

DR/09/19

committee DEVELOPMENT & REGULATION

date 26 April 2019

MINERALS AND WASTE DEVELOPMENT

1. Full planning application to increase stack (chimney) height from 85m Above Ordnance Datum to 108m AOD (35m above existing ground levels to 58m above existing ground levels) of the Integrated Waste Management Facility¹.
ESS/36/17/BTE
2. Continuation of Integrated Waste Management Facility¹ permitted by ESS/34/15/BTE without compliance with conditions 2 (application details), 14 (stack [chimney] design and cladding), 17 (Combined Heat & Power Plant Management Plan) and 56 (maximum stack height) to amend details resulting from the increase in stack height.
ESS/37/17/BTE

¹The Integrated Waste Management Facility comprises Anaerobic Digestion Plant treating mixed organic waste, producing biogas converted to electricity through biogas generators; Materials Recovery Facility for mixed dry recyclable waste to recover materials e.g. paper, plastic, metals; Mechanical Biological Treatment facility for the treatment of residual municipal and residual commercial and industrial wastes to produce a solid recovered fuel; De-inking and Pulping Paper Recycling Facility to reclaim paper; Combined Heat and Power Plant (CHP) utilising solid recovered fuel to produce electricity, heat and steam; extraction of minerals to enable buildings to be partially sunken below ground level within the resulting void; visitor/education centre; extension to existing access road; provision of offices and vehicle parking; and associated engineering works and storage tanks.

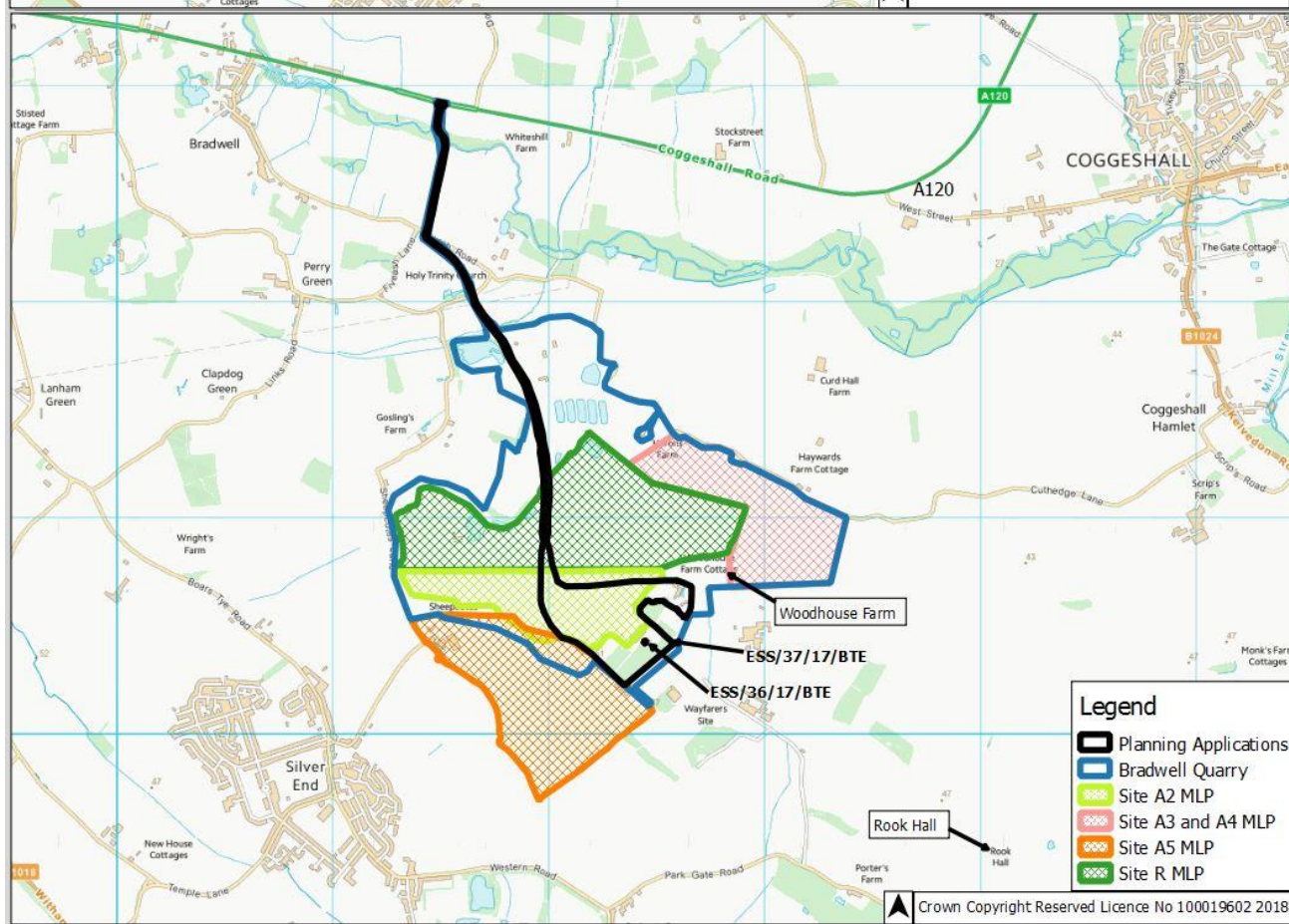
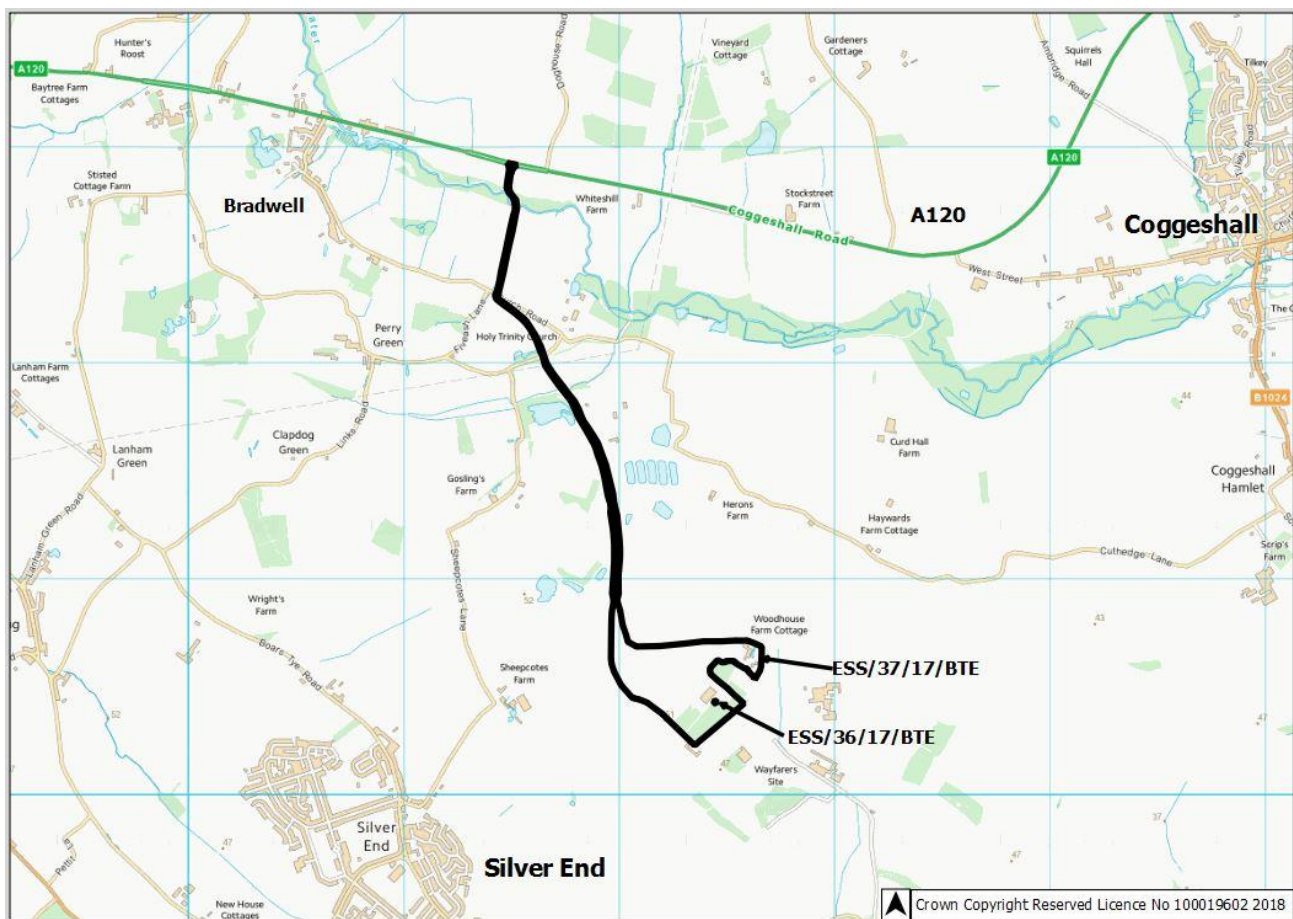
Location: **Land at Rivenhall Airfield, Coggeshall Road (A120), Braintree CO5 9DF**

Applicant: **Gent Fairhead and Co Limited**

Report by Chief Planning Officer (County Planning and Major Development)

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The full application can be viewed at www.essex.gov.uk/viewplanning



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1. BACKGROUND

In 2006, a planning application (ESS/38/06/BTE) was made for a Recycling and Composting facility (RCF) at Rivenhall airfield. The proposal included a two arch building sunk below natural ground levels following mineral extraction. The application included a Materials Recycling Facility (MRF), Mechanical Biological Treatment (MBT) facility and Anaerobic Digestion (AD). The planning permission was issued in 2009, but expired in 2014.

In August 2008 a further planning application (ESS/37/08/BTE) was made for the evolution to the Recycling and Composting Facility (the eRCF, now known as the Integrated Waste Management Facility [IWMF]) at Rivenhall airfield. This application included the same elements as the 2006 application but incorporated a Combined Heat Power plant (CHP) providing heat and steam to on site merchant de-ink paper pulp (MDIP) facility as well supplying surplus power to the National Grid. The IWMF remained on the same footprint as the RCF. The application was "Called-In" for determination by the Secretary of State (SoS). The Council's Development and Regulation Committee nonetheless considered the application in April 2009 and it was resolved that, had the decision been left to the Waste Planning Authority, the development would have been approved subject to conditions and a legal agreement.

The Call-In Public Inquiry was held in Sept/Oct 2009 and the SoS issued the Inspector's report and decision on 2 March 2010, granting planning permission subject to conditions and a legal agreement. The planning permission was required to be implemented by 1 March 2015. The Inspector's Report and SoS decision letter from 2010 are attached at Appendix A and B

In October 2014 the Committee considered a further planning application (ESS/41/14/BTE) to amend the original planning permission for the IWMF to allow an extension of time of 2 years to the period for implementation of the planning permission. Planning permission was granted for a one year extension of time in December 2014 such that the permission was required to be implemented by 2 March 2016.

A further planning application (ESS/55/14/BTE) was made in December 2014 and considered by the Committee in February 2015, which sought to delete two conditions such that the imported Refuse Derived Fuel/Solid Recovered Fuel (RDF/SRF) to be utilised in the CHP facility and paper and card to be processed within the paper pulp facility could be sourced without constraint as to its geographical source i.e. outside of Essex and Southend. The application was granted in March 2015 and the conditions deleted.

In August 2015 a further planning application (ESS/34/15/BTE) was submitted which sought to vary planning permission ESS/55/14/BTE and secure discharge of some of the conditions. The main elements of this application were to alter the capacity of individual elements of the IWMF, but the overall annual input of waste to the site was not proposed to be changed (853,000tpa). The changes were namely increasing the CHP element to 595,000tpa and making consequent reductions in the size of the AD, MDIP plant and MBT so as to remain within the stated overall annual input limit. In addition, the application included some minor

changes to the size of the main two arch buildings and some rearrangement of the buildings to the rear of the main two arch building. The application (ESS/34/15/BTE) was considered by the Development and Regulation Committee in February 2016 and planning permission was subsequently granted. A copy of the February 2016 Committee Report is attached at Appendix G.

Planning permission ESS/34/15/BTE was implemented in March 2016, although only limited site clearance, ground works and highway works have taken place to date. A copy of the decision notice for ESS/34/15/BTE setting out the conditions is at Appendix C.

The IWMF planning permission also included the extraction of 750,000 tonnes of sand and gravel, as well as clays and overburden, to enable the building and plant to be partly below natural ground levels. In 2011 a planning application (ESS/32/11/BTE) was made for the extraction of sand and gravel within the area known as site A2 of then draft MLP and included the site of the IWMF. Planning permission was granted in February 2013 and site A2 has now been worked and the majority of the mineral permitted to be removed as part of the IWMF has been extracted. The overburden was returned into the void of the permitted location of the IWMF. Under the planning permission for the IWMF the overburden was permitted to be exported from the site. There still remains 100,000 tonnes of sand and gravel to be extracted within the site of IWMF.

In addition a separate planning application (ESS/07/16/BTE) was made in January 2016 to allow utilisation of the overburden from the IWMF in the restoration of Bradwell Quarry in sites A3 and A4 of the MLP in substitution for the export of material off site. In addition this application also sought to allow creation of a temporary water lagoon to enable the permitted New Field Lagoon to be constructed while still ensuring adequate water supply for the quarry, the IWMF and to manage surface water. Planning permission was granted on this application in October 2016. Due to the delay in implementation of the IWMF permission extraction has progressed in sites A3 and A4, such that restoration has commenced at low-level within sites A3 and A4. Under a further planning application (ESS/03/18/BTE) as part of a further extension to Bradwell Quarry for mineral extraction (site A5 of the MLP), there are proposals that in the event the IWMF is progressed, soils would be stripped from sites A3 and A4 to allow disposal of the overburden within sites A3 and A4. There is a resolution to grant this planning application, but it is currently awaiting completion of a legal agreement. .

For clarification, the permitted IWMF scheme under ESS/34/15/BTE is a waste facility permitted to receive waste, refused derived fuel (RDF) or solid recovered fuel (SRF) that is derived from Local Authority Collected Waste (LACW) and/or Commercial and Industrial (C & I) waste. The permitted IWMF consists of a two-arched roofed building set partly below ground level. Some plant would be located to the rear of the building, but would be no higher than the height of the building (60.75m AOD or 10.75m above surrounding ground levels). The stack (chimney) is located to the rear of the 2 arch building in the south eastern quarter of the buildings/plant area. The stack as currently permitted is limited by condition to a height of 85m Above Ordnance Datum (or 35m above natural surrounding ground levels).

The permitted IWMF includes:

- Anaerobic Digestion (AD – 30,000tpa) facility treating food and green waste generating biogas for production of electricity on site and generating a compost like output.
- Materials Recycling Facility (MRF – 300,000tpa) which would sort through waste recovering recyclables such as paper, card, plastics and metal. Recyclables.
- Mechanical Biological Treatment (MBT – 170,000tpa) facility, treating waste by mechanical treatment e.g. shredding and then biological treatment using air and moisture to bio-stabilise the waste, the output being a Refuse Derived Fuel (RDF)
- CHP plant (595,000tpa) using the RDF generated on site and some imported to RDF/SRF to generate heat, steam and electricity to be used on site. Some electricity would be exported to the National Grid.
- Merchant De-Ink Paper pulp plant (MDIP – 170,000tpa) would reprocess waste paper imported to the site, as well as any suitable paper recovered by the MRF and would utilise, heat, steam and power generated by the CHP. Paper pulp board would be exported from the site.

As well as needing planning permission a waste management facility of this nature also requires an Environmental Permit (EP) from the Environment Agency (EA). A permit application (EPR/KP3035RY) was made to the EA in November 2015, but refused in December 2016; on the grounds the application had not shown that they had used Best Available Techniques (BAT). The EA considered that BAT had not been shown as higher stack heights than that permitted by the extant planning permission had not been considered. A revised EP application (EPR/FP3335YU) was submitted in March 2017 detailing a higher stack height and was granted on the 11 September 2017. The main change between the first and second EP application was an increase in the proposed stack height from 85m AOD (35m above natural ground levels) to 108m AOD (58m above natural ground levels).

The principal purpose of the current planning applications is to seek to increase the height of the stack from the currently permitted 85m AOD to 108m AOD, in line with the requirements of the EP. The application also includes some minor other changes including changes to the plume management.

In order to apply for a change in stack height, it was considered necessary by the Waste Planning Authority (WPA) for the applicant to apply for the additional increase in height hence full application ESS/36/17/BTE, as well as to vary conditions of the existing permission (ESS/34/15/BTE), in particular the existing condition that limits the stack height to 85m AOD, hence a variation application has been made to ESS/37/17/BTE. Other existing conditions also would need to be varied because they define the permitted drawings and/or details of the stack.

The applications are supported by an Addendum Environmental Statement updating the relevant sections of the Environmental Statements submitted with previous applications.

During the course of determination of the application the WPA felt it necessary to

update assessments that provided evidence to support the current WLP, namely updated information as to current and future waste arisings within Essex and Southend and the existing waste management capacity. The WPA commissioned an external consultant (BPP – the Council's consultant) to undertake this work. BPP produced a revised Waste Needs Assessment, particularly focusing on the waste arisings with respect to C & I waste at which that IWMF is largely targeted. In addition, BPP carried out a review of the operational capacity of facilities within the Essex and Southend area to assess the waste management capacity gap for C & I waste. The BPP reports showed that the quantity of C & I likely to need treatment had reduced from previous estimates and that the shortfall in treatment capacity was less than that which would be provided by the IWMF. This work was published in May 2018, along with the County's Annual Monitoring Report for 2016/17.

This information was shared with the applicant and made publically available and the applicant requested time to respond to this additional information. The applicant in November 2018 submitted additional information undertaken by their own consultant (SLR Consulting) on both waste arisings and their own assessment of the capacity gap with respect to waste management. The SLR report concluded the assessment of waste arisings was similar to that assessed by BPP but their assessment of existing treatment capacity concluded there remains a shortfall in treatment capacity that justifies the need for the IWMF. The SLR report set out reasons why it was felt that the conclusions of the BPP report were unjustified. The applicant's information also included other information, namely a response to concerns raised by the local action group PAIN (Parishes Against Incineration). The applicant's additional information was subject to full consultation in November 2018.

In December 2018, the Rivenhall IWMF liaison group met and the applicants introduced their new partners Indaver who would develop the CHP element of the proposals. Indaver have developed incinerators/Energy from Waste facilities within Eire, Belgium and the Netherlands. It was requested by the Parish Councils that public drop-in sessions were held by the applicant to explain the current planning applications. These were held in January 2019 at Bradwell, Silver End and Coggeshall.

In addition, in November 2018 the applicants submitted an EP application to the EA seeking to vary their existing permit to allow a shorter stack in line with the existing planning permission (ESS/34/15/BTE) i.e. a stack of 85m AOD. This would be achieved by utilising different technologies that result in cleaner emissions. The permit application was subject to consultation in Jan/Feb 2019. The outcome of the permit application at this stage is not known.

The WPA, in response to the additional information from the applicant, commissioned BPP to undertake a critical review of the additional information on need prepared by SLR on behalf of the applicant and respond to the criticism of their work by SLR.

Because the planning considerations for the two applications (full and variation of conditions applications) are intrinsically linked, the 2 applications are both considered within this report.

Given that the background to the site is extensive and the planning considerations detailed, a glossary of abbreviations is set out at Appendix D.

2. SITE

There are two application sites, one for each of the two planning applications. The full application (ESS/36/17/BTE) for the increase in stack height has a small application area (38.5m²) being only the footprint of the stack. The variation of conditions application (ESS/37/17/BTE) is the same area as the extant permission for the IWMF site (25.3 ha) and will be referred to as the IWMF site.

The IWMF site is located east of Braintree, approximately 1km to the north east of Silver End and approximately 3km south west of Coggeshall and approximately 3km south east of Bradwell village.

The IWMF site at its northern end comprises a narrow strip of land leading southwards from the A120 Coggeshall Road. To the south of the worked out areas of the quarry, the application site widens into an irregular shaped plot of land. The stack is located in the south east corner of the IWMF plant area.

The site of the IWMF lies on the southern part of the former Rivenhall airfield; the runways have largely been removed following mineral extraction as part of Bradwell Quarry. The site of the IWMF itself is located approximately 1.7km south of Coggeshall Road and includes the Grade II Listed Woodhouse Farm.

Woodhouse Farm buildings are located on the south eastern side of the site. This group of buildings are in a run-down and semi derelict condition. The farmhouse has been unoccupied for many years. The tiled roof has deteriorated to such an extent that it has had to be covered in metal cladding for protection, and the windows have been covered with louvered boarding. The bakehouse is encased in steel cladding on a scaffolding structure in an attempt to preserve that building. However, the roof and top portions of the walls of the bakehouse have collapsed. The site is overgrown and vegetation prevents ready access to this structure. An adjacent listed water pump has been removed for safe keeping. The former garden of Woodhouse Farm is overgrown and unkempt.

The site also includes TPO woodland, which surround the southern boundary of the site.

The site also included an airfield hangar which upon implementation of the extant IWMF permission was removed.

The site for the IWMF overlaps with Bradwell Quarry where sand and gravel extraction is currently taking place with MLP sites A3 and A4. Mineral extraction in sites A3 and A4 is anticipated to be completed in 2019 with restoration to agriculture and biodiversity by 2021. However, further preferred/reserved sites are allocated in the Minerals Local Plan 2014 which would extend the life of the quarry if granted. A planning application (ESS/03/18/BTE) for MLP site A5 which lies to the west of the IWMF site has been resolved to be granted. The location plan shows the extent of previous and current mineral extraction areas; Site R permitted

in 2001; site A2 permitted in 2011 (which included extraction in part of the site for the IWMF); and sites A3 and A4 which were granted permission in March 2015. Previously worked out areas of the quarry have been restored at low level to arable agriculture with new hedgerows and woodland planting. There are, however, areas of sites A2, R and A3 and A4 which are awaiting restoration to a combination of arable, woodland and a water body. The delay in completion of the restoration in these areas is in part due to the uncertainty as to the progression of the IWMF which would impact upon the final restoration.

The application site lies within the boundaries of both Bradwell Parish Council and Kelvedon Parish Council, the access road being mainly within Bradwell Parish Council and the remainder of the access road and IWMF itself lying within Kelvedon Parish Council.

The IWMF site is set within a predominantly rural character area, consisting of arable crops in large fields, often without boundaries resulting in an open landscape in gently undulating countryside. To the west of the site is a 48m (above natural ground level, approximately 100m AOD) radar mast positioned next to Hangar No. 1, approximately 370m west of the site. The landform around the site forms a flat plateau at about 50m AOD, although the restored minerals workings to the northwest (site A2), north (site R) and northeast (site A3 and A4) have or are to be restored at a lower level, creating bowls in the landscape. There are limited elevated viewpoints from which to oversee the site, but there are some views from higher ground to the north east, beyond the A120. Electricity pylons (approx. 50 in height) lie 1.5 km to the west and north of the site, but are not obvious in the setting of the IWMF site.

The nearest residential properties not including Woodhouse Farm (not occupied), include The Lodge and Allshots Farm located to the east of the stack at approximately 450m. To the north/north east on Cut Hedge Lane are Heron's Farm at 900m from the proposed stack, Deeks Cottage at approximately 950m and Haywards 1000m from the proposed stack. To the west of the site on Sheepcotes Lane lies Sheepcotes Farm 1000m from the stack, also Gosling's Cottage, Gosling's Farm and Goslings Barn and Greenpastures all approximately 1400m from the stack. Properties to the southwest within Silver End village lie approximately 1400m from stack. Parkgate Farm lies south of the site approximately 1100m from the stack. The permitted new housing development on the eastern side of Silver End would result in houses approximately 1100m southwest of the stack.

To the east of the IWMF site there are agricultural fields identified as being within the control of the applicants. Approximately 400m to the east of the IWMF site boundary and Woodhouse Farm, lies a group of buildings, including the Grade II listed Allshots Farm. However, views of this group of buildings from the west are dominated by the presence of a scrap vehicle business which operates near Allshots Farm. Vehicles are piled on top of one another and screen views of Allshots Farm from the vicinity of Woodhouse Farm.

Approximately 500m to the south east of the application site, beyond agricultural fields, there is a group of buildings known as the Polish site. These buildings are used by a number of businesses and form a small industrial and commercial estate

to which access is gained via a public highway Woodhouse Lane leading from Parkgate Road. Parkgate Road runs in an easterly direction from its junction with Western Road. It is about 1km from the application site and is separated from the site by a number of large open fields and two blocks of woodland, one being an area of mature woodland known as Storey's Wood.

A further business operates on the south west edge of the IWMF site, at the "Elephant house", the building being the fire station for the redundant airfield. The site is used by a road sweeping company, but the site is well screened by mature evergreen trees.

The permitted vehicular route to the site would share the existing access on the A120 and the private access road for Bradwell Quarry. The access route crosses the River Blackwater by two bailey style bridges and crosses Church Road and Ash Lane (a Protected Lane as defined in Braintree District Local Plan Review 2005). The access road is two way from the A120 to Church Road, then single lane with passing bays between Church Road and Ash Lane and then two way south of Ash Lane to Bradwell Quarry processing plant. The crossing points on Church Road and Ash Lane are both single lane width only. Some works have already taken place with respect to the IWMF including preparing the access road to be two way between Church Road and Ash Lane, as well as speed bumps and signage.

To the south of the Bradwell processing area, the access road does not exist. There is an existing unsurfaced haul road for the quarry which links the plant area to areas awaiting restoration. The IWMF access would follow the approximate line of the existing quarry access road and then south across worked out parts of the quarry to reach the site of the IWMF itself. The site of the IWMF has been largely worked for sand and gravel but then the overburden replaced. The remaining unworked area of the IWMF site has been cleared of vegetation and topsoils and the subsoils stripped, such that the entire site for the IWMF is exposed overburden slightly below natural ground levels.

The same area of the IWMF site is allocated in the adopted Waste Local Plan 2017 as a site IWMF2 for residual non-hazardous waste management and anaerobic digestion.

The land comprising the subject application site has no designations within the BDLPR.

There are two County Wildlife Sites (CWS) within 3 km of the site at Blackwater Plantation West, which is within the Blackwater Valley which the access road crosses. The second CWS is at Storey's Wood (south of the site), which is also an Ancient Woodland.

