



**SUMMARY of PROOF of EVIDENCE**

of

**LOUISE BROOKE-SMITH BSc(Hons), DipTP, FRICS, MRTPI**

representing

**WORCESTERSHIRE RESIDENTS AGAINST INCINERATION AND LANDFILL  
(WAIL)**

**CALL IN INQUIRY WITH RESPECT TO PROPOSALS BY MERCIA WASTE  
MANAGEMENT FOR THE ERECTION OF THE MERCIA ENVIRECOVER  
PROPOSALS AT HARTLEBURY, WORCESTERSHIRE**

**PLANNING APPLICATION Ref 10/000032**

**APPEAL Ref. APP/E1855/V/11/2153273**

**OCTOBER 2011**



**SITE ADDRESS:**  
**Hartlebury, Worcestershire**

**DATE ISSUED: October 2011**

**JOB REFERENCE: 1561/5068**

**EVIDENCE PREPARED BY:**  
**Louise Brooke-Smith, BSc(Hons), DipTP, FRICS, MRTPI**  
**Director**

A handwritten signature in black ink, appearing to read "Louise Brooke-Smith".



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## **SUMMARY OF EVIDENCE**

**1.0 MY QUALIFICATIONS, EXPERIENCE AND SCOPE OF EVIDENCE**

**2.0 RELEVANT BACKGROUND**

**3.0 KEY CONSIDERATIONS OF THE CASE**

**4.0 CONCLUDING REMARKS**

## 1.0 QUALIFICATION, EXPERIENCE AND SCOPE OF EVIDENCE

I am Louise Brooke-Smith and I am a Fellow of the Royal Institution of Chartered Surveyors and Professional Member of the Royal Town Planning Institute.

I am instructed by Worcestershire Residents Against Incineration and Landfill (WAIL), to object to the proposals pursued by Mercia Waste Management to create an energy from waste facility on land at Hartlebury, Worcestershire.

WAIL is a limited company formed in January 2010, endorsed by two local parish Councils (Hartlebury and Elmley Lovett) as a direct response to the incinerator proposals. The group has instigated petitions against the proposals and submitted extensive written objections through the application process.

My evidence reflects the issues raised by WAIL and has been prepared under the jurisdiction of both the Royal Town Planning Institute and the Royal Institution of Chartered Surveyors and covers relevant planning policy including land use and waste management issues as addressed in European, National, Regional and Local adopted and emerging planning documents.

My evidence also addresses approach and deliberation taken over the site search; relevant covenants; propriety; public consultation and local environmental concerns in terms of fear and anxiety.

By way of overview, I contend that;

- The grant of consent for this proposal will lead to the unsustainable movement of waste and/or will pull waste down the hierarchy and as such will conflict with fundamental objectives of national and European waste policy
- The grant of consent will impede or frustrate the viable or successful development of other existing or planned facilities for the treatment of waste which are superior to the appeal proposals

- Given the evidence presented to date, the Applicants have failed to consider or discount alternatives. The proposals concern a structure that is simply of a scale that is inappropriate in a Green Belt location and no very special material circumstances exist that would outweigh this fundamental position.

## **2.0 RELEVANT BACKGROUND**

- 2.1 Details of the application proposal including its location, its proposed means of operation and relevant planning policy have been set out in the Statement of Common Ground (SoCG2).
- 2.2 I do not believe that there is any contention between parties as to the location and providence of the site. However, covenants protecting the amenity of local residential occupiers are considered pertinent to the case. While not normally relevant to a planning discussion, if only for the purposes of fairness, the impact of covenants on the application site should be a matter of consideration.
- 2.3 While some play has been made of the planning history of the site, I do not believe this has bearing on the assessment of the proposals before us. The application proposals are rightly the subject of a Call-in Inquiry as a result of its scale and impact on the Green Belt.
- 2.4 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires decisions on applications for planning permission to be taken in accordance with the adopted development plan unless material considerations indicate otherwise. The documents of relevance to the Inquiry have been identified in Appendix A of SoCG2 and are presented as Core Documents.

