 which, among other things, supports development of a Sherwood Forest Regional Park.

Any benefits of the scheme/implications of not proceeding

14.124 The Socio-Economic section of the ES⁵⁶⁶ and supporting Economics Benefit Statement⁵⁶⁷ set out the applicants' position on this. The matter is also addressed in SoCG1⁵⁶⁸.

14.125 The development would provide a residual waste recovery facility within Nottinghamshire and Nottingham for which a need has been identified, enabling up to 117,310tpa of residual waste to be diverted from landfill, thus supporting national and local landfill diversion targets, landfill which would otherwise result in a range of adverse effects.^[5.3, 6.1, 7.46, 7.49, 7.65, 8.21, 8.22, 8.60, 8.77, 8.82, 8.84] As set out in the Third Regulation 22 submission⁵⁶⁹, the East Midlands Region, which includes Nottinghamshire and Nottingham, is failing in the deployment of renewables and meeting its obligations to contribute to the national renewables target of 15% by 2020. I am mindful, in this regard, that of the electricity that would be generated by the development proposed, up to 46% could be classed as renewable, increasing the current installed capacity in the region by almost 2%.^[4.11] Objectors believe the figure to be lower.

⁵⁶³ APP/NR/2 Appendices I, R, S, T, U and V

⁵⁶⁴ APP/NR/2 Appendix I paragraphs 428, 429, 2078 and 2079

⁵⁶⁵ APP/NR/1 paragraph 5.7.15

⁵⁶⁶ CD2 Section 14

⁵⁶⁷ CD1 Part 6

⁵⁶⁸ CD65 Paragraphs 6.35 and 8.74

⁵⁶⁹ CD75 Section 5

Whatever the figure, there still would be a benefit in this regard to be weighed in the overall planning balance. The third Regulation 22 submission also identifies that the development proposed would result in significant greenhouse gas savings per annum (some 15,800-23,100 tonnes of CO₂ equivalent). Even were the figures lower, as suggested by UKWIN, there would still be considerable savings in this regard. As such, the scheme would make a valuable contribution to the Government's climate change programme and energy policy. There would be no conflict, in this regard, with policy CP10 of the N&SCS, which encourages the provision of renewable and low carbon generation.

- 14.126 The development, which would represent a circa £70 million capital investment in the local area (plus subsequent investment throughout the life of the plant) is expected to support, on average, some 180 temporary full-time equivalent (FTE) on-site construction jobs per year over a two year construction period, together with some 150 FTE jobs off-site in the supply chain. Of the on-site jobs, it is estimated that 45-60 FTE could be secured by local contractors and workers, given the nature of the skills required for elements of the civil engineering work package and the local labour market need. I am mindful, in this regard, of the condition mooted at the Inquiry⁵⁷⁰, which would secure a scheme of measures to promote and encourage local employment and economic opportunities through the construction and operational phases of the development to realise those benefits. Once fully operational, the development is expected to directly support around 46 jobs across the two main activities on the site, with the potential to lead to an annual GVA impact of around £4 million per annum. There would also be the opportunity to deliver annual fiscal benefits in the order of £400,000 to the District Council through the retention of business rates⁵⁷¹. Given the employment that the scheme would generate, and the economic growth it would encourage, I afford these considerations some weight.
- 14.127 Further value would be created in the waste processing chain, through the sorting of recyclable materials in the on-site MRF, and the creation of by-products which could be used in other sectors, for example suitably cleaned slag in the construction sector.
- 14.128 The scheme would be capable of exporting heat without any reduction in electrical output should an appropriate user be identified in due course.
- 14.129 The consequences of not proceeding with the development proposed would mean that none of the environmental and socio-economic benefits identified above would be achieved. The corollary to that would be that something else would happen to the waste which would otherwise have been managed at the proposed facility. In all likelihood, given the existing situation set out above in terms of need, most would, at least for the short to medium term, continue to be sent to landfill, with associated greenhouse gas emissions. There would be no early delivery of new renewable energy generation from waste, with consequent impacts for climate change. In addition, it would be more likely that the waste management targets set out in the WCS would not be met with a proportion of C&I waste continuing to be managed in a less than sustainable

⁵⁷⁰ Condition 39 in Appendix D to this Report

⁵⁷¹ APP/NR/1 paragraphs 4.4.1-4.4.2

manner⁵⁷². These are considerations that should be given substantial weight in the overall planning balance.

The Development Plan

14.130 The most up to date part of the development plan is the Waste Core Strategy of December 2013. It is clear from the discussion above that I find no conflict with the relevant policies contained within it. Nor have I found any conflict with the relevant policies in the WLP. However, whilst the Business Park had the benefit of specific planning permission when the N&SCS was being prepared, the lapse of that earlier planning permission means that the site does not currently appear on the policies map of the DPD. Indeed, the application site, and the Business Park, lie outwith any defined settlement boundary, within the open countryside. Construction of the proposed facility would, therefore, conflict with policy SP3 of the N&SCS which discourages new development in the countryside that does not require a rural location. Policy DM8 of the DPD provides the context for consideration of employment development proposals away from the main built-up areas and settlements. Point 8 of the policy sets out the categories of employment development that might be supported. The application scheme does not meet those criteria: it is not small scale; it does not require a rural location; and it does not involve the expansion of an existing business. There would be conflict, therefore, with that policy too.

14.131 However, as noted in the District Council's report to committee⁵⁷³, given the nature of employment development, unlike residential development, large sites carry permissions for some time and thus, it is not always possible to accommodate this within the confines of the formal development plan process if the status of sites changes. This was the case during the evolution of the Local Development Framework, when the planning status of a number of employment sites changed as permissions lapsed. A number of such areas are still included in the employment land supply for the District, as set out in the DPD⁵⁷⁴. Bilsthorpe Business Park is one of those sites and is identified as providing 9.74 hectares of available employment land in a designated employment area⁵⁷⁵. Indeed, the land has been identified and relied on in Development Plan preparation⁵⁷⁶, and subsequently in the economic regenerative strategy, in order to support the Plan's objectives.^[7.29, 7.40, 7.51, 7.55-7.59, 7.61, 7.65, 8.12, 8.16-8.18, 8.30, 8.51, 8.52, 8.60, 8.65, 8.71, 8.77, 8.85]

14.132 It is important to understand the context of the production of the development plan and the approach taken to employment land by the District Council. The District Council confirms⁵⁷⁷ that it did not specifically identify every employment site and industrial estate in the District, only those which require allocation or further policy direction. For those sites that require neither or, as in the case at Bilsthorpe, had the benefit of planning permission when the development plan was being prepared, policy CP6 of the N&SCS provides the context for consideration of proposals.

⁵⁷² APP/NR/1 paragraphs 4.6.5- 4.6.7

⁵⁷³ CD45

⁵⁷⁴ CD64 Appendix C

⁵⁷⁵ CD 64 page 194.

⁵⁷⁶ ID33

⁵⁷⁷ CD45 page 22 of the officer's report

14.133 CP6 seeks to strengthen and broaden the economy of the District in order to provide a diverse range of employment opportunities by, among other things, retaining and safeguarding employment land and sites that can meet the needs of modern businesses to ensure their continued use for employment purposes. Land and premises in existing industrial estates and employment areas will normally be safeguarded and continue to be developed for business purposes. Where proposals are submitted for economic development purposes, outside the B2 use class (the development proposed is *sui generis* in terms of use class and thus falls outside the B2 category) regard is to be had to a number of criteria:

- The extent to which the proposals are responding to local needs for such development
- The lack of suitable alternative sites being available to meet the demand that exists
- The need to safeguard the integrity of neighbouring uses, including their continued use for employment purposes
- The need to protect and enhance the vitality and viability of town centres
- The potential impact on the strategic role and function of the remaining employment land in meeting the future needs of the District.

It also encourages the development of priority business sectors, including sustainable energy and environmental technologies.