There are 4 Grade II Listed properties within 1km of the stack including Woodhouse Farm and buildings within 200m, Allshots Farm and Lodge (400m away) to the east, Sheepcotes Farm (1000m) to the west. Within 2km of the stack lie a collection of Listed buildings within Silver End including the old farm buildings prior to the development of the modal village and then buildings examples of the modern movement. Other Listed Buildings within 2km of the stack include, Curd

Hall, Bradwell Hall and Church, Goslings Farm, Rolphs Farm House, Bower Hall, Rivenhall Place, Porter's Farm and Rook Hall. Within 3km further listed buildings are located notably Cressing Temple, Rivenhall Church, Grange Barn and properties on the West Street within Coggeshall and buildings at Holfield Grange.

Silver End within 2km of the stack and Coggeshall within 3km of the stack both have areas designated as Conservation Areas.

Three footpaths (FP's 19, 57 (Essex Way), 58) are crossed by the existing quarry access road and the extended access road to the IWMF would cross the FP35. There is also a public footpath No. 8 (Kelvedon) which heads south through Woodhouse Farm complex. FP 8 (Kelvedon) links with FPs 35 and 55 (Bradwell) to provide links west to Sheepcotes Lane and FP 44 (Kelvedon) runs eastwards linking with bridleway 1 (Kelvedon - Pantlings Lane) towards Coggeshall.

3. PROPOSAL

There are two applications:

ESS/36/17/BTE is a full application for an extension to the existing IWMF stack of 23m from 85m AOD (35m above natural ground levels) to 108m AOD (58m above existing natural ground levels).

ESS/37/17/BTE is an application to vary 4 conditions of the existing planning permission ESS/34/15/BTE. The four conditions to be varied are as follows

Condition 2 (application details) of ESS/34/15/BTE– this condition sets out the approved details and drawings for the IWMF: as such there are drawings that show the height of the stack and revised drawings have been submitted to show the increase in the stack height.

Condition 14 (Stack design and cladding) of ESS/34/15/BTE – this condition details the materials that will be used to clad the stack, which is approved with a mirror finish and how the stack surface would be maintained. Due to the change in height while the materials to clad the stack are not proposed to change, due to the increase in height the method for maintenance would need to be amended. The stack would be cleaned using a higher reach crane.

Condition 17 (Combined Heat and Power Plant Management Plan) of ESS/34/15/BTE – this condition defines the approved details for the methods that would be used to ensure there is no visible plume from the stack. The methodology has been changed within the EP, thus the applicant is seeking to amend the methodology details to be in line with that approved under the EP.

Condition 56 (maximum height of stack) – this condition limits the height of the stack to 85m AOD equivalent to 35m above existing natural ground levels. Thus, the condition would require to be amended to allow the stack to rise to the proposed height of 108m AOD equivalent to 58m above existing natural ground levels.

No other amendments are proposed. For clarification there would be no increase in the tonnage of waste imported to the site (835,000tpa) or the permitted number of HGV movements (404 HGV movements per day).

The application is supported by an Addendum EIA addressing those issues where there is potential for change arising from the proposals these include:

- Landscape & Visual Impact Assessment
- Heritage
- Noise
- Air Quality
- Health Impact Assessment
- Cumulative Impacts

A summary of the Addendum EIA is attached at Appendix E

4. POLICIES

The following local plans; the Waste Local Plan adopted 2017 the Braintree District Council Local Development Framework Core Strategy 2011 (BCS) and of the Braintree District Local Plan Review adopted 2005 provide the development plan framework for this application. The following policies are of relevance to this application:

WASTE LOCAL PLAN (WLP) adopted 2017

Policy 1 - Need for Waste Management Facilities

Policy 3 - Strategic Site Allocations

Policy 10 - Development Management Criteria

Policy 11 - Mitigating and Adapting to Climate Change

Policy 12 - Transport and Access

BRAINTREE DISTRICT COUNCIL LOCAL DEVELOPMENT FRAMEWORK CORE STRATEGY (BCS) adopted 2011

CS4 - Provision of Employment

CS8 - Natural Environment and Biodiversity

CS9 - Built & Historic Environment

BRAINTREE DISTRICT LOCAL PLAN REVIEW (BDLPR) adopted 2005

RLP 36 - Industrial & Environmental Standards

RLP 62 – Development Likely To Give Rise to Pollution or the Risk of Pollution

RLP 63 - Air quality

RLP 65 - External Lighting

RLP 72 – Water Quality

RLP 80 - Landscape Features and Habitats

RLP 81 – Tree, Woodlands, Grasslands and Hedgerows

RLP 83 - Local Nature Reserves, Wildlife Sites and Regionally Important Geological/Geomorphological Sites

RLP 84 - Protected species

RLP 90 – Layout and design new development

RLP 95 – Preservation and Enhancement of Conservation areas

RLP 100 - Alterations, extensions and changes of use to Listed Buildings and their settings

The Revised National Planning Policy Framework (NPPF) was published in February 2019 and sets out the Government's planning policies for England and how these should be applied. The NPPF highlights that the purpose of the planning system is to contribute to the achievement of sustainable development. It goes on to state that achieving sustainable development means the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways: economic, social and environmental. The NPPF places a presumption in favour of sustainable development. However, paragraph 47 states that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

The presumption in favour of sustainable development is (at paragraph 11 of the NPPF) stated to be: For decision-taking this means; approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in this NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this NPPF taken as a whole.

Planning policy with respect to waste is set out in the National Planning Policy for Waste (NPPW published on 16 October 2014). Additionally, the National Waste Management Plan for England (NWMPE) is the overarching National Plan for Waste Management and is a material consideration in planning decisions.

In January 2018 the Government published the 25 year Environment Plan setting out a range of goals with respect to the environment to help the natural world regain and retain good health. The goals include among others, clean air, using resources from nature more sustainably and efficiently, mitigating and adapting to climate change and minimising waste. The plan also recognises that, where waste cannot be reused or recycled, that its utilisation in Energy from Waste (EfW) facilities would ensure full value of waste as a resource is maximised

In December 2018 the Government published "Our Waste, Our Resources: A Strategy For England". It states *"Our Strategy sets out how we will preserve our stock of material resources by minimising waste, promoting resource efficiency and moving towards a circular economy. At the same time we will minimise the damage caused to our natural environment by reducing and managing waste safely and carefully, and by tackling waste crime. It combines actions we will take now with firm commitments for the coming years and gives a clear longer-term policy direction in line with our 25 Year Environment Plan. This is our blueprint for eliminating avoidable plastic waste over the lifetime of the 25 Year Plan, doubling resource productivity, and eliminating avoidable waste of all kinds by 2050."* The strategy seeks a circular economy, keeping resources in use as long as possible,

so we extract the maximum value from them. The Strategy is a material consideration.

Paragraphs 212 and 213 of the NPPF, in summary, state that the policies in the Framework are material considerations which should be taken into account in dealing with applications and plans adopted in accordance with previous policy and guidance may need to be revised to reflect this and changes made. Policies should not however be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

Essex County Council undertook a compatibility exercise in September 2018 to confirm policies within the MLP and WLP remain up to date and consistent with the NPPF. The level of consistency of the policies contained within the BDLPR 2005; and the BCS 2011 is considered at Appendix I.

Paragraph 48 of the NPPF states, in summary, that local planning authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan; the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies in the emerging plan to the NPPF.

On 9 October 2017 Braintree District Council, together with Tendring District Council and Colchester Borough Council, submitted their New Local Plans and accompanying documents to the Planning Inspectorate. Due to strategic cross-boundary policies and allocations Tendring, Braintree and Colchester's Local Plan share an identical Section 1 and as a result of this Section 1 was considered through a joint Examination in Public (EiP).

Following the EiP of Section 1, a number of concerns and queries about the Garden Communities, transport infrastructure, employment, viability and the Sustainability Appraisal produced were raised. The three Councils are therefore currently considering the options available and how best to proceed in view of this. This will however inevitably lead to delays to the Examination of Section 2 of the individual Plans which follow from the principles established in Section 1 at a more local level. The emerging Local Plan is a material consideration in the determination of this application. However, the weight which can be given to the policies contained within it is limited given the unresolved nature of the concerns raised as part of the EiP of Section 1.

5. CONSULTATIONS

As the report is considering two applications, the response to each application is set out indicating where the comments were submitted jointly or separately. The application has been subject to three stages of consultation: the original consultation in August 2017; a second focussed consultation in February 2018 when additional landscape and visual impact information was submitted; and a further consultation undertaken in November 2018, following the submission of additional information on need and a response by the applicant to comments made

by PAIN (Parishes Against Incineration). The responses below represent comments made during all the consultation periods.

BRAINTREE DISTRICT COUNCIL

ESS/36/17/BTE (Full):– No objection. However, clarification required as to whether the higher stack would require to be lit for aircraft safety reasons.

ESS/37/17/BTE (Variation) – No objection

ENVIRONMENT AGENCY

ESS/36/17/BTE: No objection, but comment as follows:

Gent Fairhead & Co Ltd submitted an application to us on 6 March 2017 for an Environmental Permit for the proposed Rivenhall IWMF. Following our detailed technical assessment of the application together with consideration of all consultation responses received, including over 2000 public representations, we issued a permit to the company on 11 September 2017.

The Industrial Emissions Directive (IED) requires permit applicants to demonstrate that Best Available Techniques (BAT) are being applied at a particular location using appropriate design measures and taking local environmental conditions into account. The design can include additional measures for abatement and emissions reduction at source in addition to stack height selection.

The company submitted a Cost Benefit Analysis within its permit application to support its demonstration of BAT for the incinerator design.

In addition to proposing a stack height of 58 metres above surrounding ground levels, the company has proposed a more stringent reduction of emissions at source in order to demonstrate BAT. A tighter emission limit for nitrogen dioxide (daily average of 150 mg/Nm³) has been proposed by the company compared to the normal daily average for waste incineration plants of 200 mg/Nm³ (the standard set within the IED). Hence although the stack height of the proposed incinerator is lower than that of other plants of similar or greater size for which we have issued permits, the actual environmental impact of nitrogen dioxide will in fact be one of the lowest in the country.

Following an assessment of the company's cost benefit analysis, we are satisfied that the proposed stack height of 58 metres above surrounding ground levels is BAT for the proposed plant.

As part of our decision making process, we have thoroughly checked the air quality and human health impact modelling assessments provided within the company's permit application. We have also undertaken a rigorous sensitivity analysis of these assessments including the effect of local topography and the proximity of buildings on the dispersion of pollutants (i.e. using a range of different input parameters within the modelling). Our conclusion is that we consider the proposed facility is unlikely to contribute to any breach of the relevant air quality standards for human health and the environment.

It is important to note that we reached the same conclusion as this for the company's first permit application which we refused on the basis of a stack height of 35 metres (above surrounding ground level). This means that even with a stack

height of 35 metres we were satisfied that no air quality or human health thresholds would have been exceeded for the proposed incinerator. However, in addition to meeting all the required air quality and human health standards, permit applicants must also demonstrate to us how they intend to *minimise* the impact of their emissions on the environment by applying BAT. We believe that the design of the proposed incinerator, incorporating a stack height of 58 metres above surrounding ground levels, is now such that pollutant emissions to air will be minimised.

ESS/37/17/BTE: No objection - In relation to Condition 17 and plume visibility, the applicant, Gent Fairhead & Co. Ltd, will need to comply with all environmental permit conditions concerning stack emissions regardless of the visibility of those emissions.

HIGHWAYS ENGLAND:

ESS/36/17/BTE: No objection

ESS/37/17/BTE: No comments received

HISTORIC ENGLAND ESS/36/17/BTE & ESS/37/17/BTE: No comments to make, but suggest you seek views of your specialist conservation and archaeological advisers.

NATURAL ENGLAND

ESS/36/17/BTE: No objection standard advice should be followed with respect to protected species. The LPA should also be satisfied that appropriate level information is provided to assess impacts on SSSI and local sites.

ESS/37/17/BTE: No comments to make.

PUBLIC HEALTH ENGLAND (PHE): No objection.

Following a review of the documentation provided for these planning applications PHE can confirm that we have no significant comments to make from a public health perspective further to those provided to the EA noted below.

If Energy from Waste (EfW) sites operates in line with the Waste Incineration Directive (WID) we would not expect there to be any significant impacts on public health. Further information can be found in the following report:

<https://www.gov.uk/government/publications/municipal-waste-incinerator-emissions-to-air-impact-on-health>

PHE is a consultee for bespoke EP applications and we provide comments from a public health perspective when requested by the EA. We understand the EA initially rejected an application for an environmental permit for this site in December 2016 after finding the proposed stack height did not demonstrate BAT. Since then the applicant has submitted a new environmental permit application to the EA. As noted in your letters to us, PHE have provided comments from a public health perspective on the updated environmental permit applications (April 2017) and draft decision document (July 2017) to the EA which did not identify any significant public health concerns.

ANIMAL & PLANT HEALTH AGENCY ESS/36/17/BTE & ESS/37/17/BTE: No comments received

ESSEX WILDLIFE TRUST ESS/36/17/BTE & ESS/37/17/BTE: No comments received

BRITISH HORSE SOCIETY ESS/36/17/BTE & ESS/37/17/BTE: No comments received

RAMBLERS ASSOCIATION ESS/36/17/BTE & ESS/37/17/BTE: No comments received

HIGHWAY AUTHORITY (ESS/36/17/BTE & ESS/37/17/BTE) : No objection

HIGHWAY AUTHORITY (Public Rights of Way) (ESS/36/17/BTE): No objection. The applicant should contact PRow if during construction works the route of FP8 (Kelvedon) that passes through Woodhouse Farm complex is to be disrupted. ESS/37/17/BE: No comments received

COUNTY COUNCIL'S NOISE CONSULTANT (ESS/36/17/BTE & ESS/37/17/BTE): No objection. The revised acoustic assessment demonstrates that the proposals would operate within the permitted maximum noise levels as set out in the existing permission. Noise monitoring is required by condition and would establish whether this was the case in practice.

COUNTY COUNCIL'S AIR QUALITY CONSULTANT (ESS/36/17/BE & ESS/37/17/BTE): No objection - The assessment methodology and assumptions applied in the air quality assessment were suitable. The result has demonstrated that air quality impact on local air quality is not significant with the new stack height. This has been confirmed with the 2017 IAQM assessment approach, the overall significance of the effect of emissions from the IWMF is considered to be negligible.

The Plume Visibility Analysis concluded that that there would be a low chance of visible plumes with the lime based fuel gas treatment system and 58m stack. It is concluded that the impact would be insignificant based on EA IPPC H1 significance criteria.

In addition to Primary and Secondary Measures as specified in the CHP Management Plan, a monitoring protocol is proposed in the revised CHP Management Plan. The stack condition will be monitored with CCTV and in the unlikely event of a visible plume the automatic management system will be manually overridden. Monitoring and recording system will also be used to ensure the temperature and wind speed thresholds identified in the CHP Management Plan are suitable. It is therefore considered that CHP Management Plan has been revised to ensure suitable measure implemented at the site to address Condition 17.

COUNTY COUNCIL'S LIGHTING CONSULTANT: No objection. There is a requirement under the existing planning permission (ESS/34/15/BTE) for details of the lighting to be provided prior to the site operating, under conditions 43 and 44.

In terms of this application, the document 'FA_F8 Appendix F Pell Frischmann Lighting Statement (1).pdf' has been submitted. This statement outlines proposed

approach to lighting and shows a good understanding of lighting design requirements in a rural location.

The statement concludes that the increase in stack height would not affect the lighting impacts previously considered. The statement also advises that a lighting design will follow in due course, referring to condition 44. Such information will form the critical review in terms of lighting; therefore, at this stage I would not raise any additional comments or objections.

PLACE SERVICES (Ecology):

ESS/36/17/BTE No objection - Soft Landscape Proposals showing some details for species-rich neutral grassland and proposed open mosaic grassland for habitat areas are included. These should be cross-referred to the relevant Habitat Management Plan (ES Appendix 7C) and Ecology Report (ES Appendix 7B) (referred to in Planning Application No. ESS/37/17/BTE).

- *IWMF Ecology Statement 2017*
- *Rivenhall Airfield: Integrated Waste Management Facility*
- *Stacks And Bird/Bat Strikes*
- *Document 499/17*

The assessment of birds and bats considers the potential negative effects of tall structures with glass and movable parts and the Ecology Statement does not consider that the stack would have any effects on bird or bats. However, it is proposed to use a very reflective surface for the stack, which presumably could have similar effects for birds and bats to that of glass. Therefore a different finish would be preferable to avoid this potential outcome. If the WPA is minded to grant permission then a monitoring scheme should be required to assess impact upon birds.

The proposals do not amend the lighting scheme, so no ecological comments to make.

With respect to air quality deposition of emissions can lead to both soil and freshwater acidification. However the impacts of air quality on ecosystems have been assessed using a standard approach, following EA guidelines. It is therefore considered the impact on habitats and wildlife has been appropriately considered.

ECC has undertaken a Habitat Regulations Assessment and concluded no further assessment was required.

ESS/37/17/BTE: No objection. It is acknowledged that provision of a sedum roof has planning permission. However, it should be recognised that this is not a very biodiverse solution and a wildflower roof or brown roof would be much more diverse.

PLACE SERVICES (Urban Design) ESS/36/17/BTE & ESS/37/17/BTE: No objection - There is concern regarding the proposed material finish shown for the stack. Whilst this is not necessarily an urban design issue and is more pertinent to landscape design and impact, it is considered that a reflective finish to the stack could in fact amplify the appearance of the structure on the landscape and it would be preferred if a gradually changing tone from dark to light towards the top of the stack was applied.

PLACE SERVICES (Landscape) (ESS/36/17/BTE & ESS/37/17/BTE): The increase in height of the will result in some detrimental adverse impacts on both the landscape character of the area and a range of visual receptors. Whilst it will be possible to mitigate some of these impacts other adverse impacts arising from the presence of the stack will be present throughout the lifetime of the facility. This adverse impact and visual presence will need to be weighed in the balance with other planning matters which apply.

The stack will introduce an urban/industrial feature into the rural landscape and whilst the principle of this has been approved previously the additional height of 23 metres will serve to increase the degree and extent of landscape and visual impact which will result.

The visual impacts can be partially mitigated in some locations by the use of the cladding material (in some weather conditions), new woodland planting associated with the IWMF and the quarry restoration work. Measures to introduce some wider landscape mitigation through planting may assist to mask some views. The applicant has accepted the principle of developing such a scheme to assist with this. Where views of the stack are at close range successful mitigation will not be possible and there are likely to be residual minor to moderate adverse visual impacts.

Landscape Character Impacts: The current landscape character has been identified as industrial and there is some dispute around this characterisation. I have agreed that where the quarry is still being worked this is a reasonable description of character but this is specific to the area impacted by quarrying activities. I do not agree that the quarry continues to exert an industrialising influence on the surrounding rural character (ref. para 4.1.5 in the Addendum). There are smaller businesses in the locality and although they exert varying degrees of adverse visual impact the activities are generally reasonably well contained to the local area and landscape. The exception to this is Allshots Farm (W3) scrapyard business which is more visually prominent in the landscape; however the character of the surrounding landscape is remains predominantly rural.

Beyond the quarry zone and site for the IWMF the landscape character is rural and views of detracting features are limited. The extent of the excavated and restored landscape will change over time as further extraction phases to the east are implemented. However at the current time there is no reason (other than impacts arising from the proposed stack) to suggest that the prevailing landscape character in which the site is located will not retain its rural characteristics.

Whilst the IWMF stack will be incorporated into a landscape with an element of industrial character and alongside the IWMF development itself, it will also appear within the context of the surrounding rural landscape character.

The addendum concludes that the significance of effects on landscape character of the area remains at Minor adverse. I agree that where the stack is set within the context of the quarry and IWMF this assessment of effect is likely to be correct. However where the local character around the site area is predominantly rural and

where there are few other detracting features then I consider that the effect on landscape character will be Moderate adverse at distances up to 2km from the site. The stack will appear as an industrial feature in the landscape. Beyond this whilst the presence of the stack will be apparent in many locations and for many receptors its impact on landscape character will be reducing scale over distance.

The stack will appear as an urban/industrial feature in views where there are few other detractors. The Sheepcotes Hangar mast and the overhead electricity pylons and cables are cited as detractors in the landscape and providing context for the stack. However these structures do not provide context for much of the landscape in which the stack will be apparent and there is a possibility that their life span will be shorter than the proposed stack.

With respect to existing landscape character it is useful to consider the current Landscape Character Assessments which have been carried out.

National Character Area profile 86, South Suffolk and North Essex. This document does not overly assist with describing this particular area. Quarries are referred to in the text but there is no reference to industrial landscape character.

Essex CC LCA B1 Central Essex Farmlands; key points:

*Mostly tranquil character away from major roads and Stansted airport'.
'Localised erosion of character occurs due to sand and gravel workings'.*

Essex CC LCA C6 Blackwater/Brain/Lower Chelmer Valleys; key points:
'Gravel workings are locally visually prominent'.

Intrusive industrial development mentioned only in respect of Braintree and Witham.

Braintree District LCA B18 Silver End Farmland Plateau. Key points not raised above:

*'The area is generally open allowing long distance views'.
'Large sand and gravel pit near Bradwell, with large mounds, very exposed from surrounding roads, stark contrast to the surrounding fields, mostly a tranquil area (away from the main roads and the sand and gravel pit). Overall the character area has moderate to high sensitivity to change'.*

Visual impacts: The extent to which the stack will be visible in the landscape will be increased by the greater height now proposed.

I consider that the wider visual impacts arising from the stack will be more significant than the assessment within the Addendum to the LVIA. This states that for most receptors the visual impact from the increase in stack height will remain unchanged (from the previous height/assessment) and will remain at a 'minor adverse impact'. Some receptors will experience a moderate adverse impact and after 15 years this will reduce to minor and negligible. However, given that the scope for visual mitigation in the wider landscape is limited I am doubtful this reduction in visual impact over the 15 year period will occur.

Where views of the stack are at close range, such as from nearby footpaths successful mitigation will not be possible and there are likely to be moderate adverse visual impacts.

The updated photomontages for Viewpoints W and VP 1 – 8 and the comparison images to illustrate the three scenarios as existing, and the approved and proposed increase in stack height are useful. Additional Viewpoints 9 – 31 (between 3 and 10km from the site) were provided within the 2017 LVIA. These are now illustrated with montages and photographs showing the proposed stack and the truck mounted access platform erected at the full height (November 2017). I also had the opportunity to view this platform on site and within the wider area.

Viewpoints 32 – 40 have been included, mainly to address potential views from heritage assets and show the truck mounted access platform in situ. These additional viewpoints show how the stack will be visible at greater height. I have particular concern is the introduction into the views from the churchyard at Rivenhall, and in the vicinity of Rivenhall Hall.

In terms of specific LVIA assessment this has been provided as an update to the 2008 LVIA which assessed the impacts on a series of residential (R1-R13), public rights of way (P1-P7), transport (T1-T9) and places of work receptors (W1-W6). Viewpoints with photomontages VP 1- 7 plus W/ Woodhouse Farm provide representative viewpoints for these groups of receptors. There is no specific assessment of the view from VP8, the public footpath and track close to the Polish site.

The Visual Impact Assessment is provided in table form Table 8-12 on pages 47 to 53 of the addendum document. The degree to which the stack will be viewed from some of the other viewpoints is described within the body of the text only but not as previously requested by ECC within a clearly assessed tabulated form.

It is clear from the comprehensive list of illustrated viewpoints that the visual impact from the increased stack height will extend into a wider area of rural landscape than originally identified with the lower stack. The upper part, 48 metres of the stack is proposed to be clad in the silver mirrored reflective material as previously approved. This may minimise the visual impact in certain weather conditions by reflecting sky colour and light levels. However, there will be times when the material causes some solar glint and glare and this has now been assessed fully in separate documentation. The LVIA Addendum has been guided by the findings in this assessment concluding that the impacts will not be significant due to the short periods of time, and low intensity of reflection arising. However, I have concerns that even if the glare and brightness resulting from this use of material is limited the impact on the available views of the stack will be emphasised.

I am not able to comment in any technical detail on the extent to which intermittent glare will impact on residents or road users or whether this will be within acceptable parameters. However it would seem likely that a level of inconvenience could be experienced. I agree that the use of this material will assist with visual mitigation in some views and in certain weather conditions where it reflects back colour from the landscape. However I also consider that a matt grey or soft silver finish would

have similar visual mitigating benefits without introducing the risk of solar glare or brightness into the landscape and visual receptor locations.

Landscape mitigation: The applicant has agreed to provide funding for landscape and environmental works as identified within paragraphs 4.2.9 and 6.1.5:

This will need to be considered throughout the area and worked up in more detail should the application be recommended for approval. Specific planting projects will need to be targeted at identified locations where further visual mitigation can be achieved. Some specific proposals have been suggested by Liz Lake Associates as part of their previous assessment work and may help mitigate visual impacts arising from the lower part of the stack. These are extending an area of proposed woodland north east of Sheepcotes Farm, and beating up/widening and adding trees to hedges alongside bridleway 31 and PROW 53 and 55. In addition there is scope to restore hedgerows in the wider landscape including along Pantlings Lane subject to landowner cooperation.

The accompanying landscape proposals sheets (5 of 5) have been updated as a result of the amended LVIA. These plans have addressed the issue relating to the use of ash in the species mixes.

Conditions should include implementation of landscape mitigation (based on the submitted landscape plans), timescales for implementation, landscape and woodland management (to ensure successful mitigation), final details of stack cladding material including lower level cladding, and details relating to the landscape and environmental mitigation fund. The latter will also need to be secured through a S106 agreement.

PLACE SERVICES (Historic Buildings) (ESS/36/17/BTE & ESS/37/17/BTE):
Objection – which could be overcome by a change in finishing material.

The principle of the facility and a stack is already established, but with a markedly shorter stack.

The assets at Woodhouse Farm are closest to the proposed stack, and it is therefore considered that the increase in the height of the stack would have the greatest impact on these assets. In particular the extra height would further exacerbate the sense of overlooking and intrusion which the stack already created, and would further emphasise the fact that the open agricultural environment in which the assets are experienced, and which contribute to an understanding of their significance, would be considerably and harmfully altered. The stack would already have been a dominant feature in the landscape, and by increasing its height its intrusion and unsuitability is only accentuated. The level of harm caused by the stack is therefore considered to be moderate to high, the increase in the level of harm caused by the proposal to raise the height of the stack is considered to be minor to moderate.

The harm is aggravated by the choice of finishing material. The mirrored surface, which is likely to glow when hit by the sun, would accentuate its visual presence. The applicant has submitted details of schemes where it has been used successfully, and it is acknowledged that on many of these projects the use of the

cladding creates a striking and interesting landmark building. However this would appear to be specifically the point, it is a cladding which is appears to be best used when trying to create a visually interesting building. This would seem to be at odds with what the applicant seeks to do in this instance. Whilst this is a previously agreed detail, the increase in the visual prominence of the stack means that this is a detail which should be reconsidered from a heritage perspective.

