Mercia EnviRecover

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

STATEMENT OF COMMON GROUND 1
(Final)

July 2011

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APPENDICES

1.0 INTRODUCTION

1.1 This Statement of Common Ground relates to the Public Inquiry (convened under Section 77 The Town and Country Planning Act 1990) arising from the Secretary of State's decision to call-in the planning application for the Mercia EnviRecover facility (Application Reference No: 10/000032/CM & PINS Reference No: APP/E/1855/V/11/2153273). It has been prepared in accordance with the requirements of The Town and Country Planning (Inquiries Procedure) (England) Rules 2000 (SI 2000 No. 1624) and has been produced jointly by Worcestershire County Council (the Waste Planning Authority) and Mercia Waste Management (the Applicant).

1.2 We hereby state that the contents of this document have been produced jointly by Worcestershire County Council and Mercia Waste Management. Unless otherwise explicitly identified, the matters set out within the document are agreed by both parties.

Signed: ..... Date: 28/07/11

Name: M R MIDDLETON

Position: HEAD OF STRATEGIC & ENVIRONMENTAL PLANNING

On behalf of Worcestershire County Council

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Position: DIRECTOR OF AXIS - AGENT

On behalf of Mercia Waste Management

2.0 DESCRIPTION OF THE PROPOSED DEVELOPMENT

2.1 The Mercia EnviRecover facility would be operated by Mercia Waste Management (MWM), together with its sister company Severn Waste Services. MWM currently operate the Private Finance Initiative (PFI) contract for the management of municipal waste for Worcestershire and Herefordshire Councils.

2.2 The development comprises an Energy from Waste facility (with an integrated education / visitor centre) and associated ancillary infrastructure and landscaping on land (Plot H600) at Hartlebury Trading Estate, Hartlebury, Worcestershire. The facility would be based around the 'Main Building' which would contain the waste reception hall, waste bunker, boiler hall, flue gas treatment (FGT) facility, bottom ash bunker and silo, Air Pollution Control (APC) reagent silos and APC residue silos, education/visitor centre and staff facilities. This building would have a floor plate area of approximately 6,177m^2 and would be 43m high.

2.3 In addition, there would be a turbine, sub-station and air cooled condensers which would be located in a separate building referred to as the 'Turbine Complex Building'. The Turbine Complex Building would have a floor plate area of approximately 1,500m^2 and would be 16m high and is located to the west of the Main Building. A pipe bridge would connect the Turbine Complex Building to the Main Building.

2.4 The floor plate of the Main Building would be set 8m below the original site level at approximately 39m above ordnance datum (AOD). This would reduce the building height to 35m in relation to the surrounding ground level. This would be achieved through excavation of material from the site. The main staff and visitor access to the building would be via a pedestrian bridge leading from the car park.

2.5 In addition there would be a stack (chimney) of 83m in height of which 8m would be below the surrounding ground level resulting in a stack height of 75m above ground level.

2.6 The development would also include the following ancillary / infrastructure elements:

- vehicle weighbridges and office;
- site fencing and gates;
- service connections;
- surface water drainage and attenuation features;
- cycle / motorbike store;
- external hardstanding areas for vehicle manoeuvring;
- internal access roads and car parking;
- fire water tank; and
- new areas of hard and soft landscaping.

2.7 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.

2.8 The EnviRecover facility would be fuelled by 200,000 tpa of residual non-hazardous municipal solid waste (MSW) arising from within Worcestershire and Herefordshire. The facility is designed to operate on this waste stream. In the event that there is insufficient MSW to operate the facility at full capacity it would take residual non-hazardous commercial and industrial (C&I) waste that is similar in composition to MSW.

2.9 Two types of solid by-products would be produced from the operation of the Mercia EnviRecover facility, bottom ash (referred to as incinerator bottom ash – IBA) and air pollution control (APC) residues, each of which would have separate handling arrangements as described below.

2.10 IBA is the burnt-out residue from the combustion process and approximately 6 tonnes per hour of bottom ash would be produced at full load. Ash would be quenched as it leaves the combustion chamber and then temporarily stored pending export from the site. The IBA would be sent to an off-site bottom ash

reprocessing contractor for ferrous metal recovery and recycling as a secondary aggregate.

2.11 APC residues comprise fine particles of ash and residue from the flue gas treatment process, which would have collected in the bag filters. It is estimated that the operations would generate approximately 1 tonne of APC residues per hour, which would be stored in a silo adjacent to the flue gas treatment facility. The residue APC silo has a capacity of 250 tonnes, which is sufficient for approximately 10 days storage, although at normal operating conditions only 10% of this capacity would generally be used prior to export off site.

2.12 Due to the alkaline nature of the APC residues, they are classified as hazardous waste. The APC residues would be transported offsite to a Permitted Hazardous disposal facility, alternatively the residues may be taken to an appropriate treatment facility where they could be re-used in the stabilisation of acid wastes. At this time APC residues would be managed out of the county.

2.13 It is proposed that the plant would process waste and generate electricity on a 24-hour basis. Waste would be brought onto the site between the hours of 06.00 and 19.00 seven days a week.

2.14 There would be separate vehicular entry and exit points into the facility off Oak Drive. These are designed to appropriate highway standards. Access into Hartlebury Trading Estate would be from Crown Lane which leads directly from the A449, approximately 1.5km to the west of the Trading Estate.

2.15 Once commissioned the Mercia EnviRecover facility would operate on a continuous basis. During hours of darkness there would be a need for lighting commensurate with Health and Safety requirements to ensure a safe working environment for operatives on site. The lighting proposals would be as follows:

- there would be no building mounted lights and no lighting of external façades;
- lighting of external yard and parking areas would use modern flat glass high pressure sodium (or similar) lanterns which achieve full ‘cut-off’, meaning that all of the light shines down with minimal upwards or sideways spill. The

lit surfacing would not materially extend beyond the operational boundary of the site;

- the full external lighting system would only operate during hours of darkness when vehicle deliveries are occurring, this being during the normal working day. After this time the main lighting would automatically be switched off. In order to cater for the health and safety needs of night shift workers at the plant, a reduced, low level lighting system would remain in operation after dark, utilising low level lanterns and restricted to required walking routes and staff parking areas;
- similarly, internal building lighting to the upper floors of the proposed office accommodation, which would be vacant outside of the normal working day, would incorporate intelligent lighting control systems and as such would switch off after operational hours; and
- the internal operational areas of the facility would be lit to provide a safe working environment according to task in specific working areas, rather than to provide a consistent light level.

2.16 It is agreed that the detailed design of the lighting scheme will be controlled through the proposed conditions.

2.17 The construction period for the facility is anticipated to take approximately 35 months, this includes internal fit-out and commissioning of mechanical and electrical plant.

2.18 The Mercia EnviRecover facility would have a design life of around 30 years, although planning permission is being sought for a permanent development.

3.0 THE SITE ITS PLANNING HISTORY AND THE APPLICATION PROCESS

The Site

3.1 The planning application site (identified as Plot H600) comprises 3.56 hectares (ha) of land situated in the centre of Hartlebury Trading Estate. The Trading Estate is located within the Green Belt 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.

3.2 The site is currently vacant, but was used in the 1930s – 40s as part of a railway siding and as such has been previously developed. The site is now colonised by varying degrees of scrub vegetation and includes a number of mature trees. It is situated at between approximately 47 and 49 metres above ordnance datum (AOD).

3.3 Other features of the site include:

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

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

3.5 The nearest residential properties to the application site comprise of a small number of isolated dwellings, the closest of which (known as Bellington) is

situated circa 300 metres to the south east of the site. Further isolated properties are located approximately 700 metres to the north east of the site, known as New House Farm. Waresley House, which is a Grade II listed building and Waresley Park residential estate (consisting of approx 100 residential dwellings) are located over 1km to the west of the proposal site. Hartlebury village is situated about 1.5 km to the North West, on the other side of the A449.

3.6 The Hartlebury Trading Estate is occupied by a range of commercial, industrial and storage uses. Whilst there is a good degree of variation in the building type across the estate (including old MOD buildings and modern units). The size of the units varies greatly from circa 50 m^2 to 10,750 m^2. The Estate is well laid out with wide access roads that are generally uncluttered by on street parking.

Planning History

3.7 In terms of planning history, the planning application documentation identifies that Hartlebury Trading Estate was, during the late 1930s - early 1940s, developed as a Royal Air Force Maintenance Unit base. This involved the construction of railway sidings off the Kidderminster - Droitwich railway line and a number of structures which by 1974 comprised some 118 buildings ranging in size from 100 sq ft to 57,000 sq ft and totalling approximately 1.1 million sq ft. The development did not include any runways and the base effectively operated as a storage and distribution centre.

3.8 The Estate was included within the West Midlands Green Belt in 1973, other parts of the wider West Midlands Green Belt having been first designated on 3rd August 1955.

3.9 Towards the end of 1974 the Ministry of Defence announced that the unit would close and in the late 1970's the site was purchased by Lansdown Estates (Hartlebury) Ltd. The planning position was subsequently confirmed though the issue of an Established Use Certificate in April 1981. On the 5th February 1981 Lansdown Estates submitted an outline planning application for the development of a further 650,000 sq ft of Industrial / warehouse units on land which included the application site. This application was called-in by the Secretary of State and subsequently approved following agreement on the

upgrading of Crown Lane to form a suitable access to the Estate. Following the grant of outline planning permission there have been a number of new developments on Hartlebury Trading Estate, together with a number of applications that have been granted planning permission.

