**MWM 1**

mercia
waste management

# Mercia EnviRecover

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**PUBLIC INQUIRY UNDER SECTION 77 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) INTO THE PROPOSED DEVELOPMENT OF AN ENERGY FROM WASTE FACILITY ON LAND AT HARTLEBURY TRADING ESTATE, HARTLEBURY, WORCESTERSHIRE**

**PINS REFERENCE: APP/E/1855/V/11/2153273**
**LPA REFERENCE: 10/000032/CM**

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## PLANNING POLICY AND

## NEED / BENEFITS

**PROOF OF EVIDENCE OF NICHOLAS ROBERTS**

**October 2011**

axis

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## 1.0 INTRODUCTION AND SCOPE OF EVIDENCE

### 1.1 Qualifications and Relevant Experience

1.1.1 I am Nicholas Roberts a founding Director of AXIS, a multi-disciplinary planning, environmental and landscape/urban design consultancy. The practice operates throughout the UK and has a specialist waste management and renewable energy planning capability.

1.1.2 I hold a BA Honours degree in Landscape Architecture and am member of the Landscape Institute. I have over twenty three years professional experience and have specialised in Town and Country Planning for the past nineteen years, particularly in the waste management and associated renewable energy sectors.

1.1.3 My experience in the field of waste management and waste planning is extensive and ranges from the preparation of planning applications to research projects, parts of which have been incorporated into Regional Waste Strategies. I have been responsible for the planning of well in excess of eighty waste facilities and have undertaken projects involving: energy-from-waste - EfW (mass burn, anaerobic digestion and advanced technologies), landfill (hazardous, non-hazardous and inert schemes); materials recycling facilities (MRFs); other specialist recycling facilities; mechanical and biological treatment (MBT) plants; mechanical heat treatment (MHT) plants (e.g. autoclaves); waste transfer stations (WTSs); household waste sites and composting facilities (open windrow and in-vessel). I have undertaken a number of research projects into waste planning including studies focussing upon the requirements for, and location of, future waste facilities within various parts of the UK and have appeared at several Examinations in Public / Local Plan Inquiries.

1.1.4 I have advised on numerous PFI (or similar long-term) contracts including the successful bidders on contracts in: Worcestershire & Herefordshire; Cornwall; Surrey; Shropshire; Northumberland; Wrexham; Buckinghamshire; North Yorkshire; Lincolnshire; North Lincolnshire; and Nottinghamshire. I

have had, or continue to have, a role in providing planning advice in respect of contracts in: West London; Milton Keynes; Greater Manchester; Derbyshire (residual waste treatment); Merseyside; Gloucestershire; North Wales; and South East Wales. In addition, I have provided waste planning services to local authorities (as part of their long term contracts) including: Peterborough City; Cheshire; Derbyshire; Lancashire and Shropshire County Councils.

1.1.5 I have undertaken waste planning projects for local authorities, regulatory bodies and industry. Clients include: Lancashire, Derbyshire, Cheshire and Shropshire County Councils; Regional Assemblies, the Environment Agency; and, Mercia Waste Management, Urbaser, WRG, SITA, Veolia, Peel Environmental, the Banks Group, VT Group, Amey/Cespa and Focsa (FCC), amongst others.

1.1.6 Of direct relevance to this Inquiry, I have been responsible, since 1998, for all planning matters associated with the delivery of thirty one new or refurbished municipal waste management facilities in the two counties of Worcestershire and Herefordshire as part of the authorities' Integrated Waste PFI Contract. This work was and is being carried out on behalf of Mercia Waste Management and includes 5 Waste Transfer Stations, 3 recyclables bulking facilities, 17 Household Waste Sites, 3 MRFs and 2 composting facilities. It also includes the Mercia EnviRecover facility, a 200,000 tonnes per annum (tpa) EfW plant, which is the subject of this Inquiry.

1.1.7 I have extensive experience in the field of EfW development having secured major consents (generally as the lead project planner) for EfWs in Perth, Peterborough, Rotherham, Cheshire, Nottingham and The Wirral. I am also working on several other EfW schemes which are in various stages of the planning process.

1.1.8 I am a Professional Examiner on behalf of the Landscape Institute, specialising in Environmental Planning, and have given lectures in the same subject at Liverpool and Manchester Universities. I have also undertaken

seminars and made presentations to the renewable energy and waste management industry.

1.1.9 I have been involved in numerous public inquiries and planning appeals and have provided evidence on planning and landscape matters in respect of renewable energy applications. My evidence has been given both in support of and against proposed development for both the private and public sectors.

**1.2 Scope of Evidence**

1.2.1 I have prepared this proof of evidence for the Inquiry arising from the Secretary of State's decision to call in the planning application for the Mercia EnviRecover facility for his own determination under Section 77 of the Town and Country Planning Act 1990 (as amended).

1.2.2 My involvement with the Mercia EnviRecover proposal dates back to mid 2007 when Mercia Waste Management (MWM) appointed AXIS to undertake a Site Search Exercise (SSE) to identify suitable sites for the development of a facility or facilities for the treatment of residual waste arising from its Waste PFI Contract in Worcestershire and Herefordshire. As outlined above, this was a contract for which I had already undertaken extensive planning work. From the commencement of the SSE I have had continued involvement on the project through the planning application process (including the preparation and submission of the EnviRecover planning application) and up to and including this Inquiry.

1.2.3 My evidence is divided into a number of sections, which cover the following matters, noting that in some instances my proof cross-refers to information set out in the statement(s) of common ground:

1) A summary of the planning history associated with the application site and description of the development proposal;
2) Details of the planning framework relevant to the determination of the planning application;
3) An assessment of the need for the scheme and its benefits;

4) Detailed consideration of the four matters raised by the Secretary of State in calling in the planning application;
5) Consideration of matters raised by third parties, in particular WAIL (Worcestershire Against Landfill and Incineration), and any other relevant issues;
6) A summary assessment of the scheme in the context of both development plan policy and other material considerations.

## 2.0 PLANNING HISTORY AND THE DEVELOPMENT PROPOSAL

### 2.1 Introduction

2.1.1 The Mercia EnviRecover development is an Energy from Waste (EfW) facility (with an integrated education / visitor centre) and associated ancillary infrastructure and landscaping located on land (Plot H600) at Hartlebury Trading Estate, Hartlebury, Worcestershire. The main built facility would comprise:

- The 'Main Building' with a floor plate area of approximately 6,177m$^2$. This would be set in an excavated area 8m below the original site level resulting in a building height of 35m in relation to the surrounding ground level.
- The 'Turbine Complex Building' with a floor plate area of approximately 1,500m$^2$. This would be 16m high.
- A stack (chimney) which would be 75m above the surrounding ground level.

2.1.2 The facility would have an installed electricity generating capacity of 15.5MW and would generate electricity by way of a steam turbine driven by the combustion of approximately 200,000 tonnes per annum (tpa) of residual waste. Approximately 2 MW of the generation capacity would be used to operate the plant, leaving 13.5 MW to be exported to the local electricity grid. The facility would also be designed to enable heat to be extracted from the generation process for use by local heat users.

2.1.3 Hartlebury Trading Estate is located approximately 7km to the south-east of Kidderminster and 1.5km to the east of Hartlebury. It covers an area of approximately 75ha (180 acres) and is served by a purpose-built access via Crown Lane, off the A449 dual carriageway. It is washed by Green Belt and is subject to policies relevant to a major developed site in the Green Belt.

2.1.4 It should be noted that full details of the planning history of the Trading Estate, and the application site itself, together with a site and scheme description and the procedural history of the EnviRecover application are

contained within the Statement of Common Ground (SoCG) agreed between the Applicant (MWM) and the County Planning Authority – CPA (Worcestershire County Council). This is referred to as SoCG 1 (CD-PI5). Some details are also contained in the SoCG agreed between the two aforementioned parties and WAIL, referred to as SoCG2 (CD-PI7). As such, I have not repeated these matters (as they are set out in SoCG 1), which are in any case only matters of fact.

2.1.5 In light of the above, this section of my evidence only relates to the following matters:

i) The planning history and development of Hartlebury Trading Estate in the context of Green Belt policy.

ii) The extant development consent relating to the application site.

iii) The latest position in respect of the development proposal and:

- The beneficial use of heat generated by its operation.
- Incinerator bottom ash recycling.

iv) Procedural matters subsequent to the Council's decision on the application, relating to Regulation 19 (of the EIA Regulations 1999) updates of the submitted Environmental Statement.

## 2.2 Hartlebury Trading Estate Planning History in the Context of Green Belt Policy

2.2.1 SoCG 1 describes how during the late 1930s - early 1940s Hartlebury Trading Estate was first developed as a Royal Air Force Maintenance Unit base. This development was prior to the advent of the West Midlands Green Belt on 3rd August 1955 and the Green Belt covering the site, which is understood to have been introduced in 1973. The site sits on the south western extremity of the Green Belt, with open land (countryside) south of Crown Lane and west of the railway line (some 500 metres from the application site) not falling within the Green Belt. The disposition on the site in the context of the West Midland's Green Belt can be seen in Appendix NR1.

2.2.2 At the time the site was washed with a Green Belt designation, it already comprised some 118 buildings ranging in size from 100 sq ft to 57,000 sq ft and totalling approximately 1.1 million sq ft.

2.2.3 Towards the end of 1974, the Ministry of Defence announced that the unit would close and the site was purchased by Lansdown Estates (Hartlebury) Ltd in the late 1970s. The planning position at that time was subsequently confirmed though the issue of an Established Use Certificate in April 1981 and the mix of uses changed on the site through a formal change of use application.

2.2.4 On 5th February 1981 Lansdown Estates submitted an outline planning application (reference W165/81) for the development of an additional 650,000 sq ft of Industrial / warehouse units (additional to the aforementioned 1.1 million sq ft). The proposal also included improvements to the internal estate road system, a new spine road and revised access arrangements.

2.2.5 As described in detail in Section 3.0 of the submitted Planning Statement (Part 3 of the Planning Application Document for the EnviRecover facility), the 1981 application was ultimately granted planning permission in 1982, in the context of the Estate lying in the Green Belt. It significantly increased the developed footprint of the Estate within the overall boundaries of the former RAF base.

2.2.6 Following the grant of outline planning permission in 1982 there have been a significant number of new developments on Hartlebury Trading Estate, together with a number of applications that have been granted planning permission. In order to understand the development context I have studied a drawing titled the 1981 Development Plan (see Appendix NR2). I believe, but owing to the paucity of the planning records cannot be absolutely certain, that this relates to the development proposed in the 1981 planning application and generally reflects the 1982 consented scheme. It is particularly helpful as it shows the disposition of the then existing former RAF buildings and the new areas that were to be developed. Through

comparison of the 1981 Development Plan drawing with contemporary aerial photography I have established that:

i) Very few if any of the original RAF buildings (the 1.1 million sq ft) have been redeveloped.

ii) The subsequent infill development post 1982 has occurred on a greater scale than that shown on the 1981 Development Plan, most notably the Wienerberger brickworks factory.

iii) Development post 1982 does not accurately reflect that illustrated on the 1981 Development Plan.

iv) There has been some limited expansion of the Estate beyond the original RAF camp boundary and the 1981 Development Plan.

v) The only significant development plots promoted on the 1981 Development Plan that are not built out (with buildings) are two open yards, both actively used for storage by Forest Products (one of the Estate's largest occupiers) and the EnviRecover site.

2.2.7 The subsequent applications (i.e. post 1982) included at least four promoting large scale development on the EnviRecover application site itself. Three of these were approved and the other approved in principle. Again, these are described in detail in Section 3.0 of the submitted Planning Statement. All of these permissions were granted subsequent to the introduction of the Green Belt. Two were for the development of a major waste management facility, the principal consent for which was granted on 3rd February 2005. The third permission remains extant and is discussed in more detail below.

2.2.8 It is evident from the above (and the information contained in Section 3.0 of the submitted Planning Statement) that:

- The Trading Estate has a long history of industrial development which commenced in the 1930s-40s pre-dating the Green Belt designation which is understood to have come into force in 1973;
- There is evidence that both WCC and Wychavon District Council have supported planning applications for very large scale development within the Trading Estate in the context of Green Belt policy, including applications on the EnviRecover site itself;

- Outline planning permission was granted for the development of 650,000sq ft of industrial / warehousing development on the Trading Estate. The permission was granted after the Green Belt designation came into force on the site and includes the site of the proposed EnviRecover development;
- There is an extant planning permission on the application site for a B class development of several industrial units totalling 12,871$m^2$ which could be carried out at any time without further recourse to the planning system (discussed below);
- The site of the proposed Mercia EnviRecover facility has been the subject of a planning permission for the development of a major residual waste management development less than seven years ago. This was never implemented.
- Hartlebury Trading Estate is, by Worcestershire standards, a very large B1, B2 and B8 employment site currently comprising approximately 160,000 $m^2$ (1,720,430 sq ft) of buildings plus extensive areas of open storage and associated infrastructure spanning an area of 75ha (180 acres).

**2.3 Extant Development Consent**

2.3.1 On 8th December 1999 Wychavon District Council granted detailed planning permission (reference number W/99/0662) for the development of 160,800 sq ft of units for industrial and storage purposes on the Estate, within use classes B1, B2 and B8. This consent relates to Plots H2a, H294 and H600 (the latter being the site of the proposed Mercia EnviRecover development). Following the grant of planning permission plots H2a and H294 have been fully developed and as such, the planning permission in so far as it relates to Plot H600 (the application site) is saved in perpetuity. Thus the development could be built out without any further recourse to the planning system. In terms of Plot H600, the consent permits circa 138,600 sq ft (12,871 $m^2$) of industrial building units.

2.3.2 In order to understand the full planning context it is important to understand why Plot H600 has not been developed to date. With regard to this matter the key factors are:

i) The consent was issued in December 1999. Subsequent to this grant, the conditions precedent were discharged, contracts let for construction on part of the site and, consultation with the Estate Manager has indicated that, the approved development was partially completed (i.e. circa 22,000 sq ft was built out on Plots H2a, H294) in 2001/2. This was clearly a development progressed in a timely manner and it should be noted that the developer (Saville Gordon) actually conducted site investigations on Plot H600 illustrating their intention to proceed with the development in full.

ii) Before Pot H600 was developed, in 2001, the then Estate owners (confirmed by the Estate Manager) were approached by a distribution company interested in acquiring the site for a modified development to that approved. After reasonably protracted discussions this development fell away and subsequently, shortly thereafter in 2003, an interest (option) in the site was acquired by Estech Europe for the development of a major residual waste management facility. Estech also secured a licence on other property on the Estate in 2003 in order to conduct public exhibitions relating to their proposal. Thus, from 2001 the 1999 permission (whilst extant) could not practically be implemented, due firstly to the distribution company proposal and then secondly (by 2003) due to Estech's interest. Following on from securing this interest, Estech prepared a detailed planning application in early 2004 which was submitted in August of that year. As described above, this was approved in January 2005.

iii) At the time of the Estech approval they were in negotiation with WCC (and indeed MWM) over becoming a 'partner' in the Worcestershire and Herefordshire Waste PFI contract. The Council was supportive of this at the time and took a 999 year lease on the site. This was signed on 19th January 2007 and the lease period dated back to 1st March 2005. The Estech proposal fell away in mid 2007 and the Council was left with a site which has been in its control ever since. Clearly the Council are not

developers of industrial and storage units and thus did not build out the site in accordance with the extant consent.

2.3.3 Based on the foregoing, there are clear reasons why the site has not developed from 2001 to the present date. However, the site benefits from a valuable planning permission and a good location, well served by transport infrastructure. Furthermore, as a matter of fact, the principle and acceptability of building out Plot H600 has both long and repeatedly been established in the context of Green Belt policy (including extant national Green Belt policy and Local Plan policy reflecting that national policy). As such, there is, in my view, given the location of the application site and its planning history, an inevitability that it will be built out at some time.

2.3.4 The final issue of note in respect of the extant consent is the claim by WAIL (in its first objection to the planning application at paragraph 4.4.5 and in numerous other places) that the Wychavon Local Plan 2006 specifically addressed the inconsistency in planning decisions at Hartlebury Trading Estate through the introduction of the Major Developed Site (in the Green Belt) designation (and the associated restrictions in Policy SR 8 i.e. proposals should be redevelopment of existing buildings not exceeding the previous footprint or height). In essence, WAIL's case is that the 1999 extant consent would not have been granted in the context of Policy SR 8 adopted in 2006. This is fundamentally incorrect as Policy E1 of the Wychavon District Local Plan adopted in January 1998 made exactly the same provisions (refer to Appendix NR3).

## 2.4 Heat Off-take

2.4.1 The EnviRecover facility has been designed with the potential to generate heat for export and use by local heat users. MWM has undertaken heat off-take studies and remain committed to maximising the efficiency of the facility through the export of both electricity and heat.

*2.4.2* With regard to the need to maximise of energy efficiency, it should be noted that the Environmental Permit provides a framework to ensure that this is an

ongoing commitment. This is manifest in a condition under which the facility would have to operate which reads:

*1.2.1 The operator shall:*

*(a) take appropriate measures to ensure that energy is recovered with a high level of energy efficiency and energy is used efficiently in the activities*

*(b) review and record at least every four years whether there are suitable opportunities to improve the energy recovery and efficiency of the activities; and*

*(c) take any further appropriate measures identified by a review.*

*1.2.2 The operator shall provide and maintain steam and/or hot water pass-outs such that opportunities for the further use of waste heat may be capitalised upon should they become practicable.*

*1.2.3 The operator shall review the practicability of Combined Heat and Power (CHP) implementation at least every 2 years. The results shall be reported to the Agency within 2 months of each review.*

2.4.3 It has always been MWM's position in the submitted planning application, and subsequent application correspondence, that the EnviRecover facility would be located in an area where it can readily export electricity and there are realistic opportunities to facilitate the export and use of heat recovered from the waste. This is largely due to Hartlebury Trading Estate being one of Worcestershire largest commercial development sites comprising some 160,000 sq m of industrial units and office space. Of particular relevance is the fact that:

- There are existing heat users on and around the Estate, most notably the two Wienerberger brickworks sites (Waresley, on the Estate and Hartlebury, immediately adjacent), which are discussed further below.
- The Estate comprises a significant number of large commercial units that date back to the Estate's former life as a military storage depot in the 1940s. These offer low cost business accommodation and have a relatively high turnover in occupancy. It is considered highly likely that units will come forward for redevelopment in the future.
- With the exception of the main access road (adopted public highway in part), all the Estate roads are within private ownership, thereby offering ready access for the establishment of energy distribution infrastructure

to all parts of the Estate with minimum disturbance or environmental impact.

2.4.4 Given these factors, the scale of the Estate, and its excellent transportation linkages, the presence of the EnviRecover facility could well attract new businesses specifically on the basis of there being a potential 'green' heat source. There are a number of drivers for this, many of which are recent (and some not yet fully implemented) and thus there impact has yet to be felt. They include:

i) High and volatile energy prices, with increases in the order of 21% over the past 12 months.

ii) Reliance on insecure foreign imports with concerns over security of supply.

iii) The increasing adoption of planning policies requiring new development over a certain scale to source a proportion of its energy from renewable sources e.g. Policy SWDP 46 of the emerging South Worcestershire Development Plan and Policy WCS 9 of the emerging Waste Core Strategy. The former requires 'larger sites' to provide at least 20% of their energy usage from on-site renewables. The later requires buildings for waste management use over 1,000 square metres to source at least 10% of their energy supply from on-site renewable sources.

iv) The Climate Change Levy, which is part of a range of measures designed to help the UK meet its legally binding commitment to reduce greenhouse gas emissions. It is chargeable on the industrial and commercial supply of taxable commodities for lighting, heating and power (i.e. electricity, gas and some solid and liquid fuels). The Levy is applied as a specific rate (i.e. cost) per nominal unit of energy. However, electricity from renewable resources is 100% exempt.

v) Part L of the Building Regulations, which was introduced to reduce $CO_2$ emissions from buildings in line with the commitments made in the 2003 Energy White Paper. It seeks to conserve the use of fuel and power in buildings and requires a $CO_2$ calculation to be undertaken and prescribed limits met. The use of renewable energy

(including biomass based CHP) can be taken into account within this calculation (i.e. it assists in the achievement of the requisite limit).

vi) The Renewable Heat Incentive, which is discussed in the evidence of Stephen Othen; and

vii) Increased environmental awareness and associated development of corporate social responsibility policies.

2.4.5 MWM believe that these factors were recognised by the County Council in its determination of the planning application when it agreed that the proposal would be well located for potential future heat off-take (refer to Committee Report paragraphs 225, 285, 300, 399 and 404).

2.4.6 However, it is widely acknowledged that it will seldom be possible to actually secure (i.e. finalise a heat off-take contract) in advance of securing a planning permission or even constructing the generating station. In this regard paragraph 237 (extract) of The Government Review of Waste Policy in England 2011 should be noted, this reads: *Experience to date with CHP infrastructure has highlighted a potential difficulty in securing long term customers for heat ahead of construction of the plant.*

2.4.7 In light of the Permit condition, and the company's stated commitment, in the intervening period since the planning application was submitted and considered by the Local Planning Authority, MWM has continued to evaluated how it might best promote and develop the heat use opportunity.

2.4.8 MWM recognise that they cannot merely wait for opportunities to manifest themselves, but must be proactive in:

- Understanding the needs of business sectors;
- Promoting improvement in industries' environmental performance;
- Working with other agencies and stakeholders engaged in delivering economic growth based on sustainable business principles.

2.4.9 To this end the MWM has engaged with the County Council's Economic Development unit, the Hereford and Worcester Chamber of Commerce and the newly formed Local Enterprise Partnership (LEP). Presentations have

been made to the LEP Business Board and at a Chamber networking event to highlight the broad economic benefits of EnviRecover and specifically the heat use opportunity. An article on EnviRecover featured in the Chamber Magazine 'Business Direction.'

2.4.10 At the time of writing this proof, assessment work is ongoing. Various trade associations from industry sectors have been approached to determine their present attitude to the issue of renewable energy use and the broad potential that EnviRecover might offer.

2.4.11 The outcome of this work is to provide the applicant with baseline information that can be used proactively to target industry sectors and individual organisations in a heat use 'prospectus' aimed at marketing the renewable energy opportunity afforded by EnviRecover.

2.4.12 More importantly, the company has also continued to progress developing heat off-take opportunities with existing businesses in the locality. Following ongoing dialogue between MWM and Wienerberger, and completion of technical and economic appraisals, it has been established by MWM that there is a technically feasible and economically viable heat-off take proposal. This comprises utilising heat from EnviRecover to reduce the amount of gas used at the brickworks to pre-heat the brick kilns. This would be achieved by conveying steam from the proposed EfW facility to Wienerberger Waresley brickworks site via an underground heat off-take pipe. A heat exchanger bundle would then be used to pre-heat the brick kilns. The proposal is described in detail in the evidence of Stephen Othen and has been the subject of a Regulation 19 submission (see below). At present discussions in respect of this proposal (between MWM and Wienerberger) are ongoing, but Wienerberger have offered express support for the proposal and is committed to continuing dialogue with MWM in respect of this matter (refer to letter of support in Appendix NR5)

2.4.13 In conclusion, due to its scale and nature, the Hartlebury Trading Estate site offers good future potential for heat off-take. MWM is actively marketing this potential. To date one feasible and viable proposal has been identified

(Wienerberger) and discussions on this being developed are being progressed. As the policy and fiscal position encouraging heat use firm up and begin to bite, MWM believes further proposals will be realised.

## 2.5 Incinerator Bottom Ash (IBA) Recycling

2.5.1 MWM has always planned for IBA to be managed off-site as is common with the vast majority of EfW facilities. The company remains committed to working with Wienerberger to explore the potential for using IBA in brick / block manufacturing at its Waresley and Hartlebury sites, located very close to the proposed EnviRecover facility. MWM provided the County Council a letter of support in this regard (from Wienerberger dated 26th October 2010 – refer to Appendix NR6). This commitment is real and the work carried out by MWM in commissioning tests and appraisal of the proposal has incurred financial investment. However, in practical terms, this proposal cannot be progressed further until EnviRecover is consented and there is greater certainty that IBA will be generated at Hartlebury.

2.5.2 MWM's alternative or additional solution is to process the IBA into an aggregate (after extracting the metals) for use in construction. This is a common use of IBA. Should this option be progressed, the processing would be carried out by Ballast Phoenix Limited (the UK market leader in IBA processing), probably at their Castle Bromwich site in Birmingham. Ballast Phoenix provided a letter of support in this regard at the planning application stage (refer to ES Appendix 5.2). MWM now has Heads of Terms with Ballast Phoenix should the Wienerberger option not come to fruition.

2.5.3 Thus, regardless of which option (or options) carried forward IBA would be recycled and put to beneficial use.

## 2.6 Regulation 19 Submission

2.6.1 On 11th July 2011 and 19th July 2011 PINS, wrote to MWM requesting further information (on behalf of the Secretary of State) pursuant to Regulation 19 of The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, in respect of the planning application. This request required the Environmental Statement (ES) submitted in support of the application to be supplemented by way of:

- A Revised Non-Technical Summary which provides a summary of the main alternatives considered by the developer within the main ES document;
- An assessment, by way of an addendum to the ES, of the likely significant environmental effects of the scheme's electrical grid connection, together with its own Non-Technical Summary.

2.6.2 MWM prepared this information in two documents, one relating to each of the above matters. This was submitted to PINS on 12th August 2011. In addition, although not a statutory requirement, MWM publicised the availability of the further information in accordance with Regulations 19(3) to (9) inclusive of the 1999 Regulations (which were then in force and only superseded by the 2011 EIA Regulations on 24th August). This commenced on 18th August 2011 and comprised:

- The publication of a notice in the Worcester News and Kidderminster Shuttle local newspapers. The notice provided all the relevant details stipulated in Regulation 3a-k;
- Uploading the Regulation 19 submission on the EnviRecover web site;
- Placing a copy of the further information on display at County Hall, Worcester (the offices of the County Council);
- Writing to the 39 organisations/ bodies with whom the County Council formally consulted on the application. The letter provided brief details of the Regulation 19 submission and a copy of the text of the press notice;
- Writing to the other bodies / organisations (but not individual members of the public) specifically named in the Council's committee report as respondees to the planning application.

2.6.3 The consultation period on the Regulation 19 submission ran until 8th September 2011. Only two responses were received by PINS:

- One from Western Power Distribution (part of Central Networks, the electricity District Network Operator) dated 23 August 2011. This raised no objection.
- The second from Natural England dated 30th August 2011. This welcomed the additional information in the Non-Technical Summary and raised no objection to the proposed grid connection. With regard to the latter, specific note was made of the proposed mitigation measures in relation to any potential ecological considerations, including protected species, and it was suggested that a planning condition may be appropriate in this respect.

2.6.4 On October 11th 2011, MWM made a second Regulation 19 submission (i.e. the second Regulation 19 submission post the WCC resolution to grant planning permission and the third overall). This further supplemented the ES with new information. This was made voluntarily (by the Applicant) under and constituted the provision of 'Other Information' submitted specifically for the purposes of an Inquiry held under the Town and Country Planning Act 1990. The submission supplemented the ES by way of:

- An assessment of the likely significant environmental effects of the aforementioned heat off-take connection to Wienerberger's Waresley brickworks site; and
- An update on potential effects of the scheme on Great Crested Newts. I deal with this matter further in Section 9.0 of my proof.

2.6.5 Again, although not a statutory requirement (by virtue of paragraph 19(2) of the Regulations), MWM undertook the same level of publicity as described above in respect of the previous Regulation 19 submission. The consultation period on this submission runs until 1st November 2011 (i.e. after the exchange of this proof), thus it cannot presently be reported.

2.6.6 Given these supplemental documents also form part of the overall planning application documentation, I have, in the interests of clarity, provided a full schedule of all the submitted planning documents in Appendix NR7.

## 3.0 PLANNING POLICY AND GUIDANCE FRAMEWORK

### 3.1 Introduction

3.1.1 SoCG 1 sets out the planning policy context in terms of the statutory development plan and material planning considerations. The relevant development plan policies are also agreed and comprise those listed from paragraph 62 onwards in WCC's Committee Report. I have not listed the documents referred to in full, as they are dealt with in the subsequent sections of my evidence.

3.1.2 In light of the above, within this section, I only identify aspects of the planning context that are not covered elsewhere in my proof. These comprise relevant parts of the following documents:

- Guidelines on the Interpretation of the R1 energy efficiency formula for incineration facilities dedicated to the processing of municipal solid waste according to Annex II of Directive 2008/98/EC on waste;
- Government Review of Waste Policy in England (June 2011);
- Energy White Paper 'Meeting the Energy Challenge' (May 2007);
- The UK Biomass Strategy (May 2007);
- The UK Low Carbon Transition Plan (July 2009);
- UK Renewable Energy Roadmap (July 2011);
- Planning our electric future: A White Paper for secure, affordable and low-carbon electricity (July 2011);
- Planning Policy Statement 4: Planning for Sustainable Economic Growth (2009);
- Overarching National Policy Statement for Energy EN-1 (July 2011);
- National Policy Statement for Renewable Energy Infrastructure EN-3 (July 2011);
- Chief Planning Officer letter of 31 March 2011 and Written Ministerial Statement: Planning for Growth of 23 March 2011;

- The draft National Planning Policy Framework Consultation Document 2011 (July 2011);
- Draft West Midlands Regional Spatial Strategy Phase 2 Revision;
- Various appeal / Inquiry decisions.

**3.2 Guidelines on the Interpretation of the R1 energy efficiency formula for incineration facilities dedicated to the processing of municipal solid waste according to Annex II of Directive 2008/98/EC on waste** (CD-WSL1)

3.2.1 The revised Waste Framework Directive (rWFD) came into force on 12 December 2008. The Directive brings together existing elements of waste legislation within a single Directive and introduces a new approach to waste management which focuses more strongly on the prevention of waste. This Directive has been transposed into UK law through The Waste (England and Wales) Regulations 2011.