14.134 As set out earlier, I am satisfied that a robust case has been made in terms of need for the scheme proposed, and that there is no obvious alternative, sequentially preferable location. There is no substantiated evidence before me to demonstrate that the use proposed would undermine the integrity of existing or future employment development on the Business Park site, or on the tourism and economy of the wider area and associated employment. Neither is there any substantiated evidence that a development of the nature proposed would prejudice the strategic role and function of the remaining employment land in meeting the future needs of the District. I have no reason to suppose either, that the development would impact upon nearby town or District centres in terms of vitality and viability. As such, I find no conflict with policy CP6.

14.135 Bilsthorpe is in the Sherwood area of Newark and Sherwood. The N&SCS confirms that Bilsthorpe is a focus for regeneration and that Bilsthorpe is a Principal Village. Policy SP2 indicates that, within Principal Villages identified for regeneration (policy SP1 identifies Bilsthorpe as a Principal Village) the District Council will seek to secure new employment opportunities, the regeneration of vacant land and the provision of new housing. Regeneration is expected to deliver 25% of growth in Bilsthorpe and, within the Sherwood Area as a whole, 29 hectares of employment land is to be provided, with no new allocations made within the Core Strategy. I have no reason to doubt that, without the 9.74 ha of employment land at Bilsthorpe Colliery, the 29

hectares identified as being required for employment use⁵⁷⁸ could not be delivered.

14.136 In summary, although the application site lies within open countryside, it forms part of a larger area of previously-developed land that, whilst not shown as a specific allocation within the development plan, is specifically identified within that Plan as an employment site that is required to meet regeneration objectives for the area. I consider, therefore, that with the exception of the harm that I have identified in some views from the west in terms of visual impact, the development proposed would accord with the development plan for the area when read as a whole, and is supported by important policy objectives related to waste management, electricity generation and climate change factors, which are set out in policy at the national level.^[7.62]

14.137 As to whether the development plan itself is up to date, as acknowledged by the applicants,^[7.44] and as set out above,^[14.27] the methodology used within the WCS for calculating the amount of additional alternative energy recovery capacity that is required in future years includes capacity that is not yet built or operational. That approach is not consistent with the NPPW which stresses that only existing operational facilities should be considered. Whilst that aspect of the development plan is not, therefore, up to date, it does not undermine the Plan as a whole, which provides a relevant framework for determination of the application.

14.138 I also recognise that the figures used in relation to waste arisings etc in the WCS, are now a couple of years old and that, based on the evidence of UKWIN,^[10.72-10.79] current arisings may be lower than is set out in the Plan, with potential implications for the required capacity for waste treatment. However, the WCS openly acknowledges⁵⁷⁹ that the exact amount of additional capacity required may vary depending on actual circumstances and will need to be kept under review through regular monitoring. I agree with the applicants in this regard,^[7.45] that the monitoring would be carried out by the County Council as waste planning authority, rather than monitoring through every application/appeal. In any event, the requirement is to address some 294,000 tpa of C&I waste by way of energy recovery.^[7.46] Even if arisings are lower, I am in no doubt that significant extra capacity would still be required. Again, I am not persuaded that the WCS should be considered as out of date in this regard.

Other Matters

14.139 At the end of the Inquiry, UKWIN suggested that if permission were to be granted, a bond should be secured so that, should the facility close down, money would be available for decommissioning of the plant. However, no such arrangement is proposed and no policy support for such was drawn to my attention.

15. THE PLANNING BALANCE AND OVERALL CONCLUSION

15.1 I have found that there is a demonstrable need for the facility proposed. Moreover, as the scheme now has a first (design) stage R1 certificate, it can be treated as a recovery facility. I am satisfied therefore, that the

⁵⁷⁸ CD 63 pages 24-25 SP2.

⁵⁷⁹ CD62 paragraph 4.30

development would move waste up the hierarchy, diverting a significant amount of residual C&I waste from landfill, without preventing increased recycling. Indeed, the development includes a MRF designed to manage a greater tonnage of waste than the gasification facility could process, in order to take account of the proportion of material that could be recovered for recycling. I am also mindful that the East Midlands Region is failing to meet its obligations to contribute to the national renewables target of 15% by 2020. It is calculated that as much as 46% of the electricity that would be generated by the development proposed would be classed as renewable, increasing the current installed capacity in the Region. In essence, the development would meet a pressing need for infrastructure to sustainably manage C&I waste arising from Nottinghamshire and Nottingham, as set out in the WCS, in order to divert waste from landfill. It would also help to meet the aspirations of the WCS in terms of the need for renewable low carbon energy. These considerations carry substantial weight.

- 15.2 Whilst the proposed facility does not, currently, have an Environmental Permit, such is not required as a pre-requisite to approving an application for a scheme such as this. Whilst I understand the concerns raised by objectors in terms of source emissions, it is well established that it is for the Environment Agency to regulate the incineration process and emissions arising from that process in the interests of preventing pollution and protecting public health. In determining waste planning applications, decision makers are required to work on the assumption that the relevant pollution control regime will be properly applied and enforced⁵⁸⁰. Accordingly, whilst I fully appreciate the concerns of Dr Chow and others in this regard, those concerns would need to be addressed at the permitting stage, such matters falling outwith the planning regime. The absence of an Environment Permit does not, therefore, weigh against the proposal. However, I give some, albeit limited weight, to the perception of harm, particularly in relation to health matters, given the fears expressed by local people.
- 15.3 Some positive weight should be attached to the jobs that would be created, during both the construction and operational phases of the scheme, and the financial benefits to the local, and wider, economy that would accrue. I am also mindful of the potential to export heat without impacting on the electrical output, a consideration that also weighs in favour of the scheme proposed.
- 15.4 In terms of its location, although it would be in open countryside in terms of the development plan, it would be on previously-developed land within an existing Business Park. The contribution that the Business Park is expected to make to the District's employment figures underlies the soundness of the current development plan and has done so over many years, notwithstanding that there is no extant permission for development on the part of the Business Park site on which the facility of proposed. This is a consideration attracting substantial positive weight.
- 15.5 I have found that, in some views from the west, the scheme would cause material harm in terms of its visual impact on the character and appearance of the area. That is a consideration to which I afford considerable weight.

⁵⁸⁰ Paragraph 7 bullet 5

- 15.6 All other issues are neutral in the planning balance.
- 15.7 In final conclusion then, I consider that, on balance, the adverse impacts of the development proposed would be significantly and demonstrably outweighed by the benefits. The scheme would, therefore, constitute sustainable development, having regard to all three aspects set out at paragraph 7 of the Framework and the presumption in favour of such development, as set out in paragraph 14 of the Framework should be applied. As such, planning permission should be granted.
- 15.8 I recognise that this finding will be disappointing for those who oppose the development scheme and am mindful, in this regard, of the Government's 'localism' agenda. However, even under 'localism', the views of local people, very important though they are, must be balanced against other considerations, including national and local planning policy. In coming to my conclusions on the various issues that have been raised, I have taken full and careful account of all the representations that have been made, which I have balanced against the provisions of the development plan, the National Planning Policy Framework, National Planning Policy for Waste and other material considerations. On balance though, the evidence in this case leads me to the view that the application should succeed.

16. RECOMMENDATION

File Ref: APP/L3055/V/14/3001996

- 16.1 On balance, for the reasons set out above, I recommend that the application should be allowed and that planning permission be granted, subject to the conditions set out at Appendix D attached hereto.