3.10 On 8th December 1999 Wychavon District Council granted detailed planning permission (reference number W/99/0662) for the development of units for industrial and storage purposes within use classes B1, B2 and B8 on Plots H2a, H294 and H600 (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.

3.11 In December 2004 planning permission for a municipal waste management facility was granted by the County Council on the application site. The proposal was for an autoclave facility that would have managed 100,000 tpa of waste. There was also a subsequent planning application permitted in May 2006 that amended the site layout. However, the development has never come forward and both planning permissions have now expired.

The Planning Application Process

3.12 The planning application for the proposed Mercia EnviRecover development was submitted to Worcestershire County Council (WCC) by MWM in late April 2010. WCC validated the application on 4th May 2010. In accordance with the Town and Country Planning (Consultation) (England) Direction 2009, the proposal was advertised as a departure from Green Belt policy and thus needed to be referred to the Secretary of State were the authority minded to grant planning permission. A schedule of the application documentation is contained at Appendix A of this document.

3.13 As set out in the Community Involvement Statement (submitted as part of the planning application documentation), prior to the submission of this application,

MWM undertook pre-application consultation with local stakeholders and residents through press releases, leaflet drops, a site visit to a similar facility (Portsmouth, on 2nd February 2010), a project specific web site and other meetings and discussions. A senior representative also visited all tenants at Hartlebury Trading Estate to discuss the proposals and seek feedback.

3.14 The Applicant also set up a community liaison group which first met on 12th January 2010. This group was made up of representatives of the local community, including invited representatives from local councils. The meetings addressed the issues and concerns that community representatives raised and enabled community members to discuss the proposal in detail with technical experts. The community liaison group met five times prior to submission of the application. The last of these meeting was on the 20th July 2010, where it was agreed that no further meeting would occur until the planning application had been decided. However, in December 2010, a written update was provided to all members of the group. It is the intention of the Applicant to continue with the liaison group meetings should planning permission be granted.

3.15 Two public exhibitions were also undertaken. Both were held at Eden House on the Hartlebury Trading Estate and ran for two days, on 27th and 28th November 2009 and on 5th and 6th March 2010. Invitations were sent to a wide range of people including local parish and district councils, MPs and MEPs via email, letter and leaflet drops to properties with 2.5km of the site and all properties in Ombersley and on the Hartlebury Trading Estate. 180 people attended the first exhibition and 100 people attended the second exhibition.

3.16 As part of the statutory planning process WCC undertook a consultation exercise in line with the adopted Statement of Community Involvement (SCI). This included a 12 week consultation from the 19th May – 13th August 2010. A second consultation was also undertaken because a number of issues were raised at the time of the first consultation, which the County Planning Authority asked the Applicant to address. The Applicant subsequently provided additional environmental information in relation to Protected Species, including a Reptile Survey Report. The Applicant also submitted further information in relation to the Green Belt, clarifying the very special circumstances identified in support of the application and providing information on waste arisings. All of this additional

information was consulted on for a 21 day period from (4th – 25th November 2010).

3.17 The scope of consultation and the responses received are agreed and are described from paragraph 69 onwards in WCC's Committee Report.

3.18 Following consultation, WCC's Director of Planning of Planning, Economy and Performance recommended that that WCC's Planning and Regulatory Committee be minded to grant planning permission. On 1st March 2011 the aforementioned Committee voted unanimously 14-0 in favour of the recommendation i.e. that they were minded to grant planning permission for the Mercia EnviRecover proposal.

3.19 The decision was referred to the Secretary of State who, on 10th May 2011, under Section 77 of the Town and Country Planning Act 1990 (as amended) called in the application for his own determination.

3.20 Also material is that the Mercia EnviRecover proposal was granted an Environmental Permit (Permit number EPR/XP3935TX) on 18th April 2011. This would be regulated and enforced by the Environment Agency.

4.0 PLANNING POLICY CONTEXT

Introduction

4.1 In the case of the Mercia EnviRecover application, the relevant Statutory Development Plan comprises:

- Regional Spatial Strategy (RSS) for the West Midlands including Phase 1 Revisions (January 2008);
- The Worcestershire County Structure Plan 1996 - 2011 – Saved Policies (June 2001);
- The Wychavon District Local Plan – Saved Policies (June 2006).

4.2 The RSS, now Regional Strategy, should be considered in the context of the Government's intention to abolish Regional Strategies (see material considerations below).

4.3 There are a large number of documents, extracts of which contain material planning considerations relevant to the determination of the Mercia EnviRecover application and in particular those matters that the Secretary of State wishes to be informed about. These are agreed to include, but may not be limited to the following, noting that both the Council and Applicant may introduce other material considerations:

European Directives

- The Revised Waste Framework Directive (2008/98/EC), (rWFD)
- Waste Incineration Directive (2000 / 76 / EC, December 2000) (WID)
- The Landfill Directive (1999 / 31 / EC, April 1999) (LFD)

National Policy

- Planning Policy Statement 1: Delivering Sustainable Development (PPS1)
- The Planning System: General Principles - annexed to PPS1 Delivering Sustainable Development
- Planning Policy Statement: Planning and Climate Change - Supplement to Planning Policy Statement 1 (PPS1 Supplement)
- Planning Policy Guidance 2: Green Belts (PPG2)
- Planning Policy Statement 5: Planning for the Historic Environment (PPS5)
- Planning Policy Statement 9: Biodiversity and Geological Conservation (PPS9)
- Planning Policy Statement 9: Biodiversity and Geological Conservation – A Guide to Good Practice (Good Practice Guide to PPS9)
- Planning Policy Statement 10: Planning for Sustainable Waste Management (PPS10)
- Planning for Sustainable Waste Management: Companion Guide to Planning Policy Statement 10 (PPS 10 Companion Guide)
- Chief Planning Officer's letter of 31 March 2011
- Planning Policy Guidance 13: Transport (Update 2011) (PPG13)
- Planning Policy Guidance 17: Planning for Open Space, Sport and Recreation (PPG17)

- Planning Policy Statement 22: Renewable Energy (PPS22) – noting that whilst this document does not directly relate to mass burn incineration it is relevant to renewable energy policy in general
- Planning for Renewable Energy: A Companion Guide to PPS22 (PPS 22 Companion Guide)
- Planning Policy Statement 23: Planning and Pollution Control (PPS23)
- Planning Policy Guidance 24: Planning and Noise (PPG24)
- Planning Policy Statement 25: Development and Flood Risk (PPS25)
- Overarching National Policy Statement for Energy (EN-1) July 2011 (NPS EN-1)
- National Policy Statement for Renewable Energy Infrastructure (EN-3) July 2011 (NPS EN-3)

Draft National Policy

- Planning Policy Statement: (Consultation) Planning for a Low Carbon Future in a Changing Climate (draft low carbon PPS)
- Draft Planning Policy Statement: Planning for a Natural and Healthy Environment (draft Natural and Healthy Environment PPS)
- Draft National Planning Policy Framework July 2011 (draft NPPF)

Emerging Local Policy

- Worcestershire Waste Core Strategy (emerging WCS)
- South Worcestershire Joint Core Strategy (emerging SWJCS)

National and Local Strategies and Legislation

- SI2011/988, The Waste (England and Wales) Regulations 2011 (Waste Regulations 2011)
- Environmental Permitting Regulations (England and Wales) 2010 (EPR 2010)
- Government Review of Waste Policy in England, published June 2011 (Waste Review 2011)
- Waste Strategy for England 2007 (WSE 2007)
- The Joint Municipal Waste Management Strategy for Herefordshire and Worcestershire 2004-2034 First Review November 2009 (JMWMS)
- Worcestershire Climate Change Strategy Review 2009 (WCCS)
- UK Renewable Energy Strategy 2009 (RES 2009)

Other Documents

- Wychavon District Council Strategic Housing Land Availability Assessment (SHLAA)
- Worcestershire Local Enterprise Partnership (LEP)
- Environmental Permit reference EPR-XP3935TX and associated document, Determination of an Application for an Environmental Permit under the Environmental Permitting (England and Wales) Regulations 2010 (EP and EP Determination Document)
- Letter from Commissioner Dimas of 24 August 2006
- Various appeal / Inquiry decisions.

Development Plan Policy

4.4 The development plan policies relevant to the proposal are agreed and comprise those listed from paragraph 62 onwards in WCC's Committee Report.

5.0 THE NEED FOR THE SCHEME

Waste Management Need

European / National Need

5.1 It is agreed 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 and includes the following:

- The revised Waste Framework Directive (rWFD) sets a framework for waste management across Member States. At paragraph 6, the rWFD states '*The first objective of any waste policy should be to minimise the negative effects of the generation and management of waste on human health and the environment. Waste policy should also aim at reducing the use of resources, and favour the practical application of the waste hierarchy.'*
- Paragraph 31 recognises that the '*waste hierarchy generally lays down the best overall environmental option in waste legislation and policy…'*. The waste hierarchy is presented at Article 4(1) of the rWFD as:

a. prevention;

b. preparing for re-use;

c. recycling;

d. other recovery, e.g. energy recovery; and

e. disposal.

- Article 16(1) of the rWFD requires Member States to take appropriate measures '*to establish an integrated and adequate network'* of facilities for the recovery of waste. Article 4(2) establishes the intention that the network should enable the Community as a whole to become self-sufficient '*and to enable Member States to move towards that aim individually, taking into account geographical circumstances or the need for specialised installations for certain types of waste.'* Article 4(3) requires waste to be recovered '*in one of the nearest appropriate installations*, *by means of the most appropriate methods and technologies, in order to ensure a high level of protection for the environment and public health.'*
- The Landfill Directive aims to reduce the amount of biodegradable waste going to landfill by setting out targets that Member States must meet. This includes, by 2020, reducing biodegradable waste going to landfill to 35% of that produced in 1995.