3.2.2 The definitions of *"recovery operations"* and *"disposal operations"* are modified in the revised Directive to provide a clear distinction between the two concepts based on a genuine difference in environmental impact. Paragraph 20 clarifies when the incineration of municipal waste can be considered a recovery operation and Annex II of the Directive provides a list of recovery operations, which includes R1 'use principally as a fuel or other means to generate energy'. A footnote to this definition states that: *"this includes incineration facilities dedicated to the processing of municipal waste only where their energy efficiency is equal to or above 0.65"*, and defines energy efficiency using a formula which take into account the differing benefits of electricity generation and heat generation.

**3.3 Government Review of Waste Policy in England (June 2011)** (CD-WSL4)

3.3.1 I have quoted the Government Review of Waste Policy in England 2011in several places throughout my proof and will not repeat the strong messages it provides in support of EfW facilities. The key extract which encapsulates

this support is contained in paragraph 214 which states: *Energy recovery is an excellent use of many wastes that cannot be recycled and could otherwise go to landfill. It can contribute secure, renewable energy to UK demand for transport, heat, biomethane and electricity and is generally the best source of feedstocks for UK bio-energy needs. Our horizon scanning work up to 2020, and beyond to 2030 and 2050 indicates that even with the expected improvements in prevention, re-use and recycling, sufficient residual waste feedstock will be available through diversion from landfill to support significant growth in this area, without conflicting with the drive to move waste further up the hierarchy. Maximising the potential for growth in continuous generation available from energy from waste will require both better use of the available residual waste and development of high efficiency flexible infrastructure.*

**3.4 Energy White Paper 'Meeting the Energy Challenge' (May 2007)** (CD-ESL1)

3.4.1 The Energy White Paper (published in May 2007) recognises that the planning process is one of the most significant barriers to the deployment of renewable energy technology within the UK.

3.4.2 The Energy White Paper supports the proposed reforms to the planning system with a statement of need for renewables, this states (Box 5.3.3): *"We remain committed to the important role renewables has to play in helping the UK meet its energy policy goals. In this publication we are reiterating previous commitments we have made, not least in the 2003 Energy White Paper and Planning Policy Statement 22 on renewable energy (PPS22), on the importance of renewable generation and the supporting infrastructure. We intend this to reconfirm the UK Government policy context for planning and consent decisions on renewable energy generation projects.*

*As highlighted in the July 2006 Energy Review Report 150, the UK faces difficult challenges in meeting its energy policy goals. Renewable energy as a source of low carbon, indigenous electricity generation is central to*

*reducing emissions and maintaining the reliability of our energy supplies at a time when our indigenous reserves of fossil fuels are declining more rapidly than expected. A regulatory environment that enables the development of appropriately sited renewable projects, and allows the UK to realise its extensive renewable resources, is vital if we are to make real progress towards our challenging goals.*

*New renewable projects may not always appear to convey any particular local benefit, but they provide crucial national benefits. Individual renewable projects are part of a growing proportion of low carbon generation that provides benefits shared by all communities both through reduced emissions and more diverse supplies of energy, which helps the reliability of our supplies. This factor is a material consideration to which all participants in the planning system should give significant weight when considering renewable proposals. These wider benefits are not always immediately visible to the specific locality in which the project is sited. However, the benefits to society and the wider economy as a whole are significant and this must be reflected in the weight given to these considerations by decision makers in reaching their decisions.*

*If we are to maintain a rigorous planning system that does not disincentivise investment in renewable generation, it must also enable decisions to be taken in reasonable time. Decision makers should ensure that planning applications for renewable energy developments are dealt with expeditiously while addressing the relevant issues."*

3.4.3 The White Paper also describes how Government has set a target to see renewables grow as a proportion of our electricity supplies to 10% by 2010, 15% by 2015, with an aspiration for this level to increase to 20% by 2020.

3.4.4 Finally, it confirms that the Government indicates that increasing the amount of electricity generated by renewables would make a significant contribution towards their long-term aim of reducing $CO_2$ emissions by 60% by 2050. As renewable energy technologies produce very little carbon

dioxide and other greenhouse gases, they play an important part in tackling climate change.

### 3.5 The UK Biomass Strategy (May 2007) (CB-ESL2)

3.5.1 The UK Biomass Strategy was published at the same time as the Government's Energy White Paper. The Strategy seeks to meet the commitments made in the Energy Review (2006) and the Government's response to the 2005 Biomass Task Force Report. In doing so, it brings together current UK Government policies on biomass for energy, transport and industry. The strategy acknowledges the important of fuels sources from biomass in tackling climate change and that biomass will have a central role to play in meeting the EU target and the UK Government aspiration of 20% renewable energy by 2020.

3.5.2 The aims of the Biomass Strategy are set out within paragraph 3.1 which states that its intentions are to:

- *"Realise a major expansion in the supply and use of biomass in the UK;*
- *Facilitate the development of a competitive and sustainable market and supply chain;*
- *Promote innovation and low-carbon technology development so biomass can deliver relatively high energy yields;*
- *Contribute to overall environmental benefits and the health of ecosystems through the achievement of multiple benefits from land use*
- *Facilitate a shift towards a bio-economy through sustainable growth and development of biomass use;*
- *Maximise the potential of biomass to contribute to the delivery of our climate change and energy policy goals: to reduce CO2 and other greenhouse emissions, and achieve a secure, competitive and affordable supply of fuel."*

3.5.3 The Strategy indicates (paragraph 3.3) that the delivery of the aforementioned objectives will require a major expansion of biomass use for fuel, energy and industrial products, it also indicates that the UK

Government consider that there is sufficient potential to expand the UK supply of biomass.

3.5.4 Chapter 4.0 'Biomass Supply' states at paragraph 4.36 that: *"Recovering energy from waste biomass will help towards our overall renewables targets as well as providing and indigenous, secure energy source."* It also makes reference to waste policies contained within the Waste Strategy England 2007.

**3.6 The UK Low Carbon Transition Plan (July 2009)** (CD-ESL4)

3.6.1 In July 2008 the Government published its strategy for the UK's transition to become a low carbon country; cutting emissions, maintaining energy supplies, maximising economic opportunities and protecting the most vulnerable. The White Paper sets out the Transition Plan to 2020 for transforming the power sector; homes and workplaces; transport; farming and the way waste is managed to meet carbon budgets.

3.6.2 In relation to tackling climate change, the government sets out a five point plan; point 4 refers to building a low carbon UK, and is thus relevant to the planning application.

3.6.3 From the executive summary, key points are:

- 40% of electricity will be obtained from low carbon sources by 2020;
- New investment in low carbon infrastructure is needed to manage risks associated with increasing dependence on energy imports; and
- By 2050 virtually all electricity needs to come from renewable sources.

3.6.4 On page 10 of the executive summary, the White Paper comments: *"The Government is therefore creating a supportive climate for timely investment in a diverse mix of low carbon technologies. The Government is also ensuring that the market and regulatory framework can adapt to cope with the different characteristics of low carbon electricity generation technologies"*

3.6.5 Chapter 1 sets out the background issues around global warming, but also comments about other benefits tackling climate change will have, such as providing security over energy supplies and economic opportunities. In relation to the former, substantial private sector investment will be needed to deliver new low carbon infrastructure.

3.6.6 From the summary in Chapter 2 *"Driving the Transition"* the opining sentence succinctly states that: *"the scale of change we need in our economy, and, in particular, our energy system is unparalleled".*

3.6.7 In relation to the power sector, the following are of note from Chapter 3:

- The Government's approach to decarbonising our electricity is to apply a carbon price and to support the rapid development and use of low carbon technologies;
- Delivering large increases in renewable electricity will be critical to decarbonising the power sector;
- Action is needed at the regional and local level to ensure [renewables] projects are supported; and
- Ensure that the renewables industry and its supply chain can deliver the unparalleled deployment required.

3.6.8 Finally, Chapter 7 considers managing land and waste sustainably. In the context of waste, the underlying message is to reduce emissions, with reducing the amount of waste landfilled. It comments that the Government will encourage the greater production of bio-energy, particularly from combustion.

### 3.7 UK Renewable Energy Roadmap (July 2011) (CD-ESL5)

3.7.1 The Foreword to the Roadmap states that:

- It…..*sets out our shared approach to unlocking our renewable energy potential.*
- *Renewable energy already employs more than a quarter of a million people; by 2020, it could be over half a million. The creation of jobs in the renewable energy sector, investment in new manufacturing*

*capability, and the consequent direct and indirect benefits will support our transition to a green economy.*

- *Getting more renewable energy across the UK can give us much more security and a greater degree of energy independence – helping to shield us from global fossil fuel price fluctuation.*
- *Timely investments will ensure renewable energy will have a long-term role to play as part of a mix of low carbon generation*

3.7.2 The Executive Summary indicates that: *Based on current information, and taking account of their long term potential as well as their cost effectiveness, 8 technologies are capable of delivering more than 90% of the renewable energy we need for 2020.* Two of these technologies are biomass electricity and biomass heat, both of which encompass EfW.

3.7.3 Within the section dealing with biomass electricity, the introduction reads:

*3.120 At the end of 2010 there was 2.5 GW of biomass electricity capacity operating in the UK, accounting for 11.9 TWh of generation. This is the single largest contribution to UK's total renewable electricity generation.*

*3.121 The majority of generation comes from waste (62% – predominantly landfill gas), although co-firing and dedicated biomass plant are also significant (21% and 17%). Anaerobic Digestion (AD) and other advanced conversion technologies are less well established, particularly at scale.*

3.7.4 With regard to the future role of EfW, paragraph 3.123 states: *The analysis indicates that under the central range the market has the potential to deploy up to 6 GW71 of biomass electricity by 2020 (equivalent to around 50 TWh). Achieving this 3.5 GW increase will require an annual growth rate of 9% for the next decade. We anticipate that the majority of this growth will be met from conversion of coal plant, dedicated biomass generation, biomass waste combustion and anaerobic digestion. Landfill and sewage gas – which are significant in the baseline – have already been largely exploited.*

3.7.5 In terms of planned schemes paragraph 3.127 states: *The majority of the existing pipeline is from large scale dedicated plant (3.3 GW), with Energy from Waste (EfW) projects accounting for a smaller proportion (0.9 GW). Of*

*the applications awaiting consent, 78% are under 50MW and will be decided at local level.*

3.7.6 Paragraph 3.143 and 3.146 acknowledge the planning complexities of EfW but indicates that these must be overcome:

*3.143 EfW projects, particularly combustion plant, can face strong opposition from local communities, driven by concerns about potential impacts on a range of issues from health and traffic generation, to whether waste will be diverted from recycling. The Government will ensure that a transparent and robust evidence base is available on the opportunities and risks posed by EfW.*

*3.146 To address uncertainty, the Government has set out its commitment to the role of EfW within the waste hierarchy as part of the Waste Review*

**3.8 Planning our electric future: A White Paper for secure, affordable and low-carbon electricity (July 2011)** (Appendix NR8)

3.8.1 The White Paper, Box 12 (page 104 – reproduced as my Appendix NR8) recognises the role that EfW can have in securing affordable low carbon electricity (and heat). It states*: The economies of scale and efficiencies of the larger installations in commercial and industrial sectors means they can provide additional benefits over domestic installations. This is particularly true of combined heat and power schemes, which generate useable heat consumed locally, either through district heating schemes or for industrial use. This greater scale can also open up a range of additional options, such as waste to energy plants. While these options can have high upfront capital costs, particularly where heat distribution infrastructure is required, larger organisations are usually better placed to take a longer term view of their energy needs, allowing them to consider pay-back periods in excess of those that may be acceptable to individual consumers.*

**3.9 Planning Policy Statement 4: Planning for Sustainable Economic Growth (PPS4)** (CD-NPP5)

3.9.1 PPS4 defines economic development as including proposals which provide employment and produce or generate an economic output or product. As such it is directly applicable to the EnviRecover development.

3.9.2 It contains two important planning policies in respect of planning applications for economic development:

*EC10.1: Local planning authorities should adopt a positive and constructive approach towards planning applications for economic development. Planning applications that secure sustainable economic growth should be treated favourably.*

*EC10.2: All planning applications for economic development should be assessed against the following impact considerations:*

*a) Whether the proposal has been planned over the lifetime of the development to limit carbon dioxide emissions, and minimise vulnerability and provide resilience to, climate change;*

*b) The accessibility of the proposal by a choice of means of transport including walking, cycling, public transport and the car, the effect on local traffic levels and congestion (especially to the trunk road network) after public transport and traffic management measures have been secured;*

*c) Whether the proposal secures a high quality and inclusive design which takes the opportunities available for improving the character and quality of the area and the way it functions;*

*d) The impact on economic and physical regeneration in the area including the impact on deprived areas and social inclusion objectives;*

*e) The impact on local employment.*

**3.10 Overarching National Policy Statement for Energy EN-1 (July 2011)** (CD-NPP14)

3.10.1 This Overarching National Policy Statement (NPS) for Energy was approved and designated by Government in July 2011, and whilst specific to the Infrastructure Planning Commission (IPC) [or the Major Infrastructure Planning Unit (MIPU) if / when IPC is abolished] applications, is a material

consideration in decision making on planning applications that fall under the Town and County Planning Act 1990 (as amended).

3.10.2 The NPS highlights the UK's commitment to sourcing 15% of its total energy from renewable sources by 2020 and acknowledges that it will be a major challenge in moving towards a low carbon economy, and industry will need to develop significant amounts of new energy infrastructure in the coming years. Paragraph 3.3.10 identifies that as well as wind, wave and tidal power, new renewable energy capacity will increasingly include plant powered by the combustion of biomass and waste.

3.10.3 It is identified in paragraph 3.4.3 that future large-scale renewable energy generation in the UK includes energy from waste, where: *"the principal purpose of the combustion of waste, or similar processes (for example pyrolysis or gasification) is to reduce the amount of waste going to landfill in accordance with the Waste Hierarchy and to recover energy from that waste as electricity or heat. Only waste that cannot be re-used or recycled with less environmental impact and would otherwise go to landfill should be used for energy recovery. The energy produced from the biomass fraction of waste is renewable and is in some circumstances eligible for Renewables Obligation Certificates, although the arrangements vary from plant to plant"*.

3.10.4 Repeated themes within the NPS are that the UK's energy supply system must be:

i) **Diverse** – *a diverse mix of technologies and fuels, so that we do not rely on any one technology or fuel* (paragraph 2.2.20) and *There are benefits of having a diverse mix of all types of power generation. It means we are not dependent on any one type of generation or one source of fuel or power and so helps to ensure security of supply* (paragraph 3.3.4).

ii) **Reliable** – Paragraph 2.2.20 states: *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. To manage the risks to achieving security of supply we need……..reliable associated supply chains (for example fuel for power stations) to meet demand as it arises.*

iii) **Dispatchable** – This means (as set out in the Glossary) sources of electricity that can be supplied (turned on or off) by operators at the request of power grid operators, in contrast to intermittent power sources that cannot be similarly controlled.

3.10.5 With regard to these themes it is clear that EfW technology is:

i) **Diverse** – More EfW clearly adds to the diversity of technologies traditionally employed for energy supply and the diversity of fuel used. Furthermore, given that it operates on an indigenous fuel source (as opposed to an imported fuel) it demonstrably contributes to security of supply.

ii) **Reliable** – EfW is a proven and reliable low carbon technology. It also operates on an indigenous fuel source with a reliable supply chain (i.e. waste supplied from within the UK, not subject to foreign control).

iii) **Dispatchable** – As the NPS explicitly recognises (paragraph 3.4.4): *Biomass and EfW can be used to generate 'dispatchable' power, providing peak load and base load electricity on demand. As more intermittent renewable electricity comes onto the UK grid, the ability of biomass and EfW to deliver predictable, controllable electricity is increasingly important in ensuring the security of UK supplies.*

### 3.11 National Policy Statement for Renewable Energy Infrastructure (EN-3) (July 2011) (CD-NPP15)

3.11.1 EN-3 is to be read in conjunction with EN-1 and is also a material consideration in decision making on planning applications for renewable energy facilities, the extent will be judged on a case by case basis.

3.11.2 It is identified in this NPS that 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."* (Paragraph 2.5.1).

3.11.3 The NPS recognises that there are a number of factors which influence site selection for biomass and EfW facilities, which include grid connection, transport infrastructure and CHP. The NPS also provides guidance in terms of the likely impacts of energy from waste schemes, and identifies that where a modern EfW facility meets the requirements of WID and will not exceed local air quality standards, it should not be regarded as being detrimental to health (paragraph 2.5.43) (in this regard it should be noted that the EnviRecover facility has an Environmental Permit which means that the Environment Agency is satisfied that it will meet WID requirements if properly operated and maintained). In respect of visual impact, the NPS also states that good design will go some way to mitigate adverse landscape and visual impacts, and that the design and use of materials should reflect the local landscape context (paragraph 2.5.50).

**3.12 Chief Planning Officer letter of 31 March 2011 and Written Ministerial Statement: Planning for Growth of 23 March 2011** (CD-OD1)

3.12.1 The covering letter from Steve Quartermain to Chief Planning Officers accompanying the Planning for Growth Ministerial Statement states that it: *is capable of being regarded as a material planning consideration.* And that: *Your attention is drawn especially to the weight that the Secretary of State will give to this statement in cases that come before him for decision.*

3.12.2 The Ministerial Statement indicates that the Government has ambitious plans to rebuild Britain's economy and a reformed planning system is key to this by ensuring that the sustainable development needed to support economic growth is able to proceed as easily as possible. The Statement recognises that planning reform will take time, the: *statement therefore sets out the steps the Government expects local planning authorities to take with* ***immediate effect*** (my emphasis).

3.12.3 Thus the Statement provides clear interim policy guidance until such planning changes as those within the National Planning Policy Framework (considered below) are in place. It provides unambiguous advice including that: *The Government's top priority in reforming the planning system is to*

*promote sustainable economic growth and jobs. Government's clear expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy.*

3.12.4 The Statement reinforces the plan system, but is clear that planning decisions on sustainable development should not wait until contemporary development plans are in place (i.e. prematurity is not a consideration). In this regard it expects: *local planning authorities to plan positively for new development; to deal promptly and favourably with applications that comply with up-to-date plans and national planning policies; and wherever possible to approve applications where plans are absent, out of date, silent or indeterminate.*

3.12.5 With regard to deciding whether to grant planning permission, the Statement indicates that local planning authorities should:

- *support enterprise and facilitate…. economic and other forms of sustainable development….*
- *consider fully the importance of national planning policies aimed at fostering economic growth and employment, given the need to ensure a return to robust growth after the recent recession….*
- *consider the range of likely economic, environmental and social benefits of proposals…..*
- *ensure that they give appropriate weight to the need to support economic recovery….*
- *that applications that secure sustainable growth are treated favourably (consistent with policy in PPS4)….*

3.12.6 Finally it states that: *The Secretary of State for Communities and Local Government will take the principles in this statement into account when determining applications that come before him for decision. In particular he will attach significant weight to the need to secure economic growth and employment.*

*Benefits to the economy should, where relevant, be an important consideration when other development-related consents are being determined, including……environmental…..energy consents.*

### 3.13 The draft National Planning Policy Framework Consultation Document 2011 (July 2011) (CD-DNP2)

3.13.1 On the 25 July 2011 the DCLG published for consultation the Draft National Planning Policy Framework (dNPPF). The NPPF is intended to 'help people and communities back into planning' by replacing previously published planning policy documents with a more streamlined and simplified approach to achieving sustainable development.

3.13.2 It is clear from paragraph 7 that the dNPPF does not provide guidance for waste management as a National Waste Management Plan (NWMP) for England is due to be published in the future. Until such time, PPS10 will remain in force. The dNPPF does confirm, however, that local authorities preparing waste plans should have regard to the policies within the dNPPF. The dNPPF also confirms that the policies set out in the Framework apply to the preparation of local and neighbourhood plans, and to development management decisions. Furthermore, the dNPPF is of direct relevance to energy projects and is considered reasonable therefore that, at the time of drafting, the dNPPF be considered a material consideration in the assessment of planning applications for waste and energy development.

3.13.3 As requested by PINS on 3rd August 2011, I have given full consideration to the dNPPF in my evidence (within Section 10.0), including the weight that it should be afforded. Clearly, the weight that should be applied to it in consideration of the proposed facility may alter as the consultation on the dNPPF progresses and subsequent versions are published. However, as set out above, the Ministerial Statement: Planning for Growth encompasses many of the objectives of the proposed NPPF and provides interim policy guidance until such time the NPPF is fully in place.

### 3.14 Draft West Midlands Regional Spatial Strategy Phase 2 Revision (CD-DP4, 4a and 4b)

3.14.1 The Phase 2 Revision to the WMRSS was launched in November 2005 and focuses (in addition to housing, transport and employment) on revisions to the waste policies contained in the extant RSS. The Phase 2 revision is now at an advanced stage, having been through an Examination in Public (EiP) in April – June 2009 and the subsequent publication of the EiP Panel's Report in September 2009.

3.14.2 It is recognised that the emerging RSS includes policies on a wide range of environmental issues (e.g. landscape). However, there is also extensive and more detailed policy in respect of these matters within other development plan documents. As a consequence, the review of RSS policies has been restricted to the core issues of waste and renewable energy, of which the only relevant policy (EN1) is referenced in Section 4.0 of my proof.

3.14.3 The waste policies of relevance to the Mercia EnviRecover proposal are contained within Chapter 8, Part 4 of the emerging WMRSS Phase 2 revision, and are repeated below:

Policy W1: Waste Strategy

*"Waste should be considered as a resource and each Waste Planning Authority, or sub-region, should allocate enough land in its LDDs to manage an equivalent tonnage of waste to that arising from all waste streams within its boundary, taking into account the Waste Hierarchy. In addition to facilities to reprocess, reuse, recycle and recover waste an allowance will need to be made for waste transfer stations and where appropriate for landfill."*

Policy W2: Targets for Waste Management

*"Each Waste Planning Authority, or sub-region, through their LDDs, will need to plan for a minimum provision of new facilities to reprocess and manage waste in accordance with the tonnages set out below in five year bands, at sites distributed across their areas."*

Policy W3: The Need for Waste Management Facilities

*"Authorities which have a 'Treatment Gap' in facilities to manage waste should make provision in their LDDs for a pattern of sites and areas suitable for new or enhanced waste management facilities in, or in close proximity to, the MUAs, Settlements of Significant Development, and other large settlements identified in the Broad Locations for Waste Management Facilities Diagram. In addition to meeting local needs, these locations are well placed to accommodate facilities of a regional and/or sub regional scale to reprocess, re-use, recycle or recover value from waste, allowing for the requirements of different technologies."*

The policy goes on say (extract):

*These settlements include: …..Worcester, Bromsgrove…..Droitwich, Kidderminster……Redditch…..*

It should be noted that the EnviRecover site sits close, to and encompassed by, these 5 settlements (refer to Appendix NR9) on a strategic transport link (A449).

Policy W5: The Location of Waste Management Facilities

*"Where there is evidence that additional capacity is required the basis on which WPAs identify additional sites should be based on the following criteria:*

- *ensuring a range of sites of different size and geographical distribution; and*
- *good accessibility to the source of waste arisings and/or end users; and*
- *good transport connections including, where possible, rail or water."*

3.14.4 As noted above, the Panel's report of the EIP was published by the Government Office for the West Midlands (GOWM) in September 2009. It recommends a number of revisions to the policies within the emerging plan.

3.14.5 In terms of waste management, the Panel generally accept all of the policies that were proposed and consider the basis upon which they had been prepared to be well founded and generally in line with national policy. Their only recommendation was to change the wording of Policy W1 - Waste Strategy.

3.14.6 The recommended change to the wording of Policy W1 is as follows:

- *"Waste Planning Authorities in their LDDs should have regard to the following Regional Waste Strategy principles:*
- *delivering sustainable development through application of the over-arching RSS Policies SR1 to SR4*
- *seeking to ensure that the West Midlands becomes and remains a zero growth region;*
- *promoting waste management up the waste hierarchy by maximising the reduction, re-use, recycling, composting and energy recovery and as a last resort disposal;*
- *regarding waste as a resource;*
- *adopting the "equivalent self-sufficiency" approach for each WPA in the region.*
- *Each WPA should allocate sufficient land or facilities to manage an equivalent tonnage of waste to that arising from all waste streams within its boundary, taking into account the waste hierarchy.*
- *LDDs should include policies to secure timely provision of facilities capable of dealing with the tonnages required close to the source of the waste produced, and taking account of the cross-boundary flows of particular waste streams. In addition to facilities to reprocess, re-use, recycle and recovery energy from waste, provision will need to be made for the transfer and transport of waste and where appropriate for landfill."*

## 3.15 Various appeal / Inquiry decisions

3.15.1 In this sub-section I have extracted a number of relevant paragraphs from appeal / Inquiry decisions in relation to EfW proposals. These are relevant to matters relating to:

- The economic benefits of EfW development;
- The materiality of the consequences of failing to deliver the facility.

### *The Economic Benefits of EfW Development*

3.15.2 The Severnside Energy Recovery Facility (SERC) appeal / call in decision (APP/P0119/A/10/2140199) (see CD-ID5) specifically addressed economic

benefits. The Inspector concluded (IR 249 - extract): *The recent ministerial statement on Planning for Growth would lend strong support to the grant of planning permission, given the employment that the scheme would provide and the economic growth it would encourage. [25, 36]*

3.15.3 On this conclusion, the Secretary of State found (decision letter paragraph 17 - extract): *He agrees with the Inspector's view that the recent ministerial statement on Planning for Growth would lend strong support to the grant of planning permission, given the employment that the scheme would provide and the economic growth it would encourage (IR249).*

3.15.4 In this case the identified economic benefits included benefits very similar to those in this case, specifically IR 25 (extract): *It would provide about 46 skilled permanent jobs, during operation, and up to 200 jobs during construction and commissioning.* And (IR 36 iv - extract) *Comprise sustainable economic development which is a key objective of Government policy by …….. maximising the potential for CHP to supply local businesses all of which Mr Hayman confirmed in cross-examination should be welcomed and indeed reflects the Government's top priority to promote sustainable economic growth and jobs. The Government's clear expectation is that the answer to development and growth should wherever possible be 'yes' except where this would compromise key sustainable development principles." It is agreed that the development does not compromise sustainable development principles. The economic benefits outlined above were also fully accepted by Mr Roberts in cross-examination. In these circumstances, if the Government means what it says in Planning for Growth, this proposal enjoys a presumption in favour of granting planning permission.*

***The Materiality of the Consequences of Failing to Deliver the Facility***

3.15.5 The materiality of the consequences of failing to deliver an EfW facility was considered in the Cornwall EfW facility Inspector's Report to the Secretary of State dated 3rd March 2011 and Secretary of State letter dated 19th May 2011 (PINS Ref: APP/D0840/A/09/2113075) (see CD-ID3).

3.15.6 The Secretary of State's letter, at paragraph 27, states: *With regard to the implications of not proceeding with the proposed development, the Secretary of State agrees with the Inspector's reasoning, proposed weightings and conclusions at IR2105 – 2123. He agrees that the financial implications of rejecting the appeal proposal is a matter that should be accorded substantial weight along with the other consequences of failing to meet targets, that of not diverting waste from landfill and not managing waste in a more sustainable manner (IR2123).*

3.15.7 The relevant paragraphs of Inspector's Report read (Paragraph 2110 and 2123): *It is noted that the Inspector in his conclusions on the Belvedere EfW appeal attached considerable importance to the WDA's evidence in that case on the financial penalties that would be incurred if the scheme did not go ahead. He concluded that the prospect of significant cost to the public purse from further delays if the contract had to be re-tendered had not been given the weight it merited. He went on to say that the uncertainty that would follow if the contract was re-tendered should be accorded considerable weight by the decision maker. I share this view and consider that in this case the financial repercussions of the CERC proposal not proceeding and the contract having to be re-tendered should be given very substantial weight. (88)*

*The cost to the County's taxpayers of the CERC proposal being rejected and a long delay in bringing in new facilities would thus be well in excess of £200 million. This would hit taxpayers and the Council hard at a time of straightened financial circumstances affecting both individuals and local authorities. The financial implications of rejecting the CERC proposal is a matter that should be accorded substantial weight along with the other consequences of failing to meet targets, that of not diverting waste from landfill and not managing waste in a more sustainable manner.*

3.15.8 This matter is, for the reasons set out in sub-section 4.5 of my proof, of direct relevance to the EnviRecover position.

3.15.9 It should be noted that I also quote several other relevant Inquiry / appeal decisions within my proof including in relation to: perceived health risks; the relevance of Regional Strategies; and the weight that should be attached to achieving regional renewables targets. These appear in the appropriate sections.

## 4.0 THE NEED FOR THE DEVELOPMENT AND BENEFITS OF THE SCHEME

### 4.1 Introduction

4.1.1 There is no Government policy that requires, as a matter of general principle, applicants for planning permission to demonstrate that there is a need for their development. However, it is widely recognised that the need for a particular scheme may be material planning consideration

4.1.2 The EnviRecover facility would manage residual waste and generate energy (the majority of which would be renewable). Thus, if appropriate, the need for the scheme (and any benefits arising from it meeting a need) should be considered in the context of both waste and energy policy (and strategy). The proposal would not exist if it did not generate energy and similar there would be no scheme if it did not manage waste. As such, there is no issue as to what may be the primary purpose of the scheme, both policy areas are equally applicable and can be afforded equal weight in any need assessment.

4.1.3 In terms of waste policy, the approach to demonstrating need is manifest in PPS10 (paragraph 22, extract) (CD-NPP8) which reads:

*"When proposals are consistent with an up-to-date development plan, waste planning authorities should not require applicants for new or enhanced waste management facilities to demonstrate a quantitative or market need for their proposal."*

4.1.4 As set out in my evidence (particularly Sections 5.0 and 10.0) I believe that the EnviRecover proposal is in conformity with the overall aims of the Development Plan. Furthermore, material considerations that supersede the more aged parts of the Development Plan add further support for the proposal. Thus need (from a waste management perspective) should not be an issue.

