Proof of Evidence on behalf of Worcestershire County Council as the County Planning Authority

Kirsten Berry BA (Hons), DipTP, MRTPI

Proposed development of an energy from waste (EfW) facility for the combustion of non–hazardous waste and the recovery of energy comprising the energy from waste facility buildings and associated infrastructure (including an excavated platform; site access; internal roads; weighbridges; car parking; fencing; drainage works and landscaping) on land at Plot H 600, Oak Drive, Hartlebury Trading Estate, Hartlebury, Worcestershire.

Planning Inspectorate reference: **APP/E1855/V/11/2153273**
Worcestershire County Council planning application reference: **10/000032/CM**

Proof of Evidence
October 2011

Abbreviation	Full title
AONB	Area of Outstanding Natural Beauty
APC	Air Pollution Control
BPEO	Best Practicable Environmental Option
C&D	Construction and Demolition
C&I	Commercial and Industrial
CHP	Combined Heat and Power
CPA	County Planning Authority
DCLG	Department of Communities and Local Government
DECC	Department of Energy and Climate Change
DEFRA	Department for Environment, Food and Rural Affairs
EA	Environment Agency
EP	Environmental Permit
ERM	Environmental Resources Management
GCN	Great Crested Newts
HGV	Heavy Goods Vehicle
IBA	Incinerator Bottom Ash
IPC	Infrastructure Planning Commission
JMWMS	Joint Municipal Waste Management Strategy
LCTP	UK Low Carbon Transition Plan
MW	Municipal Waste
NHS	National Health Service
NPPF	National Planning Policy Framework
NPS	National Planning Statement
ODPM	Office of the Deputy Prime Minister
PFI	Public Finance Initiative
POPs	Persistent Organic Pollutants
PPG	Planning Policy Guidance
PPS	Planning Policy Statement
rWFD	Revised Waste Framework Directive
SCI	Statement of Community Involvement
SOCG	Statement of Common Ground
SSSI	Site of Special Scientific Interest

SWDP	South Worcestershire Development Plan
W.A.I.L.	Worcestershire Residents Against Incineration & Landfill
WCS	Waste Core Strategy
WMRSS	West Midlands Regional Spatial Strategy
WPA	Waste Planning Authority
WRATE	Waste and Resource Assessment Tool for the Environment
WSE 2007	Waste Strategy for England 2007

1 INTRODUCTION AND QUALIFICATIONS

1.1 INTRODUCTION

1.1.1 My name is Kirsten Berry. I hold a Bachelor of Arts Honours Degree in Planning Studies, and a Diploma in Planning, Environmental Assessment and Management. I have worked as a professional planner for 15 years, and over the last ten years have specialised in waste, energy and minerals planning matters. I am a Member of the Royal Town Planning Institute.

1.1.2 I joined Environmental Resources Management Limited (ERM) in April 2003, in order to provide the UK Waste Management Team with specialist planning support. I was made a Partner of the firm in August 2010 and now lead the planning practice; managing, and remaining directly involved in, a range of energy and waste planning projects.

1.1.3 I was a lead author of the Planning Policy Statement 10 Companion Guide (for Office of the Deputy Prime Minister (ODPM) now Department of Communities and Local Government (DCLG)) and a contributory author to the Planning for Climate Change Good Practice Guidance, which has informed preparation of the content of the web-based guidance available on Department of Energy and Climate Change (DECC) website. I also sat on the Steering Group overseeing preparation of the document 'Designing Waste Facilities,' a guide published by DEFRA in 2008.

1.1.4 I directed all of the preparation and drafting of the Surrey Waste Plan, including acting on behalf of the County Council at the Informal and Formal Hearings, the first consolidated suite of waste development plan documents to be found sound and adopted. Subsequently, I have performed a similar role in preparation of the West of England Joint Waste Core Strategy, which was adopted by all the relevant authorities in Spring 2011.

1.1.5 Further strategic energy and waste related projects with which I have been involved include:

1. preparation of proof of evidence and expert witness for the Lostock Sustainable Energy Plant, Cheshire;

2. preparation of proof of evidence for the second and third public inquiries into the Riverside Resource Recovery Facility at Belvedere, London Borough of Bexley;
3. preparation of proof of evidence for the co-joined inquiries for the Refuse Derived Fuel Plant and the Resource Recovery Park proposed at Ince Marshes, Cheshire;
4. planning adviser, lead author of the planning suite of submission documents and Written Representations and representative at Hearings into the Rookery South Resource Recovery Facility at Stewartby;
5. preparation of CHP Feasibility Study for the Southampton Biomass Plant, Southampton;
6. preparation and review of documents submitted for the Resource Recovery Facility near Merthyr Tydfil (Wales); and the
7. preparation and review of documents prepared for the proposal of a Marine Energy Park on the Humber Estuary.

1.1.6 Prior to joining ERM, I was the Minerals and Waste Planning and Enforcement Officer at Oxfordshire County Council. The main purpose of this role was to control mineral and waste developments and to improve the environment of places affected by operations. Prior to this position, I was a Planning Liaison Officer at the Environment Agency, and Planning Officer at Cherwell District Council.

1.1.7 I have been working with Worcestershire County Council (the County Planning Authority, CPA) for over eight years, undertaking a range of commissions including:

- assessment of Best Practicable Environmental Option for waste management and how the identified option should be implemented;
- acting as expert witness on behalf of the CPA at minerals and waste development appeals;
- providing and directing support to the CPA in considering waste and mineral development proposals and the Review of Old Mineral Permissions; and

- acting as Partner in Charge of tasks necessary for the preparation of the emerging Waste Core Strategy, namely the Industrial Estates Review, the Sustainability Appraisal and the Habitats Regulation Assessment. However, I have not been responsible for the drafting of the policy document.

1.1.8 I am familiar with the EnviRecover proposal and location. I was asked to assist the CPA at the pre-application discussions for the EnviRecover proposal (in 2009). Following a formal procurement process, ERM was retained to support the CPA through Scoping for the Environmental Impact Assessment (January 2010) and in considering the application when it was submitted (May 2010). In this commission I acted as the case officer on behalf of the CPA, attending the site visits with Members of the Planning and Regulatory Committee and preparing the Committee Report.

2 *INTRODUCTION TO THE PROPOSAL AND THE SCOPE OF MY EVIDENCE*

2.1 INTRODUCTION TO THE SITE

2.1.1 The inquiry site comprises a 3.56 hectares (ha) plot of land situated in the centre of Hartlebury Trading Estate. The Trading Estate is located within the Green Belt approximately 7 km to the south-east of Kidderminster and 1.5 km to the east of Hartlebury. It covers an area of approximately 75 ha (180 acres) and is served by a purpose-built access via Crown Lane, off the A449 dual carriageway as shown on the attached plans.

2.1.2 The inquiry site is currently vacant, but was used in the 1930s – 40s as part of a railway siding serving the Royal Air Force maintenance unit base and as such has been previously developed. The site is now colonised by varying degrees of scrub vegetation and includes a number of mature trees.

2.1.3 Other features of the site include:

1. an unmade access track which runs northwards from Oak Drive and then turns northwest towards the private sewage treatment works which serves the Trading Estate.
2. a former railway embankment which runs east-south-east/west-north-west across the central section of the site.
3. a small ditch / watercourse which runs through the site in a broadly north/south direction emerging from a culvert on the southern boundary of the site with Oak Drive.
4. a small hard standing area of circa 45 metres x 25 metres in the south western corner, which is temporarily being used as a lorry park by an adjacent unit.

2.1.4 To the immediate north of the site is Waresley Landfill Site (operated by Biffa Waste Services) and Waresley Brickworks and clay extraction quarry, (operated by Weinerberger). Forming the southern boundary of the site is Oak Drive, the estate road from which the site would be accessed, beyond which is a range of industrial/commercial units. There are also existing industrial units located to the west of the site, as is the private sewage works that serves the Trading Estate and which immediately abuts the site's north-west corner. To the east of the proposal site there is a block of poplar trees and a small block of woodland known as Middle Covert, beyond which are further industrial units.

2.1.5 Three separate areas of land within the Hartlebury Trading Estate (including this inquiry site) benefit from an extant planning permission granted in 1999 by Wychavon District Council. It allows the development of units for industrial and storage purposes (covered by use classes B1, B2 and B8) (Wychavon District Council's reference number W/99/0662). Two of the other plots have been developed but the site that is the subject of this inquiry has not. However, the approved development could still be implemented; as some of the development permitted has been constructed and is in use, the remainder is not limited to a time period and is, therefore, saved in perpetuity.

2.1.6 In December 2004, planning permission for a municipal waste management facility was granted by the CPA on the inquiry site. The proposal was for an autoclave facility that would have managed 100,000 tpa of waste. The proposal was being promoted to help meet the needs of the Joint Municipal Waste Management Strategy (JMWMS). A subsequent planning application permitted was in May 2006, which amended the site layout. However, the development has never come forward and both planning permissions have now expired.

2.1.7 The nearest residential properties to the application site comprise a small number of isolated dwellings, the closest of which (known as Bellington) is situated circa 300 metres to the south east of the site. Further isolated properties are located approximately 700 metres to the north east of the site, known as New House Farm. Waresley House, which is a Grade II* listed building and Waresley Park residential estate (consisting of approximately 100 residential dwellings) are located over 1 km to the west of the inquiry site. Hartlebury village is situated about 1.5 km to the north west, on the other side of the A449.

2.1.8 The Hartlebury Trading Estate is occupied by a range of commercial, industrial and storage uses. Whilst there is a good degree of variation in the building type across the estate (including old MOD buildings and modern units) the buildings generally do not exceed two storeys in height. The size of the units varies greatly from 500 to 115,000 sq feet. The average industrial unit is estimated at 20,000 sq feet. The main building of the proposed EnviRecover Facility is 9,685.84 sq metres or 104,258 sq feet; the separate turbine hall is 15,601 sq feet. The Trading Estate is well laid out with wide access roads that are generally uncluttered by on street parking.

2.2 *INTRODUCTION TO THE PROPOSAL*

2.2.1 The development, proposed as part of the integrated waste management infrastructure within Worcestershire and Herefordshire, comprises:

1. a built facility for the combustion of 200,000 tonnes per annum of residual waste (i.e. waste remaining after recycling and composting) in order to recover energy. The Applicant states that the main focus of the proposed Facility is to manage municipal waste, however in the unlikely event that there is insufficient municipal waste available to be treated then commercial and industrial waste could also be managed. The application does not specify the tonnage of this waste as it is currently unknown
2. The proposal includes the following components:

    - Weighbridge: 15 metres x 4 metres x 4.05 metres (ht.) Gross internal floor area = 37.7 sq metres

- Turbine Complex Building (incl. Condensers): 24.40 metres x 60 metres x 16.30 metres (ht.) Gross internal floor area = 1449.36 sq metres
- Office/Admin. Block within EfW Main Building: 7.2 metres x 60 metres x 19 metres (ht.*) Gross internal floor area = 2515 sq metres
- EfW Main Building: 140 metres x 57.4 metres (max width) x 35 metres (ht.*) Gross internal floor area = 9685.84 sq metres
- Chimney stack: 2.5 metres diameter 75 metres height (above ground level)

3. associated ancillary infrastructure;
4. earthworks and landscaping associated with assisting the integration of the buildings into the site and surrounding area; and
5. the creation of a new access off Oak Drive.

*heights given are above the surrounding site level of 48.5 metres Above Ordnance Datum (AOD)

2.2.2 The EnviRecover Facility will be contained within two inter-connected buildings, comprising a main building and a smaller secondary structure.

a. The core element of the main building will include:
   - waste reception (tipping) hall;
   - storage bunker;
   - ash bunker;
   - waste combustion grate and boiler;
   - flue gas treatment system;
   - education / visitor centre;
   - offices, workshops an stores; and
   - chimney stack.

b. The secondary structure will contain:
   - air cooled condensers;
   - the turbine generator;
   - an electrical sub-station; and
   - a bypass station.

2.2.3 In addition a number of ancillary buildings are proposed, and include:

1. a gatehouse / weighbridge office at the entrance to register all waste carrying vehicles that enter and exit the site;
2. dual weighbridges and bypass lanes (one for incoming vehicles, the other for outgoing vehicles);
3. a car park for 45 vehicles, of which 4 would be disabled spaces(with a coach parking bay) for staff and visitors;
4. areas of hard standing for the manoeuvring of large articulated vehicles;
5. a pedestrian over-bridge to gain access to the office and education / visitor centre; and
6. space for 8 bicycles.

2.2.4 The Applicant anticipated that the proposed Facility would take 35 months to construct and commission and was programmed to open in Spring/Summer 2014. Construction is proposed to occur generally between 07.00 to 19.00hrs Monday to Friday and 07.00 to 12.00hrs on Saturday. There may be some construction activities undertaken outside of these hours for example the internal fitting of buildings or when abnormal loads need to be delivered. However, heavy goods vehicle (HGV) movements are not proposed to take place outside of the hours above, unless prior agreement is arranged with the CPA.

2.2.5 It is proposed that the Facility would operate 24 hours per day, 7 days per week, with vehicle deliveries occurring between 06.00 – 19.00 hours up to 7 days per week. The Applicant estimates that 90% of the waste being received would be delivered Monday to Friday. Core operational trip generation assumptions have been based on the expectation that the Facility will be open to delivery/collection for effectively 50 weeks per year (reflecting the storage capacity of the bunker to allow continued deliveries during scheduled short term maintenance periods); and that materials will be delivered / collected over a core 12 hour period, between the hours of 07:00 - 19:00.

2.2.6 The Applicant estimates that the EnviRecover Facility would generate in the region of 66-98 two way movements of HGV or refuse collection vehicles (RCV) per day, dependant on district council collection regimes. The Applicant presents a range of movements recognising different collection arrangements and recognising both peak delivery days (weekdays) and off-peak delivery days (weekends) with consequent variation in vehicle movements. There would be additional vehicles delivering air pollution control (APC) materials and exporting the APC residues and bottom ash. The worst case scenario (on a peak operational day) presented by the Applicant is 109 vehicles, resulting in a total number of 218 HGV or RCV movements per day.

2.2.7 The proposed Facility would recover approximately 15.5 mega watt (MW) of energy, by way of a steam turbine which would be driven through the combustion of the residual waste. Approximately 2 MW would be used to operate the plant, leaving 13.5 MW to be exported to the national grid. The Applicant has submitted a Grid Connection Study, which identifies a suitable connection point within 1.5 kilometres of the inquiry site.

2.2.8 The EnviRecover Facility would also be capable of exporting heat. Whilst there were no confirmed users for the heat at the time of the Committee Resolution and the necessary infrastructure is not proposed within this application, the Applicant confirmed that discussions are ongoing and has shown a number of opportunities including heat use in the Waresley Brickworks and Hartlebury Brickworks (both operated by Wienerberger) and possible use by a food manufacturer on the Trading Estate. The Applicant also states that it is likely that opportunities will arise from future occupiers of the Trading Estate and that the Facility could attract new businesses seeking to utilise the heat.

2.2.9 As part of the development the proposed EnviRecover Facility would be sunk 8 metres into the ground, in order to reduce the height, and consequently the visual impact, of the building. This would result in approximately 60,000 m^3 of clay being excavated and exported from the site. It is anticipated that the clay material would be used locally; the Applicant states that whilst negotiations are ongoing these potential markets include use at the Wienerberger brickworks in the manufacture of bricks and the capping and engineering works required at landfill sites in the locality.

2.2.10 The Applicant states that, when operational, the proposed EnviRecover Facility would provide employment for approximately 42 people. This includes skilled operatives (electricians/fitters/crane operators) or technical engineers working an 8 hour shift pattern with 06.00, 14.00 and 22.00 start times. In addition, there would be approximately 12 office based staff, typically working a 09.00 to 17.00 day. These employees and any visitors to the site are expected to result in a total number of approximately 140 car trips per day (or 70 vehicles).

2.2.11 Construction of the proposed development would also generate employment. The number of site operatives would vary throughout the construction process, reaching a peak of about 250 during the equipment installation and fit out phase.

2.3 CONSIDERATION OF THE PROPOSAL FROM SUBMISSION TO RESOLUTION

2.3.1 I have been acting as the Case Officer, on this development proposal since prior to its submission in May 2010. I attended a meeting to discuss the Scoping Report in December 2009 and reviewed the Scoping Opinion in January 2010. I have accompanied Members of the Planning and Regulatory Committee on their visits to comparable plant (as described below at paragraph 2.3.14). I drafted the Committee Report, presented the application at the Committee Meeting and accompanied the Members of the Committee on both their visits to the inquiry site (further described below at paragraph 2.3.13).

2.3.2 Worcestershire County Council consulted local stakeholders and residents in line with the adopted Statement of Community Involvement (SCI). This included the first 12 week consultation (from the 19 May – 13 August 2010). The consultation information was provided through the following:

- 12 site notices in proximity to the site and surrounding area;
- advertisements in the local press (three newspapers, in the local area); and
- documents were made available for public inspection on the County Council's website and paper copies of all of the submitted application documents made available at public libraries in Droitwich, Kidderminster and at reception in County Hall.

2.3.3 A second consultation was undertaken because a number of issues were raised at the time of the first consultation, which the County Planning Authority asked the Applicant to address. Additional environmental information was consequently provided in relation to Protected Species, including a Reptile Survey Report. The Applicant also submitted further information in relation to the Green Belt, clarifying the very special circumstances identified in support of the application and providing information on waste arisings. All of this additional information was consulted on for a 21 day period (from 4 - 25 November 2010). Information was provided through the following:

- 12 site notices in proximity to the site and surrounding area;
- advertisements in the local press (three newspapers, in the local area); and
- documents were made available for public inspection on the County Council's website and paper copies of all of the submitted application documents made available at public libraries in Droitwich, Kidderminster and at reception in County Hall.

2.3.4 Following the call-in of the Committee Resolution by the Secretary of State, further Regulation 19 information was requested from the Applicant in relation to potential impacts of the grid connection. The Applicant submitted this information on 12th August 2011. The Planning Inspectorate consulted on the additional information.