5.2 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). 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.*

5.3 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.

5.4 The Government Review of Waste Policy in England 2011 confirms the waste hierarchy as defined in the rWFD and the recycling, recovery and landfill diversion targets in WSE 2007. It specifically addresses energy from waste and 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).

5.5 It is agreed that the Mercia EnviRecover proposal would be consistent with the objectives and aspirations of the aforementioned elements 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.

Regional Need

5.6 At a regional level (i.e. in the West Midlands region) The West Midlands Regional Spatial Strategy (WMRSS) Policy WD1 presents the following targets:

- To recover value from at least 40% of municipal waste by 2005; 45% by 2010; and 67% by 2015;
- To recycle or compost at least 25% of household waste by 2005; 30% by 2010; and 33% by 2015;
- To reduce the proportion of industrial and commercial waste which is disposed of to landfill to at the most 85% of 1998 levels by 2005.

These targets pre-date the more ambitious targets in WSE 2007.

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

5.8 Part E of Policy WD2 indicates that local authorities should seek agreement with neighbouring authorities to make provision in their plans to meet the need identified in Table 4. Finally, paragraph 8.90 states *"there will…. be a significant need for additional waste management recovery and treatment facilities throughout the Region"*.

5.9 It is agreed that the Mercia EnviRecover proposal is in general conformity with the overall aims of the WMRSS and noted that this conclusion is supported by the comments received from the West Midlands Leaders Board (when consulted on the planning application) that notes that the proposal is in general conformity with the existing Regional Strategy.

Sub-Regional Need

5.10 The sub-region comprising Worcestershire and Herefordshire has long recognised the need to implement a strategy for the sustainable management of MSW. As such, in the mid 1990s, the then single authority of Herefordshire and Worcestershire commenced a procurement process for a long term waste management contract under the government's Private Finance Initiative (PFI). The outcome of the procurement process was that in December 1998 Mercia

Waste Management (MWM) was awarded a 25 year integrated waste management contract (with a mechanism for a 5 year extension) with Worcestershire County Council (WCC) and the unitary authority of Herefordshire Council, the single authority having been split earlier that year.

5.11 Since the commencement of the contract MWM has made significant progress in developing new and refurbished facilities such as waste transfer stations, household waste sites and Materials Recycling Facilities (MRFs), which, together with initiatives such as the District's kerbside collection schemes, has resulted in the joint authorities achieving their statutory targets to date in terms of recycling, landfill diversion and the Landfill Allowance Trading Scheme (LATS). This has contributed to increasing recycling from 7% in 1998 to 44% in 2010/11. With regard to residual waste treatment, the main element of MWM's initial proposal under the contract was an integrated waste management facility including an EfW plant at Kidderminster, Worcestershire (on the former British Sugar site). This development was refused permission following a public inquiry in 2002.

5.12 Subsequent to the Kidderminster EfW plant refusal, in order to meet the Waste Disposal Authorities' landfill diversion allocations under LATS, the Company has been sending residual waste to out-of-county EfW plants and will continue to do so until there is an established in-county solution for Worcestershire and Herefordshire. It is agreed that sending the authorities' waste to remote EfWs is not the preferred approach as set out in the Joint Municipal Waste Management Strategy (see below) and as such, this approach is considered to be very much an interim measure, until an in-county solution can be developed.

5.13 The authorities published, in 2004, a Joint Municipal Waste Management Strategy (JMWMS), in conjunction with the District Councils. The JMWMS identified a preferred option that included some form of 'thermal treatment' for residual waste. In addition there was a commitment to review the Strategy every five years was implemented, with the first review duly published in November 2009 (JMWMS 2009).

5.14 The JMWMS 2009 presents principles, policies and targets for waste management across Worcestershire and Herefordshire. In short, the JMWMS

2009 seeks to: deliver the waste hierarchy; respond to climate change challenges by viewing waste as a resource; provide services that are customer focussed and value for money; and foster partnership working.

5.15 The JMWMS 2009 set municipal solid waste (MSW) management targets 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.

5.16 It is agreed 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.

5.17 At paragraph 3.6.2, the JMWMS 2009 introduces a residual waste appraisal that considered options for the management of wastes remaining after recycling and composting. The appraisal is provided in full at Annex D of the JMWMS 2009 and concluded that, against 14 criteria encompassing environmental, social and economic matters, of the seven options assessed in detail, Option B (a single EfW facility with CHP) performed the best overall. A more complete summary of the appraisal process is contained from paragraph 183 onwards in WCC's Committee Report.

5.18 In light of the above, 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.

5.19 It is noted that the best performing option considered in the JMWMS 2009 review (Option B) included the delivery of CHP. This is not guaranteed by the current proposal, but it is agreed that the location of the proposal does mean there is potential in the future. Whilst CHP is generally regarded as beneficial, not least in bringing additional energy efficiency, there is not a statutory requirement for its delivery.

5.20 With regard to support for specific energy from waste technologies it is noted, and agreed, 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*.

5.21 The combustion of waste has occurred over many years and is a well established technology. However it is not outdated and all waste incineration plants are subject to regulation which is updated as and when necessary. The European Waste Incineration Directive applies to plant such as the proposed EnviRecover Facility and enforces more stringent emissions standards than are applied to other combustion plant (e.g. cement kilns). It is agreed that the proposed EnviRecover Facility is a modern plant that will deliver current expectations in regard to environmental controls and operational efficiency.

5.22 With regard to other energy from waste technologies it is agreed and recognised that anaerobic digestion can make a useful contribution to sustainable waste management. However, as also recognised by the Coalition Government (and explicitly stated in the Government Review of Waste Policy in England 2011 paragraph 220), its greatest potential is in the treatment of segregated food wastes. As such there remains a need to sustainably manage other residual wastes that are not effectively treated through anaerobic digestion.

Facility Capacity

5.23 The proposed EnviRecover facility proposed with a capacity of 200,000 tpa, is primarily intended to manage residual municipal wastes. Should these drop below the capacity of the plant, it is intended to manage residual commercial and industrial wastes. It is agreed that the plant would make a significant contribution to the amount of treatment capacity required to avoid waste being disposed of to landfill and not stifle other reduction, reuse and recycling initiatives. As such, it is agreed that the EnviRecover facility is an element of the waste management infrastructure required within Herefordshire and Worcestershire that is currently missing, that it will work with the recycling facilities already developed by the Applicant and will enable the waste hierarchy

to be delivered. It is agreed that the proposed facility would not 'crowd out' recycling.

5.24 It is recognised that a reduction of MSW arisings and/or increased recycling will inevitably reduce the amount of that waste stream available to be treated in the proposed EnviRecover facility. However, should there remain any capacity at the proposed facility due to a shortage of residual municipal waste, this can be used to manage residual commercial and industrial wastes, as is promoted in 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.*

5.25 It should be noted that the Applicant and the Council will be addressing waste quantities in greater detail in evidence at the Inquiry.

Renewable Energy Need

5.26 It is agreed that the energy generated through the thermal treatment of the biogenic fraction of municipal and commercial and industrial wastes in an EfW plant is renewable energy. This matter is discussed further in Section 6.0 of this document.

5.27 The UK's Renewable Energy Strategy 2009 (RES 2009) 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.

5.28 There is further support for the deployment of new renewable energy generation capacity in national, regional and local policy / strategy including:

- Energy White Paper 'Meeting the Energy Challenge' (May 2007);
- The UK Biomass Strategy (May 2007);
- PPS1 Supplement: Planning and Climate Change (December 2007);
- Planning Policy Statement 22 (PPS22): Renewable Energy (August 2004);
- EN1 – Overarching Energy National Policy Statement (NPS) (July 2011);
- EN3 – Renewable Energy Infrastructure National Policy Statement (NPS) (July 2011);

- Draft Planning Policy Statement: Planning for a Low Carbon Future in a Changing Climate (March 2010);
- Regional Spatial Strategy (RSS) for the West Midlands including Phase 1 Revisions (January 2008);
- Planning for Renewable Energy in Worcestershire (January 2009);
- The Worcestershire Climate Change Strategy Review (2009).

5.29 The latter 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.*

5.30 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*.

5.31 Table 1 of this document shows a consumption of renewables in 2006 of 58 GWh, only 0.35% of overall consumption, although the document provides no clearly stated figure for renewables generation in Worcestershire. Paragraph 4.5 sets a county renewables generation target of 155 GWh by 2011.

5.32 It is agreed that there is an established need for renewable energy generation capacity both nationally, regionally and locally. It is also agreed that the proposed EnviRecover facility will make a useful contribution to the supply of renewable energy sought within the West Midlands Region and within Worcestershire. The application states that 15.5MW of electricity will be generated, with 13.5MW exported to the local electricity grid. Using estimates

gained from the Department for Energy and Climate Change, this is equivalent to the electricity demands of circa 25,000 houses.

5.33 The Applicant will update the statistical data relating to renewable energy capacity and targets, as set out in the planning application, in evidence.

6.0 AGREEMENT IN RESPECT OF THE MATTERS RAISED BY THE SECRETARY OF STATE

Issue A: Development Plan

6.1 The documents that comprise the statutory development plan are agreed to be those set out in Section 4.0 above.

6.2 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.

6.3 The Applicant agrees with the Council's position except, for the avoidance of any doubt, it maintains that the proposal does not breach policy in relation to landscape and visual matters.