The relationship between the character, appearance and form of the landscape and the significance of the listed building is the same for the Allshots Farm complex as it is for the Woodhouse Farm complex. The conclusions as to the harm identified are therefore considered to be the same, albeit at a marginally lower level due to the slight reduction in proximity.

The stack is considered to impact on views out from several other heritage assets, and is considered to fall within the setting of a number of these. The stack is not however considered to alter the way in which these assets are experienced

BRADWELL PARISH COUNCIL: No comments received.

KELVEDON PARISH COUNCIL (ESS/36/17/BTE): Objection on the following grounds

Design of development so different to that original application and if granted the current variation would represent unacceptable planning creep.

Condition 56 limiting the height of the stack was imposed by PINS/SoS. Noted in PINS report that "A further application to ECC for an increase stack height would not meet the requirements for certainty and good planning as set out in national guidance." Approval of this application would clearly ignore PINS and SoS decision.

Officer Comment: The quote is not the view of the Inspector but a quote from "Section 8 – The Case For The Local Councils Group" paragraph 8.22 of the Inspector's report where the Inspector has reported the views of The Local Council's Group.

Application should be refused and a full new planning application considered for the development as a whole.

Request that if ECC not minded to refuse that the application it should be referred to the Secretary of State.

COGGESHALL PARISH COUNCIL (adjacent parish) (ESS/36/17/BTE & ESS/37/BTE): Objection on the following grounds:

- Concerned regarding the health and air quality impacts;
- Consider the increased incinerator capacity have outstripped the original design parameters and hence the need for the higher stack;
- Consider the applicant has not engaged with the EA at an earlier enough stage in the project's life;
- The importance of Coggeshall's important landscape and heritage has been highlighted in a recent housing appeal dismissal;
- Condition 14 confirms the details of the stack and construction was started on that basis. The conditions should be required to be adhered to, to prevent a mockery of the planning process;

Officer Comment: There is nothing to prevent any applicant from applying to vary any condition of an application at any stage.

- The applicant demonstrated that 85m AOD stack was acceptable and thus the height should be enforced;
- The planning permission issued by PINS/SoS was clear that all details relating to the stack had to be agreed before commencement to avoid risk with regard to impacts.

Also raised the following comments:

- Condition 56 specifically limits the height of the stack and was considered acceptable by the applicant and their consultants;
- No engagement was sought at the time of the public inquiry (2010) and the increase in height direct result of EA permit refusal in December 2016. No objection was raised by EA at time of public inquiry simply because they had not been consulted:

Officer Comment: The EA was consulted and was represented at the public inquiry. No objection was raised, but at that stage the EA had insufficient information to comment whether the stack would be unacceptable at 85m AOD.

- The incinerator has been subject to significant planning creep with the removal of the geographical limits allowing waste to be imported into Essex;
- The changes in the incinerator capacity in Feb 2016 significantly increased the incinerator aspect to 595,000tpa, was given with no consultation with EA;

Officer Comment: The EA was consulted on the application and raised no objection, but emphasised that there would need to be an Environmental Permit.

- Construction started in March 2016 on the basis the stack design was complete and final and in accordance with condition 14;
- Application made without certainty of an EA permit;

Officer Comment: An EP was granted on 11 September 2017

- Do not consider the EA have been adequately engaged in the planning process;

Comment: The EA has been consulted on all applications related to the IWMF and its comments reported and taken into account.

Consultation response received in January 2019 raised the following issues:

The report prepared on behalf of ECC by BPP must be taken account of.

There has been an unprecedented change in the approach to waste, attitudes to plastic, awareness of air quality, including media coverage such as BBC's the Blue Planet

The facility could see Essex being a net importer of waste and having to deal with bottom and fly ash.

A 35m stack might have been appropriate in 2009, but science has moved on a higher stack may be needed but may not be acceptable in planning terms.

Last time the IWMF was considered by the D & R Committee there was no action group scrutinising the applications and no public engagement by the applicant, such that there was less objection.

Consider the response by the applicant to PAINs objection report includes information that is misleading confusing information from the Inquiry with information from the determination of the 2015 application.

Consider the photomontages are misrepresentative, underestimating the height of the stack.

Applicant has stated PC was unwilling to meet with applicant; it should be clarified that was mainly due to the fact the applicant insisted this was closed meeting, which was not considered appropriate or in accordance with Council procedures.

The health impacts of increased particles, NOX and CO2 are well documented and supported by medical evidence.

The new developer partner Indaver are only going to build the incinerator element of the proposals, leaving a question over whether the other elements will be developed thus whether the facility would be an integrated waste management facility which was granted by the Inspector.

SILVER END PARISH COUNCIL (adjacent parish)

ESS/36/17/BTE: Objection, due to the visual impact of the increased stack height. The proposed stack is vastly in excess of heights agreed by the Planning Inspectorate. The heights quoted are confusing some referring to heights AOD and some above natural ground levels.

ESS/37/17/BTE: No comments to make

RIVENHALL PARISH COUNCIL (nearby parish)(ESS/36/17/BTE & ESS/37/17/BTE): Object

Initial comments

1. When the original planning consent was granted in March 2010, the Secretary of State agreed with the Planning Inspector's report (from the 2009 Inquiry) that the stack height should be conditioned to 35m above local ground level.

Two primary conditions relate to the stack height. One of them, condition 14, also stipulated that all details of the stack, including elevations, should be submitted to the planning authority, and agreed, before commencement.

The applicant agreed to all these stipulations in 2009 at the Inquiry and did indeed submit final details of the stack to ECC prior to commencement under condition 14, which was for a 35m tall structure. In evidence the applicants told the Inspector in 2009 that a 35m stack was the correct requirement for the plant and the Inspector covered in detail the landscape impacts of such a structure given the rural location.

Legal commencement of the development was confirmed by ECC as having taken place in early 2016, very quickly after ECC granted the so-called “variation” s73 application which significantly shifted the plant operations away from recycling and towards waste incineration. At the time, Essex County Council stated that should the developer proceed to start the development prior to obtaining the necessary operating Environmental Permit from the Environment Agency (EA), they would be doing so at their own risk.

The developer did proceed and that risk has now been realised. Having made a legal start, the stack details cannot be changed. As ECC is aware, the only reason why the applicants now seek a 58m high stack is that their first Permit application to the EA was refused. The applicants therefore had to submit a second application, which was approved in September 2017, but that decision does not over-ride the planning conditions applying to the site.

The current applications therefore arise from a continuation of the very long “planning creep” history and the iterative approach the applicant has taken. Instead of providing certainty through a single clear planning consent and a permit granted commensurate with that plan, the applicant has sought to use the various decision making regimes as a “change process”. This saga has now been going on, including the initial landfill proposals, for 24 years. In terms of the IWMF and the eRCF and RCF that went before it, and the various iterations of them, the local community has been both ignored and put through a seemingly endless stream of applications that has taken up a great deal of time and local volunteer resource. It is notable that despite the setting up of the waste site liaison group, the applicants and their representatives have not attended any of the public consultation events for the Permitting process and did not organise consultation events for the s73 “variation” application or the current ones. The level of opposition to both the plant (through its changes) and the way in which the community is being treated is now leading to hostility. Given the significant movement of the plant away from what was granted in March 2010, at the very least there should be a fresh public Planning Inquiry.

2. The landscape impacts of the proposed 58m stack (which is the height above the local ground level) have been seriously underestimated by the applicants and in places comparisons made with existing features in the local landscape are incorrect

The applicant states that the 58m stack might be “theoretically visible” from heritage assets and “theoretically visible within the local landscape”; that there are electricity pylons in the local area near the plant site of comparable height; and that the residual trees around the plant are 18m tall (and therefore 40m of the stack would be visible above the trees).

There has been some confusion around the issue of the stack height owing to at least 3 different measurements being used – height above OD, height above local ground level and total height of stack including the section below ground. The Parish Council is clear that the most important measurement for both planning and permitting purposes is the height above the immediate local ground level excluding the quarried areas. So for example this would be the ground level where PRoW Kelvedon 8 nears the plant. In the following, the Parish Council refers to the

measurement of the stack as being 58m above local ground level. This equates to approximately 190 feet, or for comparison, 20 feet taller than Nelson's Column. This would be an industrial structure widely visible across the countryside. It would be 7m wide and with a highly reflective "mirrored" metal finish.

The applicants claim that the mirrored finish will make the stack blend more into the sky scape. But the sky conditions vary enormously and presumably the stack will reflect whatever the conditions are. It is unknown as to the extent that the stack will reflect the sun, increasing its visibility as seen from distance, or artificial light at night from the plant.

The residual trees around the plant site are not typically 18m tall as claimed by the applicants. The very highest of the surrounding trees may be that tall, but most are significantly lower than that, as has been measured locally. As was advised to ECC prior to the destruction of much of the TPO woodland on the site in late February 2016, the residual tree belt is thin and the plant will be plainly visible through it for the half of the year when the leaves are down. Therefore both the plant and the stack will be much more visible both through the trees and above them than the applicant states.

The stack will be visible from parts of Rivenhall parish. The northern part of the parish in particular, nearest the plant, is very rural, comprising the ancient landscape of Rivenhall Brook, hedged arable fields, meadows and surviving blocks of ancient woodland. Also within this landscape there is the Grade 2* Rivenhall Place and its grounds which is approximately 1300m from the stack.

Contrary to the impression given by the applicants, it is plainly the case that there are no similar solid structures in the local landscape. The nearest tall structure is the communications tower at Sheepcotes Farm, but this is an open lattice structure and is 47m tall. The proposed stack is 58m tall, a full 11m taller. The electricity pylons quoted by the applicants are actually well to the north of the site, crossing broadly East-West near Ashes Lane Bradwell. From the nearest community to the site, Silver End, the pylons are not visible at all when looking towards the waste site. The pylons are just visible on the horizon when looking north from Park Gate Road Rivenhall, but it is notable that the tower at Sheepcotes Farm is seen from this location as a much larger structure – roughly double the height and double the width of the pylons. From Park Gate Road at the start of PRow Silver End 108_55 (which starts on the boundary of Rivenhall Parish) the tower is a ratio of 4/3 further from the viewpoint than the stack would be and is 11m lower. Therefore the stack would be approximately 1.6 times taller than the communications tower as seen from that viewpoint – an obviously visible industrial structure in the countryside. Similar ratio calculations can be made from other viewpoints where the tower is visible and what becomes clear is that the photo-visualisations used by the applicants are not a fair representation of what is seen on the ground. The visualisations tend to minimise objects at distance in the landscape. As another example this can be seen when comparing the real view of the tower as seen from Sheepcotes Lane compared to the visualisations. The Parish Council understands that additional independent landscape impact assessments are being made and this is welcome as it is important than an accurate assessment is made.

A further consideration is cumulative visual impact. Honace, who act for Gent Fairhead, have recently advised that the planning application process for the Bradwell Quarry extension site A5 is to start.

A5 is immediately adjacent to the waste site and would be seen in the same field of view as the stack as seen from locations such as Western Road and Park Gate Road.

Officer comment: A planning application for mineral extraction in site A5 has been made and resolved to be granted. The application was accompanied by an EIA and considered cumulative impacts including that of the permitted IWMF.

3. The applicant continues to suggest there will be access to the site via local roads stating that “authorised access from the local road network” would be allowed.

As the Parish Council has previously submitted to ECC, there is great local concern already about HGVs ignoring local weight limits (such as Hollow Road and Oak Road), ignoring height warnings (Oak Road at the railway bridge) and using unsuitable rural local roads with the consequent disruption and danger caused when HGVs have to turn or reverse when they get stuck. Any additional HGVs, especially large waste trucks driven on satnavs from distant locations, would be unacceptable, particularly given that due to public service reductions there is now almost no enforcement of HGV breaches. It is well known from local knowledge that satnavs lead to off-routing by HGVs because drivers of stuck vehicles have been asked how they got to given locations.

As previously stated to ECC, the Parish Council is aware of an intention by the applicant to use Park Gate Road (via Woodhouse Lane) as an “emergency access”. The Parish Council state again, it would be completely unacceptable for this major waste site to use any local roads for any reason. All access must be via the agreed route of the private access on to the A120 and if a second emergency access is required that should be the responsibility of the applicants without using local roads and lanes.

Conclusion

Rivenhall Parish Council would submit to ECC that the applications should be refused. The applicant made a legal start on site in 2016 on the basis of a discharged condition that gave details of a 35m tall stack and ECC itself warned the applicant that to proceed prior to the EA Permitting process being decided was at its own risk. The permit decision cannot be used to over-ride planning decisions. The planning decision on the stack height being at 35m above local ground level considered many wholly separate issues, most notably landscape impact. Based on the typical height for stacks granted EPs by the EA where related to plant capacity, the Rivenhall stack would need to be in the range 70m to 90m tall. Had the EA required this, then presumably this application would still have come forward but for a stack of that size, but the EA does not consider any matters relating to visual impact in its decisions.

The landscape impacts in the application have not been properly assessed by the applicant. Incorrect comparisons are used and visualisations are not realistic. The only comparable structure is the communications tower at Sheepcotes Farm and this is 11m lower than the proposed stack and of an open lattice structure. The level of tree screening around the site has been over-estimated and the appearance of the mirrored stack at least 40m above the tree line, and in the full range of weather conditions (including at night) is not fully known.

Other matters remain uncertain including cumulative visual impact, the use of local roads as alternative access and as raised by the Parish Council previously regarding other site applications, the use of the River Blackwater.

The application should be refused. Failing that, due to the on-going planning creep associated with this site, there should be a fresh public Planning Inquiry.

In addition, there are inaccurate landscaping assessments which minimize the visual impact when compared with the reality. The only structure comparable for local reference is the Radar Tower in the vicinity, which is 12 metres lower than the proposed stack, is not 'solid' but can be seen from miles.

Additional Comments:

The EA has granted a permit with a 58m stack, but they do not and cannot take into account the landscape impact.

The applicant has failed to take on board the evidence provided by the local community that its assessment of visual impacts are wrong. At recent public events the applicant made comparisons of the stack height with the height of the Sheepcotes Tower and electricity Pylons, they are not similar in height.

The stack is approximately 10m taller than Sheepcotes Tower and the stack is a solid structure with shiny material while the tower is a lattice. The pylons do not run close to the stack as stated by the applicant, but located well to the north and would not be seen in the same field of view as the stack.

The applicant states that views of the stack would be screened by high hedges on Parkgate Road. This is false, there are only partial hedges on Parkgate Road. There would be uninterrupted views of the stack rising well above Storeys Wood.

The stack would be visible from the grounds of Rivenhall Church Grade I listed building and Rivenhall Place Grade II listed building.

The applicant has sought for many years to change the nature of the plant. At the public exhibitions the paper pulp plant was stated to operate at 130,000tpa, this is a reduction the current permit and permission are for 170,000tpa, the original was 360,000tpa. The paper pulp facility is therefore 64% smaller than permitted by the SoS.

Officer comment: The paper pulp plant would receive 170,000tpa of waste paper and produce 130,000tpa of paper pulp.

This reduction in size of the paper plant, must change the energy used by the facility, such that how will all the heat, steam and electricity be used and as the balance has changed will some be wasted.

At the public exhibitions, the applicant referred to the need to build the CHP first and could not guarantee the other elements of the “integrated” facility would be delivered. Indaver would only develop the CHP other developers would be found to develop the other elements. Taking heat to the Garden Communities was promoted, but this is speculative as North Essex Local Plan has been delayed and West Tey the closet is still 5km away.

Proposals for the site have been ongoing for 26 years. Since 2010 the recycling element of the proposals has reduced, such that now it is a large incinerator. The detail of plant is yet to be agreed under condition 19, combined with lack of certainty, the proposals should be looked at a fresh by Public Inquiry.

Officer comment: The details of plant under condition 19 relate to the exact details of plant for each element. Until the situation with respect to the EA EP is known and contractors appointed to build the various elements of the IWMF the details will not be known by the applicant. The overall external layout of the site and size of buildings is controlled through the planning permission.

FEERING PARISH COUNCIL ESS/36/17/BTE & ESS/37/17/BTE: Object on the grounds of potential and transport impacts, especially transport impacts on the current infrastructure. Object to changes in condition 2, 14, 17 and 56, proposals should be fully compliant with original proposals.

CRESSING PARISH COUNCIL ESS/36/17/BTE & ESS/37/17/BTE: Object on the following grounds:

- Consider as described by PAIN that the landscape and visual impact assessments does not properly assess the impacts of the stack.
- That the stack will be visible from many locations within Cressing
- The ZTV only shows Listed Buildings within 3km of the stack, but there are several Listed Buildings within Cressing the impact on these buildings has not been assessed.
- The impact upon Cressing Temple Barns should be carefully assessed.
- The impact upon the Essex Way within Cressing should be assessed.
- It is stated that there will be no visibly plume and yet under certain atmospheric conditions a plume would be visible.
- The use of the reflective material is untested what will happen if on construction it is not effective.
- Concern that the glint and glare from the stack has not been properly assessed with respect to impact on aviation.
- Concern that the proposals would have health impacts, as there are clear links between air pollution and serious health conditions. The NPPF requires health impacts to be considered as part of the determination. Particular concerns with respect to cadmium and thallium as the modelling shows that under certain conditions these would be dispersed over Cressing.

LOCAL MEMBER – BRAINTREE – Braintree Eastern: Any comments received will be reported

LOCAL MEMBER – BRAINTREE - Witham Northern: Objects to the applications. The planning permission was implemented with the restriction of the stack at 85m AOD, it was at the applicant's risk they started the development, it is too late to change the height now.

The assessment of landscape and visual impact does not include public vantage points from the south including the PRoW from Parkgate Road. The application states there are hedgerows on the northern side of Parkgate Road, there are only patches of hedge, such that views are possible. The Zone of Theoretical Visibility (ZTV) indicates there would be views from Rivenhall Place (Listed Building) and yet the text states there would not be views. The photomontages fail to show clearly the stack and the existing Sheepcotes Tower in the same photograph to give context to the likely impact on the observer.

Additional comments

Information with respect to the height of the stack and comparison with other structures presented at the public exhibitions was inaccurate and misleading.

The applicants made clear that the CHP would be built first by Indaver but there was no guarantee the rest would be built. Also, that the CHP had to be delivered to enable a developer to be found for the paper pulp plant and that Gent Fairhead would be responsible for all other elements of the IWMF, Indaver only developing the CHP. This raises concerns as to whether all elements of the IWMF would be built.

The paper pulp plant was listed as having a capacity of 130,000tpa when it is permitted and granted for 170,000tpa.

Details of internal processing and layout plans required under condition 19 remain to be approved after 9 years, why is this?

The reduction in paper pulp plant raises questions as to whether all the heat, steam and energy would be utilised and therefore whether there would be CHP or just an incinerator. There have been suggestions by the applicant of using the heat as part of the waste water processing on site and heating for West Tey, but this over 5km and speculative.

There is concern that the incinerator will be built without the other elements of the Integrated Waste Management Facility.

6. REPRESENTATIONS

5 properties were directly notified of the application. 5131 letters of representation have been received from 2114 representees. Representations have been received by the WPA. Representations have also been sent directly to members of Development & Regulation Committee and/or sent to the Local MP Priti Patel, all of which have been passed to the WPA for consideration.

A summary of all the points raised by representees is set out in Appendix F. These include representations from PAIN, Local Braintree District Members and CPREssex

The main issues raised (in no particular order) are:

- Health impacts
- Need for the facility
- Facility likely to discourage recycling
- Adequacy of the Landscape and Visual Impact Assessment
- Landscape and visual impact
- Impact upon Heritage Assets
- Impact upon tourism/businesses within Coggeshall
- Traffic impacts
- Planning creep - the current proposals are very different to the facility considered by the SoS in 2009/10

A local action group has been formed and the WPA has received several communications, a summarising response was received in early April 2018 and the summary from that document is set out below. Points raised by PAIN have also been summarised within Appendix F.

1. There is now no clear need for this facility: Essex recycles a significant proportion of its waste (and this figure is continually increasing), with the remaining recovered fuel incinerated in Holland and Germany at existing plants. Permitting this additional variation turns Essex into a net importer of waste as it will involve almost 137,000 additional truck movements annually (assuming 404 per day and 300 days operation as granted).

2. After due diligence from potential financial backers was carried out, funding was withdrawn which, if the facility goes ahead, could leave Essex County Council exposed.

3. The flexibility of the IWMF has been compromised due to the changes in proportion (whereby incineration was increased and other processes significantly reduced) in 2016, that were permitted without consultation with the EA. Allowing the stack variation and exposing ECC to further changes that are likely to be required seriously undermines the integrity of the planning system and the validity of any conditions placed on this and other applications.

4. The landscape and visual impact on the surrounding areas is significantly exacerbated by the nature of the Essex countryside. The flawed LVIA study ignores key receptors and has not been prepared in accordance with industry best practice guidelines: GLVIA 3. The report distorts the contribution of the stack to this landscape in terms of height and appearance. The solar glint and glare study misrepresents the reflective impact, a heritage impact study has not been provided and the applicant intends to contravene condition 17 of the 2010 Inspector's report, which specified no plume visibility.

5. The committee needs to be aware of the level of uncertainty surrounding this project some eight years since permission was granted. In the original Inspector's report, it was recognised that the applicant had not engaged with the EA at that time. The Inspector stated that any changes, including to the stack height, may not be adequate and 'may not represent good practice at that time'. This position was accepted and agreed to by the applicant at that time. It took five years for the applicant to seek a permit from the Environment Agency, even though this was a crucial element of its proposal, and within this timescale certain parameters of design were altered. We contend that many design and construction elements remain unclear now and the designs are incomplete.

6. ECC has a statutory obligation regarding the health and wellbeing of individuals who live in Essex. There have been numerous reports confirming the adverse effects that poor air quality and high levels of air pollution (such as those recorded in Braintree) have on health, particularly on that of vulnerable groups such as the young and elderly. There is no evidence that ECC is taking any action to mitigate the effects of the facility or even recognise its contribution to air pollution, which is a failure of its duty as a public health authority.

7. There is significant latency between the applied EA standards and current understanding of the impacts of air pollution, air quality and small particles with regard to asthma, dementia and other serious conditions.

8. Minimal consideration has been given to the impact on climate change with the facility producing approximately 600,000 TPA of CO² plus the significant emissions associated with transporting this amount of fuel to the facility. There is now a duty for councils to consider sustainable and climate friendly developments and the changes in capacities move the IWMF down the waste hierarchy, into "disposal to atmosphere".

9. New evidence suggests that air pollution has a significant impact on flora and fauna. The environmental statement does not comply with National Planning Policy Framework paragraph 120: the applicant should provide a comprehensive EIA assessment.

10. The River Blackwater is a protected river and is classified as over-abstracted. The applicant has indicated that a year-round abstraction licence is required to operate the facility. This would have a negative environmental impact on the river and contravene condition 19 of the current planning permission.

11. Agricultural land and the human food chain will be negatively impacted by the build-up of particulate deposits on the land.

12. As a direct impact of the facility, it is estimated that over 17 million additional truck miles will be necessary, using 8.6 million litres of diesel, generating in excess of 31,000 TPA of CO₂. The energy expended in transporting materials to and from the site will exceed that generated.

13. The EA permit has been granted but not for the facility as permitted in 2010. The 2010 design was refused a permit. In addition, the EA states that a

recommended stack height does not assume planning should or would be granted. Consequently, no weight should be attributed to the granting of the EA permit.

14. The committee needs to be aware of a serious conflict of interest caused by the fact that ECC owns the waste from Basildon; it is targeted at the Rivenhall IWMF as stated in the RLWP and ECC has waste credits for it. As a result of this, the committee will be making a decision that has the potential for significant and direct financial gain, which compromises ECC's transparency rules and effectively makes it judge and jury in this decision-making process.

15. The NPPF calls for public and community engagement, which was echoed in the scoping opinion, but there has been no engagement with the public despite numerous requests for this to take place. The committee needs to know that the amount of un-aggregated objections is almost 4,000, and there were several thousand objections to the EA permit, compared to just one or two supportive responses.

7. APPRAISAL

As set out within section 3 of the report, there are two planning applications; one a full planning application seeking to increase the stack height from 85m AOD to 108m AOD, and an application to amend the conditions of the extant planning permission. The amendment to condition 2 (application details) and condition 56 (maximum height of stack) are directly/intrinsically linked to the full application for the change in stack height. The variation of conditions 14 (plume abatement) and 56 (change in maintenance regime for the stack surface) raise alternate issues.

The majority of issues arise from the proposed change in height and therefore both applications are considered as one. Separate consideration is given to the change in plume abatement and change in maintenance regime for the stack surface.

A number of issues have been raised, following consultation, but are not directly related to the applications being considered. These issues are dealt under the following headings

- A. DETERMINATION PROCESS & ADEQUACY OF THE SUPPORTING ENVIRONMENTAL STATEMENT
- B. ECC AND THE IWMF FACILITY
- C. NEED FOR THE INCREASE IN STACK HEIGHT
- D. FINANCING OF THE IWMF
- E. RECYCLING AND ENERGY FROM WASTE
- F. ASH RESIDUES
- G. DEVELOPMENT OF ALL OR PART OF THE IWMF

The following 2 sections deal with consideration of the proposed changes to conditions 14 and 16 of ESS/34/15/BTE

- H. STACK SURFACE MAINTENANCE – CONDITION 14
- I. PLUME ABATEMENT – CONDITION 17

The further sections consider the proposals to amend the height of the stack, i.e. those that relate to both the full planning application and the amendment to condition 2 (applications details) and condition 56 (height of the stack)

- J. CONSISTENCY WITH THE WASTE LOCAL PLAN
- K. PRINCIPLE OF A WASTE MANAGEMENT FACILITY AT RIVENHALL
STRATEGIC SITE ALLOCATION IWMF2 OF THE WLP
- L. POLICIES 3 AND 10 OF THE WASTE LOCAL PLAN
- M. LANDSCAPE AND VISUAL IMPACT
- N. HERITAGE IMPACTS
- O. HEALTH IMPACTS & AIR QUALITY
- P. TRAFFIC & HIGHWAYS
- Q. LIGHTING
- R. NOISE
- S. ECOLOGICAL IMPACTS
- T. WATER ENVIRONMENT
- U. CONCLUSION WITH RESPECT TO COMPLIANCE WITH POLICY 10 OF
THE WASTE LOCAL PLAN

Other material considerations

- V. NEED FOR THE FACILITY
- W. CONSISTENCY WITH NATIONAL AND LOCAL WASTE MANAGEMENT
OBJECTIVES
- X. THE FALLBACK POSITION
- Y. UK NEED FOR ENERGY FROM WASTE
- Z. SCALE OF FACILITY AND STACK HEIGHT
- AA CLIMATE CHANGE
- BB BALANCE OF PLANNING CONSIDERATIONS

A DETERMINATION PROCESS & ADEQUACY OF THE SUPPORTING ENVIRONMENTAL STATEMENT

Many representations have stated that the current planning applications should be referred to an independent body for determination or that the applications to be referred to the Secretary of State for Housing, Communities and Local Government (SoS) for determination and/or determined by public inquiry.