2.3.5 The Applicant has voluntarily provided further Regulation 19 'other information' on Effects on Great Crested Newts and in respect of a Heat Off-take Connection with Wienerberger Waresley Brickworks. All of this additional information was consulted on for a 21 day period (11 October - 01 November 2011). Information was provided by the Applicant through the following:

- inspection of copies at the reception of County Hall, Worcester.
- viewing the further information on the Mercia EnviRecover website at www.envirecover.co.uk;
- copies of the further information could be purchased from the offices of Mercia Waste Management, Evesham.

2.3.6 I shall address all of the additional information submitted after the Committee Resolution in supplementary evidence.

2.3.7 Issues of propriety surrounding the decision making process have been raised by Worcestershire Residents Against Incineration & Landfill (W.A.I.L), which it is appropriate briefly to address. W.A.I.L. questions the relationship between the Applicant and Worcestershire County Council as the Authority performs several roles that are relevant to the proposal: County Planning Authority (CPA); Waste Disposal Authority (WDA); and lease holder of the inquiry site. W.A.I.L. correctly recognises that the EnviRecover proposal has been submitted to deliver part of a PFI contract held between Worcestershire County Council, Herefordshire Council and Mercia Waste Management (the Applicant). This contract is managed by the WDA, a function of the County Council that operates discretely from the function of CPA. Property management is another, discrete, function within the County Council.

2.3.8 Notwithstanding the separate responsibilities of these different functions, and that procedures are established internally to ensure propriety, Worcestershire County Council foresaw that the concerns expressed by W.A.I.L. may be forthcoming. In response, the CPA implemented several actions to ensure and to demonstrate that its duties were undertaken appropriately; these are described below. These actions included commissioning ERM to provide independent advice.

2.3.9 First and foremost, irrespective of wider interests or landownership issues, the law requires that applications for the development of, inter alia, waste treatment facilities are made to the appropriate planning authority, which in this instance is Worcestershire County Council as the CPA. There is no other course of action open to the Applicant in terms of making the application; or available to the County Council, as the CPA, in undertaking its statutory duty to determine it. This situation is normal practice throughout the country and is not something which is specific or peculiar to Worcestershire County Council or to this application.

2.3.10 Secondly, whilst the application in this instance is to do with waste matters, it is not unusual for the County Council as CPA to determine applications made by, or on behalf of, the County Council in relation to its other functions or areas of responsibility. For example the County Council as CPA is regularly required to determine applications for facilities required to deliver its Education and Highway functions, often on County Council owned land. In all these situations, as with the current application before the Inquiry, the County Council ensures that in dealing with the matter both before and during the application process, as well as at the time of determination of the application, appropriate processes are put in place (Chinese Walls) to ensure that there can be no conflict of interest in the decision making process.

2.3.11 Thirdly, in its role as CPA, generally and as waste planning authority, the County Council approaches all applications and the decision made on them solely on the basis of the planning merits of proposals. It is not swayed in any way in its decision making processes by what may be viewed as wider County Council corporate or strategic priorities. This objective approach is demonstrated in its past performance by reference to previous strategic waste applications related to the PFI contract. The CPA refused the application for the Integrated Waste Management Facility at Kidderminster in 2001 on the basis of unacceptable impacts on matters such as visual amenity and landscape, the character of a conservation area, SSSI and sports provision, as well as significant public concerns about safety and environmental matters. This decision was upheld at appeal.

2.3.12 Similarly in considering the application by Estech for an autoclave facility on the inquiry site, the CPA granted permission, but, due to concerns about the use of the fibre resulting from the process, restricted the consent with a Grampian condition to ensure that the fibre residues where dealt with higher up the waste hierarchy than simply disposal to landfill. The Applicant was ultimately unable to meet the condition to the satisfaction of the CPA and the proposal did not go ahead. These two cases clearly illustrate that it is the planning merits of the application that influences the CPA in reaching planning decisions rather than wider corporate or strategic priorities.

2.3.13 Fourthly, it is important to understand that Members of the Planning and Regulatory Committee, in assessing the current application, took a considerable amount of time to familiarise themselves with and to understand the application before reaching a decision. Members of the Committee received an initial pre-application presentation on the proposal in March 2010, they visited the site of the application on 2 December 2010, when a height balloon was flown, and walked around the site and visited viewpoints in the surrounding area. The height balloon was flown on the inquiry site by the Applicant to demonstrate the height (35 metres) of the Boiler House which is the highest part of the proposed buildings. The balloon was not set at the height of the proposed chimney stack (75 metres). Members also went on the normal site visit on the day prior to the meeting of the Committee on 1st March 2011.

2.3.14 Equally important is the fact that in order to familiarise themselves with the workings of an energy from waste facility, and to see the impact of such a facility on the ground, Members of the Committee visited comparable plant at Stoke on Trent, Portsmouth and Sheffield prior to the Committee meeting. Further, to help Members understand the likely impacts of the EnviRecover Facility when reaching a decision at the Committee they had in front of them (in the Committee report) the expert advice of many specific and statutory consultees; the full responses from these consultees were made available in the Members' Room. In addition, representatives of both the Environment Agency and the Primary Care Trust attended the Committee meeting to answer questions of concern in relation to public health.

2.3.15 Notwithstanding the above, the concerns of W.A.I.L. on issues of propriety are now immaterial, as the proposal is before the Secretary of State who will ultimately take the decision on whether the EnviRecover Facility should be approved.

2.4 SCOPE OF MY EVIDENCE

2.4.1 My evidence will address the matters upon which the Secretary of State has said that he particularly wishes to be informed. The remainder of my proof is structured as follows:

- Section 3: The Development Plan
- Section 4: PPS 10 Sustainable Waste Management
- Section 5: Planning and Climate Change Supplement to Planning Policy Statement 1
- Section 6: Planning Policy Guidance Note 2 (PPG 2): Green Belts
- Section 7: Other Matters
- Section 8: Summary and Conclusions

3 THE DEVELOPMENT PLAN

3.1 THE DEVELOPMENT PLAN

3.1.1 The CPA considers the development plan for the proposal comprises:

1. the West Midlands Regional Spatial Strategy (WMRSS);
2. saved policies of the Worcestershire County Structure Plan; and
3. saved policies of the Wychavon District Local Plan.

3.1.2 The development plan has been agreed between all parties through the Statement of Common Ground 2, September 2011 (SOCG 2). The conformity of the proposal to these documents is discussed in turn below. In relation to the matters raised by the Secretary of State the conformity of the proposal in relation to the emerging Worcestershire Waste Core Strategy and the emerging South Worcestershire Core Strategy (now called the emerging South Worcestershire Development Plan) will be examined along with the weight that should be attached to both of these documents. In addition, the content of the draft National Planning Policy Framework will be addressed.

3.2 CONSIDERATION OF THE DEVELOPMENT PLAN

3.2.1 This section considers the EnviRecover Facility against relevant policies contained within the development plan, with the exception of those policies in **bold** text, dealing with Waste Management (addressed in *Section 4*), Energy Generation and Conservation (addressed in *Section 5*) and Green Belt (addressed in *Section 6*). In relation to Waste Management and Energy Generation and Conservation, it is important to note that I consider the proposal to be in conformity with those policies. Although it is acknowledged that the EnviRecover Facility is discordant with the relevant Green Belt policies of the development plan, I conclude that very special circumstances exist to warrant approval of the proposal.

3.2.2 The other relevant policies of the **WMRSS** are:

- **WD1** Targets for Waste Management in the Region
- **WD2** The Need for Waste Management Facilities – by Sub-Region
- **WD3** Criteria for the Location of Waste Management Facilities
- **EN1** Energy Generation

- **EN2** Energy Conservation
- QE1 Conserving and Enhancing the Environment
- QE3 Creating a high quality built environment for all
- QE5 Protection and enhancement of the Historic Environment
- QE6 The conservation, enhancement and restoration of the Region's landscape
- QE7 Protecting, managing and enhancing the Region's Biodiversity and Nature Conservation Resources
- T10 Freight

3.2.3 The relevant saved policies of the **Worcestershire Structure Plan** are:

- **WD1** Waste Hierarchy
- **WD2** Location of Waste Handling and Treatment Facilities
- **WD3** Waste Management Facilities
- **EN3** Waste to Energy
- **D38** General Extent & Purposes of the Green Belt
- **D39** Control of Development in the Green Belt
- SD1 Prudent Use of Natural Resources
- SD2 Care of the Environment
- SD3 Use of Previously Developed Land
- SD4 Minimising The Need to Travel
- CTC1 Landscape Character
- CTC2 Skylines and Hill Features
- CTC5 Trees, Woodlands and Hedgerows
- CTC8 Flood Risk and Surface Water Drainage
- CTC9 Impact on Watercourses and Aquifers
- CTC10 Sites of International Wildlife Importance
- CTC11 Sites of National Wildlife Importance
- CTC12 Sites of Regional or Local Wildlife Importance
- CTC15 Biodiversity Action Plan
- CTC16 Archaeological Sites of National Importance
- CTC17 Archaeological Sites of Regional or Local Importance
- CTC19 Areas and Features of Architectural Significance
- CTC20 Conservation Areas
- T1 Location of Development

- T15 Freight/Goods Transfer
- T19 Airfields

3.2.4 The relevant saved policies of the **Wychavon District Local Plan** are:

- GD2 General Development Control
- **SR7** Development in Green Belt
- **SR8** Major Development Site in the Green Belt – Hartlebury Trading Estate
- ENV1 Landscape Character
- ENV5 Sites of Regional or Local Wildlife Importance
- ENV6 Protected Species
- ENV14 Setting of Listed Buildings
- ENV18 Development in Areas of Low to Medium Flood Risk
- ENV20 Development Likely to Give Rise to Pollution or the Risk of Pollution
- SUR1 Built Design
- SUR2 Landscape Design
- ECON1 Protection of Existing Employment Land
- ECON11 Freight

3.2.5 In order to consider the EnviRecover Facility's conformity with the policies outlined above, each topic area is considered in turn.

3.2.6 In relation to **Landscape and Visual Impact**, the key development plan policy is contained in the WMRSS (policies QE1, QE3, QE5 and QE6) the Worcestershire Structure Plan (policies SD2, CTC1, CTC2 and CTC20) and Wychavon District Council Local Plan (policies GD2, ENV1, SUR1 and SUR2). In short, these policies seek to protect and enhance environmental assets and landscape character (and including specific reference to the sky line) requiring a high standard of design and full consideration of the design principles of, and potential impacts that might arise from, development proposals.

3.2.7 The Environmental Statement supporting the application contains a comprehensive assessment of landscape and visual impacts. The landscape assessment noted that there would be a medium magnitude of change in character of the area resulting in an effect of minor significance, given that the sensitivity of the area is generally low due to the presence of the existing trading estate and landfill facilities.

3.2.8 The visual impact of the proposed development was considered from 21 viewpoints around the inquiry site. The assessment at each location determined that there would be a minor to moderate impact from the viewpoints assessed, with the exception of the Waresley Park residential area and at Elmley Lovett where the assessment noted an impact of moderate to major significance. The assessment considered these locations in more detail and concluded that there would not be a significant environmental impact, given the distance from the site and the presence of the existing trading estate (although it recognises that the existing buildings are much smaller) and the landfill sites.

3.2.9 The submitted Design and Access Statement demonstrates that the design of the proposed EnviRecover Facility has been given much thought with relevant options considered. The submitted design was considered to be the best option causing least visual impact and integration with the existing setting. The application also proposes lowering the ground level of the site by 8m in order to reduce the final height of all the buildings, consequently reducing their visual impact.

3.2.10 The Applicant has proposed mitigation measures to minimise light pollution including: the use of smart lighting lanterns that achieve a full 'cut-off', meaning light spillage is minimised; and by limiting the hours that normal lighting is used. Light pollution can be appropriately controlled through the recommended condition q), as set out in SOCG 2.

3.2.11 The plume visibility has been modelled by the Applicant, demonstrating that the plume would be visible for around 28% of the time, with more than half of this period being during hours of darkness. The plume would be most visible during cold, still conditions in the winter months when the days are short. The Applicant, therefore, concludes the plume would be visible for less than 14% of operational time. I consider that this does not present a significant adverse visual impact.

3.2.12 The Applicant notes that there is likely to be visual impact due to the presence of construction machinery, including cranes. However, this would be for a temporary period and given the presence of the existing trading estate, these impacts are not considered to be significant.

3.2.13 Neither the County Landscape Officer nor the County Design Unit Manager object to the proposal, suggesting that decisions regarding the external finish of the buildings and site details are pursued through the recommended condition m). Also the County Landscape Officer does not consider the Hartlebury Conservation Area to be adversely affected by the proposed development.

3.2.14 I am also of the view that the EnviRecover Facility will not cause any adverse impact on the AONB. During the consultation on the proposal, Natural England concluded that the EnviRecover Facility would not adversely affect any statutorily protected areas (including the AONB) and therefore raised no objection.

3.2.15 It is noted that the proposed EnviRecover Facility would require built development, which exceeds the height of buildings already present on the Hartlebury Trading Estate and these structures will be visible, to varying degrees, from a number of locations. However, the fact that a structure is of itself substantial and visible does not necessarily lead to an adverse environmental impact. This is a subjective judgement to be made by each individual. In my view, and having taken account of the submitted information and the views of the statutory advisors, the visual and landscape impacts of the proposed EnviRecover Facility are not considered sufficiently significant to justify refusal of the application.

3.2.16 The relevant policies in relation to **Ecology and Nature Conservation** are presented in the WMRSS (policy QE7) the Worcestershire Structure Plan (policies CTC5, CTC10, CTC11, CTC12 and CTC15) and Wychavon District Council Local Plan (policies GD2, ENV5 and ENV6). These policies seek to protect protected species; habitats and wildlife of international, national, regional and local importance. My discussion of ecology and nature conservation matters set out here is reliant upon the information that was available to me at the time of the Committee Resolution. I shall address all additional environmental information separately, in supplemental evidence.

3.2.17 The Environmental Statement submitted alongside the planning application contained a detailed Ecology and Nature Conservation assessment. In response to a holding objection from Natural England and the County Ecologist, it was requested that the Applicant submitted additional ecological information. This information has been separately consulted upon as set out above in *Section 2.3*. In addition to general ecology matters, there were specific concerns held in regard to great crested newts (GCN) and noctule bats.

3.2.18 Local representations, including those received from W.A.I.L. make clear that concerns are still held in relation to ecology matters. Natural England and the County Ecologist both withdrew their objections on consideration of the additional environmental information provided in November 2010 and considered this information to be adequate. It was noted that the site is in close proximity to areas that do accommodate GCN; and that whilst unlikely, there was the potential for the site to be used as a corridor to move between areas. Therefore, on-going monitoring of GCN in relation to the site's development and operation would need to be carried out. Natural England and the County Ecologist requested that this is achieved through the preparation and implementation of both a Nature Conservation Management Plan and the Construction and Environment Management Plan.

3.2.19 In October 2011 the Applicant voluntarily submitted a Regulation 19 report on potential effects on GCN (environmental information (October 2011)). During reptile exclusion works on the inquiry site during 2011 the presence of a small number of GCN were identified. The environmental information (October 2011) also refers to GCN pond surveys undertaken within 500m of the inquiry site in Spring 2011. This concludes that there are four ponds within 500m of the inquiry site that are used by GCN, the closest of which being 300m from the inquiry site. The environmental information (October 2011) notes that Natural England has been consulted and has confirmed that a European Protected Species Licence would be required to move GCN from the inquiry site. The CPA needs to consider the final advice from statutory stakeholders such as Natural England and the County Ecologist to be able to conclude on this matter. The CPA will therefore provide supplementary evidence once it has been possible to reach a conclusion on the potential effects on GCN. This supplemental evidence will also consider the environmental information submitted in August 2011.

3.2.20 The inquiry site is also in close proximity to a small wood called Middle Covert, which accommodates noctule bats. The submitted information concludes that there is unlikely to be an adverse impact, a conclusion with which Natural England and I concur. Concerns have been raised about the shadowing effect caused by the building and chimney stack on the Middle Covert. However, this matter has been adequately addressed through additional modelling provided by the Applicant. To this end it is important that the rows of poplar trees on the eastern boundary of the site are retained; whilst this already formed part of the proposal on submission, their protection and on-going management is also required through the imposition of recommended condition r).

3.2.21 Local representation has raised concern about the potential for adverse impacts on the River Stour Floodplain, Hartlebury Common and Wilden Meadows and Marsh. The Environmental Statement identifies each of these Sites of Special Scientific Interest (in addition to others). Natural England comments on these sites, recognising that they are located within 5 kilometres of the inquiry site, and concurs that that the proposal will not have a significant effect on the interest features of the designated sites. On the basis of the information and advice before me I conclude that there will not be an adverse impact on the Sites of Special Scientific Interest. I do not consider this conclusion to be affected by the additional environmental information provided by the Applicant.

3.2.22 There will be some impacts during the construction of the proposed Facility in the form of the loss of two oak trees, a habitat mosaic of grassland, scrub, tall herb vegetation and a partly culverted ditch. Whilst mitigation of these is not possible, they are compensated for in the form of a new water course, two attenuation ponds and landscape planting. It is inevitable that the redevelopment of this site will result in the loss of some naturally regenerated habitat. I consider that this loss is acceptable.

3.2.23 A Reptile Survey and Mitigation Plan was prepared which sets out the measures to avoid deliberate killing or injury during construction works and provides for the long term maintenance of populations on site through habitat enhancement measures. The mitigation plan includes the following elements:

- pre-construction enhancement of retained habitats;
- pre-construction trapping, exclusion and translocation to retained habitats;
- construction phase protection of retained habitats; and
- post construction habitat management.

3.2.24 Adoption of these measures will make it possible to maintain or increase the population size and condition of the local slow-worm and grass snake population. Implementation of this Plan is required through the recommended condition r).

3.2.25 On the basis of the information available to me at the time of the Committee Resolution, having considered the supporting assessment and the views of Natural England and the County Ecologist, I consider that the relevant issues had been addressed. Therefore, the EnviRecover Facility would be in accordance with the policies of the development plan outlined in paragraph 3.2.16 on Ecological and Nature Conservation matters. However, on behalf of the CPA, I will present final conclusion on this matter having fully considered the additional environmental information provided by the Applicant and advice from Natural England and the County Ecologist.