6.4 The agreed position in relation to Green Belt matters is addressed under Issue D below.

6.5 The parties agree that the emerging development plan comprises:

- The Worcestershire Waste Core Strategy – Publication Document under Regulation 27 (March 2011);
- The South Worcestershire Development Plan, formerly called the South Worcestershire Joint Core Strategy (Draft Preferred Options Document – undated);

- Regional Spatial Strategy for the West Midlands Phase 2 Revision (including the recommendations of the Panel Report).

6.6 The parties agree that the weight set out below should be attached to each of the emerging development plan documents.

The Worcestershire Waste Core Strategy

6.7 At the time of the Committee's decision it was agreed that the emerging Waste Core Strategy (WCS) was insufficiently advanced to be accorded any weight in the analysis of the proposal. Subsequently, during the period 22nd March – 4th May 2011, the Publication Document (Regulation 27) has been consulted upon and the Council intends to submit the WCS to the Secretary of State in summer 2011. 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

6.8 The Council and the Applicant are currently considering the responses that have been received during consultation, which have been numerous. This includes a large number of objections to the WCS policies. In such a situation it remains for the Inspector conducting the independent examination to determine whether the emerging WCS is sound. The Council and the Applicant will consider the provisions of the emerging WCS in submitted evidence, but, bearing in mind the level of representation received, conclude that, at this time, no significant weight can be given to any policies of the emerging WCS in the analysis of the proposed development.

The South Worcestershire Development Plan

6.9 This Plan is in the 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 will be subject to consultation for 8

weeks commencing on 26th September 2011. Given this position it should carry no significant weight.

Regional Spatial Strategy for the West Midlands Phase 2 Revision

6.10 In light of the Government's intention to scrap Regional Strategies, it is considered that this document will not progress further and it should be attached very limited weight. However, the information / evidence base used to prepare the Revision document may be a material consideration to which greater weight can be attached.

Compliance with the Policies in the Emerging Development Plan

6.11 It is agreed that the proposal accords with the emerging RSS, notwithstanding its policies should attract very little weight. With regard to the emerging WCS, it is agreed that the proposal accords with the overall objectives within the emerging plan, notwithstanding its policies should not attract significant weight. Finally, whilst it is agreed that the policies within the Draft South Worcestershire Development Plan should attract no significant weight, it is also agreed that the emerging Plan is in direct conflict with national planning policy in so far as it makes limited reference to renewable energy matters.

Issue B: PPS 10: Planning for Sustainable Waste Management:

6.12 The revised PPS 10 sets out the new waste hierarchy. Within this framework it is agreed that 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").

6.13 The Council and Applicant agree that energy recovery from residual waste is preferable to disposal at landfill. At present the authorities are heavily reliant on landfill disposal and out-of-county third party EfW. In this regard it is noted that

that PPS 10 paragraph 3 (extract) sets out the following key planning objectives that require:

- *…..sustainable development through driving waste management up the waste hierarchy….;*
- *…..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;*
- *……..the recovery or disposal of waste without endangering human health and without harming the environment, and enable waste to be disposed of in one of the nearest appropriate installations;*

6.14 In the context of these key objectives, the Mercia EnviRecover facility would demonstrably:

- Move the management of Worcestershire's and Herefordshire's residual MSW up the waste hierarchy;
- Allow the residents of the two counties to take more responsibility for their own waste in a timely manner (and without further undue delay);
- Provide an in-county facility that would reduce the distance that waste has to travel by reducing reliance on out-of-county recovery facilities.

6.15 In addition to the extracts from paragraph 3 (see above), PPS 10 (particularly paragraphs 20 and 21) provides advice to local authorities in regard to identifying locations for new waste management development. This advice is also relevant to the consideration of a planning application. PPS 10 states that a broad range of locations should be considered for waste management facilities, including industrial estates.

6.16 The proposed development site is located within Hartlebury Trading Estate. It is noted, and agreed, that the name 'Trading Estate' is not relevant and has no statutory status in planning law. The site benefits from an extant permission for industrial uses for B1 – offices and light industrial, B2 – General Industrial, and B8 - storage. Furthermore, it is agreed that this industrial estate does provide appropriate infrastructure and surrounding uses. The site benefits from excellent transport links via the A449 and good access to the lorry route network and to the M5 Motorway.

6.17 It is agreed that during the site search for a suitable location for the facility, a key criterion used by the Applicant was to ensure the facility would be located as near to the largest centres of population (principal areas of waste arisings) as can be achieved, bearing in mind such factors as sustainability, travel time and proximity to other facilities. This assessment included the recognition that most of the waste to be treated, almost two thirds, originates in Worcestershire, with just one third generated in Herefordshire.

6.18 It is noted that, as described previously in this document (see Section 5 – *Sub Regional Need*) the Joint Municipal Waste Management Strategy (JMWMS) was reviewed in 2009. This review concluded that a single plant to manage both authorities' waste should be sought. The vehicle mile assessment contained within the planning application and discussed within the Council's Committee Report demonstrates the environmental benefits of a single facility located in Worcestershire. It is agreed that a single plant is appropriate.

6.19 Furthermore, it is that the facility's proposed location is appropriately situated close to the middle of the main centres of waste arising, which lie in the north of Worcestershire. As such, the site is located in a sustainable location and is close to the principal areas of waste arisings.

6.20 Based on the foregoing, it is agreed that, in the context of PPS 10, the facility is well located in relation to the principal areas of waste arisings and is situated on an industrial estate with good transport access.

6.21 It is agreed that the site search has demonstrated that there is no more sustainable alternative in terms of locations otherwise appropriate or available for this development. It is also agreed that the principle of development at this location is established through the extant planning permission.

6.22 With regard to the third key planning objective in PPS 10 (helping implement the national waste strategy and supporting targets), it is agreed that the principle of the management of waste in an EfW plant is consistent with the achievement of the national waste strategy as promoted in PPS 10 (i.e. Waste Strategy England 2007) and the findings of the national waste strategy review (Government

Review of Waste Policy in England 2011). The increased recovery of energy from the joint authorities' waste at the EnviRecover plant would contribute to the achievement of the Government's targets (as set out in Waste Strategy England 2007) for landfill diversion and the recovery of value from residual municipal waste. It would also contribute towards the key objectives of the movement of residual waste management up the waste hierarchy and investment in new sustainable waste management infrastructure. Thus, the scheme would materially contribute towards the delivery of the national waste strategy.

6.23 With regard to the protection of Green Belts it is agreed, for the reasons set out subsequently in respect of the Secretary of State's issue D, that in this situation there are particular locational benefits, that together with the wider environmental and economic benefits of sustainable waste management, are such significant material considerations that they justify the development of the EnviRecover in a Green Belt location.

Issue C: PPS1 Supplement: Planning and Climate Change

6.24 It is agreed that the Glossary to the Planning and Climate Change Supplement to Planning Policy Statement 1 (PPS1 Supplement) identifies that renewable and / or low carbon energy supplies include energy from waste. It is also explicit in paragraph 208 of the Government Review of Waste Policy in England 2011 (and agreed) that only the combustion of the biogenic fraction of the waste, and the energy derived there from, is classified as renewable energy.

6.25 The EU Directive 2009/28/EC on the promotion of the use of energy from renewable sources defines 'energy from renewable sources' as meaning "… *energy from renewable non-fossil sources, namely wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower,* ***biomass*** [our emphasis]*, landfill gas, sewage treatment plant gas and biogases*" (1). 'Biomass' is defined as meaning "… *the biodegradable fraction of products, waste and residues from biological origin from agriculture (including vegetal and animal substances), forestry and related industries including fisheries and*

(1) EU Directive 2009/28/EC Article 2, page L140/27 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32009L0028:EN:NOT
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aquaculture, as well as the ***biodegradable fraction of industrial and municipal waste*** [our emphasis]" (2).

6.26 The Renewable Heat Incentive (RHI) states (3):

"*Energy from waste combustion (the biomass proportion of municipal waste) Rather than being sent to landfill the waste we produce can be reused, recycled or burned to produce heat. More than half of the rubbish households throw away is organic, renewable matter, such as food or paper products. Although it is usually better from an environmental perspective to reuse, recycle or produce biogas from these materials, this is not always possible and combustion can offer a better option than disposal to landfill, which generates harmful greenhouse gas emissions. Due to its renewable biomass proportion, currently around half the heat produced by burning municipal waste is renewable heat*."

6.27 The RHI goes on to state: "*Participants who burn MSW will receive the biomass tariff, adjusted pro-rata for the solid biomass content of their waste. Unless participants prove a higher percentage of biomass content, the pro-rata content will be deemed at 50 per cent*." This indicates that 50% is considered to be the minimum proportion of the waste which is considered biomass, and therefore the minimum proportion that is renewable.

6.28 On the basis of the above, it is agreed that a minimum of 50% of the energy generated by the EnviRecover proposal would be renewable. The actual figure will depend upon the precise composition of the waste to be treated.