## **3.0 THE KEY ISSUES**

- 3.1 The SoS has highlighted a number of key areas which he wishes this Inquiry to explore. I summarise my position on these and on a number of other relevant issues as follows;

### 3.2.0 The Development Plan

- 3.2.1 Comment on the Development Plan documents, comprises of the West Midlands Regional Spatial Strategy (WMRSS), the Worcestershire County Structure Plan (WCSP) and the Wychavon Local Plan (WLP) is set out in my main evidence where I also comment on emerging policy. I note that the Worcestershire Waste Core Strategy (WWCS) is yet to be adopted but, together with the South Worcestershire Joint Core Strategy (SWJCS), is progressing as part of the Local Development Framework. It is considered that these documents emphasise the value of and need to protect the Green Belt and encourage a 'zero waste' approach, better reflecting the recent national policy review and European guidance on waste matters. As such they should be afforded some weight.
- 3.2.2 The special circumstances put forward to justify the grant of permission need to be properly balanced against the clear harm to the openness of the Green Belt in this location. I do not believe that the case is proven but moreover the development conflicts with Policy D39 of the Worcestershire County Structure Plan (adopted 2001), Policy SR7 and SR8 of the Wychavon District Local Plan (adopted June 2006) and Government advice contained within Planning Policy Guidance Note 2: Green Belts
- 3.2.3 Furthermore, the proposed development is of such a scale that it would not be appropriate or integrate into the landscape character of the area, to the detriment of that character, contrary to policy ENV1 of the approved Wychavon District Local Plan 2006
- 3.2.4 Supplementing adopted statutory documents, I consider that the **Joint Municipal Waste Management Strategy (JMWMS) 2004** and its **First Review 2009** comprises an important local strategy. While there are fundamental differences between the JMWMS 2004 and the First Review 2009 which is yet to be adopted, the extant document endorses the need to use residual waste as a resource for energy recovery.

3.2.5 While the Waste Core Strategy and the Joint Municipal Waste Management Strategy 2009 (JMWMS 2009) have yet to be formally adopted, the latter has progressed some way and hence should be given weight given "The Planning System: General Principles" annexed to PPS1 Delivering Sustainable Development ("the Annex").

### **3.3.0 PPS10 – Sustainable Waste Management**

3.3.1 The management of waste is an integrated decision making process using guidance set at the European, National, Regional and Local levels and in order to comment on PPS10 in full, I have set out its key planning objectives which include the accepted 'waste management hierarchy' and then reviewed the context of the document.

3.3.2 Given this, there are two key aspects of relevance to this Inquiry, firstly how the proposals fit into the waste hierarchy and secondly the sustainable management of waste and whether the application proposals comprise the most appropriate approach.

3.3.3 If the Inspector concludes that there is a potential to deal with waste in a different way and at a different location than the appeal site and that would lead to a better "*overall environmental outcome*" then he is under an obligation to reject this proposal. Similarly if he concludes that the proposal do not represent the best environmental option in terms of the processing of waste, particularly in the light of latest Government advice then again he must be in a position to refuse this proposal.

3.3.4 I consider that pursuing a case for development at the Hartlebury site is flawed and it is essential that, in making a decision at this Inquiry, the Inspector considers whether a different site (existing or planned) will or may provide a better overall environmental outcome.

3.3.5 I contend that the proposals are likely to operate in an unsustainable manner by drawing waste down the hierarchy or by frustrating its movement up the hierarchy. They have not been shown to deliver the "*Best overall environmental outcome*". As such, any grant of consent will conflict with the Waste Framework Directive.

3.3.6 In summary I contend that the development proposal does not accord with national policies contained within PPS10. Indeed, on the evidence presented to date, there is

no basis to conclude that the proposals tick the boxes of the waste management principles established in the rWFD, the WSE 2007, Policy Review 2011, the WMRSS, the JMWMS 2009 and policy WD1 of the Structure Plan. I remain of the opinion that they are not the best way of addressing those policies and that a better approach could be taken that far better addresses the adopted and indeed emerging policies.

### **3.4.0 Planning and Climate Change Supplement to Planning Policy Statement 1**

- 3.4.1 I contend that the development proposal does not represent sustainable development nor provides flexibility to deal with changes in the future. It makes no firm use of the potential for combined heat and power generation and indeed this is specifically excluded from the planning application. Heat uptake is not a realistic proposition as no major users lie in the vicinity. I contend, therefore, that the proposals do not produce sustainable renewable energy and hence could not be considered to be in accordance with Planning Policy Statement; Planning and Climate Change Supplement to Planning Policy Statement 1.
- 3.4.2 The Supplement promotes the delivery of decentralised and renewable or low-carbon energy. While CHP may be recognised as delivering improved fuel efficiency and energy from waste technologies, the proposed application does not include heat uptake and cannot be described as being bona fide CHP.
- 3.4.3 I contend therefore that the proposals would not make a full contribution to delivering the Government's climate change programmes and energy policies and hence would not assist in contributing to the global sustainability.
- 3.4.4 PPS1 Climate Change guides the determination of applications for planning permission which may have implications for existing or proposed sources of renewable energy. This is endorsed in "*Planning for a Low Carbon Future in a Changing Climate*". The issue here is whether the grant of consent for one proposal might prejudice another. Waste is a finite resource and the application site will be chasing the same waste produced in H&W and potentially further a field.