3.2.26 The relevant development plan policies in relation to **Transport** matters are set out within the WMRSS (policy T10) the Worcestershire Structure Plan (policies SD4, T1, T15 and T19) and Wychavon District Council Local Plan (policy GD2 and ECON11). These policies aim to: enable the delivery of development close to urban areas to reduce the need to travel; ensure that a site is easily accessible via the Lorry Route Network; avoid significant impacts on the road network, including safety; avoid adverse environmental impact on residential amenity; promote the use of rail and water to transport waste; and avoid impacts on airfields.

3.2.27 The Environmental Statement submitted with the application concludes that development and operation of the EnviRecover Facility would not result in a material impact on operational or environmental conditions over the local highway network. Development traffic flow increases would generally be low when compared to baseline flow demand. Further, the core local haulage routes of Crown Lane and the A449 are of a suitable standard to accommodate operational HGV traffic and have few immediate sensitive receptors.

3.2.28 The Applicant proposes a routeing strategy that shows all operational HGV movements to/from the site using Crown Lane to access the A449 dual carriageway. Improvements to Crown Lane were undertaken some years ago to provide access to the Hartlebury Trading Estate from the A449. Crown Lane is a suitable industrial standard local distributor road corridor, with no frontage residential property and provides the most direct access from the Hartlebury Trading Estate to the County Strategic Road Network (the A449).

3.2.29 It is important to note that no objection has been received from either the Highways Agency or the County Highways Officer. I consider the routeing strategy to be appropriate and due to weight and width restrictions on many of the local roads surrounding the site, it would be difficult for HGV to use these in any event.

3.2.30 The CPA has considered the use of rail with this development, recognising the sustainability benefits that this mode of transport can bring. However, the EnviRecover Facility is intended to manage wastes arising with Worcestershire and Herefordshire and principally residual municipal wastes. The road based system for collecting these wastes is already established. These road movements and those associated with transporting outputs from the proposal (the clay materials, incinerator bottom ash and APC residues) are demonstrated not to result in unacceptable impacts, including in relation to the carbon footprint of the EnviRecover Facility.

3.2.31 In regard to aviation safety, it should be noted that red warning lights are not required on the chimney stack and that no objections have been received from the Wolverhampton HalfPenny Green Airport. I conclude that, the EnviRecover Facility is in conformity with development plan policies in relation to transport matters, set out in paragraph 3.2.26.

3.2.32 The relevant development plan policies in relation to **Surface Water, Flood Risk and Groundwater** matters are set out within the Worcestershire Structure Plan (policies CTC8 and CTC9) and Wychavon District Council Local Plan (policy ENV18). These policies aim to ensure that development does not occur in the floodplain; development does not increase the risk of flooding and will not cause pollution of surface water or groundwater, it will not have an adverse effect on groundwater resources, and it will not cause detriment to the existing regime of a watercourse or its environment.

3.2.33 The Environmental Statement accompanying the planning application includes an assessment of flooding and surface water. The inquiry site does not lie within a flood plain and is classed as Flood Zone 1; therefore, the risk of fluvial flooding is minimal. Both the Environment Agency and Wychavon District Council's Land Drainage Officer have been consulted on this application; neither raise any objection.

3.2.34 The site investigations did identify the presence of asbestos cement board, noted in one trial pit. This indicates the possibility that asbestos board may be present within the made ground elsewhere on the site. As such this would need further assessment as part of the detailed construction design phase ground investigation and would likely warrant some form of reactive remediation plan. This is a matter appropriately dealt with by the recommended condition g).

3.2.35 Once the proposed Facility is in use, it would be operating on sealed hard standings that would prevent oils / lubricants or wastes from penetrating into the underlying natural ground. Further, the Environmental Permit that has been issued will ensure that suitable systems are put in place to control the potential for contamination. I conclude that the EnviRecover Facility is in conformity to the development plan policies for Flood Risk and Groundwater set out in paragraph 3.2.32.

3.2.36 There are also a number of relevant policies in relation to **Archaeology and Cultural Heritage**. These are set out within the WMRSS (policy QE5) Worcestershire Structure Plan (policies CTC16, CTC17 and CTC19) and Wychavon District Council Local Plan (policies GD2 and ENV14).

3.2.37 There is a scheduled ancient monument located approximately 500 metres to the southeast of the site known as the medieval village of Elmley Lovett. Wychavon District Council has objected to the proposal due to impacts on the setting of Waresley House Grade II* listed building. Unfortunately it has come to light that the Worcestershire County Council Planning and Regulatory Committee Report referred to Waresley House as Grade II not Grade II* listed.

3.2.38 It is therefore important to consider the application in this context. The Environmental Statement correctly identifies Waresley House as Grade II* listed. The ES concludes that no cultural heritage feature would experience any effect of greater than minor significance upon their setting and many would experience no material effect at all.

3.2.39 I am also mindful that neither English Heritage (see Appendix D) nor the County Archaeologist have raised any objections and are satisfied with the conclusions of the Environmental Statement. I agree with these conclusions and that the EnviRecover Facility is in conformity to development plan policies for Archaeology and Cultural Heritage, set out in paragraph 3.2.36.

3.2.40 I also consider that despite the error, Members of the Committee were able to make an informed decision. Members visited Waresley Park and surrounding area during the site visits as part of their consideration of the application. This would have allowed Members to consider first hand any impacts of the proposal on the Waresley House Grade II* listed building and its setting.

3.2.41 Development plan policies for **Air Quality and Health** are set out within the Wychavon District Council Local Plan (policies GD2 and ENV20). These seek to ensure that permitted development will not give rise to pollution including pollution to air.

3.2.42 The application is accompanied by a detailed air quality dispersion model. This concludes that the chimney stack offers suitable dispersion and is designed to ensure that all substances are sufficiently dispersed by the time they reach ground level, that even if someone were to live their whole life close to the plant, there would be no significant impact on their health. The substances include: oxides of nitrogen, particles, sulphur dioxide, acid gases, carbon monoxide, metals, dioxins, organic compounds and ammonia. The dispersion results in a negligible impact on the surrounding air quality, such that further mitigation is not required. It is also concluded that the impacts from HGV movements to and from the proposed Facility on air quality are insignificant.

3.2.43 The submitted information also notes that there may be potential impacts from the construction phase, from dust. Mitigation measures have been suggested by the Applicant to be included as part of the Construction Environmental Management Plan.

3.2.44 The application is also accompanied by assessments for the potential impacts on human health through air quality and through impacts of pollutants on agricultural land and the subsequent ingestion of food from such land. Both assessments conclude that there would be a negligible impact resulting from the proposed development. The Worcester NHS (Primary Care Trust) has considered carefully the submitted analysis relevant to health effects and advises that there would be no significant risk to health from the Facility as long as it is operated within the established regulations. It is important to note that the regulation of emissions is undertaken by the Environment Agency. An Environmental Permit has been issued for the EnviRecover Facility. I conclude that the EnviRecover Facility is in accordance with the development plan in relation to air quality and health matters, set out in paragraph 3.2.41.

3.2.45 Development plan policies for Noise and Vibration are set out within the WMRSS (policy QE3 and QE6) and Wychavon District Council Local Plan (ENV20). These seek to ensure that permitted development will not give rise to adverse impacts from noise.

3.2.46 The submitted environmental information demonstrates that there will not be significant adverse impact from noise. The Environmental Health Officer raised no objection, but requested conditions limiting noise from the operations to an increase of not more than 5 dB over background noise, as shown in the telephone conversation note at Appendix C. Unfortunately, an error occurred when reporting the agreed recommended conditions for night time noise levels at Walton Road in the Committee Report. The recommended conditions listed 38dB rather than the agreed 35dB. This has now been corrected in the SOCG 2 and agreed by all parties. I conclude that the proposed facility should not cause harm through noise and that the operations can be appropriately controlled through the recommended conditions aa), bb) and cc) as set out in the SOCG 2.

3.2.47 I conclude that the EnviRecover Facility is in accordance with the development plan in relation to noise and vibration matters, set out in paragraph 3.2.45.

3.2.48 The final area of relevance of the development plan policies to the EnviRecover Facility is in relation to **Sustainable Development** which is set out within the Worcestershire Structure Plan (policy SD3). The policy seeks the reuse and regeneration of previously developed urban land. The site has been previously developed and I conclude the EnviRecover Facility is therefore in conformity with policy SD3.

3.2.49 I therefore conclude overall, that the EnviRecover Facility is in conformity with the aims of the Development Plan, with the exception of saved Structure Plan and Local Plan policies in relation to the Green Belt and landscape and visual impact. The case in relation to Green Belt matters is addressed in *Section 6*. As discussed above, I conclude that there will be landscape and visual impacts, however these are not so significant to justify refusal of the application.

3.3 THE EMERGING WORCESTERSHIRE WASTE CORE STRATEGY

3.3.1 It is agreed in SOCG 2 that at the time of the Committee's decision the emerging Waste Core Strategy (WCS) was insufficiently advanced to be accorded any weight in the analysis of the proposal. However, during the period 22nd March – 4th May 2011, the Publication Document (Regulation 27) was consulted upon and a Submission document approved by the Council for submission to the Secretary of State. A further focussed consultation on an "Addendum to the Submission document" has been commenced (to run from 3rd October to 15th November 2011). Subject to approval by a meeting of the full Council, the CPA intends to submit the WCS to the Secretary of State towards the end of 2011.

3.3.2 Thus, the emerging WCS is therefore further progressed than at the time of the Committee resolution, but remains to be independently examined. "The Planning System: General Principles" accompanying Planning Policy Statement 1 (PPS 1) suggests (at paragraph 18) that considerable weight may be attached to policies in a development plan document submitted for independent examination where those policies are not subject to representations.

3.3.3 Objections were made to the WCS policies set out in the Publication Document. As the current consultation on the Addendum to the Submission document does not end until 2 days before this Inquiry is due to commence, it is not possible to state if these objections will be sustained or new ones submitted. I still consider that no significant weight can be given to the emerging WCS. It remains for the Inspector conducting the independent examination to determine whether the emerging WCS is sound.

3.3.4 However for the avoidance of doubt, the draft WCS policies that are of relevance to the proposal, as well as the waste management projections and targets, are examined in the following paragraphs. For clarification, all of these references are to the proposed Waste Core Strategy Submission document (June 2011) as amended by the Addendum to the Submission document (October 2011).

3.3.5 Draft **Policy WCS2** of the Addendum to the Submission Document sets out the key policy for 'other recovery' facilities, such as the EnviRecover Facility. The aim is to achieve equivalent self-sufficiency in waste management and deliver the spatial strategy. The policy goes on to outline that facilities will be permitted where:

a. *"they demonstrate that:*

   i. *sorting of waste is carried out to optimise re-use and recycling; and*
   ii. *energy recovery is optimised; and*
   iii. *resource recovery from by products is optimised and any residues can be satisfactorily managed and disposed of; and*

b. *In order to deliver the spatial strategy, proposals for 'other recovery' facilities will be permitted in levels 1 and 2 where it is demonstrated that the proposed location is at the highest appropriate level of the geographic hierarchy;*

c. *Planning permission will not be granted for 'other recovery' facilities in zones 3, 4 or 5 except where it is demonstrated that:*

   i. *the proposed development cannot reasonably be located in levels 1 or 2 of the geographic hierarchy, and*

   ii. *the proposed location is at the highest appropriate level of the geographic hierarchy"*

3.3.6 In relation to self-sufficiency it is relevant to examine the waste management requirements and targets set out within the Publication Draft WCS. Draft Objective WO3 – seeks to make driving waste up the waste hierarchy the basis for waste management in Worcestershire and sets out the targets that the Publication Draft WCS seeks to deliver. These are presented below.

"The following minimum targets for recycling, (including composting) and 'other recovery' by 2020:

- *C&I including Agricultural Waste target:*
  Re-use, recycling and 'other recovery' Minimum 75%
  With re-use and recycling at Minimum 55%
- *C&D target:*
  Re-use and recycling Minimum 75%
- *MSW target:*
  Re-use, recycling and 'other recovery' Minimum 78%
  With re-use and recycling at Minimum 50%
- *Hazardous waste target:*
  Re-use, recycling and 'other recovery' Minimum 75%
  With re-use and recycling at Minimum 55%

The long-term aim is for all waste to be treated as a resource and for 'zero-waste' to landfill or disposal NEW FOOTNOTE 2.

NEW FOOTNOTE 2: Diverting all waste from landfill will require increased re-use and recycling and 'other recovery' capacity beyond that shown in the capacity gap analysis".

3.3.7 There is currently no permitted 'other recovery' capacity. *Table 3.1* represents the capacity gap identified at Appendix 4 of the Publication Draft WCS. I have only considered municipal waste (MW) as the EnviRecover Facility is primarily proposed to treat that waste stream. However, new infrastructure is also required to treat commercial and industrial (C&I) waste.

Table 3.1: Waste Core Strategy - MW Other Recovery Capacity Gap

Year	2010/11	2015/16	2020/21	2025/26	2030/31	2035/36
MW - other recovery capacity gap	113,500	118,000	123,000	127,500	132,000	136,000

3.3.8 The waste management targets set out in draft Objective WO3 and subsequent capacity gap calculations are based on targets of a minimum re-use, recycling and `other recovery` target of 78%, comprising a minimum 50% re-use and recycling and a maximum of 22% landfill. The draft WCS supporting evidence document, titled "Arisings and Capacity, Updated June 2011" identifies that the emerging WCS has adopted a growth forecast identified within the JMWMS [1]. As such the identified 22% maximum for landfill set out within the draft WCS should be seen not as a target per se, but rather as a 'ceiling' above which the percentage of waste landfilled must not go. The revised Waste Framework Directive and national policy (PPS 10, WSE 2007 and more recently the Waste Policy Review in England 2011) make it clear that diversion from landfill is a fundamental objective, such that the 22% of waste identified in the draft WCS should, wherever possible, be managed higher in the waste hierarchy.

3.3.9 The draft WCS makes reference to zero-waste within the Implementation Section, noting the recent policy emphasis on moving towards a zero waste economy. Annex A to the Waste Core Strategy Background Document Arisings and Capacity (Updated 3rd October 2011) identifies two potential scenarios for achieving zero-waste to landfill (page 9):

- *Zero Waste Scenario a: High re-use and recycling*
  - *Re-use and recycling capacity needed = minimum recycling targets (50%) + all waste diverted from landfill (22%)*
  - *'Other recovery' capacity needed = working assumption for 'other recovery' (28%)*
  - *Landfill capacity needed = none (all diverted to re-use and recycling)*
- *Zero Waste Scenario b: High 'other recovery' is:*
  - *Re-use and recycling capacity needed= minimum recycling targets (50%)*
  - *'Other recovery' capacity needed = working assumption for 'other recovery' (28%) + all waste diverted from landfill (22%)*
  - *Landfill capacity needed = none (all diverted to 'other recovery')*

[1] Worcestershire Waste Core Strategy Background Document: Arisings and Capacity Publication (Regulation 27) Consultation. Last updated 16th June 2011, Table 35 (page 50-56).

3.3.10 Zero Waste Scenario b would make those wastes additional to the 50% minimum to be re-used and recycled potentially available for 'other recovery'. *Table 3.2* presents total residual waste that should be diverted from landfill and thus will require additional treatment capacity, such as the EnviRecover Facility.

Table 3.2 Publication Draft WCS Forecast MW with the Inclusion of 22% MW Allocated for Landfill

Year	2010/11	2015/16	2020/21	2025/26	2030/31	2034/35
Draft WCS Forecast MW Arisings[2]	405,139	421,817	438,496	455,175	471,854	485,197
MW - other recovery capacity gap (28%)	113,500	118,000	123,000	127,500	132,000	136,000
MW – 22% MW to landfill	89,130	92,800	96,470	100,140	103,810	106,740
Total MW Residual Waste	**202,570**	**210,910**	**219,250**	**227,590**	**235,930**	**242,600**

3.3.11 *Table 3.2* calculates total residual MW after 50% recycling to be between 202,570 tpa in 2010/11 and 242,600 in 2034/35. However, this assumes achieving 50% recycling from 2010, which was not the case. In 2009/10 reasonable levels of recycling of municipal waste were achieved in Herefordshire and Worcestershire: 37% and 44% respectively. Currently therefore, the residual MW available is actually likely to be higher than that forecast in *Table 3.2* until 50% recycling can be achieved.

3.3.12 I conclude, in line with waste management requirements presented in both the draft WCS and national waste policy, that there would be sufficient residual MW as a feedstock to the EnviRecover Facility and the proposal is of an appropriate scale at 200,000 tpa.

3.3.13 The delivery of the EnviRecover Facility would positively contribute to achieving self-sufficiency as sought by the draft Policy WCS2. Further, the proposal could enable the waste management targets for MW as set out within the draft WCS to be exceeded. Therefore, I conclude the EnviRecover Facility is in conformity to this element of the draft Policy WCS2.

[2] Worcestershire Waste Core Strategy Background Document: Arisings and Capacity Publication (Regulation 27) Consultation. Last updated 16th June 2011, Table 35 (page 50-56).

3.3.14 In any event, this only considers MW management needs and does not take into account C&I waste that should also be diverted from landfill. Neither does it recognise that, as confirmed in the Waste Review 2011[3], those C&I wastes that are similar to household waste shall now be included in the UK interpretation of municipal waste. Whilst this does not change the amount of waste generated over all, it does have the effect of significantly increasing the tonnage that must be managed in accordance with European and nationally set targets for MW. Therefore it is highly likely that the forecast amount of MW identified in the tables above is conservative.

3.3.15 The EnviRecover Facility is able to recover (circa 15.5 MW) and export (circa 13.5 MW) electricity and has the potential to recover heat from the facility. The Facility would maximise the opportunities to recover energy in line with the requirements of the draft policy.

3.3.16 Two types of solid by-products would be produced from the operation of the EnviRecover Facility, bottom ash (referred to as incinerator bottom ash – IBA) and air pollution control (APC) residues, each of which would have separate handling arrangements. The IBA would be sent to an off-site bottom ash reprocessing contractor for ferrous metal recovery and recycling as a secondary aggregate. The APC residues would be transported offsite to an hazardous waste disposal facility with the appropriate Environmental Permit, alternatively the residues may be taken to an appropriate treatment facility where they could be re-used in the stabilisation of acid wastes. At this time APC residues would be managed out of the county. Therefore by-products will be satisfactorily managed in line with the requirements of draft Policy WCS2.