6.29 PPS1 Supplement lists seven key planning objectives. Those of most relevance to the EnviRecover proposal are listed below. They are that development should:

- *make a full contribution to delivering the Government's Climate Change Programme and energy policies, and in doing so contribute to global sustainability;*

(2) EU Directive 2009/28/EC Article 2, page L140/27 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32009L0028:EN:NOT Appendix H

(3) http://www.decc.gov.uk/assets/decc/What%20we%20do/UK%20energy%20supply/Energy%20mix/Renewable%20energy/policy/renewableheat/1387-renewable-heat-incentive.pdf (page 35)

- *reflect the development needs and interests of communities and enable them to contribute effectively to tackling climate change; and*
- *respond to the concerns of business and encourage competitiveness and technological innovation in mitigating and adapting to climate change.*

6.30 It is agreed, that in respect of the above key objectives, the EnviRecover proposal would:

- Generate energy, including renewable energy (which would offset fossil fuel power generation and contribute to the UK renewable energy targets), and provide for comparative fuel / energy generation security. This is in full conformity to the Government's energy policy.
- For the reasons set out in Section 5 (relating to need), provide a much needed facility for the diversion of residual waste away from landfill, and enable the community of Worcestershire and Herefordshire to contribute effectively to tackling climate change.
- Provide development in a location where there is potential for businesses to utilise heat (steam and / or hot water) from the plant (including renewable heat and thus encourage them to adapt to climate change.

6.31 With regard to the level of contribution to combating climate change, the planning application is supported by a WRATE (Waste and Resources Assessment Tool for the Environment) assessment. WRATE is a software modelling tool, developed by the Environment Agency that compares the environmental impacts of different municipal waste management systems. In WSE 2007, WRATE is the recommended life cycle tool for informing decisions on the carbon footprint of waste infrastructure options and for estimating global warming emissions for local waste strategies; the software was updated in Spring 2010. WRATE enables the comparison of a series of alternative waste treatment options or waste management systems. It identifies impacts at each stage of the waste management process, assuming that the system is in compliance with all applicable legislation.

6.32 WRATE uses six default impact indicators, including one termed Global Warming Potential. This indicator considers the amount of carbon dioxide and other gases emitted into the atmosphere that cause global warming. The Global Warming Potential impact assessment in WRATE can also be referred to as the

'carbon footprint' caused by the waste management system. For this impact, WRATE calculates the emissions which are known greenhouse gases and expresses these in CO_2 equivalents (the weighted contribution to climate change expressed relative to the global warming impact CO_2 places on the environment). A WRATE assessment considers the emissions that are generated from the construction, maintenance and operation impacts as well as those from transport, displacement of power generation from fossil fuel power stations and the benefits (or impacts) associated with recycling.

6.33 The WRATE assessment demonstrates that, the proposed EnviRecover facility, exporting power only, would result in a net annual reduction of 7,361 CO_2 equivalent tonnes per annum. During the application process, the Applicant confirmed to the Council that the WRATE assessment took account of:

- construction of the facility;
- transportation of waste and reagents to the facility and residues from the facility;
- releases of non-biogenic carbon dioxide and of nitrous oxide from the chimney stack;
- displacement of power generated by other power stations;
- recovery of aluminium and ferrous metal from bottom ash, avoiding greenhouse gas emissions.

6.34 On this basis it is agreed that a proper WRATE assessment has been undertaken and that the CO_2 equivalent tonnes can properly be used to represent the carbon footprint of the proposed EnviRecover facility. In the future, should the proposed facility export heat as well as power, then the net annual reduction would increase.

6.35 The purpose of WRATE is to compare different waste management options, so the assessment of the EnviRecover facility does not take account of the diversion of waste from landfill and the consequent reduction in greenhouse gases. As such, these results are shown as compared against a situation where no waste is managed, rather than against the waste management practices being undertaken at present. The WRATE assessment does not calculate the current waste management practices. However, based on the results for the assessment of another option which best reflects the current situation (i.e. out-

of-county EfW combined with landfilling in line with LATS allowances) it is agreed that by avoiding the disposal of waste to landfill, an additional reduction of 28,657 CO_2 equivalent tonnes per annum can be made.

6.36 Diverting waste from landfill avoids the production of methane. Methane is considered to be approximately 23 times more potent than CO_2 in terms of its effect upon global warming over a 100 year period. This avoided methane emission creates a substantial benefit as a result of operating the proposed facility.

6.37 In light of the above, 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.

Issue D: Green Belt

(a) Inappropriate development and Very Special Circumstances

6.38 It is agreed 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 comprise redevelopment of an existing site or limited infilling.

6.39 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.

6.40 It is agreed, in the case of the Mercia EnviRecover project, that 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. The Applicant will present further evidence on very special circumstances at the Inquiry. Those agreed are:

i. that the Hartlebury site is at (or very close to) the optimum location to serve the overall pattern of waste arisings within Worcestershire and Herefordshire;

ii. the site's location in an area with excellent transportation connectivity, on suitable standards of road that require no physical improvements (or consequent financial investment) will bring environmental benefits, including road safety and fuel efficiency;

iii. that there are no other more sustainable alternatives available;

iv. that the site is located in an area that does not contain insuperable environmental constraints, nor would significant or unacceptable environmental impacts occur as a result of the development;

v. that the site is in an area where electricity can be readily exported (with an economically viable grid connection) and there are opportunities to facilitate the export and use of heat;

vi. the locational benefits of being situated local to potential market for the clay soils and bottom ash;

vii. the locational advantage of being situated adjacent to landfill facilities;

viii. that there is a significant need for the proposed EnviRecover facility to avoid current, unsustainable waste management practices;

ix. that the proposed EnviRecover facility would bring climate change benefits, not least through a reduction of at least 7,361 tonnes of CO_2 equivalents per annum;

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

xi. that the development proposal is submitted in a timely manner enabling statutory targets in relation to landfill diversion and waste recovery to be met.

(b) Green Belt Purposes

6.41 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). It is agreed that these purposes underpin maintenance of the openness of the Green Belt. In this context, it is agreed that as the EnviRecover facility is

proposed on an existing industrial estate and would not extend the permitted boundaries of development, that the relevant purposes of including land within the Green Belt would be maintained.

6.42 The Applicant will present further evidence on the extent to which the protection of the site would accord with each of the purposes of including land in the Green Belt at the Inquiry.

(c) Visual Amenities of the Green Belt

6.43 The agreed position on the visual effects of the proposal is set out in Section 7.0 of this Statement. This has been given due regard in considering whether the proposed development would harm the visual amenities of the Green Belt by virtue of its siting, material and design. Based on this assessment, it is agreed 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 be insufficient to justify a reason for refusal.

(d) Green Belt Objectives

6.44 It is agreed that given the nature of the application site and the development, the proposal would not 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.

Other Green Belt Matters

6.45 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, it is agreed that:

- There would be a degree of impact upon the openness of the Green Belt, although the parties disagree to the extent of the effect, primarily in respect of the weight that should be attached to (and relevance of) the planning fall-back position. It is agreed that the degree of impact on openness is not so significant as to justify refusal of the application;
- Notwithstanding the above, as set out in Section 7.0 of this document, the impact upon openness experienced visually would be limited;

- 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 and the consequent reduction in CO_2 equivalents, are sufficient to outweigh the harm resulting from any impact on the openness of the Green Belt.

7.0 LANDSCAPE AND VISUAL EFFECTS

7.1 It is agreed that the submitted Design and Access Statement demonstrates that the design of the proposed EnviRecover facility has been developed with considerable attention to its landscape and visual effects. The submitted design is considered to be the best option causing least visual impact and integration with the existing setting. This includes lowering the ground level of the site by 8m in order to reduce the final height of all the buildings, consequently reducing their visual impact.

7.2 It is noted that neither the County Landscape Officer nor the County Design Unit Manager object to the proposal and it is agreed that the final / precise external finish of the buildings and site details can be controlled through planning conditions. It is agreed, a conclusion supported by the County Landscape Officer, that views into and out of the Hartlebury Conservation Area (even with an amended boundary) would not be adversely affected by the proposed development.

7.3 It is agreed that the proposed EnviRecover facility would be visible from the surrounding area including from the residential areas of Waresley Park and Elmley Lovett and public view points to the south of the site, particularly from several public rights of way. However, beyond these locations, it is agreed that visibility will be limited to glimpsed views of the proposed EnviRecover facility as the development is generally well located within the landscape, screened by the undulating nature of the land and by trees and hedgerows already well established. Furthermore, it is that the more prominent views of the proposed development would be seen in the context of the existing Trading Estate and in a landscape where there are other tall structures, such as pylons and radio masts, present on the sky line.

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

8.0 OTHER MATTERS WHICH ARE AGREED

8.1 The Mercia EnviRecover proposal was granted an Environmental Permit (Permit number EPR/XP3935TX) on 18th April 2011. This would be regulated by the Environment Agency. The Permit was issued on the basis that the Agency is satisfied that the facility can operate to the appropriate standards in respect of:

- Aerial emissions (including any effects from such emissions on Natura 2000 sites);
- Human health;
- Land quality including contamination during the operation of the proposal;
- Noise arising from the operation of the facility;
- Impact on local amenity (in respect of litter, vermin etc) arising from the operation of the facility;
- Discharges to water courses arising from the operation of the facility;
- General pollution control (including the management of air pollution control residues etc);
- Energy efficiency.

8.2 With regard to the matter of energy efficiency, the Environmental Permit provides a condition under which the facility would have to operate. This 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.

8.3 The issuing of the Permit also means that that Agency is satisfied that the proposal constitutes the Best Available Technology (BAT). It is agreed that these matters are no longer material to the consideration of the planning application.

8.4 Notwithstanding the issue of the Environmental Permit, it is considered appropriate to set out the agreed position on air quality and human health from the planning application perspective and in particular emissions from vehicle deliveries and the construction phase, which are not Permitting matters.