4.1.5 With regard to renewable energy and climate change policy, the position on need is crystal clear. The Energy White Paper (May 2007) (CD-ESL1) and

the PPS 1 Supplement on Climate Change (December 2007) (CD-NPP3) are unequivocal in stating that it is not necessary for an applicant to demonstrate need for renewable energy schemes such as the EnviRecover development. Of particular relevance is:

- paragraph 5.3.67 of the Energy White Paper which states: *"Applicants will no longer have to demonstrate either the overall need for renewable energy or for their proposal to be sited in a particular location"*
- paragraph 20 of the PPS1 supplement states that planning authorities should: *"not require applicants for energy development to demonstrate either the overall need for renewable energy and its distribution, nor question the energy justification for why a proposal for such development must be sited in a particular location."*

4.1.6 Notwithstanding the above, where there is a clear and urgent need (and thus benefit) from a development; it can be a very important material planning consideration to which significant weight (possibly very significant weight depending on the prevailing circumstances) can be attached. It can also be constitute or contribute to the demonstration of very special circumstances necessary to justify the granting of planning permission for inappropriate development in the Green Belt. Furthermore, where a planning proposal is found to cause a degree of harm, planning permission can still be granted where the benefits of the scheme outweigh its disbenefits.

4.1.7 As a consequence, in this section of my evidence I have considered the need for the scheme (and the benefits arising from it meeting the need) under four main sub-headings:

- *Waste Management Need and Benefits*. This considers the need for the development for the sustainable management of municipal solid waste (MSW) at a macro and micro level. As explained in SOCG 1, in the event there is any surplus capacity within the facility, it has the benefit of being able to treat similar commercial and industrial (C&I) waste. Thus the need for recovery facilities in respect of this waste stream is also examined.
- Energy / Renewable Energy / Climate Change Need and Benefits.
- Other Benefits of the Scheme.

- Consequences of not Proceeding with the Scheme

Given the amount of numerical information surrounding the quantification of waste need, I have provided much of this assessment in Appendix NR10 and summarised it in my main proof.

## 4.2 Waste Management Need and Benefits

***European / National Waste Management Need***

4.2.1 SoCG 2 identifies that there is agreement by **all** parties that there is a need for new infrastructure in the UK to facilitate sustainable waste management and in particular move the management of MSW (and other wastes) up the waste hierarchy and in particular away from landfill. This need is primarily derived from European legislation which is described in SoCG 1.

4.2.2 The delivery of this European legislation within England is manifest in several elements of domestic legislation and waste management strategy. The national strategy for waste management is set out in the Waste Strategy for England, 2007 (WSE 2007) (CD-WSL5). The key objectives of the strategy include the following:

- *Meet and exceed the Landfill Directive diversion targets for biodegradable municipal waste in 2010, 2013 and 2020;*
- *Increase diversion from landfill of non-municipal waste and secure better integration of treatment for municipal and non-municipal waste;*
- *Secure the investment in infrastructure needed to divert waste from landfill…….and get the most environmental benefit from that investment, through increased recycling of resources and recovery of energy from residual waste using a mix of technologies.*

4.2.3 WSE 2007 sets targets for the management of municipal waste:

- Recycling and composting of household waste – at least 40% by 2010, 45% by 2015 and 50% by 2020;
- Recovery of municipal waste – 53% by 2010, 67% by 2015 and 75% by 2020.

4.2.4 The Government Review of Waste Policy in England 2011 (CD-WSL4) confirms the waste hierarchy as defined in the revised Waste Framework Directive (rWFD) and the recycling, recovery and landfill diversion targets in WSE 2007. It specifically supports energy from waste through a range of technologies as set out in SoCG 1 and believes there is potential for the sector to grow. At paragraph 215 it states that the Government anticipates EfW (by combustion, i.e. excluding anaerobic digestion) will treble by 2020.

4.2.5 SoCG 1 also identifies, with regard to support for specific energy from waste technologies, that national policy (Government Review of Waste Policy in England 2011 paragraph 23 and the energy recovery summary on page 62) both explicitly state that the Government adopts a neutral stance on technologies. The latter states the Government will: *Provide the necessary framework to address market failures in delivering the most sustainable solutions, while remaining technology neutral*.

4.2.6 The issue of technology choice is also referenced in the National Policy Statements:

- EN-1 Overarching Energy NPS (CD-NPP14):
  - paragraph 3.1.2 (extract): *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.*
  - paragraph 3.3.5 (extract): *There are likely to be advantages to the UK of maintaining a diverse range of energy sources so that we are not overly reliant on any one technology (avoiding dependency on a particular fuel or technology type).*
  - paragraph 3.3.6 (extract): *Within the strategic framework established by the Government it is for industry to propose the specific types of developments that they assess to be viable. This is the nature of a market-based energy system.*
- EN-3 Renewable Energy Infrastructure NPS (CD-NPP15) paragraph 2.5.11 (extract): *Waste and biomass combustion plant covered by this NPS may include a range of different combustion technologies, including*

*grate combustion, fluidised bed combustion, gasification and pyrolysis. The IPC should not be concerned about the type of technology used.*

4.2.7 Waste Strategy England 2007 (CD-WSL5) follows a similar theme, and in the context of providing express support for anaerobic digestion states at chapter 5, paragraph 25 (extract): …..*the Government does not generally think it appropriate to express a preference for one technology over another, since local circumstances differ so much.*

4.2.8 The issue of a preference for anaerobic digestion is a point made repeatedly by WAIL. Thus, it should be noted that Lord Henley, the Waste and Recycling Minister stated (on a visit to SITA UK's materials recycling facility (MRF) in West Sleekburn in Northumberland on August 17th 2010): *I think there are many occasions where incineration is going to be the preferred route over anything else because it is the only route. But, where appropriate, anaerobic digestion is a good thing to do. But one must not begin to think it's the only option, because it is only an option for food waste.*

4.2.9 The same point was made by the Coalition Government in the Defra and WAG 2nd stage consultation on the transposition of the rWFD (July 2010) - Proposals in respect of the Waste Hierarchy. This states (page 50): *Although Defra and DECC are keen to see a greater uptake of Anaerobic Digestion, source segregated food waste is the optimal feedstock, not mixed residual waste.*

4.2.10 In addition, the Review of Waste Policy in England 2011 deals with anaerobic digestion in paragraphs 220 to 227. Paragraph 220 (extract) states: *Anaerobic digestion can play an important role as a means of dealing with food waste……* The Review makes no reference to it being deployed for the treatment of any other part of the municipal or commercial and industrial waste streams, referring only to animal wastes as another feedstock.

4.2.11 Thus, in summary, the Mercia EnviRecover proposal would be consistent with the relevant objectives and aspirations of European and national

legislation / strategy and contribute towards providing sustainable waste management infrastructure as it would:

- Divert residual waste from disposal at landfill (contributing to the national landfill diversion target);
- Constitute other recovery (by way of energy recovery from waste) and thus move the management of waste up the waste hierarchy (and contribute to the national waste recovery target);
- Manage Worcestershire's and Herefordshire's waste proximate to where it is generated and reduce reliance on the export of this waste to out-of-county EfW (or other treatment) facilities;
- Generate renewable energy from the biodegradable fraction of the waste and secure energy from the non-biodegradable waste fraction;
- Be an appropriate technology in the context of a clear national policy position of the Government remaining technology neutral. Furthermore, it would be an appropriate technology for the treatment of mixed residual waste, unlike anaerobic digestion.

4.2.12 Given the clear European and national waste policy imperatives, reconfirmed as recently as July 2011 in the Government Review of Waste Policy in England 2011, it is self evident there remains a need at national level for proposals such as the EnviRecover facility to contribute towards the overall aim of sustainable waste management manifest through the achievement of the national targets.

***Regional Waste Management Need***

4.2.13 In Appendix NR10 (Residual Waste Treatment Capacity - Quantitative Need Assessment) I discuss the current relevance of the Regional Strategy, both extant and emerging, and confirm the waste management data within the Strategies is informative about waste arisings, waste management capacity and the need for various types of new waste facility.

4.2.14 Following analysis I then find that, notwithstanding their future status, the data supporting the extant and emerging regional spatial policy framework allows the following conclusions to be drawn:

- Significantly more waste treatment / recovery capacity is required throughout the region;
- The wider region does not have excess waste treatment capacity that could support the identified deficit in Worcestershire and Herefordshire;
- New waste treatment / recovery capacity (including EfW) is required within the Worcestershire & Herefordshire sub-region for both MSW and C&I waste.

***Sub-Regional Need***

4.2.15 SoCG 1 sets out from paragraph 5.10 the factual position with regard to the procurement of the Herefordshire and Worcestershire Waste PFI Contract, the progress made in delivering infrastructure and the municipal waste management strategy framework. The latter comprises the Joint Municipal Waste Management Strategy (JMWMS) and its first review published in November 2009 (JMWMS 2009) (CD-WSL7).

4.2.16 The JMWMS 2009 sets the two authorities' waste management targets, (consistent with WSE 2007 and the 2011 Review) as follows:

- Recycling/composting 40% by 2010;
- Recycling/composting 45% by 2015;
- Recycling/composting 50% by 2020;
- Recovering value from 78% of MSW by 2015.

4.2.17 It is noted (and agreed in SoCG 1) that whilst the authorities have recycling infrastructure sufficient to contribute towards meeting the above targets, there is **no** other waste recovery capacity (for residual waste) within the two counties. This holds true for both MSW and C&I waste treatment capacity. In this regard, it is self-evident that that the 78% recovery target cannot be met without 'other recovery' infrastructure being in place. Furthermore, given that if the EnviRecover facility were consented following this Inquiry it would not be operational until 2015, were the application to fail the recovery target could never be met by the required date. In short, the lead in times for major residual waste recovery facilities are such that the two authorities would miss the recovery target by many years.

4.2.18 SoCG 1 describes (paragraphs 5.13 to 5.19) that there is a continuing evidence base supporting a thermal treatment technology delivered through a single EfW facility to serve Worcestershire's and Herefordshire's residual MSW management needs.

4.2.19 SoCG 1 deals briefly (paragraphs 5.17 to 5.22) with the following matters:

i) JMWMS 2009 Residual Waste Options Appraisal;
ii) Combined heat and power (CHP);
iii) The Government's neutral stance on technology choice;
iv) The suitability of mass burn combustion technology;
v) That anaerobic digestion is not in itself a panacea to residual waste management.

4.2.20 I note a number of matters in respect of the points listed above. With regard to i) the submitted planning application included MWM's own Residual Waste Options Appraisal (Environmental Statement Appendix 3.1) which mirrored that produced in support of JMWMS 2009. However, it was site specific to the EnviRecover proposal and used refined assumptions. Part of this appraisal utilised a WRATE (Waste and Resources Assessment Tool for the Environment) assessment. Subsequent, to this work being carried out a new, improved version of WRATE has been developed. As such the Options Appraisal has been reworked / updated. The updated Options Appraisals is appended to the evidence of Stephen Othen.

4.2.21 The conclusions of the updated Options Appraisals are that the Mercia EnviRecover facility with CHP scores the highest, based on the assessment criteria and assumptions used. The power only Mercia EnviRecover facility scores second highest, only 5% behind the CHP option.

4.2.22 With regard to point ii), I have updated the CHP position in sub-section 2.4 of my evidence.

4.2.23 Finally, points iii), iv) and v), all relate to technology choice. I have addressed the Government's clear policy stance on technology earlier in this sub-section (under the heading *European / National Waste Management*

*Need*). Stephen Othen deals further with all matters on technology and the suitability of certain technologies to treat mixed residual waste. I am in full agreement with his findings and conclusions.

4.2.24 Arising from all of the above, I conclude that it is demonstrably the position that the two counties' residual MSW management needs are best suited by a single treatment facility based upon a mass burn incineration technology. There is no evidence base to support otherwise. I deal with the optimum capacity of this facility immediately below. I deal with the appropriateness of the proposed location of the plant in Section 6.0 of my evidence in the context of PPS 10 and Section 8.0 in relation to Green Belt policy.

**Waste Arisings and Facility Capacity**

4.2.25 In Appendix NR10 I undertake a detailed analysis of waste arisings in Worcestershire and Herefordshire. This includes:

- Discussion of future residual waste growth;
- Predicted future residual waste arisings for both MSW and C&I waste;
- The effect of recycling on residual waste quantities; and
- Assessment of the facility's proposed capacity and the contribution that it would make towards landfill diversion.

4.2.26 From a numerical perspective this information is then illustrated on a spreadsheet (Annex B to Appendix NR10). This sets out a conservative base case scenario and a series of sensitivity test scenarios.

4.2.27 Based upon the analysis in NR10, I determine the following:

i) Based on the data supporting the emerging WCS (CD-DP6 and 6a), MSW waste quantities will potentially increase to 485,197 tonnes in 2034. If a 50% recycling target is applied to all of this MSW, there would be 242,599 tonnes of residual MSW at that date. If 60% recycling were achieved there would be 194,079 tonnes.

ii) MWM's model of six different household waste recycling and MSW growth scenarios show that in 2034 there will be:

- 204,604 tonnes of residual MSW (50% recycling at 2020 and RS housing growth);
- 184,298 tonnes of residual MSW (55% recycling at 2020 and RS housing growth);
- 170,181 tonnes of residual MSW (with recycling at 50% by 2018, to 55% by 2023, and to 60% by 2028);
- 198,054 tonnes of residual MSW (50% recycling and emerging District Council forecast housing growth);
- 233,007 tonnes of residual MSW (Waste Core Strategy Data for MSW arisings and growth);
- 226,924 tonnes of residual MSW (Waste Core Strategy Data for MSW growth, but with reset base data from WCS Replacement Table 32: Defra's Waste Data Flow Municipal Waste Statistics);
- Under all scenarios there is more 186,500 tonnes of residual MSW requiring treatment when the facility is planned to open in 2015.

iii) The emerging WCS identifies that C&I waste arisings in Worcestershire (excluding Herefordshire) were 568,199 tonnes in 2006/7. This is predicted to grow to over 800,000 tonnes in 2030/31. If 50% of the lower figure was recycled there would be 284,099 tonnes of residual C&I waste. Even if 75% recycling were achieved in 2030/31 there would be over 200,000 tonnes remaining.

iv) Using the latest Defra survey of C&I wastes generated in 2009, there is judged to be 650,000 tonnes of C&I waste produced across Herefordshire and Worcestershire. If 55% of this was recycled there would be 292,500 tonnes of residual C&I waste.

4.2.28 In light of the above, I believe there is, and will be in the long term, an absolute minimum of 400,000 tpa of residual waste requiring recovery (and diversion from landfill) within Worcestershire and Herefordshire. In reality this figure is likely to be much higher.

4.2.29 The joint authorities' residual municipal waste is presently being disposed of at landfill with some limited out-of-county third party EfW. As set out in Appendix NR 10, in 2010/11 some 209,471 tonnes of Worcestershire's and

Herefordshire's residual MSW was sent to landfill, notwithstanding that a household waste recycling level of over 42% was achieved. In addition, over 18,000 tonnes was sent to remote, out of county EfW facilities.

4.2.30 With regard to C&I waste, the current position is less clear, due to firstly the data quality and secondly this waste stream moves both in and out of the County. However, even if there is presently 55% recycling, over 250,000 tpa of residual C&I waste (arising from within Worcestershire and Herefordshire) is either being landfilled (within or out of the County of Worcestershire, noting Herefordshire has no landfill capacity) or exported from the Counties for treatment. Given there are no C&I recovery facilities in either County, and a shortfall within the wider region (and those facilities that exist ostensibly process MSW), most of this waste is inevitably being landfilled. On this basis, notwithstanding all the policy drivers to divert waste from landfill, I estimate there is currently (at least) approximately 460,000 tpa being landfilled (i.e. Worcestershire and Herefordshire MSW and C&I waste).

4.2.31 The Mercia EnviRecover is designed to treat both residual MSW and similar C&I wastes, but would treat MSW as a priority. In MWM's view there will be at least 200,000 tpa of residual MSW requiring treatment. Depending on waste growth patterns this may be from the date the plant would become operational or maybe some time thereafter. I believe that given a return to historical rates of house building and a non-recessionary period, the plant would be at capacity, treating MSW alone, sooner rather than later. However, should for whatever reason there be less than 200,000 tpa residual MSW (in any particular year over the life of the facility), the spare capacity would be used to manage residual C&I wastes. Such a scenario is supported by WSE 2007 which identifies the key Government objective to: *increase diversion from landfill of non-municipal waste and secure better integration of treatment for municipal and non-municipal waste.*

4.2.32 In conclusion, with a treatment capacity of 200,000 tpa, it is demonstrably the case that the plant would practically eliminate Worcestershire and Herefordshire's residual MSW being disposed of to landfill. It could also

potentially make a modest contribution to diverting local C&I waste from landfill. In achieving this, it would not stifle other reduction, reuse and recycling initiatives, even if recycling levels were to materially increase beyond the current national and local targets. As such, the EnviRecover Facility is an element of the waste management infrastructure required within Herefordshire and Worcestershire that is currently missing. It will complement the recycling facilities already developed by MWM and will enable the waste hierarchy to be delivered. As such there is a demonstrable need for the facility at a sub-regional level, at the capacity proposed. As a consequence **very** significant weight should be ascribed to the sustainable waste management benefits arising from the proposal.

4.2.33 Much of my conclusion is given direct support by the Government Review of Waste Policy in England 2011 paragraph 214, which is set out in my sub-section 3.3.

## 4.3 Energy / Renewable Energy Need and Benefits

***National Position and Overview***

4.3.1 SoCG 1 sets out (in Section 5 from paragraph 5.26) the extensive policy documentation that supports renewable energy development at national, regional and local level as key to combating climate change. However, it is restrained in terms of the language used to describe what in my view is overwhelming and trenchant support to deploy as much renewable energy capacity as soon as possible.

4.3.2 PPS1 Supplement (paragraph 3) stipulates that*: "The Government believes that climate change is the greatest long-term challenge facing the world today"*, whilst the Energy White Paper 2007 (page 140 states *that "Renewables are key to our strategy to tackle climate change and deploy cleaner sources of energy"*. The document goes on to observe that renewable energy provides *"crucial additional benefits"* and urges that significant weight should be attached to the significant benefits to society

that such energy provides. In similar vein the Low Carbon Transition Plan 2009 (page 4) seeks an *"unparalleled deployment"* of renewable energy.

4.3.3 It is in this context, namely in the light of concerns regarding energy security and the worsening global environmental situation, that the National Planning Statements recognise that there is a pressing national need to move away from out-dated carbon technology and develop forms of low carbon and renewable energy generation. It is for these reasons that the guidance (EN-1 paragraph 3.3.10) emphasises that the UK has a: *"…need to diversify and decarbonise electricity generation, the Government is committed to increasing dramatically the amount of renewable generation capacity…"* Indeed, the guidance confirms (paragraph 3.3.5) that: "*Government would like industry to bring forward many new low carbon developments (renewables, nuclear and fossil fuel generation with CCS) within the next 10 to 15 years to meet the twin challenge of energy security and climate change…"*

4.3.4 With regard to the matter of energy security, EN-1 states (my emphasis) that *"It is **critical** that the UK continues to have secure and reliable supplies of energy as we make the transition to a low carbon economy"* (paragraph 2.2.20) since "*energy is **vital** to economic prosperity and social well-being*" (paragraph 2.2.1). This only re-states similar clear messages that occur in the Energy White Paper 2007 and other policy documents.

4.3.5 The headline national position on renewables and deployment targets are set out in the UK's Renewable Energy Strategy 2009 (CD-ESL3) which says that the UK should '…*radically increase its use of renewable energy*' and sets out how Government plans to achieve its renewable energy targets. The Strategy has been prepared to implement the Renewable Energy Directive, which requires the UK to deliver 15% of energy generation from renewable sources by 2020.

4.3.6 More recently, with specific regard to waste and energy, the Government Review of Waste Policy in England 2011 states:

- *The government supports energy from waste as a waste recovery method through a range of technologies, and believes there is potential for the sector to grow further* (paragraph 207);
- *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* (paragraph 208).

4.3.7 It can be seen from the above, that the national policy message on renewable energy, energy security and climate change is unambiguous. There must be more low carbon energy and greater security of supply as a national priority. In my sub-section 4.2 I have already explained that the Government anticipates that this includes a tripling of current EfW capacity and that planning permissions need to granted now if the 2015 energy recovery targets are to met. It is in this context that, in the subsequent subsections of my proof I look at the regional and sub-regional energy / renewable energy position.

***Regional Energy / Renewable Energy Position***

4.3.8 In a similar vein to my comments on Regional Strategies in respect of waste matters, it is important to consider their relevance to the regional energy and renewables position. Here, I think the situation is quite simple. Regional targets are simply an all technology renewables target designed to achieve the national target and allow the monitoring thereof. PPS 22 paragraph 3 (CD-NPP11) makes it clear: *Targets should be expressed as the minimum amount of installed capacity for renewable energy in the region, expressed in megawatts, and may also be expressed in terms of the percentage of electricity consumed or supplied. Targets should be set for achievement by 2010 and by 2020. Progress towards achieving these targets should be*

*monitored by regional planning bodies. Targets should be reviewed on a regular basis and revised upwards (if they are met)….*

4.3.9 Steve Quartermain's Letter to Chief Planning Officers 6th July 2010 (see Appendix NR4), with regard to the abolition of Regional Strategies, makes this clear: *…..authorities should…. help secure more renewable and low carbon energy to meet national targets…..*

4.3.10 I am further supported on this matter by the Inspector at the Yelvertoft Wind Farm appeal (APP/Y2810/A/10/2120332 – see my Appendix NR11). He was considering the relevance of regional targets at a time when Regional Strategies were actually withdrawn (before their subsequent reinstatement). The Inspector's report (20th July 2010) states at paragraph 11 of his decision he states: *Notwithstanding that the regional targets are no longer applicable……, It is common ground that the proposal would contribute to the national objective of promoting renewable energy technologies.*

4.3.11 The submitted planning application (Planning Application Document – Part 3: Planning Statement at Chapter 2.0 – see CD-PA1a) sets out the West Midlands regional position on renewables targets and deployment at the time of the application's preparation. It makes specific reference to the following source documents:

- *Regional Policy - West Midlands RSS - Including Phase 1 Revision (2008);*
- *The West Midlands Energy Strategy (2004);*
- *West Midlands Climate Change Action Plan (December 2007);*
- *West Midlands RSS Phase 3 Revision, Quality of the Environment Background Paper (2009).*

4.3.12 It provided a summary of the key issues raised within the various regional policy and guidance listed above under the following headings:

- Energy Consumption and Generation in the West Midlands;
- Regional Targets for Renewable Energy;
- The Strategy for the Achievement of the Regional Targets for Renewable Energy Generation.

In addition, reference was made to DECC's Renewable Energy Statistics Database (RESTATS) for statistical data up to 2008.

4.3.13 The conclusions that were drawn were:

i) There was a significant discord between energy usage and generation in the Region with electricity demand (26,965 GWh) significantly out stripping generation (~ 10,000 GWh).

ii) Total renewables electricity generation in the West Midlands in 2008 was circa 700 GWh generated from 182 MW of installed capacity.

iii) There was very little growth in renewables from 2002 to 2008.

iv) The current West Midlands RSS states (paragraph 8.49) that *"the Region should aim to contribute as far as possible towards the achievement of the national energy target – 10% of electricity produced from renewable energy by 2010, with an aspiration to double renewables' share of electricity between 2010 and 2020."*

v) Renewables electricity generation in the West Midlands in 2008 was only 2.8% [sic. actually 2.6%] of electricity demand, with the Region in severe danger of failing to meet its contribution to the 2010 national target.

vi) With regard to redressing this dire position the RSS contains a number of energy policies of which Policy EN1 (Energy Generation) and Paragraph 8.51 are relevant. Policy EN1 indicates (my emphasis) that: *"Local authorities in their development plans should:*

*i. Encourage proposals for the use of renewable energy sources, including biomass, onshore wind power, active solar systems, small scale hydro-electricity schemes and* ***energy from waste combustion*** *and landfill gas……."*

This policy is supported by the reasoned justification contained within paragraph 8.51 which indicates that *"technical studies have indicated substantial regional potential for renewable energy generation over the coming decades form biomass, solar,* ***waste*** *and wind sources".*

4.3.14 Subsequent to the submission of the application, Telford and Wrekin Council, on behalf of all the West Midlands authorities, published the Renewable Energy Capacity Study for the West Midlands (March 2011)

(RECSWM) (CD-ESL6). This quotes DECC RESTATS data for 2009. I note that 2010 RESTATS data has very recently been published and I have used this in my evidence below. Please note that the adoption of this latest information changes (albeit very modestly) some of the numbers quoted elsewhere in the planning application documentation (including the most recent Regulation 19 submission).

4.3.15 The position, as identified in the new study and latest RESTATS data, on renewables targets and deployment is:

i) Current West Midlands' electricity demand is 24,624 GWh (RECSWM paragraph 1.13).

ii) Current West Midlands' renewables generation capacity is 938 GWh generated from 201.6 MW of installed capacity (RESTATS 2010 data – Data Table 2010).

iii) Renewables generation capacity in the West Midlands is the third lowest of all the UK regions (RESTATS 2010 data – Capacity by English Region).

iv) Renewables generation in the West Midlands has fluctuated between 2003 and 2010 with a peak of ~ 1,050 GWh in 2005 which has subsequently fallen away (RESTATS 2010 data – Trends in Generation by English Region).

v) Renewables generation in the West Midlands is heavily reliant on waste (RESTATS 2010 data – Data Table 2010). In 2010 the position on generation type was:

- Biofuels (an undefined part of which is waste based): ~56% of generation;
- Sewage gas: ~13% of generation;
- Landfill gas: ~31% of generation;
- All other sources / technologies: less than 1% of generation in combination.

vi) Section 3.0 of RECSWM focuses upon the potential renewable energy resource in the West Midlands as a whole and its constituent local authority areas. It identifies (paragraphs 3.86 to 3.95) that the biodegradable fraction of MSW and C&I waste are part of the renewable

energy resource in the Region and sets out the general renewable resource availability as follows:

- Regional MSW theoretical electricity generation potential: 209 MWe;
- Regional C&I waste theoretical electricity generation potential: 145 MWe;
- Worcestershire MSW theoretical electricity generation potential: 17 MWe;
- Worcestershire C&I waste theoretical electricity generation potential: 16 MWe.

4.3.16 Based on the above, the West Midlands missed its contribution to the national renewables target (which was its own stated target) by some margin. Using 2010 generation data (reported in 2011) compared to the 2010 10% renewables target, the Region achieved 3.8% renewables generation compared to its demand (938 GWh compared to 24,624 GWh demand). This is amongst the lowest of any region in the UK.

4.3.17 The achievement of a regional target is a very weighty planning consideration in favour of a renewables project. On this point the Secretary of State (for DCLG) stated, at paragraph 16 of his decision letter (see my Appendix NR12), on seven co-joined appeals by Coronation Power (which he recovered)

(PINS references:

- APP/P4225/A/08/2065277;
- APP/A4710/A/08/2065274;
- APP/P4225/A/08/2091045;
- APP/A4710/A/08/2091044;
- APP/A4710/A/08/2062366;
- APP/B2355/A/08/2067355;
- APP/A4710/A/08/2062365.

*The Secretary of State agrees with the Inspector's reasoning and conclusions with respect to the need for the appeal schemes, as set out at IR11.15 – 11.22. He has had regard to government policy that attaches significant importance to the need to tackle climate change and the role*

*that the exploitation of renewable energy technologies can make in tackling climate change (IR11.15). He agrees with the Inspector that the gap between existing provision and indicative targets are massive and that NW and YH regional targets set for 2020 are unlikely to be met without any or all of these schemes (IR11.22). In light of this, he considers the appellant's submission that the greater the need by reference to national and regional targets the greater the weight that should be attached to the contribution particular renewables proposals can make has considerable force (IR11.22). The Secretary of State concludes that whilst energy policy is not an overriding consideration, it is one of considerable importance that in these cases should weigh very heavily in the planning balance (IR11.22).*

4.3.18 Based on the foregoing, I conclude that the deployment of renewable energy in the West Midlands in line with Government policy is failing. The achievement, by the end of 2010, of only 3.8% of electricity requirements being generated from renewable sources is clearly unacceptable and urgent action is required. There is an overriding need for new renewable energy capacity to be installed and, as the Secretary of State makes clear, *the greater the need by reference to ….regional targets the greater the weight that should be attached to the contribution* [of a] *particular renewables proposal…* Thus, significant planning weight should be attached in favour of renewables developments (and the wider benefits they bring) in the West Midlands at this time.

***Sub-Regional Renewable Energy Position***

4.3.19 The Worcestershire Climate Change Strategy Review document 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 CO2 emissions from 2005 levels - this equates to a reduction of at least 27750 tonnes CO2 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.*

4.3.20 The technical research paper Planning for Renewable Energy in Worcestershire states (paragraph 2.6) that: *Worcestershire's energy consumption is drawn almost exclusively from fossil-fuel based sources, as indicated in Table 1. In order to reduce the carbon-emissions generated from this energy use, the County needs to move towards increasing the use of renewables*. Table also shows the County's electricity consumption as being 2,759 GWh in 2006.

4.3.21 The document provides no clearly stated figure for renewables generation in Worcestershire, but paragraph 4.5 sets a county renewables generation target of 155 GWh by 2011. This figure, which only features in a technical report, is somewhat unambitious as it is only ~5.6% of consumption at a point in time when the national target is over 10%.

4.3.22 With regard to existing renewables capacity, I have, in consultation with the Sustainability Officer at the County Council identified all known schemes producing renewable electricity in Worcestershire (refer to Table 4.1).

**Table 4.1: Existing Renewable Electricity Generating Capacity in Worcestershire (installed capacity > 0.5 MW)**

| Location | Type of Generator | Installed Capacity (MW) |
|---|---|---|
| Sandy Lane Landfill, Bromsgrove | Landfill Gas (electricity) | 2 |
| Waresley Landfill Site, nr Kidderminster | Landfill Gas (electricity) | 1.65 |
| Blackmore Park, Malvern | 1 x Wind turbine | 1.20 |
| Hill and Moor Landfill, Pershore | Landfill Gas (electricity) | 6 |
| Brine Pits Lane, Wychbold | 3 x Wind Turbines* | 0.5 (total) |
| Total installed capacity | | 11.35 |

*only 2 turbines are actually built but a 3rd has consent and has been counted.