3.3.17 The EnviRecover Facility is proposed to manage those wastes that remain after recycling/composting. It is proposed to be located within Level 1, the highest level of the geographical hierarchy. The environmental information submitted demonstrates that no adverse environmental impacts (beyond those in relation to landscape and visual amenity and the Green Belt as discussed elsewhere) would occur. I conclude that the proposal is in conformity with the objectives and spatial strategy of draft Policy WCS2.

[3] Waste Policy Review for England 2011, paragraph 152.

3.3.18 Draft **Policy WCS4** sets out compatible land uses for each type of waste management facility. The policy establishes that industrial land is compatible with 'other recovery,' such as the EnviRecover Facility. Therefore the proposal is in conformity to draft Policy WCS4 as the site is located within Hartlebury Trading Estate, on previously developed industrial land.

3.3.19 The key requirements of the draft WCS in relation to site infrastructure and access are presented at draft **Policy WCS6**. This requires proposals for new waste management facilities to ensure that infrastructure at a development site is adequate to support the proposal, either as it stands or with improvements. Development proposals are required to be well connected to the strategic road network and to use alternatives to road transport where practicable. The policy aims to ensure that there is no unacceptable adverse impact on safety or congestion on the transport network or amenity along transport routes. Finally, the policy requires cumulative effects to be considered and details of any mitigation or compensation proposals to be included.

3.3.20 The EnviRecover Facility's conformity to the development plan on transport and access matters has been discussed in *Section 3.2*. The overall aims of draft Policy WCS6 are consistent with those of the saved policies of the development plan. For the reasons identified in paragraphs 3.2.26 – 3.2.31 above, I conclude that the EnviRecover Facility is in conformity to draft Policy WCS6.

3.3.21 Draft **Policy WCS7** seeks the protection of Environmental Assets. This relates to international, national and local designated sites, habitats, species and heritage assets. In short, the policy seeks the protection and where possible the enhancement of these assets. The policy notes that facilities will not be permitted where there would be a likely significant effect on environmental assets, located either on or surrounding the site.

3.3.22 The EnviRecover Facility's conformity to the development plan on Ecology and Cultural Heritage matters have been discussed in Section 3.2. The overall aims of draft Policy WCS7 are consistent with those of the saved policies of the development plan. For the reasons identified in paragraphs 3.2.16 – 3.2.25 and paragraphs 3.2.36 – 3.2.40 above, I conclude that the EnviRecover Facility is in conformity to draft Policy WCS7. As identified previously, I will provide supplementary evidence on the additional environmental information.

3.3.23 The draft WCS addresses Flood Risk and Water Resources at draft **Policy WCS8**. The policy seeks to ensure that the design and layout, landscaping, operation and restoration of any proposal takes account of flood risk. This is to ensure that: there is no significant adverse impact on flood risk; the proposal would remain safe and operational during flooding events; and that there would be no likely adverse impacts on any international designated sites. In relation to surface and groundwater, the policy seeks to ensure that there is no pollution or adverse impacts and requires that cumulative impacts be considered.

3.3.24 The EnviRecover Facility's conformity to the development plan on Surface Water, Flood Risk and Groundwater matters have been discussed in *Section 3.2*. The overall aims of draft Policy WCS8 are consistent with those of the saved policies of the development plan. For the reasons identified in paragraphs 3.2.32 – 3.2.35 above, I conclude that the EnviRecover Facility is in conformity to draft Policy WCS8.

3.3.25 Draft **Policy WCS9** seeks to deliver the sustainable design and operation of new waste management facilities. The policy requires through the design, layout, landscaping, operation and any restoration of the site, that applicants take account of sustainable development practices and climate change mitigation resilience. The policy requires that this should be undertaken through:

- the re-use of buildings and minimising the use of primary materials;
- reducing water demand and considering water efficiency;
- reducing energy demand and considering energy efficiency;
- for all new development over 1,000 square feet that 10% of energy is generated from renewable sources on-site or low carbon sources and where

it is demonstrated that this is not practicable, this should be achieved through off-site solutions;

- the consideration of land stability and subsidence; and
- landscaping that enhances, links and extends natural habitats, reflects landscape character or acts as a carbon sink.

3.3.26 There are no existing buildings on the inquiry site. The proposed building design of the EnviRecover Facility will conform to the requirements of Part L of the Building Regulations, delivering a high standard of energy efficiency. Cladding materials are proposed to be selected with reference to the BRE's Green Guide to Specification (BRE, 2002) to ensure they meet suitable environmental and sustainability standards. Details of the external appearance of the Facility are required to be approved by the CPA through recommended condition m).

3.3.27 The proposal includes the implementation of rainwater harvesting, where feasible. This is intended to reduce the demand for mains water supply and may be used for flue gas treatment and ash quenching.

3.3.28 Importantly, the Facility will generate energy from waste, of which a significant proportion can be classed as renewable. The proposal foresees approximately 2 MW to be used to operate the Facility, exporting approximately 13.5 MW of electricity to the national grid.

3.3.29 The proposal includes the excavation of 60,000 tonnes of material for the design, in order to reduce the visual impact of the proposed Facility. This will require substantial engineering works that will ensure that the Facility is constructed on stable foundations.

3.3.30 One of the sustainability benefits of the proposal is the creation of new habitats and the implementation of optimised habitat management regimes on site to enhance conservation and biodiversity value as part of the site design. Further, there is not considered to be any cumulative impacts from the proposed Facility. Therefore, I conclude that that the EnviRecover Facility is in conformity to this policy; however I note that amendment to the site design may be implemented through the additional environmental information provided by the Applicant, should that be considered appropriate.

3.3.31 Draft **Policy WCS10** seeks to ensure that new waste management facilities take account of local characteristics. This includes the character of the built environment, the local landscape character and other features identified in Local Development Frameworks, Parish or other Neighbourhood Plans, or other Local Authority strategies. The policy also seeks to ensure that there are no unacceptable adverse impacts on the AONB and seeks to protect the Green Belt from inappropriate development. The policy notes that where development is considered as inappropriate, very special circumstances must be demonstrated.

3.3.32 The EnviRecover Facility's conformity to the development plan on landscape and visual impact matters have been discussed in *Section 3.2*. The overall aims of draft Policy WCS10 are consistent with those of the saved policies of the development plan on such matters. For the reasons identified in paragraphs 3.2.6 – 3.2.15 above, I acknowledge that there will be landscape and visual impacts as a result of the proposed EnviRecover Facility, but these are not considered sufficiently significant to justify refusal of the application.

3.3.33 I therefore conclude that the EnviRecover Facility will not cause any adverse impact on the AONB, a position consistent with the views of Natural England.

3.3.34 In relation to the protection of the Green Belt, the EnviRecover Facility is recognised as inappropriate development and therefore is not in conformity to this policy. However, it is considered that very special circumstances exist to justify the development of the Facility at the inquiry site as discussed in *Section 6*.

3.3.35 Draft **Policy WCS11** seeks to protect amenity. The policy requires applicants to demonstrate that the operation of a development and any associated transport will not have unacceptable adverse impacts on local amenity. The policy also notes that where there will be unacceptable adverse impacts on amenity, proposals will only be permitted where it is demonstrated that the benefits of the development at the inquiry site clearly outweigh any unacceptable adverse impacts. This relates to:

- air quality;
- noise and vibrations;
- insects, vermin and birds;
- litter;
- visual intrusion and light pollution;
- health; and
- cumulative impacts.

3.3.36 Addressing each of the subjects in turn; the EnviRecover Facility's conformity to the development plan on Air Quality and Health matters have been discussed in *Section 3.2*. The overall aims of draft Policy WCS11 are consistent with those of the saved policies of the development plan. For the reasons identified in paragraphs 3.2.41 – 3.2.44 above, I conclude that the EnviRecover Facility is in conformity to draft Policy WCS11 on Air Quality and Health matters.

3.3.37 The submitted environmental information demonstrates that there will not be significant adverse impact from noise. As discussed above, the Environmental Health Officer raised no objection, but requested limiting noise from the operations by conditions. I conclude that the proposed facility should not cause harm through noise and that the operations can be appropriately controlled through the recommended conditions aa), bb) and cc) as set out in the SOCG2.

3.3.38 Issues associated with insects, vermin, birds and litter are addressed and regulated by the approved Environmental Permit. In any event, they are not usually a matter of concern for a well operated, modern facility where the waste is stored and treated internally, such as is proposed.

3.3.39 In relation to visual intrusion and light pollution the EnviRecover Facility's conformity to the development plan policies have been discussed in *Section 3.2*. The overall aims of draft Policy WCS11 are consistent with those of the saved policies of the development plan. For the reasons identified in paragraphs 3.2.6 – 3.2.15 above, I conclude that there will be visual impacts of the proposed EnviRecover Facility, but these are not considered sufficiently significant to justify refusal of the application. I also conclude that light pollution can be appropriately controlled through the recommended condition q).

3.3.40 There are not considered to be any significant adverse cumulative impacts from the proposed EnviRecover Facility.

3.3.41 Therefore as demonstrated in the Environmental Statement, the EnviRecover Facility would not result in significant harm to amenity and I conclude, the proposal is in conformity to draft Policy WCS11 apart from in respect of visual impacts.

3.3.42 The final draft policy of relevance is **Policy WCS12**, which seeks to deliver social and economic benefits from waste management facilities. The policy aims to benefit the local community and sub-regional economy by:

- contributing to self-sufficiency in waste management capacity; or
- supporting the development of the local green economy; or
- the operation of community or voluntary sector waste management services; or
- educating communities about sustainable waste management.

3.3.43 Draft Policy WCS12 also seeks to protect safeguarded minerals resources and requires applicants to demonstrate how they carried out community involvement and how this has informed the proposal.

3.3.44 The EnviRecover Facility is an essential part of infrastructure required to meet Worcestershire and Herefordshire's landfill diversion targets. The Facility would offer a capacity of 200,000 tpa for the recovery of residual wastes. The delivery of the proposal would positively contribute to Worcestershire achieving self-sufficiency in waste management.

3.3.45 The proposal includes an educational element in the form of a visitor centre. This will make a positive contribution to educating the public about sustainable waste management practices. The visitor centre will be used to help promote an understanding of power generation, renewable fuels, waste management and their inter-relationships, along with an appreciation of environmental enhancement and biodiversity issues.

3.3.46 The EnviRecover Facility would be located on an existing trading estate and does not sterilise safeguarded mineral resources. In addition, as part of the overall design, the EnviRecover Facility would be sunk 8m into the ground. This will generate an estimated 60,000 cubic metres of clay that has the potential to be utilised by the neighbouring brickworks or the capping and engineering works required at landfill sites in the local area, therefore offers a positive benefit in line with this criterion of the policy.

3.3.47 The pre-application consultation undertaken by the Applicant is set out in the Community Involvement Statement (submitted as part of the planning application documentation). Prior to the submission of this application, the Applicant undertook pre-application consultation with local stakeholders and residents through: press releases, leaflet drops, public exhibitions, a site visit to a similar facility (Portsmouth, on 2nd February 2010) and a project specific web site. The Applicant also set up a community liaison group. I am content that an appropriate level of pre-application consultation has been undertaken. In addition, recommended condition ll), as set out in the SOCG requires the continuation of liaison with the local community for the duration of the development.

3.3.48 Whilst I do not consider the draft WCS can be given significant weight (for the reasons set out previously) for the avoidance of any doubt, I have considered the proposal against the emerging policies and **conclude that the EnviRecover Facility is in general conformity to them,** with the exception to Green Belt and landscape and visual impact matters. I consider the former in *Section 6*, and conclude that the latter are not so significant as to justify refusal of the application.

3.4 THE EMERGING SOUTH WORCESTERSHIRE DEVELOPMENT PLAN

3.4.1 The South Worcestershire Development Plan (SWDP), previously known as the South Worcestershire Core Strategy, is at an early stage of development. The timetable for the SWDP is for the joint authorities: Worcestershire City Council; Malvern Hills District Council; and Wychavon District Council to seek approval for consultation on the submission document in April 2012, with submission in September 2012, and the subsequent examination in November 2012. Consequently, I conclude that the SWDP is insufficiently progressed for any weight to be attached to it.

3.4.2 However, not withstanding the above, there is one element of the current draft of the SWDP that is appropriate to address. Policy SWDP 46: Energy Efficiency and Renewable Energy, as set out in the most recently published draft of the SWDP, the Preferred Options (September 2011), states:

"…Pyrolysis and anaerobic digestion plants can process municipal, industrial and agricultural waste; these plants can provide clean energy unlike the mass burning of waste (incineration) which will not be supported…"

3.4.3 At paragraph 27.11 'Alternative Options', the document states:

"Energy from waste. This is not deemed to be a renewable source of energy and instead it will be addressed in the County Councils Waste Core Strategy".

3.4.4 Such statements are misplaced and are not in conformity with European and national energy policy. The wording quoted above in relation to waste management technologies is misleading. This position is exacerbated by the wording of paragraph 27.11.

3.4.5 The incineration of waste to recover energy has an important role to play in delivering low carbon energy generation as is identified in European and national policy. Key relevant documents are outlined below.

3.4.6 National Policy Statement EN-1, paragraph 3.3.10: "*As part of the UK's need to diversify and decarbonise electricity generation, the Government is committed to increasing dramatically the amount of renewable generation capacity. In the short to medium term, much of this new capacity is likely to be onshore and offshore wind, but increasingly it may include plant powered by the combustion of biomass and waste and the generation of electricity from wave and tidal power*".

3.4.7 At Section 2.5, National Policy Statement EN-3 addresses the combustion of biomass and waste. It demonstrates the role of energy from waste in meeting the urgent need for energy infrastructure, advising (at paragraph 2.5.2): "*The recovery of energy from the combustion of waste, where in accordance with the waste hierarchy, will play an increasingly important role in meeting the UK's energy needs. Where the waste burned is deemed renewable, this can also contribute to meeting the UK's renewable energy targets. Further, the recovery of energy from the combustion of waste forms an important element of waste management strategies in both England and Wales.* "

3.4.8 The Waste Policy Review in England 2011 (Waste Review 2011) identifies the range of facilities that are consider energy recovery facilities at paragraph 229: "*Aside from anaerobic digestion the principal technologies available for recovering energy from waste are Direct Combustion, Gasification, Pyrolysis and Plasma Arc…*".

3.4.9 The Waste Review 2011 identifies at paragraph 207 "*The government supports energy from waste as a waste recovery method through a range of technologies*". It further states at paragraph 208 that: "*The benefits of recovery include preventing some of the negative greenhouse gas impacts of waste in landfill. Preventing these emissions offers a considerable climate change benefit, with the energy generated from the biodegradable fraction of this waste also offsetting fossil fuel power generation, and contributing towards our renewable energy targets. Even energy from the non-biodegradable component, whilst suffering from the negative climate impacts of other fossil fuels, has additional advantages in terms of providing comparative fuel security, provided it can be recovered efficiently*".

3.4.10 Reference to European and national policy also demonstrates that the combustion of waste with biodegradable content provides a supply of renewable energy. This is demonstrated, not least in the following documents:

i) Renewable Energy Directive, which recognises the biodegradable fraction of industrial and municipal waste as a renewable source of energy;

ii) the Planning Policy Statement 1 Supplement – which includes energy from waste in its definition of renewable and/or low carbon energy supplies; and

iii) National Policy Statement (NPS) EN-1 and NPS EN-3 – both of which explicitly recognise the beneficial role of using waste as a fuel for the generation of renewable energy.

3.4.11 It is explicitly stated, in paragraph 208 of the Waste Review 2011, that the combustion of the biogenic fraction of the waste, and the energy derived there from, is classified as renewable energy.

3.5 THE DRAFT NATIONAL PLANNING POLICY FRAMEWORK

3.5.1 The draft National Planning Policy Framework (the draft Framework) was published for consultation on 25th July 2011. The draft Framework is a key part of the Government's reforms to make the planning system less complex and more accessible, and to promote sustainable growth. The draft Framework sets out the Government's requirements for the planning system only to the extent that it is relevant, proportionate and necessary (see paragraph 5). The draft Framework expressly (see paragraph 7) does not contain specific waste policies as these will be contained in the National Waste Management Plan scheduled for publication in 2012.

3.5.2 However, there are number of relevant topics that are important considerations. The recurring theme of the draft Framework is the presumption in favour of sustainable development, presented not least at paragraphs 13, 14, 20, 26, 48, 63, and 153, where it states:

"*When determining planning applications local planning authorities* ***should apply the presumption in favour of sustainable development*** *and*:

- *not require applicants for energy development to demonstrate the overall need for renewable or low-carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and*

- *approve the application if its impacts are (or can be made) acceptable. …"*

  (My emphasis)

3.5.3 Paragraph 148 makes clear the "Government's objective is that planning should fully support the transition to a low carbon economy in a changing climate." Planning is tasked with responsibilities to achieve this objective including the delivery of renewable and low carbon energy infrastructure.

3.5.4 At paragraph 152, the draft Framework directly addresses the support of renewable and low carbon energy infrastructure, identifying the role of local planning authorities to increase this supply. This includes the need to: (my emphasis)

i) have a **positive strategy to promote energy from renewable and low carbon sources,** including deep geothermal energy;

ii) consider identifying suitable areas for renewable and low carbon energy sources, and **supporting infrastructure, where this would help secure the development of such sources**;

iii) **identify opportunities where development can draw its energy supply from decentralised, renewable or low carbon energy supply systems** and for co-locating potential heat customers and suppliers.

3.5.5 The draft Framework essentially carries forward the Government's policy on Green Belt, as currently set out in PPG 2. Green Belt will be dealt with in *Section 6* of this proof.