8.5 ***Air Quality and Human Health*** - The proposal is accompanied by a detailed air quality dispersion model. This concludes that the chimney stack offers suitable dispersion and is designed to ensure that all substances are sufficiently dispersed by the time they reach ground level and that even if someone were to live their whole life close to the plant, there would be no significant impact on their health. The dispersion results in a negligible impact on the surrounding air quality, such that further mitigation is not required. It is also concluded that the impacts from HGV movements to and from the proposed facility on air quality are insignificant. With regard to potential impacts from the construction phase, from dust, mitigation measures are proposed by way of a Construction Environmental Management Plan that would be controlled through the suggested planning conditions.

8.6 It is agreed that the Environment Agency (EA) is satisfied by the air quality dispersion modelling undertaken and raises no objection. On this basis it is agree that air quality will not be adversely affected as a result of this proposal,

that there would not be subsequent harm to the environment and that the potential for impacts to arise during the construction phase can be appropriately controlled through the imposition of condition(s).

8.7 The application is also accompanied by assessments for the potential impacts on human health through air quality and through impacts of pollutants on agricultural land and the subsequent ingestion of food from such land. Both assessments conclude that there would be a negligible impact resulting from the proposed development. The Worcester NHS (Primary Care Trust) has considered carefully the submitted analysis relevant to health effects and advises that there would be no significant risk to health from the facility as long as it is operated within the established regulations.

8.8 It is agreed in respect of pollution matters that the advice in PPS 23, at paragraph 10, is relevant:

The planning and pollution control systems are separate but complementary. Pollution control is concerned with preventing pollution through the use of measures to prohibit or limit the release of substances to the environment from different sources to the lowest practicable level. It also ensures that ambient air and water quality meet standards that guard against impacts to the environment and human health. The planning system controls the development and use of land in the public interest. It plays an important role in determining the location of development which may give rise to pollution, either directly or from traffic generated, and in ensuring that other developments are, as far as possible, not affected by major existing, or potential sources of pollution. The planning system should focus on whether the development itself is an acceptable use of the land, and the impacts of those uses, rather than the control of processes or emissions themselves. Planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced. They should act to complement but not seek to duplicate it.

8.9 Also of relevance is the advice provided at paragraph 30 of PPS 10:

Modern, appropriately located, well-run and well-regulated, waste management facilities operated in line with current pollution control techniques and standards should pose little risk to human health.'

8.10 It is agreed, and confirmed by the consultation responses provided by the Worcestershire NHS and the EA, that the proposed EnviRecover facility has been designed to modern standards and that its operation would be appropriately monitored and regulated by the relevant pollution control authorities. As such, it is agreed that the proposed facility would not result in any significant harm to human health.

8.11 It is also relevant to consider the perception of harm from the proposed EnviRecover facility. In this regard the aforementioned statement in PPS 10 is material and relevant advice has been published by the Health Protection Agency, in February 2010 in its publication *The impact on health of emissions to air from municipal waste incinerators*. This advises:

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.

8.12 It is also agreed that PPS 10 paragraph 26 also makes clear that decision-makers should not carry out their own health studies but rely on advice from the relevant health authorities and pollution control agencies. It is agreed that in respect of the EnviRecover application, no exceptional circumstances have been identified that justify a departure from national policy and guidance in respect of health issues.

8.13 In light of this policy advice and recognising that no objection has been raised by any of the statutory advisers, it is agreed that local residents' fears about harmful health effects (i.e. health perception) is not something that in itself warrants refusal of the proposed EnviRecover facility.

8.14 Based on the foregoing, it is agreed that the potential harm to human health and the environment associated with the proposed EnviRecover facility have been adequately assessed and that the Environment Agency (who has granted an Environmental Permit for the facility), as the appropriate regulator, raised no objection, nor did the NHS.

8.15 Other matters which are agreed are set out below under the following headings:

- Highways and Transportation;
- Noise (including traffic and construction noise);
- Flood Risk;
- Archaeology and Heritage;
- Ecology and Nature Conservation;
- Cumulative Effects;
- Effect on local house prices;
- Covenants on the application site.

8.16 ***Highways and Transportation*** – Vehicle deliveries would occur between 06.00 – 19.00 hours up to 7 days per week. The Applicant estimates that the proposed EnviRecover facility would generate a total number of 218 HGV trips (i.e. 109 HGV in and 109 vehicles out) at a peak operational day and 154 HGV trips (77 HGV in and out) during an off-peak operational day. New, purpose built accesses would be constructed into the site via two separate and staggered junctions formed with Oak Drive.

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

8.18 The Environmental Statement submitted with the application concludes that development and operation of the EnviRecover facility would not result in a material impact on operational or environmental conditions over the local highway network. Development traffic flow increases would generally be low

when compared to baseline flow demand. Further, the core local haulage routes of Crown Lane and the A449 are of a suitable standard to accommodate operational HGV traffic and have few immediate sensitive receptors.

8.19 In the context of the above, it is agreed that no objection has been received from either the Highways Agency or the County Highways Officer and the routeing strategy is appropriate. It is noted that, due to weight and width restrictions on many of the local roads surrounding the site, it would be difficult for HGVs to use these in any event. Thus, it is agreed that that the proposal will not result in a significant detrimental traffic related impact and all traffic and highway matters can be sufficiently addressed through the imposition of the recommended conditions.

8.20 Consideration was given to the use of rail with the development. However, the EnviRecover facility would manage wastes arising with Worcestershire and Herefordshire and principally residual municipal wastes. The road based system, including transfer station infrastructure, for collecting these wastes is already established. It is agreed that these road movements and those associated with transporting outputs from the proposal (the clay materials, incinerator bottom ash and APC residues) are demonstrated to not result in unacceptable impacts, including in relation to the carbon footprint of the EnviRecover facility. It is consequently agreed that it would not be appropriate, reasonable or practicable to use a rail based waste transfer system in this instance.

8.21 ***Noise (including traffic and construction noise)*** – Not withstanding the Environmental Permit it should be noted that the District Council Environmental Health Officer raised no objection in respect of noise, but requested conditions to limit operations of the plant to not result in an increase of more than 5 dB over background noise. It is agreed that noise can be appropriately controlled through the recommended conditions.

8.22 With regard to traffic noise the proposed EnviRecover facility would necessarily operate 24 hours a day. However, HGV movements to the proposed facility are proposed over a 13 hour working day to limit disturbance and it is agreed that

vehicular noise can be adequately controlled through the imposition of appropriate conditions.

8.23 With regard to construction phase noise it is agreed that mitigation measures, including limiting the hours of construction operations, will form part of the Construction Environmental Management Plan to be agreed with the Council by way of the recommended planning conditions. It is agreed that this is an appropriate route to ensure residential amenity is not adversely affected.

8.24 ***Flood Risk*** – The application site lies in Flood Zone 1 and is not susceptible to flooding. The planning application includes a concept surfacewater drainage scheme, including on-site attenuation, which would ensure the scheme would not give rise to any off-site flooding.

8.25 ***Archaeology and Heritage*** – The application site comprises disturbed, developed and previously developed land. As a consequence it is agreed that there are no on-site archaeology or heritage issues. With regard to both on and off-site effects (i.e. impacts on the setting of, or views from, designated heritage features), it is noted that English Heritage were consulted twice (by the Council) on the application and raised no objection. Similarly the County Archaeologist raised no objection. It is agreed that there would be no significant adverse effects on any off-site heritage features.

8.26 ***Ecology and Nature Conservation*** – There is no sustained objection from Natural England, who did initially submit a holding objection, and no objection from the County Ecologist. It is agreed that, based upon the information considered by the planning committee, the imposition of the suggested planning conditions would ensure that no unacceptable impacts would arise from the development in respect on ecological or nature conservation matters. Furthermore, it is agreed that the Environmental Statement (as supplemented by the Regulation 19 submission in respect of reptiles) is not deficient with regard to ecology and nature conservation matters in relation to bats and / or great crested newts.

8.27 ***Cumulative Effects*** – It is agreed that proper consideration has been given to the cumulative effects of the scheme and that no unacceptable effects would occur in this regard.

8.28 ***Effects on Local House Prices*** – It is agreed that this is not a planning consideration as set out at paragraph 29 of The Planning System: General Principles (ODPM 2005).

8.29 ***Covenants on the application site*** – it is agreed that:

- In light of the foregoing, the EnviRecover development would not breach any covenant(s) on the application site relating to noise and nuisance;
- The presence of any covenant(s) on the application site is not a planning consideration.

9.0 PLANNING CONDITIONS AND OBLIGATIONS

9.1 Appropriate draft planning conditions have been agreed that should be attached to any grant of planning permission. These constitute the conditions contained within the Committee Report prepared by the Director of Planning of Planning, Economy and Performance (for WCC's Planning and Regulatory Committee meeting of 1st March 2011). These are contained at Appendix B of this document. The Applicant will not take any significant issue with these conditions, but will question (and provide evidence at the Inquiry), 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). The Council considers this condition should be retained for the reasons summarised in paragraph 301 of its Committee Report. The parties reserve the right, up to the appropriate juncture in the Inquiry, to make suggestions that either amend or add further planning conditions.

9.2 The parties have agreed that there is no requirement for any planning obligation. The Applicant reserves the right to submit a planning obligation should matters necessitating such action come to light.

Appendices

Appendix A Schedule of Planning Application Documentation

The planning application documentation and documents submitted in support of the application are set out below. This schedule comprises drawings and documents that were amended prior to the Council's resolution to grant planning permission and thus reflect the documentation that was before the Council at the point of determination.

- A Planning Application Document in two volumes, which includes:
  (i) Planning Application Forms and Certification;
  (ii) Design and Access Statement;
  (iii) Planning Statement (with appendices);
  (iv) Community Involvement Statement (with appendices);
  (v) Planning Application Drawings (the full set of originally submitted drawings reproduced to scale at A3 size);
  (vi) Other Information.