Jennifer A Vyse

INSPECTOR

APPENDIX A:

APPEARANCES

FOR THE APPLICANT:

Mr M Kingston of Queen's Counsel	Instructed by Alec Cropper, Walker Morris LLP
He called	
Mr S Othen	Technical Director of Fichtner Consulting Engineers Limited
MEng, CEng, MI Chem E	
Mr A Bell	Technical Director at Axis
BA, MSc, MCIT, MIHT	
Mr K Honour	Director of Argus Ecology Limited
MSc, MCIEEM	
Mr N Roberts	Founding Director of Axis
BA(Hons), DipLA, MLI	

FOR NOTTINGHAMSHIRE COUNTY COUNCIL:

Mr J Mitchell of Counsel	Instructed by Sue Bearman, Senior Solicitor with Nottinghamshire County Council
He called	
Mr M Hankin	Planning Applications Senior Practitioner with the County Council
BA(Hons), BTP, MRTPI	

RULE 6(6) PARTY

Dr K Chow MBBCh, FRCR, FFR RCS(Irel)

INTERESTED PERSONS WHO APPEARED/SPOKE AT THE INQUIRY

Residents Against Gasification Experiment

Mr T Smith
Mrs K Smith
Mr T Henniger
Mrs S Burton

United Kingdom Without Incineration Network (UKWIN)

Mr S Downen	UKWIN National Coordinator
Mr J Downen	UKWIN Associate Coordinator

Mr M Spencer MP	
Councillor J Pearce	Deputy Chair of Rufford Parish Council
Councillor B Laughton	County and District Councillor
Councillor Mrs P Pestell	Bilsthorpe Parish Council
Councillor A Twidale	Chair of Kirklington Parish Council
Councillor Mrs M Curry	Chair of Eakring Parish Council
Councillor Ms A Burt	Bilsthorpe Parish Council
Mr T Berryman	
Mr N Biggs	
Councillor Mrs G Hattersley	
Mrs Chow	
Mr Olkow	

**INTERESTED PERSONS WHO SPOKE AT THE EVENING SESSION HELD ON
4 NOVEMBER 2015:**

Councillor J Peck JP	Nottinghamshire County Council
Councillor R Jackson	Nottinghamshire County Council
Councillor Mrs S Soar	Ward Councillor for Bilsthorpe
Councillor Mrs L Tift	District Councillor for Eakring
Councillor R Eyley	Farnsfield Parish Council
Councillor Mrs S Wilson	Eakring Parish Council
Ms B Lange	Policy Adviser, CPRE Nottinghamshire
Councillor R Howes	Eakring Parish Council
Councillor R Brown	Eakring Parish Council
Mrs Dixon	Local resident
Mr M Goodall	Local resident
Mr S Pearson	Local resident
Mr P Smith	Local resident
Mr D Cadle	Local resident

APPENDIX B:**CORE DOCUMENTS (CD)**

<u>Planning Application Documentation</u>	
1	Planning Application Document November 2013
2	Environmental Statement Volume 1: Main Report (including Associated Figures) November 2013
3	Environmental Statement Volume 2: Technical Appendices November 2013
4	Environmental Statement Volume 3: Non-Technical Summary November 2013
5	Transport Assessment November 2013
6	Regulation 22 Submission July 2014
7	Second Regulation 22 Submission August 2014
74	Environmental Statement Third Regulation 22 Submission Non-Technical Summary
75	Environmental Statement Third Regulation 22 Submission – Final
80	Environmental Statement (1 st Reg. 22) Non-Technical Summary
81	Environmental Statement (2 nd Reg. 22) Non-Technical Summary
<u>Core Documents and Inquiry Documents</u>	
8	Representations from the local community in connection with the planning application.
9	Nottinghamshire County Council Planning and Licensing Committee Report Tuesday 18 November 2014
10	Minutes of Nottinghamshire County Council Planning and Licensing Committee Meeting held on Tuesday 18 November 2014
11	Petition sent to Nottinghamshire County Council on 1 October 2013 (prior to the submission of the planning application).
12	NCC first Regulation 22 Request letter dated 19 March 2014.
13	NCC second Regulation 22 Request letter dated 21 August 2014.
14	Planning Application Consultation Response from Nottinghamshire Wildlife Trust
15	Nottinghamshire County Council Nature Conservation Officer
16	Planning Application Consultation Responses from Nottinghamshire County Council Landscape Officer.
17	Planning Application Consultation Responses from Bilsthorpe Parish Council
18	Planning Application Consultation Responses from Derbyshire, Nottinghamshire and Leicestershire Chamber of Commerce
19	Planning Application Consultation Responses from Eaking Parish Council
20	Planning Application Consultation Responses from English Heritage
21	Planning Application Consultation Responses from Hughes Planning on behalf of RAGE, Bilsthorpe, Eaking, Kirklington and Rufford Parish Councils.
22	Planning Application Consultation Responses from Mark Spencer MP

23	Planning Application Consultation Responses from National Grid
24	Planning Application Consultation Responses from National Planning Casework Unit
25	Planning Application Consultation Responses from Natural England
26	Planning Application Consultation Responses from Nottinghamshire County Council Waste Planning Policy.
27	Planning Application Consultation Responses from Nottinghamshire County Council Noise Engineer
28	Planning Application Consultation Responses from Nottinghamshire County Council Rights of Way Team
29	Planning Application Consultation Responses from Nottinghamshire County Councillor John Peck.
30	Planning Application Consultation Responses from Public Health England
31	Planning Application Consultation Responses from Public Health Nottinghamshire County
32	Planning Application Consultation Responses from The Coal Authority
33	Planning Application Consultation Responses: Petition received from RAGE
34	Planning Application Consultation Responses from Edingley Parish Council
35	Planning Application Consultation Responses from The Environment Agency
36	Planning Application Consultation Responses from Members of RAGE
37	Planning Application Consultation Responses from Nottinghamshire County Council Highways Authority.
38	Planning Application Consultation Responses from Nottinghamshire Wildlife Trust – Duplicate of CD14
39	Planning Application Consultation Responses from Rufford Parish Council
40	Planning Application Consultation Responses from United Kingdom without Incineration (UKWIN)
41	Planning Application Consultation Responses from Nottinghamshire County Council Ecological Officer Duplicate of CD15.
42	Planning Application Consultation Responses from Nottinghamshire County Council Land Contamination Officer
43	Planning Application Consultation Responses from Farnsfield Parish Council
44	Planning Application Consultation Responses from Nottinghamshire County Council Heritage Officer
45	Planning Application Consultation Response from Newark and Sherwood District Council including Committee Report, Minutes and Correspondence.
46	The Landfill Directive (1999/31/EC)
47	EU Renewable Energy Directive (2009/28/EC)
48	Revised EU Waste Framework Directive (2008/98/EC)
49	Landfill (England and Wales Regulations 2002
50	Environmental Permitting (England and Wales) Regulations 2010
51	Waste (England and Wales) Regulations 2011 (SI 2011/988)

52	National Planning Policy Framework (March 2012)
53	National Planning Policy for Waste (October 2014)
54	Planning Practice Guidance: Waste
55	National Policy Statement for Energy (EN-1) (July 2011)
56	Energy White Paper 2007
57	Waste Policy Review 2011
58	Waste Management Plan for England (July 2013)
59	Waste prevention Programme for England (December 2013)
60	DEFRA Energy from Waste – A guide to the debate (February 2014)
61	Nottinghamshire and Nottingham Waste Local Plan (saved policies) (January 2002)
62	Nottinghamshire and Nottingham Waste Core Strategy (December 2013)
63	Newark and Sherwood Core Strategy (March 2011)
64	Newark and Sherwood Allocations and Development Management Document (July 2013)
64a	British Standard BS5228:2009: Code of practice for noise and vibration control on construction and open sites.
65	Statement of Common Ground Number 1 between Peel Environmental Management UK Limited, Bilsthorpe Waste Limited and Nottinghamshire County Council
66	Statement of Common Ground between Peel Environmental Management UK Limited and Bilsthorpe Waste Limited/Nottinghamshire County Council and Kit Chow
67	Letter confirming the position of Newark and Sherwood District Council, supplementary NSDC Committee Report, NSDC Correspondence and appendixes.
68	Bilsthorpe Colliery Restoration Scheme (drawings 2007.1, 2007.6, document 2007.7.02, NCC letter dated 12 September 1996 and written statement),
69	Notes of Pre-Inquiry Meeting held on 24 June 2015
70	Statement of Common Ground 1 Supplement between Peel Environmental Management UK Limited and Bilsthorpe Waste Limited and Nottinghamshire County Council regarding the planning history of the former Bilsthorpe Colliery site.
71	Letter from Newark and Sherwood District Council confirming the factual accuracy of CD70 concerning the planning history of the Bilsthorpe Colliery site.
72	Nottinghamshire Minerals and Waste Development Plan Annual Monitoring Report 2013-2014.
73	Nottingham City Council Annual Monitoring Report 2013-2014
74	Environment Statement Third Regulation 22 Submission Non Technical Summary
75	Environmental Statement Third Regulation 22 Submission – Final
76	Inspectors Report into the Examination into the Nottinghamshire and Nottingham Waste Core Strategy.
77	Newark and Sherwood District Council - Landscape Character Assessment Supplementary Planning Document (2013)
78	The Reality Gap UK residual waste treatment capacity – making sense of the Arguments (Biffa, September 2015)