3.5.6 The EnviRecover Facility will deliver an important element of Worcestershire and Herefordshire's waste management infrastructure, in accordance with sustainable development. The EnviRecover Facility would also deliver important low carbon energy of which a significant proportion will be classed as renewable. It is considered that with the implementation of the recommended planning conditions the impacts of the development are acceptable. As mentioned above the draft Framework does not contain specific waste policies. However, the National Waste Management Plan scheduled for publication in 2012 will largely be influenced by the Waste Review 2011 and *Section 4* considers the EnviRecover Facility to be in conformity with the review. I conclude that the proposal is in conformity to the relevant principles set out in the draft Framework, although again the weight to be given to that document is for the Inspector to decide as it is currently only in draft.

4 PLANNING POLICY STATEMENT 10: SUSTAINABLE WASTE MANAGEMENT

4.1 POLICY CONTEXT FOR SUSTAINABLE WASTE MANAGEMENT

4.1.1 The **revised Waste Framework Directive** (2008/98/EC, rWFD) predominantly addresses how waste should be managed; establishing an order of preference for waste management options, defining waste management processes and laying down expectations to Member States on the delivery of waste management infrastructure. The first of these issues – the order of preference for waste management options is known as the waste hierarchy (presented at Article 4(1)) and requires that unless otherwise demonstrated by life cycle thinking, waste should be managed in the following order of preference:

i) prevention;

ii) preparing for re-use;

iii) recycling;

iv) other recovery, eg energy recovery; and

v) disposal.

4.1.2 Thus, disposal to landfill is to be used as a last resort, with the ultimate objective of preventing, recycling and recovering value from as much of the waste produced as possible. This is reflected in the Government's 'Zero Waste' campaign, which is seeking zero waste to landfill with waste management operating as a key part of our low carbon economy.

4.1.3 Article 28 requires each Member State to ensure that their competent authorities establish waste management plans. **Planning Policy Statement 10: Sustainable Waste Management** (PPS 10), the **Waste Strategy for England 2007** and the **Waste Policy Review in England 2011** are national policy documents that form part of the national waste management plan. Waste Core Strategies (and other relevant development plan documents) prepared by each waste planning authority, also contribute to the national waste management plan.

4.1.4 National planning policy on waste is provided by **PPS 10** (2005). Although this document predates the rWFD, the themes are complementary to that document, informed as it was by the reasonably consistent 2006 Waste Framework Directive. A letter from Steve Quartermain, Chief Planner at the Department for Communities and Local Government, dated 31 March 2011 (Appendix A) updated relevant parts of PPS 10, principally to reflect the rWFD. The letter advises:

"*The changes to PPS 10 are to paragraph 1 and Annex C. It will ensure that local authorities have regard to the hierarchy in the preparation of their waste plans; and that the hierarchy is capable of being a material consideration in determining individual planning applications*."

4.1.5 PPS 10 establishes overall planning policy on waste and includes the aim to protect human health and the environment by producing less waste and by using it as a resource wherever possible. PPS 10 also confirms the importance of the waste hierarchy whereby the primary goal is reduction, followed by reuse, recycling and composting, recovery, with disposal to landfill being considered the option of last resort.

4.1.6 PPS 10 sets out the following key planning objectives:

- help deliver sustainable development through driving waste management up the waste hierarchy, addressing waste as a resource and looking to disposal as the last option, but one which must be adequately catered for;
- provide a framework in which communities take more responsibility for their own waste, and enable sufficient and timely provision of waste management facilities to meet the needs of their communities;
- help implement the national waste strategy, and supporting targets, are consistent with obligations required under European legislation and support and complement other guidance and legal controls such as those set out in the Waste Management Licensing Regulations 1994;
- help secure the recovery or disposal of waste without endangering human health and without harming the environment, and enable waste to be disposed of in one of the nearest appropriate installations;

- reflect the concerns and interests of communities, the needs of waste collection authorities, waste disposal authorities and business, and encourage competitiveness;
- protect green belts but recognise the particular locational needs of some types of waste management facilities when defining detailed green belt boundaries and, in determining planning applications, that these locational needs, together with the wider environmental and economic benefits of sustainable waste management, are material considerations that should be given significant weight in determining whether proposals should be given planning permission;
- ensure the design and layout of new development supports sustainable waste management.

4.1.7 **Waste Strategy for England 2007** (WSE 2007) presents the waste management strategy for England, incorporating the following key objectives:

1. more emphasis on waste prevention and re-use;
2. meet and exceed Landfill Directive diversion targets;
3. increase diversion from landfill of non-municipal waste, through increased treatment;
4. secure investment in infrastructure to divert waste from landfill; and
5. increase recycling of resources and recovery of energy.

4.1.8 WSE 2007 makes clear the link between energy from waste and energy policy at page 15: "*Recovering energy from waste (EfW) which cannot sensibly be recycled is an essential component of a well-balanced energy policy*."

4.1.9 In the Executive Summary (at page 15) WSE 2007 advises that the provision of EfW capacity has lagged well behind the expectations in the Waste Strategy 2000. "*Energy from waste is expected to account for 25% of municipal waste by 2020 compared to 10% today* [in 2007] *which is less than the 34% by 2015 anticipated in 2000*". Active encouragement is now required to redress this shortfall; WSE 2007 promotes "*using PFI, and, where appropriate, Enhanced Capital Allowances, and/or Renewable Obligation Certificates (ROCs) to encourage a variety of energy recovery technologies (including anaerobic digestion) so that unavoidable residual waste is treated in the way which provides the greatest benefits to energy policy*."

Targets for the management of MW and C&I waste streams are also identified:

i) recycling of household waste: 40% by 2010, 45% by 2015, and 50% by 2020;

ii) recovery of municipal waste: 53% by 2010; 67% by 2015; and 75% by 2020; and

iii) C&I waste landfilled to fall by 20% by 2010 compared to 2004.

4.1.10 The **Waste Policy Review in England 2011** (the 'Waste Review 2011') was published in June 2011. The document is a material consideration, confirming and clarifying waste policy, but does not supersede WSE 2007. Government intends to review all these national documents and release a consolidated National Waste Management Plan in 2012.

4.1.11 The vision of the Waste Review 2011 sets out that we need to move beyond our current throwaway society to a 'zero waste economy' in which material resources are re-used, recycled or recovered wherever possible, and only disposed of as the option of very last resort. Government has made clear that this is not a situation where no waste is produced, but an economy, which amongst other things, fully values resources and works toward sending zero waste to landfill. Energy from waste is recognised to contribute to these outcomes as it avoids methane emissions from waste that would otherwise be released from landfill facilities and can replace fossil fuels such as oil, coal or gas, so delivering climate change benefits.

4.1.12 The Waste Review 2011 incorporates the waste hierarchy, recognised as both a legal requirement of the rWFD and a guide to sustainable waste management. Seven key challenges are presented at paragraph 32, those of particular relevance to this Inquiry are:

i) preventing waste wherever it occurs;

ii) continuing to improve the recycling of waste from households;

iii) establishing the right interface between energy from waste policies, renewable energy targets and delivering on our climate and broader environmental needs; and

iv) continuing to drive waste away from landfill and ensuring that the UK meets the EU Landfill Directive targets for diverting biodegradable municipal waste from landfill in 2013 and 2020.

4.1.13 The role of waste in avoiding landfill and delivering energy is outlined at paragraph 33 "*…we need to be clear about the potential contribution of energy from waste to the UK's target that, by 2020, 15% of our energy comes from renewable sources.*" However, the Waste Review 2011 also makes clear that this must be as part of a balanced delivery of the waste hierarchy, as most succinctly articulated in the opening Summary to the section titled 'Energy Recovery', "*Our aim is to get the most energy out of waste, not to get the most waste into energy recovery*."

4.1.14 The Waste Review 2011 echoes the benefits of diversion from landfill through energy from waste that were previously recognised in the Renewable Energy Strategy (not least in the Executive Summary at page 16) which includes ramping up the use of biomass waste as an element of its objective of swifter delivery of renewables.

4.1.15 The Energy Recovery chapter, starting at page 62, contains important messages about the role of waste recovery within sustainable waste management. The section begins by unequivocally stating "*Government supports efficient energy recovery from residual waste which can* ***deliver environmental benefits, reduce carbon impacts and provide economic opportunities***." (My emphasis)

4.1.16 In terms of environmental benefits, paragraph 208 advises

"*The benefits of recovery include preventing some of the negative greenhouse gas impacts of waste in landfill. Preventing these emissions offers a considerable climate change benefit, with the energy generated from the biodegradable fraction of this waste also offsetting fossil fuel power generation, and contributing towards our renewable energy targets. Even energy from the non-biodegradable component, whilst suffering from the negative climate impacts of other fossil fuels, has additional advantages in terms of providing comparative fuel security, provided it can be recovered efficiently*."

4.1.17 The benefits of energy recovery to business is examined at paragraph 236 and are considered to be: cost savings on waste management; reduced fuel costs; and reduced volatility of prices as these are decoupled from fossil fuel prices. At paragraph 237, the Waste Review 2011 recognises particular opportunities from greater exploitation of CHP for commercial and industrial use, particularly for large firms.

4.1.18 Paragraph 265 states that "*Waste Infrastructure is of national importance, to ensure we meet our commitments on waste and climate change*".

4.1.19 The **West Midlands Regional Spatial Strategy** (WMRSS) contains policies relevant to waste management. Policy WD1 presents the following targets:

i) to recover value from at least 40% of municipal waste by 2005; 45% by 2010; and 67% by 2015

ii) to recycle or compost at least 25% of household waste by 2005; 30% by 2010; and 33% by 2015

iii) to reduce the proportion of industrial and commercial waste which is disposed of to landfill to at the most 85% of 1998 levels by 2005

4.1.20 Policy WD2 indicates that additional facilities will be required to recycle, compost or recover at least 47.9 million tonnes of municipal waste until 2021. Table 4 supporting the policy identifies that Worcestershire will need to deliver 164,000 tonnes per annum of municipal waste recovery capacity and Herefordshire will need to deliver 45,000 tonnes per annum.

4.1.21 Policy WD3 presents locational criteria to inform the preparation of Development Plans. Whilst this is not in relation to the determination of planning permissions, the policy seeks to site waste treatment and recycling facilities to appropriate locations, having regard to the proximity principle and other environmental and amenity principles.

4.1.22 The saved policies contained in the **Worcestershire County Structure Plan** are still relevant. Of particular relevance to this proposal is Policy WD1 that seeks to manage waste in line with the Best Practicable Environmental Option (BPEO), the proximity principle, regional self-sufficiency and in line with the waste hierarchy. It is important to note that the concept of BPEO is no longer used in national policy. Further, the terms 'proximity principle' and 'self-sufficiency' are no longer used in national policy either, although the underlying principles (in short, of seeking to deliver a network of appropriately located facilities) are still relevant.

4.1.23 Policy WD2 identifies the preferred locations for Waste Handling and Treatment Facilities. The policy requires facilities for the handling and treatment of waste should be located as near to its place of origin as possible and should preferably be located within buildings on existing or proposed industrial estates where the infrastructure and surrounding uses are appropriate. Where the design or operation of the Facility makes this inappropriate, the following areas should be considered:

i) derelict or despoiled areas;
ii) areas close to arisings;
iii) working or worked out mineral or landfill sites;
iv) existing waste management sites; or
v) sites located close to railways or water transport wharves or major junctions in the road network.

4.1.24 In addition, Policy WD3 requires that facilities involving the incineration or other treatment of waste should be compatible with their surroundings; where safe access can be provided and the associated traffic does not adversely affect highway safety or have a significant adverse environmental impact along associated routes. Such facilities should not cause significant harm to local amenities, landscape character, features of landscape, historic or nature conservation importance, or best and most versatile agricultural land and should not give rise to a significant risk of pollution. Any proposals in AONB or affecting SSSI will be subject to the most rigorous examination.

4.1.25 The **Joint Municipal Waste Management Strategy** for Herefordshire and Worcestershire 2004-2034 was published in 2004 and set the framework for the management of municipal waste in the two Authorities until 2034. A commitment to review the Strategy every five years has been implemented, with the first duly published in November 2009 (JMWMS 2009).

4.1.26 The JMWMS 2009 presents principles, policies and targets for waste management across Worcestershire and Herefordshire. In short, the JMWMS 2009 seeks to: deliver the waste hierarchy; respond to climate change challenges by viewing waste as a resource; provide services that are customer focussed and value for money; and foster partnership working. Those policies, of direct relevance to this planning application, are:

Policy 7: The Local Authorities will actively seek to provide waste management services in a manner that minimises greenhouse gas emissions and other impacts that contribute to Climate Change.

Policy 16: Waste management methods will promote sustainable waste management by considering and balancing environmental, social and economic impacts. Both established and emerging technologies will be considered to enable a flexible approach to the waste treatment methods that will be adopted.

4.1.27 At paragraph 3.6.2, the JMWMS 2009 introduces a residual waste appraisal that considered options for the management of wastes remaining after recycling and composting. A commitment is made that the conclusions of that appraisal should inform the decision on any application for planning permission for a waste treatment solution for Herefordshire and Worcestershire. That appraisal is relevant to the current application and is summarised in the following paragraphs. The appraisal is provided in full at Annex D of the JMWMS 2009.

4.1.28 A long list of possible options for treating residual waste was developed and considered by the Partnership (a body comprising officers and elected Members of Worcestershire County Council, Herefordshire Council, and the six district councils in Worcestershire), which agreed a short list of seven to be appraised. These options incorporated a range of technology types, number of facilities and geographic locations:

- Option A – a single EfW facility.
- Option B – a single EfW facility with combined heat and power (CHP).
- Option C – two Mechanical Biological Treatment (MBT) facilities, located on two separate sites, one with on-site combustion.
- Option D – two MBT facilities, each with off site combustion.
- Option E – a single autoclave.
- Option F – two autoclaves, located on separate sites.
- Option G – one EfW facility located out of county.

4.1.29 The seven options were assessed against 14 criteria encompassing environmental, social and economic matters. The criteria were agreed at a workshop attended by both Officers and Members of the Partnership.

4.1.30 The appraisal concluded that Option B (a single EfW facility with CHP) performed the best overall. However, the criteria were not weighted, so no criteria are assumed to be more important than any others. At a workshop held with the Partnership some time was spent identifying those criteria most important to the Partnership. Whilst all the criteria assessed were seen as important, cost, reliability and resource depletion were seen as key criteria. The top scores against these key criteria were as follows:

- Cost – Option A, followed by Options E and F
- Reliability – Options A, B, C, D and G were all equally reliable
- Resource depletion – Option D followed by Option B

4.1.31 It is also important to note that the **Worcestershire Waste Core Strategy** (WCS) would also contribute to the national waste management plan, should it be adopted. The weight to be given to the emerging draft WCS and the EnviRecover Facility's conformity to the emerging draft WCS is examined in *Section 3.3*.

4.2 CONFORMITY OF THE ENVIRECOVER FACILITY

4.2.1 The fundamental objective underpinning all of the policy documents outlined above is sustainable waste management and the role that waste management can play in delivering sustainable development, particularly through recovery of energy.

4.2.2 The waste hierarchy (a key tenet of sustainable waste management) is consistently presented throughout the rWFD, WSE 2007, the Waste Review 2011, and PPS 10. Regional and local policy agrees that new infrastructure should be promoted to divert waste from landfill, the management route to be used as a last resort.

4.2.3 The Waste Review 2011 has clarified and strengthened the support for energy recovery and confirmed that, with the right balance, recovery operations have an important and increasing role to play within the waste hierarchy and sustainable development. The role that energy recovery facilities can play in meeting renewable energy targets is demonstrated in *Section 5* of my proof.

4.2.4 PPS 10 makes clear (at paragraph 22) that applicants do not have to demonstrate a quantifiable or market need for development proposals. Consequently, policy sets no cap on waste infrastructure, where this delivers the waste hierarchy. Government is reliant on the private sector bringing forward such development, assessing the market for itself and accepting the risks that are associated with commercial matters such as the sourcing of waste.

4.2.5 Mercia Waste Management currently operates a contract with Herefordshire Council and Worcestershire County Council for the management of municipal waste. The objectives of this contract have been to safely manage the municipal waste arisings and to introduce a range of new facilities and services aimed at achieving sustainable waste management of the municipal waste stream. The EnviRecover Facility has been identified as an essential element of the waste management infrastructure required within Herefordshire and Worcestershire that is currently missing.

4.2.6 The WSE 2007 identifies a recycling target of 40% by 2010, 45% by 2015, and 50% by 2020. In 2009/10 reasonable levels of recycling of municipal waste were achieved in Herefordshire and Worcestershire: 37% and 44% respectively. This means that average recycling across the two authorities meets the WSE 2007 target for 2010. Mercia Waste Management has recently developed a new materials reclamation facility at Norton (capacity of 105,000 tpa) which will enable increased recycling to be achieved, such that it can be assumed that future WSE 2007 targets will be met. However, for that waste currently remaining after recycling, the existing waste management practice is to either landfill it or to transport it to out of County recovery facilities. As identified in the policy documents above the landfilling of waste should be seen as a last resort and does not amount to sustainable waste management.

4.2.7 It is demonstrated from the targets set out by WSE 2007, the WMRSS and the JMWMS 2009 that there is a substantial need to deliver additional recovery capacity with Worcestershire and Herefordshire. During the consideration of the application by the CPA, Preferred Scenario 3 of the JMWMS was used to calculate the potential need for the EnviRecover Facility. During the process of preparing this proof of evidence it has become apparent that this scenario is no longer the preferred option of the WDA. Scenario 2 of the JMWMS has now been adopted as the Preferred Option; which incorporates an increase in the predicted level of municipal waste arisings. Assuming that WSE 2007 recycling/composting targets are met, with the resultant tonnage subtracted from the Preferred Scenario 2 of the JMWMS 2009, municipal waste arisings forecasts would leave the following tonnes of waste remaining to be diverted from landfill (this has been applied to all municipal waste not just the household portion):

- 243,080 tpa at 2010;
- 232,000 tpa at 2015;
- 219,250 tpa at 2020; and
- 242,600 tpa at 2034 (the end of the JMWMS 2009 period).

4.2.8 I recognise that a reduction of municipal waste arisings and/or increased recycling will inevitably reduce the amount of residual municipal waste available to be treated in the proposed EnviRecover Facility. However, even in the event that 60% recycling/composting was achieved from 2015 across Worcestershire and Herefordshire (a significant increase from current performance and 10% over the national target) a significant amount of municipal waste would remain to be diverted from landfill using the Preferred Option, Scenario 2: 168,730 tonnes at 2015; 175,400 at 2020; and 194,080 at 2034. Should there remain any capacity at the proposed Facility due to a shortage of residual municipal waste, I am content that this could be appropriately used to manage residual C&I wastes; an approach promoted in WSE 2007.