While the original planning application in 2008 was "Called-In" for determination, by the SoS via a public inquiry, subsequent planning applications are not required to be determined by the SoS, they fall to be determined by the local planning authority. Thus, subsequent variations to the original decision have been appropriately determined by ECC as the WPA and have not been "Called In" by the SoS for his own determination.

An application may be required to be referred to the Secretary of State under certain circumstances (Circular 02/2009). The National Planning Casework Unit (NPCU), part of the Ministry of Housing, Communities & Local Government, has been consulted on the application as required by the EIA Regulations 2011 and the NPCU has requested that it be notified when the applications are to be

determined by the Development & Regulation Committee. Such notification has been provided on publication of this report.

The SoS, does have the option to “Call-In” the applications for his determination. If called-in, a Planning Inspector would be appointed and a Public Inquiry held. The SoS will normally advise a planning authority, prior to issue of any decision notice, whether he wishes to “Call In” the application for his determination, and thereby prevent the planning authority from issuing a decision notice. Nonetheless, in such circumstances, the SoS would normally want to know what the authority’s decision on the application (resolution) would be.

The only other circumstance under which a public inquiry would be held is if an application was refused and the applicant chose to appeal the decision. An appeal can be determined by written representation, informal hearing or a public inquiry. In view of the public interest in the current applications if there was an appeal it is likely this would be via public inquiry.

Objections have also been made on the basis that the increase in stack height should be considered as part of a full new planning application for the whole facility. When considering the current applications the WPA should take into consideration the past planning history on the site and current local and national planning policy. This would also be the case if a full planning application was made for the whole facility. In considering the current applications, the WPA has to consider the development as changed and has the opportunity to either approve or refuse the application if it considers the changes would be acceptable or unacceptable in planning terms. It is considered that the balance of planning issues would not necessarily be materially different if a full planning application for the whole IWMF facility with a revised stack height had been applied for.

Objectors consider there has been considerable “Planning Creep”. It is acknowledged that there is a long and complex planning history for the facility, which has included applications for the RCF, eRCF (now referred to as IWMF) and then subsequent S73 applications which lastly involved the change in capacities of the various elements of the IWMF. Objectors consider that “the recycling elements and the linked combination of a unit producing electricity, heat and steam and a paper pulping facility” which was considered by the Inspector to be sustainable development has been seriously undermined by the granting of the variation application/s73 (ESS/34/15/BTE) which amended the capacities of the various treatment capacities. The WPA cannot control what applications are submitted; each application has to be considered on its individual merits. All the applications have been considered against national and local planning policy in place at the time as well as other material considerations. Decisions have been issued. There has been no challenge to these decisions and therefore there is no opportunity to reconsider those decisions. The current applications must be considered on their individual merits against current national and local planning policy and other material considerations and that includes the past planning history, where relevant.

Objectors have also commented that a change to condition 56 (maximum height of stack) should not be countenanced as it was imposed by the SoS to ensure the impact from the stack was minimised and the development has been implemented

such that it should be required to comply with the condition. While conditions were imposed by the SoS, regardless of whether they were imposed by the WPA or the SoS, there is always the opportunity for an applicant to seek to amend planning conditions through a planning application, regardless of whether the planning permission has been implemented or not.

Objectors have referred to the lack of pre-application and post submission of the application community involvement. The WPA did advise the applicant that pre-application community consultation would be advisable, and in line the WPA's Statement of Community Involvement, but the WPA cannot insist on such engagement. The EA as part of the EP process did hold open drop-in sessions, in summer 2017. In December 2018, the applicant advised that it had a new partner, Indaver, to develop the facility. Indaver are developers and operators of EfW facilities in Eire and Europe and would progress the CHP element of the proposals. At the request of local parish councils, the applicant (Gent Fairhead) & Indaver held drop in sessions in January 2019 at Bradwell, Silver End and Coggeshall village halls.

Objection has been raised that the Addendum Environmental Statement is inadequate, lacking separate Heritage Assessments and Health Impact Assessment. No statutory consultees have identified that the Addendum Environmental Statement is inadequate. A separate Heritage Statement and Health Impact Assessment were included as part of the Addendum EIA. The fact that consultees/objectors do not agree with the conclusions of the Environmental Statement, does not mean that the Environmental Statement is inadequate. The WPA can come to different conclusions as to the assessed impacts of the development. A summary of the addendum Environmental Statement is provided at Appendix E. It is however; acknowledged that elements of the methodology and presentation of assessment of the LVIA could have been improved to provide clearer presentation of the impacts arising on landscape character and visual amenity.

Several objectors have referred to the fact that they believe the EA has not been consulted on all planning applications relating to the IWMF. The EA has been consulted on all planning applications associated with the IWMF and were represented at the Public Inquiry in 2009.

Concern has been raised by the action group PAIN that information presented within the supporting documentation and at the public drop-in sessions was inaccurate and misleading. The WPA in preparing this report has ensured that all information relied in upon in considering the planning issues is accurate.

In summary, there are no good reasons advanced by objectors that should prevent or deter the WPA to exercise its statutory responsibility in determining both these applications on the information currently before it.

B ECC AND THE IWMF FACILITY

ECC is both a WPA) and a Waste Disposal Authority (WDA). Concerns have been expressed by objectors that ECC as a WPA cannot be impartial, as ECC as a WDA may benefit from the development of the Rivenhall IWMF. The concerns

expressed are considered unfounded as the WPA and WDA operate independently of each other in delivering their statutory functions, as explained further below.

As WPA, ECC is required to determine planning applications with respect to waste management development. Each application has to be considered on its individual merits, in accordance with National and Local Plan policy (the WLP & BDLPR) and other material considerations. The WPA is responsible for forward (policy) planning of all waste management development which includes considering the waste arising from business and industry (known as Commercial & Industrial Waste – C&I waste) as well as for Local Authority Collected Waste (LACW).

ECC as WDA has responsibility for managing the disposal of LACW only. LACW only accounts for approximately 10 to 15% of all waste arising in Essex. Other waste includes C&I, construction, excavation, and demolition waste. Thus LACW is only a small proportion of Essex County's waste for which the WPA has to plan for.

The functions of the WDA are separate from the functions of the WPA. The WDA is responsible for the disposal of waste collected by the 12 District/Borough/ City Councils of Essex. This waste largely consists of waste collected from households, but will include some waste from business using their local authority waste services; collectively this waste is known as LACW. The WDA adopted The Joint Municipal Waste Strategy in July 2007, covering the period 2007 to 2032.

At the time of the consideration by the WPA of the planning application for the IWMF in April 2009 the WDA was basing its reference project in an Outline Business Case (OBC)-around a two site solution for the disposal of Essex's LACW, which included the Rivenhall site. A further iteration of the WDA's OBC in September 2009 amended the reference project to a single site solution based around a site over which the WDA had control at Courtauld Road, Basildon (now known as Tovi Eco Park). The WDA went to market in November 2009 for solutions for the disposal of Essex's LACW utilising the Courtauld Road site and/or alternative sites. A contract was subsequently awarded to a consortium called UBB Essex Waste Ltd and a single MBT facility has since been built at Courtauld Road and is now undergoing commissioning pursuant to that contract. Five waste transfer facilities have been established across the County by the WDA, and LACW is bulked up prior to being-transported to waste treatment and disposal facilities, including the Mechanical Biological Treatment (MBT) facility at Tovi Eco Park. The WDA contract with UBB for the treatment of residual waste is in place until 2040. The primary output from the MBT facility is either a stabilised output material for landfill, or a Solid Recovered Fuel (SRF). Currently the WDA has a contract with Suez until 2019 for the disposal of SRF via Energy from Waste plants.

In addition to this contract, the WDA has a number of short term contracts in place to provide facilities for LACW organic waste (food and green waste) and recyclable waste. The WDA is still considering longer-term solutions for LACW organic waste.

The WDA has confirmed it has no relationship or arrangements (contractual or otherwise) with the developers of the IWMF. Many objectors have raised concern that ECC is conflicted because it is also the WDA for Essex. The WDA has not acted improperly to influence the development of the Rivenhall IWMF or any decisions relating to its development. The IWMF proposal is being advanced by a private developer/applicant. In the event that the IWMF was progressed, the IWMF operator could, when new tenders are let by the WDA for the RDF, seek to bid for that contract. Such contracts are subject to competitive tendering and therefore it would be a decision for ECC as WDA as to whether a contract was granted to the IWMF at Rivenhall. Whilst currently hypothetical, the WPA would have no involvement in any tendering process or any decision to award any contract.

The WPA is aware that the MBT at Tovi Eco Park is still in its commissioning phase as the WDA alleges the facility is not operating as expected. This is a matter for the WDA and is not a factor for consideration in the determination of these planning applications.

Objectors have raised concerns that a CHP/EfW facility would discourage recycling, particularly as some districts are achieving 50% recycling of LACW within Essex. The WDA Authority has commented that *“The Essex Waste Collection Authorities (District/Borough/City Councils) have a legal obligation to provide kerbside collection service to householders, and receive payments from the WDA for every tonne recycled or composted. Thus it is in the interests of the WCA to maintain and increase their recycle rates. In addition further recovery of recyclables occurs at Waste Transfer Stations and the MBT at Tovi Eco Park operated under contract by the WDA. The Essex Joint Municipal Waste Management Strategy, which is supported by District/Borough/City Councils and the WDA, contains an aspiration to recycle 60% of LACW. Councils are continuing to develop and enhance their services to achieve this aim.”*

Objectors have also raised concerns that there is doubt over the financial funding/viability of the IWMF and that, if it failed, ECC would suffer a financial loss. As explained, the IWMF is a private merchant facility and ECC has no financial or contractual involvement in the development and therefore there is no financial risk to ECC should the development progress. Local finance considerations are therefore not relevant to the determination of these applications.

A further concern that has been raised is that the applications have been pre-determined by the fact that the Rivenhall site is an allocated site within the Essex & Southend Waste Local Plan. It must be emphasised that this is part of the planning Development Plan not the WDA Waste Management Strategy. The Rivenhall site is identified as a site suitable for both biological treatment of organic waste and further treatment non-hazardous residual waste and is allocated for such in the Waste Local Plan. However, while the site is allocated in the WLP and refers to the extant permission ESS/34/15/BTE, any further planning applications (such as those currently under consideration) have to be considered against the Development Plan including all the policies of the WLP and BDLPR and the NPPF and any other material considerations.

The Rivenhall site/IWMF does not form part of the current Waste Management Strategy prepared by the WDA.

In summary, members are advised in the same terms as the first issue namely, that these objections provide no good reason to prevent or deter the WPA from determining both these applications on the material currently before it.

C NEED FOR THE INCREASE IN STACK HEIGHT

As explained previously as well as needing planning permission, a waste management facility of this nature also requires an EP from the EA to be able to operate.

An EP application was made to the EA in November 2015, but refused in December 2016 on the grounds the application had not shown that they had used BAT. The EA considered that BAT had not been shown as higher stack heights than that permitted by the extant planning permission had not been considered. A revised EP application was submitted in March 2017 considering a higher stack height and was granted on the 11 September 2017. The main change between the first and second EP application was an increase in the proposed stack height from 85m AOD (35m above natural ground levels) to 108m AOD (58m above natural ground level a 23m increase).

The increase in stack height would provide a greater dispersion of emissions from the stack.

The principal purpose of the current planning applications is to seek to increase the height of the stack from the currently permitted 85m AOD to 108m AOD, such that the planning permission and the EP are aligned. Without the proposed increase in height the facility will not be able to operate in accordance with the issued EP. As explained previously the applicant now has a new partner who would develop the CHP/EfW element of the IWMF. Indaver are of the view that that with more advanced cleaning technology it would be possible to operate the IWMF with a stack of 85m AOD. Thus, in November 2018 the applicants submitted an application to the EA to amend the existing EP, changing the technology used and seeking to reduce the stack height to 85m AOD. Consultation on this application was undertaken in Jan/Feb 2019, and the EA requested additional information in March 2019. No date is known for its determination but not envisaged for a number of months.

If the EP were varied and allowed a shorter stack of 85m AOD then the applicant would be able to progress the IWMF on the basis of the extant planning permission. To enable determination of the current applications, it is not necessary for the WPA to wait for the outcome of the EP application; the WPA is required to determine the application as soon as possible on the basis of its planning merits and other material considerations.

D FINANCING OF THE IWMF

As explained previously, the Rivenhall IWMF is a merchant facility and not connected to any Local Authority Contract. Objectors have raised concern that the developers do not have adequate funds to develop the IWMF.

The financing of the IWMF facility is not a planning matter. There is no requirement in planning law in this case to undertake a financial viability assessment. Whether the facility is financially viable is a matter that would be considered by the applicant and any financial backers.

Nonetheless, the WPA would clearly be concerned if construction was commenced and not completed, as this could have adverse impact in terms of landscape and visual impact and other environmental impacts. The WPA has sought to address this concern through condition 66 of the existing planning permission, which seeks to ensure that construction is completed within a reasonable timescale and where not completed that details are required to be submitted to ensure the site is put to a beneficial afteruse.

In conclusion, given the existing condition that would be re-imposed if planning permission were granted, financial viability is not a justifiable reason for refusing these applications.

E RECYCLING AND ENERGY FROM WASTE

Objectors have raised concern that with increased recycling there will both not be enough waste to feed the Rivenhall IWMF and that it will discourage recycling.

The consideration of need and the capacity of the facility are discussed later in the report. Consideration here is given to whether waste incineration discourages recycling. As explained previously in section B, with respect to LACW there are incentives for Waste Collection Authorities (City/Borough/District Councils) to increase recycling.

The 25 year Environment Plan (2018) and Resources and Waste Strategy (2018), published by Central Government, also seek to reduce waste and support the further reuse and recycling of materials. The Government has recently consulted on the Extended Producer Responsibility for packaging waste, a Deposit Return Scheme for cans and bottles, a tax on plastic packaging containing less than 30% recycled content and the introduction of a consistent set of materials collected across England from households for recycling including separate weekly food waste collections for every household in England and could include free garden waste collections for households with gardens. These demonstrate Government commitment to "to overhaul the waste system, cut plastic pollution, and move towards a more circular economy." These proposed measures would have a profound effect on waste management in England and promote the movement of waste up the waste hierarchy and away from management through disposal/other recovery. This should in the future lead to greater recycling and reduction in waste and, particularly of the LACW and similar wastes generated by commercial and industrial businesses.

The WLP and its supporting evidence base demonstrated that there were adequate facilities to ensure recovery and recycling was undertaken with respect

to LACW, except biological waste treatment i.e. treatment facilities for food and green waste for which the WLP seeks to identify sites that could meet this shortfall.

Higher rates of recycling can and do co-exist with higher levels of energy recovery as is the case within Europe.

There is no justification for revisiting this issue in the context of these applications and it cannot justify any reason for refusing either of the applications.

F ASH RESIDUES

Representations have raised concerns as to the residues that would be generated from the CHP, these include both bottom ash and fly ash. The control of disposal of ashes arising from the facility would be a matter for the Environment Agency. The applicant estimates ashes and residues from the CHP would amount to approximately 160,000tpa. Of this 135,000tpa would be bottom ash the remainder fly ash and other residues. Bottom Ash can be reprocessed to create secondary aggregate. Bottom ash would need to be exported and processed off site. Fly ash is also generated and is hazardous waste and would need to be exported to a facility suitably permitted by the EA. There are no facilities within Essex at the current time. The nearest known facility is at Peterborough, but it would be for the operator to arrange a contract with a suitable permitted site.

G DEVELOPMENT OF ALL OR PART OF THE IWMF

Concern has been raised that the history of planning applications has moved the IWMF away from an integrated facility ensuring the maximum of recycling to one of mainly incineration only. In addition the recent involvement of Indaver who are an EfW operator has further exacerbated these concerns, along with acknowledgment by the applicant that the CHP element would be physically developed first. This has led to concerns that the incinerator might be developed but the remainder of the IWMF which includes the de-ink paper pulp plant, MRF, MBT and AD may not be developed at all.

The extant planning permission for the IWMF is for the whole of the development. Any change to the facility would give rise to different impacts that would need to be re-assessed, as is the case with the current applications relating to the stack. If the IWMF was progressed the site would be monitored to ensure compliance with the planning permission.

H STACK SURFACE MAINTENANCE – Condition 14

Planning application ESS/37/17/BTE includes applying for variation of condition to allow an amendment to the proposed methodology for cleaning the mirror finish of the stack.

The wording of condition 14 of ESS/34/15/BTE sets out the methodology and frequency of maintenance for the mirror finish of the stack. Due to the proposed increase in stack height the proposed extendable crane would be inadequate to reach the full height of the stack. The application seeks to amend the details,

specifically the details relating to the likely crane to be used, which would need to be different to that previously proposed in order to be able to reach the increase height.

The mirror finish of the stack would be cleaned annually. The lower sections of the stack could be cleaned when the CHP was operational, the upper section would need to be cleaned when the CHP was not operational during periods of boiler maintenance.

The proposed amended details are considered satisfactory to demonstrate the mirror surface could still be maintained at the increased height and this change would be acceptable.

It is not considered that planning permission to amend condition 14 should be withheld.

I PLUME ABATEMENT – Condition 17

Under condition 17 a Management Plan for the CHP has been approved to ensure there would be no visible plume from the stack. In assessing the change to the stack height a change has been made to the proposed flue gas treatment Materials and techniques within the plant namely, a change from bicarbonate to lime based treatment technologies. As a result the CHP Management Plan has been updated accompanied by a revised Plume Visibility Analysis.

In order to avoid a visible plume it is proposed to heat the exhaust air and the amount of heating being dependent on the predicted and forecast weather conditions. PAIN employed an independent consultant to review the plume visibility analysis undertaken by the applicant. The independent consultant considers that too much confidence is placed on the model used to predict to a high degree of certainty that the abatement of the plume can be achieved.

It is acknowledged within the applicant's analysis that there is a small chance of visible plume under certain weather conditions, but these are likely to occur between 1:00am and 10:00am, but monitoring would be undertaken to ensure additional measures were taken including reducing throughput of the CHP plant to minimise the chance of a visible plume, when these weather conditions are predicted.

The County Council's air quality consultant was consulted and has raised no objection or concerns and noted that there are monitoring protocols proposed to ensure that appropriate measures are taken to ensure mitigation is implemented.

Concern has also been raised by PAIN that the financial and environmental costs of plume abatement have not been taken account of and whether these costs are justified by the benefits. The Inspector in considering the impact of the stack relied in part on the mitigation that was provided by the lack of a plume from the stack consideration of the impact of the IWMP in 2009 and made a decision on the basis that there would be no visible plume and relied upon this mitigation when considering the acceptability of the facility to minimise its impact. The Inspector stated

"I consider that Condition 17 should be imposed. It is important that all possible measures are taken to ensure that there is no visible plume from the stack. Not only would a plume give the area a somewhat industrialised character..."

It is considered the principle of seeking to achieve no visible plume has been established and that the benefits of minimal plume visibility in landscape and visual terms are not outweighed by any financial and environmental costs of achieving this.

Concern has been raised by objectors that the Plume Visibility Analysis predicts the plume would be visible for 549 hours in a year based on weather data from 2010. This is correct, but this data represents what would be the likely occurrence of a plume without any additional abatement, but the applicant has proposed additional abatement such that the number of likely plumes has been reduced to an average of 2 a year. And other measures such as changing the feed stock when cold temperatures are proposed to further reduce the likelihood of a plume.

Based on the analysis provided, the amended CHP Management Plan would meet the requirements of the original condition 17 imposed by the Inspector and that the amended details are acceptable. The proposed management plan would ensure there was no adverse visual or landscape impact due to a plume from the stack.

It is not considered that planning permission to amend condition 17 should be withheld.

J CONSISTENCY WITH THE WASTE LOCAL PLAN

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the applications should be determined in accordance with the development plan unless material considerations indicate otherwise. This is repeated in the NPPF which states *"Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise."*(para 47)

National Planning Policy for Waste was published in October 2014 and the principles and objectives of the NPPW were incorporated into the Essex and Waste Local Plan adopted in 2017 (WLP).

The WLP sets out a number of key objectives and policies to manage waste arising in Essex and Southend. The WLP also identifies a number of sites and areas of search for waste management development where facilities to meet the identified shortfalls of management capacity within the county and Southend might be located.

The WLP 2017 was based on evidence with respect to arisings and capacities prepared in late 2015 using baseline data from 2013. Policy 1 of the WLP identifies a number of shortfalls in waste management capacity as set out below.

Policy 1 - Need for Waste Management Facilities

In order to meet the future needs of the Plan area, waste development will be permitted to meet the shortfall in capacity of:

- a. Up to 218,000 tonnes per annum by 2031/32 of biological treatment for non-hazardous organic waste;*
- b. Up to 1.95 million tonnes per annum by 2031/32 for the management of inert waste;*
- c. Up to 200,000 tonnes per annum by 2031/32 for the further management of non-hazardous residual waste; and*
- d. Up to 50,250 tonnes per annum by 2031/32 for the management of hazardous waste.*

Policy 3 (Strategic Site Allocations) of the WLP identifies a number of sites within the WLP area that would be suitable locations for treatment facilities to manage each of the identified shortfalls. One of the strategic allocations is IWMF2, the site of the current applications at Rivenhall. This was identified as a site that could be developed for biological waste management to contribute to meeting the shortfall of *up to 218,000 tonnes per annum by 2031/32 of biological treatment for non-hazardous organic waste* (Policy 1 bullet point a) and residual non-hazardous waste management to contribute to meeting the shortfall of *up to 200,000 tonnes per annum by 2031/32 for the further management of non-hazardous residual waste* (Policy bullet point c).

The background to the allocation of the Rivenhall site and the established principle of waste management development at the Rivenhall Site is explained in detail in more detail in section K below.

K PRINCIPLE OF A WASTE MANAGEMENT FACILITY AT RIVENHALL, STRATEGIC SITE ALLOCATION IWMF2 IN THE WLP.

The principle of a waste management facility at this location was first established through the previous WLP 2001 when a 6ha site referred to as WM1 was allocated. The principle of a larger site (25.3ha), with a building partly sunken below ground levels was first accepted when planning permission was granted for a Recycling and Composting Facility (RCF)(ESS/38/06/BTE - this permission subsequently expired as it was not implemented in time in 2009). The application for the evolution Recycling and Composting Facility (eRCF), now referred to as the IWMF (ESS/37/08/BTE), was on the same footprint as occupied by ESS/38/06/BTE but changed the mix/size of the waste management processes on the site and extended these to include the CHP facility and the MDIP plant. The IWMF had the same size building as the RCF, however, the nature and size of plant to the rear/south of the main building changed, which included the CHP plant with an 85m AOD stack. The 2008 application for the IWMF was granted by the SoS in 2010, following a call-in public inquiry.

The SoS, in considering the 2008 application took account of the WLP 2001 and National Planning Policy for Waste in force at the time PPS10 (now superseded). The locational criteria of PPS10 included consideration of the following factors; protection of the water environment, landscape and visual impacts, nature conservation, historic environment and built heritage, traffic and access, air emissions, including dust, odours and vermin and birds, noise, vibration, litter and potential land use conflict. All of these factors were considered by the WPA when

resolving to grant permission for the original IWMF application and were considered by the Inspector as part of the Public Inquiry into the IWMF.

In 2015 a variation application (ESS/34/15/BTE) was submitted and determined in February 2016. This application amended the physical size and arrangement of some plant, but was largely contained within the same envelope of space as that occupied by the permitted IWMF. The height of the stack remained unchanged at 85m AOD.

The 2015 application was considered against the WLP 2001, NPPF 2012 and NPPW 2014 (which superseded PPS10 in 2014) and the emerging evidence base for the Replacement WLP.

As part of the work supporting the emerging Replacement WLP, the IWMF site (25.3ha) was assessed alongside many other sites as to its acceptability for waste management development. Within the Pre-Submission draft RWLP March 2016 the site was identified as a Strategic Site Allocation for both “Biological Waste Management” and “Other Waste Management”.

The Essex & Southend Waste Local Plan adopted in July 2017 identifies the Rivenhall site as Strategic Site Allocation IWMF2 for biological waste management and for residual non-hazardous waste management establishing the principle of the location through the local plan process. Any permission would be conditional on compliance with the relevant Development Management policies contained within the WLP and the Development Principles for the site enunciated in Table 17 of Appendix B of the WLP.

Some residents have raised concern as to the proximity of the facility to populated areas, particularly in terms of the potential emissions from the facility and traffic impacts. The potential impacts, including health and traffic impacts, will be considered in more detail later in the report. However, the principle of the location for biological treatment and for management for residual non-hazardous waste management has been established through the WLP process including Examination in Public.

It is therefore considered that, through previous planning permissions and the allocation of the site within the WLP, the principle of a waste management facility on the application site has been long established.

However, the extant permission for the IWMF permitted a stack height of 85m AOD and given the current application now seeks to increase the height to 108m AOD it is necessary to consider whether the facility with such a height would deliver sustainable development and would not give rise to unacceptable environmental impacts, as per local and national planning policy.

L POLICIES 3 and 10 OF THE WASTE LOCAL PLAN

Policy 3 of the WLP identifies locations where waste management development will be permitted providing proposals take into account the relevant development principles, set out in Appendix B of the WLP (reproduced in Appendix L). These

development principles are to be referred to in the consideration of the various environmental issues where relevant.

Policy 10 states *“Proposals for waste management development will be permitted where it can be demonstrated that the development would not have an unacceptable impact (including cumulative impact in combination with other existing or permitted development) on: inter alia*

- a. local amenity (including noise levels, odour, air quality, dust, litter, light pollution and vibration);*
- b. water resources*
- f. aircraft safety due to the risk of bird strike and/or building height and position;*
- g. the safety and capacity of the road and other transport networks;*
- h. the appearance, quality and character of the landscape, countryside and visual environment and any local features that contribute to its local distinctiveness;*
- i. the natural and geological environment (including internationally, nationally or locally designated sites and irreplaceable habitats);*
- m. the historic environment including heritage and archaeological assets and their settings; and*
- n. the character and quality of the area, in which the development is situated, through poor design.*

Where appropriate, enhancement of the environment would be sought, including, but not exclusively, the enhancement of the Public Rights of Way network, creation of recreation opportunities and enhancement of the natural, historic and built environment and surrounding landscape.

The applications fall to be considered against policy 10 even though the site has been allocated in the WLP. The sections below consider the relevant policy criteria listed above as well as any other material considerations.