79	No document.
80	Environmental Statement (1 st Reg. 22) Non-Technical Summary
81	Environmental Statement (2 nd Reg. 22) Non-Technical Summary
82	Consultation responses received from Statutory Consultees in response to Third Regulation 22 Submission. <ol style="list-style-type: none"> 1. Western Power 2. NCC Reclamation 3. British Horse Society 4. NCC Landscape
83	NCC publicity in connection with Call In and Public Inquiry
84	Draft Section 106 agreement
85	Draft Community Infrastructure Levy (CIL) Statement
86	Severn Trent Water – Trade Effluent Guidance
87	Newark and Sherwood 2014 Employment Land Availability Study
88	DEFRA (2012). Biodiversity Offsetting Pilots. Technical Paper: the metric for the biodiversity offsetting pilot in England.
89	R Cummins V SOS 2001
90	R (oao TW Logistics Limited) v Tendring DC
91	Original Officer Report Rufford
92	Inspector's Report Rufford APP/L3055/V/09/2102006
93	SoS Decision Letter Rufford

Nottinghamshire County Council (as Waste Planning Authority)

NCC1	Statement of Case of Nottinghamshire County Council
NCC2	Planning Appeal Ref: APP/M2460/A/11/2150748: Energy Recovery Facility at Newhurst Quarry, Ashby Road East, Shepshed, Leicestershire
NCC3	National Infrastructure Commission Ref 12.04.04/35C Energy from Waste fuelled power station at Lostock Power Station, Lostock, Northwich, Cheshire
NCC4	Proof of evidence of Michael Hankin BA (Hons), BTP, MRTPI on behalf of Nottinghamshire County Council acting in its capacity as Waste Planning Authority (Waste Planning Authority).
NCC5	Environment Agency Guidance Note: How incinerators can be classified as energy recovery.
NCC6	Correspondence from NCC's Nature Conservation Leader in connection with the ecological aspects of the third Regulation 22 Submission.
NCC7	Newark and Sherwood Local Plans and the National Planning Policy Framework Compatibility Self-Assessment Checklist
NCC8	Letter from Public Health England
NCC9	Nottinghamshire and Nottingham Local Aggregates Assessment: April 2015
NCC10	Correspondence from NCC's Nature Conservation Leader concerning potential impacts to nightjar.
NCC11	Summary of Proof of Evidence of Michael Hankin BA (Hons), BTP, MRTPI on behalf of Nottinghamshire County Council acting in its capacity as Waste Planning Authority (Waste Planning Authority).
NCC12	Statement of compliance with Newark and Sherwood District

	Council Community Infrastructure Levy (CIL).
NCC13	Supplementary Heritage Statement
<u>Peel Environmental Management UK Limited and Bilsthorpe Waste Limited (applicant)</u>	
P1	Statement of Case of Peel Environmental Management UK Limited and Bilsthorpe Waste Limited
APP/NR/1	Proof of Evidence of Nicholas Roberts – Planning Policy and Related Planning Matters.
APP/NR/2	Appendices to Proof of Evidence of Nicholas Roberts – Planning Policy and Related Planning Matters Volume 1 & 2.
APP/NR/3	Summary Proof of Evidence of Nicholas Roberts – Planning Policy and Related Planning Matters.
APP/NR/4	Rebuttal Proof of Evidence of Nicholas Roberts
APP/SMO/1	Proof of Evidence of Stephen Othen – Air Quality and R1 Status
APP/SMO/2	Appendices to Proof of Evidence of Stephen Othen – Air Quality and R1 Status
APP/SMO/3	Summary Proof of Evidence of Stephen Othen – Air Quality and R1 Status
APP/SMO/4	Rebuttal Proof of Stephen Othen
APP/SMO/5	Appendices to Rebuttal Proof of Stephen Othen
APP/SMO/6	Supplementary Proof of Stephen Othen on R1 Recovery Status and Carbon Assessment
APP/SMO/6A	R1 Design Certificate
APP/SMO/6B	Carbon Calculations
APP/SMO/6C	Javelin Park Inspectors Report and Decision Letter (extract)
APP/SMO/6D	Hatfield Inspectors Report and Decision Letter (extract)
APP/SMO/6E	Battlefield Inspectors Report
APP/SMO/7	See ID9
APP/KH/1	Proof of Evidence of Kevin Honour on matters relating to ecology and nature conservation.
APP/KH/2	Appendices to Proof of Evidence of Kevin Honour on matters relating to ecology and nature conservation.
APP/KH/3	Summary of Proof of Evidence of Kevin Honour on matters relating to ecology and nature conservation.
APP/KH/4	Rebuttal Proof of Kevin Honour
APP/KH/5	Appendices to Rebuttal Proof of Kevin Honour
APP/KH/6	Addendum to rebuttal on matters relating to ecology and nature conservation including appendix.
APP/APB/1	Proof of Evidence of Andrew Bell – Traffic and Transport Matters
APP/APB/2	Appendices to Proof of Evidence of Andrew Bell – Traffic and Transport Matters
APP/APB/3	Summary of Proof of Evidence of Andrew Bell – Traffic and Transport Matters
APP/APB/4	Rebuttal Proof of Andrew Bell.

<u>Documents of Dr Kit Chow</u>	
KC1	Rule 6 Statement of Case of Dr Kit Chow
KC2	The Impact on Health of Emissions to Air from Municipal Waste Incinerators - Health Protection Agency September 2009
KC3	Particulate Emissions and Health, Statement of Evidence to Ringaskiddy Inquiry (Professor C. Vyvyan Howard, June 2009)
KC4	Role of experts and Public participation in pollution control: the case of Itai-itai disease in Japan. Masanori Kaji – Ethics in Science and Environmental Politics Vol 12: 99-111, 2012
KC5	Cadmium clean-up in Japan – Japan times report published 2012
KC6	Novel Technology for Gaseous Contaminants Control - DOE for US Dept of Energy
KC7	NHS choices web site: http://www.nhs.uk/conditions/pregnancy-and-baby/pages/foods-to-avoid-pregnant.aspx
KC8	The Health Effects of Waste Incinerators 4th Report of the British Society for Ecological Medicine. Second Edition June 2008
KC9	Calculation of Air versus Water Dispersion of Pollution
KC10	GPLC1 – Guiding principles for land contamination
KC11	1.01E Environment Agency - What's in your backyard?
KC12	1.02 Environment Agency – Groundwater Source Protection Zones
KC13	1.03 Environment Agency – BGS Aquifer Maps – Bedrock Designation
KC14	1.04 Environment Agency – Groundwater Vulnerability Zones
KC15	1.05 Groundwater Vulnerability Zones
KC16	UKELA – Contaminated Land
KC17	Report: One fifth of China's soil contaminated
KC18	Proof of Evidence of Kit Chow (Oct 2015)
<u>Interested Parties Inquiry Documents</u>	
IP1	Representation from RAGE dated 24 th February 2015
IP2	Representation from UKWIN dated 24 th February 2015
IP3	Representation from Nottinghamshire Wildlife Trust dated February 2015
IP4	Representation from Eakring Parish Council
IP5	Representations from residents of the local community <ol style="list-style-type: none"> 1. S Alford 2. I & S Wilson 3. I Roberts 4. H Brown 5. J Parlatt 6. E Hannah representing five residents 7. R Yates 8. C Lakin 9. H Coghill 10. R Housley 11. P Ledger