4.2.9 At this point it is appropriate to recognise that in 2011, the UK revised its interpretation of municipal waste to include wastes that are produced in commercial and industrial operations but which are similar in composition to household waste – ie to be more closely aligned to the expectation of the rWFD. The broadening of this definition will result in an increase in the amount of waste being subject to the rWFD targets requiring diversion from landfill.

4.2.10 I am content that the EnviRecover Facility is suitably sized and would manage waste at an appropriate level of the waste hierarchy. There remains the ability for increased recycling to be achieved, with the EnviRecover Facility appropriately managing those wastes that still remain to be diverted from landfill, a fundamental aim of all waste management policy.

4.2.11 I recognise that the best performing option in the analysis undertaken in preparing the JMWMS, was a single EfW CHP facility. The EnviRecover Facility does not deliver CHP immediately but is proposed to be CHP ready. Whilst CHP is widely regarded as beneficial, not least in bringing additional energy efficiency, there is not a statutory requirement for its delivery. Therefore, I do not consider that it would be reasonable grounds for refusal of the application on the basis that it does not include provision of CHP at this time. It is a matter that will be reviewed over the lifetime of its operation; a condition of the Environmental Permit requiring review at least every two years.

4.2.12 PPS 10 includes the following key planning objective relevant to the matters raised by the SoS concerning sustainable waste management cognisant of the proposal's location within the Green Belt:

"protect green belts but recognise the particular locational needs of some types of waste management facilities when defining detailed green belt boundaries and, in determining planning applications, that these locational needs, together with the wider environmental and economic benefits of sustainable waste management, are material considerations that should be given significant weight in determining whether proposals should be given planning permission";

4.2.13 I recognise that there are material locational, environmental and economic benefits relating to the proposal which are material considerations to be afforded significant weight in favour of the proposal. These benefits are discussed at *Section 6.3* in relation to identifying the very special circumstances required to justify inappropriate development within the Green Belt. I conclude that the benefits to be delivered through operation of the EnviRecover Facility are as envisaged by PPS 10, such that national policy expectations will be implemented by this proposal.

4.2.14 I conclude that the EnviRecover Facility is in conformity with the waste management principles established in: the rWFD; the WSE 2007; the Waste Review 2011; PPS 10; the WMRSS; policies WD1, WD2 and WD3 of the Structure Plan; and the JMWMS 2009. The EnviRecover Facility will provide a necessary part of the waste management infrastructure required within Herefordshire and Worcestershire, will drive waste up the hierarchy and will help implement the national waste strategy.

4.2.15 In addition, it can be concluded that there are also material locational, environmental and economic benefits to be afforded significant weight in accordance with the objectives of PPS 10 that justify the EnviRecover Facility's location in the Green Belt; a matter that I expand and conclude upon in more detail in *Section 6.*

5 PLANNING AND CLIMATE CHANGE SUPPLEMENT TO PLANNING POLICY STATEMENT 1

5.1 POLICY CONTEXT

5.1.1 There is a raft of energy legislation and policy in place to deliver the infrastructure necessary to meet or exceed the Renewable Energy Directive (2009/28/EC) targets, as set out in Annex 1. Climate change, rising fuel insecurity and the need for investment in UK energy infrastructure are recognised as strategic challenges in **Meeting the Energy Challenge - Energy White Paper 2007** (the 'Energy White Paper'). In the Executive Summary (at page 8) the strategy to meet these challenges is condensed to three actions. "*We need to*:

i) save energy;

ii) develop cleaner energy supplies; and

iii) secure reliable energy supplies at prices set in competitive markets."

5.1.2 At Chapter 3, the Energy White Paper considers the potential for distributed generation of electricity and the production of heat, referred to as distributed energy, or DE. Paragraph 3.5 advises "*DE current accounts for less than 10% of the UK energy supply. The Government wants to provide opportunities for DE to grow by removing barriers …*".

5.1.3 Paragraph 3.9 confirms that the market is best placed to decide the most effective technologies to deliver the UK's energy needs, whilst Government's role is to ensure that appropriate opportunities for DE are put in place.

5.1.4 The opening paragraph of Chapter 5 makes clear the Government's intention to enable timely investment in the UK's energy infrastructure. The statement recognises not only the need for new energy, but also the promotion of renewable or low carbon supply. "*Over the next two decades, the UK will need substantial investment in new electrical generation capacity to replace a number of closing coal, oil and nuclear power stations and to meet expected increases in electricity demand. We want to ensure we have an investment framework which encourages investment to come forward at the right time and as much as possible in low carbon forms of generation*."

5.1.5 **The UK Renewable Energy Strategy, 2009** provides the national response to the commitments required by the Renewable Energy Directive, setting out how and why the UK should '*…radically increase its use of renewable energy*'.

5.1.6 The summary of the document, page 8 presents the 'lead' scenario for 2020, i.e. the scenario based on the success of the latest renewable energy strategies, suggests:

i) more than 30% of electricity will be generated from renewables, which includes wind power (on and off shore) biomass, hydro, wave and tidal;

ii) 12% of heat will be generated from renewables; and

iii) 10% of transport energy will be generated from renewables.

5.1.7 Six energy national policy statements (NPS) were designated in July 2011. The two that are relevant to the EnviRecover Facility are the:

i) **Overarching National Policy Statement for Energy** (EN-1); and the

ii) **National Policy Statement for Renewable Energy Infrastructure** (EN-3).

5.1.8 NPS EN-1 sets out the Government's policy for delivery of major energy infrastructure. Paragraph 2.2.4 advises that "*The role of the planning system is to provide a framework which permits the construction of whatever Government – and players in the market responding to the rules, incentives or signals from Government – have identified as the types of infrastructure we need in the places where it is acceptable in planning terms*." Thus, NPS EN-1 makes it clear that the market is expected to deliver the energy infrastructure now critically required. Paragraph 2.2.16 advises that about a quarter of the UK's generating capacity is due to close by 2018. Thus paragraph 2.2.20 identifies "*It is critical that the UK continues to have secure and reliable supplies of electricity as we make the transition to a low carbon economy…*" Paragraph 2.2.25 makes clear "*the requirement for substantial and timely private sector investment over the next two decades in power stations …*" is one of the two main challenges facing security of supply in the UK.

5.1.9 Part 3 of NPS EN-1 is concerned with the need for new nationally significant energy infrastructure projects. Paragraphs 3.1.1 to 3.1.4 set out key principles for the decision making of nationally significant infrastructure projects (NSIP). The EnviRecover Facility is comparable to a NSIP and these principles are relevant to consideration of the Scheme:

"*The UK needs all the types of energy infrastructure covered by this NPS in order to achieve energy security at the same time as dramatically reducing greenhouse gas emissions.*

It is for industry to propose new energy infrastructure projects within the strategic framework set by Government. The Government does not consider it appropriate for planning policy to set targets for or limits on different technologies.

The IPC should therefore assess all applications for development consent for the types of infrastructure covered by the energy NPSs on the basis that the Government has demonstrated that there is a need for those types of infrastructure and that the scale and urgency of that need is as described for each of them in this Part.

The IPC should give substantial weight to the contribution which projects would make towards satisfying this need when considering applications for development consent under the Planning Act 2008."

5.1.10 Section 2.5 of **NPS EN-3** addresses the combustion of waste. It demonstrates the role of energy from waste in meeting the urgent need for energy infrastructure, advising (at paragraph 2.5.2): "*The recovery of energy from the combustion of waste, where in accordance with the waste hierarchy, will play an increasingly important role in meeting the UK's energy needs. Where the waste burned is deemed renewable, this can also contribute to meeting the UK's renewable energy targets. Further, the recovery of energy from the combustion of waste forms an important element of waste management strategies in both England and Wales.* "

5.1.11 Paragraph 2.5.11 confirms that the decision maker should not be concerned about the type of technology used, whilst paragraph 2.5.13 addresses capacity. "*Throughput volumes are not, in themselves, a factor in IPC decision-making as there are no specific minimum or maximum fuel throughput limits for different technologies or levels of energy generation*."

5.1.12 Energy policy is also found within the Planning Policy Statement (PPS) series, particularly:

i) PPS 1 – Delivering Sustainable Development (2005) (PPS 1);

ii) the Planning and Climate Change Supplement to PPS 1 (2007) (the 'PPS 1 Supplement');

iii) PPS 22 – Renewable Energy (2004) (PPS 22); and

iv) the PPS 22 Companion Guide (2004) (PPS 22 Companion Guide).

5.1.13 Paragraph 3 of **PPS 1** establishes the principles of sustainable development and the role of planning in its delivery. "*Sustainable development is the core principle underpinning planning. At the heart of sustainable development is the simple idea of ensuring a better quality of life for everyone, now and for future generations*".

5.1.14 PPS 1 is concerned with the prudent use of natural resources, advising at paragraph 22 that development plan policies should seek to promote and encourage, rather than restrict, the use of renewable resources (for example, by the development of renewable energy) and the use of combined heat and power.

5.1.15 The Planning and Climate Change Supplement to Planning Policy Statement 1 (**the PPS 1 Supplement**) establishes the role of planning to contribute to the Government's objectives in relation to climate change: reducing emissions; stabilising climate change; and taking into account the unavoidable consequences of these matters.

5.1.16 The PPS 1 Supplement at paragraph 3, the states that "*The Government believes that climate change is the greatest long-term challenge facing the world today. Addressing climate change is therefore the Government's principal concern for sustainable development*."

5.1.17 The Glossary to the PPS 1 Supplement defines 'renewable and low carbon energy': "*Includes energy for heating and cooling as well as generating electricity. Renewable energy covers those energy flows that occur naturally and repeatedly in the environment – from the wind, the fall of water, the movement of the oceans, from the sun and also from biomass. Low-carbon technologies are those that can help reduce carbon emissions. Renewable and/or low-carbon energy supplies include, but not exclusively, those from biomass and energy crops; CHP/CCHP (and micro-CHP); waste heat that would otherwise be generated directly or indirectly from fossil fuel; energy-from-waste; ground source heating and cooling; hydro; solar thermal and photovoltaic generation; wind generation.*"

5.1.18 Demonstrating Government's desire to provide a positive policy context for such development at a local level as well as nationally, local planning authorities are charged with providing a framework that promotes and encourages renewable energy generation (paragraphs 9, 19 and 27).

5.1.19 At paragraph 19 the PPS 1 Supplement requires that "*Policy should be designed to promote and not to restrict renewable and low-carbon energy and supporting infrastructure*." Paragraph 20 advises local planning authorities to "*not require applicants for energy development to demonstrate either the overall need for renewable energy and its distribution, not question the energy justification for why a proposal for such development must be sited in a particular location*."

5.1.20 The opening text of **PPS 22** establishes that for the purposes of the PPS renewable energy covers those energy flows that occur naturally and repeatedly in the environment – from the wind, the fall of water, the movement of the oceans, from the sun and also from biomass. Biomass is defined in the footnote as "*the biodegradable fraction of products, waste and residues from agriculture (including plant and animal substances), forestry and related industries, as well as the biodegradable fraction of industrial and municipal waste*." Whilst energy from waste is included in its understanding of renewable energy, this does not include "*energy from mass incineration of domestic waste*".

5.1.21 It was made clear to Members at the Planning and Regulatory Committee, March 2011 that this phrase is not further explained within PPS 22, but may be understood to include facilities such as the EnviRecover Facility, or it may simply refer to domestic waste that has not been pre-treated. In any event, the positive contribution that waste can make to renewable energy has been clarified, and is made clear, in the more recently published PPS 1 Supplement and by the explicit reference to waste in NPS EN-1 and NPS EN-3.

5.1.22 Page 6 of PPS 22 presents the Government's objectives, advising that increased development of renewable energy resources is vital to facilitate delivery of the Government's commitments on both climate change and renewable energy. Positive planning that enables renewable energy developments can contribute to all four elements of the Government's sustainable development strategy:

i) social progress which recognises the needs of everyone – by contributing to the nation's energy needs, ensuring all homes are adequately and affordably heated; and providing new sources of energy in remote areas;

ii) effective protection of the environment – by reductions in emissions of greenhouse gases and thereby reducing the potential for the environment to be affected by climate change;

iii) prudent use of natural resources – by reducing the nation's reliance on ever diminishing supplies of fossil fuels; and

iv) maintenance of high and stable levels of economic growth and employment – through the creation of jobs directly related to renewable energy developments, but also in the development of new technologies. In rural areas, renewable energy projects have the potential to play an increasingly important role in the diversification of rural economies.

5.1.23 The **PPS 22 Companion Guide** offers practical advice as to how the policies set out in PPS 22 can be implemented on the ground. It opens with a quote from the House of Lords Science and Technology Committee, July 2004: (4) "*The sources of renewable energy … are inexhaustible, indigenous and abundant, and their exploitation, properly managed, has the potential to enhance the long-term security of the United Kingdom's energy supplies and to help us cut carbon dioxide emissions*".

5.1.24 Technical Annex 3 of the PPS 22 Companion Guide discusses the role of 'Energy from Waste (Thermal processes)'. The Annex considers the various types of thermal processes available to recover energy from waste (including direct combustion, the EnviRecover Facility technology).

5.1.25 The relevant regional policy for energy is set out in Policy EN1 Energy Generation and EN2 Energy Conservation of the **West Midlands Regional Spatial Strategy**. Policy EN1 expects local authorities, through development plans, to encourage proposals for the use of renewable energy resources, including biomass, onshore wind power, active solar systems, small scale hydro-electricity schemes and energy from waste combustion and landfill gas.

Policy EN2 requires development plans to include measures to:

i) minimise energy demands from development, redevelopment and improvement by encouraging the use of sustainable construction techniques, best practice in energy efficient design , and orientation of all building types to maximise passive solar gain; and

ii) encourage the use of good quality combined heat and power systems and district heating schemes for developments, particularly major new mixed use developments.

(4) Renewable Energy: Practicalities House of Lords Science and Technology Committee, 4th Report, 2003-04 Session (paragraph 2.8) http://www.parliament.the-stationery-office.co.uk/pa/ld200304/ldselect/ldsctech/126/126.pdf

5.1.26 At a local policy level the relevant policy is set out by saved Policies EN1 and EN3 of the **Worcestershire Structure Plan**. Policy EN1 notes that the development of facilities to provide renewable energy will be supported subject to the other policies of the Structure Plan, particularly those relating to the local environmental effects of development. Policy EN3 set outs out that proposals for facilities for the generation of energy from landfill waste or from the incineration of waste will be endorsed subject to other policies in the Structure Plan and if they provide the best practicable environmental option (BPEO). As identified above BPEO is no longer used in national policy.

5.1.27 The **Worcestershire Climate Change Strategy Review 2009** sets out the local context for reducing the impacts on climate change and providing renewable energy. Key objectives of the Strategy relevant to this proposal are:

- To increase the proportion of energy used in the County that is generated from renewable sources.
- Contribute to the local delivery of National Indicator 186 – 1.9 percent local reduction in CO_2 emissions from 2005 levels - this equates to a reduction of at least 27750 tonnes CO_2 from the business & public sector by 2011. In the longer term to achieve the transition to a low carbon society and economy with minimum reliance on fossil fuels.

5.2 CONFORMITY OF THE ENVIRECOVER FACILITY

5.2.1 The Government believes that climate change is one of the gravest threats we face, and that urgent action at home and abroad is required. Overarching objectives set at an European level are reflected in domestic policy that urgently seeks a secure and reliable energy supply, and preferably one that will also achieve climate change objectives.

5.2.2 The UK has challenging targets for emissions reductions, seeking to achieve 30% of the UK's electricity from low carbon sources by 2020. Policy requires that the UK should decarbonise its power sector by seeking radically to increase low carbon and renewable energy supplies. Policy also establishes the imperative to secure provision through a diversity of energy sources so that we are not overly reliant on any one technology and to enable timely delivery. Energy from waste contributes toward this significant and urgent need.

5.2.3 The application details submitted for the proposed EnviRecover Facility state that it will have the capacity to generate 15.5 MW of electricity (13.5 MW net export) and potentially heat through the combustion of waste. The Applicant was requested under Regulation 19 of the EIA Regulations to submit additional information in relation to the potential impacts associated with the proposed electrical grid connection. The results of this assessment concluded that the proposed grid connection works would not give rise to any significant adverse residual environmental impacts. Natural England was also content with the finding of the additional information. The supporting feasibility report (Appendix C) to the Regulation 19 Electrical Grid Connection notes that the Facility could generate 20 MW of energy with a 17 MW net export.

5.2.4 The Applicant has also submitted voluntary environmental information (October 2011) to consider the impacts of a potential heat off-take connection to the Wienerberger Waresley Brickwork Site (the Brickworks). The submitted information submits that there is a technically feasible and economically viable heat off-take solution to the Brickworks. The CPA needs to consider the final advice from statutory stakeholders such as Natural England and the County Ecologist to be able to conclude on this matter. The CPA will therefore provide supplementary evidence once it has been possible to reach a conclusion on the potential impacts of the heat off-take connection.

5.2.5 Reference to European and national policy demonstrates that the combustion of waste with biodegradable content provides a supply of renewable energy. This is demonstrated, not least in the following documents:

i) Renewable Energy Directive, which recognises the biodegradable fraction of industrial and municipal waste as a renewable source of energy;

ii) the PPS 1 Supplement – which includes energy from waste in its definition of renewable and/or low carbon energy supplies; and

iii) NPS EN-1 and NPS EN-3 – both of which explicitly recognise the beneficial role of using waste as a fuel for the generation of renewable energy.

5.2.6 It is explicitly stated, in paragraph 208 of the Waste Review 2011, that the combustion of the biogenic fraction of the waste, and the energy derived there from, is classified as renewable energy.

5.2.7 This approach is corroborated by reference to a letter sent by DEFRA during public consultation on a comparable energy from waste facility (Appendix B). The final paragraph on the second page of that letter advises "*We estimate that around 50% of the content of the input fuel would be renewable in the form of biomass*." I am content that the EnviRecover Facility will contribute to the supply of renewable energy.