4.3.23 This table does not include heat only renewable generation (e.g. the biomass boiler at County Hall, Worcester) or micro generation, which will not be significant, or even material, in overall terms. However, it does include for increased generation capacity at MWM's Hill and Moor landfill site which, whilst not on line is installed.

4.3.24 With regard to actual generation the following, very optimistic, assumptions have been used:

- The landfill gas systems will operate for 8,000 hours p.a. (i.e. over 90% of the time);
- The wind turbines will have a declared net capacity of 30% (in reality probably nearer 25%) and thus generate at the installed capacity for 2,628 hours p.a.

On this basis, current annual renewable electricity generation in Worcestershire is estimated as follows:

- Landfill gas: 77,200 MWh or 77.2GWh;
- Wind: 1,340 MWh or 1.34 GWh;
- **Total: 78.54 GWh.**

4.3.25 Based on the consumption figure identified above (i.e. 2,759 GWh) only 2.85% of the County's electricity consumption is being met from renewables.

4.3.26 This figure is very low and over 98% of it is coming from landfills for which there is a policy imperative to divert biodegradable waste away from. It is only half of the perversely low target (155 GWh) set for 2011 in Planning for Renewable Energy in Worcestershire (i.e. even that target has been missed by 50%) and it is a lower percentage of generation compared to consumption than across the west Midlands as a whole. I have described the failure to deploy renewables at the regional level as unacceptable, the failure at County level is even worse. The urgency to deploy renewables in Worcestershire (and make any meaningful contribution to the national renewables target) cannot be overstated. More importantly the trenchant language in the national, regional and local policy to deliver renewables cannot be set aside. As a consequence **very** significant weight should be ascribed to the wider climate change benefits arising from any proposal for renewable energy generation capacity in the County.

***How EnviRecover Would Contribute to the Need for Renewables***

4.3.27 SoCG 1 describes how the EnviRecover facility would generate 15.5MW of electricity with 13.5MW exported to the local electricity grid. The Applicant estimates that the facility would generate electricity for at least 8,000 hours per year. On this basis total export would be 108,000 MWh p.a. (or 108 GWh p.a.).

4.3.28 SoCG 1 also sets out (from paragraph 6.24 under the heading *Issue C: PPS1 Supplement: Planning and Climate Change*) the evidence base that renewable and / or low carbon energy supplies include energy from waste and that only the combustion of the biogenic fraction of the waste, and the energy derived there from, is classified as renewable energy. In terms of MSW (and similar C&I wastes), the biogenic fraction is established as being at least 50% of the waste. SoCG 1 also indicates that in reality this figure is likely to be higher.

4.3.29 In discussing renewable energy from EfW technology, the Review of the Generation Costs and Deployment Potential of Renewable Electricity Technologies in the UK – DECC Study June 2011 (refer to my Appendix NR13) states (paragraph 14.3.1 – extract):

*The renewable energy generation is to a large extent dependent on the biogenic carbon in the waste. For the purpose of this report, it has been conservatively assumed that the waste contains 50% biogenic carbon as this ties in with the percentage used for energy from municipal solid waste under the Renewables Obligation Order 2009. However, the Renewable Energy Directive states 62.5% (for the purposes of reporting against renewable energy targets) and research undertaken by the Department for Environment, Food and Rural Affairs (DEFRA) in 2008, indicates that this might be as high as 68%.*

4.3.30 For the purposes of my assessment of the renewable proportion of the energy generated by the scheme, I have taken 60% as a high case figure and 50% as a lowest case figure. Based upon the DECC Study these figures are conservative.

4.3.31 Table 4.2 below sets out the estimated contribution the Mercia EnviRecover facility would make to the regional and sub-regional (County level) renewables position.

**Table 4.2: EnviRecover Contribution to Regional and sub-Regional Renewable Electricity Position**

| Subject | Notes | High Case | Low Case |
|---|---|---|---|
| EnviRecover renewable electricity installed capacity | | 8.1 MW | 6.75 MW |
| % Increase in West Midlands installed capacity | Currently 201.6 MW | 4% | 3.3% |
| % Increase in Worcestershire installed capacity | Currently 11.35 MW | 71.4% | 59.5% |
| EnviRecover renewable electricity generation | | 64.8 GWh | 54 GWh |
| % Increase in West Midlands annual renewables generation | Currently 938 GWh | 6.9% | 5.8% |
| % Increase in Worcestershire annual renewables generation | Currently 78.5 GWh | 82.5% | 68.8% |
| Total annual renewables generation in Worcestershire with EnviRecover | | 143.3 GWh | 132.5 GWh |
| % of annual consumption generated from renewables in Worcestershire with EnviRecover | Consumption = 2,759 GWh and current renewables generation % = 2.41% | 5.2% | 4.8% |
| EnviRecover % contribution to Worcestershire's informal renewables target for 2011 (when operational) | Target = 155 GWh | 41.6% | 34.8% |

4.3.32 Table 4.2 illustrates that EnviRecover would make a very material contribution towards increasing the regional renewables capacity and thus reducing the very significant short fall in the Region's contribution to the overall national renewables target. At the sub-regional / County level the contribution would be huge and more than double the overall generation by virtue of a single project.

4.3.33 Given the seriousness of the renewables shortfall at regional and sub-regional level, and the significance of EnviRecover's contribution to addressing that shortfall (noting that the PPS 22 key principles – paragraph 1 indicates that even the benefits from small scale renewables proposal should be given significant weight), very significant weight should be given to the climate change benefits of the scheme. It would contribute towards meeting an overriding need for new renewable energy development in both the West Midlands and Worcestershire.

4.3.34 Finally, much of this part of my proof has focussed on renewable energy need, notwithstanding the other policy objective I have identified relating to

security of energy supply and fuel. In this regard I have identified that the national review of waste policy in 2011, talking specifically about EfW, states: *"Even energy from the non-biodegradable component* [of waste]*, whilst suffering from the negative climate impacts of other fossil fuels, has additional advantages in terms of providing comparative fuel security…".*

4.3.35 On this issue it should be noted that (using the DECC figure on annual household electricity consumption of 4,800 kW), the EnviRecover facility would generate sufficient electricity for the domestic needs of circa 22,500 households, or roughly a town almost as larger as Kidderminster. This electricity would be generated from a secure indigenous fuel in a decentralised facility. This is a further energy benefit of the scheme to which weight should be attached.

4.3.36 Finally, as described in detail in sub-section 2.4 of my proof, the EnviRecover facility is enabled to also export heat, circa 50-60% of which would be classed as renewable. This benefit, which was always described as being a 'potential' benefit, is now beginning to be realised through the developing heat use scheme with Wienerberger.

**4.4 Other Benefits of the Scheme**

4.4.1 Within Section 8.0 (sub-section 8.2) of my proof (as part of the consideration of very special circumstances), I set out the economic benefits of the proposal. For the avoidance of repetition, I have not restated these here. Nevertheless, the economic benefits are real and tangible and should be afforded significant weight, particularly in the current economic climate.

4.4.2 This weight is manifest in the Secretary of State's and Inspector's conclusions on the Severnside appeal / call-in (as set out in sub-section 3.15 of my proof). Here the economic benefits of employment and maximising the potential for CHP to supply local businesses (exactly as would occur with the EnviRecover facility) were determined to lend strong support to the grant of planning permission in the context of the ministerial statement on Planning for Growth.

4.4.3 The final benefit I note, relates to the provision of an education & visitor centre that would be used by schools and other community groups and organisations in order to raise awareness of both sustainable waste management and renewable energy production. The information promoted within the centre would be consistent with national and local policies on waste awareness and the national school's curriculum.

**4.5 Consequences of Not Proceeding with the Scheme**

4.5.1 The consequences of rejecting the EnviRecover application are both material and significant:

- There would be continued very high levels of landfilling with associated greenhouse gas emissions;
- There would be no new renewable energy generation from waste;

Thus, climate change impacts would continue to occur. As set out in my sub-section 7.2, the consequence would be greenhouse gas emissions of around 34,700 tonnes of carbon dioxide equivalent per annum.

4.5.2 As evidenced by the planning processes MWM has been undertaking since 1998, development of the nature of the EnviRecover facility has very long lead-in times together with planning and funding uncertainties. The planning process for EnviRecover commenced in 2007. If permission is granted following this Inquiry, say in early 2012, the facility would not be operational until 2015, some 8 years from starting the planning work.

4.5.3 Were permission to be refused, it is impossible to say how long it might take to deliver a replacement waste management option, particularly, as far as an EfW or other major residual waste treatment facility is concerned, there is no identified suitable and available alternative site for the development. The timescales would be dictated by a number of factors, including:

i) The joint authorities' decision as to how it wishes to proceed with the contract;
ii) Actioning, that decision in a formal contract or contract variation;
iii) The contractor bringing forward a residual waste treatment solution and it being subject to technical and financial evaluation;

iv) The identification of a suitable site or sites, in the context of Worcestershire County Council's intention not to produce a Site Specific Allocations Development Plan Document;
v) Preparing designs for the facility or facilities;
vi) Applying for and securing planning permission and an Environmental Permit.

4.5.4 Notwithstanding my own personal view, that it may well not be possible to deliver an alternative in-county solution, it would most certainly not be delivered in a timely manner. As such, were the proposal to be rejected, I believe the adverse environmental consequences identified above would occur for very many years to come.

4.5.5 From an economic and financial perspective I cannot accurately quantify the cost of rejecting the proposal, but it would be very significant and run into many millions of pounds. It would include costs associated with:

i) Ongoing payments of Landfill Tax (£80 per tonne in 2014) plus tipping charges.
ii) Any penalties levied against the Councils in respect of failure to meet statutory landfill diversion targets.
iii) Having to pay spot market prices and additional transportation costs to use out-of-county third party waste treatment facilities, assuming any such capacity is available. At this time MWM is having to juggle its use of third party EfW, as capacity elsewhere, particularly within the West Midlands, is limited. Presently MWM are planning to take circa 22,000 tpa of waste to West Midlands EfW facilities, most probably Coventry and Stoke EfW plants. Any arrangements are only available on a spot market basis and offer no long term security as a means of diverting even modest quantities of waste from landfill.
iv) The situation at MWM's Hill & Moor landfill. If the residual MSW continues to be tipped here, this facility would be full by December 2023. However, of greater significance is that the site's strategic composting facility (which is the only in-county facility for composting all of Worcestershire's and Herefordshire's municipal green waste)

would be overtipped by 2018 (i.e. the entire composting plant sits within the operational footprint of the landfill). The consequence of this will be the requirement to identify and acquire an alternative site, seek planning permission and Environmental Permit, and invest in the new facility. At present day costs it is estimated that the capital investment for this facility, including pre-capital expenditure, would be in the region of £2.65 million excluding land purchase.

v) Legal, technical and other professional costs (e.g. funder's charges) associated with either varying or re-letting the waste management contract.

vi) Increased capex costs for any new facility. Discussion with Fichtner Consulting Engineers (the UK's leading technical engineers in waste treatment delivery) indicates that historic capex increases within the past 10 years have been as high as 15% per annum. Looking forwards they predict increases in the order of 5-6% per year.

vii) Land purchase costs for any facility.

viii) Planning, permitting, design and the associated management of these services.

ix) Contractor procurement.

4.5.6 In additional, all the economic benefits associated with the delivery of the EnviRecover facility (refer to my Appendix NR17) would be deferred, if indeed they would ever be realised.

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4.5.7 As set out in my sub-section 3.15, by reference to Cornwall EfW facility decision (see CD-ID3), the environmental and economic implications of rejecting a proposal can be a matter that should be afforded substantial weight. In this situation, in light of the above, I believe that such weight should apply.

## 5.0 SECRETARY OF STATE ISSUE A: DEVELOPMENT PLAN

### 5.1 Introduction

5.1.1 The Secretary of State has requested that he be advised as to the extent to which the proposal accords with the extant and emerging Development Plan, including the weight that can be attached to the latter. This matter is considered within this section of my evidence.

5.1.2 When considering compliance with the Development Plan regard must be had to Section 38(6) of the Planning and Compulsory Purchase Act (September 2004) requires that planning applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise. Sub-section 5 of Section 38 also states that: "*if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published (as the case may be).*"

5.1.3 It has also been confirmed by case law that a particular proposal does not need to accord with each and every policy in a Development Plan. The key issue is that it accords with the overall thrust of development plan policies taken as a whole. (R v Rochdale Metropolitan Borough Council - [2001] ENV.L.R 22).

### 5.2 The Development Plan

5.2.1 The documents that comprise the statutory Development Plan are those set out in Section 4.0 of SoCG 1. This also describes how the Council believes that that the proposal is in conformity with all aspects of the Development Plan apart from those in relation to the Green Belt and landscape and visual matters. However, it is satisfied that very special circumstances exist to justify development in the Green Belt and there are material planning considerations to justify the development where it is discordant to the Development Plan in relation to landscape and visual matters. I agree with

the Council's position, but for the avoidance of any doubt, confirm that it is my position that:

- Green Belt policy is not ultimately breached. Whilst the test of appropriateness is failed, the demonstration of very special circumstances means inappropriate development is permissible in accordance with the provisions within Green Belt policy.
- The proposal does not breach policy in relation to landscape and visual matters.

5.2.2 Notwithstanding this agreement, I have assessed the scheme in the context of Development Plan policy in a tabulated format within Appendix NR14. This assessment finds that the proposal accords with all aspect of Development Plan policy including, due to the presence of very special circumstances, Policy D39 of the Worcestershire Structure Plan which relates to Green Belt policy. Green Belt issues are dealt with in Section 8.0 of my proof. The one single issue with regard to Development Plan policy is in relation to Policy SR8 of the Wychavon District Local Plan.

5.2.3 SR8 is specific to Hartlebury Trading Estate and its Major Developed Site (MDS) in the Green Belt status. The Policy includes criteria lifted from PPG2 Annex C related to MDS. However, it is incomplete in two regards. Firstly it only deals with redevelopment of buildings at Hartlebury (not infilling the other PPG2 Annex C criterion) and secondly it does provide for inappropriate development being justified through the demonstration of very special circumstances (I also note that Policy SR7, which I don't believe is relevant, is the same on the second point). On the second point, the failure to provide for very special circumstances is clearly inconsistent with national policy and all the policies in other extant and emerging Development Plans that I have identified.

5.2.4 On face value it could be argued that the scheme does not comply with Policy SR8 to the extent it could be said there is conflict with provisions which establish whether the development is appropriate. However, I do not believe that is the end of the matter, because plainly if very special circumstances can be shown (as is the case), the development would be in

accordance with PPG2, the parent policy for the Development Plan, and appropriate for another reason, namely that it had been justified by very special circumstances, not that it meets the criteria for appropriate development in the MDS. Thus in the light of very special circumstances being demonstrated, I believe that there is either no conflict with Policy SR8 (since it does not consider very special circumstances) and therefore it does not apply. Alternatively, if there is conflict, it is only because the policy is not consistent with national policies in failing to deal with very special circumstances and is not therefore deserving of weight.

## 5.3 The Emerging Development Plan

5.3.1 The emerging Development Plan comprises:

- The Worcestershire Waste Core Strategy – Submission Document (June 2011) including its Addendum (October 2011);
- The South Worcestershire Development Plan (September 2011), formerly called the South Worcestershire Joint Core Strategy;
- Regional Spatial Strategy for the West Midlands Phase 2 Revision (including the recommendations of the Panel Report).

5.3.2 I have set out below the weight that, in my opinion, should be attached to each of the emerging Development Plan documents. This accords with the position set out in Section 6.0 of SoCG 1, although this text has, due to the passage of time, been updated.

***The Worcestershire Waste Core Strategy*** (CC-DP5 and 5a)

5.3.3 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. Subsequently, the Submission Document (for the Secretary of State) has been prepared. However, the Council has recently published an Addendum (dated October 2011) on which it has elected to undertake consultation ending on 15th November 2011. This has delayed formal submission to the Secretary of State. 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 PPS1 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.

5.3.4 I have viewed the responses that have been received during consultation process, which have been numerous. This includes a large number of objections to the WCS policies, including policies that are of relevance to this case. In such a situation, it remains for the Inspector conducting the independent examination to determine whether the emerging WCS is sound (as agreed in SoCG 1). In light of the level of representations and objections received, I conclude that, at this time, **no** significant weight can be given to policies in the emerging WCS relevant to analysis of the proposed development.

***The South Worcestershire Development Plan*** (CD-DP8)

5.3.5 This Plan is in the very early stages of its preparation with no early prospect of adoption, with a current adoption target date of May 2013. It is presently at the Preferred Options stage and this version was the subject of consultation for 8 weeks commencing on 26th September 2011. The Applicant has lodged objections to the limited parts of the Plan that have some relevance to the EnviRecover proposal. These objections are contained as Appendix NR15 Given this position, the emerging South Worcestershire Development Plant should carry **no** material weight.

***Regional Spatial Strategy for the West Midlands Phase 2 Revision*** (CD-DP4, 4a and 4b)

5.3.6 Notwithstanding that the emerging RSS Phase 2 revision has been through examination and is the subject of a Panel report, in light of the Government's intention to scrap Regional Strategies, it is considered that this document will not progress further. Consequently, it should be attached **very limited** weight. However, the information / evidence base used to prepare (and

contained within) the Revision document is a material consideration to which greater weight can be attached.

5.3.7 In so far as looking at regional and sub-regional need for waste management facilities and new renewable energy development is concerned, until such time as local authorities have full addressed this matter, the emerging RSS provides useful information. The use of this information accords with the advice contained in Steve Quartermain's Letter to Chief Planning Officers 6th July 2010. I have dealt with the emerging RSS in this regard in Section 4.0 of my proof.

## 5.4 Compliance with the Policies in the Emerging Development Plan

5.4.1 In this sub-section of my proof, I have provided a broad summary regarding the extent to which the proposed EnviRecover development accords with the relevant policies of the emerging Development Plan. Given the number of relevant policies contained within the various documents, I have produced an assessment of the relevant policies in a tabulated format contained within Appendix NR14 to my proof. This should be read in conjunction with the statements that I have made below.

***The Worcestershire Waste Core Strategy***

5.4.2 With regard to the emerging WCS, it is agreed in SoCG 1, that the proposal accords with the overall objectives within the emerging Plan and this is confirmed by my assessment of the proposals in the context of the relevant objectives of the Plan (see Appendix NR14).

5.4.3 Notwithstanding that the policies of the WCS should not attract any significant weight I have undertaken a detailed assessment of those that are of most relevance to the Mercia EnviRecover development in Appendix NR14. This comprises policies WCS1-2, WCS4 and WCS6 – 12.

5.4.4 Based upon the evidence provided in support of the original planning application and the subsequent information provided in the Regulation 19

submissions and my proof of evidence, I have found that the proposals are in overall compliance with the wording of the policies. I specifically note that Part C of policy WCS10, which relates to development in the Green Belt, would not be breached due to the existence of very special circumstances. I have addressed this matter in detail within Section 8.0 of my proof.

5.4.5 In terms of the developments compliance with the requirements of the other policies of the emerging development plan, the following points are of particular note:

- Hartlebury Trading Estate is within the highest level of the geographical hierarchy for the location of waste management facilities, as set out in Policy WCS1;
- The proposal would accord with all aspects of Policy WCS 2 which specifically sets the policy tests for the development of 'other recovery' facilities. The supporting text to the policy indicates that 'other recovery' facilities include thermal treatment and recovery facilities.
- The site represents a 'compatible land use' for 'other recovery' facilities as set out in the wording of Policy WCS 4.

***The South Worcestershire Development Plan***

5.4.6 SoCG 1 identifies that the policies within the Draft South Worcestershire Development Plan should attract no significant weight, and that the emerging Plan is in direct conflict with national planning policy in so far as it makes limited reference to renewable energy matters.

5.4.7 In terms of my own assessment of the relevant policies contained within Appendix NR14 of my proof, I conclude that the proposals are in general conformity with relevant policies contained within the emerging development plan including, due to the existence of very special circumstances, Policy SWDP 1 (in so far as it relates to the protection of the Green Belt). The only policy that the proposed development is not in compliance with is Policy SWDP 46 which specifically indicates that the mass burring of waste will not be supported as an off-site renewable energy scheme.

5.4.8 With regard to Policy SWDP 46, as I have already stated in Sub-section 5.3 above, the applicant has lodged objections to the parts of the Plan that have some relevance to the EnviRecover proposal. These objections are contained in Appendix NR15 and include an objection to Policy SWDP 46.

5.4.9 The wording of Policy SWDP 46 (and its supporting text) is plainly not in compliance with contemporary waste and renewable energy policy at all levels. I have set out the main reasons for this below:

- The policy states that: *Pyrolysis and anaerobic digestion* [AD] *plants can process municipal, industrial and agricultural waste; these plants can provide clean energy unlike the mass burning of waste (incineration) which would not be supported.* This statement is factually incorrect in every regard as:
    - There are no pyrolysis plants within either the UK or Europe processing residual MSW and / or C&I wastes on a commercial scale;
    - Pyrolysis plants are classed as incineration under the Waste Incineration Directive (WID) and operate to exactly the same emissions standards as conventional mass burn incinerators;
    - As described in Section 4.0 of my proof, AD is not a practical or effective solution for the recovery of energy from mixed residual MSW and C&I wastes;
- Paragraph 27.11 indicates that energy from waste is not deemed to be a renewable source or energy. As set out in detail in Section 4.0 of my proof, this statement is clearly incorrect and energy recovered from the biomass fraction of waste is renewable energy. This is manifest in every renewable energy policy and strategy document published nationally and regionally. This includes the West Midlands Renewable Energy Capacity Study (March 2011), which is actually quoted in paragraph 27.7 of the South Worcestershire Development Plan as providing the most detailed evidence for the types of renewable energy that can be exploited within South Worcestershire.

***Regional Spatial Strategy for the West Midlands Phase 2 Revision***

5.4.10 As set out in Appendix NR14 of my proof, policies W1, W2, W3, W5 and EN1 of the draft RSS are of most relevance to the proposed development. Notwithstanding that these policies should attract very little weight, it is clearly identified within my assessment that the proposed development would be in full compliance with the requirements of these policies.

## 5.5 Conclusions

5.5.1 The Secretary of State has requested that he be advised as to the extent to which the proposal accords with the extant and emerging development plan, including the weight that can be attached to the latter.

5.5.2 From my assessment of these matters I can conclude that the proposal is in conformity with the overall policies of the extant Development Plan taken as a whole including, due to the existence of very special circumstances, those policies relating to the protection of Green Belt (notwithstanding the vagaries of Policy SD 8 of the Local Plan).

5.5.3 The development also conforms with the Emerging Development Plan, with the exception of Policy SWDP 46 of the emerging South Worcestershire Development Plan. However, at this very early stage no material weight can be attached to this policy. Moreover, Policy SWDP 46 is plainly in direct conflict with national and regional policy and is unsound.

## 6.0 SECRETARY OF STATE ISSUE B: PPS10

### 6.1 Introduction

6.1.1 PPS10 (CD-NPP10) outlines the decision making principles behind waste planning, followed by the approach to identifying sites starting with the Regional Spatial Strategy (RSS) through to Local Development Documents (LDDs). However, the PPS recognises that the waste management sector cannot wait (due to the urgent need to provide new facilities to meet legislative targets and avoid financial penalties) until the entire development plan system has been revised to accord with the policies of the PPS, before authorities have to make decisions on waste planning matters. This is manifest in paragraphs 5 and 23 and explained in detail within the Companion Guide to PPS10.

6.1.2 The overall effect of this is to place a responsibility upon local authorities to adhere to and implement the policies of PPS10 (from the time of the PPS's publication) irrespective of the status of their development plan or other development plan documents. On the basis that revisions to the waste policies within the West Midlands RSS are yet to be adopted and that Worcestershire County Council has not finalised their Waste Core Strategy DPD, and that parts of the statutory development plan (and specifically the waste policies of the Extant RSS and the Worcestershire County Structure Plan), have been largely superseded by PPS10, its policies represent a very significant material consideration in the determination of this planning application.

6.1.3 In light of the above, this section of my proof provides a detailed appraisal of the development proposals against the relevant policies contained within PPS 10.

### 6.2 Assessment

6.2.1 The PPS contains a number of key planning objectives (and other policy objectives) that are of relevance to the Mercia EnviRecover facility, these are summarised as follows:

a) moving the management of waste up the 'waste hierarchy' of reduction, re-use, recycling and composting, using waste as a source of energy, and only disposing as a last resort (Paragraphs 1 and 3);
b) 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 (Paragraph 3);
c) help implement the national waste strategy and supporting targets (Paragraph 3);
d) enable waste to be disposed of in one of the nearest appropriate installations (Paragraph 3 and Waste Strategy England 2007);
e) 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 (Paragraph 3);
f) reflect the concerns and interests of communities, the needs of waste collection authorities, waste disposal authorities and business, and encourage competitiveness (Paragraph 3);
g) sets out the locational requirements for new waste management facilities (paragraphs 17 – 21);
h) ensure the layout and design of new development supports sustainable waste management (Paragraphs 3, 35 and 36).

6.2.2 The proposal has been evaluated against each of these objectives to determine the extent to which the proposed development would accord or otherwise with the provisions of PPS 10.

***Moving the management of waste up the 'waste hierarchy' and helping to implement the national waste strategy, and supporting targets***

6.2.3 The revised PPS 10 sets out the new waste hierarchy. Within this framework the Mercia EnviRecover facility would be classified as 'other recovery' as it is a waste recovery facility (i.e. under the Revised Waste Framework Directive (2008/98/EC) it meets the R1 definition of a "recovery operation").

6.2.4 As set out in more detail in my sub-section 4.2, the joint authorities' residual municipal waste is presently being disposed of at landfill with some limited third party EfW. In 2010/11 some 209,471 tonnes of Worcestershire's and Herefordshire's residual MSW was landfilled and just over 18,000 tonnes was sent to remote, out of county EfW facilities. With regard to residual C&I waste circa 250,000 tpa (arising from within Worcestershire alone) was probably landfilled. Overall, I estimate there is currently approximately 460,000 tpa of residual waste being landfilled (i.e. Worcestershire and Herefordshire MSW plus Worcestershire C&I waste).

6.2.5 The EnviRecover facility would demonstrably result in a step change to the current position. Practically all the authorities' residual municipal waste would be diverted from landfill (as shown in Section 4.0 of my proof) and there would be no requirement to transfer waste to more distant EfW facilities outside of Worcestershire and Herefordshire.

6.2.6 There is presently no alternative residual waste treatment capacity in the two counties and as such the Mercia EnviRecover facility would provide an essential facility to move the management of Worcestershire's and Herefordshire's residual waste up the waste management hierarchy.

6.2.7 In meeting the objective to move waste management up the waste hierarchy, the proposal would contribute to the achievement of the Government's targets for the recovery of value from municipal waste and the diversion of biodegradable MSW (and to a lesser degree C&I waste) from landfill. These targets are both manifest in the national waste strategy (Waste Strategy England 2007).

***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***

6.2.8 As identified in the submitted planning application (Planning Statement Chapter 2.0), the (single) authority of Hereford and Worcestershire County Council commenced the procurement of a long term waste contract in the mid 1990s recognising the need for the development of municipal residual waste treatment facility(s) to serve the County. By the time MWM was awarded the municipal waste management contact in December 1998, the authority had, through local government reorganisation, split in two Councils (in early 1998). However, the contract procurement was based on the two new authorities working in partnership. Since this time they have gone on to produce a Joint Municipal Waste Management Strategy (JMWMS) and undertaken its review.

6.2.9 The contract, when signed in 1998, was done so on the basis that there would be a single residual waste treatment facility (at Kidderminster in Worcestershire) serving both of the Councils. The Options Appraisal study carried out by the Council in support of the JMWMS Review (see SoCG 1 paragraph 5.17), concluded that the three best performing options (against environmental, social and economic criteria) were all based on a single 'large' facility meeting the residual waste management needs of both the authorities. Given that circa 70% of the residual municipal waste arises in Worcestershire, it has always been envisaged that this authority would host the facility.

6.2.10 Notwithstanding this long indentified need for residual waste treatment capacity, an in-county solution has never been delivered. Instead the authorities have been historically reliant on using out-of-county EfWs (at Coventry, Wolverhampton, to a lesser degree Nottingham and with some trials at Allington in Kent), and will continue to do so (at Coventry and Stoke EfWs) whilst they have capacity and until an in-county solution comes forward. However, there is no secure long term agreement to use these EfW facilities and prices are rising as Landfill Tax rises (and EfW facility demand

increases). Sending the authorities' waste to remote EfWs is not a sustainable long-term solution and as such, this approach is considered to be very much an interim measure, until an in-county solution can be developed.

6.2.11 MWM has always responded effectively to the objectives of the Joint Municipal Waste Management Strategy (JMWMS) and its First Review. As such it has provided the vehicle for allowing the residents of the two Counties to take responsibility for their own waste and ensuring all statutory targets (including recycling / composting and landfill diversion) have been met to date. The biggest challenge now facing the community is in respect of meeting the 78% recovery target by 2015. This will necessitate a residual waste treatment facility. MWM has engaged the overall community on this matter. As described in the submitted planning application documents (Planning Application Document Part 4: Community Involvement Statement) MWM has canvassed public opinion about residual waste treatment by way of 'Attitudes to Waste and Recycling' telephone survey. In this exercise 1,300 residents, on a 50:50 split across Herefordshire and Worcestershire, were telephoned between 7th and 14th September 2009. The key results from the survey showed that 83% supported the policy of not sending waste to landfill; 81% felt that own waste should be dealt with locally; 89% said it was acceptable to treat residual waste and to get some sort of value from it; and 92% felt that Energy-from-Waste was an acceptable technology.

6.2.12 In this context, the Mercia EnviRecover facility would allow the communities in Worcestershire and Herefordshire to take more responsibility for the management of their residual waste. Its provision is probably more overdue than timely, but nevertheless it will provide a sufficiently sized solution for the people of Worcestershire and Herefordshire. Thus the development accords with this objective within PPS 10.

***Protect Green Belts….***

6.2.13 A detailed appraisal of the proposals in the context of Green Belt policy (including the provisions of PPS 10) is provided in Section 8.0 of my proof.