12. E Clarke
13. A Clarke
14. P Pestell
15. G Heron
16. P Watts
17. C Cannon
18. N & I Mayo
19. P Smart
20. A Henniger
21. L Little
22. P Smith
23. T & K Smith
24. M Helanor
25. G Burbidge
26. K Whysall
27. F Sisson
28. G Wood
29. D Mehew
30. S Soar
31. G Cormack
32. L McAleese
33. D Mehew
34. D Slaney
35. G Hattersley
36. C Lightbody
37. J Tantum
38. D Tindale
39. S Knight
40. D Altoft
41. H Pedley
42. F O'Malley
43. Amanda Burt (British Horse Society)
44. K Oshea
45. T Wright
46. M Coulam
47. Z Din
48. D Austin
49. G Atkins
50. J Collier
51. J Cormack

	<p>52. R Goodall</p> <p>53. C Moore</p> <p>54. S Storey</p> <p>55. P Priest</p> <p>56. A Cormack</p> <p>57. K Green</p> <p>58. J Ferguson</p> <p>59. M Atkinson</p> <p>60. I Meyrick</p> <p>61. K Woodvine</p> <p>62. P Handley</p> <p>63. S Baker</p> <p>64. M Herman</p> <p>65. J Meanley</p> <p>66. R Howes</p> <p>67. Wright Engineering</p>
IP6	Representations from Farnsfield Parish Council
IP7	Representation by Southwell Town Council
IP8	Supplementary Submission by UKWIN dated 10 th June 2015
IP9	UKWIN Note to the Inquiry on the main issue set out by the Inspector at the Pre-Inquiry Meeting.
IP10	Supplementary Representation from RAGE
IP11	Representation from Mark Spencer MP.
IP12	Supplementary Representation from UKWIN dated 13 th August 2015 & appendix
IP13	Representation from East Midlands Chamber of Commerce.
IP14	Representation from Centre Parcs
IP15	EMEC Ecology Report prepared on behalf of RAGE
IP16	Rufford Parish Council Evidence
IP17	Eakring Parish Council Submission
IP18	UKWIN October 2015 submission of Eunomia June 2015 Residual Waste Infrastructure Review incorporating June 2015 Eunomia Residual Waste Infrastructure Review.
IP19	Eakring Parish Council
IP20	Nottinghamshire Wildlife Trust comments on 3 rd Reg 22
IP21	Statement of Residents Against Gasification Experiment 13 October 2015
IP22	UKWIN Rebuttal Submission 13 October 2015, including Appendices.
IP23	UKWIN technical note on R1 Calculations
IP24	UKWIN Carbon Calculations.
IP25	UKWIN Carbon Intensity Calculations 19 October 2015
IP26	UKWIN Counter Rebuttal
IP27	UKWIN updated carbon intensity comparison 30 October 2015
IP28	Centre Parcs

IP29	Council for Protection of Rural England
IP30	UKWIN Battlefield R1 Design Stage Certificate from Environment Agency
IP31	UKWIN Correspondence with the Environment Agency 26 October 2015

APPENDIX C:

DOCUMENTS SUBMITTED DURING THE INQUIRY

ID1	Dr Chow – Opening Statement
ID2	UKWIN – Opening Statement
ID3	RAGE – Opening Statement
ID4	NCC – Opening Statement
ID5	Appellant – Opening Statement
ID6	Cllr Paula Pestell
ID7	Cllr Andrew Twidale – Chairman Kirklington Parish Council
ID8	Cllr Marisha Curry – Chairman Eakring Parish Council
ID9	APP/SMO/7 Response by Stephen Othen to counter rebuttal by UKWIN
ID10	Dr Chow - Proof of Evidence
ID11	CC Bruce Laughton presentation
ID12	UKWIN Interested Party Hearing Statement
ID13	Map and directions for site visit
ID14	RAGE Constitution
ID15	Speakers' notes for evening session on 4 November 2015
ID15/1	Susan Wilson
ID15/2	County Councillor John Peck
ID15/3	Ward Councillor Sheila Soar – Bilsthorpe
ID15/4	District Councillor Linda Tift
ID15/5	Parish Councillor Roy Eyley (Farnsfield)
ID15/6	Bettina Lange CPRE Nottinghamshire
ID15/7	Parish Councillor Robert Howes
ID15/8	Robert Brown
ID15/9	Malcolm Goodall
ID15/10	Stephen Pearson
ID15/11	Paul Smith
ID16	RAGE Opening Statement
ID16/1	Tony Henniger
ID16/2	Karen Smith
ID16/3	Sara Burton
ID16/4	Tony Smith
ID17	Harworth Estates Letter (29 October 2015)
ID18	Approved plan from Section 106 Agreement (02/01392/OUTM)
ID19	Bilsthorpe Energy Centre – Agreed List of application drawings
ID20	Mark Spencer MP statement
ID21	Financial Times Extract (5 November 2015) submitted by UKWIN
ID22	Email from S Downen (UKWIN) to the Environment Agency (15 October 2015)
ID23	Nottinghamshire Annual Waste Monitoring Report April 2015
ID24	Application form for 02/01392/OUTM and discharge letter
ID25	Application form for 05/008660/RMAM
ID26	Section 106 Agreement in relation to 02/01392/OUTM
ID27	Section 106 Agreement (Deed of Variation) 2009
ID28	Section 106 Agreement in relation to the application the subject of this Inquiry (November 2015)
ID29	Statement of Compliance with CIL Regulations
ID30	Schedule of Amendments to Draft Agreement at CD 84

ID31	Agreed building sizes plan
ID32	Eakring Conservation Area Appraisal
ID33	Employment Land Availability Study
ID34	List of Draft Planning Conditions
ID35	Letter from D R Kettlewell Noise and Vibration Consultants Ltd (9 November 2015)
ID36	Emails from S Downen (UKWIN) to the Environment Agency (September/October 2015)
ID37	Closing Submissions of Dr Kit Chow
ID38	Closing Submissions for UKWIN
ID39	Closing Submissions for RAGE
ID40	Closing Submissions for Nottinghamshire County Council
ID41	Closing Submissions for Applicant

APPENDIX D:

RECOMMENDED CONDITIONS IN THE EVENT THAT PLANNING PERMISSION IS GRANTED

Commencement

- 1) The development hereby permitted shall begin within five years from the date of this permission.

Reason: To comply with the requirements of Section 91 (as amended) of the Town and Country Planning Act 1990.

- 2) The operator shall notify the Waste Planning Authority of the date of the material start of each phase of development in writing at least 7 days, but not more than 14 days, prior to each phase. The phases of development shall comprise:
 - the commencement of construction;
 - the commencement of commissioning trials ("commissioning trials" are defined as operations in which waste is processed under specified trials to demonstrate that the facility complies with its specified performance); and
 - the date when the development will become fully operational ("fully operational" is defined as the point from which it has been demonstrated that the facility operates in accordance with its specified performance once the commissioning trials have been successfully completed).

Reason: Given the scale and complexity of the development proposed, it is likely that the scheme would be delivered in phases. This condition is required to facilitate monitoring of compliance with the conditions of the planning permission.

Approved Plans

- 3) The development hereby permitted shall only be carried out in accordance with the following documents, or where amendments are made pursuant to the other conditions below:
 - a. Bilsthorpe Energy Centre Planning Application comprising:
 - i. Planning Application Document received by the Waste Planning Authority on 29 November 2013
 - ii. Environment Statement Volume 1 Main Report received by the Waste Planning Authority on 29 November 2013.
 - iii. Environment Statement Volume 2 Technical Appendices received by the Waste Planning Authority on 29 November 2013.
 - iv. Environment Statement Transport Assessment received by the Waste Planning Authority on 29 November 2013.
 - v. Environment Statement Non-Technical Summary received by the Waste Planning Authority on 29 November 2013.
 - vi. Environment Statement Regulation 22 Submission including Non-Technical summary received by the Waste Planning Authority on 15 July 2014.