- The full scale Planning Application Drawings:

  - 1204-PL0001 Site Context Plan
  - 1204-PL0002 Planning Application Boundary Plan
  - 1204-PL0003 Proposed Site Plan
  - 1204-PL0005 Proposed Basement Plans
  - 1204-PL0006 Proposed Ground Floor Plan
  - 1204-PL0007 Proposed First / Second Floor Plans
  - 1204-PL0008 Proposed Third / Fourth Floor Plans
  - 1204-PL0009 Proposed Roof Plan
  - 1204-PL00010 Visitor Centre Proposed Plans
  - 1204-PL00011 Proposed Site Sections AA & BB
  - 1204-PL00012 Proposed North Elevation
  - 1204-PL00013 Proposed East Elevation
  - 1204-PL00014 Proposed South Elevation
  - 1204-PL00015 Proposed West Elevation
  - 1204-PL00016 Proposed Turbine Building Elevations
  - 1204-PL00017 Proposed Weighbridge Plan & Elevations
  - 1204-PL00018 Virtual Samples Board
  - 900-01-001 Rev A Landscape Proposals
  - 900-01-002 Proposed Foul and Surface Water Drainage Layout

- 900-01-003 Site Features
- 900-01-004 Detailed Hard and Soft Landscape Scheme

- An Environmental Statement in three volumes, comprising:
  (i) Volume 1 – Main Report (including illustrative figures);
  (ii) Volume 2 – Technical Appendices;
  (iii) Volume 3 – Non-Technical Summary.

- A Transport Assessment in one volume.

- A Regulation 19 Submission: Reptile Survey & Mitigation Plan.

- A Green Belt Synopsis Report.

It should be noted that the application will, at the time of the Inquiry, also be supplemented by a revised Environmental Statement (ES) Non-Technical Summary (submitted under Regulation 19) setting out the main alternatives considered by the Applicant provided, as included within the main body of the ES. In addition, the Applicant will submit an assessment of the likely significant effects of the electrical grid connection, as an addendum to the Environmental Statement, as either a Regulation 19 request or as 'other environmental information'.

a) The development must be begun not later than the expiration of five years from the date of this permission.

b) The development hereby approved shall only be carried out in accordance with the following documents and drawings, except for where measures are required by the conditions set out elsewhere in this permission which shall take precedence over those documents listed here:

Documents:

- The Planning Application Document Volume 1 and 2 – April 2010
- The Environmental Statement Volume 1 - Main Report and Volume 2 – Technical Appendices – April 2010
- The Transport Assessment – April 2010

Drawings and Figures:

- Drawing Number 1204 PL0002 (Part 5 of the Planning Application Document Volume 2) – Planning Application Boundary Plan – April 2010
- Drawing Number 1204 PL0003 (Part 5 of the Planning Application Document Volume 2) – Proposed Site Plan – April 2010
- Drawing Number 1204 PL0004 (Part 2 of the Planning Application Document Volume 1 (Appendix 2 of the Design and Access Statement) – Proposed Traffic Plan – April 2010
- Drawing Number 1204 PL0005 (Part 5 of the Planning Application Document Volume 2) – Proposed Basement Floor Plans – April 2010
- Drawing Number 1204 PL0006 (Part 5 of the Planning Application Document Volume 2) – Proposed Ground Floor Plan – April 2010
- Drawing Number 1204 PL0007 (Part 5 of the Planning Application Document Volume 2) – Proposed First/Second Floor Plans – April 2010
- Drawing Number 1204 PL0008 (Part 5 of the Planning Application Document Volume 2) – Proposed Third / Fourth Floor Plans – April 2010
- Drawing Number 1204 PL0009 (Part 5 of the Planning Application Document Volume 2) – Proposed Roof Plan – April 2010
- Drawing Number 1204 PL0010 (Part 5 of the Planning Application Volume 2) - Visitor Centre Route Plans – April 2010
- Drawing Number 1204 PL 0011 (Part 5 of the Planning Application Document Volume 1) – Proposed Site Sections AA and BB – April 2010
- Drawing Number 1204 PL 0012 (Part 5 of the Planning Application Document Volume 1) – Proposed North Elevation – April 2010

- Drawing Number 1204 PL 0013 (Part 5 of the Planning Application Document Volume 1) – Proposed East Elevation – April 2010
- Drawing Number 1204 PL 0014 (Part 5 of the Planning Application Document Volume 2) – Proposed South Elevation – April 2010
- Drawing Number 1204 PL 0015 (Part 5 of the Planning Application Document Volume 2) – Proposed West Elevation – April 2010
- Drawing Number 1204 PL 0016 (Part 5 of the Planning Application Document Volume 2) – Proposed Turbine Building Elevations – April 2010
- Drawing Number 1204 PL 0017 (Part 5 of the Planning application Document Volume 2) – Proposed Weighbridge Plan and Elevations – April 2010
- Drawing Number 1202 PL0018 (Part 5 of the Planning Application Document Volume 1) – Virtual Samples Board – April 2010
- Drawing 900-01-001 Rev A - Landscape Proposal – April 2010, accompanying letter from Axis dated 15 November 2010
- Drawing 900-01-002 – Proposed Foul and Surface Water Drainage Layout (Part 5 of the Planning application Document Volume 2) – April 2010
- Drawing 900-01-003 – Site Features (Part 5 of the Planning Application Document Volume 2) – April 2010
- Drawing – Detailed Hard and Soft Landscape Scheme (900-01-004) – November 2010, accompanying letter from Axis dated 15th November 2010
- Figure 12 of the Transport Assessment – Proposed Site Access Arrangements & Internal HGV Queuing Space – April 2010

c) The operator shall ensure that the amount of wastes treated at the facility hereby approved does not exceed 200,000 tonnes per year.

d) The development hereby permitted shall only receive and manage wastes arising from within the administrative boundaries of Worcestershire and Herefordshire.

e) The operator shall notify the County Planning Authority of the date of the start of each phase of development in writing at least 5 working days prior to each phase. The phases of development to be notified are: commencement; commissioning; and operation.

f) No material shall be accepted at the site directly from members of the public, and no retail sales of waste or processed materials to members of the public shall take place at the site.

Construction Environment Management Plan

g) No development hereby permitted shall commence until a Construction Environment Management Plan (CEMP) is submitted to and approved in writing by the County Planning

Authority. The approved CEMP shall be implemented for the duration of the development prior to operation. The CEMP shall address the following issues:

Hours of working

i) A scheme (consistent with paragraph 5.8.5 of the Environmental Statement , Volume 1, Main Report (April 2010)) providing details of the construction operations, including the days and hours of working for construction of the development hereby approved, shall be submitted for the written approval of the County Planning Authority.

Travel Plan

ii) The route to be used for vehicular access during construction of the development hereby approved shall only be in accordance with a Travel Plan to be submitted to and approved in writing by the County Planning Authority.

Ecology

iii) A procedure to address the clearance of vegetation on site outside the bird breeding season (generally recognised to be late March – August inclusively) or under the supervision of a suitably qualified and experienced ecologist. No vegetation shall be cleared during the bird breeding season.

iv) A detailed procedure for the trapping and translocation of reptiles under the supervision of a suitably qualified and experienced ecologist; this should follow the recommendations set-out in the Reptile Survey and Mitigation Plan (Argus Ecology, July 2010).

v) Details of exclusion fencing around the site.

vi) Details for the protection of receptor sites and associated linking habitats throughout the construction stage. These are expected to include retention of a works "biodiversity-log" to record any operations within or affecting the receptor areas.

vii) A procedure to ensure that during the construction phase all trenches / excavations / pipes are closed-off overnight, or if unavoidable, are fitted with wood or earth escape ramps, to allow any trapped wildlife to escape.

viii) A plan to identify all trees to be retained on site and details of their protection.

ix) Management of Japanese knotweed.

Dust

x) A scheme to demonstrate how the impacts of dust shall be minimised during the construction of the development and during extraction of the clay and removal off site.

xi) A scheme to demonstrate that no mud, dust or debris shall be deposited on the public highway.

Noise

xii) A scheme to minimise and mitigate the impacts of noise and vibration (including on-site vehicles, plant and machinery) during the construction phase of the development.

Visual Impact

xiii) A scheme to show how construction works on site will be managed to mitigate their visual impact, including keeping the site tidy and details for the storage of materials.

Ground Water / Contaminated Land

xiv) A Method Statement providing details of the data that will be collected in order to demonstrate that the investigative and remediation works set out in the Environmental Statement Volumes 1 and 2 are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. The Plan shall include results of any additional sampling and monitoring carried out to support the construction phase.

xv) A Validation Report confirming that the site remediation criteria set out in the Method Statement have been satisfactorily met and any additional investigation results.

Land Drainage

xvi) Details of the foul and surface water management during the construction phase.

Highway Safety and Access

h) The only means of access and egress to the site shall be from Oak Drive as shown in Drawing Number 1204 PL0003 (Figure 5.1 of the Environmental Statement) – Proposed Site Plan and in Figure 12 - Proposed Site Access Arrangements & Internal HGV Queuing Space of the Transport Assessment.

i) The route to be used for vehicular access during operation of the development hereby approved shall only be in accordance with a Travel Plan to be submitted to and approved in writing by the County Planning Authority prior to the operation of development.

j) All loads of waste materials carried on HGV into and out of the development hereby approved shall be enclosed or covered so as to prevent spillage or loss of material at the site or on to the public highway.

k) Heavy goods vehicles associated with operation of the development hereby approved shall only enter or exit the site between 06:00 hours and 19:00 hours.

l) No development hereby permitted shall operate until the driveway, parking for site operatives and visitors and vehicular turning spaces (marked on the ground for cars and commercial vehicles to turn so that they may enter and leave the site in a forward gear), are consolidated, surfaced and drained in accordance with details that shall have been submitted to and approved in writing by the County Planning Authority. These areas shall thereafter be retained and kept available for those uses at all times.