5.2.8 A WRATE (Waste and Resources Assessment Tool for the Environment) assessment accompanied the planning application. WRATE is a software modelling tool, developed by the Environment Agency that compares the environmental impacts of different municipal waste management systems. In WSE 2007, WRATE is the recommended life cycle tool for informing decisions on the carbon footprint of waste infrastructure options and for estimating global warming emissions for local waste strategies. A WRATE assessment considers the emissions that are generated from the construction, maintenance and operation impacts as well as those from transport, displacement of power generation from fossil fuel power stations and the benefits (or impacts) associated with recycling.

5.2.9 The WRATE assessment undertaken by the Applicant modelled several scenarios. The assessment calculated that the proposed EnviRecover Facility exporting power only (Option 1) would result in a net annual reduction of 7,361 CO_2 equivalent tonnes per annum. In the future, should the proposed Facility export heat as well as power (Option 2) the net annual reduction would increase to approximately 18,282 CO_2 equivalent tonnes per annum.

5.2.10 The purpose of WRATE is to compare different waste management options, so the assessment of the EnviRecover Facility does not take account of the diversion of waste from landfill and the consequent reduction in greenhouse gases. As such, these results are shown as compared against a situation where no waste is managed, rather than against the waste management practices being undertaken at present. The WRATE assessment does not calculate the current waste management practices, but I am satisfied that Option 3 (in which waste is landfilled in line with LATS allowances and then the remaining waste is transported to an EfW plant outside of the County) can be used as an appropriate proxy as it reflects current operations. If Option 1 is compared against Option 3, it can be seen that, by avoiding the disposal of waste to landfill, an additional reduction of 28,657 CO2 equivalent tonnes per annum can be made. This would increase if heat were also to be exported.

5.2.11 The supporting WRATE assessment therefore demonstrates that the implementation of the EnviRecover Facility would result an overall benefit to climate change and reduction of at the very least 7,361 CO_2 equivalent tonnes per annum in carbon emissions. The EnviRecover Facility can therefore be considered as a low carbon energy source.

5.2.12 The technology proposed at the EnviRecover Facility is energy from waste, using direct combustion. This is a reliable, credible and deliverable technology, promoted through waste management policy and responding to the increase in the provision of energy from waste facilities as sought by Government (NPS EN-1, NPS EN-3, Waste Review 2011 (paragraph 22 and from page 62) and WSE 2007).

5.2.13 The proposed development is entirely consistent with the Government's policy on energy, providing a supply of electricity and potentially heat in the future, that:

- is renewable;
- is low carbon;
- is decentralised;
- is secure;
- can be provided in a timely fashion;
- is reliable and cost-effective; and, in addition to all the above

- delivers on sustainable waste management objectives.

5.2.14 At a more local level, the EnviRecover Facility will help deliver the aims of the Worcestershire Climate Change Strategy Review 2009 by delivering renewable energy and reducing carbon emissions.

5.2.15 The over-riding message from succeeding Governments is that the UK urgently needs a secure, diverse and reliable energy supply – this is clear, not least from the NPS also addressing fossil fuel energy generation. 2020 is a key year for energy supply. The EnviRecover Facility can be operational to assist in the delivery of each of the targets:

i) The UK Renewable Energy Strategy seeks to achieve 30% of electricity generation and 12% of heat from renewable sources.

ii) NPS EN-1 states that the UK will need approximately 43GW of new capacity by 2020 and 60GW by 2025.

iii) The LCTP sets a target of gaining 40% of the UK's power from low carbon sources by 2020.

iv) The LCTP sets out the strategy to deliver a reduction of 18% of all UK 2008 emission levels by 2020.

5.2.16 I conclude, in relation to the Government's objectives on Climate Change, there is an overall benefit from the implementation of the proposal and that it would make an important and positive contribution to renewable energy needs, climate change and carbon reduction in line with national, regional and local policy.

6 GREEN BELT

6.1 POLICY CONTEXT

6.1.1 National planning policy on Green Belts is set out within **Planning Policy Guidance Note 2: Green Belts** (PPG 2), which makes clear that the Government attaches great importance to Green Belt policy, recognising it to have been an essential element of planning over four decades.

6.1.2 The general policies controlling development in the countryside apply with equal force in the Green Belt, but in addition there also applies a general presumption against inappropriate development within the Green Belt. Paragraph 3.2 advises *'Inappropriate development is, by definition, harmful to the Green Belt. It is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.'*

6.1.3 There are also local policies on Green Belt in the development plan. These are policies D.39 of the **Worcestershire Structure Plan** and SR7 of the **Wychavon District Local Plan** which present restrictions of development in the Green Belt.

6.1.4 In addition, policy SR8 of the Wychavon District Local Plan relates specifically to the Hartlebury Trading Estate as a major developed site in the Green Belt. The policy refers to, and repeats the expectations of, Annex C of PPG 2, in regard to development at major developed sites. In short, these policy documents require redevelopment to:

- have no greater impact than the existing development on the openness of the Green Belt and the purposes of including land within it, and where possible have less;
- contribute to the achievement of the objectives for use of land in Green Belts, and have regard for the provisions of Policy ECON1 (Employment Land);
- not exceed the height of existing buildings; and

- not occupy an area larger than the footprint of existing buildings, unless this would achieve a reduction in height, which would benefit visual amenity.

6.1.5 It is acknowledged that the proposed development does not conform to Policy D.39 of the Worcestershire Structure Plan, or Policies SR7 and SR8 of the Wychavon District Local Plan. As such, the proposed development constitutes inappropriate development in the Green Belt and therefore, very special circumstances must be shown by the applicant to justify the approval of the proposed development.

6.1.6 **PPS 10**, (March 2010) provides an indication of the very special circumstances that may exist to support waste development proposals proposed in the Green Belt. At paragraph 3, PPS 10 advises that the '*particular locational needs of waste management facilities, together with the wider environmental and economic benefits of sustainable waste management, are material considerations that should be given significant weight in determining whether proposals should be given planning permission*'.

6.1.7 Further, **PPS 22** and **Consultation on Planning Policy Statement: Planning for a Low Carbon Future in a Changing Climate** address renewable energy projects in the context of the Green Belt. Paragraph 13 of PPS 22 (draft policy LCF 14.2(viii) is very similar) states '*When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development, which may impact on the openness of the green belt. Careful consideration will therefore need to be given to the visual impact of projects, and developers will need to demonstrate very special circumstances that clearly outweigh any harm by reason of inappropriateness and any other harm if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources*'.

6.1.8 The policy set out above provides a framework of the very special circumstances that can exist to support waste and energy development proposals in the Green Belt. This provided the basis of my consideration of the very special circumstances in relation to the proposal and informed the Planning and Regulatory Committee's positive conclusions on this matter.

6.2 POTENTIAL HARM TO THE GREEN BELT

6.2.1 I consider it important first to examine the potential harm of the proposed EnviRecover Facility on the Green Belt. Paragraph 1.4 of PPG 2 confirms that '*The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of Green Belts is their openness…*'. PPG 2 recognises that other harm may result from inappropriate development, not just that resulting from the development being inappropriate within the Green Belt. The potential harm of the EnviRecover Facility will be considered in two parts: the harm 'per se' of the inappropriate development in the Green Belt; and then 'other harm'. In this respect it is considered 'other harm' only relates to potential landscape and visual impacts, as I do not consider there to be any other significant environmental impacts that cannot be controlled by the recommended conditions as previously examined, primarily in *Section 3.*

6.2.2 Firstly, I consider that the **harm 'per se'** in this case essentially relates to impact on the openness of the Green Belt. I am not aware of any strict planning definition of openness, but recognise that it is commonly held to be 'the absence of development'. Clearly, development at the inquiry site will remove the current absence, such that the openness of the site will be diminished. However, as described further below, I do not conclude that the effects of the proposal result in a significant impact, on either the openness or the purposes of the Green Belt.

6.2.3 Paragraph 1.5 of PPG 2 identifies five purposes of including land in the Green Belt:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns from merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

6.2.4 The proposed Facility would be entirely located within the boundaries of the existing Hartlebury Trading Estate, which is washed over by the Green Belt designation. The proposed development does not increase the extent of the Trading Estate and consequently I do not consider that it will extend the boundaries of current development further into the Green Belt. As such, the relevant purposes of including land within the Green Belt as set out in PPG 2 would not be prejudiced, as the scheme would be consistent with the existing uses in the locality. However, whilst I also acknowledge that there is no prejudice to the purposes, there is unlikely to be any enhancement of these purposes, except perhaps the considered redevelopment of a currently unkempt area of land.

6.2.5 At paragraph 1.6, PPG 2 advises that once Green Belts have been defined, the use of land in them has a positive role to play in fulfilling the following objectives:

- to provide opportunities for access to the open countryside for the urban population;
- to provide opportunities for outdoor sport and outdoor recreation near urban areas;
- to retain attractive landscapes, and enhance landscapes, near to where people live;
- to improve damaged and derelict land around towns;
- to secure nature conservation interest; and
- to retain land in agricultural, forestry and related uses.

6.2.6 I consider that as the proposed EnviRecover Facility is located on previously developed and vacant land, the proposal would make a positive contribution to the objective that seeks to improve damaged and derelict land. Further, the submitted application and recommended conditions seek to secure nature conservation interest on and off the site.

6.2.7 In relation to the other objectives, I do not consider that the proposal will impact upon: access to the open countryside; opportunities for outdoor sport or recreation; or the retention of land for agricultural, forestry and related uses, as the site is located within the existing Trading Estate.

6.2.8 I have discussed elsewhere in my proof that I do acknowledge that there will be a visual and landscape impact, but conclude that this impact is not so significant so as to justify refusal of the application. In relation to the purposes of the Green Belt, I conclude that the attractive landscape around the inquiry site is not materially impacted upon by the proposed development, and recognise that it is a subjective view as to whether that landscape would be enhanced.

6.2.9 I consider that a development of the scale and massing proposed will affect the openness of the Green Belt. Not least, the bulk of the main EfW building is substantial, and significantly larger than that of other commercial properties. However, I consider the harm of that impact on openness may be most keenly experienced as a visual effect, which is discussed below.

6.2.10 Whilst I consider that the development will impact on the openness of the Green Belt, I conclude that the impact is not so significant to justify refusal of the application. In any event, I believe that it is important to recognise the sustainability benefits to be achieved through the operation of the proposed EnviRecover Facility, not least through diverting waste from landfill, contribution to renewable energy supply and the consequent reduction in CO_2 equivalents, consequently to conclude that these are sufficient to outweigh the harm resulting from the impact on the openness of the Green Belt.

6.2.11 Secondly, in relation to '**other harm'**, the Environmental Statement supporting the application contains a comprehensive assessment of landscape and visual impacts. The landscape assessment noted that there would be a medium magnitude of change in character of the area, resulting in an effect of minor significance, given that the sensitivity of the area is generally low due to the presence of the existing trading estate and landfill facilities.

6.2.12 The visual impact of the proposed development was considered from 21 viewpoints around the inquiry site. The assessment at each location determined that there would be a minor to moderate impact from the viewpoints assessed, with the exception of the Waresley Park residential area and at Elmley Lovett where the assessment noted an impact of moderate to major significance. The assessment considered these locations in more detail and concluded that there would not be a significant environmental impact, given the distance from the site and the presence of the existing trading estate (although it recognises that the existing buildings are much smaller) and the landfill sites.

6.2.13 The submitted Design and Access Statement demonstrates that the design of the proposed EnviRecover Facility has been given much thought with relevant options considered. The submitted design was considered to be the best option, causing least visual impact and integration with the existing setting. The application also proposes lowering the ground level of the site by 8m in order to reduce the final height of all the buildings, consequently reducing their visual impact.

6.2.14 I have considered the setting and surroundings of the inquiry site from a number of locations within and surrounding the Trading Estate. I have also reviewed the evidence presented to me in the application documents and considered the advice provided to me by the relevant consultees. Having undertaken these activities I conclude that the proposed development would have an impact upon the visual amenity of the Green Belt. However, that impact is limited to those most prominent views at the residential areas of Waresley Park and Elmley Lovett and at public view points to the south of the site. Otherwise, views of the proposed development would be fleeting. Therefore I consider that this impact is not so significant as to justify a reason for refusal.

6.3 VERY SPECIAL CIRCUMSTANCES

6.3.1 The Applicant suggests that the inquiry site is within an area less sensitive to development than other areas of the Green Belt. I recognise that the inquiry site is located within an identified major developed site. However, the proposed scheme remains inappropriate development in the Green Belt for which very special circumstances must be shown if consent for such development is to be justified.

6.3.2 Following the policy framework of PPS 10, PPS 22 and the Consultation on Planning Policy Statement: Planning for a Low Carbon Future in a Changing Climate presented in *Section 6.1*, the Applicant's submissions in regard to very special circumstances have considered the locational, environmental and economic benefits and impacts resulting from the proposed EnviRecover Facility. In this way the Applicant has sought to demonstrate very special circumstances to justify the inappropriate development; each of which I consider in turn below.

6.3.3 The Applicant identifies that the proposed EnviRecover Facility avoids current, unsustainable waste management practices. Without the EnviRecover Facility, the residual municipal waste stream is likely to be transported to out-of-county treatment facilities or disposed of to landfill. The Applicant considers in this respect the EnviRecover Facility will bring significant environmental and economic benefits. I agree that there is a **significant need for the proposed EnviRecover Facility**, not least as demonstrated in *Section 4* of my proof, and that this represents a very special circumstance that should be given significant weight.

6.3.4 The application for the EnviRecover Facility was supported by a comprehensive site search exercise, through which the inquiry site was identified. This involved five stages. The first stage was to establish the site assessment methodology, which was agreed with planning officers from Worcestershire County Council and Herefordshire Council. A desk based exercise was then undertaken to produce a long list of potential sites and 58 sites were identified and reviewed. Several were discounted due to one or more of the following reasons:

- insufficient size for a large scale strategic facility (irrespective of technology);
- remoteness from main waste arisings;
- the nature of the allocation e.g. that the allocation related solely or ostensibly to high quality B1 class use; and
- existing knowledge within the study team relating to specific sites (as reported in the submitted documents).

6.3.5 Stage 2 of the process was to visit each of the remaining sites and appraise each with the site assessment criteria and those sites that were unsuitable were discounted. The shortlist of sites remaining were classed as Primary Search Areas. A separate assessment was also undertaken to identify potential sites for Combined Heat and Power (CHP), but these were not identified in the Primary Search Areas. The sites were then ranked in order of preference primarily based on the number and nature of constraints, together with potential for CHP.

6.3.6 Stage 3 involved four main tasks: to define the nature of the Facility (technology); to undertake further planning evaluation of each site, where planning issues/constraints had been identified; to undertake an appraisal of commercial availability of the identified sites; and to continue to seek potential CHP users. This exercise established that the preferred option was an EfW facility located in Worcestershire that would generate electricity and heat as identified in the JMWMS. It was established that only two sites were suitable for an energy from waste facility: Ravensbank Business Park; and Hartlebury Trading Estate.

6.3.7 Recognising that the Ravensbank Business Park is not located in the Green Belt and was believed to be unconstrained, this was pursued as the preferred option. Consequent due diligence on the site established that a number of restrictive covenants were in place that would prevent the intended use being developed. The site has subsequently been dismissed by the Applicant. Therefore, the Applicant considered that the Hartlebury Trading Estate became the only available site option.

6.3.8 Stage 4 of the assessment was undertaken to ascertain whether any new sites in Worcestershire and Herefordshire had become available or could be identified and to review sites that were previously not available commercially. This identified three sites that were potentially available to purchase and three new sites that had not been considered before. In addition, the Applicant decided to re-evaluate one of the lower ranking sites from a previous stage. These seven sites were then subjected to the more detailed assessments to establish their suitability for an energy from waste facility. Stage 4 concluded that none of the seven sites would be suitable, leaving Hartlebury Trading Estate as the only viable option.

6.3.9 The final stage (5) was an update study that was undertaken in mid 2009 to ensure that no new sites existed or had become available. Stage 5 concluded that the findings of Stage 4 were still relevant and that the Hartlebury Trading Estate remained the only sustainable option.

6.3.10 After detailed consideration of the conclusions of the site search exercise, I agree that **there is not a more sustainable alternative to the inquiry site**, and consequently consider this to be a very special circumstance that should be afforded significant weight.

6.3.11 As identified in *Section 4* the JMWMS establishes a preferred option for a single energy from waste facility to serve both Worcestershire and Herefordshire. I consider **the inquiry site to be at (or very close to) the optimum location** to serve the overall pattern of waste arisings within Worcestershire and Herefordshire. Further, I agree with the Applicant's conclusion that the inquiry site is the only site appropriate and available for the proposed development. As such, the proposal would represent the nearest appropriate installation at which waste should be recovered (meeting Article 16(3) of the rWFD). This has direct environmental and economic benefits in terms of reducing the distance that waste has to travel, bringing emissions and cost savings.

6.3.12 Consequently I conclude that this is a very special circumstance that should be afforded significant weight as it would minimise waste transport miles and bring environmental benefits.

6.3.13 The Applicant also considers the site's location in an area with **excellent transportation connectivity**, on suitable standards of road that require no physical improvements (or consequent financial investment) will bring environmental benefits, including road safety and fuel efficiency. In addition, the proposal is readily supported by the existing waste transfer infrastructure, avoiding the need to develop new waste transfer stations, with consequent environmental and economic benefits.

6.3.14 I am satisfied that the road infrastructure available to the proposed EnviRecover Facility is good and concur that this brings the identified benefits. I consider that this is a very special circumstance that should be given significant weight as it is a tenet of sustainable development.

6.3.15 The Applicant demonstrates that the proposed EnviRecover Facility would bring **climate change benefits**, not least through a reduction of at least 7,361 tonnes of CO_2 equivalents per annum. Further, the Applicant states that the proposal would lead to the generation of renewable energy that would result in the achievement of approximately 41% of Worcestershire's 2011 renewable energy target.

6.3.16 I concur that the sustainability benefits to be gained through the supply of low carbon/ renewable energy and reduction in carbon footprint is a very special circumstance and one that should be given significant weight.