***Reflect the concerns and interests of communities, the needs of waste collection authorities, waste disposal authorities and business, and encourage competitiveness***

6.2.14 The proposed development would demonstrably meet the requirements of this objective / policy principle for the reasons outlined below.

i) The facility would specifically serve the needs of the people of Herefordshire and Worcestershire both in terms of delivering a sustainable solution for the management of residual MSW and through the generation of energy, including renewable energy. It would result in a facility which the population demonstrably needs and supports in principle, as described above with regard to the opinion survey undertaken by MWM.

ii) EnviRecover would address the concerns of the wider population by way of diverting waste from landfill and, in MWM's opinion, contributing towards combating climate change. It is fully acknowledged that the community in and around Hartlebury does have concerns about the development. Some of these are reflected in WAIL's evidence. However, MWM has undertaken an extensive public / community consultation exercise with the specific aim of attempting to assuage local concerns. This resulted in additional assessment work to address local worries about health impact through ingestion of pollutants in locally grown produce. On the issue of local concerns, I note that the most frequently raised issues on schemes of this nature (in my experience) are direct health and traffic impacts. It is notable that neither form part of WAIL's case. In addition, in making its determination on the planning application, the County Planning Authority undertook extended public consultation and gave detailed consideration to local comments. The consultation processes are summarised in paragraphs 3.13 to 3.17 of SoCG 1.

iii) The proposals would, for reasons described above, assist the waste collection and disposal authorities in the achievement of the waste recovery and landfill diversion targets set out in their First Review JMWMS (Target 5). Furthermore, the facility is centrally located to the

overall pattern of waste arisings and would benefit the waste disposal and collection authorities in terms of its ability to utilise the existing waste transfer infrastructure.

iv) The facility capacity not used for treating MSW would be available to commerce and industry and assist in the sustainable management of its waste. The wider economic benefits of the scheme to businesses are identified and described in Appendix NR17. This includes the future potential for industry to improve its competitiveness by way of tapping into a source of low carbon / renewable heat.

***The locational requirements for waste management facilities***

6.2.15 The locational requirements for waste management facilities are contained within paragraphs 18 – 21 of PPS10.

6.2.16 Paragraph 18 indicates that in allocating sites waste planning authorities should; *"avoid unrealistic assumptions on the prospects for the development of waste management facilities, or for particular sites and areas, having regard in particular to any ownership constraint which cannot be readily freed, other than through the use of compulsory purchase powers".*

6.2.17 The proposal relates to the development of a site which is within the ownership of Worcestershire County Council. As a consequence, the site has no ownership constraints that could prevent the proposal from coming forward.

6.2.18 Paragraph 20 indicates that in searching for suitable sites and areas for new or enhanced waste management facilities waste planning authorities should consider *"a broad range of locations including industrial sites, looking for opportunities to co-locate facilities together and with complimentary activities".* The proposed development would be located on an employment site within an established industrial estate that has previously benefited from planning permission for the development of a major residual waste management facility. There is also potential for the use of the heat generated by the facility on the Trading Estate and to use the bottom ash as

a raw material in the manufacture of building products within the immediate locality.

6.2.19 Paragraph 21 set out a number of criteria, waste planning authorities should consider when deciding which sites to identify for waste management facilities. The criteria contained within this paragraph of the PPS include:

(i) *assess their suitability for development against each of the following criteria:*

- *the extent to which they support the policies in this PPS;*
- *the physical and environmental constraints on development, including existing and proposed neighbouring land uses (see Annex E);*
- *the cumulative effect of previous waste disposal facilities on the well-being of the local community, including any significant adverse impacts on environmental quality, social cohesion and inclusion or economic potential;*
- *the capacity of existing and potential transport infrastructure to support the sustainable movement of waste, and products arising from resource recovery, seeking when practicable and beneficial to use modes other than road transport.*

*(ii) give priority to the re-use of previously-developed land, and redundant agricultural and forestry buildings and their curtilages.*

6.2.20 Each of these points is considered below:

i) It has been demonstrated in this section of my evidence that the proposal would be entirely consistent with the relevant policies / guidance contained within PPS10.

ii) The Environmental Statement confirms that the development would not result in any significant environmental effects, including those identified in Annex E of PPS10.

iii) The cumulative effects of the proposed development with other existing and planed development within the surrounding locality are assessed in the Environmental Statement (Chapter 16.0). It concludes that the proposals would not result in any significant or adverse cumulative effects.

iv) The site benefits from excellent transport links via the A449 and good access to the lorry route network and to the M5 Motorway. As such, the transport infrastructure in the vicinity of this site is capable of accommodating the additional traffic that would be generated by the proposal. No significant effects impact upon the surrounding road network due to increases in traffic have been identified in the Transport Assessment and none of the main parties at the Inquiry has identified any unacceptable highway or transportation effects. The position on non-road based transportation is set in paragraph 8.20 of SoCG 1.

v) The development would utilise an employment site, in part comprising previously developed land, within a large established industrial estate that has been the subject of planning permission in the past for the development of a major residual waste treatment facility.

6.2.21 In light of the above, it can be concluded that the proposals would be entirely in accordance with the locational criteria set out within paragraphs 17-21 of PPS10.

***Ensure the layout and design of new development supports sustainable waste management***

6.2.22 Paragraphs 3, 35 and 36 of PPS 10 specifically consider the design and layout of new waste management developments, they state:

*"….Planning authorities should ensure that new development…..promotes designs and layouts that secure the integration of waste management facilities without adverse impact on the street scene…."* (Paragraph 35 extract)

*"waste management facilities in themselves should be well-designed, so that they contribute positively to the character and quality of the area in which they are located. Poor design is in itself undesirable, undermines community acceptance of waste facilities and should be rejected."* (Paragraph 36)

6.2.23 With regard to design quality reference should be made to the Design and Access Statement contained within Part 2 of this Planning Application

Document and the consideration of alternatives contained within Chapter 5.0 of the ES. Both demonstrate the design process resulting in what MWM believes is a high quality and well considered design solution. MWM's view on design was largely supported by the consultation responses from the County Architect on the planning application.

## 6.3 Conclusion

6.3.1 In light of the above, I conclude that the Mercia EnviRecover development would be wholly in accordance with the relevant objectives and policies of PPS10. Furthermore, as a consequence, the proposals should be supported where policies within the Development Plan have not been amended to reflect PPS10.

## 7.0 SECRETARY OF STATE ISSUE C: PPS1 SUPPLEMENT: PLANNING AND CLIMATE CHANGE (CD-NPP2)

### 7.1 Introduction

7.1.1 SoCG 1 (from paragraph 6.24) sets out the Applicant's position (agreed with the Council) in respect of the Secretary of State's requirement to be informed on the extent to which the proposal is consistent with the advice in PPS1 Supplement and thus delivering the Government's Climate Change Programme and energy policies. This includes:

- Identifying that the proposal is renewable and / or low carbon energy supply facility to which PPS1 Supplement directly relates;
- The fact that a proportion of the energy generated by the scheme would be renewable;
- That the scheme would directly contribute towards delivering the three relevant key planning objectives in the PPS1 Supplement;
- That the submitted planning application together with analysis in the Committee report contained the appropriate level of assessment to demonstrate the net annual reduction in $CO_2$ equivalent tonnes per annum that would be achieved by the scheme.

7.1.2 SoCG 1 concludes on this issue: *it is agreed that the proposed development is consistent with the advice in the PPS 1 Supplement on Climate Change and demonstrably complies with the Key Planning Objective by making a full contribution to delivering the Government Climate Change Programme and energy policies, and in doing so contribute to global sustainability.*

7.1.3 In addition to the above, I have within sub-section 4.3 of my proof provided a more detailed analysis of the benefits of the EnviRecover scheme in so far as it would make a significant regional and sub-regional level contribution towards delivering the Government's energy policy and thus climate change programme.

7.1.4 SoCG 1 and my sub-section 4.3 explicitly quantify, in numerical terms, the extent of the contribution that the scheme would make. Thus, in order to avoid undue repetition, this section of my evidence is limited to:

- Summarising the additional work carried out by Stephen Othen in relation to climate change benefits in particular the Greenhouse Gas Assessment report appended to his proof. It should be noted that this assessment provides a different (but consistent) figure for carbon dioxide equivalent savings associated with the scheme than that set out in SoCG1. This is explained by Stephen Othen.
- Providing an updated conclusion as to the extent to which the proposal is consistent with the advice in PPS1 Supplement and thus delivering the Government's Climate Change Programme and energy policies.

## 7.2 Evidence of Stephen Othen

7.2.1 In his evidence Stephen Othen explains that the assessment of the impact on national greenhouse gas emissions of the EnviRecover Facility is relatively complicated. This is because there are three variables in the assessment calculations that can provide a wide range results dependent upon which variable value is adopted. The variables are:

- The carbon emissions associated with the waste disposal which would have occurred if the waste were not to be combusted
- That the carbon in the waste is not entirely biogenic in origin, so only some of the carbon dioxide produced by the combustion plant needs to be taken into account.
- Which form of power generation would be displaced by the EfW plant and the associated level carbon dioxide that this would release.

7.2.2 The results of this assessment indicate that there is a reduction in greenhouse gas emissions associated with the scheme, regardless of which variables are used. This could be as high as 182,100 tonnes of carbon dioxide equivalent per annum or as low as 14,900 tonnes. Using conservative assumptions the EnviRecover Facility is predicted to reduce greenhouse gas emissions by around 34,700 tonnes of carbon dioxide equivalent per annum.

7.2.3 This is a significant environmental benefit of the scheme and accords fully with the primary objective of the PPS1 supplement to contribution to delivering the government's climate change programme.

## 7.3 Conclusions

7.3.1 Paragraph 9 of the Supplement sets out the "Key Planning Objectives", which are to be delivered through the preparation and management of spatial strategies. In the subsequent text I have identified the relevant objectives and how the proposal would meet them.

i) ***Make a full contribution to delivering the government's climate change programme and energy policy and contribute to global sustainability*** - The proposed EfW facility would deliver 13.5 MW of electricity (50% - 60% of which would be renewable energy) to the local supply grid, which would otherwise have to be generated by burning fossil fuels. In addition, there is an identified heat off-take scheme which is both technically viable and economically feasible. If implemented, this would make the facility a combined heat and power (CHP) plant, with associated energy efficiency benefits. As such, it is making a valuable contribution to Government energy policy by reducing carbon emissions and providing security of supply. It will also divert waste from landfill with further $CO_2$ equivalent savings as described above.

ii) ***In providing for homes, jobs and infrastructure needed by communities secure the highest viable resource and energy efficiency and reduction in emissions*** – Section 4.0 of my evidence details how the EnviRecover facility is greatly needed by the population of Worcestershire and Herefordshire both in terms of delivering sustainable waste management and contributing towards combating climate change. The proposal would be an efficient electricity generating installation (in the context of exceeding the R1 efficiency threshold) and is also well located in respect of providing good opportunities to export heat. This would further improve its overall efficiency (refer to sub-section 2.4 of my proof). Finally, as demonstrated by the evidence of Stephen Othen, it would deliver a significant reduction in emissions when compared to current waste management practices.

iii) ***Deliver patterns of sustainable growth and transport*** - The site is well located in respect of the overall pattern of waste arisings and the strategic highway network. It has excellent transport links via the A449 (an identified lorry route) and the M5 Motorway to the wider area. It can is also be served by the existing waste transfer station network, obviating the need to further infrastructure to be developed in this regard.

iv) ***Secure new development in places that minimise their vulnerability and provide resilience to climate change*** – As set out above, the proposal would directly contribute to combating climate change. Furthermore, the application site is not vulnerable to climate change in terms of flood risk (refer to Chapter 11.0 of the ES and the Environment Agency's consultation response).

v) ***Conserve and enhance biodiversity*** - as demonstrated with Chapter 9.0 of the ES, and through the consultation responses of Natural England and the County Ecologist, subject to the adoption of mitigation measures (controlled by the suggested planning conditions), the residual impacts resulting from the proposed development are not significant in terms of biodiversity.

vi) ***Reflects the needs and interests of communities and enable them to contribute to tackling climate change*** – The proposal would make a very significant contribution towards Worcestershire's targets for combating climate change. The community must meet these targets and it is in their interests to do so. The definition of communities in this context should not be interpreted too narrowly. As the Energy White Paper states (in Box 5.3.3), whilst the benefits of renewable developments are not always visible to the specific locality in which it is sited, they do provide crucial national benefits which are shared by all communities and must be accorded significant weight in the planning process.

## 8.0 SECRETARY OF STATE ISSUE D: PPG2: GREEN BELTS (CD-NPP4)

### 8.1 Introduction

8.1.1 The Secretary of State has asked to be informed on four matters relating to Green Belt policy. These can be summarised as:

- The extent to which the proposal is consistent with PPG2: Green Belts and in particular:
  - Whether it is inappropriate development and if so do very special circumstances exist?
  - The purposes of including land in the Green Belt.
  - Whether it would harm the visual amenities of the Green Belt.
  - The degree to which it might contribute to the objectives for the use of land in the Green Belt.

8.1.2 In this section of my evidence, I address each of the above matters in turn. In dealing with the third specific point (visual amenities) I am reliant on the evidence of Jon Mason. In addition, whilst not specifically raised as a discrete issue by the Secretary of State, I have given regard to the effects upon the openness of the Green Belt

### 8.2 (a) Inappropriate Development and Very Special Circumstances

8.2.1 It is, and always has been, the Applicant's position that the proposal is inappropriate development in the Green Belt. This is due to the EnviRecover buildings being located in a major developed site in the Green Belt, but not according with the requirements for such buildings as set out in PPG2 Annex C i.e. the development does not meet the criteria to qualify as redevelopment of an existing building or limited infilling.

8.2.2 Thus in order for planning permission to be granted very special circumstances need to exist which outweigh the harm to the Green Belt caused by the inappropriateness and any other harm.

8.2.3 In my view, the starting point on very special circumstances is that it is not necessary to show that each and every factor (or circumstance) in itself amounts to a very special circumstance, but that the combination of circumstances, viewed objectively, is capable of being described as 'very special'. A number of ordinary factors may when combined together result in something very special. This is a matter for the planning judgment of the decision-taker (J. Sullivan in Basildon DC v. FSS [2005] EWHC 942).

8.2.4 In SoCG 1, it is agreed between the Council and the Applicant that, in the case of the Mercia EnviRecover project, there are very special circumstances which outweigh the harm to the Green Belt caused by the inappropriate development and any other harm. The Council and the Applicant have significant consensus on this matter, but do not fully agree every single circumstance or the respective weight that may be attached to them. Those factors that are agreed are summarised in SoCG 1.

8.2.5 Notwithstanding this agreement, very special circumstances are a key element of the planning application and as such I am obligated to consider them in full. This exercise is extensive and was undertaken as part of the planning application process, both in the original Planning Statement and post submission by virtue of the Green Belt Synopsis Report (CD-PA3). However, given the passage of time since this work was carried out, I have updated the very special circumstances assessment below. This has been set out in the context of Paragraph 3 of PPS10.

8.2.6 Paragraph 3 of Planning Policy Statement 10 (PPS 10) requires planning authorities (and other decision makers, i.e. the Secretary of State in the present situation), when determining planning applications, to recognise the particular **locational needs** of some types of waste management facilities in the context of Green Belt policy and to consider whether 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. Whilst the PPS maintains a duty for authorities to protect Green Belts, recognition of the specific needs and benefits that could

accrue from some types of waste management facilities (in the context of Green Belt policy) is an important concession which is not afforded to most other types of development.

8.2.7 Furthermore, the Consultation on Planning Policy Statement: Planning for a Low Carbon Future in a Changing Climate recognises (Policy LCF 14.2) that when located in the Green Belt elements of many renewable energy projects will comprise inappropriate development 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 (noting that Annex 1 identifies Energy from Waste as a renewable / low carbon energy supply technology).

8.2.8 The identical message is expressed in paragraph 13 of PPS 22: Renewable Energy. Whilst this PPS is not directly applicable to mass burn EfW facilities, the principle of very special circumstances potentially including the wider **environmental benefits** associated with increased production of renewable energy should still hold true. Indeed, the National Policy Statement for Renewable Energy Infrastructure (EN-3), which explicitly does encompass all EfW facilities and is likely to be a relevant material planning consideration in this case, makes exactly the same point at paragraph 2.3.5.

8.2.9 In the context of the provisions of PPS 10 (supported by the draft PPS on climate change, PPS 22 and NPS EN-3) this synopsis document appraises the Mercia EnviRecover proposals in respect of Green Belt Policy. In doing so it draws on information submitted as part of the original planning application and in evidence to the Public Inquiry, following which the application will now be determined. Reflecting the key factors in PPS 10, the appraisal is set out under the headings of:

- Locational Needs;
- Environmental Benefits;
- Economic Benefits.

***Locational Needs***

8.2.10 It is first important to reiterate that, as set out in Section 4.0 of my proof, there is a long term and clearly identifiable need for a single residual waste treatment facility (such as Mercia EnviRecover) to serve the Joint Authorities.

8.2.11 Given that there is a clear need for a single major residual waste treatment facility (EfW facility) to serve the Joint Authorities, it is important to identify the key locational need or requirements for such a facility. These are set out below, together with the relevant supporting policy references:

i) Being located proximate to the main areas of waste arisings, both existing and proposed (in accordance with the Waste Framework Directive 2008 Article 16 and Structure Plan Policy WD.2);

ii) Being located in an area with suitable transportation infrastructure (in accordance with PPS 10 paragraph 21(i) and Structure Plan Policy WD.3);

iii) Being located on an industrial estate (as identified in PPS 10 paragraph 20 and Structure Plan Policy WD.2);

iv) Being located in an area which does not contain insuperable environmental constraints (PPS 10 paragraph 21(i) & Annex E and Structure Plan Policy WD.3);

v) Being located in an area where there are realistic opportunities to facilitate the export and use of energy recovered from the waste (Waste Strategy England 2007 [specifically the Waste Hierarchy], Energy White Paper 2007, Planning Policy Statement 1 Supplement – Planning and Climate Change 2007, UK Renewable Energy Strategy 2009 and the Draft Planning Policy Statement: Planning for a Low Carbon Future in a Changing Climate 2010);

vi) Being located on an appropriate site which is available, avoiding any unrealistic assumptions about availability (PPS 10 paragraph 18).

8.2.12 All of these factors were considered by MWM when they undertook a comprehensive Site Search Exercise (SSE) in order to identify the optimum location for a single EfW facility. The SSE was originally undertaken in five

distinct stages and considered circa 60 locations (a number of which contained more then one potential site). The full SSE report is provided in Appendix 4.1 of the Planning Statement. The SSE established that the land at Hartlebury Trading Estate represents the **only** suitable and available site for the development of the proposed EfW facility. This has subsequently been confirmed to still be the case in Stage 6 of the SSE undertaken shortly before the Public Inquiry following which the application will be determined (see Appendix NR16).

8.2.13 Notwithstanding the conclusion that the current application site is the **only** suitable and available site, it is necessary to demonstrate that it meets all of the aforementioned locational criteria in order to assist in proving very special circumstances. As such, the site has been evaluated against each criterion.

*Proximity to the Main Areas of Waste Arisings, both Existing and Proposed*

8.2.14 In light of the need for just one facility to serve the Joint Authorities it is first important to determine whether there are any locational needs in terms of whether the facility should be situated in Herefordshire or Worcestershire, or whether site location is not an important factor.

8.2.15 The facility would manage residual municipal waste generated by householders within Herefordshire and Worcestershire. In terms of population, according to the statistics provided on the two counties web-sites, there are presently 557,000 residents living within Worcestershire (Office for National Statistics Mid-year Estimates 2010, published June 2011) and 179,000 residents living within Herefordshire (Office for National Statistics Mid-year Estimates 2010, published June 2011). As a consequence, circa 70% of householders generating municipal waste within the two Counties are situated within Worcestershire. This population distribution is reflected in MWM's latest waste management forecasts which indicate that the proposed facility would need to be capable of managing circa 200,000 tpa of waste, the majority of which (circa 70%) would arise within the County of Worcestershire.

8.2.16 One of the key sustainable transport objectives set out within national (PPG 13 paragraph 3) and local planning policy (Structure Plan Policy WD.2 & WD.3) is to promote development proposals which reduce the length of journey. This principle is also reflected in the JMWMS Review (Policy 23) which seeks to reduce the carbon emissions associated with the transportation of waste.

8.2.17 Whilst the distribution of population and waste arisings clearly point to the benefit of any single EfW facility being located within Worcestershire, MWM has undertaken a comparative vehicle mile assessment to understand the quantum of the benefit. This has involved calculating the respective distances that the waste delivery fleet would have to travel, based upon an EfW facility in either central Herefordshire or central Worcestershire. The work is set out in full within the Green Belt Synopsis Report (CD??). It is accepted that this was a relatively crude exercise, but nevertheless it provided a comparative order of magnitude assessment. The assessment found that:

- Annual vehicle miles travelled delivering waste to a central Worcestershire EfW (using the existing waste transfer station [WTS] infrastructure; 579,246 miles);
- Annual vehicle miles travelled delivering waste to a central Herefordshire EfW facility (using the existing WTS infrastructure; 1,222,849 miles);
- Total vehicle miles travelled over 16 years (remainder of MWM waste contract) delivering waste to a central Worcestershire EfW facility (using the existing WTS infrastructure; 9,267,937 miles);
- Total vehicle miles travelled over 16 years delivering waste to a central Herefordshire EfW facility (using the existing WTS infrastructure; 19,565,587 miles).

8.2.18 This exercise clearly demonstrated the material benefit of a single EfW facility being based in central Worcestershire as opposed to central Herefordshire due to the fact that the vast majority of the waste requiring management would arise within Worcestershire. It would appear logical that in order to ensure that environmental benefits associated with reduced vehicle miles are maximised, the EfW facility is located within this County.

Such environmental benefits are set out below and recognised in the CLG publication: National Indicators for Local Authorities and Local Authority Partnerships: Handbook of Definitions First release (February 2008), Annex 4: Local Economy and Environmental Sustainability which includes, as National Indicator 185, the objective of reducing $CO_2$ emissions from road transport.

8.2.19 Having established that there is a locational need for the facility to be in Worcestershire, it is then necessary to determine whether there are important location needs within the County. This process is informed by:

- The figure contained within the Planning Statement illustrating population distribution in the main urban centres within Worcestershire, repeated as Appendix NR9;
- The evidence base for the WCS 'Identifying Areas of Search' (last updated 16th March 2011 – see CD-DP8).

8.2.20 The population distribution figure (see Appendix NR9) identifies the distribution of population in the main urban centres within Worcestershire. It clearly demonstrates that the ideal location in terms of a single treatment facility is the within the triangle formed by Redditch-Kidderminster-Worcester, the three largest centres of population, and hence municipal waste arisings. This triangle also encompasses Bromsgrove and Droitwich the fifth and sixth largest population centres, respectively. Within this triangle there are 4 primary roads (the M5, A449, A448 and A38). Ideally any prospective site should be well linked to these routes. In the case of the EnviRecover facility, the figure shows that it sits relatively centrally within the triangle, immediately adjacent to the A449. For these reasons MWM has always been clear that the Hartlebury site is at (or very close to) the optimum location to serve the overall pattern of waste arisings within Worcestershire. Furthermore, that it is the only available, suitable site within this area (or indeed anywhere within the County). Thus, the EnviRecover facility represents the nearest appropriate installation at which waste should be recovered (meeting the test in Article 16, paragraph 3 of the Waste Framework Directive 2008).

8.2.21 MWM's conclusions on this matter are also to a large extent verified by the area of search assessment that has been undertaken by the joint authorities in support of the emerging WCS. This forms part of the evidence base for the WCS and is titled 'Identifying Areas of Search' (last updated 16th March 2011 – see CD-DP8). The assessment was first published in support of the First Draft Submission of the WCS (September 2010). This version of the document contains a comprehensive 5 stage process to identifying areas of search for waste management development.

- *STAGE 1 -Identifying areas for consideration with potential for the development of waste management facilities*. This desk top evaluation identified all potential sites and graded them in terms of suitability using a traffic light technique (i.e. green, amber and red) and noted which of the identified sites are deemed potentially suitable for large scale facilities.
- *STAGE 2 - Assessment of constraints including designated and non-designated areas and features*. This stage evaluated all of the identified sites and graded each using the traffic light system.
- *STAGE 3 Assessment of connectivity to the strategic transport network*.. This stage each evaluated all of the identified sites in terms of transport links and connectivity. Again each site was graded using the traffic light system
- *STAGE 4 Assessment of proximity to waste arisings, onward treatment facilities, end users*. In this stage a geographic hierarchy of locations was created taking into account: current roles in waste management; current waste arisings and resource demand; and expected future growth. This resulted in the following hierarchy of locations being identified (with the most desirable areas, particularly for significant facilities, ranked highest):
    i. Worcester, Kidderminster and Redditch (i.e. Worcester and its expansion areas, Kidderminster area (including Stourport and Bewdley) & Redditch)
    ii. Bromsgrove, Droitwich and Malvern
    iii. Evesham and Pershore
    iv. Tenbury Wells and Upton-upon-Severn
    v. Rural areas

- *STAGE 5 Identification of Areas of search.* This stage effectively drew together the work in all of the previous stages in a tabulated form to identify the most suitable sites for various scales of waste development

8.2.22 In summary the Stage 5 work / final assessment table showed:

- There were only five sites identified as being possibly suitable for large scale facilities;
- Of these five all score two greens and one amber in terms of the Stages 1, 2 and 3 criteria;
- Of the five only one was located in the top hierarchical location i.e. Worcester, Kidderminster and Redditch (which effectively encompasses the same area as MWM's 'triangle' of search). This site is Hartlebury Trading Estate.

8.2.23 In the next stage of consultation on the emerging WCS (Publication Draft, March 2011) the Council refined their 'Identifying Areas of Search' report. They confirmed that the geographical hierarchy identified in the previous version of the report, could (in combination with the waste hierarchy) form the basis of a spatial strategy and that the concept of the 'areas of search' could only be used very broadly. However, the principles of the geographical hierarchy and the suitability of the sites that were appraised remains valid. In the latest iteration of the report Table 10 lists the potential locations and where they fall in the geographical hierarchy of locations. Hartlebury Trading Estate continues to be identified in the top category of the spatial hierarchy. Table 11 indicates that industrial land (i.e. sites like Hartlebury Trading Estate) is a 'compatible land use' for waste recovery facilities.

*Suitability of Transportation Infrastructure*

8.2.24 The Mercia EnviRecover facility would be directly accessible from the primary road network (the A449, one of the principal roads within the County and part of the Worcestershire Lorry Advisory Route). In light of this fact, waste vehicles would approach the site using an appropriate standard of road. Adherence to suitable primary roads offers considerable

environmental benefits (for example the avoidance of community severance and amenity impacts associated with vehicles passing through settlements on minor roads; and more efficient fuel use associated with constant vehicle speeds and the consequential reduction of pollutant and greenhouse gas emissions).

8.2.25 The planning application was supported by a comprehensive Transport Assessment which concludes that the traffic generated during the operation and construction of the facility would not result in any significant effects in terms of:

- Increases delay or congestion on the existing road network;
- Highway safety;
- Network capacity;
- Traffic related environmental conditions.

8.2.26 The local highway authority (Worcestershire County Council) confirmed on 27th September 2010 that they accepted the findings of the Transport Assessment and stated that they: have no reason other than to recommend approval to the development proposals (subject to conditions). This is fully accepted by the Council as a Planning Authority in SoCG 1 Section 8.0.

8.2.27 A further benefit of locating the proposed EfW development on Hartlebury Trading Estate is that it would not be necessary to develop any further waste management transportation infrastructure (specifically waste transfer stations - WTSs) in the Joint Authority area to support its operation. This is due to the following:

- Herefordshire, Redditch and Bromsgrove all have existing WTS facilities and are thus equipped to bulk haul waste (in payloads averaging circa 17 tonnes) to a treatment point remote from their administrative area;
- The southern part of Wychavon (around Evesham and Pershore) will be able to bulk haul waste (again in payloads averaging circa 17 tonnes), using the existing WTS at Hill and Moor Landfill, to areas not proximate to South Wychavon;
- Wyre Forest, Worcester City and the northern part of Wychavon (Droitwich) have no WTS facilities and therefore will direct deliver waste

for treatment in Refuse Collection Vehicles (RCVs) at payloads averaging circa 6 tonnes. This makes it impractical for these authorities to deliver waste significant distances beyond their administrative boundaries and doing so would materially increase waste vehicle miles and disrupt the waste collection service. Thus, there is considerable benefit, from the point of view of existing infrastructure, in locating any future treatment facility in a location lying between these three areas.

8.2.28 The EnviRecover site is located between Wyre Forest, Worcester City and the northern part of Wychavon (Droitwich). It is therefore in a good location from which to gain the maximum benefit from existing, supporting WTS infrastructure. This is considered to be more sustainable than siting a facility in an alternative location (remote from Wyre Forest, Worcester City and the northern part of Wychavon) which would require the development of considerable new waste management infrastructure in order to perform as well as the EnviRecover site from a waste vehicles miles perspective.

*Industrial Estate Location*

8.2.29 Hartlebury Trading Estate is one of Worcestershire's largest industrial estates comprising circa 160,000m$^2$ of industrial / commercial units and office space. Worcestershire County Council has long recognised its potential to accommodate significant waste management developments, evidenced by the decision to grant planning permission for the Estech autoclave municipal waste management facility in 2004.

8.2.30 More recently, the emerging Worcestershire Waste Core Strategy has been informed by a series of technical papers / studies. The most relevant of these documents in the context of the Mercia EnviRecover proposals is the WCS Industrial Estates Study Background Paper (ERM October 2009) which sought to identify a series of industrial estates within the County that are potentially suitable for the delivery of waste treatment facilities. The study concludes that there are fifteen industrial sites that are potentially suitable for the development of larger facilities and seven particularly

appropriate for a facility of strategic importance. Hartlebury Trading Estate is identified as being appropriate for a waste facility of strategic importance.