3.4.5 While Planning Policy Statement 22: Renewable Energy notes that increased development of renewable energy resources is vital to facilitating the delivery of the Government's commitments on both climate change and renewable energy, it is not accepted that the application proposals will make a realistic or definitive contribution to the supply of renewable energy, that outweighs the fundamental Green Belt objections that exist.

### **3.5.0 Planning Policy Guidance Note 2 (PPG2); Green Belts**

3.5.1 Green Belt policy within PPG2 clearly advises that inappropriate development in Green Belt locations need to be supported by very special circumstances. Corresponding policies are set out in the Worcestershire Structure Plan and the Wychavon Local Plan.

3.5.2 The proposed development does not conform to Policy D.39 of the Worcestershire Structure Plan, or Policies SR7 and SR8 of the Wychavon District Plan and constitutes inappropriate development in the Green Belt and therefore, very special circumstances must be shown to justify its approval.

3.5.3 While PPS 10, PPS 22 and the Consultation on Planning Policy Statement: Planning for a Low Carbon Future in a Changing Climate (March 2010) provide an indication of the very special circumstances that may exist to support waste and energy development proposals proposed in the Green Belt, I consider that a case has not been presented to justify such inappropriate development; impact on the openness of the Green Belt; and visual impact on the Green Belt.

3.5.4 The Applicants own site search found that Ravensbank was more suitable but not pursued due to perceived concerns with restrictive covenants – which I examine in my evidence.

3.5.5 The application site is contended as having 'excellent transportation connectivity' and is 'readily supported by the existing waste transfer infrastructure. In contrast, due to conspicuous omission of any use of rail, I contend that the infrastructure is actually poor.

- 3.5.6 The Applicant contends that the site is in an area where electricity can be readily exported. This matter has not been formally confirmed. The ability for businesses in the area to use low carbon energy produced by scheme, is aspirational.
- 3.5.7 The Applicant refers to the use of end product; the proximity of adjacent landfill facilities and contends that without their proposals the residual municipal waste stream is likely to be transported to out-of-county treatment facilities or disposed of to landfill. These are simply not considered to be of sufficient weight to be deemed very special circumstances, either individually or en masse.
- 3.5.8 The special circumstances put forward to justify the grant of permission need to be properly balanced against the clear harm to the openness of the Green Belt in this location, and on balance, I do not believe that the case is proven. The development conflicts with Policy D39 of the Worcestershire County Structure Plan (adopted 2001), Policy SR7 and SR8 of the Wychavon District Local Plan (adopted June 2006) and Government advice contained within Planning Policy Guidance Note 2: Green Belts
- 3.5.9 The proposed development is of such a scale that it would not be appropriate or integrate into the landscape character of the area, and hence be contrary to policy ENV1 of the approved Wychavon District Local Plan 2006
- 3.5.10 The proposals concern structures which I consider to be disproportionate in this rural environment and would have an impact upon the visual amenity of the Green Belt. The evidence presented to date underestimates the sensitivity of and magnitude of effects on the area. The proposed development will have a significant adverse effect on the landscape and visual setting of the wider character of the area, in contrast to the advice in PPG2 and the emerging NPPF.

### **3.6 OTHER MATTERS;**

- 3.6.1 I comment on the following additional matters in my evidence;

#### **Covenants;**

3.6.2 Covenants protecting surrounding land and property against noise, nuisance and annoyance also affect the proposed site, as detailed in a 1980 Conveyance. Factors that constitute 'annoyance' can include noise, light pollution or damage to the visual scenery. Restrictive covenants affecting and then dismissing the Ravensbank site, are considered to be less restrictive than those at Hartlebury and yet influenced its dismissal.

**Propriety;**

3.6.3 While the Inquiry will allow all key issues to be discussed and assessed under formal proceedings, given that Mercia Waste Management currently operates Herefordshire and Worcestershire's 25 year Private Finance Initiative (PFI) contract for the management of municipal waste, the relationship between the operator and the Council is considered to present a biased case that local residents have little financial or technical means to fully address.

**Sequential Site Search;**

3.6.4 PPS 10 advises that a broad range of locations should be considered for waste management facilities, including industrial estates. Green Belt locations are not endorsed. The WMRSS sets out the locational criteria through policy WD3 for locating future waste management facilities.