M LANDSCAPE AND VISUAL IMPACTS

Policies of the BDLPR, WLP, NPPF and NPPW seek to protect against adverse impact upon Landscape and Visual Amenity from development.

The NPPF requires the planning system (paragraph 170) to *“contribute to and enhance the natural and local environment”* and to recognise the intrinsic character and beauty of the countryside its focus is on designated and *“valued landscapes”* i.e. those that are subject of statutory designations or have some other special qualities. The Rivenhall site and its landscape setting is not subject to any statutory landscape protection designations and is not considered to form a valued landscape for these purposes although it is no doubt valued by many of its local residents who have objected on landscape impact grounds. The Blackwater Valley across which the access road crosses was a Special Landscape Area under the BDLPR, but policies in relation to this local designation have been deleted.

Appendix B of the NPPW sets out locational criteria which includes inter alia

landscape and visual impacts: Considerations will include (i) the potential for design-led solutions to produce acceptable development which respects landscape character; (ii) the need to protect landscapes or designated areas of national importance (National Parks, the Broads, Areas of Outstanding Natural Beauty and Heritage Coasts) (iii) localised height restrictions.

Policy RLP 80 of the BDLPR states new development “...should not be detrimental to the distinctive landscape features and habitats of the area such as trees, hedges, woodlands, grasslands, ponds and rivers. Development that would not successfully integrate into the local landscape will not be permitted”.

WLP policy 10 states “Proposals for waste management development will be permitted where it can be demonstrated that the development would not have an unacceptable impact” along with other factors on “the appearance, quality and character of the landscape, countryside and visual environment and any local features that contribute to its local distinctiveness...”. The WLP acknowledges in its text the potential that waste development can have with respect to landscape and visual impact - “The visual impact experienced as a result of the development of waste management facilities on the landscape and townscape is a key consideration when deciding planning applications. It is important to protect Essex and Southend-on-Sea’s landscape and townscape for the sake of their intrinsic character and beauty.”

In 2009, in considering the landscape and visual impact of the original proposals, the Inspector took into account a number of factors including the existing landscape character and the proximity of existing properties and PRow. It was noted that there are only a few residential properties located in close proximity to the site. The Inspector considered the impact of the various elements of the proposal including the buildings and plant themselves, the stack, the access road and the proposed lighting. The Inspector took account of the proposed mitigation, including the part sunken nature of the buildings and plant, proposed landscape planting, the reflective finish of the stack and the measures proposed to minimise light pollution. With respect to the stack specifically the Inspector reported at para 6.82 the following:

The development of the CHP capacity necessarily involves the provision of a chimney stack. It is acknowledged that this would be a noticeable addition to the landscape, and would be visible over a wide area given the Site’s location on a high, flat plateau. However, it would be seen only as a small element of the overall view, although it is accepted that users of FP8 in particular would be conscious of the presence of the stack and associated plant. The impact of the proposed stack would be mitigated by:

- (i) the quality of the landscape in which it would be sited and its reduced sensitivity to change;*
- (ii) the lowering of the stack into the ground resulting in height of only 35m above ground level;*
- (iii) the cladding of its upper part in stainless steel with a reflective finish to mirror surrounding light and weather conditions, which would help to minimise the perceived scale of the stack and its visual impact;*
- (iv) the presence of existing and proposed additional woodland to the south - it would protrude about 20m above the average height of the retained existing trees;*

(v) *its remoteness from sensitive receptors; and,*
(vi) *the absence of a visible plume.*

And concluded as follows

“In conclusion on the overall subject of the impact on the landscape, it is accepted that visual harm is inescapable in the context of the provision of a major waste management facility. However, the issue is one of degree. The degree of harm that would result in this instance is remarkably limited. The low levels of visual impact arising from such a large-scale proposal confirm that this site is ideally suited to the proposed use.”

The different mitigations previously proposed are not proposed to change as a result of the increase in stack height. However, the applicant has proposed to provide a fund for planting off site, such that a landowner could seek funding for additional planting to improve screening of more distant views of the stack.

The details of the finish for the stack have not changed and the detail of the material remains as permitted under condition 14 in February 2016 that of a mirror finish, which would reflect the surrounding sky conditions, stated by the applicant to create an “optic cloak”.

The current applications are supported by a Landscape and Visual Impact Assessment (LVIA) as part of the Environmental Statement. The LVIA was considered to be deficient in some respects. The overall conclusions of the LVIA are that the significance of effects on landscape character would remain as before “Minor Adverse” and concluded the impact upon visual receptors *“would only increase its prominence in views from those receptors in close proximity to the stack (limited to Footpath No. 8)”*.

The applicant represented the visual impact assessment from the previous application with only minor changes; there was no systematic reconsideration of the views from each viewpoint only a discussion of the visual impact from the previously identified receptors. The LVIA concluded the impact upon receptors *“would only increase its prominence in view from those receptors in close proximity to the stack (limited to Footpath No. 8)”*

The County’s landscape advisor questioned these conclusions particularly as the LVIA lacked a clear assessment of the proposed impact of change of the increase in stack height; also that the change in height was likely to make the stack more visible over a wider area. Concern was also expressed as to the mirror finish; it was agreed that mitigation was required, but that the effect of the mirror finish might give rise to reflections of bright skies/sun and potential for glare.

Similar concern was raised by objectors, and PAIN considered that the comments put forward by its Landscape advisor as part the Scoping Opinion had not been appropriately addressed.

The WPA commissioned an independent review of the LVIA and the review found the LVIA was lacking in a number of respects. The independent review considered there was a lack of explanation of the detailed methodology, the presentation of

the assessment of impacts was not presented clearly and, while photomontages had been provided showing the increased height in stack, it was considered these photomontages should have been confirmed by way of a physical marker at the height of the proposed stack to confirm the photo montages were representative of the likely impact.

The applicant chose to provide an Addendum LVIA to respond to these criticisms and additional assessment was undertaken. In November 2017 an extendable crane was placed on site and the crane arm extended to the height of the proposed stack. Additional photographs were taken at those locations previously used and at additional locations. The photographs of the crane in the majority of cases confirmed that the location and height of the stack was correctly shown within the previous photomontages. The conclusions of the LVIA remained the same, that there would not be a significant impact from the increased stack on landscape character or visual amenity, except in close proximity to the stack.

The County's advisor disputes the description of the existing landscape character as one of industrial. Too much reliance is considered to have been placed on the area having an industrial character. While additional viewpoints were considered, there remained no systematic assessment of the visual impacts from each viewpoint.

Many objectors have referred to the fact that LVIA and Addendum LVIA are flawed and do not adequately assess the impact on landscape character and visual impact.

The applicant has referred to the industrialising effect of the previous airfield use, and several businesses in the area, including a road sweeping business, scrap yard and Polish Camp Industrial Estate and reference is also made to the on-going mineral extraction. While it is acknowledged that there are isolated commercial type activities around the site, it is not considered that this justifies the description of the area being an industrial landscape.

This is supported by the Inspector in his general description of the area in 2009, which did not make reference to the "industrial" nature of the landscape only some commercial activity (paras 13.24 and 12.25). His general description is set out below.

The site is situated in an area of primarily open, flat countryside, which allows long distance views from some locations. The character of the site and its immediate surroundings is heavily influenced by the remains of runways and buildings from the former Rivenhall Airfield; the nearby excavations at Bradwell Quarry; and blocks of woodland immediately to the south and east of the proposed location of the IWMF. The wider landscape beyond this area comprises gently undulating countryside, characterised by large open fields, small blocks of woodland and discrete, attractive villages. The existing access to the quarry, which would be used to provide access to the IWMF, passes through the Upper Blackwater Special Landscape Area.

The site of the proposed IWMF and its immediate surroundings is not subject to any special landscape designation and is not, in my judgment, an area of

particularly sensitive countryside. Its character as Essex plateau farmland has been degraded by the airfield infrastructure, the nearby quarry and isolated pockets of commercial development in the locality.

The airfield runways and buildings have slowly been removed through mineral extraction, the mineral workings where restored have been returned to agriculture and woodland and this is ongoing to include areas of biodiversity and a water body; the consequence of this is that in the long-term the landscape character would be improved.

In view of the different baseline description of the landscape character of the area, the County's Landscape advisor is of the view that *"the effect on landscape character will be Minor to Moderate adverse at distances up to 2km from the site. Beyond this whilst the presence of the stack will be apparent in many locations and for many receptors its impact on landscape character will be reduced by its lesser dominance due to distance."*

With respect to visual impact the County's Landscape advisor considers *"that the wider visual impacts arising from the stack will be more significant than the assessment within the addendum to the LVIA indicates. This states that for most receptors the visual impact from the increase in stack height will remain unchanged (from the previous height/assessment) and will remain at a 'minor adverse impact', some receptors will experience a moderate adverse impact and after 15 years this will reduce to minor and negligible. Given that the scope for visual mitigation in the wider landscape is limited I remain to be convinced that this reduction in visual impact over the 15 year period would occur"*

Objectors have raised objection to the landscape and visual impact of the increased height in the stack. PAIN also sought an independent review of the Addendum LVIA by landscape architects and these advisors consider the LVIA to be deficient. They raise similar concerns to those of the County's advisor and are summarised as follows:

- the descriptions and assessments within the LVIAs are brief and they do not provide sufficient levels of detail to enable a thorough understanding of the landscape character of the site and its visual amenity, or the effects on the wider landscape.
- the 2018 LVIA has not been prepared in accordance with the current recognised industry best practice guidelines: Guidelines for Landscape and Visual Impact Assessment Third Edition 2013,
- The baseline used for the character assessment uses the premise that the site for the proposed IWMF and its surrounding environs is industrial in character. The assessment does not rely on the Essex & Braintree Landscape Character Characterisations.
- The LVIA is considered to not include sensitive receptors including public rights of way.
- The impacts have been underestimated and "It is inconceivable that a stack which is 23m higher than the original proposal would not have a greater effect on landscape and visual receptors."

- Based on the available data it was considered the impact was at least of moderate impact and considered significant in EIA terms and as such should be given particular consideration.
- The effect of glint and glare do not appear to have been taken account of in the LVIA.
- Overall, it was considered that the LVIA accompanying the application provides insufficient detail to enable a comprehensive and robust judgement to be made regarding the effects of the proposed development on landscape character and visual amenity.

Objection has been raised that the increased areas of the mirror finish due its increased height would exacerbate the visual impact through reflection of night lighting of the facility below the stack and glint and glare from the sun being reflected during the day.

With respect to the lighting of the facility the lighting details for use during operation of the IWMF are required to be submitted under condition 44 of planning permission ESS/34/15/BTE. The condition sets out the parameters for the lighting including maximum lux levels and in particular that all lighting shown be designed to minimise light spillage from the site. The reflective surface of the stack is only to be implemented on the stack from 60m AOD to the top at 108m AOD. This would be above the height of the surrounding buildings within the IWMF, such that the potential for reflection of any lighting from the facility itself would be minimised. In this respect the proposals are considered to be in accordance with the specific local amenity (light pollution) criteria of WLP policy 10 and BDLPR policy RLP 65.

The applicant was asked to consider the potential for glint and glare from the sun shining on the stack. It was acknowledged that due to the increase in stack height there would be longer periods for potential or glint and glare from the stack. The glint and glare assessment used a modelling technique. All receptors (residential, Public Rights of Way, Roads) identified for the LVIA assessment were considered and calculations undertaken as to the likely periods for solar reflection. Reviewing the data overall most receptors would experience a doubling of the period for potential for glint and glare, on average increasing from increasing from 14.44 minutes a day to 27.96 an increase in 13.51 minutes. The greatest increase was at Woodhouse Farm (not in residential use) and views within 500m of the stack. Taking those locations out of the average reduced the increase in minutes of a solar reflection caused by the increase in stack from of 3.1 min to 21.6 minutes; however, it is acknowledged that in most cases there was a doubling of the period likely for solar reflection. It is noted in the assessment that a convex shape, which the stack is, creates the longest solar reflection, as opposed to flat or concave. The intensity of solar reflection at Woodhouse Farm is considered to be “green – low potential for after image” i.e. acceptable when considered against the criteria for solar glare developed with respect to glare for pilots on an approach to a runway.

The Addendum LVIA 2018 does not record that it has taken account of the doubling in the solar reflection within the assessment of visual and landscape character impacts.

The Glint & Glare Assessment report has been reviewed by independent landscape consultants, commissioned by PAIN. The consultants have criticised the report on various grounds: that the assessment is based on potential for impacts on aviation, as opposed to residential amenity, and thus difficult to assess what would be considered a significant effect on residential amenity; that practical mock ups should have been provided of the mirror material to assess its impact, and that a doubling of the solar impacts caused by the increase in stack height would result in “substantial amounts of time”, particularly the impact on sensitive receptors. It also criticised that the report only considered the impact of the increased stack, rather than the stack as a whole. Whilst the ‘fallback position’ is considered later in the report, it should be recognised that a stack of 85m with a mirror finish was considered and found acceptable by the Inspector in 2009 based on the information considered at that time.

It was acknowledged by the Inspector that in terms of the impact on the character and appearance “*the stack would be a noticeable and substantial feature*”, but this considered a stack 23m shorter than that now proposed.

It is considered overall that, in light of the County’s landscape advisor comments, which are supported by those of the independent review undertaken by PAIN, the submitted LVIA (including the Addendum) has not followed the accepted methodology for assessment of landscape and visual impacts and thus its conclusions cannot be relied upon in terms of determining the Landscape and Visual impacts arising from the increase in stack height.

It is therefore considered that the proposals are not in accordance with Policy 10 of the WLP in that it has not been adequately demonstrated that the increase in stack height together with the increased area of the reflective cladding would not give rise to unacceptable impacts with respect to landscape character and visual impacts. The proposed stack is also considered to be contrary to BDLPR policy 80 in that its prominence “*would not successfully integrate into the local landscape*” and does not respect the local landscape character as required by the NPPW. The stack is considered by the County’s Landscape advisor (based on the information available) to give rise to minor to moderate impact up to 2km on landscape character and that “*the wider visual impacts arising from the stack will be more significant*” than assessed with the LVIA, also that mitigation after 15 years may be less than anticipated. The landscape and visual impacts need to be taken into consideration when considering further the balance of planning issues.

N HERITAGE IMPACTS

Section 66 (1) of the Listed Buildings and Conservation Areas Act 1990 (LBCA) states, inter-alia that; in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

The NPPF states in paragraphs 190 to 197 that heritage assets are an irreplaceable (and therefore finite) resource and should be conserved in a manner appropriate to their significance and notes that any harm or loss should require

clear and convincing justification. It requires applicants to describe the significance of heritage assets including any contribution made by their setting.

The NPPF defines at page 71 the “*Setting of a heritage asset*” as “*The surroundings in which a heritage asset 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.*”

The NPPF defines at page 71 “*Significance (for heritage policy)*” as “*The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset’s physical presence, but also from its setting.*”

The planning authority in accordance with the NPPF guidance is required to:

Para 190. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.

Para 192. In determining applications, local planning authorities should take account of:

a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; ...

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

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

Para 197. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset...

Case law¹ has clarified how development affecting the setting of a listed building should be considered. The Courts have confirmed that, even where the harm to significance is found to be less than substantial, a decision maker who follows the balancing approach recommended in para 193 of the NPPF must, when performing that balance, give “*considerable importance and weight*” to any harm to the setting of a listed building and to the desirability of preserving that setting without harm and start with a “*strong presumption*” that harm to the setting of a listed building should lead to a refusal of planning permission.

The BDLPR seeks to protect Listed Buildings and their settings through policies RLP 99 (Demolition of Listed Buildings), RLP 100 (Alterations and Extensions and Changes of Use to Listed Buildings, and their settings). Policy RLP 101 states “*The Council will seek to preserve and enhance the settings of listed buildings by appropriate control over the development, design and use of adjoining land.*” BCS also seeks to protect the historic environment Policy CS9 includes “*The Council will promote and secure the highest possible standards of design and layout in all new development and the protection and enhancement of the historic environment*”.

The WLP seeks to protect heritage assets through policy 10 which seeks only to permit development where it would not have an unacceptable impact on the “*...historic environment including heritage and archaeological assets and their settings...*”

It is important therefore to set out the starting point when considering the impact of the development upon the setting of Woodhouse Farm, a Grade II listed building. As determined by the courts, S66(1) of the LBCA is more than a material consideration. When it is considered that a proposed development would harm the setting of a listed building, that harm must be given considerable importance and weight².

The application is supported by a Heritage Statement and has considered all Heritage Assets within 3km of the stack. Heritage Assets beyond 3km were not considered by the applicant on the basis that any visual impact would not be significant. The Heritage Statement has considered the significance of each asset within 3km and then assessed the impact of the change in stack height on the heritage assets and their setting.

With respect to Woodhouse Farm (the closest heritage asset) the Heritage Assessment states

“A Heritage Statement (Buildings) was prepared for Woodhouse Farm in 2015 (JDPP 2015) described the buildings as ‘...excellent vernacular buildings; part of the Essex pattern of timber-framed buildings’, whilst noting that they were (and continue to be) unoccupied and derelict. The area around the buildings is generally wooded, serving to separate the site physically and visually from the nearby World War II airfield perimeter track and buildings and the more recent

¹ Most notably East Northamptonshire DC v SSCLG [2014] EWCA Civ 137 (Barnwell Manor wind turbine case) as further explained by the High Court in R (Forge Field Society) v Sevenoaks DC [2014] EWHC 1895 (Admin) (Penshurst Place affordable housing case)

² Glidewell L.J.’s judgment The Bath Society v. Secretary of State for the Environment [1991] 1 W.L.R. 1303

mineral extraction operations. The wider setting of this group of assets can be interpreted as developing from a historically rural landscape of small fields which was considerably altered in World War II with the construction of the airfield and is now within a largely industrialized landscape of mineral extraction. The extant wider setting of this group of assets is not therefore considered to contribute to the significance of the assets. The stack will (as before) be visible from Woodhouse Farm and the proposed variation in stack height will lead to less than substantial harm on the designated asset'."

The statement goes on to conclude "*The current derelict condition of the building is considered to detract from the setting of this group of assets. However, Woodhouse Farm will be redeveloped, refurbished and brought back into beneficial use as offices and a visitor/heritage centre as part of the IWMF works. This will eventually support in mitigating the overall change in setting.*"

The applicant's heritage statement concludes that with respect to Woodhouse Farm complex that "*The stack will (as before) be visible from Woodhouse Farm and the proposed variation in stack height will be visible from the Woodhouse Farm complex but will not impact on the key factors from which this group of assets derives its significance. Given the current physical setting and condition of this group of assets the proposed reuse and landscaping associated with the IWMF are an improvement, and thus are considered to mitigate any overall change. The overall effect of increasing the height of the stack is considered Neutral and thus will lead to less than substantial harm on the designated asset.*"

The Woodhouse Farm, Bakehouse and Water Pump are all Listed Buildings and are in a poor state of repair. The tiled roof has been replaced with a metal roof and the windows made weather proof with shuttering, the property has been unoccupied for a number of years. The Bakehouse/Brewhouse is surrounded by scaffolding and metal cladding to prevent further deterioration but there is no roof and only remains of the walls exist. The Listed pump has been removed for safe keeping. The proposals for the IWMF include reuse of the Woodhouse Farm for offices and a room to be made available for recording the heritage of the area. Other buildings of the Woodhouse Farm complex are to be refurbished as part of the IWMF.

The Inspector in 2010 noted when considering the impact of the stack at 85m AOD on Woodhouse Farm that "*The stack, whilst noticeable above the trees from within the vicinity of Woodhouse Farm, would amount to a modest part of the wider view.*" And "*In summary, the proposed parking and CHP stack would not have a significant adverse impact on the setting of nearby Listed Buildings and the benefits of restoration would far outweigh the resulting impacts.*"

Historic England have made no comments and advised ECC to rely on local advisors. ECC County Historic Building advisor has commented "*...the extra height would further exacerbate the sense of overlooking and intrusion which the stack already created, and would further emphasise the fact that the open agricultural environment in which the assets are experienced, and which contribute to an understanding of their significance, would be considerably and harmfully altered. The stack would already have been a dominant feature in the landscape, and by increasing its height its intrusion and unsuitability is only accentuated. The*

level of harm caused by the stack is therefore considered to be moderate to high, the increase in the level of harm caused by the proposal to raise the height of the stack is considered to be minor to moderate."

The County's Historic Building Advisor has also commented "*The harm is aggravated by the choice of finishing material. The mirrored surface, which is likely to glow when hit by the sun, would accentuate its visual presence.*" The mirror finish has also been questioned by ECC's Urban Design advisors while they acknowledge that it is likely more a landscape issue than an urban design issue due to the location of the site, they also question the suitability of the mirror finish in view of the greater height of the stack and consider the chosen finish may amplify the appearance of the stack.

These points were raised with the applicant and a consideration of a different finish requested to be considered, the applicant considered different finishes but the applicant has chosen not to change the finish of the stack.

The concern of "glow from sun" as raised by the County's Historic Building Adviser is borne out by the conclusion of the Glint and Glare assessment submitted by the applicant. The "Glint and Glare Assessment" is discussed in more detail within the Landscape and Visual Impact section. However, it is noted here that the assessment did identify that the solar reflection would be longest at Woodhouse Farm with a doubling of the period for potential solar reflection from 101 minutes a day to 211 minutes a day.

The Heritage Statement in considering Heritage Assets that are more distant to the stack concluded the impact of the change in stack height was neutral/negligible except for Rook Hall, where it was assessed the impact would be slight adverse, due to there being little screening between the stack and the asset.

Objections to the application have included concerns with respect to the impact of the stack on Heritage Assets. In particular, concerns have been raised that the Heritage Statement/Assessment undertaken is not adequate; however, ECC Historic Advisors are satisfied with the Heritage Statement submitted. Concern has also been raised by objectors as to the impact upon the Conservation Areas of Silver End and Coggeshall. With respect to Coggeshall attention has been drawn to the fact that an application for residential development on the north west side of Coggeshall was refused on appeal in 2017 in part on heritage impact grounds. The Inspector noted in his report that there would be an adverse impact on the Conservation Area (CA) when approaching from the west. The development in that case would be visible as approaching the CA. While it is acknowledged that the stack would be visible from Coggeshall, this would be when leaving the CA rather than on the approach and the Zone of Theoretical Visibility (ZTV) shows that there would have likely been views of the stack at 85m AOD. It is acknowledged that policies of the BDLPR do seek to protect the setting of CAs, but it is considered from West Street there are likely only to be distant views of the stack on the horizon, with views within the CA between building and trees. In conclusion the impact upon the CA is not such that this issue would warrant refusal of planning permission.

The Silver End CA does not extend to whole of Silver End village such that there are buildings within Silver End between the CA and the edge of the village. From the applicant's drawing of the ZTV the CA does not abut the ZTV for most of its boundary, except in the north east where views from Wolverton Listed Building within the CA are possible. Therefore, for the majority of views from the CA, the stack would either not be visible or would be visible as being at a distance. So a similar conclusion is reached that a reason for refusal on this ground is not warranted.

Overall the applicant's Heritage Statement concludes "*The importance of the designated heritage assets within the study area can be seen to largely derive from the following factors; their age (survival), associations as groups of assets and architectural value. Many of the assets are working farmsteads so the relationship with the landscape is less specific/more generic than it would be if they were part of a designed landscape. The wider rural setting is acknowledged as being visually appealing but does not particularly contribute to the significance of the heritage assets; i.e., the character of the landscape is incidental to the significance of the assets rather than integral to it.*"

Objection has also been raised with respect to the fact that consideration has not been given to the setting of two Ancient woodlands within the vicinity of the site being Storeys Wood and Link Wood. However, the setting of these Ancient woodlands is not considered to be an important element of their listing, mainly deriving from the age of the woodlands.

In conclusion, with respect to the majority of Heritage Assets, it is not considered that the increase in stack height would have an impact upon the setting of these assets that would cause harm. However, it is acknowledged that the increase in height, together with the use of the proposed reflective material, would cause harm, albeit less than substantial harm, to the setting of Woodhouse Farm and its associated buildings. It is therefore necessary in accordance with the NPPF para 196, to consider whether the public benefits of the proposals outweigh the less than substantial harm.

Woodhouse Farm and associated listed Buildings are in a poor state of repair and in no beneficial use. The proposals for the IWFM include refurbishment of Woodhouse Farm and its buildings and bringing them into a beneficial use which would ensure their ongoing maintenance, including providing a Heritage Space/Recording room/public meeting room, thus facilitating greater public access to the buildings than currently. The proposals for refurbishment of the buildings have been found to be acceptable through the grant of a Listed Building application approved by BDC (Ref: 15/01191/LBC).

It is appropriate to consider the Inspector's view from the 2009 Inquiry with respect to the impact of the stack on Woodhouse Farm. The Inspector wrote in (paragraphs 6.133 to 6.13135) as follows

The stack, whilst noticeable above the trees from within the vicinity of Woodhouse Farm, would amount to a modest part of the wider view.

Albeit limited weight attaches to draft PPS15, there was no dispute that the benefits of the proposed eRCF in terms of low carbon energy production and the extent to which the design has sought to contribute to the distinctive character of the area should weigh positively so far as impacts on listed buildings are concerned. The climate change issues found in draft PPS15 however are required to be considered by the PPS on Planning and Climate Change (Supplement to PPS1).

In summary, the proposed parking and CHP stack would not have a significant adverse impact on the setting of nearby Listed Buildings and the benefits of restoration would far outweigh the resulting impacts.

In addition the Inspector in commenting on concerns raised by objectors with respect to the setting of the Listed Building commented (paragraphs 7.43 to 7.45)

Woodhouse Farm is listed as a building at risk. It is in urgent need of care yet there is no proposal or prospect of any care being given to it apart from the eRCF or RCF proposals. Witnesses for the Local Councils Group and the Community Group accept that in principle the proposed refurbishment and re-use of the Farmhouse is a benefit. The form, specification and merits of any listed building application would be assessed by Braintree DC as the local planning authority. The quality of the restoration is therefore in that objector's hands.

The main issue of concern to objectors appears to be the effect of the chimney on the setting of the listed buildings. However, the chimney would only be seen in certain views and would be some distance away from the building. Overall the setting of the listed building would not be adversely affected. Notwithstanding this, the much needed refurbishment of the fabric of the listed building that would be brought about by the proposals would outweigh any harm to its setting.

The choice is between further decay of the listed building, or restoring it and bringing it back into active and beneficial use, when it would be seen and enjoyed by members of the public visiting the site. The effect on the listed building is therefore positive overall.

It is has to be recognised that the Inspector with a stack of 85m AOD considered that the harm to the setting of Woodhouse Farm was outweighed by the benefit of the restoration of the 3 Listed Buildings (Woodhouse Farm, Bakehouse and Water Pump).