*Environmental Constraints*

8.2.31 The first point to note is that with the exception of being located within a major developed site in the Green Belt, the site of the Mercia EnviRecover facility is not covered by any other international, national or local environmental or other protective designations. Furthermore, it is located a sufficient distance from sensitive receptors in order to avoid impact on local amenity by virtue of such factors as noise etc.

8.2.32 The environmental effects of the proposal have been evaluated by way of a comprehensive Environmental Impact Assessment (EIA) process. This process evaluated all potentially significant effects (including those topics included in Annex E of PPS 10) under the following headings:

- Traffic and Transportation
- Landscape and Visual Impact
- Ecology and Nature Conservation
- Geology, Soils and Groundwater
- Surface Waters and Flood Risk
- Noise and Vibration
- Air Quality
- Human Health
- Archaeology and Cultural Heritage
- Cumulative Effects Assessment

8.2.33 The Environmental Statement - ES (reporting the EIA process) concluded that no significant effects would occur. The Council agrees with the ES conclusions, in so far as it agrees (SoCG 1 Sections 7.0 and 8.0) that none of the above topic areas present a reason for the application to be refused. In making this statement I note, I out of fairness, that the Council had not seen the subsequent Regulation 19 submission (3b) relating to Great Crested Newt. They can confirm their view on the issues raised in this report at the Inquiry.

*Opportunities to Facilitate the Export and Use of Energy*

8.2.34 One of the primary purposes of an EfW facility is the ability to recover energy from the combustion of the waste by way of electricity and / or heat (steam and / or hot water) production. A proportion of this energy (typically between 50 and 60% - based on the bio energy content of the waste) is classified as being renewable energy. This relates to the combustion of the biogenic component of the waste that provides the fuel to ultimately generate the energy.

8.2.35 Clearly this energy needs to be captured and utilised. The degree or effectiveness with which this can occur is influenced by a range of factors, one of which is the location of the site.

8.2.36 The locational benefits for energy recovery arising from the development of the Mercia EnviRecover facility at Hartlebury Trading Estate are discussed in more detail below.

8.2.37 In respect of electricity generation and use, the submitted planning application includes an electricity grid connection study. This demonstrates that the site is in close proximity and well related to the infrastructure necessary to secure a grid connection (for the export of electricity). Options exist to connect at four voltages (11Kv, 33Kv, 66Kv and 132Kv), with the 66Kv connection located only 1.5 Km distance from the site. This represents an economic (viable) solution that is a material benefit arising from the location of the site. In MWM's experience, grid connection on other EfW facility sites is often far more problematic and needs to span distances of several kilometres, with the consequential economic and environmental dis-benefits. The ability to effectively export electricity results in the proposal being classified as an efficient energy recovery facility. This is an important positive planning consideration arising from the site's location.

8.2.38 The preferred route of the grid connection is to the 66kv connection situated circa 1.5km from the site. This is described in the Regulation 19 submission

which also confirms that there would be no significant environmental effects associated with the proposed connection.

8.2.39 With regard to heat use, the plant has the capability of producing as much as 370,000 MWh/yr of heat in the form of steam. Depending upon the level of electricity generation for which the plant is configured, a proportion of this would be available for export, either as steam or hot water. MWM has undertaken a range of activities to investigate heat off-take options which are described fully in sub-section 2.4 of my proof, this draws the following conclusion:

*…due to its scale and nature, the Hartlebury Trading Estate site offers good future potential for heat off-take. MWM is actively marketing this potential. To date one firm proposal has been identified (Wienerberger) and discussions on this being developed are being progressed. As the policy and fiscal position encouraging heat use firm up and begin to bite, MWM believes further proposals will be realised.*

*Site Availability*

8.2.40 The proposal relates to the development of a site which is within the ownership of Worcestershire County Council. As a consequence, the site has no ownership constraints that could prevent the proposal from coming forward.

***Environmental Benefits***

8.2.41 The environmental benefits of the Mercia EnviRecover facility being located at Hartlebury Trading Estate can be summarised as follows:

i) As identified above, the Mercia EnviRecover facility is well located to potential large scale heat users and represents a real opportunity for Combined Heat and Power (CHP) development through the pre-heating of the brick kilns at Wienerberger. MWM believe further CHP opportunities will be realised as government policy (including fiscal incentives) fully evolves to support heat off-take proposals (see sub section 2.4 of my proof for further details). There are clear

environmental benefits associated with the ability for existing and future potential consumers to utilise low carbon energy.

ii) Again, as described previously in my proof, the location of the site central to the principal areas of waste arisings (the Core Waste Arisings Area) and directly accessible from the primary road network is a material planning consideration. Reducing the distance waste has to travel and adherence to suitable primary roads both offer considerable local environmental and wider climate change benefits (as described in the section of my Green Belt assessment dealing with the suitability of transportation infrastructure).

iii) A further environmental benefit of locating the proposed EfW development on Hartlebury Trading Estate is that it would not be necessary to develop any further waste management infrastructure (specifically waste transfer stations - WTSs). The development of such additional facilities would, as a matter of fact, result in resource depletion (use of primary materials in construction) and a degree of adverse environmental impact in the host communities.

iv) There is real potential to use the bottom ash from the EfW process as a raw material in the manufacture of building products within the immediate locality (as described in sub-section 2.5 of my proof). This would offer a number of real benefits including: the co-location of complementary facilities; the recycling of the by-products of the EfW process; and environmental sustainability benefits in terms of a reduction in the distance incinerator bottom ash (IBA) has to be transported for re-processing.

v) During either planned / unforeseen shut down of the proposed EfW plant, it would be necessary to temporarily re-direct residual waste to landfill. Waresley / Hartlebury Landfills (which ever is operational at the relevant time) would represent a very proximate and suitable location for short-term residual waste disposal in such circumstances. The ability to temporarily divert waste locally would result in environmental benefits through avoidance of transporting waste to more distant facilities.

8.2.42 PPS 10 paragraph 3 gives weight to the wider (non-site specific) environmental benefits of certain waste management facilities. Furthermore, given that no other alternative suitable and available site has been identified for the proposal, it is also appropriate to consider the general environmental benefits of the Mercia EnviRecover facility, given that were it to be rejected at the current application site these would not be realised in timescales that would enable statutory landfill diversion and waste recovery targets to be met. The temporal aspect of delivering appropriate sustainable waste management infrastructure are embodied in policy, specifically PPS 10 paragraph 3 which states that authorities should deliver planning strategies (and, by virtue of paragraph 5 of the PPS, determine planning applications) that (my emphasis): *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.*

8.2.43 The wider environmental benefits can be summarised as follows:

i) Worcestershire and Herefordshire presently have no municipal residual waste treatment facilities. As such residual waste is either:

- Transported out-of-county for treatment;
- Disposed of at in-county landfills.

The former option results in significantly greater transportation requirements and the associated environmental dis-benefits related to vehicle emissions (amongst other factors such as increased congestion). The latter results in a range of adverse environmental effects (recognised in national, regional and local waste management policy). This includes the release of greenhouse gases in particular methane, which is approximately 24 times more effective at trapping heat within the atmosphere than $CO_2$.

ii) As described within the submitted planning application and within Section 4.0 of my proof, the proposal is an important renewable energy development for which there is an overriding need at the national, regional and local level. I have quantified the benefits of the scheme in this regard previously within my proof and do not repeat them here.

iii) With regard to $CO_2$ avoidance, in order to quantify the environmental benefits the original planning application used the Environment Agency's WRATE model to evaluate the Global Warming Potential (GWP), expressed in tonnes of $CO_2$ equivalent per annum. The assessment estimates $CO_2$ emissions generated as a result of construction and operational impacts, transportation impacts and the displacement of power generation from fossil fuel power stations. The result of this assessment has shown that implementing the Mercia EnviRecover facility, as opposed to not operating the plant, would result in a net annual reduction of 7,361 tonnes of $CO_2$ equivalent per annum i.e. the greenhouse gas emissions associated with constructing and operating the facility would be more than offset by the electricity generation displacing fossil fuel derived electricity. In addition, and not included with the 7,361 tonne $CO_2$ equivalent reduction, there would in reality be further significant greenhouse gas reduction associated with diversion of waste from landfill. This relates to the avoidance of methane and $CO_2$ leakages from landfill operations.

iv) As set out in sub-section 7.2 of my proof, the Greenhouse Gas Assessment provides a different (but consistent) figure for carbon dioxide equivalent savings than that above (explained by Stephen Othen). This indicates that the EnviRecover Facility is predicted to reduce greenhouse gas emissions by around 34,700 tonnes of carbon dioxide equivalent per annum. I also note that updated Options Appraisal provides a slightly different figure again, owing to it using the updated WRATE model.

***Economic Benefits***

8.2.44 The economic benefits of the Mercia EnviRecover facility being located at Hartlebury Trading Estate were summarised in the Green Belt Synopsis Report (submitted in support of the planning application) as follows:

i) The location of the facility within the triangle formed by Redditch-Kidderminster-Worcester is closest to the main population centres and hence waste arisings, thereby offering transport cost

efficiencies. MWM's SSE has not identified any other site suitable for a large scale facility within this zone. Additionally, (whilst superseded) the area of search exercise undertaken in support of the First Submission draft of the emerging WCS also draws this conclusion.

ii) As described previously, no other new, supporting waste management infrastructure is required, therefore saving on further capital expenditure.

iii) There is no requirement for upgrading highways infrastructure (for example, as was the case with the Kidderminster EfW proposal), noting that the local highway authority's consultation response states: *We do not foresee any physical mitigating works as being needed to the immediate surrounding highway network to facilitate this development.*

iv) As identified previously the Hartlebury site is well placed for connection to the electricity grid, saving potentially onerous infrastructure development costs.

v) Being sited on an established industrial employment there is substantial opportunity for the heat from EnviRecover to be directed to co-located industrial and business end-users. This would avoid the onerous cost of long distance heat energy transmission. Furthermore, units on the Hartlebury Trading Estate are serviced by private estate roads which would make it far less complex and more cost effective to install heat distribution infrastructure, as compared to an estate served wholly by an adopted highway network.

vi) The added-value potential of this renewable energy opportunity makes the Hartlebury Trading Estate an attractive prospect for companies to move to central Worcestershire/Wychavon stimulating inward investment, particularly in the 'green' economy sector. The benefits of co-location with an embedded, local, economic and secure energy supply should not be underestimated in the context of the UK's future predicted energy position.

8.2.45 PPS 10 paragraph 3 gives weight to the wider (non-site specific) economic benefits of certain waste management facilities. This is firmly reinforced, and given greater weight at the current time, by virtue of the Planning for Growth Ministerial Statement (as set out in my sub-section 3.12). Furthermore, given that no other alternative suitable and available site has been identified for the proposal, it is also appropriate to consider the general economic benefits of the Mercia EnviRecover facility, given that were it to be rejected at the current application site these would be lost. These can be summarised as follows:

i) At present the Joint Authorities are reliant on short term out-of-county treatment contracts with no control over medium and long term treatment costs. As demand for treatment facilities increase (to meet relevant landfill diversion targets), the cost of relying on third party facilities will materially rise.

ii) Further delays in procuring an in-county solution will inevitably result in increases in capital costs of providing the necessary sustainable waste management infrastructure.

iii) The facility would generate and sell electricity to the grid. It is estimated that this would equate to approximately 106,000 MW hours per annum. This would have a value of circa £5,000,000 per annum.

iv) The proposal would result in full time employment for circa 42 people across a wide skills range. In addition, there would be short- term employment for up to circa 250 workers during construction; plus additional secondary economic benefits for the local economy such as accommodation and support services during the construction phase.

v) There would be a positive impact on the local economy through the provision of local support services and consumables during the operational life of the plant.

vi) There would be economic value in reclaimed metals from incinerator bottom ash.

8.2.46 Subsequent to the Council's determination of the application, MWM has commissioned a more comprehensive Economic Impact Assessment. This is contained as Appendix NR17. It concludes:

i) *The proposed project, which will result in employment benefits while also promoting low carbon energy, is consistent with economic development and growth policy at the national and local level. Investment will strengthen the environmental technologies sector within Worcestershire, and will support the overall objective of the Coalition Government's Plan for Growth - to 'achieve strong, sustainable and balanced growth that is more evenly shared across the country and between industries.'*

ii) *The construction of the EnviRecover plant, with a contract value of some £150 million, will generate significant on-site employment. It is estimated that 452 person years of gross employment could be supported. Based upon adjustments for leakage, displacement and multiplier effects, this would deliver a gross local additional 204 person years of employment. On the basis that 10 person years is equivalent to each permanent full-time job, it is estimated that the construction phase will deliver some 45 gross and 20 gross local additional jobs.*

iii) *In the operational phase, initial estimates indicate that the scheme will directly create 42 full-time equivalent jobs. This will include a range of management, skilled trade and process based jobs, alongside a number of more elementary jobs. Alongside employment directly generated, it is anticipated that ongoing spend on supplies and maintenance over the operational life of the plant will support a further 9 full-time equivalent jobs. On this basis, it is anticipated that the operation of the EnviRecover plant will create 51 gross full-time equivalent jobs. After allowing for leakage, displacement, multiplier effects and deadweight, it is estimated that the EnviRecover EfW facility will result in 49 net additional jobs. It is further expected that this level of employment will generate around £1.62 million of net additional GVA per annum within the Worcestershire LEP area.*

iv) *Alongside generating electricity, the plant has the capacity generate some 370,000 MWh/year of energy in the form of steam. This could be exported to local businesses and further analysis is being carried out into potential applications, particularly relating to horticulture, refrigeration, the production of construction materials and space heating of buildings. This facility could boost the competitiveness of local businesses and make the area more attractive to investors.*

v) *The implementation of sustainable employment policies will be critical to ensuring that economic benefits for local communities are maximised in the construction and operational phases, particularly through employment creation, developing supply chain sectors and supporting apprenticeships and other forms of workplace based training. It is recommended that a Benefits Realisation Plan (BRP) is developed and implemented, focusing on identifying and promoting accessible entry level opportunities for employment and training of local people, promoting opportunities for SMEs, and increasing the local skills base.*

***Conclusions on Locational Needs and Environmental Economic Benefits***

8.2.47 PPS 10 identifies that the **locational** needs of waste development, 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 in the Green Belt. In this regard the fundamental planning factors are:

i) There is an overriding environmental and economic need for a residual MSW treatment facility to serve Worcestershire and Herefordshire in order to facilitate sustainable waste management avoiding the use of out-of-county alternatives or landfill;

ii) There is also a similar overriding environmental need for both the region and the County to deploy significantly more renewable energy generation capacity;

iii) A comprehensive search for suitable sites within the counties has shown that the current planning application site is the **only** suitable, available site.

8.2.48 An assessment of the locational, environmental and economic benefits of sitting the EnviRecover facility at Hartlebury Trading Estate has demonstrated:

i) The Hartlebury site is at (or very close to) the optimum location to serve the overall pattern of waste arisings within Worcestershire. Furthermore (on the basis of the Council's own assessment), it is the only available, suitable site within this area. Thus, the EnviRecover facility represents the nearest appropriate installation at which waste should be recovered (meeting the test in Article 16, paragraph 3 of the Waste Framework Directive 2008). This has direct environmental and economic benefits in terms of reducing the distance that waste transportation vehicles have to travel, resulting in emissions and cost savings;

ii) It would be located in an area with excellent transportation connectivity on suitable standards of road that require no physical improvements (and hence additional financial investment). In addition, it can readily utilise the existing supporting waste transfer infrastructure, avoiding the need to develop new waste transfer stations. Again there are local environmental benefits from adherence to suitable primary roads and economic and environmental benefits from not having to build new supporting waste transfer infrastructure;

iii) It would be located in one of Worcestershire's principal industrial estates comprising circa 160,000$m^2$ of industrial / commercial units and office space, where the County Council has long recognised the potential to accommodate significant waste management development by virtue of the aforementioned Estech planning permission and the site's identification in the emerging WCS development plan document;

iv) It would be located in an area which does not contain insuperable environmental constraints, nor would it result in any significant or unacceptable environmental impacts;

v) It would be located in an area where it can readily export electricity (with an economic grid connection) and there are realistic opportunities to facilitate the export and use of heat recovered from the waste. The future ability for businesses on the Trading Estate to utilise low carbon energy has direct economic and environmental benefits;

vi) It would be in a location where advantage could be taken of IBA re-use in the manufacture of building products and where 'back-up' landfill capacity exists;

vii) It would be located on a site which is readily available and free from ownership constraints.

8.2.49 In addition the wider (non-site specific) environmental and economic benefits of the Mercia EnviRecover facility have been identified. These are:

i) The environmental and economic benefits of avoiding transfer of waste to remote out-of-county treatment facilities and the avoidance of landfill;

ii) The generation of renewable energy in a context where both the region and County have missed there targets by a very significant margin. As a consequence of this energy production, assessment has shown that implementing the Mercia EnviRecover facility, as opposed to not operating the plant (allowing for landfill gas release avoidance) would result in a net annual reduction of 34,700 tonnes of $CO_2$ equivalent per annum. Furthermore, the electricity generated would have a value of circa £5,000,000 per annum;

iii) Full time employment for circa 42 people and short- term employment for up to 300 workers during construction; plus additional secondary economic benefits and employment opportunities within the local economy.

8.2.50 In light of the above, there are demonstrable locational, environmental and economic benefits (in the context of the policies of PPS 10) associated with

the Mercia EnviRecover proposal. In combination these clearly constitute very special circumstances which justify the grant of planning permission from a Green Belt policy perspective.

**8.3 (b) Green Belt Purposes**

8.3.1 Paragraph 1.7 of PPG 2 highlights that the purposes of including land in the Green Belt are of paramount importance and should take precedence over the land use objectives (identified in paragraph 1.6 of the PPG and discussed below). The subsequent points consider the extent to which the development of the site would potentially affect each of the purposes of including land in the Green Belt (noting that each bullet point corresponds with the same bullet point in the PPG):

- The application site is not located within the open or undeveloped Green Belt, or abutting (i.e. lying on the edge of) a built up area. It sits centrally within a large industrial estate (which is identified as a Major Developed Site in the Green Belt) and is surrounded by built development (large industrial units) and immediately abutting a prominent landfill which lies to the north. In addition, the site already has a long planning history of large scale consented development proposals, all made in the context of the site falling within the Green Belt. This includes an extant planning permission for the development of 5 industrial units with a floorspace of 138,600 sq ft. The development of the application site would not result in any extension to the boundaries of the Trading Estate or any development 'sprawl' into either the surrounding countryside or Green Belt. In sub-section 2.3 of my proof I describe how in my view, given the location of the application site and its planning history, it is inevitable that it will be built out at some time. As a consequence of the above factors, it can be concluded that the development of the EnviRecover facility would have no material adverse consequence in terms of the first purpose i.e. checking the unrestricted sprawl of built up areas.
- With regard to the second purpose, as well as the site being located centrally within a large industrial estate (as described above), it lies on the very southern extremity of a wide expanse of Green Belt, which extends between the West Midlands Metropolitan Areas to the north,

Droitwich to the south east, Bromsgrove to the east and Stourport / Kidderminster to the north west (see Appendix NR1). The Green Belt in this location is neither narrow nor confined by existing / planned development, nor can it be described as having a critical role in preventing neighbouring towns from merging into one another. In addition, as described above, I believe it is inevitable that it will be built out at some time. As a consequence of the above factors, it can be concluded that the development of the EnviRecover facility would have no material adverse consequence in terms of preventing the merger of neighbouring towns.

- The third purpose, to protect the countryside from encroachment, cannot be offended by the development as the site is not in the countryside, being a development plot (including previously used and disturbed land) located centrally within a large industrial estate (as described above).
- With regard to the fourth purpose, as well as the site being located centrally within a large industrial estate and having a long planning history of major development consents, it does not contribute in any way to the setting and special character of a historic town. As a consequence the development of the EnviRecover facility would have no material adverse consequence in terms of this purpose.
- In terms of the final purpose, it should be noted that whilst the proposal would not directly assist urban regeneration by the use of derelict and other urban land (at least in line with the intention of the PPG), it would bring a previously used, disturbed, vacant site back into beneficial use. This would occur by way of the development of a high quality, architect designed series of buildings, with integrated landscaping, that would meet an established waste management and renewable energy generation need. Thus derelict land would be regenerated and the proposal would not undermine wider urban regeneration.

8.3.2 In light of the above, I conclude that the development of the EnviRecover facility would have no material adverse consequences in terms of the purposes of including land in the Green Belt.

**8.4 (c) Visual Amenities of the Green Belt**

8.4.1 The agreed position on the visual effects of the proposal is set out in Section 7.0 of SoCG 1. This also (in Section 6.0) considers the effects on the visual amenities of the Green Belt and concludes that: *given the physical landscape context, the fact that the development would be located within the existing trading estate and the mitigation measures that have been adopted in the design, that any impacts on the visual amenities of the Green Belt would not be not so significant as to justify a reason for refusal.* I fully agree with this conclusion.

8.4.2 Notwithstanding this position, the matter has been re-considered in detail by Jon Mason in his proof of evidence. His conclusions on this matter, with which I also concur, are as follows: *The introduction of the proposed EnviRecover facility on a previously developed area of the Hartlebury Trading Estate will not substantively alter the visual amenities of the green belt. The greater height of the proposed structures will mean that built development is seen from some new areas and that in views already featuring built development, the development will cause this component of the view to be more prominent. Consequently I acknowledge there is a degree of harm to some specific views but am of the view that the visual amenities of the Green Belt are not materially altered.*

8.4.3 In light of the above, I too acknowledge there is a degree of harm to the visual amenities of the Green Belt, but find that the harm is both small and limited in its extent to the point where it does not justify planning permission being refused. Furthermore, the very special circumstances that apply in this case (which include the very significant and demonstrable benefits of the scheme) are such that this limited harm is clearly outweighed.

**8.5 (d) Green Belt Objectives**

8.5.1 Given the nature of the application site (a development plot in the middle of an industrial estate) and the development (a secure waste management energy generation facility with no open public access), the proposal cannot

significantly contribute to the achievement of the objectives for the use of land in the Green Belt. However, it would result in no detriment to the achievement of the objectives for the wider use of land in the Green Belt and would, to a degree:

- Contribute to the fourth objective, as the proposal would bring a previously used, disturbed, vacant site back into beneficial use. Thus damaged / derelict land would be improved on a major industrial estate just south of Kidderminster.
- Make a medium-term positive contribution to the achievement of the fifth objective (securing nature conservation interest), as the development would not cause material adverse ecological impacts and would, by virtue of the new landscape / habitat enhancement proposals, secure some biodiversity benefits.

## 8.6 Effects on the Openness of the Green Belt

8.6.1 It is noted that the Secretary of State's call-in letter does not specifically raise the issue of effects on the openness of the Green Belt. Notwithstanding, I have considered this matter. It is my view, supported by the conclusions of Jon Mason on this issue, that:

i) The application site itself is far from open. It sits centrally within a large industrial estate enclosed to the north by the landform of a prominent landfill. It is not visible from any part the open countryside surrounding the Trading Estate and can only be viewed from Oak Drive (the internal Estate road which serves the site) and from the southern flank of the Waresley landfill. As such any development on the site will not materially affect the actual openness of the wider Green Belt.

ii) In so far as the openness relates to land being free from development, or actual openness, the proposal would clearly result in the site (a development plot) being built out. However, as described in my sub-section 2.3, even if the EnviRecover facility was refused, it is inevitable (given that it is a valuable development plot with a long planning history) that one day the application site will be developed in any event.

iii) With regard to perceived openness, as an individual travels around the locality, particularly on areas of higher ground (say along parts of the A449), the perception is that any wide vistas that can be attained, comprise a landscape widely dotted with development within which sits the prominent large scale cluster of buildings etc which form the Trading Estate. These components affect and define the current perceived openness of the local Green Belt. If the EnviRecover facility were to be introduced, the perception of the openness of this part of the Green Belt would barely alter. The key components and defining features of openness would all remain. Thus I believe that there would be a very limited degree of impact, if any, upon the perceived openness of the Green Belt and no material harm.

iv) As described under Green Belt matter (c) visual amenities (and the conclusions of the evidence of Jon Mason) the impact upon openness experienced visually would be limited.

v) The proposal would have no material adverse consequences in terms of the purposes of including land in the Green Belt (see issue b above).

8.6.2 All of these factors, in combination, point to the fact that the EnviRecover proposal would have very limited harm on either the actual or perceived openness of the Green Belt.

8.6.3 In light of the above, I conclude that the identified very special circumstances, and in particular the sustainability benefits that would be achieved through the operation of the proposed EnviRecover Facility, not least through diverting waste from landfill, contribution to renewable energy supply, the consequent reduction in $CO_2$ equivalents and economic benefits, are sufficient to outweigh the very small degree of harm resulting from any impact on the openness of the Green Belt arising from the proposal.

**8.7 Conclusions on Green Belt Issues**

8.7.1 In this section of my evidence I have demonstrated that:

- There are demonstrable and overriding very special circumstances that justify, in this instance, inappropriate development in the Green Belt;
- The would be no material adverse consequences in terms of the purposes of including land in the Green Belt;
- Whilst there is a degree of harm to the visual amenities of the Green Belt, that the harm is both small and limited in its extent to the point where it does not justify planning permission being refused.
- There are clear factors which, in combination, point to the fact that the EnviRecover proposal would have very limited harm, if any, on the openness of the Green Belt.
- The very special circumstances that apply in this case (which include the very significant and demonstrable benefits of the scheme) are such that they clearly outweighed the very limited harm to the Green Belt caused by the inappropriateness and any other harm.

8.7.2 In light of the above, whilst the proposal is inappropriate development, in the context of Government policy set out in PPG 2, planning permission should not be refused.

## 9.0 MATTERS RAISED BY THIRD PARTIES AND OTHER RELEVANT ISSUES

### 9.1 Introduction

9.1.1 In addition to the matters raised by the Secretary of State, a number of additional matters / grounds of objection have been raised by third parties and in particular WAIL in Section 3.0 of their Rule 6 Statement (CDPI4). WAIL's Rule 6 Statement is not entirely helpful as, in paragraph 3.2, it describes the subsequent issues it lists as not being exhaustive. However, clarification on this matter was provided by WAIL at the Pre-Inquiry Meeting held on 23rd August 2011 and, at the direction of the Inspector, in subsequent correspondence. The matters raised by WAIL are as follows:

i. Covenants – in particular that there are covenants on the application site;
ii. Propriety – i.e. that the Council has acted inappropriately in its determination of the planning application;
iii. Sequential (site) search encompassing a preference for an alternative waste technology in preference to mass burn EfW;
iv. Public perception of risks to health;
v. Inadequacies in the public consultation exercise undertaken by the Applicant;
vi. Local environmental concerns - described as relating to bats and great crested newts.

9.1.2 A number of other matters have been raised by third parties in correspondence, although at the Pre-Inquiry Meeting, no one (beyond WAIL) identified that they wished to speak against the proposal. At the Pre-Inquiry Meeting the Inspector drew specific attention to an objection received by PINS from Wychavon District Council dated 15th August 2011 and requested that clarification be sought as to whether the District Council would be appearing. It was subsequently confirmed that they would not and their objection stands as a written representation. This raises four points of objection:

i) That on balance the Applicant has not proven that the very special circumstances identified outweigh the harm to the Green Belt.

ii) The proposed development is of such a scale that it would not be appropriate or integrate into the landscape character of the area, to the detriment of that character, contrary to policy ENV1 of the approved Wychavon District Local Plan 2006.

iii) Impact on the setting of the Grade II* listed Waresley House Mansions.

iv) The proposal would be likely give rise to justified complaints over unacceptable increases in noise to sensitive uses within a very close proximity of the site.

9.1.3 Subsequent to the Pre-Inquiry Meeting, five individuals have written to PINS requesting to speak at the Inquiry as objectors to the proposal. None has yet indicated the issues / matters they intend to raise.

9.1.4 Finally, there is one supplementary matter I wish to address in relation to the planning conditions.

9.1.5 In light of the above, I consider each of the identified matters separately under the following headings:

- Covenants;
- Propriety;
- Alternative Sites and Technologies;
- Perception of Health Risk;
- Public Consultation;
- Nature Conservation;
- Impact on the setting of Waresley House Mansions;
- Noise;
- Conditions.

9.1.6 I have not further addressed the Green Belt or landscape objections raised by the District Council as these issues are already dealt with comprehensively in the matters raised by the Secretary of State and in the evidence of Jon Mason. Furthermore, the Applicant is, at this stage,

providing no further evidence on other matters raised by third parties as written submissions. This is because they have been addressed exhaustively in the planning process to date by virtue of one or more of the following:

- The submitted planning application;
- The Environmental Permit application and the subsequent granting of the Permit (Permit number EPR/XP3935TX) on 18th April 2011;
- The responses from the technical consultees to the planning application, none of whom maintains any objection to the proposal;
- The Council's committee report;
- SoCG 1 within Section 9.0 and SoCG 2 in Section 8.0.

**9.2 Covenants**

9.2.1 This matter is covered briefly in paragraph 8.29 of SoCG 1, where the Council and Applicant agree that the EnviRecover development would not breach any covenant(s) on the application site relating to nuisance and the presence of any covenant(s) on the application site is not a planning consideration.

**9.3 Propriety**

9.3.1 This matter is raised briefly and wholly inappropriately by WAIL in its Rule 6 Statement. Similar unsubstantiated inflammatory comments were made in its consultation response on the planning application.

9.3.2 First and foremost I have dealt with Worcestershire County Council as a Planning and Waste Disposal Authority since 1998 as part of the Authority's Integrated Waste PFI Contract. This has involved the submission and determination of over twenty planning applications. At no stage have officers of the Council ever acted other than with total professionalism and propriety. The Council has always maintained a 'Chinese Wall' with regard to its dual functions as Waste Planning Authority (WPA) and Waste Disposal Authority (WDA) and it is notable the WPA has actually refused

four planning applications submitted by MWM as part of its contract with the WDA (all being in the agreed Service Delivery Plan).

9.3.3 WAIL's accusation appear to based on the points that:

- The Council has a conflict of interest in acting as WDA and WPA in the case of the Worcestershire and Herefordshire PFI contract;
- There is impropriety in this case as the Council own the application site.