Materials, Design and Layout

m) Notwithstanding the submitted details, no development hereby approved shall commence until a detailed scheme for the external appearance of the buildings including the chimney stack hereby approved have been submitted to and approved in writing by the County Planning Authority. Such scheme shall include details of:

i) the type and colours of all external construction materials; and

ii) the design and layout of all external cladding materials.

The approved details shall be implemented for the duration of the development.

Landscaping

n) Notwithstanding the submitted details, no development hereby approved shall commence until a detailed scheme for landscaping of the site has been submitted to and approved in writing by the County Planning Authority. Such scheme shall include details of:

i) hard landscaping, including surface treatment finishes and colours;

ii) how the existing trees that are to be retained are to be protected during the construction operations (to be in accordance with BS5837:2005);

iii) the position, species, density and initial sizes of all new trees and shrubs;

iv) the interface with the surface water drainage scheme as set out in condition hh);

v) the interface with the nature conservation schemes as set out in conditions g) and r);

vi) details of the design and the height of the security fencing and gates along the site's boundaries;

vii) the programme of implementation of the approved scheme; and

viii) the arrangements for ongoing management of and subsequent maintenance;

The approved details shall be implemented for the duration of the development.

o) The landscaping details as shown on drawing reference 900-01-001 Rev A and dated April 2010 and/or as supplemented/updated by the details approved pursuant to condition n) above shall be implemented within the first available planting season (the period between 31 October in any one year and 31 March in the following year) following the commissioning of the development. All planting and seeding undertaken in accordance with the scheme approved under condition n) above shall be maintained and any plants which within five years of planting or seeding die, are removed, damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the County Planning Authority.

p) All areas of soft landscaping shall be created in accordance with a soil management plan that shall be submitted to and approved in writing by the County Planning Authority prior to commissioning of the development. The soil management plan shall include details of the soil materials to be used, including their source, depth of application and suitability as a growing medium

Lighting

q) Prior to the commissioning of the facility details of all external lighting and other illumination proposed at the site shall be submitted to the County Planning Authority for approval in writing. These details shall include the height of all lighting, the intensity of lighting (specified in Lux levels), spread of light, including approximate light spillage levels (in metres), and any measures proposed to minimise impact of the floodlighting or disturbance through glare (such as shrouding) and the times when such lighting will be used. The approved scheme shall be implemented for the duration of the development. No lighting or illumination shall be affixed to or emitted from the chimney stack higher than the level of the boiler house roof. Any lighting that is fixed to the chimney stack shall relate to emissions monitoring only and shall be switched off when not in use.

Nature Conservation Management Plan

r) No development shall commence on site until details of a Nature Conservation Management Plan (NCMP) have been submitted to and approved in writing by the County Planning Authority. The approved NCMP shall be implemented for the duration of the development. The NCMP shall address the following issues:

   i. A habitat management strategy which addresses the ongoing maintenance schedule of the site (including receptor habitats) for the benefit of biodiversity.
   ii. Particular reference shall be made to address the enrichment of the receptor sites (e.g. through the provision of compost piles to encourage invertebrate prey for slow-worms) in order to maintain flower-rich grassland in preference to nettle and scrub. Particular reference to be made to management procedures to maintain favourable habitat for slow-worms in the linking habitat corridor across the Sewage Treatment Site access.
   iii. A lighting strategy to demonstrate minimisation of light pollution from the development with regards to foraging/commuting bats.
   iv. An ongoing management strategy to ensure the functional integrity of the buffer area including the rows of poplar trees on the eastern portion of the site: to include tree management/planting measures to ensure Middle Covert is protected.
   v. Details of all biodiversity monitoring.

Pollution

s) If during development or site remediation, contamination not previously identified in the site investigation report is found to be present at the site then no further development shall be carried out until the developer has submitted an addendum to the Method Statement of the CEMP (refer condition g) and obtained written approval from the County Planning Authority for it. This addendum to the Method Statement shall detail how this unsuspected contamination shall be dealt with and the timescales within which those works will be undertaken and shall be implemented as approved.

t) Within three months of completion of the remediation detailed in the Method Statement of the CEMP (and addendum, as applicable) a report shall be submitted to the County Planning Authority that provides verification that the required contamination remediation works have been carried out in accordance with the approved Method Statement(s). Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall also be detailed in the report and implemented as approved in writing by the County Planning Authority. The development hereby approved shall not be operated unless this condition is discharged in writing by the County Planning Authority.

u) Clean, uncontaminated rock, subsoil, brick rubble, crushed concrete and ceramic only shall be permitted as infill materials.

Emissions

v) Prior to the operation of the development hereby approved, details of the type of vehicle alarms to be used by on-site plant and vehicles shall be submitted to and approved in writing by the County Planning Authority. Only such approved alarms shall be used for the duration of the development.

w) All vehicles, plant and machinery operated solely within the site shall be maintained in accordance with the manufacturer's specification at all times, this shall include the fitting and use of effective silencers.

x) Prior to the operation of the development hereby approved a scheme for the management and mitigation of dust shall be submitted in writing for the written approval of the County Planning Authority. The approved scheme shall be implemented for the duration of the development.

y) All doors to the building shall be kept closed except to allow entry and exit.

z) No handling, deposit, processing, storage or transfer of waste shall take place outside the confines of the buildings hereby approved.

Noise

aa) Throughout duration of operations of the development hereby approved noise from the site shall not exceed the levels set out below at the receptor locations identified at Figure 12.1 of the Environmental Statement, Volume 1, Main Report when measured in terms of an LAeq 1 hr level (free field) based on the BS4142 rating levels plus 5dB, between the hours of 07.00 and 22.00:

- Manor Lane: LAeq, 1-hour 37 dB.
- Crown Lane: LAeq, 1-hour 46 dB.
- Walton Road: LAeq, 1-hour 39 dB.
- Ryeland Lane: LAeq, 1-hour 35 dB.

bb) Throughout operation of the development hereby approved noise from the site shall not exceed the levels set out below at the receptor locations identified at Figure 12.1 of the Environmental Statement, Volume 1, Main Report when measured in terms of night time criteria levels (5-minutes), based on the BS4142 rating level plus 5dB between the hours of 22.00 and 07.00:

- Manor Lane: LAeq, 5-min 35dB
- Crown Lane: LAeq, 5-min 39dB
- Walton Road: LAeq, 5 min 38dB.
- Ryeland Lane: LAeq, 5-min 35 dB.

cc) Noise compliance monitoring shall be undertaken at the four noise sensitive locations identified in conditions aa) and bb) in accordance with the methodology set out in BS4142: 1997 'Method for rating industrial noise affecting mixed residential and industrial areas'. Any prediction calculations necessary to show compliance must report the method of calculation in detail and the reason for using it. The development hereby approved shall not be operated unless a scheme setting out arrangements for such monitoring, including relevant timescales and reporting procedures has been submitted to and approved in writing by the County Planning Authority.

Drainage

dd) There shall be no discharge of foul or contaminated drainage from the development hereby permitted into either the groundwater or any surface waters, whether direct or via soakaways.

ee) Surface water from vehicle parking and hard standing areas shall be passed through an interceptor of adequate capacity prior to discharge. Roof drainage shall not be passed through any interceptor.

ff) Soakaways shall only be used in areas on site where they would not present risk to groundwater.

gg) Water pipes used to serve the development shall not be susceptible to residual contamination on the site and buried services must be laid within a 0.5m surround of clean sand in areas of ash and graphite fill.

hh) Notwithstanding the submitted details, no development hereby approved shall commence until details for surface water run-off limitation, surface water drainage and foul water drainage to be implemented throughout operation of the development has been submitted to and approved in writing by the County Planning Authority. The drainage works shall be completed in accordance with the details and timetable agreed. The surface water drainage channel shall be designed to cope with 1 in 100 year (+30% for climate change) event. In addition, in designing the surface water drainage scheme reference should be made to the Wychavon District Council Supplementary Planning Document that deals with the use, harvesting and disposal of surface water.

ii) The development hereby approved shall not operate unless a scheme of maintenance for any ordinary watercourse, culvert or drainage ditch has been submitted to and approved in writing by the County Planning Authority. Such approved scheme of maintenance shall be implemented for the duration of the development.

Other Matters

jj) The development hereby approved shall not operate until the operator has demonstrated, in writing, to the County Planning Authority that the connection to the district network has been made to enable electricity generated by the facility to be supplied to the district network.

kk) No development hereby approved shall commence until details of clay extraction and consequent management of the extracted materials (associated with the creation of the reduced level development platform) has been submitted to and approved in writing by the County Planning Authority. The clay extraction works shall be completed in accordance with the approved details.

ll) Within three months of the date of this permission a written scheme shall be submitted that sets out measures for liaison arrangements with the local community for written approval by the County Planning Authority. The approved scheme shall be implemented for the duration of the development.

mm) On cessation of the development hereby approved all buildings, chimney stack, associated plant, machinery, waste and processed materials shall be removed from the site. The site shall be restored in accordance with a scheme to be submitted for the written approval of the County Planning Authority prior to the cessation of operations.