The County's Historic Building advisor considers the impact of the change in height of the stack and the increase in area of the proposed mirror finish amounts to "minor to moderate" and it is therefore considered the additional harm, is one of less than substantial harm. It is therefore necessary to consider whether this less than substantial harm, it still outweigh by the wider public benefits or other material considerations of the proposals.

It is acknowledged that with respect to the shorter permitted stack the Inspector concluded that the benefits of the restoration and active and beneficial use of the building where it would be enjoyed by the public were outweigh by the harm to the buildings setting. However, with the increase in stack height it is considered that

this enjoyment would be undermined. When viewed from Woodhouse Farm the stack would be a dominant and overbearing structure detracting from the setting of the building and its enjoyment.

One of the development principles for IWMF2 of the WLP is that *“The impacts from the proposal need to be addressed on the designated buildings located in the vicinity - especially on the setting of the Woodhouse Farm Listed Building”*

The permitted 85m stack would rise above the existing woodland adjacent to Woodhouse Farm by approximately 20m (20m x 7m diameter = 140m²), the proposed stack would extend a further 23m (total 43m) more than doubling the visible element of the 7m diameter stack within the setting of Woodhouse Farm (43m x 7m diameter = 301m²). The choice of reflected finish (which has not been amended as part of these proposals) is considered by the County's Listed Building advisor to likely accentuate the intrusion when reflecting sunlight.

The Inspector in 2010 concluded with respect to Woodhouse Farm that:

Paragraphs 13.118 to 13.119

There can be no doubt that the proposed development would cause some harm to the setting of the Listed Building complex at Woodhouse Farm. The close proximity of such a large development, with its associated lighting and parking facilities, and the visible presence of the chimney stack would have some detrimental effect upon the rural setting which the building presently enjoys.

...

More importantly, I am mindful that the Woodhouse Farm complex is in an extremely poor state of repair and that the site of the complex is overgrown, derelict and untidy. The proposal to refurbish the buildings and bring them into meaningful use would, in my judgment outweigh any harmful impact on the setting of the complex that would be caused by the IWMF development.

However, the Inspector in making these comments was considering a scheme with different wider public benefits. The components of the IWMF providing recovery and recycling have been greatly reduced by the reduction in size of the AD, MRF, MBT and MDIP, with less capacity to move waste management up the waste hierarchy.

It is considered that the increase in visibility of the stack would create an industrial, overbearing and dominant feature in the setting of Woodhouse Farm. While the restoration of the Woodhouse Farm complex Listed Buildings would be a public benefit, the enjoyment of the restored buildings would be detracted by the negative contribution to the setting of the Listed Building by the increased visibility of the stack. The wider public benefits of the IWMF have been eroded by the 2016 permission and other material considerations such as need for the facility, which are discussed in more detail later, have a greater weight in the planning balance. As such it is considered the less than substantial harm to Woodhouse Farm, which has been exacerbated by the increase in stack height is not outweighed by the

public benefits of the overall proposals and therefore would be contrary to the WLP policy 10, BDLPR policy 101, the NPPF and LBCA.

O HEALTH IMPACTS AND AIR QUALITY

There is strong objection to the development of the CHP/incinerator element of the IWMF with many letters of objection raising concerns as to health impacts of the proposed facility including impacts from emissions from CHP/EfW element and emissions from the HGV traffic that would visit the facility.

Objection letters have made reference to research that indicates that pollution from incinerators have adverse health impacts, causing increased Dementia, Parkinson, cancers, respiratory diseases, low birth weights and pre-term birth and increased mortality particularly in vulnerable groups, such as the young and elderly.

It should be noted that the responsibilities regarding emissions/air quality and impact on human health fall into various regulatory remits, primarily through the ES's permitting regime and in part through the planning and Environmental Health controls. In simple terms the EA are responsible for setting and enforcing emission limits from the operations of the IWMF including emissions from the stack. The WPA in conjunction with the BDC Environmental Health Officers, are responsible for ensuring there are no unacceptable impacts from other activities (e.g. construction phase and traffic).

The role of the WPA and the EA is set out in paragraph 183 of the NPPF :
'The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.'

Additionally, the NPPW 2014 states under para 7 “

Waste Planning authorities 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”.

And

“...consider the likely Impact on the local environment and on amenity ...Waste Planning Authorities should avoid carrying out their own detailed assessment of epidemiological and other health studies.”

The National Planning Guidance further reiterates this by stating that

“The focus of the planning system should be on whether the development itself is an acceptable use of the land and the impacts of those uses, rather than any

control processes, health and safety issues or emissions themselves where these are subject to approval under other regimes. However, before granting planning permission they will need to be satisfied that these issues can or will be adequately addressed by taking the advice from the relevant regulatory body.”

Consequently, it is not for the WPA to consider in detail the impacts of the stack emissions when considering the merits of the planning application. The control of the emissions from the stack is fully within the remit of the EA through its permitting process. However, it is not for the planning authority to dismiss this issue. If the EA or any other relevant health authorities/agencies in their consultation responses consider that the air quality emissions would exceed permissible levels and have an adverse impact on air, it could be considered by the planning authority that the proposed development is not suitable.

The Government's position is clear; planning authorities should call on the advice of the relevant bodies and work on the assumption that the relevant pollution control regime will be properly applied and enforced. It is also clear that refusing permission or requiring specific mitigation, when the matter is within the remit of another relevant body and the impacts are considerable acceptable by that body, is not appropriate.

The EA, ECC Public Health and Public Health England have all been consulted and no objections are raised in principle.

As explained previously the EA has considered two applications for an EP. The first application was refused, but the refusal was not because air quality standards to be emitted from the stack would be exceeded, but that Best Available Technique had not been shown. Within the second application the applicant demonstrated that BAT would require a higher stack, which would deliver greater dispersion of emissions. As a result, an EP has been issued which would only allow the IWMF to operate if a stack of 108m AOD were provided. As explained a third EP application has been made changing the technologies to control emissions and seeking a shorter stack of 85m AOD. This application is currently under consideration by the EA, the timescale for determination is not known at this stage.

It should also be noted that the limits for emissions contained within the existing EP with respect to NO_x are lower/stricter than that required by the relevant standards, these lower/stricter limits having been offered by the applicant. The EP has secured this lower limit. The Emission Limit Value (ELV) is restricted to daily average NO_x ELV of 100mg/Nm³, as opposed to 150mg/Nm³.

It is noted that research carried by the Health Protection Agency in 2009³ concluded the following:

“The Health Protection Agency has reviewed research undertaken to examine the suggested links between emissions from municipal waste incinerators and effects on health. While it is not possible to rule out adverse health effects from modern, well regulated municipal waste incinerators with complete certainty, any potential

³ The Impact on Health of Emissions to Air From Municipal Waste Incinerators. Advice from the Health Protection Agency. February 2010

damage to the health of those living close-by is likely to be very small, if detectable. This view is based on detailed assessments of the effects of air pollutants on health and on the fact that modern and well managed municipal waste incinerators make only a very small contribution to local concentrations of air pollutants. The Committee on Carcinogenicity of Chemicals in Food, Consumer Products and the Environment has reviewed recent data and has concluded that there is no need to change its previous advice, namely that any potential risk of cancer due to residency near to municipal waste incinerators is exceedingly low and probably not measurable by the most modern techniques. Since any possible health effects are likely to be very small, if detectable, studies of public health around modern, well managed municipal waste incinerators are not recommended.

The Agency's role is to provide expert advice on public health matters to Government, stakeholders and the public. The regulation of municipal waste incinerators is the responsibility of the Environment Agency."

In addition further research has been under taken by the UK Small Area Health Statistics Unit (SAHSU) and reported in January 2019⁴. The paper is part of a wider study investigating reproductive and infant health near municipal waste incinerators (MWI) in Great Britain. This national-scale investigation was of the possible health effects associated with MWI emissions of particulate matter ≤ 10 μm in diameter (PM10) as a proxy for MWI emissions more generally, and living near a MWI, in relation to fetal growth, stillbirth, infant mortality and other birth outcomes. The results of the study show "no evidence" for increased risk of a range of birth outcomes, including birth weight, preterm delivery and infant mortality, in relation to either MWI emissions or living near an MWI operating to the current EU waste incinerator regulations in Great Britain.

It is acknowledged that the statement and research is in relation to Municipal Solid Waste (MSW) now called LACW, but the overall composition of C&I waste is not significantly different. The consideration required by the WPA is whether or not the proposal would give rise to *unacceptable* air quality emissions that would exceed permissible levels and have an adverse impact on human health and air quality. In considering this it must take the advice of the relevant technical authorities, i.e. the EA, PHE and BDC Environmental Health. None of the relevant technical authorities have stated that the proposal would give rise to unacceptable air quality emissions that would exceed permissible levels and have an adverse impact on human health and air quality.

The outcome of the relevant technical experts is clear, it is considered that there would not be any unacceptable air quality emissions that would exceed permissible levels and have an adverse impact on human health and air quality.

The public's concerns or perceptions in relation to health and air quality are considerable for this application and are a material consideration.

Public concern can sometimes be associated with the previous generation of incinerators; however the implementation of new EU Directives resulted in the closure of many old incinerators across Europe, including in the UK, which could

⁴ Environmental International Volume 122, January 2019

not comply with new standards. The UK Health Protection Agency's (pre-cursor to Public Health England) Position Paper on Municipal Waste Incineration (2010) as mentioned above found that in most cases an incinerator contributes only a small proportion to the local level of pollutants and concluded that the effects on health from emissions to air from incineration are likely to be small in relation to other known risks to health. This is in respect of modern incinerators as opposed to the previous generation of incinerators. The Health Protection Agency concluded that there is little evidence that emissions from incinerators make respiratory problems worse; similarly, there is no consistent evidence of a link between exposure to emissions from incinerators and an increased rate of cancer. This is the opinion of the relevant body and one which the planning authority should rely upon and, as stated in para 7 of the NPPW 2014, planning authorities *"....should avoid carrying out their own detailed assessment of epidemiological and other health studies"*.

It is not simply that the public concerns on this matter should be dismissed, but for them to carry significant weight within the planning application there would need to be reliable evidence to suggest that perceptions of risk are objectively justified, i.e. that the operation of the IWMF plant would pose an actual risk. The EA has now issued an EP for the facility and Central Government advice referred to above evidences that, subject to an EP, the IWMF would not pose a health risk and the planning authority should rely on the experts in this matter.

In conclusion the relevant technical bodies, Public Health England, ECC Public Health and the EA have raised no concerns. As a reminder of the roles, case law, *Cornwall Waste Forum v SoS for Communities and Others 2012*, the judge stated that *"It is not the job of the planning system to duplicate controls which are the statutory responsibility of other bodies...Nor should planning authorities substitute their own judgement on pollution control issues for that of the bodies with the relevant expertise and responsibility for statutory control over those matters."*

In accordance with the NPPW 2014 the planning authority has sought appropriate technical advice to satisfy itself that the operation would not result in any significant air quality, pollution or health impacts and there is no accepted evidence to suggest that perceptions of risk are objectively justified, i.e. that the operation of the IWMF actually would pose an actual health risk; none of the consultees conclude that this would be the case. The concerns raised by residents regarding risk to human health are noted, but it is not considered that as part of the planning process (in accordance with previous case law and guidance), substantial weight can be attached to these concerns in the determination of this planning application.

Nonetheless the WPA as part of the determination of this application must consider the Health Impacts of the proposal.

The NPPF requires the following

180. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

And

*170. Planning policies and decisions should contribute to and enhance the natural and local environment by: inter alia
e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans;*

The WPA has no reason to challenge the EA's conclusions when it considered the EP application and therefore should accept the EA's conclusions that the IWWMF would not give rise to adverse health impacts through air quality. The WPA should assume the pollution control regime will operate effectively.

However, the WPA has a responsibility to ensure the operation as a whole does not give rise to adverse health impacts, including those arising from traffic movements. Also the WPA should be satisfied that the Health Impact Assessment, submitted as part of the Environmental Statement, is adequate.

ECC Public Health and PHE have been consulted on the planning applications. PHE have raised no objection and were consulted by the EA on the EP and raised no objection. ECC Public Health have also raised no objection and are satisfied with the Health Impact Assessment.

Concerns have been raised in letters of objection that the EP application did not take into consideration vehicle emissions from the traffic movements generated by the facility as part of the EP application. The assessment undertaken as part of the EP application has recognised the background pollution levels in the area of the site which are higher, probably due in part due to the existing A120 traffic. In considering the emissions from the IWWMF the EA only has responsibility for emissions from the stack not the emissions from the HGVs associated with the development.

The IWWMF site is identified as a site for waste management within the WLP, which was subject to Strategic Environmental Assessment and an Examination in Public and the site with a likely traffic generation of 404 movements as permitted by the extant planning permission was accepted.

ECC's Public Health team has commented that there is potential to require the operator to only use HGVs that meet the EuroVI standards. Euro VI legislates with respect to 4 emissions, carbon monoxide (CO), hydrocarbons (HC), oxides of nitrogen (NOx) and particulate matter (PM) and from January 2016 all new HGVs are required to meet the required standards. However, the facility is to be operated as a Merchant waste management facility, such that the operator will not operate its own fleet and would not be able to control the type of HGVs visiting the site and therefore it is not considered that it would be reasonable to require every HGV visiting the site to comply with EuroVI. Generally, as HGVs are replaced, older more polluting HGVs will be scrapped, but this is outside the planning system to regulate.

Several representations have made reference to the recently published January 2018 Central Government 25 Year Environment Plan. The plan includes several goals including Clean Air > The Government aims to achieve this through:

- Meeting legally binding targets to reduce emissions of five damaging air pollutants. This should halve the effects of air pollution on health by 2030.
- Ending the sale of new conventional petrol and diesel cars and vans by 2040.
- Maintaining the continuous improvement in industrial emissions by building on existing good practice and the successful regulatory framework.

As discussed above HGV emission outputs are being improved through the introduction stricter central controls (Euro VI for HGVs). With respect to the operation of the IWMF, this would be subject to the regulatory framework through the EP.

It is also acknowledged in the 25 Year Environment Plan that people's health and well-being is improved when time is spent enjoying the natural environment in a healthy natural environment. The Land Use Planning system has its part to play in this goal and the consideration of the issues set out in this report including, the impact upon heritage and landscape and visual impact from the increased stack height. Consideration of these issues forms a part of the balance in determining the acceptability of the proposals.

It is considered that with respect to the health impacts from the IWMF these have been appropriately considered through the EP process and found to be acceptable. It is not considered that the HGV movements associated with the development would give rise to significant adverse air quality impacts and thus are in accordance with WLP Policy 10.

In conclusion, the EA has confirmed that the actual environmental impact from the plant with the proposed increase in stack height "will be one of the lowest in the country" and none of the above listed expert consultees provides any justification for rejecting either of these applications on the grounds of likely adverse consequences for public health or air quality, perceptions of adverse effects on health or air quality or inadequate assessment of those matters and no such reason for refusal could be supported.

P TRAFFIC & HIGHWAYS

Objections to the application have been raised by representees due to the impact of traffic on the A120, in view of the existing heavy traffic that uses the road and the likely congestion the IWMF traffic might cause. Objecting representees have also raised concern, they consider that due to the length of time since the original decision that a new Traffic Impact Assessment is required. Concern has also been raised with respect to the potential for traffic to use alternative local routes if the A120 is congested.

Similar objections were raised with respect to the original application and the Inspector commented:

“It is accepted that the A120 Trunk Road is busy and some sections operate in excess of their economic design capacity and have reached their practical capacity. However, this occurs at peak times and the road should not be regarded as unable to accommodate additional traffic. Traffic to the eRCF [IWMF] would avoid peak hours where practicable.”

And

“Objectors have also expressed concern about the possibility of HGVs diverting onto local roads and travelling through local villages. However, as indicated above, HGV deliveries and despatches to and from the site would be under the control of the plant operator and the proposed HGV routeing agreement, which would be effective from the opening of the plant, would ensure that rat-running would not occur under normal circumstances.”

The proposed change to the height of the stack would have no impact on the proposed number of HGV movements. The number of HGV movements is not proposed to be changed and is limited by condition to 404 movements (202 in 202 out) Monday to Friday and 202 movements (101 in 101 out on Saturdays mornings). Re-imposition of the traffic movement condition if the application is granted meets one of the development principles of site IWMF2 of the WLP. All vehicles associated with the site are required to use the access onto the A120; no HGV vehicular access is permitted from Woodhouse Lane. It is acknowledged that in exceptional circumstances emergency vehicles would be permitted to attend the site via Woodhouse Lane.

The existing planning permission is subject to an obligation such that the operator is required to ensure HGV vehicles only use main roads to access the facility via the access to the A120. Funds have also been secured through the section 106 agreement to enable the Highway Authority to put in place appropriate directional signage to the facility. In addition there is an obligation to review the need for two way crossings at Ash Lane and Church Road should queuing of vehicles occur to the detriment of the public highway use. These existing obligations would need to be secured through a deed of variation to the legal agreement, if planning permission were granted. This meets one of the development principles as required with respect to Site IWMF2 in the WLP.

No objection was raised by the Highway Agency (now Highways England) to the original application in 2008 or by Highways England with respect to the current applications. No request has been made for a revised Traffic Impact Assessment. In addition the ECC Highways Authority has raised no objection to the use of the crossings with Ash Lane and Church Road subject of the re-imposition of the previous planning conditions and legal obligations.

The principle of the HGV movements generated by the IWMF has already been established and accepted through the granting of the previous planning applications. It is acknowledged, as later discussed, that the fallback position should not be given significant weight in the determination of these applications as

the IWMF is unlikely to be developed without an EP in place permitting a shorter stack.

The IWMF site is also identified in the WLP as a site suitable for treatment via AD or for management of residual non-hazardous waste, to meet the needs of Essex and Southend as identified in the plan, such that HGV movements were assessed as being acceptable through the WLP process, in respect of highway safety and capacity.

Representees have also stated they consider that a decision on the future of the IWMF should be delayed until the outcome of improvements to the A120 and A12 are known. Both the A120 or A12 improvements schemes are at too earlier stage such that their routes and the changes they would make to traffic congestion are not a material consideration with respect to the current application. If the IWMF was to progress it would be necessary when progressing the A120 and A12 for those schemes to take account of the existence of the IWMF, if progressed, as part of the cumulative impacts of these road schemes. The application has to be considered against the capacity of the existing highway network. It should be noted funds are secured through the existing section 106 legal agreement to improve access arrangements on the A120, if and when it is de-trunked.

Subject to the re-imposition of existing conditions it is not considered that the development could be refused on highway safety and capacity grounds and is therefore in accordance with the WLP policy 10.

Q LIGHTING

Objections have been raised as to the impact of lighting that would be required due to the increased height of the stack, in particular that it is likely to need lighting for safety reasons for aircraft. While it is acknowledged that often stacks and high structures do have lights on them, it has been confirmed by the applicant that there is no requirement for the stack to be lit both for civil or military aircraft. The WPA has also investigated this issue and evidence would suggest that structures less than 150m in height are not required to be lit.

Concern with respect to light pollution was an issue at the time of the consideration of the original application at the Public Inquiry and the Inspector commented within his report as follows.

“6.82 Because the eRCF [IWMF] would be located in a light sensitive area, detailed consideration has been paid to minimising the risk of light pollution. Measures that would be taken include the installation of external lighting below surrounding ground level, the direction of light being downwards, and the avoidance of floodlighting during night time operations. Timers and movement sensitive lights would be fitted to the exterior of buildings to provide a safe working environment when required. The plant would only operate internally at night.

6.83 The proposed extension to the existing access road would be constructed in cutting and would run across the base of the restored quarry, therefore lights from vehicles travelling to and from the eRCF [IWMF] within this section would be screened from view. An independent review of the lighting proposals (Document

GF/2/D/2) puts forward a number of recommendations to further minimise the impact of external lighting and concludes that with the incorporation of these amendments the impact of the eRCF on the night sky would be minimal. The Technical Note on Lighting (Document CD/17/1), prepared in response to the objectors representations at Document CD/16/4 indicates that the final lighting design would conform to the requirements of any planning conditions. However, it is intended that:

- luminaires located around the eRCF [IWMF] buildings would be fixed at a maximum height of 8m above the finished surface level of the site;*
- there would be no upward light from use of the proposed flat glass luminaires mounted at 0° tilt;*
- the weighbridge would be illuminated;*
- the lighting installation would be fully compliant with the requirements of the proposed 18.30 to 07.00 curfew;*
- there would be no need to provide illumination of the 'high level access road' as maintenance and repairs in and around this area would be provided during normal daytime working hours; and,*
- internal lights would either be switched off or screened by window coverings during night time operations.*

6.84 The final design of the lighting scheme would incorporate these amendments, subject to conformity with the requirements of planning conditions.

The above restrictions have been adhered to when the lighting details were approved under condition 43 of the planning permission. No amendments to the lighting details are proposed as part of the current planning applications.

Concern has been expressed by objectors that the increased height would increase the area of reflection and thus the reflection of lighting for the IWMF would increase. As explained above lighting is required to be downward pointing and below ground level such the reflection of on-site lighting would be minimised.

It is not considered that there would be a significant adverse impact from lighting as a result of the increase in stack height and therefore the proposals are in accordance with WLP policy 10 and BDLPR policies RLP 36 and 62. In conclusion, there are no reasons to justify the refusal of either application on this ground.

R NOISE

Policies of both the WLP policy 10 and policies RLP 36 and RLP 62 of the BDLPR seek to ensure development does not give rise to adverse impacts resulting from noise.

A revised noise assessment has been undertaken taking account of the increased stack height. The stack does not in any event contribute significantly to noise generated by the IWMF and raising the stack does actually increase the distance between the stack and receptors reducing noise impact from the stack. The revised noise assessment has demonstrated that the IWMF could operate within the limits set out within existing planning conditions relating to noise.

The Inspector in determining the 2008 application considered the proposed maximum limits would ensure there would be no adverse impact on residential amenity. The County's noise consultant considers that it has been demonstrated that the increase in height stack would not give rise to levels outside those limited by condition. In addition the noise monitoring required upon commencement of operation would verify whether this was the case.

In conclusion it is considered subject to the previous conditions controlling, hours of operation, noise, dust and light, there are no adverse impacts arising from the proposed amendments that would warrant refusal of the permission and the proposals are in accordance with the relevant criteria in WLP policy 10 and BDLPR policies RLP 36 and RLP 62.

S ECOLOGICAL IMPACTS

Policy 10 of the WLP and BDLPR policies RLP 80, RLP 83 and RLP 84 seek to protect landscape, habitats, designated ecological sites and protected species from adverse impacts and requiring adequate mitigation.

Objections have been raised stating that inadequate ecological assessments support the current applications. Ecological assessments have supported the previous applications for the IWMP and these have been updated as appropriate for each application as necessary.

Some concern has been expressed that due to the increase in height of the stack this could affect migrating birds. No objections have been received from Natural England and the County's own ecologist following clarification. The County's ecologist did ask for clarification as to the potential for birds and bats flying into the mirror finish of the increased stack height. The Rivenhall site is not on a bird migratory route. There is evidence that birds do fly into wide expanses of glass, but the convex face of the stack and its relevant narrowness, means the area of glare and reflection would be small in comparison to a building. The stack would remain unlit thus not giving rise to any additional impact with respect to bats.

It was acknowledged by the Inspector in 2010 that the IWMP would give rise to harm on ecology, and while mitigation forms part of the IWMP there can be no guarantee that this would deliver the overall biodiversity benefits anticipated. However, this harm did but not individually amount to a reason refusal. The Ecological Management Plan required by condition has been submitted and approved and is in place.

In conclusion it is not considered that the increase in stack height would give rise to significant additional ecological impacts that would warrant refusal. Nonetheless it is necessary to consider whether the ecological impacts are outweighed by other material considerations.

T WATER ENVIRONMENT

The current application proposes no changes to the proposed water management system for the site. The original planning application considered by the Planning

Inspectorate did envisage that most of the water for the facility would be derived from collecting surface water from within the site and surface water draining from surrounding agricultural land. It is acknowledged that as part of application ESS/34/15/BTE included that the collected surface water was to be supplemented with water from the River Blackwater utilising an existing permitted water Abstraction Licence issued by the EA. Water for the facility would be stored in two lagoons known as Upper Lagoon (located adjacent to the IWMF buildings) and New Field Lagoon (located north of the buildings within the restored Bradwell Quarry). Water used in the facility would be treated in the Waste Water Treatment Facility part of the IWMF with and reused within the facility.

The applicant has considered seeking to obtain a discharge licence into the River Blackwater, such that treated/clean water could be returned to the River Blackwater, but this option has not been pursued and the currently permitted scheme remains one of a closed-loop system.

As part of these applications there are no proposed changes to the water management arrangements for the site. In conclusion, it is therefore considered the development is in accordance with BDLPR policy RLP 63 and WLP policy 10 with respect to protection of the water environment and there is no justification to refuse the applications on this ground.

U CONCLUSION WITH RESPECT TO COMPLIANCE WITH POLICY 10 OF THE WASTE LOCAL PLAN

It is considered that the proposals are not in compliance with Policy 10 of the WLP. In particular it has not been demonstrated that the impact upon landscape character and the visual environment and with respect to impact upon Heritage Assets would be acceptable, or that there would be less than substantial harm to the setting of Woodhouse Farm building that would not be outweighed by the public benefits of the [proposal]. Given the significance of this policy, it is considered that the proposals are not in accordance with the development plan. It is therefore necessary to consider whether there are any other material considerations which outweighs these harms that would justify approval of the applications.

The other material considerations are considered to be:

- Need for the facility
- Endorsement of WLP objectives – proximity principle, net self-sufficiency
- The fallback position
- National need for Energy from Waste
- Relationship between stack height and EfW/CHP Throughput
- Climate Change

V NEED FOR THE FACILITY

As set out within the NPPW the WPA should:

“...only expect applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with

an up-to-date Local Plan. In such cases, waste planning authorities should consider the extent to which the capacity of existing operational facilities would satisfy any identified need”

The WLP was prepared in accordance with the NPPW with two key objectives of seek to push waste up the “Waste Hierarchy” while assuring “Net Self-Sufficiency”, without giving rise to adverse impact on human health and the environment. These objectives are incorporated as strategic objectives in the WLP and policies of the WLP intended to ensure, particularly WLP Policy 10, that proposed waste development does not give rise to unacceptable impact are of particular relevance to the current applications.