9.3.4 This accusation arises from a fundamental misunderstanding of the waste PFI process. Every waste PFI contract in the UK has a local authority (or authorities) as the procurer of the contract in their role as WDA. In every case the authority in question (or one of them) will also be the WPA. In many waste PFI contracts the WDA will have purchased or optioned a site which bidders are actively encouraged to use. This is referred to as the reference site (s). Whilst this was not the situation in Worcestershire it is very common and is / was the situation in: Staffordshire; Lancashire; Peterborough; Gloucestershire; Essex; Shropshire; Cornwall; North Wales (Flintshire); North Yorkshire and Leeds to name but a few. Thus the situation in Worcestershire is no different to numerous other examples across the country.

9.3.5 In light of the above, I conclude that there is no evidence whatsoever of impropriety by the Council in any aspect of the EnviRecover proposal or planning application.

**9.4 Alternative Sites and Technologies**

9.4.1 In SoCG 2 WAIL has confirmed / agreed that its case in respect of alternative sites and technologies is limited to:

- *Alternative sites: WAIL disagrees with the Site Selection conclusions as presented by the applicant, which formed part of the supporting case for the development proposals. In discussing the principles of waste management, WAIL will comment on the Ravensbank site as a location for incineration activity.*

- *Alternative technologies: WAIL will comment on the alternative technologies (to mass burn incineration) as part of its case to be presented at the Inquiry. These will advocate waste segregation as per the Wychavon Model, recycling and anaerobic digestion of biodegradable waste fraction.*

I deal with each point separately.

***Alternative Sites***

9.4.2 I was personally responsible for leading and actively participating (at every stage) in the Site Search Exercise (SSE) that has resulted in the selection of the Hartlebury Trading Estate site. This spans a period from mid 2007 until the present day (noting the latest SSE update in Appendix NR16). Prior to WAIL naming Ravensbank in August 2011, at no stage since the EnviRecover proposal entered the public domain in November 2009, am I aware of any party ever identifying or providing any evidence that a suitable, available alternative site exists for the scheme.

9.4.3 I firmly believe that the SSE undertaken by MWM remains the most comprehensive ever carried out in Worcestershire (and indeed Herefordshire). Furthermore, I maintain that its methodology and conclusions are robust. A copy of the SSE is contained as Appendix 4.1 to the Planning Statement in Part 3 of the Planning Application Document submitted as part of the original planning application. This was originally undertaken in 5 Stages, with a Stage 6 update appended to my evidence (NR16).

9.4.4 WAIL has never clearly indicated why Ravensbank is a preferable site but their Rule 6 Statement indicates:

- Too little effort was made to resolve covenants on the Ravensbank site;
- It is not in the Green Belt;
- Ravensbank had full CHP opportunities.

9.4.5 Both the Hartlebury and Ravensbank sites were identified in the Stage 1 & 2 SSE along with many others. The summarised assessment of each (based on the more detailed pro-forma assessment) read:

**WCH4 - Hartlebury Trading Estate, Hartlebury, Worcestershire**

*The site is located within Hartlebury Trading Estate which is a large established employment site located approximately 3.5km to the east of Stourport-on-Severn. The Trading Estate is accessed from Crown Lane which is a good standard local road. Crown Lane links with the A449 approximately 1Km to the west of the site. The A449 is part of the primary road network and is one of the main routes into Kidderminster to the north and Worcester to the south.*

*Advantages:*

- *the site already benefits from planning permission for a RWTF;*
- *there are other waste management developments adjacent to Hartlebury Trading Estate (an operational landfill site);*
- *the site is within an established industrial area which already contains a number of B2 related industrial uses including a large brickworks;*
- *the site is well located in respect of the main areas of waste arisings;*
- *the site benefits from a good standard of access and is proximate to the M5;*
- *there are few sensitive receptors within the vicinity of the site.*

*Disadvantages:*

- *Hartlebury Trading Estate is identified within Policy SR8 of the Wychavon Local Plan as a major developed site within the Green Belt. This policy restricts the height and footprint of new buildings on the site. It also requires that new developments result in no greater impact upon the openness of the Green Belt.*
- *Whilst planning permission exists for the development of a RWTF, the consent will relate strongly to the precise nature and character of the development permitted (i.e. an Estech Autoclave Facility). Notwithstanding the planning permission, the policy constraint may well need reviewing in the context of other types of RWTF.*

**B5 - Ravensbank Business Park, Nr Beoley, Bromsgrove, Worcestershire**

*Ravensbank Business Park, whilst located within the Bromsgrove administrative area, has been developed to meet Redditch's employment needs. The site comprises a vacant development plot of approximately 5ha in size, which is situated to the north of the business park.*

*The business park has a good standard of access directly from the A4023 dual carriageway, which in turn, allows access to both the M5 and M42 Motorways. In light of this, any development at this location would be accessible to most of the main centres of population within Worcestershire*.

*Advantages:*

- *the site has a good standard of access directly from the A4023 dual carriageway. The A4023 allows access to both the M42 and M5 (via other trunk roads);*
- *the site is over 250 metres from the nearest sensitive receptor and is located within an area that is characterised by a range of B1, B2 and B8 developments;*
- *the site itself appears to be largely free of any significant environmental constraints.*

*Disadvantages:*

- *the site is located in the north east of Worcestershire and is not well related to the overall pattern of waste arisings;*
- *the area to the north and east of the site is predominantly rural in nature and is situated within the Green Belt and a Landscape Protection Area. Given the proximity of the site to the Green Belt boundary, effects on the visual amenities of the Green Belt could be a sensitive issue.*

9.4.6 The Stage 1 & 2 Assessment then evaluated the best CHP opportunities of the identified sites. It noted that: *All of the identified sites that are located on or adjacent to existing employment areas represent a theoretical opportunity for CHP.* However, contrary to the statement made by WAIL, **no** particular CHP potential was identified for Bromsgrove. Conversely, at Hartlebury the report stated that there was greater future CHP potential in

that the site: *is a major industrial estate with significant quantities of vacant space.*

9.4.7 In the Stage 1 & 2 Assessment the two sites were ranked as follows:

- =1st Hartlebury Trading Estate, Hartlebury, Worcestershire;
- 3rd Ravensbank Business Park, Nr Beoley, Worcestershire.

9.4.8 The subsequent Stage 3 of the SSE reported on four tasks which were to:

- define the nature (technology and / or key characteristics) of the RWTF;
- undertake further planning evaluation of specific sites where material planning issues / constraints have been identified;
- undertake an appraisal of the commercial availability of the identified sites, focussing initially upon those ranked more highly;
- continue to seek to identify potential CHP users.

9.4.9 Following on from this work it established that there were only two available, potentially suitable sites for the development of an EfW in Worcestershire. These were located at Ravensbank Business Park and Hartlebury Trading Estate. The Stage 3 report then undertook a comparative evaluation of both sites and concluded:

*It is apparent from the appraisal of the two sites that the development of an EfW at Ravensbank would have a number of dis-benefits when compared with the Hartlebury site (in particular, it is less well related to the overall pattern of waste arisings and would result in nearly double the HGV waste miles per annum). However, the fact that the Hartlebury site lies within the Green Belt is a planning constraint that could only be overcome through the demonstration of very special circumstances.*

*This creates a complex situation where a judgement of planning balance must be struck whilst weighing factors that are not directly comparable. Having given this matter considerable thought, and involved an external expert planning advisor, it has been determined that, notwithstanding the benefits of the Hartlebury site, the Ravensbank site was suitable in many regards (its main disadvantage being its location in respect of waste arisings) and should be the preferred option. The primary reasoning for this is the planning risk of not being able to prove very special circumstances for*

*the development of an EfW in the Green Belt when a non-Green Belt site that is suitable in most regards (i.e. Ravensbank) is available.*

*Accordingly, having considered the relative merits of both sites, the Ravensbank site appears to be marginally preferential to the Hartlebury site and should be considered to represent the preferred option for the development of an EfW to serve the Counties of Worcestershire and Herefordshire.*

*On this basis it is recommended that MWM informs the Councils of the findings of its SSE and commences detailed negotiations to acquire the appropriate interest in the Ravensbank site.*

*It should be noted that if MWM ultimately fail to secure the Ravensbank site for the development of an EfW, the site at Hartlebury Trading Estate would represent the only viable location for the development of a RWTF within Worcestershire. It is considered that this fact would be a significant factor in demonstrating very special circumstances for the development of an EfW in the Green Belt.*

9.4.10 MWM did put forward the Ravensbank site to the County Council as its preferred site and the Council supported its purchase. MWM commenced standard due diligence activities. During this process the company's lawyers identified a covenant on the site that expressly precluded the burning of waste. Following this discovery MWM consulted with its shareholders and lawyers (and prospective funders) and all confirmed that this represented an unacceptable risk to the development. Specifically that they could not support the development of an EfW facility on the site with the covenant present. MWM then undertook dialogue with the identified covenanters in order to negotiate removal of the offending covenant. This culminated in a financial offer to waive the covenant which was rejected. Finally MWM went to efforts, that proved unsuccessful, to obtain defective title insurance. At this point MWM was obligated to disclose to the Council that the site could not be purchased under satisfactory terms despite the company's best efforts.

9.4.11 This resulted in MWM revisiting the SSE by way of the Stage 4 assessment. For the avoidance of doubt, as can be plainly seen in the Stage 4 SSE

report, the company did not then simply revert to the Hartlebury site, but carried on with an open and detailed evaluation of all the potential options. The Stage 4 report also explicitly explained the events leading to the Ravensbank site being discounted.

9.4.12 Subsequent assessment in the Stage 5, and now 6, SSE reports confirmed that the application site at Hartlebury Trading Estate is the only available suitable site for the development.

9.4.13 In summary, the Ravensbank site was never preferable to Hartlebury other than in the sole factor that it physically lies just outside of the Green Belt. Notwithstanding, MWM was wholly committed to buying the land at Ravensbank and went to very considerable efforts and expense to secure it on acceptable terms. These could not be achieved and the company's funders and legal advisors would not support the purchase with the covenant present.

9.4.14 MWM's discounting of the Ravensbank site was, in a planning context, an entirely appropriate course of action as the development was not deliverable on the site. In this regard the advice in paragraph 18 of PPS 10 should be noted, that specifically requires the avoidance of: *unrealistic assumptions on the prospects, for the development of waste management facilities, or of particular sites or areas, having regard in particular to any ownership constraint which cannot be readily freed……..*

9.4.15 In light of the above, I conclude that Ravensbank does not represent an alternative site for the proposed development, nor have any other suitable, available alternative sites been identified.

***Alternative Technologies***

9.4.16 With regard to alternative technologies, or waste management methods, WAIL has indicated a preference for: *waste segregation as per the Wychavon Model, recycling and anaerobic digestion of the biodegradable*

*waste fraction*. I remain unclear as what this proposal would actually entail for two main reasons.

9.4.17 Firstly, I have already explained (in sub-section 4.2 of my proof) that anaerobic digestion is only an effective solution for the management of food waste. It is not a practical solution for the complete biodegradable fraction of mixed residual waste. Thus, in order to present a workable solution it is assumed that WAIL's preferred approach comprises:

- Recycling;
- Separate collection of food waste with anaerobic digestion (AD);
- Something else happens with any residual waste.

9.4.18 Secondly, it is important to understand what the 'Wychavon Model' actually comprises. At present Wychavon is the only district in Worcestershire and Herefordshire to operate a separate food waste collection service. This is offered to every household. Collections are weekly, but only alternate weeks are sent for processing at an in-vessel composting (IVC) facility in DymocK, in Gloucestershire. The alternate week's collections go to landfill. Based on 2010/11 data (12 months) 1,086 tonnes was sent for reprocessing at the IVC facility. Thus, it is assumed that around 2,200 tonnes in total was collected. This hardly represents a model waste management solution. Energy is expended on a separate food waste collection service. Of the food waste collected approximately half is landfilled and half is composted with no energy recovery whatsoever. Based on an overall annual kerbside collected waste tonnage within the District of circa 22,900 tpa (including the food but excluding recyclables), the food waste collection service has resulted in 9.6% of the District's collected waste being segregated.

9.4.19 Notwithstanding the above, the updated Residual Waste Treatment Options Appraisal (appended to the evidence of Stephen Othen) has modelled a scenario as described below. This is, in MWM's opinion, a proxy for WAIL's preferred approach with the addition of residual waste treatment. The scenario is based upon:

- Food waste being separately collected from all households and delivered to an AD facility on the Hartlebury site for processing. The amount of segregated food collected has been based approximately on the tonnage of food waste currently collected under the Wychavon food collection scheme compared to the overall arising (with slight rounding up to reflect some level of improved uptake). On this basis 20,000 tonnes of food waste in total are sent to the AD facility. The output from the AD process is sent for use as compost.
- Residual waste being sent to the same out of county EfW facilities as modelled for other options.

9.4.20 The results of the Options Appraisal illustrate that this scenario performs the joint worst of the nine scenarios modelled. A single EfW with CHP at Hartlebury performs the best with the same scenario exporting electricity only (i.e. no heat export) scoring second best.

9.4.21 In conclusion, WAIL's proposed waste management scenario is not an effective way to manage waste as AD is only effective for source separated food waste not the complete biodegradable fraction of mixed residual waste. However, assessment of an AD option for source segregated food waste, combined with out of county EfW for the remaining residual waste, has been undertaken. This is shown to be an inferior solution to the development of the EnviRecover facility.

## 9.5 Perception of Health Risk

9.5.1 There are a number of Public Inquiry decisions that encompass the issue of perceived health risks relating to EfW development. One, raised by objectors to the EnviRecover proposal, was MWM's previous EfW application at Kidderminster (determined on [APP/E1855/A/01/1070998] dated 10th July 2002). In this case the Inspector found evidence that the fear (on health effects) was real (paragraphs 112-114 of his decision letter). He went on to conclude that the perception was: *a negative factor of some significance to place in the scales of the decision making process* (paragraph 149). Thus, it was self-evidently **not** a determinative factor in its

own right, but one to put in the overall planning balance on the basis that there was evidence the perception was real.

9.5.2 In the Kidderminster decision the Inspector found that there were four material adverse impacts. The first three all resulted in breaches of development plan policy. The fourth, the perception point, was simply listed as a negative factor of some significance. These four points were balanced against the benefits of the scheme, which, due to the proposal not being found to constitute the Best Practicable Environmental Option, was ascribed little weight and the appeal dismissed.

9.5.3 The decision became widely misquoted and many people appeared to miss the key points of the decision i.e. that:

- The perception issue was not determinative in its own right;
- There needed to be evidence that the perception was genuine;
- The negative planning weight associated with perception is just a factor to be balanced against the benefits of the proposal.

9.5.4 Subsequent to Kidderminster, the Government published its Review of Environmental and Health Effects of Waste Management: Municipal Solid Wastes and Other Similar Wastes (March 2004, DEFRA). This document concluded that: *The review did not find a link between the current generation of municipal solid waste incinerators and health effects. Adverse health effects have been observed in populations living around older, more polluting incinerators and industrial areas. However, the current generation of waste incinerators result in much lower levels of exposure to pollutants. We considered cancers, respiratory diseases and birth defects, but found no evidence for a link between the incidence of disease and the current generation of incinerators.*

9.5.5 This publication significantly assisted the health perception position as it was a clear statement of the Government's belief on the risks posed by incinerators. The message was further, and more significantly, reinforced in 2009, in The Health Protection Agency statement on The Impact on Health of Emissions to Air from Municipal Waste Incinerators (September 2009)

(CD-OD2). This concluded that: *The Health Protection Agency has reviewed research undertaken to examine the suggested links between emissions from municipal waste incinerators and effects on health. While it is not possible to rule out adverse health effects from modern, well regulated municipal waste incinerators with complete certainty, any potential damage to the health of those living close-by is likely to be very small, if detectable. This view is based on detailed assessments of the effects of air pollutants on health and on the fact that modern and well managed municipal waste incinerators make only a very small contribution to local concentrations of air pollutants. The Committee on Carcinogenicity of Chemicals in Food, Consumer Products and the Environment has reviewed recent data and has concluded that there is no need to change its previous advice, namely that any potential risk of cancer due to residency near to municipal waste incinerators is exceedingly low and probably not measurable by the most modern techniques. Since any possible health effects are likely to be very small, if detectable, studies of public health around modern, well managed municipal waste incinerators are not recommended.*

9.5.6 This statement has materially affected the 'perception' debate, relating to the health effects of EfW, as it provides a context where in principle it is the Government's health advisor's view that there is no material adverse health effects associated with well managed municipal waste incinerators; and it is no longer even worth looking to see if there is a problem. Thus, the burden of proof required to sustain a health perception argument is now greater than may previously have been the case.

9.5.7 The issue of the law on perception and the overall planning balance was examined in detail in an appeal decision (APP/Z4310/A/09/2117527 – issued 5th October 2010) relating to a Resource Recovery Park (RRP) in Liverpool (CD-ID4) which included a waste treatment (autoclave) process. In this case the perception issue related to perceived impacts on regeneration. However, the Inspector's consideration on the law on perception is equally applicable to any perception matter. On this issue she stated:

*53. There is no doubt that there is strong local feeling about this proposal, as reflected by the thousands of objections received and the vocal opposition demonstrated at the inquiry. However, public opposition in itself is not a material consideration. There would be no significant environmental harm or detriment to amenity, and there is limited evidence of any material effect on regeneration. The only identified harm is the RRP's perceived impacts as opposed to its actual impacts. This begs the question whether a development can, in law, be reasonably refused on the basis of public perception alone.*

*54. The case of Gateshead Metropolitan Borough Council v. Secretary of State for the Environment [1994] Env. LR is authority for the proposition that public concern is a material consideration but, if not justified, it cannot be conclusive. This was the finding of a unanimous Court comprising Glidewell, Hobhouse and Hoffmann LJs. It follows that, if the concerns about housing investment were unjustified, then these concerns could not be sufficient in themselves to dismiss this appeal. This must be right and stands to common sense. To conclude otherwise would unreasonably put at risk any development through the spreading of misinformation. In this case, I take the view that the fears about the possible investment effects of the RRP are indeed unjustified.*

*55. However, the case of Newport County Borough Council v. Secretary of State for Wales and Browning Ferries Environmental Services Ltd. [1997] EWCA Civ, albeit relating to a costs order, resulted in a different finding. This was a split decision with Hutchinson and Aldous LJs stating that "A perceived fear by the public can in appropriate (perhaps rare) occasions be a reason for refusing planning permission…", although Staughton LJ disagreed and dissented. In any event, this leaves open the question as to what are "appropriate/rare occasions". In my view they should not include circumstances where a proposal is beneficial and perfectly acceptable apart from the instance of popular misconception and speculation.*

*56. In the case of West Midlands Probation Committee v. Secretary of State for the Environment and Walsall Metropolitan Borough Council [1997] EWCA Civ, Pill LJ reviewed both of the above cases, from which the following proposition emerged "Justified public concern in the locality about emanations from land as a result of its proposed development may be a material consideration." Therefore, the perceived impact of the proposal on the regeneration of Garston may be a material consideration if this concern is justified. However, the suggestion that public concerns do not need to be logical to carry weight, cannot be right, as illogical concerns cannot be justified. As stated above, I take the view that the concerns raised are unjustified.*

*57. Therefore, on reviewing the case law, it seems to me that there is little legal support for turning down development on the sole basis of unjustified perception. In any event, the weight I attribute to what I find to be largely baseless perception, is limited. Balanced against this is the weight to be attributed to the proposal's benefits. This development brings with it important employment and economic advantages and fulfils an identified need for a waste facility. These are considerations to which I give substantial weight. Accordingly, I find that the planning balance is clearly in favour of allowing the appeal.*

9.5.8 The salient points in this decision are:

- Public opposition per se is not a material consideration;
- Public concern is a material consideration but, if not justified, it cannot be conclusive;
- Public concerns need to be logical to carry weight;
- There is little legal support for turning down development on the sole basis of unjustified perception;
- Perception should just sit in the planning balance (with whatever weight the decision maker gives it based on the evidence specific to the case in hand) and can be weighed against a scheme's benefits.

9.5.9 In October 2008 the Inspector considering a co-joined Inquiry for a Refuse Derived Fuel Plant (an EfW facility) and a Resource Recovery Park on land

at Ince Marshes, Cheshire (DCLG ref: APP/Z0645/A/07/2059609 & DBERR ref: 01.08.10.04/36C) (see CD-ID2) addressed health perception fears in a very direct manner in paragraphs 11.19, 11.24 and 11.28 of his conclusions (accepted by the Secretary of State at paragraph 6.1 of his decision letter). These read:

*Health issues were examined through the inquiry. It is very evident that the perception of a risk to health is the principal matter leading members of the public to write objections to the proposals [3.131, 8.10, 10.4]. The focus of the concern being related to emissions to air from the Refuse Derived Fuel plant [3.15].*

*Concern over health impacts of modern incinerators and the argument that alternative methods of waste management posing a lower risk to public health should be pursued have to be viewed in the light of statements within up to date national policy. Paragraph 22 of Chapter 5 of Waste Strategy for England 2007 states that: "Research carried out to date shows no credible evidence of adverse health outcomes for those living near incinerators". I regard that statement as a full answer to those arguing against incineration of waste on the basis of the Precautionary Principle.*

*The one aspect of health impacts that has been officially recognised (in the Rapid Health Impact Assessment) is that of anxiety. It is evident that there is widespread concern in relation to the proposed Refuse Derived Fuel plant and it would appear that, principally by association, this has also become attached to the proposal for a Resource Recovery Park. However the position giving rise to doubts in the mind of the public, concern over health effects of incineration of waste, is one that is in direct conflict with a position taken by Government in a statement of national policy (paragraph 22 of Chapter 5 of Waste Strategy England). Such a statement will not satisfy everyone but should act to allay anxiety amongst the public at large. My conclusion is that although the proposal raises public anxiety this should not carry great weight in relation to the planning decisions on the proposals before the Secretaries of State.*

9.5.10 A similar stance was adopted by the Inspector at the Cornwall Energy Recovery Centre (CERC) Inquiry (APP/D0840/A/09/2113075- see CD-ID3) with regard to adopting the precautionary principle. In addition, he gave significant weight to the granting of an Environmental Permit. Paragraphs 2103 and 2104 of his conclusions (accepted by the Secretary of State at paragraph 26 of his decision letter) read:

*Third parties and some local residents suggested that the precautionary principle should be invoked. PPS23 makes it clear that the precautionary principle should apply only where there is good reason to believe that harmful effects may occur to health or to the environment and that there is a level of scientific uncertainty about the risks which would prevent a confident assessment to inform decision making. These considerations do not apply in this case. In the first place, PPS10 and WS2007 provide clear, unequivocal statements as to the absence of evidence of harm to health from incineration. The consultation responses from the PCT on the permit also provide a clear statement as to there being no good reason to suggest that the CERC facility would adversely affect human health. Second, the permit issued by the EA provides a firm, well founded framework for assessing risk and for putting into place the controls to minimise harm. (475, 476, 1083, 1161, 1544, 1704)*

*Accordingly, it is concluded that there is nothing arising from the evidence in this case to justify taking a different view from national policy that the use of the type of incineration technology proposed for the CERC facility would affect the health of those living in the locality. In addition, there is nothing in the evidence to warrant an intervention in a matter which is properly to be dealt with by another regulatory regime, that of the permit.*

9.5.11 Finally, the Inspector at Kings Cliff Inquiry (APP/K2800/A/10/2126938) (CD-ID1) into the deposit of low level radio active waste within a hazardous landfill set out his final conclusion on health perception at paragraph 7.44 of his report. This reads:

*In conclusion on this issue, the perception of harm is a material consideration. All of the identified 19 perception factors would apply in varying degrees and, in general terms, the more that apply, the greater the*

*perceived harm. The fears are real but there is limited evidence of any direct effects from the perception of harm at this stage. There is, as Augean states, a clear gulf between the technical assessment of the risk and the public perception. The mainstream scientific assessment of the effects of low level radiation is far removed from the perception that many people have, using information from the media and pressure groups, as the actual risk of harm would be extremely small and it would meet Government guidelines. The inquiry process, itself, highlights the issue and serves to focus fears and concerns. Indeed, an HPA case study into the Ince Marshes Recovery Park concludes, "…major effects on physical health were…from its planning application". Nevertheless, the inquiry process also provides a direct link between residents and the decision-maker and knowledge that their views will be taken into account in making the decision. This knowledge, the lack of any objection on actual harm from all of the relevant statutory bodies and from NCC and its independent expert, and the stance of the Government on risk in its statement of national policy should assist in ameliorating public concerns. For these reasons, I attach only limited weight to the perception of harm in making my recommendation on this appeal.*

9.5.12 In conclusion, there are strong Government statements that that is no quantifiable health risks from modern EfW facilities. Public perception of the risk to health (or other risks) is a material planning consideration that features in a number of Inquiry decisions. However, in the case of EfW proposals (or similar waste facilities):

- It would probably **never** be used as a reason to withhold planning permission in its own right;
- It would only ever carry any significant weight if there was hard evidence to show why, in a particular situation, the perception was real, logical and justified;
- The lack of objection on actual harm should reduce the weight afforded to perceived harm;
- Repeated Government messages stating a particular form of development does not pose a risk to health should carry weight in ameliorating any public concerns;

- Even if there was evidence supporting a real perception issue, it would only be one of several factors that would need to be balanced in the planning determination process.

9.5.13 Turning to the position with regard to the EnviRecover facility I believe there are a number of factors relevant to this matter:

i) The baseline position regarding the application site is not one where there are known health concerns i.e. the air quality in the local area is not poor (and is in fact very good), nor is it located in an area of social deprivation or area where there any known underlying patterns of adverse health.

ii) The technology that is proposed is long established, proven and widely deployed across the UK, Europe and the rest of the world. It is, by orders of magnitude, the most commonly used waste combustion technology.

iii) The relevant technical consultees (the Environment Agency, Worcestershire NHS Primary Care Trust [in consultation with the Health Protection Agency] and Wychavon District Council's Environmental Health Officer) all made their positions on air quality and health effects very clear, i.e. that a modern well run incinerator at Hartlebury Trading Estate would not cause air quality problems nor pose a significant risk to human health.

iv) The Environment Agency issued an Environmental Permit for the facility which it is not empowered to do if the facility poses a material risk to human health. It undertook public consultation in advance of issuing the Permit. The Permit also confirms that the appropriate regulator is satisfied that the facility should operate within the strict emission limits set by the Waste Incineration Directive (WID) and represents the Best Available Technology (BAT).

v) The Applicant provided an expert in EfW plant related emissions and human health matters on all days of the two public exhibitions held in advance of the submission of the planning application. He responded to all attendees concerned about health matters with the specific aim of allaying local fears. This consultation process led to MWM

commissioning additional health assessment work relating to pollution ingestion through locally grown / reared food sources.

vi) The applicant arranged a presentation to the Community Liaison Group from Stephen Othen, an acknowledged air quality and human health expert in the field of EfW to help allay local fears on these matters.

vii) The submitted planning application considers the issue of health effects in detail and its conclusions are clear. The work carried out was also well summarised (in the context of the Worcestershire NHS response) in the Council's committee report (paragraphs 125 – 135).

viii) The Council went to the trouble to invite a representative of the Health Protection Agency to the planning committee. He spoke and, first hand, reiterated that a modern well run incinerator at Hartlebury Trading Estate would not pose a significant risk to human health.

ix) WAIL has not made an objection on actual harm to health.

x) I do not believe that WAIL (who consider themselves the barometer of local interest and concerns) has articulated, particularly in light of the foregoing, any logical or justifiable reason why, in this case, there is a real heath perception issue. Based on the information in their Rule 6 Statement, their case does not appear to extend beyond: *EnviRecover is large, people will see it and thus be concerned.* In short, I do not consider this to be an evidenced based argument

9.5.14 In the context of the above, I do not believe this is a case where any health risk perception argument can be sustained on land use planning grounds. Furthermore, the lack of any logical, justifiable argument, in the face of the evidence and information that has been put before the local community (including repeated messages from Government and Government Agencies) means, in my opinion, that any residual concern that may be felt should not carry any significant weight and is demonstrably outweighed by the benefits of the proposal.

**9.6 Public Consultation**

9.6.1 As a matter of fact there is no statutory requirement in England for applicants to undertake any pre-application consultation or public /

stakeholder engagement whatsoever in respect of their planning applications. Anything that is carried out is done so on a voluntary basis. MWM does not, in the case of large scale waste development, prescribe to the view that they do not need to consult and therefore they will not. As a matter of fact the opposite is true and, in respect of the EnviRecover proposal, they have undertaken an extensive, open and frank consultation process which exceeds the requirements of Worcestershire's Statement of Community Involvement. It was the most extensive consultation exercise carried out as part of a planning application that I have ever been involved in to date.

9.6.2 SoCG 1 (from paragraph 3.13) describes the range of activities that were undertaken by the Applicant in respect of public / stakeholder engagement. Full details of the exercise are described in the submitted Community Involvement Statement (contained as Part 4 of the Planning Application Document). This includes details of how MWM responded to matters and concerns raised.

9.6.3 WAIL (in their Rule 6 Statement paragraph 3.15 & 3.16 and at the Pre-Inquiry Meeting) criticise the consultation exercise in two regards:

- That it comprised of a 'box ticking exercise' and did not reflect the concerns raised or suggestions made;
- That the survey carried out on behalf of the Applicant was misinterpreted.

9.6.4 With regard to the first point, I cannot accept WAIL's accusation that this was merely 'box ticking' (their Rule 6 Statement paragraph 3.15) and concerns / suggestions were not listened to or responded on. The investment in time and money by MWM on consultation was very significant (over a six figure sum) and went way beyond ticking some boxes. Furthermore, Section 4.0 of the submitted Community Involvement Statement sets out how issues raised were responded to.