6.3.17 It is stated by the Applicant that the site is in an area where **electricity can be readily exported (with an economically viable grid connection)** and there are opportunities to facilitate the export and use of heat recovered from the combustion process. The Applicant identifies that the future ability for businesses on the Hartlebury Trading Estate to utilise low carbon energy has direct economic and environmental benefits.

6.3.18 I conclude that the proposal site is well located to enable the exportation of electricity from the proposed EnviRecover Facility and consider this very special circumstance should be given significant weight. It is important to also note the opportunity for future export of heat to surrounding developments. I recognise the sustainability benefits to be gained by this activity, but as it is not guaranteed to occur, I consider this a very special circumstance to be given modest weight.

6.3.19 The Applicant also considers **the locational benefits of being situated close to potential market for the clay soils and bottom ash** constitute very special circumstances. The Applicant has provided information to show that both the clay (extracted to reduce the ground level) and the bottom ash (resulting from the combustion process) are technically capable of being used for brick and/or block manufacture. The Applicant has also provided letters of support from Weinerberger, the company that runs the adjacent brickworks, identifying their potential use of these materials.

6.3.20 I acknowledge that the use of these by-products in the manner set out would bring sustainability benefits (not least in reducing the use of virgin materials) and that these benefits would be increased should the use of the clay and bottom ash occur at the adjacent brickworks (not least through minimised transport). I conclude that these locational benefits, should they be delivered, should be considered very special circumstances that should be afforded moderate weight.

6.3.21 The Applicant states that the site is located in an area that **does not contain insuperable environmental constraints**, nor would significant or unacceptable environmental impacts occur as a result of the development. I agree that the site does not have any significant environmental constraints that cannot be addressed by the recommended planning conditions. I therefore, recognise this to be a very special circumstance, as it is an element of sustainable development, to be given modest weight.

6.3.22 With regard to **economic benefits**, the Applicant considers the sale of electricity would generate a value of approximately £5,000,000 per annum. The EnviRecover Facility would bring full time employment for approximately 42 people and short term employment for up to 300 workers during construction. The Applicant also recognises that the site's location, close to the main centres of waste arisings, offers transport costs efficiencies, and that costs associated with improved transport works or provision of supporting infrastructure can be avoided, thus delivering economic as well as environmental benefit. Further, the Applicant identifies support for local support services and consumables during the operational life of the plant and economic value in reclaimed metals from incinerator bottom ash. Economic advantages are further considered to be delivered through enabling waste treatment (i.e. avoiding disposal to landfill) to occur within the County.

6.3.23 I consider that these economic benefits (which would be felt by a range of different parties) contribute to sustainable development. Consequently I recognise them as a very special circumstance that should be afforded modest weight.

6.3.24 I recognise the **relationship of the site to existing waste management infrastructure** appropriate to be considered a very special circumstance, of modest weight. Locational and environmental benefits are gained from not needing to develop additional waste transfer stations.

6.3.25 The Applicant promotes a very special circumstance in terms of the **locational advantage of being situated adjacent to landfill facilities**. The Applicant does not expect significant amounts of waste to be disposed of to landfill as a result of operating the proposed EnviRecover Facility, but does recognise that there may be circumstances, for example an unforeseen shut down period, where recourse to a nearby disposal facility would be appropriate.

6.3.26 I am satisfied that there are locational benefits of being situated adjacent to and in proximity to existing landfill sites. However, the Applicant's company advises that during annual shut down the waste is most likely to be taken to its Hill and Moor Landfill Facility near Pershore, Worcestershire or an out-of County treatment facility. However, the adjacent landfills could be used to cater for incidences of unplanned shut down although this is uncertain. In conclusion, I recognise the very special circumstance, but one that should only be afforded modest weight.

6.3.27 I conclude that the following very special circumstances exist both in their own right and in combination in favour of the proposal:

1. That there is a significant need for the proposed EnviRecover Facility to avoid current, unsustainable waste management practice and that the development proposal is submitted in a timely manner enabling statutory targets in relation to landfill diversion and waste recovery to be met.
2. That there are no other more sustainable site alternatives available.
3. That the Hartlebury site is at (or very close to) the optimum location to serve the overall pattern of waste arisings within Worcestershire and Herefordshire.
4. The site's location in an area with excellent transportation connectivity, on suitable standards of road that require no physical improvements (or consequent financial investment) will bring environmental benefits, including road safety and fuel efficiency.
5. That the proposed EnviRecover Facility would bring climate change benefits, not least through a reduction of at least 7,361 tonnes of CO_2 equivalents per annum.
6. That the site is in an area where electricity can be readily exported (with an economically viable grid connection) and there are opportunities to facilitate the export and use of heat.
7. The locational benefits of being situated local to potential market for the clay soils and bottom ash.
8. That the site is located in an area that does not contain insuperable environmental constraints, nor would significant or unacceptable environmental impacts occur as a result of the development.

9. The economic benefits, the sale of electricity would generate a value of approximately £5,000,000 per annum. The proposal would bring full time employment for approximately 42 people and short term employment for up to 300 workers during construction.

10. The site has excellent links to existing waste management infrastructure, and consequent benefits arising from not needing to develop additional waste transfer stations.

11. The locational advantage of being situated adjacent to landfill facilities.

6.3.28 I therefore conclude that the very special circumstances demonstrated above are appropriate to outweigh the harm by reason of inappropriate development and other harm, as set out by PPG 2 and policies D.38 and D.39 of the Worcestershire Structure Plan and policies SR7 and SR8 of the Wychavon District Plan.

6.4 CONCLUSIONS ON GREEN BELT

6.4.1 PPG 2 recognises that other harm may result from inappropriate development, not just that resulting from the development being inappropriate within the Green Belt. As discussed in *Section 6.2* the principal concern in this respect, is in relation to openness and the other harm to the Green Belt from landscape and visual impacts.

6.4.2 I conclude that the development will impact on the openness of the Green Belt. However, I also consider that the impact to the openness of the Green Belt is not so significant as to justify refusal of the application. It is also my view that the proposed development would have an impact upon the visual amenity of the Green Belt, but that the impact is limited to those most prominent views: at the residential areas of Waresley Park and Elmley Lovett; and at public view points to the south of the site. Otherwise, views of the proposed development would be fleeting. Therefore I consider that this impact is not so significant as to justify a reason for refusal.

6.4.3 Further, I find that the need for the EnviRecover Facility, and the other sustainability benefits to be derived from the proposal, readily outweigh any impact on the openness or adverse landscape and visual impacts on the Green Belt. I do not consider there to be any other significant environmental impacts that cannot be controlled by the suggested conditions.

6.4.4 I also conclude that the proposal would not be inconsistent with the purposes of including land in the Green Belt and that it could play a limited but positive role in fulfilling some of the objectives on the use of land in the Green Belt.

6.4.5 I have carefully examined the very special circumstances presented by the Applicant. The words 'very special' are to be given their ordinary, natural meaning. The meaning of the word 'special' includes that which exceeds or excels those which are common.

6.4.6 Bearing the level of this test in mind, I conclude that the Applicant has shown that very special circumstances, which are summarised in *Section 6.3*, exist that outweigh both the harm by reason of inappropriate development and other harm as set out by PPG 2 and policies D.38 and D.39 of the Worcestershire Structure Plan and policies SR7 and SR8 of the Wychavon District Plan.

7 OTHER MATTERS

7.1 ADDITIONAL MATTERS THAT HAVE BEEN RAISED IN THE REPRESENTATIONS MADE TO THE PLANNING INSPECTORATE

7.1.1 I consider that representations made in relation to the Inquiry have only raised one new matter to those already addressed in the Committee Report.

7.1.2 A number of representations have noted that the proposal must conform to the Stockholm Convention. The Convention is a global treaty to protect human health and the environment from Persistent Organic Pollutants (POPs). The proposal has received an Environmental Permit (EP) from the EA, which in its decision document addresses POPs and the Stockholm Convention at Section 6.4. The section concludes that the EA "…*are satisfied that the substantive requirements of the Convention and the POPs Regulation have been addressed and complied with*".

7.1.3 I conclude that this matter is most appropriately addressed through the Environmental Permit and find that it has already occurred to the regulator's satisfaction. It is not a planning matter that requires any further consideration here.

7.2 ANY OTHER RELEVANT MATTERS

7.2.1 Concerns have been raised by W.A.I.L. that restrictive covenants affecting the inquiry site mean that it is an inappropriate location for the EnviRecover Facility. They consider that the covenant protecting surrounding land and property against noise, nuisance and annoyance affect the inquiry site in a similar way to the site at Ravensbank Business Park, which was discounted by the Applicant due to the existence of restrictive covenants.

7.2.2 The covenant on the inquiry site at the Hartlebury Trading Estate requires that the land comprising the site is not used for '*any noisy or offensive trade or business or for any purpose which may become a nuisance damage or annoyance to the Vendor or other owners or occupiers of the retained land….*' The CPA is satisfied that issues of noise and the prevention of nuisance and annoyance to the surrounding area have been adequately addressed by the Applicant, a view which is based upon and supported by the responses of the relevant statutory consultees on such matters at the time the application was considered by the Planning and Regulatory Committee.

7.2.3 Covenant restriction in relation to matters of noise and nuisance similarly exist for the site at the Ravensbank Business Park. However, in addition there is also a covenant that restricts specific waste related activities on the site, stating '*not to burn any refuse or rubbish on the Property*'. Such a covenant essentially disables the site from development of an energy from waste facility dependent upon the combustion of residual waste or refuse.

7.2.4 However, notwithstanding the above considerations and key difference between the restrictive covenants on the respective sites, the CPA is of the firm view that the impact or otherwise of covenants on the use of land is a Civil matter and not a material planning consideration. As such they should not be taken into account in determination of the application.

8.1.1 The inquiry site comprises of a 3.56 hectares (ha) plot of land situated centrally in the Hartlebury Trading Estate. The Trading Estate is located within the Green Belt approximately 7 km to the south-east of Kidderminster and 1.5 km to the east of Hartlebury. The proposal is for a 200,000 tpa energy from waste (EfW) plant and associated ancillary development. Additionally, the proposed Facility will recover energy, approximately 15.5 MW gross with 13.5 MW exported to the national grid. The site's location with surrounding industrial and commercial properties means that realistic opportunities exist for future export of heat.

8.1.2 The EfW process will result in by-products (incinerator bottom ash and air pollution control residues) that are proposed to be managed to the CPA's satisfaction.

8.1.3 I consider that the proposal is in conformity to the development plan, comprising the saved policies of the West Midland Regional Spatial Strategy, the Worcestershire County Structure Plan and the Wychavon District Plan, with the exception of policies in relation to landscape and visual impact, and Green Belt. I also consider that apart from these issues, the EnviRecover Facility is in conformity to the policies of the emerging Worcestershire Waste Core Strategy. I am satisfied that the EnviRecover Facility is suitable in terms of: Ecology and Nature Conservation, subject to full consideration of the additional environmental information[5]; Transport; Surface Water, Flood Risk and Groundwater; Archaeology and Cultural Heritage; Noise and Vibration; Cumulative impacts and Air Quality and Health. Where potential impacts have been identified, I believe that these can be appropriately controlled though the recommended conditions.

8.1.4 In relation waste policy, I conclude that the EnviRecover Facility is in conformity with the waste management principles established in the rWFD, the WSE 2007, the Waste Review 2011, PPS 10, the WMRSS, saved policies WD1, WD2 and WD3 of the Structure Plan and the JMWMS 2009.

[5] **The CPA will be providing supplementary evidence in relation to the additional environmental information**

8.1.5 I consider that assuming that WSE 2007 recycling/composting targets are met, with the resultant tonnage subtracted from the Preferred Scenario of the JMWMS 2009, municipal waste arisings forecasts would leave a substantial amount of waste to be diverted from landfill, in the order of (this has been applied to all municipal waste not just the household portion): 243,080 tonnes at 2010; 232,000 at 2015; 219,250 at 2020; and 242,600 tonnes at 2034.

8.1.6 I recognise that a reduction of municipal waste arisings and/or increased recycling will inevitably reduce the amount of residual municipal waste available to be treated in the proposed EnviRecover Facility. However, even in the event that 60% recycling/composting was achieved across Worcestershire and Herefordshire (a significant increase from current performance and 10% over the national target) a substantial amount of municipal waste would remain to be diverted from landfill: 168,730 tonnes at 2015; 175,400 at 2020; and 194,080 at 2034. Should there remain any capacity at the proposed Facility due to a shortage of residual municipal waste, this could appropriately be used to manage residual C&I wastes, as is promoted in WSE 2007.

8.1.7 I am content that the EnviRecover Facility is suitably sized and would manage waste at an appropriate level of the waste hierarchy. There remains the ability for increased recycling to be achieved, with the EnviRecover Facility appropriately managing those wastes that still remain to be diverted from landfill, a fundamental aim of all waste management policy.

8.1.8 The proposed EnviRecover Facility will result in the reduction of CO_2 equivalents, delivering climate change objectives. I have identified that the proposed development is entirely consistent with the Government's policy on energy, providing a supply of electricity and potentially heat in the future, that:

- is renewable;
- is low carbon;
- is decentralised;
- is secure;
- can be provided in a timely fashion;
- is reliable and cost-effective; and, in addition to all the above
- delivers on sustainable waste management objectives.

8.1.9 At a more local level, the EnviRecover Facility will help deliver the aims of the Worcestershire Climate Change Strategy Review 2009 by delivering renewable energy and reducing carbon emissions.

8.1.10 The over-riding message from succeeding Governments is that the UK urgently needs a secure, diverse and reliable energy supply – this is clear, not least from the NPS also addressing fossil fuel energy generation. I conclude, in relation to the Government's objectives on climate change, there is an overall benefit from the implementation of the proposal and that it would make an important and positive contribution to renewable energy needs, climate change and carbon reduction in line with national, regional and local policy.

8.1.11 In relation to landscape and visual impacts, I have recognised that there will be impacts as a result of the proposed EnviRecover Facility. However, significant effects are limited to very few areas. I consider that the design has been well developed and does offer the best option from those considered. I also consider that the Applicant has undertaken or implemented all that can reasonably be done to reduce the visual impacts of the structures proposed. This includes the excavation of 60,000 tonnes of clay to sink the building 8 metres into the ground, in order to reduce the height, and consequently the visual impact, of the building.

8.1.12 I recognise that the proposal requires substantial built development, however the impact resulting from that structure is a subjective judgement to be made by each individual. Having taken account of the submitted information and the comments of statutory advisors, and made my own visits to the site and its surroundings, I conclude that the visual and landscape impacts of the proposed EnviRecover Facility are not so significant to justify the refusal of the application.

8.1.13 The EnviRecover Facility is inappropriate development in the Green Belt. I consider that whilst there is, consequently, an impact on the openness of the Green Belt, principally from its visual impact that this is not so significant as to justify refusal of the application. I also consider that any other potential harm that may result from the proposed development (principally landscape and visual impact) are not so significant as to justify refusal and may otherwise be adequately and appropriately addressed through the imposition of suitable conditions.

8.1.14 I consider that very special circumstances exist to justify the proposal. As advised by the key planning objectives of PPS 10, and as relevant to this proposal, I concur with a number of the particular locational needs, together with the wider environmental and economic benefits of sustainable waste management, presented by the Applicant. I conclude that the following very special circumstances in favour of the proposal exist:

1. That there is a significant need for the proposed EnviRecover Facility to avoid current, unsustainable waste management practice and that the development proposal is submitted in a timely manner enabling statutory targets in relation to landfill diversion and waste recovery to be met.
2. That there are no other more sustainable site alternatives available.
3. That the Hartlebury site is at (or very close to) the optimum location to serve the overall pattern of waste arisings within Worcestershire and Herefordshire.
4. The site's location in an area with excellent transportation connectivity, on suitable standards of road that require no physical improvements (or consequent financial investment) will bring environmental benefits, including road safety and fuel efficiency.
5. That the proposed EnviRecover Facility would bring climate change benefits, not least through a reduction of at least 7,361 tonnes of CO2 equivalents per annum.
6. That the site is in an area where electricity can be readily exported (with an economically viable grid connection) and there are opportunities to facilitate the export and use of heat.
7. The locational benefits of being situated local to potential market for the clay soils and bottom ash.
8. That the site is located in an area that does not contain insuperable environmental constraints, nor would significant or unacceptable environmental impacts occur as a result of the development.
9. The economic benefits, the sale of electricity would generate a value of approximately £5,000,000 per annum. The proposal would bring full time employment for approximately 42 people and short term employment for up to 300 workers during construction.

10. The site has excellent links to existing waste management infrastructure, and consequent benefits arising from not needing to develop additional waste transfer stations.

11. The locational advantage of being situated adjacent to landfill facilities.

8.1.15 To conclude, the EnviRecover Facility will deliver an essential element of Worcestershire's waste management infrastructure necessary to drive waste up the hierarchy. The proposal will recover energy, of which a large proportion is classed as renewable, helping to meet the urgent need identified by Government policy. 2020 is a key year for energy supply and waste management. The EnviRecover Facility can be operational to assist in the delivery of each of the targets:

i) The UK Renewable Energy Strategy seeks to achieve 30% of electricity generation and 12% of heat from renewable sources.

ii) NPS EN-1 states that the UK will need approximately 43GW of new capacity by 2020 and 60GW by 2025.

iii) The LCTP sets a target of gaining 40% of the UK's power from low carbon sources by 2020.

iv) The LCTP sets out the strategy to deliver a reduction of 18% of all UK 2008 emission levels by 2020.

v) The Landfill Directive requires biodegradable waste to landfill in the UK to be reduced to 35% of that produced in 1995 by 2019/2020.

vi) WSE 2007 seeks recovery of 75% of MW by 2020.

8.1.16 The EnviRecover Facility is generally in conformity with the development plan and acceptable in environmental terms. Where a conflict is identified, the impact is not considered so significant to justify refusal and in any event, such impacts are outweighed by the sustainability benefits to be gained. The proposal does constitute inappropriate development within the Green Belt. However, I conclude that very special circumstances, some of which should be granted significant weight, are shown to justify such development.

8.1.17 I respectfully request that the Committee resolution of 1 March 2011 is upheld.