The new WLP was adopted in July 2017 and identified certain capacity shortfalls which are set out in Policy 1 (Need for Waste Management Facilities) reproduced below:

In order to meet the future needs of the Plan area, waste development will be permitted to meet the shortfall in capacity of:

- a) Up to 218,000 tonnes per annum by 2031/32 of biological treatment for non-hazardous organic waste;*
- b) Up to 1.95 million tonnes per annum by 2031/32 for the management of inert waste;*
- c) Up to 200,000 tonnes per annum by 2031/32 for the further management of non-hazardous residual waste; and*
- d) Up to 50,250 tonnes per annum by 2031/32 for the management of hazardous waste.*

The Rivenhall site is allocated in Policy 3 (Strategic Site Allocations) of the WLP as a site IWMF2) where waste management development “*will be permitted where proposals take into account the requirements identified in the relevant development principles...*” The Rivenhall site has been allocated to provide capacity both for biological treatment for non-hazardous organic waste and the further management of non-hazardous residual waste the shortfalls identified in points a) and c) above.

The current application does not seek to amend the proposed capacities as approved under ESS/34/15/BTE. The AD facility of 30,000tpa would contribute towards the identified shortfall of up to 218,000tpa of capacity for biological treatment for non-hazardous organic waste anticipated to be required by 2031/32. The proposed CHP plant would more than fully provide capacity for the shortfall of up to 200,000tpa for the further management of non-hazardous residual waste.

The need for up to 200,000tpa of capacity for the further management of non-hazardous residual waste was identified in the 2015 Waste Needs Assessment as arisings from the LACW stream, being the predicted residual waste outputs of the MBT facility at Tovi Eco Park operated by UBB under contract to the WDA. The need was identified on the following basis:

At present, the Waste Disposal Authority is considering long term management options for the stabilised residual waste output of the Tovi Eco Park Facility. In

2016, the annual 200,000t output from this facility was exported from the Plan area. In line with the Plan's Strategy for the Plan area to become net self-sufficient with regard to its waste management needs where practicable, the Plan includes a site allocation which has capacity to potentially manage this residual waste in the Plan area in the longer term. Para 4.21 of WLP

While the Rivenhall site is allocated as a site that could meet the shortfall in "further management of non-hazardous residual waste" the WLP neither dictates nor assumes that the output from Tovi Eco Park would go to the Rivenhall facility. The WLP simply ensures in accordance with the principle of net self-sufficiency and national policy that sites are allocated that may provide capacity to deal with the waste arising in the WLP area including the 200,000tpa of RDF like output generated at Tovi Eco Park from LACW. Whether the output would actually go to Rivenhall, if it became operational, would be a matter for commercial arrangements beyond the influence/remit of the planning system.

The Rivenhall IWMF is currently permitted to receive a total of 853,000tpa of waste. The CHP component has a consented capacity of up to 595,000tpa which is far in excess of the shortfall of capacity for the further of non-hazardous residual of 200,000tpa identified in Policy 1 of the WLP.

At the time of the consideration of the previous planning application (ESS/34/15/BTE) for the IWMF in February 2016, (when the capacities of the various elements of the IWMF were changed) consideration was against relevant national policy and the previous WLP adopted in 2001. At that stage while the replacement WLP was approaching Pre-Submission draft stage, full weight could not be given to it, although the emerging evidence base for the replacement WLP was referred to in the determination of the ESS/34/15/BTE, including the updated Capacity Gap Report December 2015.

The Capacity Gap Report Dec 2015 identified apart from residues from Tovi Eco Park that there was a small but growing shortfall in recycling and recovery capacity with respect to Commercial & Industrial Waste (estimated to be 33,000tpa in 2015 growing to 115,000tpa at 2035).

The applicant in justifying the change in capacities proposed in 2015 argued that there had been a change in the mix of wastes available particularly as the facility was more aimed at the C & I sector as LACW was to initially be treated through the MBT at Tovi Eco Park producing an RDF like output. The size of the original AD and MBT components of the IWMF were also proposed to be reduced. C & I waste is considered to have a lower organic waste content (13% as opposed to approximately 21% of Essex LACW) and hence the size of the AD and MBT of the IWMF were proposed to be reduced.

The applicant also argued that there was greater tonnage of residual waste available warranting an increase in capacity of the CHP from 360,000tpa to 595,000tpa. The CHP plant could either utilise SRF/RDF produced on site from incoming C & I waste passing through the MRF/MBT process, waste arising from the MDIP that cannot be recycled, or imported pre-prepared SRF/RDF. The increase in availability in SRF/RDF was argued by the applicant to be partly a response to the impact of Landfill Tax. The applicant argued that in response to Landfill Tax waste operators dealing with C&I waste were modifying their practices

from bulk delivery of waste to landfill; to sorting and recovering recyclables, leaving a residue that either required landfilling or may be utilised as input to an EfW/CHP plant.

In addition to the applicant arguing the greater availability of SRF/RDF, argued that the calorific value (CV) of SRF/RDF had reduced, due to standardisation by the EU of Net Calorific Value (NCV) for SRF/RDF from 12-20 MJ/kg down to 9-12MJ/kg. This meant that 489,000tonnes of input each year would have been required to produce the same amount of electricity as the 360,000tpa capacity originally permitted. The applicant therefore argued in 2015 that the increase was not 360,000tpa to 595,000tpa but only from 489,000tpa to 595,000tpa.

The Capacity Gap Report Dec 2015 considered operational recovery and recycling capacity with respect to C&I waste and LACW and concluded overall that apart from the Tovi Eco Park RDF there was a limited shortfall in treatment capacity and if non-operational capacity was taken account of (which included the capacities for Rivenhall IWMF), there would be more than sufficient capacity for net self-sufficiency to be maintained throughout the WLP period.

In considering the existing capacity for recycling and recovery the WPA is not necessarily required to make provision for all its waste to be managed through to its final fate either as disposal or conversion into a product in every case. However, it is recognised that recycling and recovery facilities still are likely to generate a residue that requires further management either through EfW or disposal to landfill.

The tonnage of residue requiring further management for LACW is the residue from the Tovi facility contracted by the WDA. This is known to be around 200,000tpa. While this residue may be managed either through EfW or disposal to landfill the WLP seeks to provide for this need through non landfill capacity in accordance with the Waste Hierarchy.

There were no explicit recycling or recovery targets for C&I waste as a whole set at a national level, and this still remains the case. However, the need to encourage waste to move up the waste hierarchy away from disposal (landfill and incineration that doesn't meet the minimum standard of energy recovery as defined by the EU defined R1 formula) at the bottom of the waste hierarchy became a legal requirement (enshrined in law through the Waste (England & Wales) Regulations 2011) and a National objective set out in the Waste Management Plan for England (Defra Dec 2013). The Waste Management Plan 2013 states that *"The Government supports efficient energy recovery from residual waste - of materials which cannot be reused or recycled - to deliver environmental benefits, reduce carbon impact and provide economic opportunity. Our aim is to get the most energy out of waste, not to get the most waste into energy recovery"*. The Defra Energy from Waste Guide 2014 expands on this point *"This reflects the desire to move waste up the waste hierarchy and the drive to prevent, reuse and recycle in the first instance."*

At the time of consideration of the 2015 application it was estimated in the updated Capacity Gap Report (December 2015) that the total arisings for C&I waste from the WLP area would be approximately 1.3 million tonnes in 2032 including waste

imported from London. Therefore there was an expectation that capacity would be provided to manage an equivalent tonnage.

In considering the 2015 application it was assumed there would be a high level of recycling in C & I waste such that the residual waste would be in the order of 20%. This estimate is supported by national Commercial & Industrial Waste Survey conducted in 2009 (Final Report May 2011) which estimated c20% of C & I waste went to landfill on a regional basis. Thus of the C&I waste arising in the WLP area i.e. approximately 260,000tpa (20% of 1.3million tpa) was identified as going to landfill that could potentially be diverted to EfW. Although it should be noted that some of the residual waste might not be suitable as an input fuel to EfW and therefore an element requiring landfilling would remain.

The Rivenhall CHP plant permitted capacity is 595,000tpa; the shortfall of up to 200,000tpa further treatment identified in the then draft WLP would leave further capacity of 395,000tpa available for management of C & I waste. The CHP plant would have capacity to deal with the residue, with approximate surplus capacity of 135,000tpa (595,000 – [200,000 + 260,000tpa]). On balance, it was concluded in 2016, since the environmental impacts arising from the development had not significantly changed since 2009 when considered by the SoS, there remained a justified need for the facility that outweighed any harm.

These various arguments were accepted by the WPA in 2016 and the change in capacities approved under planning permission reference ESS/34/15/BTE. Within the WLP the capacities approved under ESS/34/15/BTE i.e. 595,000tpa CHP and 30,000tpa AD are referred to in Appendix B as “Indicative Facility Scale”. It is not considered that reference to these capacities is any acceptance or endorsement of these capacities, only a reflective of the capacities permitted under the extant planning permission not a statement of the identified need.

In view of the conflict with some criteria (landscape and heritage impacts) of Policy 10 of the WLP with respect to the current proposals, it is appropriate to re-consider the need for the facility particularly in light of more up-to date evidence relating to C&I waste arisings and its management profile in 2016. The evidence base for the WLP was based on information from 2013 and it was considered appropriate to update this information, updating C & I Waste Arising baseline and reviewing existing capacity available for the management of C & I waste within the WLP area.

Specialist consultants (BPP Consulting) were commissioned by the WPA in February 2018 to update the assessment of non-hazardous waste arisings in the WLP Area against the existing waste management capacity for non-hazardous waste management available within the WLP area.

Initially an update was undertaken to assess the estimated arisings for the period to 2035 – Waste Needs Assessment Update - Updated Baseline for Commercial & Industrial Waste May 2018. Reflecting changing national practice the 2018 needs assessment applied a different methodology to calculate C&I waste arisings to that used in the 2015 Capacity Gap update. One based on the national “reconcile” methodology, considering a number of datasets to capture quantities of C & I

waste managed rather than produced. This method is recognised to be a more robust and replicable approach.

The total quantity of non-hazardous waste of C&I origin including a proportion of London's waste to be managed was estimated to be 910,000tpa in 2016. This represented a reduction from the 1.3 million tpa estimated in the 2013 contained in the updated *Capacity Gap Report (Dec 2015)*. The revised C & I arisings figure was assessed against operational waste management capacity for C & I waste within the WLP area based on facilities identified through the process of preparing the Minerals and Waste Monitoring Report for 2016/17.

Organic waste forms a proportion of C&I waste and as a consequence of the reduction in the total tonnage of C&I waste to be managed the estimated quantity of C&I organic waste to be managed has also fallen. The shortfall in organic waste capacity (not including consented capacity) estimated in the 2018 update is 58,000tpa in 2018 rising to 139,000tpa in 2035. While less than originally estimated in 2015 the provision in Policy 1 of the WLP for additional biological treatment of up to 218,000tpa is still considered to be justified given that it would encourage the movement of waste up the waste hierarchy.

The *Non-Hazardous Waste Capacity Gap Update 2018* also confirms that the need for capacity to further manage the 200,000tpa that arises from the Tovi Eco facility (MBT) continues to exist. WLP policy 1 which provides for this with up to 200,00tpa of capacity for the "further management of non-hazardous residual waste"

The *Non-Hazardous Waste Capacity Gap Update 2018* found that the quantity of C & I waste (excluding waste suited to biological treatment) requiring management to be 854,000tpa in 2018 rising to 887,000tpa in 2035. Following the advice of NPPW cited earlier to give priority consideration to "the extent to which the capacity of existing operational facilities would satisfy any identified need when the revised arisings were compared with existing operational recovery and recycling capacity the 2018 assessment found that there is in fact no shortfall in recovery capacity to manage a tonnage of waste equivalent to the amount of C&I non-hazardous waste predicted to require management over the WLP period. Hence the dual objectives of maintaining net self-sufficiency and driving waste up the Waste Hierarchy could be met without provision of additional capacity coming on stream.

The Waste Needs Assessment Update - Updated Baseline for Commercial & Industrial Waste May 2018 and the *Non-Hazardous Waste Capacity Gap Update 2018* were shared with the applicant in May 2018 and the applicant requested time to respond to these findings. The applicant submitted additional need information in November 2018 and the applicant's consultants SLR subsequently critiqued both the BPP Consulting assessment of estimate C & I waste arisings within Essex & Southend as well as the capacity gap assessment alongside the Minerals and Waste Monitoring Report 2016/17.

With respect to the likely arisings of C & I waste whilst the applicant's consultant SLR used a different calculation method their estimate (840,000tpa) is similar to that presented in the *Waste Needs Assessment Update - Updated Baseline for*

Commercial & Industrial Waste May 2018 (approximately 900,000tpa) and thus is not disputed. Similarly calculations of LACW arisings are also very similar and not disputed.

Where there is not agreement is with respect to the existing waste management capacity within Essex and Southend to manage non-hazardous non-organic waste.

The *Non-Hazardous Waste Capacity Gap Update 2018* relied upon data collated by WPA of facility capacities. This was based on permitted capacities as defined within planning permissions for consented waste management facilities and where a planning permission did not specify a limit, an average of the actual annual input as reported through the EA WDI was used. The applicant's consultant SLR argued that maximum tonnage limits specified in planning permissions are often substantially higher than tonnages that may ultimately be processed by a facility. Also that the sites listed took a wider range of waste types and hence could not be exclusively counted towards C & I waste management capacity. An alternative capacity assessment was produced by the applicant's consultant SLR which estimated that actual capacity available for the management of C&I waste was much less than that used in the 2018 update and this was taken to demonstrate that a capacity shortfall does apparently exist. The applicant's consultant SLR also referred to data presented in the Minerals and Waste Monitoring Report 16/17 that indicates the WLP area has a substantial reliance on the export of waste, to reinforce the need case for the CHP component of the IWMF.

BPP Consulting was commissioned on behalf of the WPA to critically review the critique prepared by the applicant's consultant SLR.

As explained there is no dispute as the estimated arisings with respect to LACW and C & I non-hazardous waste, the differences in estimated tonnages not being significant.

In order to address the concerns raised by the applicant's consultant SLR, BPP Consulting has worked with the WPA to refine the capacity assigned to each of the waste management sites included in the calculations. In the process the dataset has been cleansed with some sites being dropped as a consequence of further information coming to light such as some sites had been assigned to manage C & I waste exclusively handled LACW e.g. Southend Cleansing depot and that some capacities from planning permissions had been misreported e.g. Dunmow skips. Correction of these errors does not substantially change the findings of the 2018 update.

The applicant's consultant SLR's main criticism was that the capacity calculations were based on planning permission throughput limits and, where there was no limit, average annual throughputs. It is applicant's consultant SLR's view that these were unrepresentative as many sites would not operate at these limits and therefore by using this data the available capacity was over estimated.

The applicant's consultant SLR presented alternative capacities based on the EA Waste Data Interrogator (WDI) for 2016. This data is compiled from returns submitted by operators to the EA as to their actual throughputs in any particular

year. Relying on this single dataset the applicant's consultant SLR calculated the combined available C&I waste management capacity to be only 0.25 million tpa which when compared with their predicted arisings of c 0.84 million tpa suggests a deficit in capacity of 0.59 million tpa. Using this method a need for the CHP component of the IWMF was shown to exist.

However, the applicant's consultants SLR approach assumes that a single years figures are representative of actual capacity throughout a facility's operational life. This is not accepted as waste management sites go through peaks and troughs in throughput from one year to the next. With respect to planning permission maximum limits these are usually based on the details submitted by the prospective operator in the planning application. It is therefore reasonable to assume that the capacity tonnage is representative of might be achieved even if a facility may be operating below that in any particular year. The important matter is that a facility has the potential to operate at this maximum throughput and to not take account of such could lead to significant over provision of capacity should the full capacity be realised.

To address the concerns raised by the applicant's consultant SLR, BPP Consulting undertook a further sensitivity analysis to test the robustness of the capacity estimates relied upon. They looked at different scenarios with respect to planning permission (PP) limits and Environment Permit limits and the peak throughput data reported through the EA Waste Data Interrogator (WDI) over a number of years. It was considered that the peak value provides a more representative indication of a capacity maximum than the average input value used in the previous assessment.

The following scenarios were considered.

1 Maximum theoretical – Planning permission maximum or EP whether there is no known Planning Permission limit.

2 Planning Permission maximum or WDI peak (over the last 9 years).

3 WDI 9 year peak

The Table below displays the outcome of each of the scenarios and compares it against the original assessment presented in the 2018 update and the applicant's consultants SLR's critique.

Table 4: Capacity Assessment Scenario Outcome

Facility Type	Capacity (tpa)				
	Original Assessment	Scenario 1 (Max theoretical)	Scenario 2 (Planning Plus WDI peak)	Scenario 3 (WDI Peak only)	SLR
End of Life Vehicles	405,401	1,081,349	352,929	194,770	23,000 ²
Metal Recycling	318,003	833,296	360,160	330,213	104,000 ³
Materials Recycling /Recovery	626,667	1,095,781	758,867	493,388	111,000 ⁴
Tyre Recycling	11,110	3,500	4,610	Exempt	0
Total	1,361,181	3,013,926	1,475,456	1,018,371	250,000⁵
Non Hazardous Waste Shortfall	890,000	890,000	890,000	890,000	840,000 SLR value
Surplus or shortfall against capacity need	+471,181	+2,123,926	+585,456	+128,371	-590,000

² From chart on p11

³ As above

⁴ From chart on p 17. Chart on p 15 gives 106ktpa total site throughput.

⁵ From chart on p17. Note individual facility type throughput entries given as 0.13 metal/ELV and 0.11 materials recycling sites i.e. 0.24.

As can be seen from the above table in all of the scenarios tested a surplus in operational recovery capacity is shown, ranging from approximately 130,000tpa to 2.2 million tpa. This is in contrast to the estimates produced by SLR presented in the far right column.

Based on the updated *Non-Hazardous Waste Capacity Gap Update 2018*, it would appear the additional recovery capacity provided by the MRF and MBT components of the IWMF is not actually required to achieve net self-sufficiency while moving waste to the higher level/tier of the waste hierarchy. There is already sufficient capacity to manage an equivalent tonnage of waste predicted to arise in the WLP area over the WLP period while assuring the movement of waste to the higher level/tier of the waste hierarchy.

Estimates by both the WPA's consultant BPP Consulting and the applicant's consultant SLR indicate residual C & I waste arisings to be in the region of 890,000tpa. The 2018 C & I baseline report which updated the C&I Baseline to 2016 identifies that c16% (246,647 tonnes) of C&I waste went to landfill and if it was assumed that 90% of this was divertible that would mean c222,000tpa would be available for EfW in preference to landfilling. When combined with the residue from Tovi MBT of 200,000tpa this would amount to 422,000tpa, still considerably less than the capacity proposed of 595,000tpa. The landfill tonnage was the position in 2016 and doesn't reflect the further drive to improve recycling of sector waste as reflected in the most recent Government initiatives to drive separate collection of food waste and boost recycling levels across business to c75% by 2035.

The applicant continues to argue that the WPA should make provision within the WLP area to manage residual waste arising in the WLP area. However, there is no obligation in policy for this given the WLP priority is the movement of waste up the waste hierarchy whilst ensuring net self-sufficiency in capacity provision is achieved.

The applicant has submitted further supporting information to try to demonstrate that there is a shortfall in capacity to deal with residual waste and the need for CHP/EfW capacity. The applicant states:

“...in the Resource & Waste Strategy there is a confirmation of the role for EfW to play in reducing the need for landfill, particularly those with higher efficiency such as CHP as permitted at Rivenhall. The target for landfill by 2035 is “less than 10%” and on page 78 “our primary aim is to process more waste at home” i.e. confirming what the waste industry already knows which is that RDF exports should and will reduce, contrary to the broad assumption made in the BPP conclusion. Page 79 of the Strategy says, ‘Given our projections we continue to welcome further market investment in residual waste treatment infrastructure’.”

In addition the applicant has referred to a recent report by consultants Tolvik, the most recent of which ‘*Filling the Gap – The future of Residual Waste in the UK*’, which estimates that the effect of the “Waste and Resources Strategy” would be only to reduce the estimates of national residual waste to 27mtpa and says in section 2.7: “*It is difficult not to conclude that the delta between political aspirations (as measured by indicative “goals” and generally soft targets) and the overall ability to deliver them has potentially never been so great.*’

The applicant also refers to a further Tolvik report of 2018 “*Residual Waste in London and the South East – Where it is going to go...?*”, suggesting the likely future disposal capacity shortfall and the report says “*For the optimist considering a scenario in which there is a progressive increase in recycling through to 2025, RDF exports fall only modestly post Brexit and most planned large scale EfW capacity is developed in London and the South East, existing Non-Hazardous Landfill capacity is likely to last until 2025. The risk of capacity shortfall post 2025 remains high.*”

The WPA’s consultants, BPP Consulting have considered this additional information on behalf of the WPA. The applicant has quoted figures from the Tolvik report for the likely residual waste arising in Essex (including Southend and Thurrock) as 655,000tpa in 2017. BPP have commented that it is not clear the source of the data for the Tolvik report. However, using assumptions based on the % of Thurrock’s LACW waste it is estimated that the residual waste figure for Essex and Southend would be reduced to 583,000 tonnes. Using the same methodology as applied in the Tolvik report (without confirming its validity) the WPA’s consultants BPP Consulting have recalculated the likely tonnage of residual waste requiring management under different scenarios of recycling (low – 247,000t, central – 326,000t and high – 438,000t). This strongly suggests that all other things being equal, were the Rivenhall CHP to be built it would either require the import of waste into the Plan area over and above that require to assure net self-sufficiency, or diversion of WLP area waste from management further up the Waste Hierarchy, in contravention of the WLP objectives and obligation in law. It is therefore considered this additional information does not support the need for the CHP component of the IWMF.

It is acknowledged that the CHP component of the IWMF would more than fully satisfy the shortfall identified in Policy 1 of the WLP for “further management of non-hazardous residual waste” arising from processing of LACW waste through

the Tovi MBT plant. In addition the AD component of the IWMF would contribute towards the shortfall in biological treatment for non-hazardous organic waste predicted in the 2015 Capacity Gap report and provided for in Policy 1. However, the *Non-Hazardous Waste Capacity Gap Update 2018*, the capacity assessment element of which has been updated to make it more robust in light of the criticisms made by the applicant's consultant SLR, still indicates that there is more than adequate recovery and recycling capacity overall. While a surfeit of MRF capacity may be supported due to its potential to move waste up the hierarchy, the CHP plant capacity, given it sits further down the Waste Hierarchy is not considered to be fully in compliance with the need to move waste up the Waste Hierarchy, which is both a key WLP objective and a legal requirement.

It is acknowledged that the NPPW does highlight that waste management facilities may need to be at a scale such that they are economically viable, as set out below.

“plan for the disposal of waste and the recovery of mixed municipal waste in line with the proximity principle, recognising that new facilities will need to serve catchment areas large enough to secure the economic viability of the plant; “

The WPA sought advice as to whether an EfW/CHP plant would be viable at a smaller capacity (see Appendix J). Referring to a study undertaken on behalf of Defra in 2007 based on data analysis undertaken in 2000 it was found that a plant at 200,000tpa would probably be sub-optimal in terms of potential economies to be gained but that a plant of capacity 400,000tpa and above would realise the economies of scale offered by facility scale. While there are a number of facilities at or below 200,000tpa i.e. below sub-optimal but these facilities tend to have been sized to meet contracted LACW arisings within a specific area. However the advice indicates that a merchant facility might be expected to be viable with a throughput of 400,000tpa, assuming all else remains the same, as compared with the 595,000tpa of the CHP capacity the IWMF would provide.

The CHP plant would provide heat, steam and power to the De-Ink Paper pulp Plant, but only half of the power generated by the CHP facility would be used to power the IWMF, the remainder to be exported. This would indicate the CHP plant could be significantly smaller, while still adequately meeting the needs of the IWMF itself with power. Although the revenue from power sales to the grid normally represents an important income stream to a facility developer too.

It should also be remembered that the IWMF would not just deliver CHP capacity, but, if built, would receive waste for recycling and pre-treatment. It is acknowledged that the AD facility would contribute towards meeting the capacity shortfall in biological waste treatment identified in Policy 1 of the WLP, however, the remaining capacity within the MRF, MBT and CHP plant has not been shown to be needed.

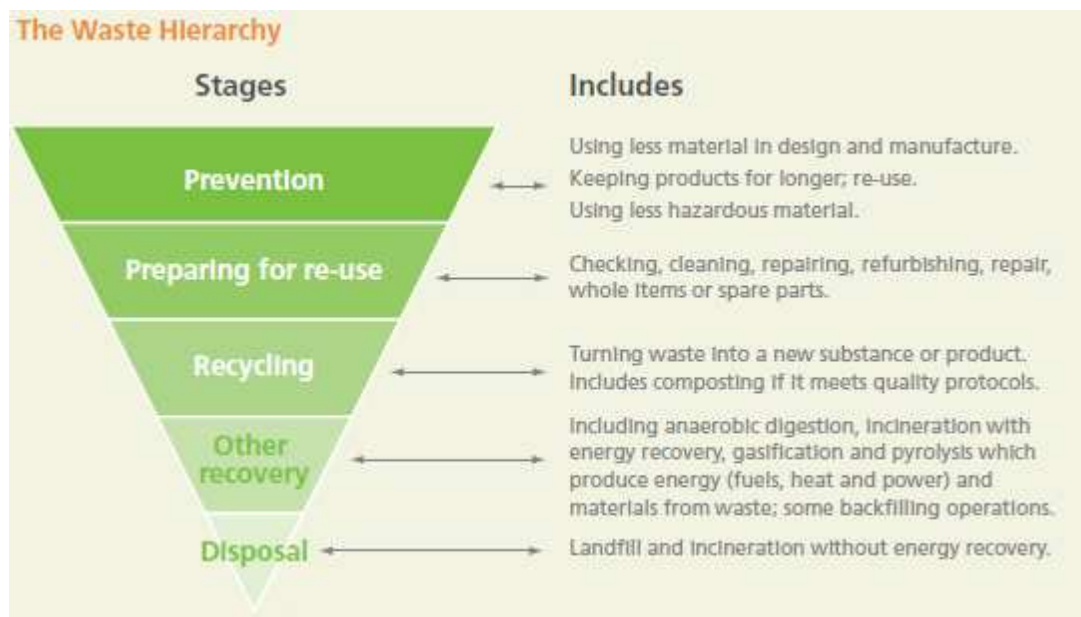
The absence of overall need for the facility is considered to be a material consideration to be given significant weight in the planning balance and its consideration is discussed in more detail below.

CONSISTENCY WITH NATIONAL AND LOCAL WASTE MANAGEMENT OBJECTIVES.