9.6.5 In light of WAIL's criticism, MWM commission their communications consultants to prepare a written response. This is contained as Appendix

NR18. This draws the following conclusions on the two matters raised by WAIL, with which I am in full agreement:

- *Throughout the public engagement programme Mercia Waste Management has been transparent and sincere with the local community. Being a good and trustworthy neighbour is at the heart of the applicant's modus operandi and all endeavours have been taken to listen and respond to community concerns in an open and timely fashion.*
- *As a consequence, and subject to the clarification, Sauce has concluded that the survey results have not been misrepresented or incorrectly interpreted by Mercia.*

9.6.6 In light of the above I find no basis for criticising MWM's consultation exercise.

**9.7 Nature Conservation**

9.7.1 WAIL's objections to the planning application and their Rule 6 statement define can be summarised as follows: *that the proposals may impact on bats and greater crested newts in the vicinity and the surveys presented to date by the applicant were not undertaken at the optimum time and are hence not robust enough to address concerns.* I deal with each of the two species referenced separately.

***Bats***

9.7.2 With regard to bats, the principle bat and bat habitat surveys were carried out in optimum conditions at the optimum time of year on 16th June 2009 and 13th August 2009 (refer to ES Appendix 9.2). Based on the findings of these surveys, the conclusions of the relevant ecological experts were quite clear. Notwithstanding, Natural England lodged a holding objection on 12th August 2010 (see CD-PA9 r) that included comment that further work needed to be carried out. The Natural England response appears stimulated by a letter sent from a Mr Luke Casey (member of the public) setting out in some detail his concerns. The Natural England letter then scheduled out (using a standard template format) the information they then

required. In MWM's opinion this information was adequately contained within the application, bearing in mind the results of the survey and impact assessment conclusions.

9.7.3 MWM then arranged a meeting with Natural England to discuss their letter. In advance of this meeting MWM issued a Clarification Note (refer to Appendix A of Regulation 19 Submission Issue 3b – Great Crested Newt Impact Assessment – October 2011 – see CD-PA7) to Natural England in order to explain and confirm the conclusions in the ES. This included reference to an additional bat survey carried out on the evening of 28th and at dawn on 29th September 2010. This date is towards the end, but not outside, of the recognised bat survey season, subject to weather conditions. As set out in the Note, conditions on that day were favourable (dry and mild). However, it must be noted that the purpose of this survey was quite different from the principle bat survey. It was undertaken, as a matter of prudence, in order to try and rebut some of the claims made by Mr Casey. As the Note identifies: *Bat surveys in 2010* [sic 2009] *identified a probable noctule bat roost (Nyctalus noctula) in Middle Covert close to the proposed development site. Questions had been raised as to the possibility of shadow-cast by the EFW plant impacting upon the roost through changes to the microclimate within the woodland. It was suggested that it would be necessary to identify individual structures within the woodland that may form bat roosts and if possible, identify the roost itself. This would enable an assessment of the impact of shadowcast on the roost site.*

9.7.4 As MWM had fully anticipated, it was impossible to identify any specific roost (out of some 252 trees with roost potential), but the conclusions of the ES were confirmed, specifically that there was highly likely to be multiple roots in Middle Covert and the development would not affect them (as explained in the Note).

9.7.5 Following the meeting (with Natural England) and issue of the Clarification Note, Natural England withdrew their holding objection without any further assessment work or mitigation proposals being tabled (refer to letter dated 14th October 2010 CD-PA9 s).

9.7.6 In light of the above, I conclude that bat surveys were carried out at the optimum time of year in optimum conditions. Furthermore, the survey results and impact assessment is robust. The County Ecologist made no objection and Natural England maintained no objection.

***Great Crested Newt (GCN)***

9.7.7 Initially the issue with GCN was identical to that with bats. Natural England lodged a holding objection, seemingly on the basis of Mr Casey's letter, MWM issued the Clarification Note (which covered both bats and GCN) and met with Natural England, who subsequently withdrew their holding objection without any further assessment work or mitigation proposals being tabled.

9.7.8 However, as set out in considerable detail in the Regulation 19 Submission Issue 3b – Great Crested Newt Impact Assessment (October 2011) (CD-PA7) the position with regard to this species has now changed, with three GCN being found on the application site. This matter is fully examined, assessed and addressed within the Regulation 19 submission and thus I shall not repeat the issues here.

9.7.9 At the time of writing my proof consultation responses on the Regulation 19 submission have not been received. However, any responses will be available well before the Inquiry starts. Notwithstanding, the position on GCN is absolutely clear:

i) There has been extensive GCN survey effort on and off-site and all relevant breeding sites and their populations are known. The closest GCN ponds to the site with potential terrestrial access to the development area are located over 300 m to the north east. However, habitat connectivity to the site from these ponds is poor and there is adequate suitable terrestrial habitat on land adjacent to the ponds.

ii) However, during the course of the reptile exclusion exercise conducted at the site during 2011 three individual GCN were identified. The reptile trapping exercise included in excess of 100 trapping days using over 400 refugia across the site. As such it is

considered that the population of GCN at the site is very small. This conclusion is further reinforced by reptile survey work undertaken at the site during 2010 which 20 survey visits (again with extensive use of refugia) did not identify **any** GCN at the site.

iii) There would appear to be extenuating circumstances that explain the presence of three GCN on the application site.

iv) There is a requirement to implement a GCN mitigation scheme which will require a European Protected Species Mitigation Licence from Natural England. MWM has presented such a scheme and further supporting information, contained within the Regulation 19 submission. On the basis of the information in the submission, having regard to the requirements of the Habitats Directive, I conclude that it is likely that a European Protected Species Mitigation Licence would be granted in respect of the GCN identified at the site.

9.7.10 In light of point iv) above, I conclude that, with regard to GCN, there is absolutely no reason why planning permission cannot be granted.

**9.8 Impact on the Setting of Waresley House Mansions**

9.8.1 In its letter of 15th August 2011, Wychavon District Council (WDC) sets out an objection to the application by virtue of its impact on the setting of Waresley House Mansions (formerly St Gilberts School) which is a Grade II* Listed Building. In particular it criticises the planning application for not having undertaken an assessment in the context of PPS5 policies HE6 and HE7. It also indicates the submitted ES does not properly appraise the effects on the setting of this feature.

9.8.2 I respond to WDC's objection as follows:

i) The submitted ES (paragraphs 15.4.5 and 15.4.6) properly considers the effects of the development on the setting of Waresley House Mansions. The submitted Design and Access Statement also provides significant detail on how the EfW facility design was developed with specific regard to views from raised ground to the west i.e. Waresley

Park (including Waresley House Mansions). As such the assessment accords fully with Policy HE6 of PPS5 (see CD-NPP6).

ii) Policy HE7 of PPS5 sets out the steps that Local Planning Authorities should take in considering proposals that may affect heritage features. This includes:

a. Evaluating the information in the planning application;
b. Consulting the historic record / designation records;
c. Considering the asset itself;
d. Taking account of any consultation responses.

These are not specifically obligations on the Applicant, although applicants should be cognisant of the policy requirement. Indeed MWM was aware and quite clearly appraised the effects on the asset in accordance with points a-c above.

iii) It is notable that WDC Committee Report does not identify any impacts on the setting of Waresley House Mansions. The issue was raised solely by members and the committee minutes offer no explanation how members arrived their decision on this issue.

iv) The County Council specifically noted the objection made by WDC members at paragraphs 52 and 74 (iv) of their (the County's) Committee Report, although I do note that that the Report refers to the listing as Grade ll, not ll*, notwithstanding that the planning application (heritage assessment) clearly identifies the ll* status.

v) At paragraph 114 and 115 of the County's Committee report they note that: English Heritage raises no objection in two separate consultation response and: *Does not consider that the proposal will materially affect the setting of any built heritage asset or the scheduled ancient monument.*

vi) At paragraph 140 of the County's Committee report they note that: *the County Archaeologist raises no objection in respect of impacts on heritage features*.

vii) At paragraphs 361 to 364 they specifically discuss the conflicting consultation responses and conclude they are: *satisfied with the conclusions of the Environmental Statement and considers that there would be no significant impact on the setting of the listed building….*

9.8.3 In light of the above, I find that the potential effects on the setting of Waresley House Mansions were properly assessed, subject to consultation with the relevant experts and fully considered by the County Council in formulating its decision on the application. I also fully support the findings of the ES, specifically that: *the changes resulting from the proposed development would be* ***negligible*** *in magnitude and as such the effect upon the setting of the house would also be* ***negligible***.

9.8.4 Notwithstanding the above, Jon Mason has given the matter of impacts upon the setting of Waresley House Mansions further consideration within his proof of evidence. I support his conclusion that no unacceptable impacts would occur.

9.8.5 Policy HE10.1 of PPS5 specifically deals with the protection of settings. It states: *"When considering applications for development that affect the setting of a heritage asset, local planning authorities should treat favourably applications that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset. When considering applications that do not do this, local planning authorities should weigh any such harm against the wider benefits of the application. The greater the negative impact on the significance of the heritage asset, the greater the benefits that will be needed to justify approval."*

9.8.6 From this policy it is clear that the aspect of the setting that should be preserved, and is of greatest importance, is the elements which make a positive contribution. In this case, as described in ES paragraph 15.4.5, the only positive and significant remaining element of the building's setting are the open views which lie to the south. These would not be affected in anyway by the scheme. On this point the ES reads finds: *The building is a three-storey structure oriented with the main aspect facing south across the associated parkland. Immediately adjacent to the building to the north, east and west is the much more recent suburban housing development of Waresley Park. This development has fundamentally adversely affected the setting of the house to the point where other than in one aspect the setting no longer contributes to the value of the feature. It is clear from the layout*

*of this housing that the parkland to the south has deliberately not been developed, i.e. that the view south from the house across the parkland is the remaining key aspect of setting that should be protected. In light of the above, it is considered ……. that the remaining valuable element if the house's setting is its relationship with the adjacent parkland to the south.*

9.8.7 English Heritage has produced draft guidance on the issue of settings, which is due to be published in its final form later this year. The draft version (The setting of heritage assets: English Heritage Guidance - Consultation Draft - July 2010) includes the following:

*31. Most of the settings within which people perceive heritage assets today have changed over time. This history of change, its nature, scale and speed, may help to determine whether future changes within the setting of a heritage asset will add to or detract from its significance, or leave it unaltered.*

*42. The protection of the setting of heritage assets need not inhibit change. Change can enhance or reduce the significance and appreciation of an asset, or leave it unchanged…..As most places can be within the setting of a heritage asset and are subject to change over time, decision-making will normally be required only where changes, including processes of cumulative change, will materially detract from or enhance the significance of heritage assets.*

*50(c)* ***The sensitivity of the heritage asset(s) to changes in setting:*** *The heritage significance of some heritage assets, such as those in elevated positions and commanding extensive views, may be more susceptible to changes within a wide area. Distinct from this is the relative sensitivity of different heritage assets to change within their setting. Those in which past change has been frequent and extensive may have a greater capacity to accommodate change without further detrimental effect to their significance than those that have changed little over time.*

9.8.8 In the context of this guidance and specifically decision making only being required where material change would occur, I believe the position as follows:

- The setting of the feature has changed drastically over time i.e. it is entirely enclosed on three sides by a modern housing estate. Thus the asset clearly has a low sensitivity to future change and can accommodate a large degree of change without detriment to its significance.
- Whilst the EnviRecover facility would be visible from eastward facing windows within the upper storeys of the house, at a distance of just under 1.5kms, with a modern housing estate in the immediate foreground and seen across an expansive area of industrial estate, the scale of change brought about by the EnviRecover facility would be negligible.

9.8.9 Regardless of the clear conclusions that I draw on this issue, should the Inspector (and Secretary of State), for whatever reason, find that some material harm would occur in relation to the setting of Waresley House Mansions, I note the provisions in the latter part of HE10.1 (above) and of Policy HE1.3. This states that: *Where conflict between climate change objectives and the conservation of heritage assets is unavoidable, the public benefit of mitigating the effects of climate change should be weighed against any harm to the significance of heritage assets in accordance with the development management principles in this PPS and national planning policy on climate change.*

9.8.10 In short, PPS 5 indicates that where proposals that are promoted for their contribution to mitigating climate change, but have a potentially negative effect on heritage assets, decision makers should weigh the public benefit of mitigating the effects of climate change against any harm to the significance of heritage assets.

9.8.11 A similar balancing exercise is advocated in Policy HE9.4 which states*: "Where a proposal has a harmful impact on the significance of a designated*

*heritage asset which is less than substantial harm, in all cases local planning authorities should:*

*(i) weigh the public benefit of the proposal (for example, that it helps to secure the optimum viable use of the heritage asset in the interests of its long-term conservation) against the harm; and*

*(ii) recognise that the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss."*

9.8.12 In this case, in the context of these two policies, the effect on the heritage asset is clearly not significant and has, as far as is possible, been mitigated through the scheme design (as identified in the Design and Access Statement, taking into account other relevant design issues). Conversely, as set out in section 4.0 of my proof, the climate change benefits from the scheme are very significant and the proposal would result in a step change in the quantities of renewable energy that would be generated in both the County and the region as a whole. In addition, there are the significant environmental benefits of sustainable waste management through landfill diversion and the identified economic benefits. Thus, any minor residual effects that would remain on the heritage asset are clearly outweighed by the wealth of benefits the proposal would bring forward. As a consequence it is safe to grant planning permission in regard of this matter.

**9.9 Noise**

9.9.1 WDC's objection letter includes an objection in respect of potential noise effects. It is supported by a letter from the WDC Environmental Health Officer (EHO), Mr Keith Handy, dated 2nd August 2010. In this letter the EHO questions aspects of the noise assessment and discusses setting noise limits based on his (then) understanding of BS4142:1997. He raises no objection in his letter. The WDC formal objection is then founded on the queries raised by the EHO.

9.9.2 I am not a noise expert. As a consequence MWM has prepared a written statement on the issues raised by WDC in respect of noise. This is contained as Appendix NR19. In short, this indicates that following

discussions between the EHO, the Applicant's noise expert and the WCC's noise expert, the EHO agreed that no unacceptable noise impacts would occur subject to the imposition of the three agreed conditions set out in Appendix B of SoCG 2. The EHO explicitly agreed the conditions with ERM (the WCC's advisors) on 1 February 2011, in advance of WCC taking the application to committee.

9.9.3 On the issue of noise impacts, WDC's EHO is clearly satisfied the matter can be addressed by the imposition of the agreed planning conditions. All of the other noise experts agree. WDC does not intend to appear at the Inquiry, nor offer any further noise evidence. As a consequence, I believe their noise objection should be disregarded as it has no substance.

**9.10 Conditions**

9.10.1 SoCG2 sets out the suggested planning conditions at Appendix B (including the agreed noise condition bb which was incorrect in SoCG1). At paragraph 9.3 of SoCG2 (9.1 of SoCG1) MWM questions, in the light of the current relevant planning framework, whether it is necessary for there to be a condition restricting the waste that would be treated at the site solely to that arising from within Worcestershire and Herefordshire (i.e. condition d).

9.10.2 In my view the planning application and evidence before the Inquiry demonstrates that the vast majority, if not all, of the waste that would be recovered would be Worcestershire's and Herefordshire's MSW. Furthermore, there is clearly far more residual waste (taking into account C&I waste) within the two counties than the EnviRecover facility could process. Also there is no existing residual waste treatment capacity nor, to the best of MWM's knowledge, any planned. In this context there is clearly no need for any condition restricting the catchment and any such condition would fail the test of necessity (in Circular 11/95).

9.10.3 Furthermore, a catchment area restriction would not comply with policy. This matter was considered by a Planning Inspector and the Secretary of State in respect of the Eastcroft EfW facility in Nottingham (refer to the

Inspector's report paragraphs 350-357 and Secretary of State paragraph 30 – see CD-ID7). The Inspector was unequivocal that the imposition of such a condition would conflict with PPS10 paragraph 3 and paragraph 6.46 of the PPS10 Companion Guide. I note that the Inspector's findings are especially pertinent to any C&I waste that may be treated at EnviRecover.

9.10.4 This matter was further considered by an Inspector (and Secretary of State) in respect of Ince Marshes EfW facility near Chester. Paragraph 11.125 of the Inspector's report (see CD-ID2), with which the Secretary of State agreed, makes the matter vey clear:

*Peel has made it clear that the Refuse Derived Fuel plant is proposed to be a merchant facility and has explained the role that such an incinerator would have. It is not designed to meet a particular need but is brought forward in the context of a general recognition that Energy from Waste has a significant role to play within the overall Waste Strategy. The prospect of long-distance movement of waste has been raised by many local objectors and by the Borough Councils but as a merchant facility responding to the market it is clear that it would not be appropriate to seek to control the origins of waste by condition or legal obligation.*

9.10.5 The same point was made in the Secretary of State decision (see CD-ID9) on Ineos Chlor EfW facility in Runcorn (the largest EfW facility in the UK). The penultimate paragraph on page 8 includes the statement: *The Secretary of State considers that the sourcing of fuel for the generating station is a commercial matter for the Company.*

9.10.6 In the case of the EnviRecover proposal, the vast majority, if not all, of the waste will be contracted from the two Councils. With regard to any surplus capacity that could treat C&I waste (which would be classed as merchant capacity), it must be recognised that the transportation of waste is an important element of the overall cost of its management. Thus economics will dictate that it most cases it will travel to the nearest suitable facility. In this way, the catchment is likely to be local and self-selecting. As such I believe that any geographical restriction is not necessary and thus inappropriate.

## 10.0 APPRAISAL OF THE SCHEME AGAINST PLANNING POLICY AND MATERIAL PLANNING CONSIDERATIONS

### 10.1 Introduction

10.1.1 Earlier in my evidence, I have identified the development plan context and other material considerations relevant to the determination of the EnviRecover proposal. I have then addressed certain policy issues (in detail) relevant to the Secretary of State's matters, specifically:

- PPS 10: Planning for Sustainable Waste Management
- PPS 1 Supplement;
- PPG 2: Green Belts.

10.1.2 In addition, within Section 4.0 of my proof, I have described how the proposal conforms with, and delivers the objectives of, many parts of strategies, plans and policy relating to the waste management and renewable energy development. Finally, within Section 5.0 of my proof, I have described the degree to which the proposal conforms with the policies of the Statutory Development Plan and the emerging Development Plan (including the weight that can be attached to the latter).

10.1.3 As a consequence of the above, there only remain a limited number of other relevant material considerations that I have not fully appraised. Thus, this section of my proof is limited to:

- An assessment of the EnviRecover proposal in the context of the remaining relevant planning considerations (primarily set out in a tabulated format contained at Appendix NR20 to my proof);
- Consideration of the scheme in the context of the draft National Planning Policy Framework, which will, when finalised, materially reconfigure the overall planning context. Consideration of this document was specifically requested by PINS on 3rd August 2011;
- My overall planning conclusions including the planning balance.

## 10.2 Assessment of the Remaining Material Planning Considerations

10.2.1 The assessment in Appendix NR20 indicates that the development proposal is further supported by all the relevant extracts of the remaining material planning considerations. The only area of note lies with part viii of Policy LCF14.2 of the Draft Planning Policy Statement: Planning for a Low carbon Future in a Changing Climate. This recognises the need to give detailed consideration to developments in the Green Belt, but indicates that very special circumstances (necessary to grant planning permission) may include the wider environmental benefits associated with increased production of energy from renewable sources. I have considered Green Belt matters in detail within Section 8.0 of my evidence and concluded that in this instance very special circumstances do exist.

## 10.3 Draft National Planning Policy Framework Consultation Document (July 2011) (CD-DNP2)

10.3.1 As referenced previously, the draft NPPF does not provide guidance for waste management. However, it is of direct relevance to energy projects and as such should be considered a material consideration in the assessment of this planning application. The weight that should be applied to the draft may alter as consultation progresses and subsequent versions are published. Both the relevant objectives of the draft NPPF and the degree of weight that can be attached to at this time are considered below.

10.3.2 The decision making principles in the draft NPPF are set out on pages 3 to 17. Paragraph 14 states

*"At the heart of the planning system is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking. Local planning authorities should plan positively for new development, and approve all individual proposals wherever possible. Local planning authorities should:*

*• prepare Local Plans on the basis that objectively assessed development needs should be met, and with sufficient flexibility to respond to rapid shifts in demand or other economic changes*

*• approve development proposals that accord with statutory plans without delay; and*

*• grant permission where the plan is absent, silent, indeterminate or where relevant policies are out of date.*

*All of these policies should apply unless the adverse impacts of allowing development would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."*

10.3.3 Under the heading of Determining Applications, paragraph 63 states:
*"In assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development."*

10.3.4 In respect of development management, the guidance in draft NPPF states that local planning authorities need to *"approach development management decisions positively – looking for solutions rather than problems so that applications can be approved wherever it is practical to do so; attach significant weight to the benefits of economic and housing growth; influence development proposals to achieve quality outcomes; and enable the delivery of sustainable development proposals." (Paragraph 54).*

*10.3.5* There is further emphasis on the need to expedite sustainable development in paragraph 110 (extract). This effectively removes the argument of prematurity and states: *Planning permission should be granted where relevant policies are out of date…….*

10.3.6 Paragraphs 133 to 147 restate existing national policy on the Green Belt, but paragraph 146 acknowledges: *When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.*

10.3.7 Paragraph 148 of the draft NPPF sets the clear objective that the planning system should aim to deliver renewable and low-carbon energy infrastructure. The draft NPPF deals with renewables under the heading: Support the delivery of renewable and low-carbon energy and paragraph 152 (extract) states that planning authorities should:

*"Have a positive strategy to promote energy from renewable and low-carbon sources…design their policies to maximise renewable and low-carbon energy development while ensuring that adverse impacts are addressed satisfactorily."*

10.3.8 Paragraph 153, still dealing specifically with renewables, goes on to say (extract):

*"When determining planning applications, local planning authorities should apply the presumption in favour of 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 its impacts are (or can be made) acceptable…."*

10.3.9 In respect of the weight that should be applied to the document, the Planning Inspectorate (PINS) has produced advice for its Inspectors 'Advice produced by the Planning Inspectorate for use by its Inspectors - National Planning Policy Framework: Consultation Draft' (August 2011).

10.3.10 The main points of the advice are considered to be: *"Whilst it is a consultation document, and therefore, subject to potential amendment, nevertheless it gives a clear indication of the Government's 'direction of travel' in planning policy. Therefore, the draft National Planning Policy Framework is capable of being a material consideration, although the weight to be given to it will be a matter for the decision maker's planning judgement in each particular case. The current Planning Policy Statements, Guidance notes and Circulars remain in place until cancelled. The proposed changes, outlined above in Annex B, are significant and could have a material bearing on the cases put and thus the decision reached by the decision maker. They are, however, contained in a consultation draft of*

*national planning policy so Inspectors need to have regard to the proportionality of referring back to the parties in cases where, realistically, it is not likely that such reference would result in a change in the balance of considerations, including the fact that current planning policy statements, circulars and guidance documents remain in place until cancelled. Inspectors are accordingly advised to consider on a case by case basis whether the draft NPPF is a material consideration of some weight, its relevance to the issues..."*

10.3.11 The NPPF is likely to still be at a 'draft' stage at the time this planning application is determined and the document is likely to be subject to change following consultation. Therefore, the weight to be afforded to the draft NPPF should be dictated by the specific circumstances of the case at hand. It is considered that there are two key factors which help determine the relevance of the draft NPPF and weight that should be applied in this particular case:

- whether the determination of the application accords with the decision making principles in the draft NPPF (set out above); and
- whether the development accords with the Government's 'direction of travel' in planning policy. Where the development accords strongly with the draft NPPF some degree of positive weight, and therefore support, can be attached.

10.3.12 Based on the foregoing, it is clear that the draft NPPF seeks to facilitate and not restrict the delivery of sustainable development. Moreover it has express support for renewable / low carbon energy generation schemes as part of the sustainable infrastructure development that the country needs. The proposed development is demonstrably sustainable development and the generation of renewable energy complies with all extant and emerging policy on energy, renewable energy and combating climate change. The proposal therefore conforms to the *"golden thread"* set out in the draft NPPF and thus there is a presumption in its favour.

10.3.13 With regard to the decision making principles, in short:

- If the proposal conforms to the Development Plan it should be approved. On this basis the EnviRecover EfW facility merits approval (noting that very special circumstances have been proven);
- If the Development Plan is out of date (which is the case in this instance), the draft NPPF states that planning permission should still be granted.

Given the above, the only manner in which the application could be refused in the context of the draft NPPF is if the adverse impacts of allowing the development would significantly and demonstrably outweigh the benefits. For the reasons contained within my overall conclusions (see sub-section 10.4 below), this is demonstrably not the case.

10.3.14 The 'direction of travel' of Government policy on the deployment of renewables has been unwavering for several years. The clear objective and messages in the draft NPPF reinforce that the Government intends to keep travelling in the same direction. The text used in the draft NPPF either repeats or paraphrases extant policy and the overall message is unambiguous. The Government has indicated, in the clearest possible terms, that it wishes to see as much renewable and low-carbon energy infrastructure come forward, in as short as time frame as possible. As such the proposed development is entirely consistent with the 'direction of travel' for renewables set out in the draft NPPF.

10.3.15 In summary, the proposed development is clearly sustainable development which has unswerving support in the draft NPPF. Favourable determination of the planning application would be consistent with the decision making principles contained within the draft NPPF, and is entirely consistent with the 'direction of travel' for planning policy set out within the draft NPPF. As a consequence the draft NPPF is considered to be a material planning consideration to which a moderate degree of favourable weight should be attached.

10.3.16 Notwithstanding this conclusion, the Ministerial Statement: Planning for Growth (see my sub-section 3.12) encompasses many of the objectives of the proposed NPPF and provides interim policy guidance until such time the

NPPF is fully in place. In this context the following objectives (common to Planning for Growth and the draft NPPF) should, in my view, be afforded significant weight:

- *expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy.*
- *plan positively for new development; to deal promptly and favourably with applications that comply with up-to-date plans and national planning policies; and wherever possible to approve applications where plans are absent, out of date, silent or indeterminate.*
- *support enterprise and facilitate…. economic and other forms of sustainable development….*
- *consider the range of likely economic, environmental and social benefits of proposals…..*
- *ensure that they give appropriate weight to the need to support economic recovery….*
- *that applications that secure sustainable growth are treated favourably (consistent with policy in PPS4)….*
- *attach significant weight to the need to secure economic growth and employment.*
- *Benefits to the economy should, where relevant, be an important consideration when other development-related consents are being determined, including……environmental…..energy consents.*

10.3.17 In this regard my sub-section 3.15 should be specifically noted in respect of the Severnside Energy Recovery Facility (SERC) appeal / call in decision (see CD-ID5), where both the Inspector and Secretary of State specifically stated that (my emphasis): *The recent ministerial statement on Planning for Growth would* ***lend strong support*** *to the grant of planning permission, given the employment that the scheme would provide and the economic growth it would encourage.*

10.3.18 As has been demonstrated in my evidence, the EnviRecover proposal is sustainable development, that would have clear environmental and, more

importantly in the context of Planning for Growth, significant economic benefits. These should lend strong support to the grant of planning permission.

### 10.4 Overall Conclusions and the Planning Balance

10.4.1 The assessment contained with my proof indicates that the proposal accords with the policies of the Development Plan including those that seek to protect the Green Belt. With regard to the Green Belt, I have demonstrated that:

- There are demonstrable and overriding very special circumstances that justify, in this instance, inappropriate development in the Green Belt;
- The would be no material adverse consequences in terms of the purposes of including land in the Green Belt;
- Whilst there is a degree of harm to the visual amenities of the Green Belt, that the harm is both small and limited in its extent to the point where it does not justify planning permission being refused.
- There are clear factors which, in combination, point to the fact that the EnviRecover proposal would have very limited harm on the openness of the Green Belt.
- The very special circumstances that apply in this case (which include the very significant and demonstrable benefits of the scheme) are such that they clearly outweighed the very limited harm to the Green Belt caused by the inappropriateness and any other harm.

10.4.2 I have not identified any material planning considerations that indicate that the application should be determined other than in accordance with the Development Plan. Conversely all relevant material considerations, to which weight should be attached, lend further support for the scheme. In light of the above planning permission should be granted.

10.4.3 As set out in my sub-section 3.15, by reference to Cornwall EfW facility decision (see CD-ID3), the environmental and economic implications of rejecting a proposal can be a matter that should be accorded substantial weight.

10.4.4 The consequences of rejecting the EnviRecover application are both material and significant (see my sub-section 4.5). There would be continued very high levels of landfill with associated greenhouse gas emissions and no new renewable energy generation from waste. Thus, climate change impacts would continue to occur. Development of the nature of the EnviRecover facility has very long lead-in times together with planning and funding uncertainties. Given these factors, and the absence of any available and suitable alternative site for the development, it is difficult to see that any alternative solution could be delivered and certainly not delivered in a timely manner. Thus, were the proposal to be rejected, I believe the adverse environmental consequences would occur for very many years to come.

10.4.5 From an economic and financial perspective I cannot accurately quantify the cost of rejecting the proposal, but it would be very significant and run into many millions of pounds. In additional, all the economic benefits associated with the delivery of the EnviRecover facility would be deferred, if indeed they would ever be realised.

10.4.6 As was the case in the Cornwall EfW facility decision (my sub-section 3.15), I believe the adverse consequences on not delivering the Mercia EnviRecover facility is a material consideration that should be afforded substantial weight.

10.4.7 With regard to the planning balance, I have identified (in Section 4.0 of my proof) the very significant benefits of the EnviRecover proposal and in particular its role in providing for the acute regional and local need for waste recovery and renewable energy generation capacity, together with its material economic effects. I conclude that these are benefits that help deliver national, regional and local waste policy, energy policy, the Government's programme to combat climate change and Government policy on the imperative to deliver economic growth. As such very significant weight should be attached to these benefits in favour of the scheme.

10.4.8 Conversely, I conclude that the material harm (or disbenefits) arising from the scheme are very limited and do not extend beyond the limited affects on the Green Belt and the fact the facility would be visible, primarily from parts of the local surrounding area. At worse this would constitute a degree of visual impact.

10.4.9 In this case I conclude that the benefits of the scheme overwhelmingly outweigh its disbenefits and again it is safe and proper to grant planning permission.

10.4.10 Whilst I am entirely clear that no Development Plan policy would be breached, I note that if, contrary to my view, the proposed development were to be found to contravene the adopted Development Plan in some other regard, the weight of other material considerations in the planning balance are so strong that, in my view, planning permission should be granted in any event.