- vii. Environment Statement Second Regulation 22 Submission including Non-Technical summary received by the Waste Panning Authority on 26 August 2014.
- b. Plans and Drawings identifying the proposed development received by the Waste Panning Authority on 29 November 2013 comprising:
- Drawing No. 13001 P001 Rev. A: Red Line Plan
 - Drawing No. 13001 P002 Rev. C: Site Layout Plan
 - Drawing No. 13001 P003 Rev. A: Gasification Building Floor Plan
 - Drawing No. 13001 P004 Rev. A: MRF Building Floor Plan
 - Drawing No. 13001 P005 Rev. A: Elevations
 - Drawing No. 13001 P006 Rev. A: Elevations on A and B
 - Drawing No. 13001 P007 Rev. A: Site Sections
 - Drawing No. 13001 P008 Rev. A: Roof Layouts
 - Drawing No. 1301 P009 Rev. A: Fencing Layout
 - Drawing No. 1301 P010 Rev. A: Ancillary Buildings
 - Drawing No. 13001 P011 Rev. A: ASU Compound
 - Drawing No. 13001 P012: Effluent Treatment Areas
 - Drawing No. 1301 P013: Vehicles Crew Building
 - Drawing No. 1391-01-01: Indicative Landscape Design
 - Drawing No. CL(19)01 Rev. P4: Indicative Site Drainage Strategic Layout (1 of 2)
 - Drawing No. CL(19)02 Rev. P4: Indicative Site Drainage Strategic Layout (2 of 2)

Reason: For the avoidance of doubt, and in the interests of proper planning.

Construction Materials

- 4) Notwithstanding the details shown on the approved plans, no finish to any external elevation shall be applied unless it has previously been agreed in writing with the Waste Panning Authority.

Reason: In the interest of visual amenity and to minimise impact to the surrounding landscape in accordance with Policy W3.3 of the Nottinghamshire and Nottingham Waste Local Plan.

- 5) Notwithstanding the details shown on the approved plans, details of the external appearance of all plant within the effluent treatment area shall be submitted to and approved in writing by the Waste Panning Authority prior to its siting within that area. Development shall be carried out in accordance with the approved details.

Reason: In the interest of visual amenity and to minimise impact to the surrounding landscape in accordance with Policy W3.3 of the Nottinghamshire and Nottingham Waste Local Plan.

Ground Investigation

- 6) Development, other than that required to be carried out as part of an approved scheme of remediation, must not commence until Parts A to D of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that
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part of the site affected by the unexpected contamination to the extent specified by the Waste Panning Authority in writing, until Part D has been complied with in relation to that contamination.

Part A: Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Waste Panning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Waste Panning Authority. The report of the findings must include:

- i) a survey of the extent, scale and nature of contamination;
- ii) an assessment of the potential risks to:
 - a. human health;
 - b. property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - c. adjoining land;
 - d. ground and surface waters;
 - e. ecological systems; and
 - f. archaeological sites and ancient monuments.
- iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Part B: Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Waste Panning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Part C: Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Waste Panning Authority. The Waste Panning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Waste Panning Authority.

Part D: Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Waste Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Part A, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part B, which is subject to the approval in writing of the Waste Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Waste Planning Authority in accordance with Part C.

Reason: Given the previous use of the site, it is necessary to ensure that the site is the subject of appropriate remediation/mitigation measures to safeguard human health, the built and natural environment, and nearby watercourses.

Controls Relating to Construction

- 7) Prior to the commencement of the development hereby permitted, a Construction Management Plan shall have been submitted to and approved in writing by the Waste Planning Authority. The Construction Management Plan should include, but not be limited to:
- i. Contractors' access arrangements for vehicles, plant and personnel; contractor's site storage area/compound;
 - ii. The number, size (including height) and location of all contractors' temporary buildings;
 - iii. Temporary means of enclosure and demarcation of the site operational boundaries, to be erected prior to the commencement of construction operations in any part of the site and maintained for the duration of construction operations;
 - iv. The means of moving, storing and stacking all building materials, plant and equipment around the site;
 - v. The arrangements for parking of contractors' vehicles and contractors' personal vehicles;
 - vi. Measures to ensure that dust emissions are minimised;
 - vii. Details of external floodlighting installed during the construction period including hours of operation;
 - viii. A construction noise mitigation scheme to ensure that noise emissions at adjoining sites (including residential and ecological receptors) are minimised. The scheme should identify those activities that can be considered noisiest, where and when these activities are likely to occur, a threshold level that would trigger a response and what such a response will be in terms of reducing noise for each noise generating activity;
 - ix. The method of controlling and discharging groundwater during construction to avoid pollution of surface water and the underlying groundwater.
 - x. Details of any wheel wash facility, use of water bowsers and any other measures necessary to ensure that vehicles do not leave the site in a
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condition whereby mud, clay or other deleterious materials are carried onto the public highway.

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

Reason: Construction is likely to take place over a number of years. Whilst local residents, and those working and/or travelling through this part of the District, may well be inconvenienced by that, adverse impacts can be reduced if an effective Construction Management Plan is in place.

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

Reason: To minimise the amount of construction waste to be removed from site for final disposal pursuant to the requirements of National Planning Policy for Waste and policy WCS2 of the Waste Core Strategy.

- 9) No site clearance/preparation operations that involve the felling, clearing or removal of vegetation, or disturbance of bare ground shall take place between 1 March and 31 August in any year unless previously agreed in writing by the Waste Planning Authority following the submission of a report detailing survey work for nesting birds that has been carried out by a suitably qualified ecologist at an agreed time. If nesting birds are found during the survey, the report shall include measures for their protection which may include, but are not confined to, the timing of work, pre-work checks, avoidance of nesting areas, and protection zones around nesting areas. Development shall proceed only in accordance with any necessary protection measures.

Reason: The colliery site is regenerating with a developing wildlife interest. A condition is necessary therefore, to safeguard any nesting birds.

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

Reason: To protect the living conditions of local residents and the working conditions of those employed in close proximity to the site, in accordance with the requirements of Policy W3.9 of the Nottinghamshire and Nottingham Waste Local Plan.

- 11) Noise levels during the construction phase of the development hereby permitted shall not exceed 65dB LAeq, 1 hour at any residential property and 75dB LAeq, 1hour at the nearest façade of the main office building of the Highways Depot. The developers shall allow access to Nottinghamshire County Council staff, or representatives working on their behalf, to the application site at any time and, upon their verbal request, cease all construction operations and switch off any machinery for a period up to 15 minutes to enable measurements of ambient background noise to be taken. In the event that noise levels are measured which exceed these limits then, upon the written request of the Waste Planning Authority, the applicant shall submit a scheme within 28 days of that written request to mitigate the noise impact of the construction operations and to ensure the noise limits are complied with. The noise mitigation scheme shall thereafter be implemented in full within 7 days of the written approval of the Waste Planning Authority.

Reason: To protect the living conditions of local residents and the working conditions of those employed in close proximity to the site, in accordance with the requirements of Policy W3.9 of the Nottinghamshire and Nottingham Waste Local Plan.

Infrastructure Connections

- 12) The route of the electrical cable connection between the development hereby permitted and the local electricity transmission system, and the drainage connection to the mains water and sewage system, shall be by underground connection only. Prior to its installation, the route and methodology for excavation shall be agreed in writing with the Waste Planning Authority. The connections shall thereafter be installed in accordance with the approved details.

Reason: In the interest of visual amenity and to protect the developing wildlife interest of the site.

- 13) Prior to the commencement of development, a scheme shall be submitted to and approved in writing by the Waste Planning Authority demonstrating that it is feasible to supply heat to the boundary of the site (being the red line shown on Drawing Number 11034_PL02 of the planning application) should viable opportunities be identified to supply heat to offsite heat users. The route of the heat connection shall thereafter be safeguarded throughout the operational life of the development.

Reason: To ensure that potential to recover heat energy from the process is not prejudiced, in accordance with the objectives of European and National

Policy, notably the revised EU Waste Framework Directive and the Waste (England and Wales) Regulations 2011.