The NPPW was published in 2014 and incorporates the overall objectives of the Waste Management Plan for England 2013 and details policies to achieve those objectives. The NPPW states (emphasis added):

The Waste Management Plan for England sets out the Government's ambition to work towards a more sustainable and efficient approach to resource use and management. Positive planning plays a pivotal role in delivering this country's waste ambitions through:

- delivery of sustainable development and resource efficiency, including provision of modern infrastructure, local employment opportunities and wider climate change benefits, by driving waste management up the waste hierarchy (see below);



Source: DEFRA Guidance on applying the Waste Hierarchy, 2011

- ensuring that waste management is considered alongside other spatial planning concerns, such as housing and transport, recognising the positive contribution that waste management can make to the development of sustainable communities;
- providing a framework in which communities and businesses are engaged with and take more responsibility for their own waste, including by enabling waste to be disposed of or, in the case of mixed municipal waste from households, recovered, in line with the proximity principle;
- helping to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment; and
- ensuring the design and layout of new residential and commercial development and other infrastructure (such as safe and reliable transport links) complements sustainable waste management, including the provision of appropriate storage and segregation facilities to facilitate high quality collections of waste.

Those sections underlined above are particularly relevant in consideration of the current applications and are also reflected in the Strategic Objectives of the WLP, as set out below:

Strategic Objective 4 (SO4)

To achieve net self-sufficiency in waste management by 2032, where practicable, with an associated reduction in the amount of waste from London that is disposed of in the Plan area, in line with the London Plan.

Justification for: SO4 – In line with the adopted London Plan 2015, the WLP makes provision for a decreasing amount of waste exports from London (excluding excavation waste). With the exception of the need to take a proportion of London's waste, the WLP only makes provision for sites required to manage the amount of waste arising in the Plan area on a net self-sufficiency basis (where practicable) in conformity with the proximity principle.

And Strategic Objective 6

To support the reduction of greenhouse gas emissions, primarily by moving waste up the hierarchy to minimise the need for landfill and by minimising waste transport and distance by locating new waste facilities in proximity to key growth centres.

Justification for: SO6 – Demonstrates conformity with the NPPW and National Waste Management Plan for England (2013), which recognises that effective waste management reduces potential climatic impacts.

Appendix F presents the glossary of terms used in the body of the WLP. Net self-sufficiency is defined as “A principle resulting in the provision of waste management capacity equivalent to both the amount of waste arising and requiring management in the Plan area, whilst respecting this waste will travel across administrative boundaries...”

The Waste Hierarchy is “The overriding principle governing waste management. This concept suggests that the most effective environmental option is to reduce the amount of waste generated (reduction); where further reduction is not practicable, products and materials can sometimes be used again, either for the same or different purpose (reuse); failing that, value should be recovered from waste (through recycling, composting or energy recovery from waste); only if none of the above offer an appropriate solution should waste be disposed of (e.g. to landfill).”

Since it has been found that provision of proposed 595,000tpa CHP/EfW capacity would be significantly in excess of the Plan area requirement, this would either lead to waste being managed lower down the Waste Hierarchy (EfW instead of recycling) or result in significant importation of waste to the WLP Area above and beyond that needed to meet the aim of planning for net self-sufficiency adopted within the WLP area, the East of England and wider South East of England including London.

It is acknowledged when the previous planning application was considered in 2016 a facility of the proposed capacity and scale was considered justified, based on relevant data at that time. However, circumstances have changed the updated assessment of waste arisings and existing capacity has shown that C & I arisings

are less than previously predicted and existing capacity sufficient such that the IWMF would overprovide for treatment of residual waste.

While the indicative scale of the facility stated in the WLP Appendix B is now not supported by the assessment of waste arisings and exiting capacities, the WLP Strategy remains up to date. Overprovision of CHP/EfW capacity, is likely to give rise to the significant importation of waste from outside Essex and Southend. This consequently means waste would not be managed in accordance with the proximity principle at its point of origin, with waste travelling from further afield than is necessary, increasing waste miles. In addition the predicted shortage of residual pre-treated waste requiring disposal is likely to encourage waste that has not been subject to recovery and recycling processes to be managed at the CHP, such that it would be dealt with lower down the Waste Hierarchy.

In conclusion, based on the assessment presented in the Non-Hazardous Waste Capacity Gap Update 2018 and capacity update presented in the critical review of the applicant consultant's critique of the updated need assessment (Feb 2019), it is considered that it has not been demonstrated that there is a current and future need for all the capacity of the IWMF.

It is considered that the facility would undermine both National (NPPW) and local (WLP) objectives of through prejudicing movement up the waste hierarchy and increase the likelihood of importation of waste from outside the WLP area contrary to the proximity principle and strategic objective of the WLP seeking to achieve net self-sufficiency in waste management whilst driving waste up the waste hierarchy. Since these objectives are fundamental to ensuring sustainable waste management development, undermining these objectives is a material consideration that should be given significant weight in the planning balance.

X THE FALLBACK POSITION

It has been established in law that a Planning Authority must take into account as a material consideration any fallback position established by the applicants and give it such weight as it finds appropriate in the exercise of its planning judgment. In taking account it has also been established that the planning authority must be able to establish that on the balance of probabilities there is a realistic likelihood of the fall-back being implemented should the application be refused.⁵

It is appropriate to consider the strength of the reasonable likelihood of the fall-back being implemented. The granting of the current planning applications, in particular the increase in stack height, would allow the implementation of the development to be possible and accord with the requirements of the EP.

In November 2018 the applicant applied to vary the existing EP to allow a stack of 35m/85m AOD and proposed additional technologies to reduce emissions from the stack to below those currently required by the standards. If an EP were issued this would enable the IWMF to be progressed in accordance with the extant planning permission ESS/34/15/BTE.

⁵ Snowden v. SoSe for the Environment and the City of Bradford MC [1980] QB, recently re-affirmed by the Court of Appeal in Mansell v. Tonbridge and Malling BC [2017] EWCA 1314 (Civ).

The outcome of this EP application is unlikely to be known until May/June 2019 at the earliest.

It is highly unlikely a developer would construct the permitted proposal in the absence of an EP for a shorter stack height, given the exceptional scale of capital outlay required in construction. Without knowing the outcome of the current EP application, it is not clear at this stage whether the facility with a shorter stack could be developed and therefore the fallback position is in doubt.

Accordingly, only limited weight should be given to the ability to construct and operate the IWMF currently permitted (extant permission ESS/34/15/BTE), when considering the applications the subject of this report.

In coming to this conclusion, considering the 'fallback' position, relating to the grant of permission in 2010 (and its section 73 successor permissions) the current applications need to be determined on their own merits in the usual way with only limited weight being given to the extant planning permission as a fallback.

That said, while it is not appropriate to take full account of the extant planning permission as a fallback use of the land, and the applicants has never sought to justify their proposals in that way, it does need to be recognised that in terms of the environmental impact of the IWMF, such as landscape, visual, heritage impact, noise highway and traffic, the impacts of the facility with a 85m AOD stack were on balance found to be acceptable, as considered by the Inspector in 2010 and more recently by the WPA in February 2016.

Y UK NEED FOR ENERGY FROM WASTE

Objectors have commented that there is evidence (by Eunomia⁶) to indicate that the amount of consented EfW capacity in the UK could discourage recycling were it all to come on stream. The Environmental Services Association – the waste operator trade association - commissioned consultancy Tolvik to undertake a review of various studies considering the need for EfW capacity in the UK (Nov 2017). This review included research undertaken by Eunomia cited by objectors as evidencing the lack of need for additional EfW within the UK.

The review considered a number of different reports which looked at both waste forecasts and arisings of residual waste - after recycling - which could feed EfW facilities and compared that against existing and consented capacity as well as RDF exports from the UK. The report identified that with respect to arisings different methods had been used to estimate the amount of waste that might be available to EfW facilities in the UK. The differences in assessments of arisings were mainly attributed to different recycling rates that had been considered likely. In the case of a failure to meet the Waste Framework Directive targets of 50% household waste recycled by 2020 i.e. no increase in recycling, a national capacity shortfall of 13mtpa was predicted. As higher rates of recycling are achieved the shortfall reduces, such that under a high recycling rate scenario the national shortfall is only 0.7mtpa. The capacity gap further reduces when potential future capacity to come on line by 2022 is accounted for. Moreover when the continued export of RDF to energy efficient plant in mainland Europe is also taken into

⁶ <https://www.eunomia.co.uk/reports-tools/residual-waste-infrastructure-review-12th-issue/>

account no shortfall materialises. Overall under a static recycling rate scenario there would be a national shortfall in capacity of 8.5mtpa but under a high recycling rate scenario with targets being met over capacity of 3.8mtpa emerges

It was also noted by the Tolvik review that it was not clear what impact Brexit might have on the continued export of RDF from the UK to mainland Europe, although many suppliers are known to have established supply contracts that extend some years beyond the due date of departure. The recently released National Resource & Waste Strategy states that while Government "*continues to welcome further market investment in residual waste treatment infrastructure.*" it is within a "*long term ambition to maximise the amount of waste sent to recycling instead of incineration and landfill.*" which is reflected in the fact that active consideration is being given to the introduction of a tax on the incineration of waste. Moreover it goes on to caveat this support in the following terms "*We particularly encourage developments that increase plant efficiency, minimise environmental impacts...and progress technologies that produce outputs beyond electricity generation ...*" This is a clear signal to the market that mainstream mass burn EfW with power generation only is not supported and such development faces the spectre of an incineration tax.

Given that the normal pay back life of an EfW plant is c25 years and the evidence base document supporting the Strategy states at page 78:

"According to our internal analysis,...significant additional residual waste energy recovery capacity such as incineration or advanced conversion technologies—above that already operating or planned to 2020 – would not necessarily be needed to meet an ambition of no more than 10% Municipal Solid Waste (MSW) to landfill by 2035, if a 65% MSW recycling rate is achieved by that same year. The analysis assumes refuse derived fuel (RDF) exports remain at current levels. (emphasis added)"

It could be argued that it is a high risk to invest in additional mainstream EfW capacity in the face of an expectation of falling arisings, no certainty that the RDF export market will be adversely affected by Brexit and the possible introduction of an incineration tax. It also places a large onus on the Rivenhall CHP proposal to deliver the heat offtake component. Any prospect of the plant operating without an established heat offtake could now be said to be contrary to national Government policy.

Direct enquiries of Defra reveal that the capacity at the Rivenhall IWMF does not appear on the listing used, meaning that the above conclusion (that there may be sufficient capacity available nationally to meet the landfill diversion target of 10% by 2035 without additional capacity) holds true even without the currently consented capacity at Rivenhall IWMF developed.

Z SCALE OF FACILITY AND STACK HEIGHT

The WLP has identified a need in Policy 1 for additional treatment capacity for "further management of non-hazardous residual waste". The material to be managed is suitable for use in an EfW Facility and the identified site for such a facility is the Rivenhall site.

The WLP process in assessing the suitability of sites considered a number of factors as to the acceptability of sites. In the Rivenhall case it took account of the existing permission, which included a stack at 85m AOD (35m above surrounding ground levels).

The WLP only identifies a need for a facility to manage up to 200,000tpa of further waste management for non-hazardous residual waste. It is appropriate for the WPA to consider what would be the likely height of stack if an EfW Facility to deal with this capacity only were to be proposed.

The WPA commissioned independent advice as to whether a smaller facility of 200,000tpa throughput might operate with a shorter stack. The full advice is provided in Appendix H.

The figure below shows for a number of EfW within the UK the relationship between stack height and capacity. The red line marks the boundary between plants with throughput of 200,000tpa and below/above. The purple dots represent facilities, where like the Rivenhall IWMF, the stack starts below surrounding ground levels. The red dot represents the situation for Rivenhall.

The blue ring represents a plant that had to have an exceptionally tall stack due to its proximity to a Special Area of Conservation and is considered an outlier to the dataset i.e. it is included for comprehensiveness but ought to be disregarded.

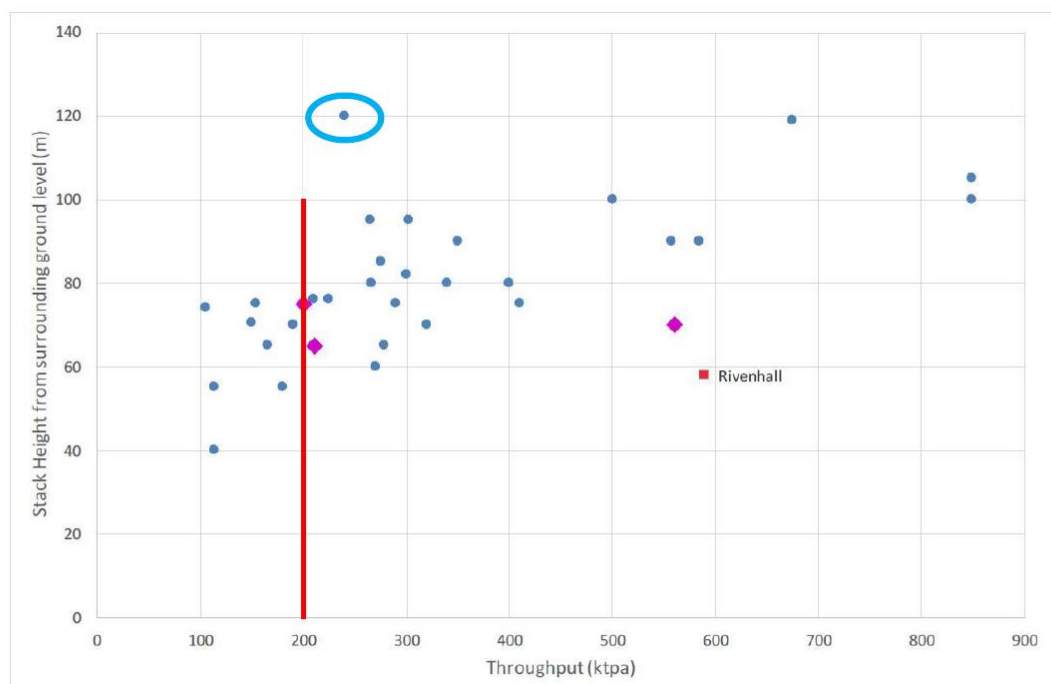


Figure 6 –Stack Height (above surrounding ground level) against Throughput

The particularly low height of the Rivenhall stack is due to the applicant's commitment to have a reduced NOx limit to that normally required.

The advice was that even if this lower NOx level was maintained it was unlikely that a stack of less than 40m above surrounding ground level or 90m AOD would

be acceptable to the EA, and it was “far more likely that that it would need to be greater than 40m but not as great as 58m currently proposed”.

This differs from the view of the applicant, who considers a similar height stack to that currently permitted by the EA (i.e. 58m) would be required for the original proposed 360,000tpa facility as well as the 595,000tpa capacity currently permitted. The applicant has argued this on the basis of the predicted change in calorific value of input material and a change in the thermal capacity of the EfW changed during the course of design stage of the proposed plant. According to WPA’s consultant the analysis prepared by the applicant’s engineering consultant (Fichtner), shows there is a relationship between a facility’s capacity and stack height as shown in Figure 6 above albeit ‘Loose’ one. Given the data of existing facilities elsewhere in the UK it is entirely conceivable “there may exist a set of design and operating parameters for which the EA might consider a reduced stack height to represent BAT...” By way of example ECC’s consultant considers that that a facility with a throughput of 200,000 tpa achieving a NOx emission concentration limit of 150 mg/m³ would likely gain a permit with a stack height of "greater than 40m but not as great as 58m currently proposed Subsequent enquiry indicates that the value may lie within the range 40m-55m. Ultimately adjudication on such matters lie within the gift of the Environment Agency

It is known that considerable objection was raised by representees during the consideration of the EP applications, that the stack was too short and therefore emissions more likely to cause harm to local residents. It is acknowledged that there is a preference from the public that if landscape character and visual impact was not a concern that the stack should be as tall as possible to maximise dispersal of the emissions from the stack.

Based on the independent advice provided it has been indicated that if a smaller EfW facility were proposed, and the operator was to retain the lower NOx emissions limit a stack as tall as that currently required by the EA permit would not be required.]

It has not been demonstrated that there is a need for a CHP/EfW facility with a capacity of 595,000tpa and evidence would indicate that a smaller facility could be both viable without the need for a stack height as high as that currently proposed, potentially a smaller facility could operate with a stack height as currently permitted. However without testing this through Environmental Permit process only limited weight can be given to this material consideration when considering the planning balance.

AA CLIMATE CHANGE

The NPPF (para 148) seeks to secure “*shape places in ways that contribute to radical reductions in greenhouse gas emissions*”. The NPPW (Section 1) recognises the role that driving waste up the Waste Hierarchy has on mitigating and adapting to climate change.

Concern has been expressed by objectors that the IWMF will not contribute to mitigating climate change due the CO² that would be emitted to the local area from the facility and the CO² generated from HGV movements bringing waste to the

facility. Objectors consider that inadequate quantification of the CO² impacts has been undertaken.

Strategic Objectives (SO4 and SO6) of the WLP are to provide for net self-sufficiency i.e. ensuring there is adequate capacity within Essex and Southend to deal with the waste arisings within Essex and Southend, such that waste should not be required to transported unnecessary distances.

Landfill contributes to greenhouse emissions, thus diversion from landfilling contributes to reducing greenhouse gases.

The IWMF would contribute to the shortfalls identified in Policy 1 of the WLP of both “biological treatment for non-hazardous organic waste” and “further management of non-hazardous residual waste” and as such would contribute to net self-sufficiency.

Policy 11 of the WLP seeks to minimise the potential contribution waste management would make to climate change *“by reducing greenhouse gas emissions, incorporating energy and water efficient design measures and being adaptable to future climate conditions”*.

The policy 11 sets out a number of factors that will be considered in the determination of applications.

These include inter-alia:

- *through transportation related to the development to limit greenhouse gas emissions.* The co-location of the MRF and MBT with CHP reduces the need for transport movements between such facilities.
- *through sustainable drainage systems.* The IWMF would capture all site surface water for use in the IWMF, however this would need to be supplemented with river water. Waste water generated by the De-ink paper pulp plant would be treated on site within the waste water treatment facility. This waste treatment facility would use, heat, steam and energy generated by the CHP to help treat the waste water.
- *where proposals are capable of directly producing energy to demonstrate that excess heat can be directed to a commercial or industrial user of heat.* The IWMF would use the heat and steam from the CHP directly in the MDIP and waste water treatment plant and energy generated by the facility would offset energy required to power the IWMF itself.
- *where proposals include AD the gas is either direct to a gas pipeline or stored for use as a fuel.* In the case of the IWMF the gas is being used directly within the CHP to generate electricity.

The Resource and Waste Strategy 2018 supports these principles but goes further as set out below:

England has around 40 EfW plants. Eight operate in Combined Heat and Power (CHP) mode, delivering greater efficiency than solely generating electricity. We want to help the companies that run EfW plants to use the heat produced to improve their efficiency, and to help industry make the right decisions over infrastructure investment.

Work is underway across Government to make the remaining plants more efficient, by assessing and removing barriers to making use of heat produced when incinerating waste. The Department for Business, Energy and Industrial Strategy (BEIS) has a Heat Networks Investment Project, with a £320m capital fund, and we are working to ensure that this project helps to utilise EfW plants as a source of heat for district heat networks where possible. As part of the review of the Waste Management Plan for England in 2019, Defra will work with the Ministry of Housing, Communities and Local Government (MHCLG) to ensure that the Waste Management Plan for England and the National Planning Policy for Waste and its supporting planning practice guidance reflects the policies set out in this Strategy. This will consider how to ensure, where appropriate, future plants are situated near potential heat customers.

In addition, we will work closely with industry to secure a substantial increase in the number of EfW plants that are formally recognised as achieving recovery status, and will ensure that all future EfW plants achieve recovery status.

The IWMF would not utilise all the heat, steam and gas generated by the CHP and AD facility about half would be used to generate electricity to be exported to the National Grid.

The EA in considering the granted EP commented as follow in the decision document with respect to energy recovery “*The Operator has not presented an R1 calculation with this application, nor have we received a separate application for a determination of whether the installation is a recovery or disposal facility. The Operator has obtained accreditation under the Defra Good Quality CHP Scheme. This process does not form part of the matters relevant to our determination, but forms part of financial aspects of the project drawing down funding through Renewable Obligations Credits (ROCs). Gaining accreditation under the scheme is however an indication of achieving a high level of energy recovery*”

Thus it would appear the IWMF is relatively efficient in terms of its energy recovery.

The applicant has suggested that subject to the outcome for the proposals of the West Tey Garden Community, there is potential to pipe the spare heat and steam to supply a district heating system at West Tey. However, the West Tey proposal is at some distance from the IWMF and the inclusion of a district heating system has not been proposed as part of the development. The West Tey proposals are at a very early stage and its development will depend on the outcome of the Local Plan. While it is a possibility there has been no commitment by the developers of West Tey that they would be willing to incorporate a district heating system into their proposals.

The change in height of the stack has not changed adversely the impacts with respect to exacerbating or reducing the effects of climate change and could be said to have improved some of them by reference to the reduced NOx emissions which have been permitted through the current EP. In conclusion therefore refusal could not be justified on these grounds.

BB **BALANCE OF PLANNING CONSIDERATIONS**

The key overarching purpose of planning system is to deliver sustainable development. The NPPF in particular promotes a presumption in favour of sustainable development.

Para 7. States:

“The purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.”

Para 8. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being; and

c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

The NPPW, the BCS and the WLP incorporate this overarching principle and are all consistent with the NPPF.

Planning law requires all applications to be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

The WLP identifies the need for up to 200,000tpa of further waste management of non-hazardous residual waste (Policy 1) and identifies the Rivenhall site as a potential site for a facility that could meet this shortfall (Policy 3). It also identifies the site as a site that could meet some of the need for the shortfall of biological treatment for non-hazardous organic (policies 1 & 3). The current proposals have

to be considered against the entirety of the WLP including its policies and overall objectives which include net self-sufficiency, the proximity principle, pushing waste management up the waste hierarchy and reduce potential adverse effects on human health, amenity and the natural and historic environment.

The applications have been considered against policy 10 *Development Management Criteria* of the WLP. Each of the relevant factors of this policy have been considered, both with respect to the main change to the IWMF facility, the increase in stack height by 23m and the amendments to condition 14 and 18.

This report has also considered the impacts that might arise with respect to health, air quality, noise, ecology and light pollution and concluded that, while there are likely to be some impacts from the increase in stack height they are not either significant or could be adequately controlled through planning conditions or are subject to control through the EP administered by the EA and not give rise to any grounds for refusing the applications.

This report has also considered the impact upon landscape character and visual amenity. It has been concluded that it has not been demonstrated that the increase in stack height would not give rise to unacceptable landscape and visual impact. In addition the additional harm to the setting of Woodhouse Farm Listed Building caused by the increase in stack height is not outweighed by the benefit of the refurbishment of the Woodhouse Farm Listed Buildings. As such the proposals to increase the height of the stack are contrary to Policy 10 and the Waste Local and it is necessary to consider whether there are other material considerations which indicate otherwise.

Other material considerations that have been taken into consideration and discussed in the report are the need for the facility, the “fallback” position, the UK need for Energy from Waste, the scale of the facility and the stack height and climate change.

The need for the facility has been re-assessed in light of up to date study of waste arising and existing waste management capacity in the WLP area. It has been shown a real concern that the excess capacity of the proposal is such that it would be likely to give rise to the management of waste not in accordance with the principle of net-self-sufficiency, proximity principle and management of waste not in accordance with the waste hierarchy. This would be contrary to the overriding objectives of the WLP. This constitutes a notable change in the planning balance that is recommended to justify a reason for refusing the application on its own account.

If the conclusion as to the current extent of the need for the facility is accepted, then the weight to be given to the benefits to flow from the proposal in the public interest, other than those from the restoration of Woodhouse Farm, formerly identified by the appeal decision in 2010 and in the 2016 planning permission granted by the WPA are reduced accordingly.

As a result, it is concluded that the harm to the setting of the Grade II listed building and the lack of a sound assessment of the landscape and visual impacts

arising from the increase in stack height are no longer outweighed by the benefits of the proposals and give rise to separate reasons for refusal set out below.

Application ESS/37/17/BTE sought not only to amend conditions to allow a change in the stack (conditions 2 and 56) height but also to amend conditions 14 and 18. With respect to the changes proposed for these conditions there is no reason to withhold permission. However, as a split decision by the WPA is not best practice, planning permission for these changes is also not granted.

8. RECOMMENDED

That planning permission be refused for ESS/36/17/BTE & ESS/37/17/BTE for the following reasons:

1. The proposed development would cause (less than substantial) harm to the setting of a listed building as the development does not preserve the setting of Woodhouse Farm, a Grade II listed building, contrary to S66 (1) of the Listed Buildings and Conservation Areas Act 1990 and it is considered that there are no material considerations to override the statutory presumption against granting planning permission for the development. The unacceptable adverse impact would be contrary to the NPPF, Policy 10 of the Essex and Southend Waste Local Plan 2017, Braintree Core Strategy (2011) policy CS9 and Braintree District Local Plan Review (2005) policy RLP100
2. It has not been demonstrated that the increase in stack height and the use of the reflective materials would not have an unacceptable impact on the quality and character of the landscape, countryside and visual environment contrary to the NPPF, Policy 10 of the Essex & Southend Waste Local Plan 2017, Braintree Core Strategy (2011) policy CS8 and Braintree District Local Plan Review (2005) policy RLP80.
3. It has not been demonstrated that there is a need for the waste treatment capacity of the IWMF, in Essex and Southend-on-Sea, beyond those shortfalls identified in Policy 1 of the Waste Local Plan and as such would be, likely to give rise to waste not being managed in accordance with the principles of the Waste Hierarchy, of achieving net self-sufficiency for waste management in Essex and Southend-on-Sea and the Proximity Principle, contrary to the NPPW and would undermine the strategic objectives of the Essex and Southend Waste Local Plan 2017.

BACKGROUND PAPERS

Consultation replies
Representations

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2017

The proposed development has been screened as required by Regulation 63 of The Conservation of Habitats and Species Regulations 2017. See Appendix K

It has been concluded that further assessment it is not required.

EQUALITIES IMPACT ASSESSMENT

This report only concerns the determination of an application for planning permission. It does however take into account any equality implications. The recommendation has been made after consideration of the application and supporting documents, the development plan, government policy and guidance, representations and all other material planning considerations as detailed in the body of the report.

STATEMENT OF HOW THE LOCAL AUTHORITY HAS WORKED WITH THE APPLICANT IN A POSITIVE AND PROACTIVE MANNER

In determining this application the Waste Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussion, assessing the proposals against relevant Development Plan policies; all material considerations; consultation responses and any valid representations that may have been received. This approach has been in accordance with the requirement set out in the National Planning Policy Framework. In this instance, however, it has not been possible to resolve the issues of concern so as to overcome the harm as identified in the reasons for refusal.

LOCAL MEMBER NOTIFICATION

BRAINTREE - Witham Northern
BRAINTREE - Braintree Eastern