3.6.5 The site selection exercise established that the preferred option was an EfW facility located in Worcestershire, but to serve both that County and Herefordshire, that would generate electricity and heat. There remains some concern that the site selection criteria did not appear to take into account the Green Belt. I consider that as a Green Belt location, the application site should have been excluded at stage 1 of the site search. Heat off-take is also specifically excluded from the application.

3.6.6 That said, it is understood that WCC assessed the sequential search undertaken by the Applicant, and found it to be sound, perhaps encouraged by the 'independent legal advice' which was recorded in the WCC Committee Report as concluding that the 'process of site selection was not flawed or contrary to policy'. The Applicants have now confirmed that the advice had only been secured to support viability

matters and not comment on the robustness of the search. Members may have been misled into thinking that the site search was unchallengeable.

3.6.7 I contend that too little regard was given to the constraints which meant that one particular site at Ravensbank was dismissed because of perceived covenant problems, and this brings into question that other sites may not have been thoroughly assessed.

3.6.8 I maintain that to abandon the preferred site at Ravensbank which had far better CHP opportunities, in favour of a Green Belt site in Hartlebury with no clear opportunities for heat uptake, was a serious error of judgement.

**Public Perception;**

3.6.9 The scale and visual impact of the proposed facility has the potential to impact adversely on the general enjoyment of the area and that the benefits of the proposals are insufficient to outweigh the potential for negative public perception of the facility. The proposals give the wrong message with respect to waste management.

3.6.10 Residents have expressed concerns that recycling levels will fall if the facility becomes established as there will be a perception that that waste 'will all be burned anyway'.

3.6.11 Negative public perception, fear and anxiety over the proposals are considered to a material consideration and should be taken into account by the Inspector, given other case law on the matter.

**Public Involvement;**

3.6.12 It is acknowledged that the Applicants did engage with the community. I have reviewed the nature and effectiveness of the community dialogue believe that the community consultations comprised of a 'box ticking exercise' and did not reflect or respond to the concerns raised or suggestions made by local residents.

3.6.13 I find that the nature, extent and methods adopted fall short of those required of a meaningful and proactive consultation and do not fully accord with the ethos of the Big Society and the emerging Localism Bill where ‘bottom up’ planning should prevail.

#### **4.0 CONCLUDING REMARKS**

4.1 I contend that the proposed energy from waste proposals should not be built in this location in the Green Belt. Other waste management solutions are preferable and available to divert waste from landfill and to generate and use truly renewable and sustainable energy. Another site is available, at Ravensbank, which would not need to show “very special circumstances” and would better support the use of heat.

4.2 The basis for the scheme, the relationship with the County Council and the capital cost of the proposed incinerator is high and a big commitment in the light of new alternative and Government preferred schemes which are clearly endorsed in the June 2011 Review of Waste Policy.

4.3 It is considered that Anaerobic Digestion is a far more sustainable, economical and environmentally preferred alternative to remove biodegradable waste from landfill, and together with autoclave, segregated waste collection and continued recycling would present an approach that better complies with national waste policies, climate change advice and the fundamental principles found in PPG2, protecting the Green Belt.

4.4 There are significant public concerns about the potential impact of an incinerator form of energy from waste technology and a negative perception which should be taken into account in determining the proposals. The benefits put forward in support of the proposals by the Applicant and associated mitigation proposals are insufficient to justify the adverse visual impact on nearby areas and the associated potential for adverse perception of the site by local residents and visitors.

4.5 The harm is significant and no planning conditions would mitigate the size and scale of this development nor reduce its impact on the visual amenity and openness of the Green Belt.

- 4.6 In summary, the grant of consent here would conflict with the waste management policies found in the RSS, WSP and WLP and will conflict with national advice in PPG2 and emerging NPPF. It will divert waste from recycling and other options higher up the hierarchy and/or leading to the unsustainable movement of waste by road. Furthermore, it would prejudice other existing and planned sources of renewable energy and would thereby conflict with important national policy objectives.
- 4.7 In conclusion, I consider that the proposals should be refused on grounds that the proposals are a significant departure from development plan policy and insufficient very special circumstances exist to counter the strong and fundamental protection in place reflecting its Green location within the Green Belt.
- 4.8 Accordingly, the Inspector is respectfully invited to recommend to the Secretary of State that the grant of planning permission for this proposal, be refused.

**Louise Brooke-Smith, BSc(Hons), DipTP, FRICS, MRTPI**

**October 2011**