- 14) Prior to the commencement of the commissioning of the development hereby permitted, a review of the potential to utilise the residual heat from the process shall be carried out. The review shall incorporate further evaluation of the options to export recoverable heat from the process, developing the options identified within Chapter 16 of the Environment Statement, specifically incorporating feasibility/market analysis/market testing. The conclusions/findings of this appraisal shall be submitted to the Waste Planning Authority for its written approval, including a programme for the implementation of any potentially viable options. The developer shall thereafter undertake all reasonable endeavours to commission all viable options following their approval in writing by the Waste Planning Authority. In the event that the Waste Planning Authority conclude that that viable heat recovery options are not currently available in the local area at the time of this review, the developer shall repeat the heat investigation process every three years during the operational life of the plant.

Reason: To maximise the potential level of energy recovery from the process, in accordance with the objectives of European and National Policy, notably the revised EU Waste Framework Directive and the Waste (England and Wales) Regulations 2011.

Capacity of Site

- 15) The maximum combined total tonnage of residual waste and solid recovered fuel imported on to the site in any calendar year (i.e. 1 January - 31 December) shall not exceed 117,310 tonnes. The site operator shall maintain a record of the tonnage of residual waste and solid recovered fuel delivered to the site per day, the numbers of HGVs delivering waste and the number of HGVs exporting residues and their destinations. The record shall be made available to the Waste Planning Authority upon prior written request. A report of the total tonnage of waste imported to the site in each successive calendar year shall also be provided in writing to the Waste Planning Authority within one month of the year end.

Reason: To ensure that environmental impacts are no greater than is identified within the Environmental Statement submitted in support of the application.

Recovery Status of the Plant

- 16) Prior to the development hereby permitted being brought into use, the operator shall submit to the Waste Planning Authority for approval in writing, verification that the facility has achieved Stage R1 Status through Design Stage Certification from the Environment Agency. The facility shall thereafter be configured in accordance with these approved details. Once operational, alterations to the processing plant may be undertaken to satisfy Best Available Technique or continued compliance with R1.

Reason: To ensure that the development would move waste up the waste hierarchy in accordance with national and local planning policy and guidance.

Highways

- 17) Prior to commencement of commissioning trials, the access scheme shown on the approved site layout plan (Drawing No. 13001 P002 Rev. C) shall have been implemented in full. Thereafter, access provisions within the site shall comply with the details identified on the drawing.

Reason: In the interest of highway safety.

- 18) There shall be a maximum of 616 two way HGV movements each week (308 HGV's into the site and 308 HGVs out of the site) in any one week (Monday to Friday and half day Saturday). Written records shall be maintained of all HGV movements, including the time of day such movements take place. Copies of the HGV vehicle movement records shall be made available to the Waste Panning Authority within 7 days of a written request being made by the Waste Panning Authority.

Reason: In the interests of the safe and efficient operation of the local highway infrastructure and to ensure that environmental impacts are no greater than is identified within the Environmental Statement submitted in support of the application.

- 19) Prior to the development first being brought into operational use, 8 covered and secure bicycle stands, and staff shower/changing/locker facilities, shall have been provided and made available for use at all times for staff members, in accordance with details that shall previously have been submitted to and agreed in writing by the Waste Panning Authority. Once installed, the said facilities shall be retained for use by staff members thereafter.

Reason: To promote more sustainable means of travel.

- 20) At all times, measures shall be employed to ensure that detritus material from the development hereby permitted is not deposited on the public highway. Such measures shall include, but are not confined to, the regular sweeping and cleaning of on-site vehicle circulation and manoeuvring areas during the operational phase. In the event that these measures prove inadequate then, within one month of a written request from the Waste Panning Authority, additional steps or measures shall be taken in order to prevent the deposit of materials upon the public highway, the details of which shall have previously been submitted to and agreed in writing by the Waste Panning Authority.

Reason: In the interest of highway safety.

Drainage

- 21) The development hereby permitted shall not be brought into use unless and until surface water drainage works have been implemented in accordance with details that have previously been submitted to and approved in writing by the Waste Panning Authority. Before these details are submitted, an
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assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in the Government's Planning Practice Guidance, and the results of the assessment provided to the Waste Planning Authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site, the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- b) include a timetable for its implementation and provide a management and maintenance plan for the lifetime of the development, which shall include the arrangements for adoption by any public authority or statutory undertaker, and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: To prevent increased risk of flooding, to improve and protect water quality and to improve habitat and amenity.

- 22) Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: To prevent pollution of the water environment.

- 23) Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The size of the bunded compound shall be at least equivalent to the capacity of the tank plus 10% or, if there is more than one container within the system, of not less than 110% of the largest container's storage capacity or 25% of their aggregate storage capacity, whichever is the greater. All filling points, vents, and sight glasses must be located within the bund. There must be no drain through the bund floor or walls.

Reason: To prevent pollution of the water environment.

Noise

- 24) Except in emergencies when life, limb or property is in danger, which occasions are to be notified to the Waste Planning Authority in writing within 48 hours of their occurrence, the following shall not take place except within the hours specified:
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	Mondays to Fridays	Saturdays	Sundays, Bank and Public Holidays
Import and export of materials to the site.	07:00 – 19:00	07:00 – 13:00	Not at all
Movement of mobile plant and machinery outside of the buildings	07:00 – 23:00	07:00 – 17:00	09:00 – 16:00
Operation of Materials Recovery Facility	07:00 – 23:00	07:00 – 16:00	Not at all
Operation of Gasification Facility	24 hours	24 hours	24 hours

Reason: To minimise noise impacts arising from the operation of the site in order to protect the living conditions of local residents and the working conditions of those employed in close proximity to the site.

- 25) The loading doors to the gasification and MRF buildings hereby permitted shall be fitted with a fast acting closing system that ensure they are closed immediately following the passage of a vehicle into/out of the building. During daytime hours (07:00 – 19:00hrs inclusive) loading doors may only be opened when required for HGV movement into/out of buildings. Outside these hours, the loading doors shall not be opened. Doors which allow the movement of personnel into and out of the buildings shall be fitted with self-closing mechanisms that ensure closure when people are not passing through.

Reason: To minimise noise impacts arising from the operation of the site in order to protect the living conditions of local residents and the working conditions of those employed in close proximity to the site.

- 26) Prior to commencement of construction, details of noise mitigation measures to be incorporated into the final design shall be submitted to the Waste Planning Authority and approved in writing. The submitted details shall incorporate:
- Details of the Weighted Sound Reduction Index of cladding to the gasification/plant buildings and enclosures to gas engines/ASU plant, including any doors.
 - Noise data, stated as the 'A weighted' Sound Pressure Level at 1 metre from plant which may include, but is not limited to:
 - i) End of exhaust stacks
 - ii) Ventilation louvres/openings

- iii) Gas Engines
- iv) ASU Plant
- v) Blower Room and pumps associated with the Tank Farm and Waste Water
- vi) Flaring

The submitted information shall be accompanied by a 'Noise Statement' from a suitably qualified noise consultant, detailing how the proposed scheme of noise mitigation measures will ensure compliance with the conditioned noise limits. Development shall be carried out in accordance with the approved details.

Reason: To minimise noise impacts arising from the operation of the site in order to protect the living conditions of local residents and the working conditions of those employed in close proximity to the site.

- 27) Reversing alarms on all mobile plant machinery used on the site shall be of the white noise (broadband) type.

Reason: To minimise noise impacts arising from the operation of the site in order to protect the living conditions of local residents and the working conditions of those employed in close proximity to the site.

- 28) With the exception of emergency situations, any steam vent safety valve checks and other checks/routine maintenance likely to give rise to noise levels exceeding 70dB(A) at 1metre, shall be carried out during non-sensitive times of the day, i.e. 08:00-17:00hrs Monday - Friday.

Reason: To minimise noise impacts arising from the operation of the site in order to protect the living conditions of local residents and the working conditions of those employed in close proximity to the site.

- 29) Site contributory noise levels throughout the operational life of the development shall not exceed an $L_{Aeq,1hr}$ free-field level of $L_{A90} + 5$ dB or 35dB (whichever is higher) during the daytime hours of 07:00-23:00 including a 5dB penalty for tonal/impulsive noise if applicable; and an $L_{Aeq,15min}$ free-field level of $L_{A90} + 0$ dB or 35 dB (whichever is higher) during the night-time hours of 23:00- 07:00 including a 5 dB penalty if applicable, at any residential property. Furthermore, fixed plant site contributory noise levels, measured 3.5 metres from the nearest façade of the main office building of the Highways Depot, shall not exceed 55 dB $L_{Aeq,1hr}$. The rating level and background level shall be determined in accordance with the guidance and methodology set out in BS4142:2014. In the first year following the plant becoming operational, the operator shall undertake a three monthly noise survey to verify compliance with the approved noise limits. A noise compliance monitoring scheme should be agreed in writing with the Waste Panning Authority prior to commencement of the noise survey, to enable site contributory noise to be determined. This may involve monitoring at a near field position, and agreed calculation method, to show compliance. Measurements taken to verify compliance shall have regard to the effects of extraneous noise and shall be corrected for any such effects. The results of the noise survey shall be submitted to the
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Waste Planning Authority within a written report for approval in writing. In the event that compliance with noise criteria is not achieved, the report shall identify further noise attenuation measures to mitigate noise emissions. These additional noise mitigation measures shall be implemented following their written approval by the Waste Planning Authority.

Reason: To minimise noise impacts arising from the operation of the site in order to protect the living conditions of local residents and the working conditions of those employed in close proximity to the site.

- 30) In the event of a justifiable noise complaint being received by the Waste Planning Authority, the operator shall, within a period of 30 days of a written request from the Waste Planning Authority, submit a noise assessment report to the Authority to demonstrate compliance, or otherwise, with the noise limits that have been imposed. If the noise levels prescribed by conditions 28 and 29 above are found to have been exceeded, then the operator must incorporate, as part of the noise assessment report, a scheme of noise mitigation for approval in writing. The noise mitigation scheme shall thereafter be undertaken in accordance with the details approved by the Waste Planning Authority.

Reason: To minimise noise impacts arising from the operation of the site in order to protect the living conditions of local residents and the working conditions of those employed in close proximity to the site.

Litter

Prior to development hereby permitted first being brought into operational use, details of a scheme to prevent litter arising from construction works, and that arising throughout the operational life of the development hereby permitted, escaping from the site shall be submitted to and approved in writing by the Waste Planning Authority. The scheme to be submitted shall include provisions for regular updating in order to reflect best practice. Development shall be carried out in accordance with approved scheme. All measures integrated shall be in operation for as long as the development is operational.

Reason: Since litter outside the application site is not a matter that would be covered by the Environmental Permit, the condition is necessary to minimise nuisance from windblown litter, pursuant to policy W3.8 of the Nottinghamshire and Nottingham Waste Local Plan.

Dust

- 31) Prior to development hereby permitted first being brought into operational use, details of a scheme to ensure that fugitive dust emissions are minimised as far as practicably possible. The scheme to be submitted shall be submitted to and approved in writing by the Waste Planning Authority. The scheme to be submitted shall include provisions for regular updating in order to reflect best practice. The measures to be provided shall include, but are not necessarily limited to, the following:
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- The use (as appropriate) of a dust suppression system within areas likely to give rise to fugitive dust emissions;
- All vehicles transporting waste materials either to or from the site shall be fully enclosed or sheeted.

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

Reason: To safeguard the living and working conditions of those in the locality in terms of the potential for nuisance from dust, pursuant to policy W3.10 of the Nottinghamshire and Nottingham Waste Local Plan.

Odour

- 32) Prior to development hereby permitted first being brought into operational use, details of measures to ensure that operations do not give rise to any malodours shall be submitted to and approved in writing by the Waste Planning Authority. The scheme to be submitted shall include provisions for regular updating in order to reflect best practice. The measures to be provided shall include, but are not necessarily limited to, the following:

- Regular movement of waste within the refuse bunker to ensure that material is circulated on a regular basis, ensuring that the waste is not allowed to decompose;
- The operation of negative air pressure within the tipping hall area and an odour management system, which would draw air from the reception building (and the MRF), through a series of carbon filters (or similar); and
- The application of masking agents, where necessary, to neutralise any malodours.

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

Reason: To safeguard the living and working conditions of those in the locality in terms of the potential for nuisance from odours, pursuant to policy W3.7 of the Nottinghamshire and Nottingham Waste Local Plan.

- 33) At no time shall any storage container, skip, sorted or unsorted waste material, or residue of recycled materials, or any other waste related items or material be stored outside the buildings or on operational vehicles.

Reason: To safeguard the living and working conditions of those in the locality in terms of the potential for nuisance from odours, pursuant to policy W3.7 of the Nottinghamshire and Nottingham Waste Local Plan..

External Lighting

- 34) All external lighting, including floodlighting and cowling enclosures for the
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completed buildings and site, shall be developed and operated in accordance with a detailed scheme that has previously been submitted to and approved in writing by the Waste Planning Authority. The scheme shall incorporate a lighting contour map to identify levels of lighting within the application site and any light spillage onto adjacent land, and shall ensure that the external faces of the completed buildings and chimneys are not illuminated.

Reason: In the interests of visual amenity and the protection of wildlife.

Landscaping

- 35) No later than one year after the date of commencement of construction, as notified under condition 2 above, a landscape scheme for the site shall be submitted to and approved in writing by the Waste Planning Authority and these works shall be carried out as approved. The landscaping scheme shall include:

Hard Landscaping

- a. Proposed finished levels or contours;
- b. Means of enclosure;
- c. Car parking surfacing;
- d. Other vehicle and pedestrian access and circulation areas surfacing;

Soft Landscaping

- a. Planting proposals which are sensitive to the habitat of adjoining sites and which do not offer predator perches in relation to the wader mitigation area.
- b. Written specifications (including cultivation and other operations associated with plant and grass establishment);
- c. Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate;
- d. Habitat suitable for dingy skipper butterflies;
- e. An implementation programme, to include timetable of landscaping/planting and arrangements for a minimum of 5 years aftercare/post planting management.

Reason: In the interest of visual amenity and for the protection and enhancement of wildlife interests.

- 36) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with the timetable approved pursuant to condition 36 above, and shall be maintained thereafter in accordance with the approved management plan. Any trees, shrubs or planting that, within a period of five years after planting, die, are removed or, in the opinion of the Waste Planning Authority, become seriously damaged or diseased, shall be replaced in the following planting season with others of similar size and species, unless the Waste Planning Authority gives written approval to any variation.

Reason: In the interest of visual amenity and for the protection and enhancement of wildlife interests.

Closure of Site

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

Reason: In the interest of the protection of the local environment and the safeguard the living and working conditions of those in the locality.

Local Employment/Economic Opportunities

- 38) Prior to commencement of the development hereby permitted, a scheme of measures to promote and encourage local employment and economic opportunities through the construction and operational phases of the development shall be submitted to and approved in writing by the Waste Planning Authority. The scheme shall include, but is not limited to, the measures set out in Table 14.17 of the submitted Environmental Statement Main Report (November 2013). Development shall be carried out in accordance with the approved scheme.

Reason: Bilsthorpe and the application site lie within an identified area of deprivation associated with lower incomes and unemployment⁵⁸¹. Local employment and training initiatives open up job opportunities for people from many sectors of the community who may otherwise find it difficult to access employment. Such benefits can help alleviate the recognised impacts that major development and construction works bring and can contribute to the local economy. The Environmental Statement and the appeal submissions cite the creation of local jobs and economic opportunities related to the development proposed as a benefit of the scheme to be weighed in the balance. The condition is necessary to ensure that the benefits prayed in aid in this regard, are secured.

-----END OF CONDITIONS-----

⁵⁸¹ Paragraph 14.3.19 of the Environmental Statement main report (Nov 2013)
